

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:23-cv-02653-RDM**

MOONEY v. U.S. ARMY CORPS OF ENGINEERS
Assigned to: Judge Randolph D. Moss
Cause: 05:552 Freedom of Information Act

Date Filed: 09/11/2023
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff**ROBERT MOONEY**

represented by **Matthew D. Hardin**
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V.

Defendant**U.S. ARMY CORPS OF ENGINEERS**

represented by **Alane Ballweg**
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TERMINATED: 09/23/2024
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Date Filed	#	Docket Text
09/11/2023	<u>1</u>	COMPLAINT <i>Under the Freedom of Information Act</i> against U.S. ARMY CORPS OF ENGINEERS (Filing fee \$ 402 receipt number ADCDC-10341111) filed by ROBERT MOONEY. (Attachments: # <u>1</u> Exhibit A (FOIA Request), # <u>2</u> Exhibit B (FOIA responses), # <u>3</u> Exhibit C (FOIA Appeal), # <u>4</u> Exhibit D (Confirmation FOIA Appeal Received), # <u>5</u> Civil Cover Sheet, # <u>6</u> Summons to US Army Corps of Engineers, # <u>7</u> Summons to Attorney General, # <u>8</u> Summons to US Attorney)(Hardin, Matthew) (Entered: 09/11/2023)
09/12/2023		Case Assigned to Judge Randolph D. Moss. (zrtw) (Entered: 09/12/2023)
09/12/2023	<u>2</u>	SUMMONS (3) Issued Electronically as to U.S. ARMY CORPS OF ENGINEERS, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent)(zrtw) (Entered: 09/12/2023)

09/13/2023	<u>3</u>	STANDING ORDER: The parties are hereby ORDERED to comply with the directives set forth in the attached Standing Order. See document for details. Signed by Judge Randolph D. Moss on 9/13/2023. (lcrdm1) (Main Document 3 replaced on 8/21/2024) (zglw). (Entered: 09/13/2023)
10/10/2023	<u>4</u>	NOTICE of Appearance by Patrick Doyle on behalf of U.S. ARMY CORPS OF ENGINEERS (Doyle, Patrick) (Entered: 10/10/2023)
10/11/2023	<u>5</u>	Consent MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by U.S. ARMY CORPS OF ENGINEERS. (Attachments: # <u>1</u> Text of Proposed Order)(Doyle, Patrick) (Entered: 10/11/2023)
10/12/2023		MINUTE ORDER: Upon consideration of Defendant's consent motion to extend time, Dkt. <u>5</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that Defendant respond to the complaint on or before November 2, 2023. Signed by Judge Randolph D. Moss on 10/12/2023. (lcrdm1) (Entered: 10/12/2023)
11/01/2023	<u>6</u>	ANSWER to Complaint by U.S. ARMY CORPS OF ENGINEERS.(Doyle, Patrick) (Entered: 11/01/2023)
11/01/2023		MINUTE ORDER: It is ORDERED that, on or before November 21, 2023, the parties shall confer and file a joint status report addressing (1) any documents still to be produced pursuant to FOIA; (2) an anticipated schedule for processing and producing any such documents; and (3) any substantive areas of disagreement between the parties. It is further ORDERED that the parties shall appear for an Initial Scheduling Conference on November 28, 2023, at 2:30 p.m., in Courtroom 8. Signed by Judge Randolph D. Moss on 11/1/2023. (lcrdm1) (Entered: 11/01/2023)
11/20/2023	<u>7</u>	Joint STATUS REPORT by U.S. ARMY CORPS OF ENGINEERS. (Attachments: # <u>1</u> Text of Proposed Order)(Doyle, Patrick) (Entered: 11/20/2023)
11/21/2023		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. <u>7</u> , the parties are hereby ORDERED to file a joint status report on or before January 24, 2024, that includes an anticipated schedule for processing and producing responsive documents. It is further ORDERED that the Initial Scheduling Conference scheduled on November 28, 2023, at 2:30 p.m. is VACATED. Signed by Judge Randolph D. Moss on 11/21/2023. (lcrdm1) (Entered: 11/21/2023)
01/12/2024	<u>8</u>	Joint STATUS REPORT by U.S. ARMY CORPS OF ENGINEERS. (Attachments: # <u>1</u> Text of Proposed Order)(Doyle, Patrick) (Entered: 01/12/2024)
01/18/2024		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. <u>8</u> , it is hereby ORDERED that Defendant will provide search declarations and Vaughn indices, if any, to Plaintiff on or before February 5, 2024. It is further ORDERED that a pre-motion conference is scheduled for March 8, 2024 at 10:30 a.m. in Courtroom 8. In advance of that hearing, the Defendant will file its pre-motion statement on or before February 15, 2024; Plaintiff will file his response on or before February 29, 2024. Signed by Judge Randolph D. Moss on 1/18/2024. (lcrdm1) (Entered: 01/18/2024)
01/31/2024	<u>9</u>	MOTION to Modify <i>Schedule</i> by U.S. ARMY CORPS OF ENGINEERS. (Attachments: # <u>1</u> Text of Proposed Order)(Doyle, Patrick) (Entered: 01/31/2024)
02/01/2024		MINUTE ORDER: Upon consideration of Defendant's motion to modify schedule, Dkt. <u>9</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that Defendant will provide search declarations and Vaughn indices, if any, to Plaintiff on or before February 26, 2024; Defendant will file its pre-motion statement on or before March 7, 2024; and Plaintiff will file his response on or before March 21, 2024. It is further ORDERED that the pre-motion conference scheduled for March 8, 2024 is VACATED and RESCHEDULED to April 1, 2024 at 10:30 a.m. in Courtroom 8. Signed by Judge Randolph D. Moss on 2/1/2024. (lcrdm1) (Entered: 02/01/2024)
02/23/2024	<u>10</u>	Consent MOTION to Vacate <i>Schedule and Temporarily Stay Case</i> by U.S. ARMY CORPS OF ENGINEERS. (Attachments: # <u>1</u> Text of Proposed Order)(Doyle, Patrick). Added MOTION to Stay on 2/26/2024 (zjm). Modified on 2/26/2024 (zjm). (Entered: 02/23/2024)

02/24/2024		MINUTE ORDER: Upon consideration of Defendant's consent motion to vacate schedule and stay the case, Dkt. <u>10</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that the Court's February 1, 2024 Minute Order scheduling a pre-motion conference is VACATED, and proceedings before this Court are STAYED until April 23, 2024. The parties shall file a joint status report on or before May 3, 2024, that includes a proposed schedule for further proceedings, if necessary. Signed by Judge Randolph D. Moss on 2/24/2024. (lcrdm1) (Entered: 02/24/2024)
05/02/2024	<u>11</u>	Joint STATUS REPORT by U.S. ARMY CORPS OF ENGINEERS. (Attachments: # <u>1</u> Text of Proposed Order)(Doyle, Patrick) (Entered: 05/02/2024)
05/03/2024		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. <u>11</u> , it is hereby ORDERED that the case remain STAYED until July 2, 2024. It is further ORDERED that the parties submit a further joint status report on or before July 2, 2024. Signed by Judge Randolph D. Moss on 5/3/2024. (lcrdm1) (Entered: 05/03/2024)
05/03/2024		Case Stayed (zglw) (Entered: 05/06/2024)
06/27/2024	<u>12</u>	MOTION to Amend/Correct <u>1</u> Complaint, by ROBERT MOONEY. (Attachments: # <u>1</u> Exhibit A (March 6, 2024 release of one record), # <u>2</u> Exhibit B (May 2, 2024 FOIA Request), # <u>3</u> Exhibit C (Correspondence regarding May 2, 2024 FOIA Request), # <u>4</u> Proposed First Amended Complaint)(Hardin, Matthew) (Entered: 06/27/2024)
06/30/2024		MINUTE ORDER: In light of Plaintiff's motion to amend the complaint, Dkt. <u>12</u> , the Defendant is hereby ORDERED to respond to the motion on or before July 11, 2024. It is further ORDERED that the case is UNSTAYED. Signed by Judge Randolph D. Moss on 6/30/2024. (lcrdm1) (Entered: 06/30/2024)
07/01/2024		Case Unstayed (zglw) (Entered: 07/01/2024)
07/02/2024	<u>13</u>	Joint STATUS REPORT by U.S. ARMY CORPS OF ENGINEERS. (Attachments: # <u>1</u> Text of Proposed Order)(Doyle, Patrick) (Entered: 07/02/2024)
07/11/2024	<u>14</u>	RESPONSE re <u>12</u> MOTION to Amend/Correct <u>1</u> Complaint, filed by U.S. ARMY CORPS OF ENGINEERS. (Attachments: # <u>1</u> Exhibit 1) Table of Contents, # <u>2</u> Exhibit 2) July 3, 2024 Email, # <u>3</u> Text of Proposed Order)(Doyle, Patrick) (Entered: 07/11/2024)
07/18/2024	<u>15</u>	REPLY to opposition to motion re <u>12</u> MOTION to Amend/Correct <u>1</u> Complaint, filed by ROBERT MOONEY. (Hardin, Matthew) (Entered: 07/18/2024)
07/25/2024		MINUTE ORDER: Upon consideration of Plaintiff's motion for leave to amend, Dkt. <u>12</u> , Defendant's response, Dkt. <u>14</u> , and Plaintiff's reply, Dkt. <u>15</u> , it is hereby ORDERED that the motion is GRANTED. Plaintiff seeks leave to amend his complaint to add allegations concerning a subsequent FOIA request that he filed on May 2, 2024 at the government's suggestion, <i>see</i> Dkt. 12 at 1–2. Although the amended pleading may more appropriately be considered a supplemental pleading because it concerns a "transaction, occurrence, or event that happened after the date of the pleading to be supplemented," Fed. R. Civ. P. 15(d), "[m]otions to amend under Rule 15(a) and motions to supplement under Rule 15(d) are subject to the same standard," <i>Wildearth Guardians v. Kempthorne</i> , 592 F. Supp. 2d 18, 23 (D.D.C. 2008). Under that standard, leave to amend (or to file a supplemental pleading) "should be freely given in the absence of undue delay, bad faith, undue prejudice to the opposing party, repeated failure to cure deficiencies, or futility." <i>Richardson v. United States</i> , 193 F.3d 545, 548–49 (D.C. Cir. 1999) (citing <i>Foman v. Davis</i> , 371 U.S. 178, 182 (1962)). Here, there is no evidence that Plaintiff is seeking to amend his complaint in bad faith. Nor is it likely that the amendment will cause undue delay. The case is in its early stages and the parties have yet to file any dispositive motions. In fact, permitting amendment of the current complaint may even streamline any such motions practice. Defendant states that it is ready to move for summary judgment on the issue of whether the original FOIA request was too vague to warrant a search, <i>see</i> Dkt. 14 at 3–4. The May 2, 2024 FOIA request was submitted in an effort to remedy the vagueness of the original FOIA request, so the addition of that request to this case may eliminate the vagueness issue (at least in part). Defendant also faces no undue prejudice from the amendment, <i>see Kight v. Crunchy Tobacco, Inc.</i> , No. 21–cv–3189, 2022 WL 20651175, at *4 (D.D.C. Oct. 7, 2022) ("Where the proponent of the

		amendment establishes that the additional claim would not (1) unduly increase discovery; (2) delay the trial; or (3) surprise the opponent, then the amendment should be allowed."), and Defendant may even face less of a burden than if Plaintiff were to bring a new action concerning the May 2 FOIA request. Finally, although Defendant argues that amendment would be futile because the May 2, 2024 FOIA request is itself too ambiguous to warrant a search, that issue is best resolved in a briefing on the merits. The Court recognizes that efforts to supplement pending FOIA cases with new FOIA requests submitted after the litigation commenced, and perhaps in response to the ongoing litigation, may often undermine the expeditious and efficient resolution of FOIA cases. This, however, is not such a case, and, for reasons explained above, granting Plaintiff leave to amend (or to supplement) may streamline this case. For these reasons, Plaintiff's motion for leave to amend is GRANTED. Plaintiff is further ORDERED to file his amended complaint on or before July 29, 2024. Signed by Judge Randolph D. Moss on 7/25/2024. (lcrdm1) (Entered: 07/25/2024)
07/27/2024	<u>16</u>	AMENDED COMPLAINT filed pursuant to Minute Order dated 7/25/2024 against U.S. ARMY CORPS OF ENGINEERS filed by ROBERT MOONEY. (Attachments: # <u>1</u> Exhibit A (FOIA response transmittal letter), # <u>2</u> Exhibit B (May 2, 2024 FOIA request), # <u>3</u> Exhibit C (collection of correspondence between agency and Mr. Mooney))(Hardin, Matthew) (Entered: 07/27/2024)
08/09/2024	<u>17</u>	ANSWER to <u>16</u> Amended Complaint, by U.S. ARMY CORPS OF ENGINEERS.(Doyle, Patrick) (Entered: 08/09/2024)
08/10/2024		MINUTE ORDER: Now that Defendant has answered Plaintiff's amended complaint, there remains the question of appropriate next steps. In the parties' July 2, 2024 joint status report, Plaintiff indicated that he wanted to proceed with summary judgment briefing after filing an amended complaint; Defendant indicated that if Plaintiff filed an amended complaint, it wanted to confer with Plaintiff about next steps. Accordingly, the parties are hereby ORDERED to file a joint status report on or before August 23, 2024, indicating their view on next steps. Signed by Judge Randolph D. Moss on 8/10/2024. (lcrdm1) (Entered: 08/10/2024)
08/23/2024	<u>18</u>	Joint STATUS REPORT by U.S. ARMY CORPS OF ENGINEERS. (Attachments: # <u>1</u> Text of Proposed Order)(Doyle, Patrick) (Entered: 08/23/2024)
09/01/2024		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. <u>18</u> , the parties are hereby ORDERED to file a further joint status report on or before September 23, 2024. Signed by Judge Randolph D. Moss on 09/01/2024. (lcrdm1) (Entered: 09/01/2024)
09/23/2024	<u>19</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Alane Ballweg on behalf of U.S. ARMY CORPS OF ENGINEERS Substituting for attorney Patrick Doyle (Ballweg, Alane) (Entered: 09/23/2024)
09/23/2024	<u>20</u>	Joint STATUS REPORT by U.S. ARMY CORPS OF ENGINEERS. (Attachments: # <u>1</u> Text of Proposed Order)(Ballweg, Alane) (Entered: 09/23/2024)
09/24/2024		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. <u>20</u> , the parties are hereby ORDERED to file a further joint status report on or before October 23, 2024. Signed by Judge Randolph D. Moss on 09/24/2024. (lcrdm1) (Entered: 09/24/2024)