

September 30, 2021

By ECF

The Honorable Ronnie Abrams
United States District Judge
U.S. District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 1506
New York, NY 10007

Re: *WyoSayNo, et al. v. U.S. Department of Homeland Security, et al.*,
Case No. 21-CV-5663 (RA)

Dear Judge Abrams:

The undersigned counsel represents Plaintiffs WyoSayNo, Sierra Club, and Natural Resources Defense Council in this case, which concerns Plaintiffs' FOIA request seeking records concerning a proposed immigration detention facility in Uinta County, Wyoming. On behalf of all parties, I write to submit this joint letter pursuant to Local Civil Rule 7.1(d) to request an adjournment of the conference currently set for October 8, 2021, and an extension of the associated October 1, 2021 deadline to submit a joint pre-conference letter. The parties' progress in negotiating a schedule for Defendants' search for and production of records responsive to Plaintiffs' FOIA request is described below. Because Plaintiffs and U.S. Department of Homeland Security's (DHS) discussions concerning DHS's obligations to respond to the request and search for and produce responsive records remain ongoing, on behalf of all parties, I respectfully submit this joint request that the Court permit the parties to file a joint status letter no later than December 1, 2021, updating the Court on the progress of their discussions. The parties believe this additional time will allow them to continue to confer in good faith to attempt to narrow, if not eliminate, potential areas of dispute, thereby conserving the Court's resources.

This is the parties' second joint request for an adjournment of an appearance before the Court and for an extension of the corresponding joint letter deadline. *See* ECF No. 20. The Court granted the parties' previous request to adjourn the conference and extend the letter deadline. ECF No. 22. Defendants also previously requested an extension of their deadline to file an answer, *see* ECF No. 17, which the Court granted, and as part of that order, also adjourned the conference and deadline to provide the joint letter. *See* ECF No. 19.

Since the parties last updated the Court in August 2021, *see* ECF No. 20, they have made progress in their discussions concerning Defendants' search for and production of responsive records. Defendant U.S. Immigration and Customs Enforcement (ICE) completed two interim productions on August 27 (481 pages) and September 22, 2021 (503 pages).¹ The parties have agreed that ICE will continue to process 500 pages per month and produce responsive records on a monthly basis by email with the next productions in October and November 2021. Based on ICE's searches to date and the current page count of potentially responsive records, ICE

¹ Eleven of these 503 pages were inadvertently omitted from ICE's email production, but those pages were produced on September 30, 2021.

anticipates that productions will be complete in November 2021. More productions may be necessary if ongoing searches uncover additional pages of responsive records.

The parties have also agreed that ICE will provide Plaintiffs with an index pursuant to *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), including a list of all responsive records withheld in part or in full and an explanation for the basis of the withholding, within 45 days of the last production of responsive records. ICE has further agreed that Plaintiffs will be granted a fee waiver and that ICE will not charge Plaintiffs for the search and production of responsive records. The parties have agreed that they will meet and confer after ICE's submission of the *Vaughn* Index to attempt in good faith to narrow or eliminate any remaining areas of dispute, and will update the Court with a proposed briefing schedule for any documents still in dispute after that date.

The parties' discussions concerning DHS's search for and production of records responsive to Plaintiffs' FOIA request remain ongoing. To date, DHS has not produced any responsive records, separate from the ICE productions. The parties believe an additional 60 days will allow them to continue to confer and attempt to further narrow, if not eliminate, areas of potential dispute. Therefore, on behalf of all parties, I respectfully request that the Court adjourn the status conference scheduled for October 8, 2021, extend the associated October 1, 2021 joint pre-conference letter deadline, and permit the parties to file a status letter no later than December 1, 2021, updating the Court on the progress of their discussions.

On behalf of all parties, I thank the Court for its consideration of this matter.

Respectfully submitted,

/s/ Sarah C. Tallman

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Application granted.

SO ORDERED.



Hon. Ronnie Abrams

10/05/21