



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington D.C. 20240



In Reply Refer To:
FWS/FOIA

May 9, 2024

Letter via email at: rthrogmorton@quitamlaw.org

Mr. Roderick Throgmorton
300 North Monroe Street
Marion, Illinois 62959

REF: DOI-FWS-2024-000326

Dear Mr. Throgmorton:

This responds to your Freedom of Information Act (FOIA) request dated February 5, 2024, in which you seek the following:

- 1. Relating to Concession Contract No. 14-16-0003-20-614, any and all information and/or documents related to the "40 allegations" mentioned on the second to last page of the December 18, 2023, letter signed by Justin Sexton, Refuge Manager for the Crab Orchard National Wildlife Refuge (6987 Headquarters Road, Marion, Illinois 62959) addressed to the Crab Orchard Recreation Association, Inc., d/b/a Blue Heron Campground and Marina located at 3697 Old Route 13, Carterville, Illinois 62918.*
- 2. Any and all contractual documents, including, but not limited to, any concession contract(s), entered into between the Crab Orchard National Wildlife Refuge (6987 Headquarters Road, Marion, Illinois 62959) and Playport Marina (724 Playport Rd, Carbondale, IL 62902) Andrew Freebourn, and/or PLD Building Company, LLC.*

Please refer to tracking number noted above in communications regarding this request.

Response

In response to your request, 195 pages are being released to you in full and in part. Based on this office's review, we reasonably foresee that disclosure of certain information in documents that fall under this request would harm an interest protected by one or more of the nine exemptions to the FOIA's general rule of disclosure. Accordingly, from the responsive records, portions of four records are partially redacted pursuant to FOIA Exemption (b)(6), as described below.

Exemption 6 of the FOIA

Exemption 6 allows an agency to withhold “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(6). We are withholding 21 pages in part under Exemption 6.

The phrase “similar files” covers any agency records containing information about a particular individual that can be identified as applying to that individual. To determine whether releasing records containing information about a particular individual would constitute a clearly unwarranted invasion of personal privacy, we are required to balance the privacy interest that would be affected by disclosure against any public interest in the information.

Under the FOIA, the only relevant public interest to consider under the exemption is the extent to which the information sought would shed light on an agency’s performance of its statutory duties or otherwise let citizens ‘know what their government is up to.’ The burden is on the requester to establish that disclosure would serve the public interest. When the privacy interest at stake and the public interest in disclosure have been determined, the two competing interests must be weighed against one another to determine which is the greater result of disclosure: the harm to personal privacy or the benefit to the public. The purposes for which the request for information is made do not impact this balancing test, as a release of information requested under the FOIA constitutes a release to the general public.

The information that has been withheld under Exemption 6 consists of contact information (e.g. names, email addresses and phone numbers), and we have determined that the individuals to whom this information pertains have a substantial privacy interest in withholding it. Additionally, you have not provided information that explains a relevant public interest under the FOIA in the disclosure of this personal information and we have determined that the disclosure of this information would shed little or no light on the performance of the agency’s statutory duties. Because the harm to personal privacy is greater than whatever public interest may be served by disclosure, release of the information would constitute a clearly unwarranted invasion of the privacy of these individuals, and we are withholding it under Exemption 6.

The undersigned is responsible for this denial. This response to your FOIA request was made in consultation with Eric Brekke, Attorney-Advisor, Office of the Solicitor, Northeast Region, U.S. Department of the Interior (Department).

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 Jones 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:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://www.archives.gov/ogis>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

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

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 final response. Appeals arriving or delivered after 5:00 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 this response is in error. You must also include with your appeal copies of all correspondence between you and FWS concerning your FOIA request, including your original FOIA request and this response. Failure to include with your appeal all correspondence between you and 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

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\(e\)](#). 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.

The fees incurred in responding to your request are \$240.00 and an invoice is provided to you with this letter. Please send payment along with invoice to the following address:

Via USPS:
JAO Collections - USFWS
Post Office Box 272065
Denver, CO 80227

This completes the Service's response. If you have any questions regarding this request, please contact Government Information Specialist, David Tischer, by email at david_tischer@fws.gov.

Sincerely,

FOIA Coordinator