

February 23, 2018

BY ELECTRONIC MAIL: os_foia@ios.doi.gov

Clarice Julka
Office of the Secretary
U.S. Department of the Interior
MS-7328, MIB
1849 C Street, N.W.
Washington, D.C. 20240

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and Department of the Interior (DOI) regulations.

Specifically, CREW requests:

1. Copies of all communications between Secretary of the Interior Ryan Zinke and individuals representing MGM Resorts International from May 12, 2017 to the present, including but not limited to:
 - Gale Norton
 - Brian Ballard
 - Sylvester Lukis
 - Dan McFaul
 - Rebecca Benn
 - Elizabeth Gore
 - Alfred Mottur
 - Kai Anderson
 - Jordan Bernstein
 - Barbara Sutton
 - Russell Thomasson
 - Ryan Mulvenon
 - William Kirk
 - Ayesha Khanna Molino
 - and individuals with email addresses ending in “@mgmresorts.com.”
2. Copies of all communications to or from Secretary Zinke from May 12, 2017 to the present that mention or refer to:
 - MGM Resorts International
 - the Mohegan and/or Mashantucket Pequot tribes
 - the Foxwoods Casino
 - the Mohegan Sun

- East Windsor
 - MMCT Venture
 - and/or Springfield, Massachusetts.
3. Copies of all communications from November 29, 2017 to the present between Secretary Zinke and the following individuals:
 - Kevin F. King
 - Edward Holden Rippey
 - Neil K. Roman
 - Jeffrey H. Wood
 - John R. Hay
 - and/or Devon Lehman McCune.
 4. Copies of all communications to or from Secretary Zinke from November 29, 2017 to the present that mention or refer to *State of Connecticut et al v. Zinke et al* (1:17-cv-02564-RC).

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as those who were cc'ed or bcc'ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. *See* 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. *See Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and Department of the Interior regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. *See* 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

When a tribe submits proposed changes to gaming compacts to the Department of the Interior, the department has 45 days to issue a verdict. After the Mohegan and Mashantucket Pequot tribes submitted a proposal to build a new Connecticut casino to the Interior, the Interior

failed to meet this deadline.¹ Meanwhile, MGM Resorts International (MGM), a hospitality company with competing interests in the Connecticut region, mounted a campaign to oppose the casino. MGM doubled its lobbying spending, and Senator Dean Heller (R-NV) and Representative Mark Amodei (R-NV)—both of whom represent districts where MGM is a major employer and have tried to impede the tribes' casino previously—met with Interior Secretary Ryan Zinke multiple times.² The tribes, along with the state of Connecticut, filed suit in November 2017 as a result of the Department of the Interior's inaction.³ In mid-February, MGM filed a provisional memorandum siding with the Department of the Interior in the suit.⁴

The requested records would shed light on whether and how deep-pocketed, well-connected special influences affected the decision of federal policymakers. Taxpayers have a significant interest in learning the extent to which groups outside the Department of the Interior are influencing policies that affect the livelihood of historically disenfranchised Americans.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, www.citizensforethics.org. The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. See *Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes a blog that reports on and analyzes newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts all of the documents it receives under the FOIA on its website, which has been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

¹ <https://www.politico.com/story/2018/02/01/zinkes-indian-casino-interior-312671>

² <https://www.politico.com/story/2018/02/01/zinkes-indian-casino-interior-312671>

³ <https://www.ctpost.com/local/article/State-heads-to-court-for-East-Windsor-casino-12393189.php>

⁴ <http://www.theday.com/business/20180219/mgm-files-provisional-memorandum-siding-with-interior-in-third-casino-lawsuit>

FOIA Officer
September 8, 2017

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or mgold@citizensforethics.org. Also, if CREW's request for expedition and/or a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me either at mgold@citizensforethics.org or at Maya Gold, Citizens for Responsibility and Ethics in Washington, 455 Massachusetts Ave., N.W, Washington, D.C. 20001. Thank you for your assistance in this matter.

Sincerely,

Maya Gold
Research Associate