

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND)	
ETHICS IN WASHINGTON,)	
)	
Plaintiff,)	
)	
v.)	Civ. A. No. 20-2960 (RBW)
)	
UNITED STATES DEPARTMENT OF)	
THE INTERIOR,)	
)	
Defendant.)	
_____)	

ANSWER TO AMENDED COMPLAINT

Defendant, U.S. Department of Interior, by its attorneys, respectfully answers Plaintiff’s Amended Complaint (ECF No. 7) as follows. Defendant denies each and every allegation of the Complaint not expressly admitted in its Answer.

1. This paragraph contains Plaintiff’s characterization of the nature of Plaintiff’s action to which no response is required. To the extent a response is required, Defendant denies Plaintiff’s allegations and denies that Plaintiff is entitled to any relief.

2. This paragraph contains Plaintiff’s characterization of the relief sought to which no response is required. To the extent a response is required, Defendant denies Plaintiff’s allegations and denies that Plaintiff is entitled to any relief.

JURISDICTION AND VENUE¹

3. Defendant admits that jurisdiction is appropriate in this district.
4. Defendant admits that venue is proper in this district.

¹ Defendant included the headings from the Amended Complaint for the sole purpose of assisting in the reading of this Answer and does not admit to the accuracy of the headings.

PARTIES

5. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5.

6. Defendant admits that it is an agency under the Freedom of Information Act (“FOIA”). Defendant denies the remaining allegations in Paragraph 6.

FACTUAL BACKGROUND

Interior’s August 5, 2020 Propaganda Video and CREW’s August 27, 2020 FOIA Request (Tracking No. DOI-OS-2020-002250)

7. Defendant admits that, in August 2020, it released a video entitled “Protecting our National Parks, Public Lands for Future Generations” (the “Video”), posting it to YouTube and Facebook on August 5, 2020, and to its website on August 6, 2020.

8. Paragraph 8 consists of Plaintiff’s characterization of the Video. Defendant refers the Court to the content of that Video for its full and accurate content. To the extent that Plaintiff mischaracterizes the content of the Video, Defendant denies the allegations.

9. Paragraph 9 consists of Plaintiff’s characterization of the Video. Defendant refers the Court to the content of that Video and article for their full and accurate content. To the extent that Plaintiff mischaracterizes the content of the Video and article, Defendant denies the allegations.

10. Paragraph 10 consists of Plaintiff’s characterization of the Video. Defendant refers the Court to the content of that video for its full and accurate content. To the extent that Plaintiff mischaracterizes the content of the video, Defendant denies the allegations.

11. The allegations in this paragraph characterize the content of a news article (Rebecca Beitsch, Park Service under fire for role in GOP convention, *The Hill*, Aug. 27, 2020, <https://thehill.com/policy/energy-environment/513856-park-service-under-fire-for-role-in-gop->

[convention](#)). Defendant respectfully refers this Court to the cited article for a full and accurate statement of its contents and Defendant denies the allegations in this paragraph as the allegations do not appear to correctly characterize the article.

12. Defendant admits that the Office of the Secretary's FOIA office ("Secretary's FOIA Office") received from Plaintiff a FOIA request dated August 27, 2020, and addressed to the Secretary's FOIA Office. Defendant respectfully refers this Court to the cited FOIA request for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

13. Defendant admits that Plaintiff sought a fee waiver. Defendant respectfully refers this Court to the cited FOIA request for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

14. Defendant admits that Plaintiff sought expedited processing. Defendant respectfully refers this Court to the cited FOIA request for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

15. Defendant admits that, by letter dated September 11, 2020, the Secretary's FOIA Office acknowledged receipt of Plaintiff's FOIA request (assigned control number OS-2020-002250) and granted Plaintiff's request for a fee waiver and expedited processing. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

16. Defendant admits that, by letter dated September 25, 2020, the Secretary's FOIA Office invoked a 10-workday extension. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

17. Defendant admits that, by email dated October 13, 2020, Plaintiff asked the Secretary's FOIA Office for a status update and asked that the Secretary's FOIA Office prioritize processing Part 1 of Plaintiff's FOIA request. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

18. Defendant admits that, by letter dated October 13, 2020, the Secretary's FOIA Office informed Plaintiff that as yet, it is unable to make a determination on Plaintiff's request. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

19. Defendant admits that, by email dated October 14, 2020, the Secretary's FOIA Office informed Plaintiff that it was waiting on the program offices to send all potentially responsive records and that once the Secretary's FOIA Office has those records, it can begin processing them. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

20. Defendant admits that, by email dated October 14, 2020, the Secretary's FOIA Office informed Plaintiff that it would make a note for the processors that Plaintiff would like part 1 of the FOIA request first, if possible. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

21. Defendant admits that as of the filing date of this Amended Complaint, the Secretary's FOIA Office has not communicated with Plaintiff regarding Plaintiff's FOIA request.

*The NPS's Involvement in the RNC Fireworks Display and
CREW's August 28, 2020 FOIA Request
(Tracking No. DOI-NPS-2020-002257)*

22. Paragraph 22 consists of Plaintiff's characterization of a news article. Defendant refers the Court to the content of that article for its full and accurate content. To the extent that Plaintiff mischaracterizes the content of the article, Defendant denies the allegations.

23. Defendant admits on August 24, 2020, the National Park Service ("Park Service") issued a permit for a fireworks display. Except for the specific foregoing admission, Paragraph 23 consists of Plaintiff's characterization of a news article. Defendant refers the Court to the content of that article for its full and accurate content. To the extent that Plaintiff mischaracterizes the content of the article, Defendant denies the allegations

24. Paragraph 24 consists of Plaintiff's characterization of a news article. Defendant refers the Court to the content of that article for its full and accurate content. To the extent that Plaintiff mischaracterizes the content of the article, Defendant denies the allegations.

25. Defendant admits that the National Park Service's FOIA office ("Park Service's FOIA Office") received from Plaintiff a FOIA request dated August 28, 2020 and addressed to the Park Service's FOIA Office. Defendant respectfully refers this Court to the cited FOIA request for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

26. Defendant admits that Plaintiff sought a fee waiver. Defendant respectfully refers this Court to the cited FOIA request for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

27. Defendant admits that on August 28, 2020, the Park Service's FOIA Office acknowledged receipt of Plaintiff's FOIA request (assigned control number NPS-2020-002257)

and granted Plaintiff's request for a fee waiver. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

28. Defendant admits that an e-mail of August 28, 2020, was sent to Plaintiff. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

29. Defendant admits that Plaintiff sent email dated October 13, 2020, to Defendant. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

30. Defendant admits that it sent an e-mail to Plaintiff on October 13, 2020. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

31. Defendant admits the Park Service's FOIA Office has not further communicated with Plaintiff regarding Plaintiff's FOIA request.

***Interior's October 27, 2020 Propaganda Video and
CREW's November 3, 2020 FOIA Request
(Tracking No. DOI-OS-2021-000590)***

32. Defendant admits that, on or about October 27, 2020, it released a video entitled "Trump Administration Conservation Record" (the "October 2020 Video"), posting it to YouTube, Facebook, Instagram and Secretary Bernhardt's official Twitter account.

33. Paragraph 33 consists of Plaintiff's characterization of the October 2020 Video. Defendant refers the Court to the content of the October 2020 Video for its full and accurate content. To the extent that Plaintiff mischaracterizes the content of the October 2020 Video, Defendant denies the allegations.

34. The allegations in this paragraph characterize the content of the cited news article. Defendant respectfully refers this Court to the cited article for a full and accurate statement of its contents. To the extent Plaintiff mischaracterizes the article, Defendant denies the allegations in this paragraph.

35. Paragraph 35 consists of Plaintiff's characterization of the October 2020 Video and legal conclusions. Defendant refers the Court to the content of the October 2020 Video and article for its full and accurate content. To the extent that Plaintiff mischaracterizes the content of the October 2020 Video, Defendant denies the allegations. Defendant denies all remaining allegations of this paragraph.

36. Defendant admits that the Office of the Secretary's FOIA Office received from Plaintiff a FOIA request dated November 3, 2020, and addressed to the Secretary's FOIA Office. Defendant respectfully refers this Court to the cited FOIA request for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

37. Defendant admits that Plaintiff sought a fee waiver. Defendant respectfully refers this Court to the cited FOIA request for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

38. Defendant admits that, on or about November 3, 2020, the Secretary's FOIA Office acknowledged receipt of Plaintiff's FOIA request (assigned control number OS-2021-000590). Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

39. Defendant admits that the Secretary's FOIA Office granted Plaintiff's fee waiver request on or about November 18, 2020. Defendant respectfully refers this Court to the

referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

40. Defendant admits that, as of the date of the Amended Complaint, Defendant has not responded to this FOIA request. However, Defendant avers that the Secretary's FOIA Office sent a letter to Plaintiff dated December 14, 2020, concerning the FOIA request. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

Interior's Office of Communications' Instruction to Tag the @realDonaldTrump Twitter Handle in Official Agency Tweets and CREW's November 3, 2020 FOIA Request (Tracking No. DOI-OS-2021-000594)

41. Paragraph 41 consists of Plaintiff's characterization of an October 21, 2020 tweet thread. Defendant refers the Court to the content of the tweet thread for its full and accurate content. To the extent that Plaintiff mischaracterizes the content of the tweet thread, Defendant denies the allegations.

42. Paragraph 42 consists of Plaintiff's characterization of an October 21, 2020 tweet thread. Defendant refers the Court to the content of the tweet thread for its full and accurate content. To the extent that Plaintiff mischaracterizes the content of the tweet thread, Defendant denies the allegations.

43. Defendant admits that the U.S. Geological Survey, a bureau of Defendant, tweeted an article titled "Trump administration uses 'eDNA' to combat invasive species" and tagged the @realDonaldTrump on October 16, 2020. Defendant refers the Court the content of the tweet for its full and accurate content. To the extent that Plaintiff mischaracterizes the content of the tweet, Defendant denies the allegations.

44. Defendant admits that the Office of the Secretary's FOIA Office received from Plaintiff a FOIA request dated November 3, 2020, and addressed to the Secretary's FOIA Office. Defendant respectfully refers this Court to the cited FOIA request for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

45. Defendant admits that Plaintiff sought a fee waiver. Defendant respectfully refers this Court to the cited FOIA request for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

46. Defendant admits that, on or about November 3, 2020, the Secretary's FOIA Office acknowledged receipt of Plaintiff's FOIA request (assigned control number OS-2021-000594). Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

47. Defendant admits that, on or about November 18, 2020, the Secretary's FOIA Office granted Plaintiff's request for a fee waiver. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

48. Defendant admits that, by email dated November 18, 2020, the Secretary's FOIA Office, asked Plaintiff to provide more information. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

49. Defendant admits that, on November 18, 2020, Plaintiff responded to the Secretary's FOIA Office by specifying agency officials who may have responsive records. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

50. Defendant admits that, by letter dated November 20, 2020, the Secretary's FOIA Office confirmed receipt of the Plaintiff's FOIA request and of the additional information provided by Plaintiff. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

51. Defendant admits that as of the filing date of this Amended Complaint, the Secretary's FOIA Office has not communicated with Plaintiff regarding this particular FOIA request.

CREW'S CLAIMS FOR RELIEF

Count I

(Wrongful Withholding of Records Responsive to CREW's August 27, 2020 FOIA Request to Interior – Tracking No. DOI-OS-2020-002250)

52. Defendant incorporates its responses set forth in Paragraphs 1 to 51 above.

53. Defendant admits that Plaintiff submitted a FOIA request, dated August 27, 2020, to the Secretary's FOIA Office. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

54. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in this paragraph.

55. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in this paragraph.

56. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in this paragraph.

57. This paragraph contains Plaintiff's request for relief, to which no response is required. To the extent a response is required, Defendant denies the allegations in this paragraph.

COUNT II
(Wrongful Withholding of Records Responsive to
CREW's August 28, 2020 FOIA Request to the Park Service)

58. Defendant incorporates its responses set forth in Paragraphs 1 to 57 above.

59. Defendant admits that Plaintiff submitted a FOIA request, dated August 28, 2020, to the Park Service's FOIA Office. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

40. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in this paragraph.

41. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in this paragraph.

42. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in this paragraph.

63. This paragraph contains Plaintiff's request for relief, to which no response is required. To the extent a response is required, Defendant denies the allegations in this paragraph.

Count III
(Wrongful Withholding of Records Responsive to
CREW's November 3, 2020 FOIA Request
to Interior – Tracking No. DOI-OS-2021-000590)

64. Defendant incorporates its responses set forth in Paragraphs 1 to 63 above.

65. Defendant admits that Plaintiff submitted a FOIA request, dated November 3, 2020, to the Secretary's FOIA Office. Defendant respectfully refers this Court to the referenced

correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

66. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in this paragraph.

67. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in this paragraph.

68. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in this paragraph.

69. This paragraph contains Plaintiff's request for relief, to which no response is required. To the extent a response is required, Defendant denies the allegations in this paragraph.

**Count IV
(Wrongful Withholding of Records Responsive to
CREW's November 3, 2020 FOIA Request
to Interior – Tracking No. DOI-OS-2021-000594)**

70. Defendant incorporates its responses set forth in Paragraphs 1 to 69 above.

71. Defendant admits that Plaintiff submitted a FOIA request, dated November 3, 2020, to the Secretary's FOIA Office. Defendant respectfully refers this Court to the referenced correspondence for a full and accurate statement of its contents and denies the allegations that are inconsistent therewith.

72. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in this paragraph.

73. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in this paragraph.

74. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in this paragraph.

75. This paragraph contains Plaintiff's request for relief, to which no response is required. To the extent a response is required, Defendant denies the allegations in this paragraph.

REQUESTED RELIEF

The remaining paragraphs of the Amended Complaint, numbered 1 to 6, consist of Plaintiff's request for relief that requires no response. To the extent that a response is required, Defendant denies that Plaintiff is entitled to the relief requested or to any relief whatsoever.

DEFENSES

Defendant reserves its right to amend, alter and supplement the defenses contained in the Answer as the facts and circumstances giving rise to the Amended Complaint become known to it through the course of the litigation.

FIRST DEFENSE

The information sought by Plaintiff is exempt from release in full or in part under one or more of the exemptions under FOIA.

SECOND DEFENSE

The Court lacks jurisdiction over the subject matter of this Amended Complaint for any relief that exceeds the relief authorized by FOIA.

Dated: December 21, 2020

Respectfully submitted,

MICHAEL R. SHERWIN
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By: _____//s//_____
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