

ATTACHMENT D



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July 8, 2019

David Smith, Superintendent
Joshua Tree National Park
74485 National Park Drive
Twentynine Palms, CA 92277-3597

Re: Supplemental Freedom of Information Act Request to the February 21, 2019 Freedom of Information Act Request

Dear Superintendent Smith:

Pursuant to the Freedom of Information Act (“FOIA”), and on behalf of National Parks Conservation Association (“NPCA”), I hereby supplement the FOIA Request submitted to you on February 21, 2019 (the “Initial Request”) with this request (the “Supplemental Request”).

On February 21, 2019, I submitted the Initial Request on behalf of NPCA to you via email. The Initial Request, a copy of which is attached, sought records in the possession or control of Joshua Tree National Park (“JOTR”) relating to the Department of the Interior’s and NPS’s (together, the “Department”) January 2018 contingency plan (the “2018 NPSCP”), under which units of the National Park System were to be kept accessible to visitors during any lapse of appropriations. The Initial Request also sought records relating to the Department’s January 2019 updated contingency plan (the “2019 Revised Plan”), which readopted the 2018 NPSCP but also included a provision that “[p]arks that collect fees under the Federal Lands Recreation Enhancement Act (FLREA) will utilize available retained recreation fees balances to provides basic visitor services . . .”¹ The Initial Request also sought records relating to implementation of these Plans at JOTR, and the effects of the implementation, during the 2018-2019 lapse of appropriations and consequent shutdown of the federal Government.

It is NPCA’s position that the back-end cut-off date for the Initial Request, as stated therein, is the date that you begin your search for responsive records. *See McClanahan v. U.S. Dep’t of Justice*, 204 F.Supp.3d 30, 47 (D.D.C. 2016) (“[A] date-of-search cut-off has routinely been found to be reasonable . . .”); *Nat’l Sec. Counselors v. CIA*, 960 F.Supp.2d 101, 153 (D.D.C. 2013) (citing *Public Citizen v. Dep’t of State*, 276 F.3d 634, 642 (D.C. Cir. 2002), for the proposition that the

¹ *National Park Service’s Revised Contingency Plan*, <https://www.doi.gov/sites/doi.gov/files/2018-01-nps-contingency-plan.pdf> (Jan. 2019).

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D.C. Circuit “implicitly approv[ed] as reasonable a ‘date-of-search cut-off [date]’”). As such, the Initial Request specified that “[t]he search period” for the categories of documents requested included documents up until “the date of search.”

Nevertheless, to avoid any disputes in that regard, NPCA hereby supplements the Initial Request to cover the documents sought therein dated or created between February 21, 2019 (the date of the Initial Request) to this date, July 8, 2019.

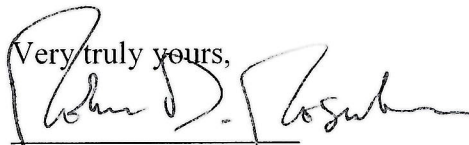
The Initial Request is hereby incorporated herein as if fully set forth here. This Supplemental Request does not supersede, amend, or terminate the Initial Request. This Supplemental Request serves only to supplement the Initial Request, to the extent that you contend that the Initial Request’s search period ends on the date of the Initial Request.

On the date hereof, I am also submitting a request for expedited treatment of the Initial Request and of this Supplemental Request, a copy of which is also attached to this letter.

I ask for a waiver of fees as to this Supplemental Request on the same basis as set forth in the Initial Request, and that part of that request is incorporated herein as fully as if set forth herein.

* * *

If you have any question about this matter, please call me at 202-942-5862. Thank you in advance for your assistance.

Very truly yours,

Robert D. Rosenbaum