



United States Department of the Interior
FISH AND WILDLIFE SERVICE

5275 Leesburg Pike, MS: MB
Falls Church, VA 22041



In Reply Refer To:
FWS-FOIA Number

February 10, 2023

Sent VIA Email: adam.kreger@friendsofanimals.org

Adam Kreger
Associate Attorney
Friends of Animals
Wildlife Law Program
7500 E. Arapahoe Road, Suite 385
Centennial, CO 80112

Dear Mr. Kreger:

This interim letter is in response to your Freedom of Information Act (FOIA) request dated April 14, 2022 and assigned it control number DOI-FWS-2022-003161. Please cite this number in any future communications with our office regarding your request.

You requested the following:

Friends of Animals requests copies of all documents and records held by the U.S. Fish and Wildlife Service for the time period starting January 1, 2017, and ending April 8, 2022, relating to the proposed use of brodifacoum to eradicate the House Mouse (*Mus Musculus*) on the South Farallon Islands. Specifically,

1. All documents relating to FWS's analysis of the proposed action's compliance with the:

- a. Marine Mammal Protection Act (16 U.S.C. § 1251 et seq.);
- b. Endangered Species Act (16 U.S.C. § 1531 et seq.);
- c. National Marine Sanctuaries Act (16 U.S.C. § 1433);
- d. Migratory Bird Treaty Act (16 U.S.C. § 703 et seq.);
- e. National Wildlife Refuge System Administration Act (16 U.S.C. §§ 668dd-ee); and
- f. Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 136 et seq.).

a. This request includes documents relating to statutes that require FWS to obtain a permit before FWS is authorized to use brodifacoum as proposed on the South Farallon Islands.

b. This request includes documents where FWS determines that a permit is not needed, or another agency or organization informs FWS that a permit is not required.

2. All documents and data relating to the above statutes as they relate to the South Farallon Islands, even if FWS ultimately concluded that a permit was not necessary.

Response

We have completed our search and continue to review records found to be responsive to your request and with this letter we are releasing 142 records in their entirety.

Fees

We do not bill requesters for FOIA processing fees when their fees are less than \$50.00, because the cost of collection would be greater than the fee collected. See 43 C.F.R. § 2.37(g). Therefore, there is no billable fee for the processing of this request.

Appeal Rights

You may appeal this response to the Department's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal **no later than 90 workdays** from the date of this letter. Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

Your appeal must be made in writing. You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must include an explanation of why you believe the FWS's response is in error. You must also include with your appeal copies of all correspondence between you and the FWS concerning your FOIA request, including your original FOIA request and the FWS's response. Failure to include with your appeal all correspondence between you and the FWS will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer's sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal.

DOI FOIA/Privacy Act Appeals Office Contact Information

Department of the Interior

Office of the Solicitor

1849 C Street, N.W.

MS-6556 MIB

Washington, DC 20240

Attn: FOIA/Privacy Act Appeals Office

Telephone: 202-208-5339
Fax: 202-208-6677
Email: FOIA.Appeals@sol.doi.gov

For more information on FOIA Administrative Appeals, you may review the Department's FOIA regulations at [43 C.F.R. Part 2, Subpart H](#).

Mediation/Dispute Resolution

If after contacting us as described below, you need further information or assistance with your request, you may wish to seek dispute resolution services from the Department's FOIA Public Liaison, Natasha Alcantara by email at doifoiapublicliaison@sol.doi.gov.

If you need further information or assistance after contacting the Department's FOIA Public Liaison, you may wish to seek dispute resolution services from the Office of Government Information Services (OGIS). The 2007 FOIA amendments created the OGIS to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer.

Conclusion

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. *See* 5 U.S.C. 552(c). This response is limited to those records that are subject to the requirements of FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you have any questions about our response to your request, please contact John De Clerck by email at john_declerck@fws.gov or by mail at U.S. Fish and Wildlife Service; ATTN: FOIA Office; 5275 Leesburg Pike; MS: IRTM; Falls Church, Virginia 22041.

Sincerely,

John De Clerck
FWS FOIA Coordinator