

March 5, 2020

BY EMAIL: FOIA-NAN@usace.army.mil

Annette Baden (Assistant to the Freedom of Information Act Officer)
U.S. Army Corps of Engineers
26 Federal Plaza
Office of Counsel, Room 16-206
New York, NY 10278-0090

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 U.S. Army Corps of Engineers (“USAEC”) regulations.

Specifically, CREW requests:

1. All communications between Army Corps of Engineers staff regarding the relocation of dredges from Point O’Woods and Ocean Bay Park on Fire Island, New York to the Midtown Beach area between Casa Bendita south to Banyan Road in Palm Beach, Florida, including but not limited to mentions of President Trump’s Mar-a-Lago club, sent or received between April 1, 2019 and March 5, 2020.
2. All communications between the Army Corps of Engineers and Marine Weeks regarding the relocation of dredges from Point O’Woods and Ocean Bay Park on Fire Island, New York to the Midtown Beach area between Casa Bendita south to Banyan Road in Palm Beach, Florida, including but not limited to mentions of President Trump’s Mar-a-Lago club, sent or received between April 1, 2010 and March 5, 2020.
3. All communications between the Army Corps of Engineers and the office of Representative Lee Zeldin regarding the relocation of dredges from Point O’Woods and Ocean Bay Park on Fire Island, New York to the Midtown Beach area between Casa Bendita south to Banyan Road in Palm Beach, Florida, including but not limited to mentions of President Trump’s Mar-a-Lago club, between April 1, 2019 and March 5, 2020.

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.

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). If 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 agency 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).

On February 22, 2020, the New York Post reported that the U.S. Army Corps of Engineers is stopping two beach-replacement projects on Long Island, New York to move crews and dredges to a different beach project less than a mile from President Donald Trump's Mar-a-Lago club. The Corps told the Post that the project was an emergency, but later contradicted this statement. One spokesman, David Ruderman, said that the relocation had nothing to do with the beach's proximity to Mar-a-Lago, but would not tell the Post why the Palm Beach job was a higher priority. Ruderman also said that the decision was made by the contractor, Weeks Marine, and that the Corps had no control over the decision. An unnamed federal government source, however, told the Post that the Corps would have to approve a contractor request.¹

The projects were meant to protect the Fire Island, New York neighborhoods of Point O'Woods and Ocean Bay Park from future "extreme weather events" in the wake of Hurricane Sandy and to provide "coastal storm risk management" to protect the area from future devastation.² An Ocean Bay Park resident, who also happens to have a house in Palm Beach, told the Post that while there is weather damage in Palm Beach, she fears that houses on Fire Island "will wash away" if the dredging project is not completed.³

¹ Jon Levine, [Fire Island dredging halted for 'emergency' beach project near Mar-a-Lago](https://nypost.com/2020/02/22/fire-island-dredging-halted-for-emergency-beach-project-near-mar-a-lago/), *New York Post*, February 22, 2020, available at <https://nypost.com/2020/02/22/fire-island-dredging-halted-for-emergency-beach-project-near-mar-a-lago/>.

² Christopher Walsh, [Dredging Up a Load of Controversy](https://www.easthamptonstar.com/government/2020227/dredging-load-controversy), *The Easthampton Star*, February 24, 2020, available at <https://www.easthamptonstar.com/government/2020227/dredging-load-controversy>.

³ Levine, *New York Post*, February 22, 2020.

The Fire Island towns in question are in Representative Lee Zeldin's district. In response to public upset over the project moving to Palm Beach, Rep. Zeldin's office released a statement lambasting the "partisan political attacks" against the Army Corps and assured that the dredging would be finished prior to the projected completion date.⁴

Trump has sought every opportunity to promote the properties that he still owns and profits from as President. Trump has used his platform to show foreign governments, special interest groups, and lobbyists that influence can be bought through promoting and patronizing his hotels and clubs. Trump has even benefitted more directly by supporting policies (such as environmental rollbacks and real estate tax breaks) that may boost his bottom line.⁵ The public has a compelling interest in learning whether federal resources were reallocated and the safety of American citizens was put at risk to protect one of his properties.

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 the documents it receives under the FOIA on its website, and that site has been visited hundreds of thousands of times.

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

⁴ Rep. Zeldin Meets with Army Corps of Engineers for Regional Update, *Congressman Lee Zeldin*, February 27, 2020, available at

<https://zeldin.house.gov/media-center/press-releases/rep-zeldin-meets-army-corps-engineers-regional-update-0>.

⁵ Trump Administration Policies May Benefit His Businesses, *Citizens for Responsibility and Ethics in Washington*, available at <https://www.citizensforethics.org/trump-administration-policies-may-benefit-his-businesses/>.

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 rjacobs@citizensforethics.org. Also, if CREW's request for 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 at either rjacobs@citizensforethics.org or Rebecca Jacobs, Citizens for Responsibility and Ethics in Washington, 1101 K St., N.W., Suite 201, Washington, D.C. 20005. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rebecca Jacobs', written in a cursive style.

Rebecca Jacobs
Research Associate