



October 31, 2023

**VIA FOIAXpress PAL**

Freedom of Information Act Request  
Department of the Interior  
Bureau of Land Management

**Re: Freedom of Information Act Request**

Dear FOIA Officer:

I write on behalf of Americans for Prosperity Foundation (“AFPF”), a 501(c)(3) nonpartisan organization dedicated to educating and training Americans to be courageous advocates for the ideas, principles, and policies of a free and open society.<sup>1</sup> AFPF is investigating the Department of the Interior’s (“Interior”) and the Bureau of Land Management’s (“BLM”) decision to withdraw 13 million acres from oil and gas leasing in Alaska’s National Petroleum Reserve.<sup>2</sup>

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, AFPF hereby requests the following records:<sup>3</sup>

All internal and external communications (e-mail, text, instant messaging, etc.) sent to or by the following Interior employees, including through any alias accounts:

1. All internal and external communications (e-mail, text, instant messaging, etc.) sent to or by the following Interior employees, including through any alias accounts:
  1. Director Tracy Stone-Manning
  2. Principal Deputy Director Nada Wolff Culver
  3. Deputy Director Michael D. Nedd
  4. Assistant Director of Communications Jeff Krauss
  5. Acting Assistant Director for Energy, Minerals, and Realty Management Ben Gruber
  6. Alaska State Director Steve Cohn

Please limit your search and processing of records for the foregoing custodians to those records containing any of the following sets of keywords:

- A. (“National Petroleum Reserve” OR “NPR-A”) AND (“Biden” OR “POTUS” OR “White House” OR “Kerry” OR “S1”)
- B. (“NPR-A” OR “National Petroleum Reserve”) AND (“Stewart Lee Udall Building” OR “Yates Auditorium” OR “October 17” OR “informational session”)

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<sup>1</sup> See AMS. FOR PROSPERITY FOUND., [www.americansforprosperityfoundation.org](http://www.americansforprosperityfoundation.org) (last visited Sept. 12, 2023).

<sup>2</sup> See Bobby Magill, *Arctic Oil Leasing Legal Fight Looms on Alaska Cancellations (1)*, BLOOMBERG LAW, (Sept. 7, 2023), <https://news.bloomberglaw.com/environment-and-energy/arctic-oil-leasing-legal-battles-loom-after-alaska-cancellations>.

<sup>3</sup> For purposes of this request, the term “record” means any medium of information storage in the form and format maintained by the agency at the time of the request. If any portion of a “record,” so defined, is responsive to AFPF’s request, then the agency should process and disclose the record in its entirety. If the agency considers a medium of information storage to contain multiple records that it believes can be segmented on the basis of the subject-matter or scope of AFPF’s request, AFPF explicitly seeks access to those separate “records” as well. They should not be treated as “non-responsive.”

2. All calendars or calendar entries for the individuals **listed in item 1**, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant). We request that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

The time period for all items of this request is August 1, 2023, to the present.<sup>4</sup>

For purposes of this request, please omit daily news clippings, final and draft versions of the proposed NPR-A rule, or other mass mailings unless there is commentary related to them. If any portion of a record, so defined, is found to be potentially responsive to AFPF's request, then BLM should process the record in its entirety without any further segmentation or subject-matter scoping.

### **Request for a Public-Interest Fee Waiver**

AFPF requests a waiver of any and all applicable fees. The FOIA and applicable regulations provide that the agency shall furnish requested records without or at reduced charge if “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”<sup>5</sup> In this case, the requested records unquestionably shed light on the “operations or activities of the government” as they relate to Interior’s decision to withdraw 13 million acres from oil and gas leasing in Alaska’s National Petroleum Reserve.

AFPF intends to educate the public with the results of this request and similar requests filed with other federal agencies. It has the intent and ability to make those results available to a reasonably broad public audience through various media. AFPF’s staff has significant experience and relevant expertise; these professionals will analyze responsive records, if any, use their editorial skills to turn raw materials into a distinct work, and share the resulting analysis with the public. Finally, AFPF is a non-profit organization, as defined under Section 501(c)(3) of the Internal Revenue Code, and it therefore has no commercial interest in making this request.

### **Request to Be Classified as a Representative of the News Media**

In addition to a public interest fee waiver, AFPF requests that it be classified as a “representative of the news media” for fee purposes.<sup>6</sup> As the D.C. Circuit has explained, the “representative of the news media” test is properly focused on the requestor, not the specific FOIA request at issue.<sup>7</sup> AFPF satisfies this test because it gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience. Although not required, AFPF gathers the news it publishes from a variety of sources. It does not merely make raw information available to the public, but distributes distinct work product, including press releases, blog posts, reports, and other informative materials.<sup>8</sup> These

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<sup>4</sup> The term “present” should be construed as the date on which an agency begins its search for responsive records. *See generally Pub. Citizen v. Dep’t of State*, 276 F.3d 634 (D.C. Cir. 2002).

<sup>5</sup> 5 U.S.C. § 552(a)(4)(A)(iii); *see* 43 C.F.R. § 2.45(a)(1)–(2); *see also id.* § 2.48(a); *see generally Cause of Action v. Fed. Trade Comm’n*, 799 F.3d 1108, 1115–19 (D.C. Cir. 2015) (discussing proper application of public-interest fee waiver test).

<sup>6</sup> 5 U.S.C. § 552(a)(4)(A)(ii); 43 C.F.R. § 2.70.

<sup>7</sup> *See Cause of Action*, 799 F.3d at 1121.

<sup>8</sup> *See, e.g., AFPF Obtains Over 400 Pages of Secretary Mayorkas Using Personal Email for Government Business*, Ams. for Prosperity (May 19, 2023), <https://bit.ly/3DdcqgZ>; *AFP Foundation investigates DHS secretary’s use of private email while creating Disinformation Governance Board*, AMS. FOR PROSPERITY (Jan. 12, 2023), <https://bit.ly/3HTpOJe>; *New emails*

distinct works are distributed to the public through various online outlets, such as websites, Twitter, and Facebook. The statutory definition of a “representative of the news media” contemplates that organizations such as AFPF, which electronically disseminate information and publications via “alternative media[,] shall be considered to be news-media entities.”<sup>9</sup>

**Record Production and Contact Information**

To facilitate document review, please provide non-exempt responsive records in an electronic format in lieu of a paper production. If a portion of responsive records can be produced more readily, AFPF requests that those records be produced first with any remaining records released on a rolling basis as circumstances permit. If you have any questions about this request, please contact me at KSchmidt@afphq.org. Thank you for your attention to this matter.

*Kevin Schmidt*

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KEVIN SCHMIDT

DIRECTOR OF INVESTIGATIONS, AFPF

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*undermine official reason for cancelling key oil and gas lease*, AMS. FOR PROSPERITY (Sept. 8, 2022), <https://bit.ly/3te6boa>; *AFP Foundation launches FOLA investigation into Disinformation Governance Board*, AMS. FOR PROSPERITY (May 9, 2022), <https://bit.ly/3GRBgWn>; *More evidence the VA is improperly delaying or denying community care to eligible veterans*, AMS. FOR PROSPERITY (Jan. 28, 2022), <https://bit.ly/37mDnlX>; *AFP Foundation gets CMS to release state-level Medicaid improper payment data after years of stonewalling*, AMS. FOR PROSPERITY (Jan. 20, 2022), <https://bit.ly/34sz7A2>; AMS. FOR PROSPERITY FOUND., *PERMISSION TO CARE: HOW CERTIFICATE OF NEED LAWS HARM PATIENTS AND STIFLE HEALTHCARE INNOVATION* (Oct. 2021), available at <https://bit.ly/3Zrjpg7>; *Records confirm VA's use of inaccurate wait time numbers*, AMS. FOR PROSPERITY (Oct. 1, 2021), <https://bit.ly/3a9KGeL>; *Government documents reveal Export-Import Bank fails to protect taxpayers . . . again*, AMS. FOR PROSPERITY (Oct. 30, 2020), <https://bit.ly/3hD09Jn>; *Kansas Shut Down Businesses That Were Willing and Able to Comply with Safety Guidelines*, AMS. FOR PROSPERITY FOUND. (July 21, 2020), <https://bit.ly/3vbj7eC>; AMS. FOR PROSPERITY FOUND., ET AL., *GONE IN AN INSTANT: HOW INSTANT MESSAGING THREATENS THE FREEDOM OF INFORMATION ACT* (Mar. 2020), AMS. FOR PROSPERITY FOUND., available at <https://bit.ly/2zQOEKI>.

<sup>9</sup> 5 U.S.C. § 552(a)(4)(A)(ii).