

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SIERRA CLUB
2101 Webster Street, Suite 1300
Oakland, California 94612

Plaintiff,

v.

U.S. FISH AND WILDLIFE SERVICE
1849 C Street, NW
Washington, D.C. 20240

Defendant.

Case No. 19-2315

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1. Plaintiff brings this case to remedy violations of the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, *et seq.* by the U.S. Fish and Wildlife Service (“the Service” or “FWS”). The violations arise out of the Defendant’s continuing failure to provide a determination and responsive documents to a FOIA request Plaintiff submitted for records related to the Service’s review of the status of the Florida Key deer pursuant to the Endangered Species Act (“ESA”), 16 U.S.C. § 1531 *et seq.* The Florida Key deer is currently protected as an endangered species under the ESA.

2. On February 6, 2018, the *Miami Herald* reported that the U.S. Fish and Wildlife Service had initiated a review of the status of the Florida Key deer to determine whether the species should be removed from the list of endangered species, or whether its status should be

changed from “endangered” to “threatened.” Jenny Staletovich, *Feds Quietly Reconsider Protected Status for Endangered Florida Key Deer*, Miami Herald, February 6, 2018, available at <http://www.miamiherald.com/news/local/community/florida-keys/article198561674.html>.

3. According to that *Miami Herald* article, U.S. Fish and Wildlife Service spokesperson Ken Warren stated at that time, “The U.S. Fish and Wildlife Service is finishing up an evaluation related to the status of the Key deer required under the Endangered Species Act.”

4. Plaintiff Sierra Club submitted its FOIA request on February 27, 2018 to obtain records about what information was considered by the agency in this re-evaluation of the species’ status and what prompted the Service to undertake it.

5. The U.S. Fish and Wildlife Service acknowledged receipt of the FOIA request on March 21, 2018, assigned the request control number FWS-2018-00551. The acknowledgment did not provide an estimated date of completion, nor did it provide a determination.

6. To date, Defendant has failed to provide Sierra Club with a determination as to the scope of documents it intends to release or withhold, though more than 17 months have elapsed since Sierra Club submitted the request.

7. On September 13, 2018, Defendant provided Sierra Club with a small “partial response” of three pages by e-mail. The response letter, dated September 10, 2018, indicated that five responsive documents had been located, and that three of the five would be withheld in full. The e-mail conveying the response letter stated: “The Field Offices are currently gathering additional records pertaining to your request.”

8. Defendant has released no further records, nor has Defendant provided any further information about additional records it intends to withhold or release.

9. Defendant has not provided an estimated date by which action on the request will be completed.

10. Plaintiff Sierra Club is a not-for-profit environmental organization that advocates for the protection and preservation of the environment, including protections for wildlife. The records sought in the FOIA request are essential to Plaintiff's advocacy and public education mission in support of continued Endangered Species Act protections for the Florida Key deer.

11. Accordingly, Plaintiff asks this Court to declare that Defendant has violated FOIA, and to order Defendant to provide Plaintiff with a legally-compliant response to its outstanding records request.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) (FOIA) and 28 U.S.C. § 1331 (federal question).

13. Venue is properly vested in this Court under 5 U.S.C. § 552(a)(4)(B), which specifically provides for the district court of the United States in the District of Columbia to hear this matter.

14. Declaratory relief is appropriate under 28 U.S.C. § 2201.

15. Injunctive relief is appropriate under 28 U.S.C. § 2202 and 5 U.S.C. § 552(a)(4)(B).

PARTIES

16. Plaintiff SIERRA CLUB is one of the oldest environmental organizations in the United States. Sierra Club is incorporated in the State of California as a Nonprofit Public Benefit Corporation with headquarters in Oakland, California. Sierra Club is dedicated to protecting and preserving the natural and human environment, and its purpose is to explore, enjoy, and protect

the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; and to educate and enlist humanity to protect and restore the quality of the natural and human environments. Its mission includes engaging its members and the public to protect public lands, wildlife habitat, and wildlife. It has been a longtime, active public advocate for imperiled wildlife, including wildlife in Florida. Sierra Club has disseminated extensive information about the need for Endangered Species Act protections for wildlife to its approximately 779,000 members, including approximately 37,000 members in Florida, and to the public through press releases, its website, e-newsletter, and magazine. The Defendant's FOIA violations harm Sierra Club and its members by preventing Sierra Club from gaining full understanding of the rationale behind the Defendant's re-evaluation of the status of the endangered Florida Key deer, and the factual and scientific materials developed and considered by the Defendant as part of that re-evaluation. The improper withholding of the requested information also harms Sierra Club's efforts to advocate and communicate about the need for protections for the Florida Key deer.

17. Defendant U.S. FISH AND WILDLIFE SERVICE (FWS) is an agency of the executive branch of the U.S. government, under the U.S. Department of the Interior. FWS is charged with administering the Endangered Species Act, including making determinations about whether the status of species, such as the Florida Key deer, warrant protections under that act for "endangered" or "threatened" species. FWS is in possession and control of the records that Plaintiff seeks, and therefore it is subject to FOIA pursuant to 5 U.S.C. § 552(f). FWS is a federal agency responsible for applying and implementing the federal laws and regulations at issue in this complaint.

LEGAL BACKGROUND

18. FOIA's basic purpose is to ensure government transparency and the expeditious disclosure of government records. It establishes the public's right to access all federal agency records unless the agency satisfies its burden to show that such records may be withheld pursuant to one of nine narrowly construed FOIA exemptions. 5 U.S.C. § 552(b)(1)-(9); *id.* § 552(a)(4)(B).

19. FOIA imposes strict deadlines on federal agencies when they receive a request for records pursuant to FOIA. Specifically, an agency must make a determination whether to disclose responsive records and notify the requester of its determination within 20 working days of receiving a FOIA request. It must then make records "promptly" available, unless it can establish that certain unusual circumstances are present and/or that it may lawfully withhold records, or portions of records, from disclosure. *Id.* § 552(a)(3)(A), (a)(6); 43 C.F.R. § 2.16(a). An adverse determination must inform the requester that it has a right to appeal the agency's determination. 5 U.S.C. § 552(a)(6)(A)(i).

20. An agency may extend the 20-working-day deadline for an additional 10 working days by giving a written notice to the requester that sets forth "unusual circumstances" to justify a deadline extension. *Id.* § 552(a)(6)(B)(i). Agencies are required to provide "an estimated date on which the agency will complete action on the request" whenever a request will take more than ten days to resolve. 5 U.S.C. § 552(a)(7)(B). Agencies extending the period for unusual circumstances must, when providing notice of the extension, provide "the date on which a determination is expected to be dispatched." *Id.* § 552(a)(6)(B)(i).

21. To invoke such "unusual circumstances," the agency must also provide the requester with "an opportunity to limit the scope of the request so that it may be processed within

[20 working days] or an opportunity to arrange with the agency an alternative time frame for processing the request or a modified request.” *Id.* § 552(a)(6)(B)(ii). In addition, when asserting unusual circumstances, the agency “shall make available its FOIA Public Liaison” to “assist in the resolution of any disputes between the requester and the agency.” *Id.*

22. Department of Interior FOIA regulations provide for a tracked response process that distinguishes simple and complex requests based on the estimated number of workdays needed to respond. 43 C.F.R. §2.15(a). “Simple” requests take one to five workdays to process; “normal” requests take between six and twenty workdays; “complex” requests take between twenty-one and sixty workdays; and “exceptional/voluminous” requests, which involve “very complex processing challenges” and potentially include a large number of responsive records, will take over sixty work days to process. 43 C.F.R. § 2.15(c)(1)-(4).

23. The agency must notify the requester of the track on which the request will be processed, and when appropriate, offer the requester an opportunity to narrow the request so it can be placed on a track with a more rapid response date. 43 C.F.R. § 2.15(e).

24. The multi-track processing system does not alter FOIA’s statutory deadline for an agency to determine whether to comply with the FOIA request. 43 C.F.R. § 2.15. An agency must make a determination whether to comply with the request, and notify the requester accordingly, within the mandatory 20 day deadline.

25. To make a lawful “determination,” the agency must at least: “(i) gather and review the documents; (ii) determine and communicate the scope of the agency’s documents it intends to produce and withhold, and the reasons for withholding any documents; and (iii) inform the requester that it can appeal whatever portion of the ‘determination’ is adverse.”

Citizens for Responsibility & Ethics in Wash. v. FEC, 711 F.3d 180, 188 (D.C. Cir. 2013); *see* 5 U.S.C. § 552(a)(6)(A)(i).

26. The agency must then make the requested records “promptly” available. 5 U.S.C. § 552(a)(3)(A). In so doing, the agency must make reasonable efforts to search for records in a manner that is reasonably calculated to locate all records responsive to the FOIA request. *Id.* § 552(a)(3)(C), (D).

27. The agency may withhold from production the limited classes of records exempted under 5 U.S.C. § 552(b). For any record withheld, the agency bears the burden of proving that one of the statutory exemptions applies. *Id.* § 552(a)(4)(B). Even if some information is exempt from disclosure, “[a]ny reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt.” *Id.* § 552(b).

28. The U.S. district courts have jurisdiction “to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.” *Id.* § 552(a)(4)(B).

29. An agency’s failure to comply with FOIA’s deadlines constitutes a constructive denial of the request, and the requester’s administrative remedies are deemed exhausted for purposes of litigation. *Id.* § 552(a)(6)(C)(i). If the agency is exercising due diligence in responding to the request and “exceptional circumstances” apply, the court may retain jurisdiction and allow the agency additional time to respond. 5 U.S.C. § 552(a)(6)(C)(i). A delay resulting from a “predictable agency workload of [FOIA] requests” generally does not qualify as an exceptional circumstance. *Id.* § 552(a)(6)(C)(ii).

30. Pursuant to FOIA, this Court may assess attorney fees and litigation costs against the United States if the Plaintiff prevails in this action. 5 U.S.C. § 552(a)(4)(E).

FACTUAL BACKGROUND

31. As alleged below, Defendant has not provided Plaintiff with the determination required by FOIA and the governing regulations, has failed to produce all non-exempt responsive records, and has not completed the production of requested records.

32. Sierra Club seeks records related to the U.S. Fish and Wildlife Service's review of the status of the Florida Key deer under the ESA.

33. Under the ESA, a species must be listed as "endangered" when it is "in danger of extinction throughout all or a significant portion of its range." 16 U.S.C. § 1532(6). A species is "threatened" when it is "likely to become an endangered species within the foreseeable future." 16 U.S.C. § 1532(20). A species may be removed from the list when it no longer meets the definition for either a threatened or endangered species because it has recovered. 16 U.S.C. § 1533(c)(1). The ESA provides mandatory substantive protections for both endangered and threatened species, *see e.g.* 16 U.S.C. § 1536(a)(1) (requiring federal agencies to use their authorities to carry out programs for the conservation of listed species); *id.* at § 1536(a)(2) (requiring agencies to ensure their actions do not jeopardize listed species or adversely modify or destroy their "critical habitat"). The ESA prohibits the "take" of endangered species, 16 U.S.C. § 1538(a)(1)(B), but allows the Service more flexibility with regard to the protection to afford threatened species from "take," *see* 16 U.S.C. § 1533(d). "Take" includes killing, harm, and harassment, 16 U.S.C. § 1532(19), including harm caused incidentally by activities that destroy habitat, 50 C.F.R. § 17.3.

34. The Service's decision about the status of a species must be made "solely on the basis of the best scientific and commercial data available." 16 U.S.C. § 1533(b)(1)(A). As the Service has stated, Congress required that listing decisions be "solely" based on such data "to ensure that decisions in every phase of the listing process are based solely on biological consideration, and to prohibit consideration of economic or other nonbiological factors from affecting such decisions." Listing Endangered and Threatened Species and Designating Critical Habitat; Amended Procedures to Comply with the 1982 Amendments to the Endangered Species Act, 48 Fed. Reg. 36,062 (Aug. 8, 1983) (preamble to rule).

35. The ESA and the Service's regulations require that the status of listed species be reviewed routinely every five years. 16 U.S.C. § 1533(c)(2)(A); 50 C.F.R § 424.21. Under the Service's regulations, the Service will provide public notice in the Federal Register of the species under active review. 50 C.F.R. § 424.21. That regulation also states: "Notwithstanding this section's provisions, the Secretary may review the status of any species at any time based upon a petition (see § 424.14) or upon other data available to the Service." *Id.*

36. The Service last completed a mandatory 5-year review to evaluate the "endangered" status of the Florida Key deer in 2010. The Service concluded that the Florida Key deer should remain listed as endangered.

37. On or around July 24, 2017, the U.S. Fish and Wildlife Service initiated development of a report assessing the biological information about the status of the Florida Key deer population by evaluating its current condition and future biological viability, but did not provide notice of that process to, or seek input from, the public at large. The Service did not provide notice in the Federal Register that it was undertaking a status review for the Florida Key deer.

38. According to a June 7, 2018 letter that FWS State Supervisor Larry Williams later sent to Jason Totoiu, Everglades Law Center, FWS provided notice of that action only to a small group of parties via a letter from FWS Field Supervisor Roxanna Hinzman dated July 24, 2017. That July 24, 2017 letter was sent to 25 parties that Supervisor Larry Williams described as “stakeholders from the State, County, Tribes, congressionals [sic], universities, and nongovernmental organizations.”

39. In the July 24, 2017 letter, the Service stated that it was initiating preparation of a “species status assessment” (“SSA”) report for the Florida Key deer.

40. The July 24, 2017 letter from the Service explained: “It has come time to update the most current 5-year review which will evaluate the current status of the species. In support of evaluating the current status of this species, the Service is initiating a Species Status Assessment (SSA)...The SSA is intended to inform regulatory and policy decisions, but be developed independently from any such decisions. In this case, the SSA will inform a decision regarding the status of the Key deer, *i.e.* determination of endangered (no change in status), threatened (downlisting), or protection not warranted (delisting).” Thus, the express purpose of the report was to provide the scientific basis for the review of the status of the species under the ESA, which would culminate in a determination as to the status of the species.

41. The July 24, 2017 letter stated: “The SSA framework is intended to generate a highly integrated, explicit, and scientifically based approach to evaluate the biological and conservation status of a species. The Key deer SSA will begin with a compilation of the best available information on the species (taxonomy, life history, and habitat) and its ecological needs at the individual, population, and/or species levels. Next, the SSA will describe the current condition of the Key deer habitat and demographics, and the probably explanations for any past

or ongoing changes in these parameters. Finally, the SSA forecasts the species response to probable future scenarios of environmental conditions and conservation efforts.”

42. By or before October 31, 2017, the Service had completed a draft version of this biological assessment report (species status assessment or “SSA”). The Service circulated that draft report to the Florida Fish and Wildlife Conservation Commission (a state agency) shortly thereafter, but did not make it available to the general public.

43. To date, the Service has not made either drafts or a final version of the SSA available to the general public.

44. On information and belief, by February 2018, the Service decided not to include the Florida Key deer in an upcoming Federal Register notice announcing the initiation of 5-year status reviews for southeastern species. E-mail messages from FWS staff Kelly Bib, Southeast Regional Recovery Coordinator, and Nikki Lamp, Endangered Species Supervisor, sent during January 2018 indicate that the Service did so because it had already decided to propose a rule to change the status of the species by delisting or downlisting it. Thus, at some time between July 2017 and February 2018, the Service had already conducted an internal review of the status of the species, and determined that either delisting or downlisting to threatened was appropriate.

45. Indeed, on February 6, 2018, the *Miami Herald* reported that Service spokesperson Ken Warren had stated, “The U.S. Fish and Wildlife Service is finishing up an evaluation related to the status of the Key deer required under the Endangered Species Act.” Jenny Staletovich, *Feds Quietly Reconsider Protected Status for Endangered Florida Key Deer*, *Miami Herald*, February 6, 2018, *available at* <http://www.miamiherald.com/news/local/community/florida-keys/article198561674.html>.

46. The Florida Key deer was not included in any of the subsequent Federal Register notices published in 2018 and 2019 announcing the initiation of 5-year status reviews for multiple southeastern species by FWS. See Endangered and Threatened Wildlife and Plants; 5-Year Status Reviews for 35 Southeastern Species, 83 Fed. Reg. 20,092 (May 2, 2018); Endangered and Threatened Wildlife and Plants; 5-Year Status Reviews for 42 Southeastern Species, 83 Fed. Reg. 38,320 (Aug. 6, 2018); Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Status Reviews for 36 Southeastern Species, 84 Fed. Reg. 14,669 (April 11, 2019); Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Status Reviews for 53 Southeastern Species, 84 Fed. Reg. 28,850 (June 20, 2019).

47. On February 27, 2018, Plaintiff submitted a FOIA request to the U.S. Fish and Wildlife Service. The request explained that it was seeking records “that relate to” the species status review referred to in the *Miami Herald* article, and sought:

“All records generated since November 2016 discussing the ongoing species status review for the Florida Key deer (*Odocoileus virginianus clavium*), including but not limited to:

- Records pertaining to the impetus for the review, including but not limited to records of the reasons for, motivation behind, prompting of the review. Such records should include but are not limited to any communications within FWS and with outside agencies, parties or individuals;
- Records of scientific information presented to or generated by FWS;
- Records of scientific review from peer reviewers, State and Federal agency staff, and Department of Interior staff;
- Records of communications discussing the status of the species;

- Records of communications discussing regulatory mechanisms to address threats to the species; and
- Records of communications discussing conservation measures for the species.”

48. Plaintiff’s FOIA request sought all such records held by FWS, but stated: “Responsive records are likely to be held by the field offices within Region 4, the Region 4 office, and Fish and Wildlife Service headquarters. The main field office involved is the South Florida Ecological Services, Vero Beach Field Office.”

49. On March 21, 2018, the U.S. Fish and Wildlife Service sent an e-mail acknowledging receipt of the FOIA request. The e-mail stated that FWS had assigned the request control number FWS-2018-00551, and placed the request in the “exceptional/voluminous” processing track. The acknowledgment e-mail stated that Sierra Club’s request for a fee waiver had been granted. The acknowledgment did not provide an estimated date of completion, nor did it provide a determination.

50. The 20-working days due date for the FOIA determination was March 26, 2018.

51. Instead of providing an estimated completion date, the FOIA request status tracking information provided by Defendant on-line states that the estimated processing completion date is: “*After 5/21/2018.*” (emphasis added). See <https://foia.doi.gov/requeststatus/> (last accessed August 1, 2019).

52. On May 25, 2018, Sierra Club, jointly with the Everglades Law Center and a number of other nongovernmental organizations, submitted a comment letter to FWS raising concerns about the Florida Key deer status review reported by the *Miami Herald*.

53. In response to Sierra Club's May 25th letter, on June 7, 2018 FWS State Supervisor Larry Williams sent a letter to the Everglades Law Center, copying Sierra Club. As described above, the June 7, 2018 letter acknowledged that the Species Status Assessment process had been initiated in July 2017 and provided a copy of the July 2017 letter that FWS Field Supervisor Roxanna Hinzman sent to 25 "stakeholders."

54. On July 18, 2018, the U.S. Fish and Wildlife Service informed Plaintiff by e-mail that its FOIA request temporarily had been changed to the "complex" processing track based on the belief that there were very limited records responsive to the request, but that "[a]fter a more thorough comprehensive search, [Plaintiff's] request has been placed back into the 'exceptional/voluminous' processing track." That e-mail further stated: "There are currently multiple offices that are conducting searches and gathering records." The e-mail also stated that the Service was "in the process of routing a partial response with limited records" and "hope[d] to have that to [Plaintiff] soon." That e-mail did not provide an estimated date of completion.

55. On September 13, 2018, the U.S. Fish and Wildlife Service provided a small "partial response" of three pages of records by e-mail. The e-mail message stated: "The Field Offices are currently gathering additional records pertaining to your request: South Florida Ecological Services Program has located 5 responsive documents." At that time, Defendant released one document in full—a one page document containing two e-mail messages—and partially released a second—a two page document containing two e-mail messages. Defendant withheld the remaining three documents under Exemption 5. The letter did not provide an estimated date of completion.

56. Defendant has released no further records since that time, nor has Defendant provided any further information about additional records it intends to withhold or release.

57. On April 18, 2019, Plaintiff wrote to the FOIA Officer by e-mail to inquire about the status of the request. Plaintiff asked the U.S. Fish and Wildlife Service to provide an estimated date of completion for making a determination regarding the additional records.

58. On April 29, 2019, U.S. Fish and Wildlife Service FOIA Coordinator Tiffany McClurkin responded by e-mail that she would “follow-up with the Ecological Services Program” and “hope[d] to have an estimated date of completion...very soon.”

59. As of the date of this Complaint, the Defendant has failed to provide either an estimated date of completion, or any further information about the status of the request.

60. As of the date of this Complaint, the Defendant has failed to make a determination on the full scope of records, provide all non-exempt responsive documents, complete its response, or provide Plaintiff with a timetable for production of the requested documents.

61. In June of 2019, Plaintiff discovered that the Service had already drafted a post-delisting monitoring plan for the Florida Key deer, a document that would accompany a proposed rule to remove a species from the list of endangered or threatened species under the ESA.

FIRST CLAIM FOR RELIEF
VIOLATION OF THE FREEDOM OF INFORMATION ACT
Failure to Make a Determination on FOIA Request, 5 U.S.C. § 552(a)(6)-(7)

62. Plaintiff realleges and incorporates by reference each of the allegations set forth in the preceding paragraphs.

63. Plaintiff has a statutory right to receive a determination from the U.S. Fish and Wildlife Service on its FOIA request within 20 working days, or 30 working days at most if the agency properly establishes “unusual circumstances.”

64. The U.S. Fish and Wildlife Service violated FOIA by failing to make the required determination in response to Plaintiff's outstanding FOIA request dated February 27, 2018 in compliance with the statutory deadlines.

65. The U.S. Fish and Wildlife Service also failed to provide an estimated date of completion.

66. Sierra Club has constructively exhausted its administrative remedies with respect to this claim because Defendant failed to provide a final determination within the deadline mandated by FOIA, and failed to provide a final determination prior to the time Sierra Club filed this suit.

**SECOND CLAIM FOR RELIEF
VIOLATION OF THE FREEDOM OF INFORMATION ACT
Failure to Provide Responsive Records to FOIA Request,
5 U.S.C. § 552(a)(3), (a)(4)(B), (b); 43 C.F.R. § 2.12**

67. Plaintiff realleges and incorporates by reference each of the allegations set forth in the preceding paragraphs.

68. FOIA requires the U.S. Fish and Wildlife Service to process the records request described herein, to complete an adequate search reasonably calculated to locate all records, and to promptly provide responsive records, or any reasonably segregable portion of a record that is subject to specified FOIA exemptions.

69. The U.S. Fish and Wildlife Service violated Plaintiff's rights under FOIA when it failed to promptly disclose records, or to disclose reasonably segregable portions of lawfully exempt records, that are responsive to the February 27, 2018 FOIA request.

70. Sierra Club has constructively exhausted its administrative remedies with respect to this claim because Defendant failed to provide a final determination within the deadline

mandated by FOIA, and failed to provide a final determination prior to the time Sierra Club filed this suit.

71. Unless enjoined by the Court, Defendant will continue to violate Plaintiff's legal rights to be provided with copies of the records which it has requested in its FOIA request described above.

72. Plaintiff is directly and adversely affected and aggrieved by Defendant's failure to provide responsive records to its FOIA request described above.

73. Plaintiff has been required to expend costs and to pay for legal services to prosecute this action.

74. Plaintiff is entitled to reasonable costs of litigation, including attorney fees pursuant to FOIA 5 U.S.C. § 552 (a)(4)(E).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court:

1. Declare that Defendant's failure to respond to Plaintiff's FOIA request, as alleged above, are unlawful under FOIA, 5 U.S.C. § 552(a)(6)(A)(i);
2. Order Defendant to provide a determination on Plaintiff's FOIA requests as required by FOIA;
3. Order Defendant to conduct searches that are reasonably calculated to locate all records—up to the date when the searches are conducted—responsive to Plaintiff's FOIA request;
4. Order Defendant to provide Plaintiff all responsive records, or reasonably segregable portions of lawfully exempt records, within 20 days of this Court's order;

Award Plaintiff its costs and reasonable attorney fees pursuant to 5 U.S.C. § 552(a)(4)(E) or 28 U.S.C. § 2412; and

5. Grant such other relief as the Court may deem just and proper.

Respectfully submitted August 1, 2019,

/s/ Karimah Schoenhut

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