

# Exhibit

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OFFICE OF THE SOLICITOR  
Washington, D.C. 20240

September 19, 2018

IN REPLY REFER TO:  
Appeal No. 2018-185

Christopher Kortlander  
Town Hall, P.O. Box 200  
Garryowen, MT 59031

Dear Mr. Kortlander:

This responds to the September 4, 2018, letter that you sent to the Bureau of Land Management's ("BLM") Montana State Office ("BLM-MT") regarding your undated Freedom of Information Act ("FOIA") request that generally seeks documents "concerning the investigation or prosecution of" an individual whom you identified by name. You note in your letter to the BLM-MT that "it has now been at least 317 days...since the original submission [of your FOIA request] in October 2017" and "it appears that the processing window has passed." You state, "[t]his delay is unreasonable and unacceptable. Therefore, this appeal is submitted: That the above referenced FOIA request be processed immediately."

Because you stated in your September 4, 2018, letter that you are intending to file a FOIA appeal with the Department of the interior ("Department") regarding the delay in BLM-MT's response to your FOIA request,<sup>1</sup> the Department has accepted this matter for processing as an appeal and assigned it as **Appeal Number 2018-185**.

As an initial matter, please note that the BLM-MT's long-time FOIA Coordinator recently retired, which regrettably, has left the office with an extremely and unusually heavy workload and backlog of FOIA requests. To assist in resolving this, the BLM-MT recently hired a highly skilled, BLM FOIA veteran to fill the position and she is working diligently to tackle all of the FOIA requests (including yours) in the office's backlog.

Having noted that, please be aware that there are currently 10 FOIA requests pending in BLM-MT's "complex" processing track<sup>2</sup> ahead of yours, another eight pending in its "normal" processing track, and some voluminous FOIA requests that have become the subject of litigation that the new FOIA Coordinator's office is also responsible for handling. Since the BLM-MT processes FOIA requests in the order in which they are received, it has advised that once it completes the processing of the FOIA requests in its office that are pending ahead of yours, it will then begin its processing of your request. To be sure, **by copy of this letter, the BLM-MT is directed to:**

- **Advise the Appellant as soon as possible whether it will comply with his FOIA request and make a determination on the release of any responsive documents it locates as soon as practicable.**

<sup>1</sup> 5 U.S.C. § 552(a)(6)(A)(i) (requiring an agency to determine within 20 workdays after the receipt of a FOIA request whether it will comply with such a request).

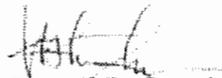
<sup>2</sup> Bureaus within the Department use "processing tracks to distinguish simple requests from more complex ones on the basis of the estimated number of workdays needed to process the request." 43 C.F.R. § 2.15(a). See also 43 C.F.R. § 2.15(c)(1)-(4) (discussing the different processing tracks); 43 C.F.R. § 2.70 (defining "Multitrack processing" as "placing simple requests, requiring relatively minimal review, in one processing track and more voluminous and complex requests in one or more other tracks.").

While it is regrettable that the BLM-MT has not yet completed its processing of your FOIA request, please be assured that it is processing this matter as quickly as it can. However, since the BLM-MT has not completed its processing of, and response to, the FOIA request, you may treat the continued delay in responding to you as a denial of the FOIA request and seek judicial review under 5 U.S.C. § 552 (a)(4)(B). However, we hope that you will delay filing a lawsuit so that the BLM-MT can complete its processing of this matter.

If you wish to discuss the progress the BLM-MT is making in completing its processing of your FOIA request, you may contact its new FOIA Coordinator, Sally Sheeks, at (406) 896-5157 or the BLM's FOIA Officer and Public Liaison, Ryan Witt, at (202) 912-7562.

This completes the Department's response to your appeal. If you have any questions regarding this letter, please call the FOIA Appeals Office at (202) 208-5339.

Sincerely,



Darrell R. Strayhorn  
FOIA & Privacy Act Appeals Officer  
Department of the Interior

cc: BLM FOIA Officer  
BLM-MT FOIA Coordinator (**FOR ACTION**)