

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Delaware Riverkeeper Network and Maya K. van Rossum, the Delaware Riverkeeper

(b) County of Residence of First Listed Plaintiff Bucks (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Kacy C. Manahan, 925 Canal Street, Suite 3701, Bristol, PA 19007, 215-369-1188 x115

DEFENDANTS

Charles F. Sams III, in his official capacity as the Director of the National Park Service; United States Department of the Interior

County of Residence of First Listed Defendant Washington, D.C. (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes like 110 Insurance, 210 Land Condemnation, 310 Airplane, 440 Other Civil Rights, 625 Drug Related Seizure, 710 Fair Labor Standards Act, 820 Copyrights, 870 Taxes (U.S. Plaintiff or Defendant).

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 5 U.S.C. 552. Brief description of cause: Failure to disclose records

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE April 15, 2024 SIGNATURE OF ATTORNEY OF RECORD /s/ Kacy C. Manahan

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 925 Canal Street, Suite 3701, Bristol, PA 19007

Address of Defendant: 1849 C Street NW, Washington, D.C. 20240

Place of Accident, Incident or Transaction: Bristol, PA

RELATED CASE IF ANY:

Case Number: Judge: Date Terminated

Civil cases are deemed related when Yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit Pending or within one year previously terminated action in this court?
3. Does this case involve the validity or infringement of a patent already in suit or any earlier Numbered case pending or within one year previously terminated action of this court?
4. Is this case a second or successive habeas corpus, social security appeal, or pro se case filed by the same individual?

I certify that, to my knowledge, the within case is / is not related to any now pending or within one year previously terminated action in this court except as note above.

DATE: Attorney-at-Law (Must sign above) Attorney I.D. # (if applicable)

Civil (Place a checkmark in one category only)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Wage and Hour Class Action/Collective Action
6. Patent
7. Copyright/Trademark
8. Employment
9. Labor-Management Relations
10. Civil Rights
11. Habeas Corpus
12. Securities Cases
13. Social Security Review Cases
14. Qui Tam Cases
15. All Other Federal Question Cases. (Please specify): Freedom of Information Act, 5 U.S.C. 552

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify):
7. Products Liability
8. All Other Diversity Cases: (Please specify)

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration)

I, Kacy C. Manahan, counsel of record or pro se plaintiff, do hereby certify:

Pursuant to Local Civil Rule 53.2 § 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

Relief other than monetary damages is sought.

DATE: April 15, 2024 /s/ Kacy C. Manahan 329031
Attorney-at-Law (Sign here if applicable) Attorney ID # (if applicable)

NOTE: A trial de novo will be a jury only if there has been compliance with F.R.C.P. 38.

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DELAWARE RIVERKEEPER  
NETWORK; and MAYA K. VAN  
ROSSUM, *the Delaware Riverkeeper,*

Plaintiffs,

v.

No. 2:24-cv-01547

CHARLES F. SAMS III, *in his official  
capacity as the Director of the United  
States National Park Service*; UNITED  
STATES DEPARTMENT OF THE  
INTERIOR; and NATIONAL PARK  
SERVICE,

Defendants.

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Delaware Riverkeeper Network and Maya K. van Rossum, the Delaware Riverkeeper (collectively, “Plaintiffs”), hereby file this Complaint against Defendants Charles F. Sams III, in his official capacity as Director of the National Park Service, the United States Department of the Interior, and the National Park Service (collectively, “Defendants”) and, in support thereof, state the following:

**INTRODUCTION**

1. Northgate Resorts has proposed to develop an existing campground in Highland, New York, located on the Upper Delaware River into “Camp FIMFO,” which would accommodate RVs and water features.

2. As of the date of filing, the Town of Highland is conducting an environmental assessment of the Camp FIMFO project as required by New York's State Environmental Quality Review Act ("SEQR"), N.Y. ENV'T. CONSERV. LAW §§ 8-0101–8-0117 (1976).

3. The Upper Delaware River was designated as a unit of the national park system and a component of the National Wild and Scenic Rivers System, *see* 16 U.S.C. §§ 1271 *et seq.*, which provides the segment of the river with protection from projects that will have a detrimental effect.

4. Plaintiffs filed three different Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, requests with Defendant the National Park Service ("NPS") on July 21st, 2023, August 29th, 2023, and August 31st, 2023, requesting records relating to the proposed development.

5. Plaintiffs filed an appeal with Defendant the United States Department of the Interior's ("DOI") FOIA Appeals Officer on November 27th, 2023, due to NPS's failure to respond to the FOIA requests within the required timeframe stated in 5 U.S.C. § 552(a)(6)(A)(i), as well as the regulations promulgated thereunder at 43 C.F.R. § 2.16(a), of twenty working days and after waiting several months without receiving any records.

6. Plaintiffs did not receive a response from the FOIA Appeals Officer regarding the appeal within the required timeframe stated in 5 U.S.C. §

552(a)(6)(A)(ii), as well as the regulations promulgated thereunder at 43 C.F.R. § 2.62(a), of twenty working days. Plaintiffs followed up with the DOI FOIA Appeals Officer on January 3rd, 2024, approximately six working days past the deadline, requesting an update on the submitted appeal.

7. As of the date of filing, Defendants have not produced any records in response to Plaintiffs' FOIA requests. Nor have Defendants objected to the requests or identified any ground for withholding responsive material as exempt from production under FOIA. Defendants have violated FOIA by failing to respond to Plaintiff's requests and appeal within the statutorily prescribed time limits, failing to disclose the requested records, and unlawfully withholding the requested information.

8. Plaintiffs bring this action against Defendants to compel compliance with FOIA and seek an injunction directing NPS to adhere to FOIA and search for and produce all responsive records.

### **JURISDICTION AND VENUE**

9. This court has subject-matter jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

10. This court has the authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C §§ 2201 *et seq.*, and to grant injunctive relief pursuant to 5 U.S.C. § 552(a)(4)(B).

11. Venue is proper under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

**PARTIES**

12. Plaintiff Delaware Riverkeeper Network (“DRN”), is a not-for-profit 501(c)(3) membership organization established in 1988 to protect and restore the Delaware River, its associated watershed, tributaries, and habitats. DRN has its principal place of business at 925 Canal Street, Bristol, PA 19007. DRN works throughout the entire Delaware River Watershed, including the four states that comprise the Watershed: Pennsylvania, New Jersey, Delaware, and New York. DRN also works at the federal level on decisions that impact the health of the Delaware River Watershed waterways and the ability to protect and restore them. DRN has an extensive and robust history of work in New York State and in the Upper Delaware River region to protect the main stem of the river, including the Upper Delaware River. DRN has over 170 members that live in Highland, New York; as well as many others that recreate, vacation, visit and enjoy the communities, natural resources, and businesses located in the Town of Highland.

13. Plaintiff Maya K. van Rossum, the Delaware Riverkeeper, is the leader and Executive Director of DRN, serving in this role since 1994. Ms. van Rossum ensures that the Delaware River has a voice in all conversations that could bring harm or help to the watershed and its natural resources. Ms. van Rossum as the Delaware Riverkeeper regularly visits the Delaware River, Delaware Estuary, and

areas adjacent to the watershed including the areas affected by the proposed project and has taken family, friends, DRN members, and other interested people onto the Delaware River and its tributaries to educate them and to share with them the aesthetic beauty of the river.

14. Defendant, Charles F. Sams III, is the Director of the NPS. Mr. Sams is the leader of NPS and oversees the senior executives and regional directors who manage the national programs, policy, budget, national park management, and program implementation. Mr. Sams is named in his official capacity.

15. Defendant, NPS is a federal agency within the meaning of FOIA. 5 U.S.C. § 552(f)(1). Interior Region 1 of the NPS is located at Interior Region 1 Office, 1234 Market Street, Philadelphia, P.A. 19107. NPS is a bureau of the DOI. NPS has possession, custody, and control of records to which Plaintiffs seeks access.

16. Defendant, DOI, is a federal agency within the meaning of FOIA. 5 U.S.C. § 552(f)(1). DOI is headquartered at Main Interior Building 1849 C Street NW, Washington, D.C. 20240. DOI directly oversees NPS' operations through its department's Assistant Secretary for Fish, Wildlife and Parks. DOI handles NPS FOIA request appeals. *See* 43 C.F.R. §2.59(a).

## **LEGAL BACKGROUND**

### **Federal Wild and Scenic Rivers Act**

17. The Upper Delaware River was added as a component of the National

Wild and Scenic Rivers System by Congress in 1978 through an amendment to the Wild and Scenic Rivers Act commonly referred to as the Upper Delaware Legislation. *See* Pub. L. No. 95-625, § 704(a), 92 Stat. 3524 (codified as amended at 16 U.S.C. § 1274(a)(19)). The designation of the Upper Delaware River protects the river’s unique characteristics and water quality, such as its regionally significant scenic quality, recreational opportunities, and high ecological integrity.

18. A River Management Plan (“RMP”) was required as part of the Upper Delaware River’s inclusion in the National Wild and Scenic Rivers System, CONFERENCE OF UPPER DELAWARE TOWNSHIPS, FINAL RIVER MANAGEMENT PLAN UPPER DELAWARE SCENIC AND RECREATIONAL RIVER (1986). The RMP divides management responsibilities between the Upper Delaware Council (“Council”) and NPS to oversee the implementation of the plan.

19. As part of its management responsibilities, the Council performs initial substantial conformance<sup>1</sup> for proposed projects within the Upper Delaware River to ensure the development is consistent with the intent of the RMP, Land and Water Use Guidelines (“Guidelines”), MID-ATLANTIC REGIONAL OFFICE OF THE NATIONAL

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<sup>1</sup> Substantial conformance is “conformance, with respect to the list of compatible, conditional, and incompatible new land uses contained in the Land and Water Use Guidelines, and with the substance of both the River Management Plan and each of the principles and objectives set out in the guidelines.” CONFERENCE OF UPPER DELAWARE TOWNSHIPS, FINAL RIVER MANAGEMENT PLAN UPPER DELAWARE SCENIC AND RECREATIONAL RIVER 42 (1986).



PARK SERVICE, LAND AND WATER USE GUIDELINE UPPER DELAWARE SCENIC AND RECREATIONAL RIVER (1986), and the Upper Delaware Legislation. The Council then submits its final substantial conformance recommendation to NPS.

20. NPS conducts the final determination of substantial conformance. If the recommendations of the Council are consistent with the plan and guidelines, the Secretary will accept them.

### **New York State Environmental Quality Review Act**

21. New York's State Environmental Quality Review Act ("SEQR") requires all local, regional, and state government agencies to examine the environmental impacts for actions that are subject to SEQR. 6 N.Y. COMP. CODES R. & REGS. tit. 6, § 617.1(c) (2018).

22. Actions must be evaluated to determine their significance. An Environmental Impact Statement ("EIS") is required for actions that are determined to have "the potential for at least one significant adverse environmental impact." *Id.* § 617.7(a)(1).

23. The scope of the EIS must be determined prior to completion of an EIS. *Id.* § 617.8(a). The scoping process determines the issues that must be addressed in the EIS, *id.*, and provides the public with an opportunity to identify the impacts of the project. *Id.* § 617.8(d).

### Federal Freedom of Information Act

24. FOIA provides every person with a right to request and receive federal agency records. *See* 5 U.S.C. § 552(a)(3)(A).

25. FOIA requires every agency to make reasonable effort to search for records, *id.* § 552(a)(3)(c); 43 C.F.R. § 2.12(a), and to make the records promptly available. 5 U.S.C. § 552(a)(3)(A), 43 C.F.R. § 2.22(c).

26. FOIA imposes strict deadlines on agencies to provide responsive documents to FOIA requests, 5 U.S.C. § 552(a)(6)(A)(i), but allows each agency to promulgate regulations allowing for multitrack processing of requests based on the amount of work or time involved in processing requests. *See id.* § 552(a)(6)(D)(i).

27. NPS has promulgated regulations that permit for multitrack processing of requests. *See* 43 C.F.R. § 2.15(c). Requests in the normal processing track are permitted six to twenty workdays for processing. *See id.* § 2.15(c)(2).

28. Multitrack processing “does not alter the statutory deadline for a bureau to determine whether to comply with your FOIA request.” *See id.* § 2.15(f). An agency must comply with a FOIA request by issuing a determination within 20 business days after receipt of the request. 5 U.S.C. § 552(a)(6)(A)(i); 43 C.F.R. § 2.16(a).

29. An agency must immediately notify the requester of its determination whether to comply with a request, and the reasons for it, and of the right of such

person to appeal an adverse determination. 5 U.S.C. § 552(a)(6)(A)(i).

30. An agency's failure to comply with timing requirements is constructive denial and satisfies the requester's requirement to exhaust administrative remedies. *Id.* § 552(a)(6)(C)(i).

31. An agency's failure to comply with timing requirements is administratively appealable. 43 C.F.R. § 2.57(a)(7). Such appeals may be filed with DOI any time after the time limit for responding to the request has passed. *Id.* § 2.58(c), § 2.59(a).

32. The basic time limit for responding to an appeal is twenty workdays after receipt of an appeal. 5 U.S.C. 552(a)(6)(A)(ii); 43 C.F.R. § 2.62(a). If the Department is unable to reach a decision on an appeal within the time limit for response, the deciding official for FOIA Appeals will notify the requester of her statutory right to seek review in United States District Court. 43 C.F.R. § 2.62(b).

33. A FOIA requester who exhausts administrative remedies may petition the court for injunctive and declaratory relief from the agency's continued withholding of agency records. 5 U.S.C. § 552(a)(4)(B).

34. Reasonable attorney fees and other litigation costs reasonably incurred may be assessed against the United States in any case in which the complainant has substantially prevailed. *Id.* § 552(a)(4)(E)(i).

## FACTUAL ALLEGATIONS

35. Northgate Resorts is proposing to develop and transform a currently existing campground on the Upper Delaware River in the Town of Highland, New York into Camp FIMFO. While many of the details of the project are unknown, Camp FIMFO includes a plan “to spend around \$44.9 million renovating the former Kittatinny Campground into an all-inclusive family resort, ... with a mountain coaster, pool and water play area and RV park[.]” Liam Mayo, *FIMFO and the environment*, RIVER REPORTER (Aug. 9, 2022 3:39 PM) <https://riverreporter.com/stories/Fimfo-and-the-environment,58687>.

36. On September 2, 2022, the Council submitted its final substantial conformance recommendation to NPS. The Council determined that the Town of Highland Special Use Permit from Northgate Resorts for Camp FIMFO dated April 12th, 2023, substantially conforms with the Guidelines.

37. On July 17, 2023, NPS issued its Substantial Conformance Review, in which it determined that the Special Use Permit Application *did not* substantially conform with the Guidelines for the Upper Delaware Scenic and Recreational River.

38. On July 20, 2023, Plaintiffs requested the following records from NPS through FOIA through the time period of August 1, 2022 to July 31, 2023:

- (1) All documents, including internal and external communications, emails, meeting minutes, applications, reports and studies, including all materials provided to, and all attachments mentioned in any documents, relating

to Camp FIMFO Catskills, between National Parks Service (NPS), Northgate Resorts, Upper Delaware Council, and the Town of Highland Sullivan County, New York, from August 1, 2022 to July 31, 2023.

(2) All communications, and documentation between NPS, Northgate Resorts, and the Town of Highland regarding compliance with local town code/ordinance and the Delaware River Wild & Scenic River Management Plan regarding Camp FIMFO Catskills, from August 1, 2022 to July 31, 2023.

(3) All communications, and documentation between NPS, and the Town of Highland, concerning the properties formerly owned by Kittatinny Canoes, from August 1, 2022 to July 31, 2023.

(4) All communications between NPS or parties representing NPS, related to NPS, or otherwise communicating on behalf of NPS, Northgate Resorts, and the Town of Highland regarding Camp FIMFO Catskills, from August 1, 2022 to July 31, 2023.

(5) All documents reflecting, summarizing, referencing, or responding to communications between NPS or parties representing NPS, related to NPS, or otherwise communicating on behalf of NPS, and Northgate Resorts, Town of Highland, regarding Camp FIMFO Catskills, from August 1, 2022 to July 31, 2023.

(6) [A] full waiver of all search and duplication fees.

A true and correct copy of the request is attached hereto as Exhibit “A.”

39. On August 7, 2023, the request was assigned the following identification number: NPS-2023-005758, placed in the normal processing track, and was considered “perfected” as of July 28, 2023. In its acknowledgment letter,

NPS's FOIA Officer exercised the option for a ten-day extension to process the request. *See* 43 C.F.R. § 2.19(a). A true and correct copy of the acknowledgement letter is attached hereto as Exhibit "B."

40. On August 9, 2023, Plaintiffs responded to the FOIA Officer and requested the release of records on a rolling basis so that Plaintiffs would receive them prior to an August 23, 2023 Planning Board meeting concerning Camp FIMFO. The FOIA Officer replied to this request that NPS would "provide materials as [NPS is] able to process them." A true and correct copy of this correspondence is attached hereto as Exhibit "C."

41. On August 29, 2023, Plaintiffs requested the same records from FOIA as identified in the July 20, 2023 request, but requested the search be conducted from July 31st, 2023, to August 31st, 2023. A true and correct copy of the August 29 request is attached hereto as Exhibit "D." The request was assigned the following identification number: NPS-2023-005905. Plaintiffs did not receive an acknowledgement letter for this request.

42. On August 31st, 2023, Plaintiffs requested the following documents from NPS through FOIA:

(1) A copy of the National Park Service's River Management Plan conformance assessment and determination for the Town of Highland Code issued in 2019.

(2) A copy of the National Park Service's River

Management Plan conformance assessment and determination for the Town of Highland Code issued in 2021.

(3) All National Park Service assessments of the Town of Highland Code that informed the National Park Service's River Management Plan conformance assessment and determination for the Town of Highland Code issued in either 2019 or 2021.

(4) All Upper Delaware Council assessments of the Town of Highland Code that informed the National Park Service's River Management Plan conformance assessment and determination of the Town of Highland Code issued in either 2019 or 2021.

(5) A full waiver of all search and duplication fees.

The request was assigned the following identification number: NPS-2023-005915.

A true and correct copy of this request is attached hereto as Exhibit "E." The request did not receive an acknowledgement letter.

43. On September 1, 2023, NPS informed Plaintiffs that it had identified approximately 6,100 pages of material as potentially responsive to the July 20, 2023 request and that it was continuing to review the records. A true and correct copy of this correspondence is attached hereto as Exhibit "F." As of the date of this filing, Plaintiffs have not received any records in response to the July 20, 2023 request.

44. On September 5, 2023, Plaintiffs responded to the FOIA Officer's September 1 letter, explaining that the requested records pertained to an imminent decision by the Town of Highland Planning Board, which was scheduled to meet

September 27, 2023. A true and correct copy of this correspondence is attached hereto as Exhibit “G.” Plaintiffs did not receive any records before the September 27 meeting.

45. On September 27th, 2023, the Planning Board voted 3-2 finding that Camp FIMFO may have a significant adverse impact on the environment and in favor of conducting an EIS for the project as required pursuant to SEQ. 6 N.Y. COMP. CODES R. & REGS. tit. 6, § 617.7(a)(1).

46. Plaintiffs did not have access to any of the requested FOIA records during the permitted scoping period. Plaintiffs requested the Planning Board to extend the commenting period; however, the comment period was not extended.

47. On October 18, 2023, Plaintiffs contacted NPS’s FOIA Officer for an update on all three FOIA requests. The FOIA Officer responded, indicating that the requests were in 36th, 47th, and 49th place in the queue, respectively. A true and correct copy of this correspondence is attached hereto as Exhibit “H.”

48. In late October, Plaintiffs called NPS’s FOIA Officer to seek an update on the all three FOIA requests. In response, on October 30, 2023, the FOIA Officer identified a request similar to Plaintiffs’ August 31 request, from a different requester. The FOIA Officer asked, and Plaintiffs agreed, to search terms that were being used for that other request in order to move up in the queue of FOIA requests. A true and correct copy of this correspondence is attached hereto as Exhibit “I.” As



of the date of this filing, Plaintiffs has not received any records in response to the August 31 request.

49. After further coordinating with the FOIA Officer, on October 31, 2023, Plaintiffs elected to consolidate the July 20 and August 29 requests due to their similarity. A true and correct copy of this correspondence is attached hereto as Exhibit “J.” Therefore, both requests are now reflected in request number NPS-2023-005758. As of the date of this filing, Plaintiffs have not received any records in response to this consolidated request.

50. On November 27th, 2023, Plaintiffs filed a FOIA appeal to DOI, fifty-six working days past the extended September 1 deadline to respond to the July 20 request, and thirty-seven working days past the deadline to respond to the August 31, 2023 request. Plaintiffs appealed the timeliness of NPS’s response to all three requests via email. DOI was required to respond twenty working days from the date of the appeal—by December 26, 2023. *See* 43 C.F.R. § 2.62(a). A true and correct copy of the administrative appeal, without attachments, is attached hereto as Exhibit “K.”

51. The Planning Board voted to approve the draft scoping document on December 20th, 2023. As of that vote, the Planning Board determined that the applicant has sixty days to submit a draft EIS to the Planning Board.

52. If the Planning Board accepts the draft EIS as adequate for public

review, the public will have a minimum of thirty days to provide comment. 6 N.Y. COMP. CODES R. & REGS. tit. 6, § 617.9(a)(3). As of the date of this filing, a public comment period has not commenced.

53. On January 3rd, 2024, five working days past the deadline for a response to the appeal, Plaintiffs emailed the FOIA Appeals Officer requesting an update regarding the appeal. A true and correct copy of this correspondence is attached hereto at Exhibit “L.” DOI did not respond to the email.

## **CLAIMS FOR RELIEF**

### **COUNT I**

#### **Violation of the Freedom of Information Act – Failure to Conduct a Reasonable Search for Responsive Records**

54. The Plaintiffs repeat, allege, and incorporate, as fully set forth herein, each and every allegation contained in the paragraphs above.

55. The Defendants are obligated under 5 U.S.C. § 552(a)(3)(C) and 43 C.F.R. § 2.12(a) to conduct a reasonable search for records responsive to the Plaintiffs’ FOIA requests.

56. The Plaintiffs have a legal right to obtain such records, and no legal basis exists for the Defendants’ failure to search for them.

57. The Defendants’ failure to conduct a reasonable search for records responsive to the Plaintiffs’ requests violates, at a minimum, 5 U.S.C. § 552(a)(3)(C) and the regulations promulgated thereunder.

**COUNT II**

**Violation of the Freedom of Information Act –  
Failure to Disclose Responsive Records**

58. The Plaintiffs repeat, allege, and incorporate, as fully set forth herein, each and every allegation contained in the paragraphs above.

59. The Defendants are obligated under 5 U.S.C. § 552(a)(3)(A) and 43 C.F.R. § 2.22(c) to promptly produce records responsive to the Plaintiffs' FOIA requests and supplement thereto.

60. The Plaintiffs have a legal right to obtain such records, and no legal basis exists for the Defendants' failure to disclose them.

61. The Defendants' failure to disclose all responsive records violates, at a minimum, 5 U.S.C. § 552(a)(3)(A), as well as the regulations promulgated thereunder.

**COUNT III**

**Violation of the Freedom of Information Act –  
Failure to Respond within Time Required**

62. The Plaintiffs repeat, allege, and incorporate, as fully set forth herein, each and every allegation contained in the paragraphs above.

63. The Defendants are obligated under 5 U.S.C. § 552(a)(6)(A)(i) and 43 C.F.R. § 2.16(a) to promptly determine whether to comply with Plaintiffs' FOIA requests.

64. The Plaintiffs have a legal right to such determination, and no legal

basis exists for the Defendants' failure to make a determination.

65. The Defendants' failure to make a determination violates, at a minimum, 5 U.S.C. § 552(a)(6)(A)(i), as well as the regulations promulgated thereunder.

#### **COUNT IV**

##### **Violation of the Freedom of Information Act – Failure to Respond to Appeal**

66. The Plaintiffs repeat, allege, and incorporate, as fully set forth herein, each and every allegation contained in the paragraphs above.

67. The Defendants are obligated under 5 U.S.C. § 552(a)(6)(A)(ii) and 43 C.F.R. § 2.62(a) to promptly respond to the Plaintiffs' FOIA appeal.

68. The Plaintiffs have a legal right to have their appeal addressed, and no legal basis exists for the Defendants' failure to respond to the appeal.

69. The Defendants' failure to respond to the appeal violates, at a minimum, 5 U.S.C. § 552(a)(6)(A)(ii), as well as the regulations promulgated thereunder.

#### **PRAYER FOR RELIEF**

70. WHEREFORE, the Plaintiffs request that this Court enter judgment in its favor and grant the following relief:

- a. Order NPS to conduct a search, by a date certain, for any and all responsive records to Plaintiffs' FOIA requests and demonstrate

that it employed search methods reasonably likely to lead to discovery of all responsive records;

- b. Order NPS to produce, by a date certain, any and all nonexempt responsive records and a Vaughn index of any responsive records withheld under a claim of exemption. *See Vaughn v. Rosen*, 484 F.2d 820, 827–28 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974);
- c. Enjoin NPS from withholding any and all nonexempt responsive records;
- d. Award Plaintiffs their attorneys’ fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
- e. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: April 15, 2024

/s/ Kacy C. Manahan  
Kacy C. Manahan  
Senior Attorney  
Pa. Attorney No. 329031  
Devon E. Guyer  
Legal Research Fellow  
Pa. Attorney No. 334890

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# EXHIBIT A



July 20, 2023

**Via Online Portal**

Nicholas Banco, Acting FOIA Officer  
Department of Interior  
National Parks Service  
12795 W. Alameda Parkway, P.O. Box 25287  
Denver, CO 80225  
(202) 208-3553  
[nicholas.banco@sol.doi.gov](mailto:nicholas.banco@sol.doi.gov)

**Re: Freedom of Information Act Request – National Parks Service  
Communications and Material Provided to Northgate Resorts Concerning  
Camp FIMFO Catskills and the Town of Highland in Sullivan County, New  
York from – August 1<sup>st</sup> 2022 to July 31<sup>st</sup> 2023**

Dear FOIA Records Officer,

Under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, unless it appears from the face of the document or communication that the document or communication has already been provided to Delaware Riverkeeper Network (DRN) or its attorneys, I am requesting the following:

- (1) All documents, including internal and external communications, emails, meeting minutes, applications, reports and studies, including all materials provided to, and all attachments mentioned in any documents, relating to Camp FIMFO Catskills, between National Parks Service (NPS), Northgate Resorts, Upper Delaware Council, and the Town of Highland Sullivan County, New York, from August 1, 2022 to July 31, 2023.
- (2) All communications, and documentation between NPS, Northgate Resorts, and the Town of Highland regarding compliance with local town code/ordinance and the Delaware River Wild & Scenic River Management Plan regarding Camp FIMFO Catskills, from August 1, 2022 to July 31, 2023.

DELAWARE RIVERKEEPER NETWORK  
925 Canal Street, Suite 3701  
Bristol, PA 19007  
Office: (215) 369-1188  
fax: (215) 369-1181  
[drm@delawareriverkeeper.org](mailto:drm@delawareriverkeeper.org)  
[www.delawareriverkeeper.org](http://www.delawareriverkeeper.org)



- (3) All communications, and documentation between NPS, and the Town of Highland, concerning the properties formerly owned by Kittatinny Canoes, from August 1, 2022 to July 31, 2023.
- (4) All communications between NPS or parties representing NPS, related to NPS, or otherwise communicating on behalf of NPS, Northgate Resorts, and the Town of Highland regarding Camp FIMFO Catskills, from August 1, 2022 to July 31, 2023.
- (5) All documents reflecting, summarizing, referencing, or responding to communications between NPS or parties representing NPS, related to NPS, or otherwise communicating on behalf of NPS, and Northgate Resorts, Town of Highland, regarding Camp FIMFO Catskills, from August 1, 2022 to July 31, 2023.
- (6) a full waiver of all search and duplication fees.

I also kindly request a waiver of any fees associated with a response to this request. Pursuant to 5 U.S.C. 552(a)(4)(A)(iii), documents obtained in the interest of the public fall under the fee waiver category because furnishing these documents is likely to contribute significantly to public understanding of the operations or activities of the Agency. DRN is a nonprofit organization that speaks on behalf of the public and will use the records in a way that serves the public interest. DRN submits the following justification for this fee waiver request:

1. The subject matter of the requested records specifically concerns identifiable operations of activities of the NPS. This request pertains to particular information regarding the status and legal compliance of the NPS's work related Camp FIMFO Catskills, and will be used to inform DRN's position. As such, the request is not made for purely informational content.
2. The disclosure of these requested records is likely to contribute to the public understanding of government operations. The requested records are meaningfully informative to DRN's understanding of the NPS's actions relating the development of Camp FIMFO Catskills. Furthermore, to the best of DRN's knowledge, these documents and the information they contain are not yet in the public domain.
3. DRN, including the Delaware Riverkeeper, speaks on behalf of the Delaware River, its communities' use of the river, and its tributaries. DRN has an interest in the quality of the river and its ecosystems. Release of the requested information will benefit the public at large because it will inform DRN and the Delaware Riverkeeper's public advocacy on the NPS's oversight of Camp FIMFO's development on the Delaware River, including outreach to its 15,000+ members, the press, and the general public regarding the Atlantic sturgeon.
4. DRN has vast experience extracting, analyzing and disseminating this type of information since our establishment in 1988. DRN has scientists on staff and DRN staff have been extracting, analyzing, and disseminating such information related to major developments affecting the Delaware River for over three decades.

5. DRN will disseminate the information through our website and through outreach to relevant interested parties. Outreach may be in the form of emails or through our regular publications.

6. The disclosure would contribute “significantly” to public understanding of government operations and activities regarding the NPS’s actions relating to the Camp FIMFO Catskills development abutting the Delaware River. Presently, neither DRN nor the public has access to the information contained in the requested documents and such information is significant to understanding key NPS actions regarding this topic. If the request is granted, the public knowledge of NPS’s activities related to Camp FIMFO Catskills will be significantly enhanced. Our members; who recreate, live, and work in the Delaware River Watershed, will receive an increased understanding through the above-mentioned dissemination activities. The general public will also receive increased understanding through DRN’s website.

7. The Delaware Riverkeeper Network has no commercial interest in the disclosure of this information. Although its status as a nonprofit organization is not enough on its own to weigh against commercial interest, the nature of the Delaware Riverkeeper Network is such that the information requested would further the organization’s programmatic interests. DRN has no commercial stake in any records that it has requested. Furthermore, the strong public interest outlined above in obtaining this information would outweigh any conceivable commercial interest this information could have for the Delaware Riverkeeper Network.

If my fee request is denied, I request that you contact me to discuss the costs for copying the records before you fulfill my request.

Thank you for your consideration of this request. Please do not hesitate to contact Seth Sherman with any questions at [seth@delawareriverkeeper.org](mailto:seth@delawareriverkeeper.org).

Sincerely,

A handwritten signature in blue ink that reads "Maya K. van Rossum".

Maya K. van Rossum, the Delaware  
Riverkeeper  
Delaware Riverkeeper Network  
925 Canal Street, Suite 3701  
Bristol, PA 19107  
[keepermaya@delawareriverkeeper.org](mailto:keepermaya@delawareriverkeeper.org)

# **EXHIBIT B**



## United States Department of the Interior



NATIONAL PARK SERVICE  
Interior Region 1  
North Atlantic-Appalachian  
1234 Market Street, 20<sup>th</sup> Floor  
Philadelphia, PA 19107

IN REPLY REFER TO:

NPS-2023-005758

August 7, 2023

Maya Van Rossum  
Seth Shermin  
Delaware Riverkeeper Network  
925 Canal Street, Suite 3701  
Bristol, PA 19007

Dear Ms. Van Rossum:

The National Park Service (NPS), Interior Region 1, North Atlantic Appalachian Area (IR1-NAA) FOIA office received your Freedom of Information Act (FOIA) request, dated July 20, 2023.

Your request was submitted via FOIA.gov with confirmation number 792431. It has been assigned FOIA Tracking Number DOI-NPS-2023-005758. Any correspondence, with this office, regarding this request should refer to our tracking number and not the FOIA.gov confirmation number.

In your request you asked for a series of records pertaining to communications held by the National Park Service regarding Camp FIMFO for the period of August 1, 2022 and July 31, 2023.

On July 28, 2023 we contacted your office regarding your request. Later that day we connected with Mr. Seth Shermin who indicated he was processing this request on your behalf for the Delaware Riverkeeper Network.

At that time we advised him that we received that included a request for emails that would also be responsive to your request.

We also advised that we would be conducting searches for emails via the eMail Enterprise Records and Document System (eERDMS). This is because one or more of the employees identified as potentially having emails responsive to your request are retired or separated from the NPS,

We informed Mr. Shermin that the terms to be used in that search were "FIMFO", "Norhtgate" and "Kittatiny" and that they covered the period of August 1, 2022 through July 31, 2023.

He agreed to the terms proposed and the use of those results to be used and processed in response to his request.

Your request is considered perfected as of July 28, 2023.

**Fees—Other Use Requester—[43 C.F.R. §§ 2.38, .39](#),**

We have classified you as an “other-use” requester. As such, we may charge you for some of our search and duplication costs, but we will not charge you for our review costs; you are also entitled to up to 2 hours of search time and 100 pages of photocopies (or an equivalent volume) for free. See [43 C.F.R. § 2.39](#).

In your request you asked for a fee waiver. Your request has been granted.

**Multitrack Processing—[43 C.F.R. §§ 2.14, .15](#)**

We use Multitrack Processing to process FOIA requests. The Simple track is for requests that would generally take one to five workdays to process. The Normal track is for requests that would generally take six to twenty workdays to process. The Complex track is for requests that would generally take twenty-one to sixty workdays to process. The Extraordinary track is for requests that would generally take more than sixty workdays to process. The Expedited track is for requests that have been granted expedited processing, which are processed as soon as practicable. Within each track, requests are usually processed on a first-in, first-out basis. Your request falls into the Normal processing track. There are 38 requests pending ahead of yours in this processing track.

**Extension—Ten Workdays—[43 C.F.R. § 2.19](#)**

Because we will need to search for and collect requested records from field facilities or other units that are separate from the office processing the request we are taking a 10-workday extension under [43 C.F.R. § 2.19](#).

Presuming that our current FOIA capacity and burden remain constant, we expect that we will dispatch a determination to you by September 1, 2023.

If you do not receive our response by that date you may file an appeal by writing to:

Freedom of Information Act Appeals Officer  
Office of the Solicitor  
U.S. Department of the Interior  
1849 C Street, NW  
MS-6556-MIB,  
Washington, D.C. 20240  
[foia.appeals@sol.doi.gov](mailto:foia.appeals@sol.doi.gov)

Your failure-to-timely-respond appeal may be filed anytime after the estimated response date provided above and the date we issue our final response. The appeal should be marked, both on the envelope and the face of the appeal letter, with the legend "FREEDOM OF INFORMATION APPEAL." Your appeal should be accompanied by a copy of your original request and copies of all correspondence between yourself and the National Park Service related to this request, along with any information you have which leads you to believe our response to be in error. Note, any appeal received after 5 p.m. EST will be considered to have been received on the next business day.

If you have any questions about our response to your request, you may contact Jessica McHugh by email at [IR1\\_FOIA@nps.gov](mailto:IR1_FOIA@nps.gov) or by telephone at 267-279-4905. Additionally, contact information for the Department's FOIA Requester Centers and FOIA Public Liaison is available at <https://www.doi.gov/foia/foiacenters>.

Sincerely,

JESSICA MCHUGH  
Digitally signed by  
JESSICA MCHUGH  
Date: 2023.08.07  
09:55:27 -04'00'

Jessica McHugh  
National Park Service  
Interior Region 1, North Appalachian Area  
Freedom of Information Act Officer

# EXHIBIT C

**From:** [Carlos Donato](#)  
**To:** [Devon Guyer](#)  
**Subject:** FW: [EXTERNAL] RE: 23-5758 UPDE Rossum Acknowledgement 8.7.23  
**Date:** Monday, October 30, 2023 11:26:57 AM  
**Attachments:** [image.png](#)

---

**From:** McHugh, Jessica C <[Jessica\\_McHugh@nps.gov](mailto:Jessica_McHugh@nps.gov)> **On Behalf Of** IR1 FOIA, NPS  
**Sent:** Wednesday, August 9, 2023 5:42 PM  
**To:** Seth Sherman <[seth@delawareriverkeeper.org](mailto:seth@delawareriverkeeper.org)>  
**Subject:** Re: [EXTERNAL] RE: 23-5758 UPDE Rossum Acknowledgement 8.7.23

Mr. Sherman,

My apologies for the typo. The submission made to request electronic records did was for "northgate".

I have provided you with a screen of the term submitted for your assurance.

**15b. Keywords:**

**Simple Example:** Sample Case Name, State, Place, Key Phrase, Keyword

**Complex Example:** (("Sample Case Name" OR "Highly Relevant Key Phrase" OR ("General Key Phrase" OR "General-Keyword") AND ("State" OR "Place" OR "Lastname"))) AND-NOT ("Key Phrase That Indicates An Email Should Clearly Be Excluded")

"FIMFO" or "Kittatinny" or "Northgate"

A regional FOIA Office request was submitted to our National FOIA Office for approval last week and was elevated to the Department level eERDMs team for action on the 8th. However, we have not yet received results.

As indicated in our correspondence, requests are processed in the order that they are received in accordance with their track placement.

We will provide you materials as we are able to process them.

Jessica C. McHugh  
Government Information Specialist  
Interior Region 1, National Park Service  
267-279-4905 (mobile)

---

**From:** Seth Sherman <[seth@delawareriverkeeper.org](mailto:seth@delawareriverkeeper.org)>  
**Sent:** Wednesday, August 9, 2023 3:23 PM  
**To:** IR1 FOIA, NPS <[IR1\\_FOIA@nps.gov](mailto:IR1_FOIA@nps.gov)>  
**Subject:** [EXTERNAL] RE: 23-5758 UPDE Rossum Acknowledgement 8.7.23

**This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.**

Hello,

Our team had two questions about this ongoing FOIA.

In the acknowledgement letter there appears to be a typo where it states "Norhtgate" instead of "Northgate" and we just



wanted to make sure that would not be reflected in the official document search.

Second, there is an important community meeting concerning Camp FIMO on August 23<sup>rd</sup>, so we were curious if there is any way that some of the documents could be deployed to us on a rolling basis so we can at least have a basic understanding of the communications between NPS, Northgate, and The Town of Highland before that meeting.

Thank you for your time,

Seth Sherman  
Fossil Fuel Infrastructure Fellow  
Delaware Riverkeeper Network

---

**From:** McHugh, Jessica C <[Jessica\\_McHugh@nps.gov](mailto:Jessica_McHugh@nps.gov)> **On Behalf Of** IR1 FOIA, NPS  
**Sent:** Monday, August 7, 2023 9:59 AM  
**To:** Seth Sherman <[seth@delawareriverkeeper.org](mailto:seth@delawareriverkeeper.org)>  
**Subject:** 23-5758 UPDE Rossum Acknowledgement 8.7.23

Mr. Shermin,

Attached please find a letter acknowledging your request.

Should you have any issues accessing the attached file please contact me directly.

Jessica C. McHugh  
Government Information Specialist  
Interior Region 1, National Park Service  
267-279-4905 (mobile)

# EXHIBIT D



August 29, 2023

**Via Online Portal**

Nicholas Banco, Acting FOIA Officer  
Department of Interior  
National Parks Service  
12795 W. Alameda Parkway, P.O. Box 25287  
Denver, CO 80225  
(202) 208-3553  
[nicholas.banco@sol.doi.gov](mailto:nicholas.banco@sol.doi.gov)

**Re: Freedom of Information Act Request – National Parks Service  
Communications and Material Provided to Northgate Resorts Concerning  
Camp FIMFO Catskills and the Town of Highland in Sullivan County, New  
York from – July 31<sup>st</sup> 2023 to August 31<sup>st</sup> 2023**

Dear FOIA Records Officer,

Under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, unless it appears from the face of the document or communication that the document or communication has already been provided to Delaware Riverkeeper Network (DRN) or its attorneys, I am requesting the following:

- (1) All documents, including internal and external communications, emails, meeting minutes, applications, reports and studies, including all materials provided to, and all attachments mentioned in any documents, relating to Camp FIMFO Catskills, between National Parks Service (NPS), Northgate Resorts, Upper Delaware Council, and the Town of Highland Sullivan County, New York, from July 31, 2023 to August 31, 2023.
- (2) All communications, and documentation between NPS, Northgate Resorts, and the Town of Highland regarding compliance with local town code/ordinance and the Delaware River Wild & Scenic River Management Plan regarding Camp FIMFO Catskills, from July 31, 2023 to August 31, 2023.

DELAWARE RIVERKEEPER NETWORK  
925 Canal Street, Suite 3701  
Bristol, PA 19007  
Office: (215) 369-1188  
fax: (215) 369-1181  
[drm@delawareriverkeeper.org](mailto:drm@delawareriverkeeper.org)  
[www.delawareriverkeeper.org](http://www.delawareriverkeeper.org)

- (3) All communications, and documentation between NPS, and the Town of Highland, concerning the properties formerly owned by Kittatinny Canoes, from July 31, 2023 to August 31, 2023.
- (4) All communications between NPS or parties representing NPS, related to NPS, or otherwise communicating on behalf of NPS, Northgate Resorts, and the Town of Highland regarding Camp FIMFO Catskills, from July 31, 2023 to August 31, 2023.
- (5) All documents reflecting, summarizing, referencing, or responding to communications between NPS or parties representing NPS, related to NPS, or otherwise communicating on behalf of NPS, and Northgate Resorts, Town of Highland, regarding Camp FIMFO Catskills, from July 31, 2023 to August 31, 2023.
- (6) A full waiver of all search and duplication fees.

I also kindly request a waiver of any fees associated with a response to this request. Pursuant to 5 U.S.C. 552(a)(4)(A)(iii), documents obtained in the interest of the public fall under the fee waiver category because furnishing these documents is likely to contribute significantly to public understanding of the operations or activities of the Agency. DRN is a nonprofit organization that speaks on behalf of the public and will use the records in a way that serves the public interest. DRN submits the following justification for this fee waiver request:

1. The subject matter of the requested records specifically concerns identifiable operations of activities of the NPS. This request pertains to particular information regarding the status and legal compliance of the NPS's work related Camp FIMFO Catskills, and will be used to inform DRN's position. As such, the request is not made for purely informational content.
2. The disclosure of these requested records is likely to contribute to the public understanding of government operations. The requested records are meaningfully informative to DRN's understanding of the NPS's actions relating the development of Camp FIMFO Catskills. Furthermore, to the best of DRN's knowledge, these documents and the information they contain are not yet in the public domain.
3. DRN, including the Delaware Riverkeeper, speaks on behalf of the Delaware River, its communities' use of the river, and its tributaries. DRN has an interest in the quality of the river and its ecosystems. Release of the requested information will benefit the public at large because it will inform DRN and the Delaware Riverkeeper's public advocacy on the NPS's oversight of Camp FIMFO's development on the Delaware River, including outreach to its 15,000+ members, the press, and the general public regarding the Atlantic sturgeon.
4. DRN has vast experience extracting, analyzing and disseminating this type of information since our establishment in 1988. DRN has scientists on staff and DRN staff have been extracting, analyzing, and disseminating such information related to major developments affecting the Delaware River for over three decades.

5. DRN will disseminate the information through our website and through outreach to relevant interested parties. Outreach may be in the form of emails or through our regular publications.

6. The disclosure would contribute “significantly” to public understanding of government operations and activities regarding the NPS’s actions relating to the Camp FIMFO Catskills development abutting the Delaware River. Presently, neither DRN nor the public has access to the information contained in the requested documents and such information is significant to understanding key NPS actions regarding this topic. If the request is granted, the public knowledge of NPS’s activities related to Camp FIMFO Catskills will be significantly enhanced. Our members; who recreate, live, and work in the Delaware River Watershed, will receive an increased understanding through the above-mentioned dissemination activities. The general public will also receive increased understanding through DRN’s website.

7. The Delaware Riverkeeper Network has no commercial interest in the disclosure of this information. Although its status as a nonprofit organization is not enough on its own to weigh against commercial interest, the nature of the Delaware Riverkeeper Network is such that the information requested would further the organization’s programmatic interests. DRN has no commercial stake in any records that it has requested. Furthermore, the strong public interest outlined above in obtaining this information would outweigh any conceivable commercial interest this information could have for the Delaware Riverkeeper Network.

If my fee request is denied, I request that you contact me to discuss the costs for copying the records before you fulfill my request.

Thank you for your consideration of this request. Please do not hesitate to contact Devon Guyer with any questions at [devon@delawariverkeeper.org](mailto:devon@delawariverkeeper.org).

Sincerely,

A handwritten signature in blue ink that reads "Maya K. van Rossum". The signature is written in a cursive style with a long horizontal line extending to the right.

Maya K. van Rossum, the Delaware  
Riverkeeper  
Delaware Riverkeeper Network  
925 Canal Street, Suite 3701  
Bristol, PA 19107  
[keepermaya@delawariverkeeper.org](mailto:keepermaya@delawariverkeeper.org)

# **EXHIBIT E**



August 31, 2023

**Via Online Portal**

Nicholas Banco, Acting FOIA Officer  
Department of Interior  
National Parks Service  
12795 W. Alameda Parkway, P.O. Box 25287  
Denver, CO 80225  
(202) 208-3553  
[nicholas.banco@sol.doi.gov](mailto:nicholas.banco@sol.doi.gov)

**Re: Freedom of Information Act Request – National Parks Service and Upper Delaware Council Assessments of the Town of Highland Code in Sullivan County, New York**

Dear FOIA Records Officer,

Under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, unless it appears from the face of the document or communication that the document or communication has already been provided to Delaware Riverkeeper Network (DRN) or its attorneys, I am requesting the following:

- (1) A copy of the National Park Service's River Management Plan conformance assessment and determination for the Town of Highland Code issued in 2019.
- (2) A copy of the National Park Service's River Management Plan conformance assessment and determination for the Town of Highland Code issued in 2021.
- (3) All National Park Service assessments of the Town of Highland Code that informed the National Park Service's River Management Plan conformance assessment and determination for the Town of Highland Code issued in either 2019 or 2021.
- (4) All Upper Delaware Council assessments of the Town of Highland Code that informed the National Park Service's River Management Plan conformance

DELAWARE RIVERKEEPER NETWORK  
925 Canal Street, Suite 3701  
Bristol, PA 19007  
Office: (215) 369-1188  
fax: (215) 369-1181  
[drm@delawareriverkeeper.org](mailto:drm@delawareriverkeeper.org)  
[www.delawareriverkeeper.org](http://www.delawareriverkeeper.org)

assessment and determination of the Town of Highland Code issued in either 2019 or 2021.

(5) A full waiver of all search and duplication fees.

I also kindly request a waiver of any fees associated with a response to this request. Pursuant to 5 U.S.C. 552(a)(4)(A)(iii), documents obtained in the interest of the public fall under the fee waiver category because furnishing these documents is likely to contribute significantly to public understanding of the operations or activities of the Agency. DRN is a nonprofit organization that speaks on behalf of the public and will use the records in a way that serves the public interest. DRN submits the following justification for this fee waiver request:

1. The subject matter of the requested records specifically concerns identifiable operations of activities of the NPS. This request pertains to particular information regarding the status and legal compliance of the NPS's work related Camp FIMFO Catskills, and will be used to inform DRN's position. As such, the request is not made for purely informational content.
2. The disclosure of these requested records is likely to contribute to the public understanding of government operations. The requested records are meaningfully informative to DRN's understanding of the NPS's actions relating the development of Camp FIMFO Catskills. Furthermore, to the best of DRN's knowledge, these documents and the information they contain are not yet in the public domain.
3. DRN, including the Delaware Riverkeeper, speaks on behalf of the Delaware River, its communities' use of the river, and its tributaries. DRN has an interest in the quality of the river and its ecosystems. Release of the requested information will benefit the public at large because it will inform DRN and the Delaware Riverkeeper's public advocacy on the NPS's oversight of Camp FIMFO's development on the Delaware River, including outreach to its 15,000+ members, the press, and the general public regarding the Atlantic sturgeon.
4. DRN has vast experience extracting, analyzing and disseminating this type of information since our establishment in 1988. DRN has scientists on staff and DRN staff have been extracting, analyzing, and disseminating such information related to major developments affecting the Delaware River for over three decades.
5. DRN will disseminate the information through our website and through outreach to relevant interested parties. Outreach may be in the form of emails or through our regular publications.
6. The disclosure would contribute "significantly" to public understanding of government operations and activities regarding the NPS's actions relating to the Camp FIMFO Catskills development abutting the Delaware River. Presently, neither DRN nor the public has access to the information contained in the requested documents and such information is significant to understanding key NPS actions regarding this topic.



If the request is granted, the public knowledge of NPS's activities related to Camp FIMFO Catskills will be significantly enhanced. Our members; who recreate, live, and work in the Delaware River Watershed, will receive an increased understanding through the above-mentioned dissemination activities. The general public will also receive increased understanding through DRN's website.

7. The Delaware Riverkeeper Network has no commercial interest in the disclosure of this information. Although its status as a nonprofit organization is not enough on its own to weigh against commercial interest, the nature of the Delaware Riverkeeper Network is such that the information requested would further the organization's programmatic interests. DRN has no commercial stake in any records that it has requested. Furthermore, the strong public interest outlined above in obtaining this information would outweigh any conceivable commercial interest this information could have for the Delaware Riverkeeper Network.

If my fee request is denied, I request that you contact me to discuss the costs for copying the records before you fulfill my request.

Thank you for your consideration of this request. Please do not hesitate to contact Devon Guyer with any questions at [devon@delawariverkeeper.org](mailto:devon@delawariverkeeper.org).

Sincerely,

A handwritten signature in blue ink that reads "Maya K. van Rossum" followed by a horizontal line.

Maya K. van Rossum, the Delaware  
Riverkeeper  
Delaware Riverkeeper Network  
925 Canal Street, Suite 3701  
Bristol, PA 19107  
[keepermaya@delawariverkeeper.org](mailto:keepermaya@delawariverkeeper.org)

# **EXHIBIT F**



## United States Department of the Interior



NATIONAL PARK SERVICE  
Interior Region 1  
North Atlantic-Appalachian  
1234 Market Street, 20<sup>th</sup> Floor  
Philadelphia, PA 19107

IN REPLY REFER TO:

NPS-2023-005758

September 1, 2023

Maya Van Rossum  
Seth Shermin  
Delaware Riverkeeper Network  
925 Canal Street, Suite 3701  
Bristol, PA 19007

Dear Ms. Van Rossum:

The National Park Service (NPS), Interior Region 1, North Atlantic Appalachian Area (IR1-NAA) FOIA office received your Freedom of Information Act (FOIA) request, dated July 20, 2023.

Your request was submitted via FOIA.gov with confirmation number 792431. It has been assigned FOIA Tracking Number DOI-NPS-2023-005758. Any correspondence, with this office, regarding this request should refer to our tracking number and not the FOIA.gov confirmation number.

In your request you asked for a series of records pertaining to communications held by the National Park Service regarding Camp FIMFO for the period of August 1, 2022 and July 31, 2023.

At this time, we have gathered the responsive material and conducted an initial survey to identify the quantity and nature of the records. However, we have not reached a final decision on whether responsive material is exempt from release.

We have identified approximately 6,100 pages of materials as potentially responsive to your request. We intend to comply with your request. We expect to invoke the deliberative process privilege of Exemption 5, because this set of records includes some internal deliberations and drafts. For all the materials, we will segregate and release information appropriately where there would be no foreseeable harm caused by the release.

We apologize for this delay in completing our decision. Please note that contact information for the Department's FOIA Requester Centers and FOIA Public Liaison is available at <https://www.doi.gov/foia/foiacenters>. You may also seek dispute resolution services from the Office of Government Information Services (OGIS). If you choose to contact OGIS, you may do so in any of the following ways:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road - OGIS  
College Park, MD 20740-6001

E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Web: <https://ogis.archives.gov>

Telephone: 202-741-5770  
Fax: 202-741-5769  
Toll-free: 1-877-684-6448

Your request falls into the Normal processing track. There are 37 requests pending ahead of yours in this processing track.

You may also file an appeal with the Department's FOIA/Privacy Act Appeals Officer regarding this delay. If you choose to appeal this delay, you may do so anytime between now and the date we make our determination on the FOIA request. Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

**Your appeal must be made in writing.** You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must also include with your appeal copies of all correspondence between you and the National Park Service concerning your FOIA request, including your original FOIA request and this response. Failure to include with your appeal all correspondence between you and the National Park Service will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer's sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal.

*DOI FOIA/Privacy Act Appeals Office Contact Information*

Department of the Interior  
Office of the Solicitor  
1849 C Street, N.W.  
MS-6556 MIB  
Washington, DC 20240  
Attn: FOIA/Privacy Act Appeals Office

Telephone: (202) 208-5339  
Fax: (202) 208-6677  
Email: [FOIA.Appeals@sol.doi.gov](mailto:FOIA.Appeals@sol.doi.gov)

For more information on FOIA Administrative Appeals, you may review the Department's FOIA regulations at [43 C.F.R. Part 2, Subpart H](#). Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer.

If you have any questions about our response to your request, you may contact Jessica McHugh by email at [IR1\\_FOIA@nps.gov](mailto:IR1_FOIA@nps.gov) or by telephone at 267-279-4905. Additionally, contact information for the Department's FOIA Requester Centers and FOIA Public Liaison is available at <https://www.doi.gov/foia/foiacenters>.

Sincerely,

JESSICA  
MCHUGH

Digitally signed by  
JESSICA MCHUGH  
Date: 2023.09.01  
15:05:10 -04'00'

Jessica McHugh  
National Park Service  
Interior Region 1, North Appalachian Area  
Freedom of Information Act Officer

# **EXHIBIT G**

**From:** [Carlos Donato](#)  
**To:** [Devon Guyer](#)  
**Subject:** FW: [EXTERNAL] Re: NPS-2023-5758 UPDE Rossum Preliminary Determination  
**Date:** Monday, October 30, 2023 11:27:25 AM

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**From:** McHugh, Jessica C <[Jessica\\_McHugh@nps.gov](mailto:Jessica_McHugh@nps.gov)> **On Behalf Of** IR1 FOIA, NPS  
**Sent:** Tuesday, September 5, 2023 3:51 PM  
**To:** Maya van Rossum <[Keepermaya@delawariverkeeper.org](mailto:Keepermaya@delawariverkeeper.org)>; Seth Sherman <[seth@delawariverkeeper.org](mailto:seth@delawariverkeeper.org)>  
**Cc:** Kacy Manahan <[Kacy@delawariverkeeper.org](mailto:Kacy@delawariverkeeper.org)>  
**Subject:** Re: [EXTERNAL] Re: NPS-2023-5758 UPDE Rossum Preliminary Determination

Ms. van Rossum,

As indicated in our correspondence dated September 1, 2023, there are 37 requests in front of this one in the normal processing queue.

Due to our current caseloads, we are experiencing significant delays in processing. Based on current rates of processing we do not anticipate your request being completed by the end of the week.

We are doing our best to work through our cases and quickly as possible. We intend to provide you with materials on a rolling basis as we make our way through reviewing materials.

Should you choose to exercise your right to appeal, please refer to instruction provided in our September 1, 2023, correspondence.

Jessica C. McHugh  
Government Information Specialist  
Interior Region 1, National Park Service  
267-279-4905 (mobile)

---

**From:** Maya van Rossum <[Keepermaya@delawariverkeeper.org](mailto:Keepermaya@delawariverkeeper.org)>  
**Sent:** Tuesday, September 5, 2023 11:33 AM  
**To:** IR1 FOIA, NPS <[IR1\\_FOIA@nps.gov](mailto:IR1_FOIA@nps.gov)>; Seth Sherman <[seth@delawariverkeeper.org](mailto:seth@delawariverkeeper.org)>  
**Cc:** Kacy Manahan <[Kacy@delawariverkeeper.org](mailto:Kacy@delawariverkeeper.org)>  
**Subject:** [EXTERNAL] Re: NPS-2023-5758 UPDE Rossum Preliminary Determination

**This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.**

Hello Jessica

Thank you for your letter with additional information.

The Town is on the cusp of making a determination regarding camp FIMFO.

In order to be in the best position to inform the Town's decision and prevent them from approving this project that will have such significant consequences for our river and region, the NPS information is essential.

How long do you anticipate the delay will be?

If the delay is so significant that we will be in peril of not receiving the information in time, then we may need to appeal. But my hope is that the delay will be short lived and we will have materials within the week.

Can you give any further detail on timing?

With regards,

Maya

Maya K. van Rossum  
the Delaware Riverkeeper

\* Leader of the Delaware Riverkeeper Network

\* Author of *[The Green Amendment, The People's Fight For A Clean, Safe & Healthy Environment](#)*, 2d edition

\* Author of *[The Green Amendment, Securing Our Right to a Healthy Environment](#)*.

\* Founder of the national Green Amendment For The Generations movement

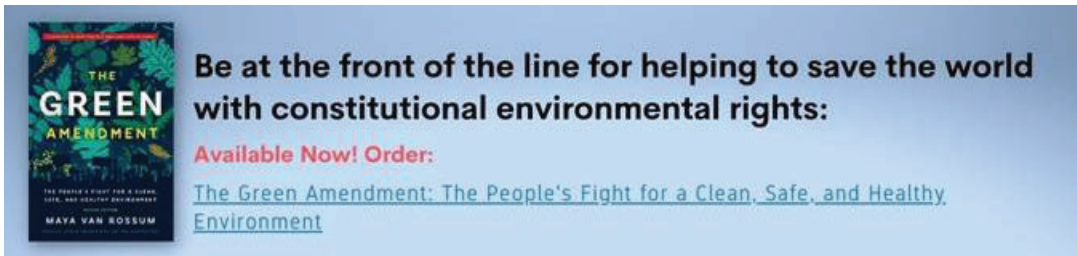
Pronouns: she, her, hers

Delaware Riverkeeper Network  
925 Canal Street, Suite 3701, Bristol, PA 19007  
215 369 1188 ext 102

Website: [www.delawariverkeeper.org](http://www.delawariverkeeper.org)



Twitter: @MayaKvanRossum



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**From:** "McHugh, Jessica C" <[Jessica\\_McHugh@nps.gov](mailto:Jessica_McHugh@nps.gov)> on behalf of "IR1 FOIA, NPS" <[IR1\\_FOIA@nps.gov](mailto:IR1_FOIA@nps.gov)>

**Date:** Friday, September 1, 2023 at 3:33 PM

**To:** Seth Sherman <[seth@delawareriverkeeper.org](mailto:seth@delawareriverkeeper.org)>

**Cc:** "Maya K. van Rossum" <[Keepermaya@delawareriverkeeper.org](mailto:Keepermaya@delawareriverkeeper.org)>

**Subject:** NPS-2023-5758 UPDE Rossum Preliminary Determination

Seth and Maya,

Please see the attached letter regarding your FOIA request NPS-2023-005758.

If you have any issues accessing the attached file, please contact me directly.

Thank you.

Jessica C. McHugh  
Government Information Specialist  
Interior Region 1, National Park Service  
267-279-4905 (mobile)

# EXHIBIT H

**From:** [McHugh, Jessica C](#) on behalf of [IR1 FOIA, NPS](#)  
**To:** [Devon Guyer](#)  
**Subject:** Re: [EXTERNAL] Requesting Update on Pending Delaware Riverkeeper Network FOIA Requests  
**Date:** Thursday, October 19, 2023 3:18:01 PM  
**Attachments:** [image003.png](#)

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Mr. Guyer,

These requests are in the normal processing track. Below, I have provided their location in our processing track.

In addition to the track placement, I am also providing you with updated tracking numbers for your requests.

The tracking system previously used by DOI, FOIAOnline, sunset at the end of the July. During a brief blackout transition period from an old system to a new, we were using confirmation numbers from FOIA.gov for requests until a new case number were assigned once the new system went live.

In addition to your processing track placement location, I am also providing below your new tracking numbers that were assigned to your cases.

Please refer to these in any future correspondence. Doing so will allow for me to access the case file information more expediently.

Date	FOIAXpress #	FOIA.gov Confirmation #	Normal Track Placement Location
7/20	NPS-2023-005758	792431	36
8/29	NPS-2023-005905	833436	47
8/31	NPS-2023-5915	835491	49

Thank you for your interest in the National Park Service.

Jessica C. McHugh  
 Government Information Specialist  
 Interior Region 1, National Park Service  
 267-279-4905 (mobile)

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**From:** Devon Guyer <Devon@delawareriverkeeper.org>  
**Sent:** Wednesday, October 18, 2023 9:01 AM  
**To:** IR1 FOIA, NPS <IR1\_FOIA@nps.gov>  
**Subject:** [EXTERNAL] Requesting Update on Pending Delaware Riverkeeper Network FOIA Requests

**This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.**

Good morning Jessica,

My name is Devon Guyer and I am with the Delaware Riverkeeper Network. I am following up on three FOIA requests submitted on July 20<sup>th</sup> (Confirmation Number 792431), August 29<sup>th</sup> (Confirmation Number 833436), and August 31<sup>st</sup> (Confirmation Number 835491). We heard back on September 1<sup>st</sup> regarding our July 20<sup>th</sup> request, but have not heard back regarding our August 29<sup>th</sup> and August 31<sup>st</sup> request. The September 1<sup>st</sup> letter mentioned sending documents on a rolling basis. You may have been communicating with Seth Sherman regarding the July 20<sup>th</sup> request. I just wanted to check in on the status of receiving documents from the July 20<sup>th</sup> request and the status of the August 29<sup>th</sup> and 31<sup>st</sup> requests.

Thanks so much for your help!

Devon Guyer  
Legal Research Fellow



Delaware Riverkeeper Network  
925 Canal Street, Suite 3701  
Bristol, PA 19007  
Office: (267) 390-4129 | ext. 107  
[devon@delawariverkeeper.org](mailto:devon@delawariverkeeper.org)  
Pronouns: she, her, hers

# EXHIBIT I

**From:** [McHugh, Jessica C](#) on behalf of [IR1 FOIA, NPS](#)  
**To:** [Devon Guyer](#)  
**Subject:** Re: [EXTERNAL] RE: NPS-2023-005915 - Clarificaiton  
**Date:** Thursday, November 2, 2023 9:58:32 AM

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Devon,

Thank you for getting back to me on this one as well.

I have submitted a revised request to include the additional terms you have requested.

This request, NPS-2023-005915 is in our normal processing track. There are currently 47 requests in front of yours in this processing track.

The request similar to yours which will result in the same records for processing has 33 requests in front of it in the normal processing tack.

To answer your question about search results- Once requesters identify and/or agree to terms to be used in conducting searches, we work with potential records holders and/or our eERDMs teams to conduct those searches using the agreed to parameters.

If, after searches are conducted by those identified as potential records holders. no responsive records are found it is considered a "no records response".

Requesters are welcome to submit a new FOIA request thereafter if they believe some sort of alternate search parameters may yield results.

Thank you for your interest in the National Park Service.

Jessica C. McHugh  
Government Information Specialist  
Interior Region 1, National Park Service  
267-279-4905 (mobile)

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**From:** Devon Guyer <Devon@delawariverkeeper.org>  
**Sent:** Wednesday, November 1, 2023 10:49 AM  
**To:** IR1 FOIA, NPS <IR1\_FOIA@nps.gov>  
**Subject:** [EXTERNAL] RE: NPS-2023-005915 - Clarificaiton

**This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.**

Hi Jessica,

We are okay with the search terms being used for the other party's request with the additional search term "conformance assessment" as you mentioned. Is this other party's request earlier in the queue than us, or will our request remain in the same spot? And if these search terms don't retrieve the results we are looking for, what are the options for adjusting the search?

Thanks again and as always for your help!  
Devon

---

**From:** McHugh, Jessica C <Jessica\_McHugh@nps.gov> **On Behalf Of** IR1 FOIA, NPS  
**Sent:** Monday, October 30, 2023 4:31 PM  
**To:** Devon Guyer <Devon@delawareriverkeeper.org>  
**Subject:** NPS-2023-005915 - Clarificaiton

Devon,

In your request, **23-5915 (FOIA.gov #835491)** you asked for:

- (1) A copy of the National Park Service's River Management Plan conformance assessment and determination for the Town of Highland Code issued in 2019.
- (2) A copy of the National Park Service's River Management Plan conformance assessment and determination for the Town of Highland Code issued in 2021.
- (3) All National Park Service assessments of the Town of Highland Code that informed the National Park Service's River Management Plan conformance assessment and determination for the Town of Highland Code issued in either 2019 or 2021.
- (4) All Upper Delaware Council assessments of the Town of Highland Code that informed the National Park Service's River Management Plan conformance assessment and determination of the Town of Highland Code issued in either 2019 or 2021.

Following our call, when cross referencing all open requests, I found that this particular request is similar to a different request received by another party that agreed to the use of the

eMail Enterprise Records and Document System (eERDMS) using the following search parameters that likely addresses your request.

***(initial) Period of search:***

1/1/2000-8/8/2023

***Terms to be used:***

“Substantial conformance”, “SC”, “conformance review”,  
“settlement agreement”, and “consent decree”

***Employees Identified as potential records holders are:***

Jennifer Claster, Carla Hahn, Don Hamilton, Lindsey  
Kurnath, Kris Heister, Cody Hendrix, Sean  
McGuinness, Jonathan Meade, Joe Salvatore, Bonnie  
Sheard, Sandy Schultz, Jessica Weinman

***The following names were used for searching for emails:***

Upper Delaware Council @upperdelawarecouncil.org  
Township of Highland (including Barryville)  
@townofhighlandny.com

With the addition of the terms "conformation assessment", I believe the above parameters identify any potentially response results to your request.

I am seeking clarification if you would be agreeable to the use of these parameters for your request.

Jessica C. McHugh  
Government Information Specialist  
Interior Region 1, National Park Service  
267-279-4905 (mobile)



# EXHIBIT J

**From:** [McHugh, Jessica C](#) on behalf of [IR1 FOIA, NPS](#)  
**To:** [Devon Guyer](#)  
**Subject:** Re: [EXTERNAL] RE: FOIA Requests NPS-2022-004495, NPS-2023-005758, NPS-2023-005905  
**Date:** Thursday, November 2, 2023 9:58:07 AM

---

Devon,

Thank you for getting back to me. I have closed out NPS-2022-4495 as withdrawn and closed our administrative file on it.

I have submitted a request to run a revised version of our initial search so to obtain the include results through August 31, 2023, which will be processed under NPS-2023-5758. NPS-2023-005905 has been closed out as a duplicate/aggregated request to be processed under NPS-2023-005758. Please refer only to case number NPS-2023-005758 in all future correspondence regarding this request.

Your request has is in our normal processing track. At this time are currently 35 requests in front of yours in this process track.

The request similar to yours which will result in the same records for processing has 32 requests in front of it in our normal processing track.

If you have any additional questions, please feel free to contact me directly.

Jessica C. McHugh  
Government Information Specialist  
Interior Region 1, National Park Service  
267-279-4905 (mobile)

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**From:** Devon Guyer <Devon@delawareriverkeeper.org>  
**Sent:** Tuesday, October 31, 2023 3:32 PM  
**To:** IR1 FOIA, NPS <IR1\_FOIA@nps.gov>  
**Subject:** [EXTERNAL] RE: FOIA Requests NPS-2022-004495, NPS-2023-005758, NPS-2023-005905

**This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.**

Hi Jessica,

Thanks for sending this over. We are no longer interested in pursuing the NPS-2022-4495 request. We also agree to aggregate the two FOIA requests 23-5758 (FIOA.gov #792431) and 23- 5905

(FIOA.gov #834016) with the adjusted time period running through August 31, 2023.

Thanks again!

Devon

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**From:** McHugh, Jessica C <Jessica\_McHugh@nps.gov> **On Behalf Of** IR1 FOIA, NPS

**Sent:** Monday, October 30, 2023 4:26 PM

**To:** Devon Guyer <Devon@delawariverkeeper.org>

**Subject:** FOIA Requests NPS-2022-004495, NPS-2023-005758, NPS-2023-005905

**Devon,**

Thank you for taking the time to speak with me today and last Friday.

As discussed, with the transition of open cases to you from Seth following his departure, I am seeking your clarification on some of the current open requests with the Delaware River Keeper Network.

**NPS-2022-4495** (Case File Attached)

You indicated in our call that neither you or Seth were initially aware of this one. I am seeking confirmation if Delaware Riverkeeper Network is still interested in pursuing this request.

**23-5758 (FIOA.gov #792431) and 23- 5905 (FIOA.gov #834016)**

For these two, I am seeking clarification that if the following search parameters there were previously aggregated to by Seth (and also used to conduct searches for a similarly submitted request) for the period of 1/1/2000-8/8/2023 are to also include the time period through August 31, 2023, would you agree to aggregating these requests to be processed NPS-2023-5758?

***(initial) Period of search:***

1/1/2000-8/8/2023

***Terms to be used:***

"FIMFO", "Kittatinny", or "Northgate"

***Employees Identified as potential records holders are:***

Jennifer Claster, Carla Hahn, Don Hamilton, Lindsey Kurnath, Kris Heister, Cody Hendrix, Sean McGuinness, Jonathan Meade, Joe Salvatore, Bonnie Sheard, Sandy Schultz, Jessica Weinman

***The following names were used for searching for emails:***

Upper Delaware Council @upperdelawarecouncil.org  
Township of Highland (including Barryville) @townofhighlandny.com  
Delaware Riverkeeper Network @delawareriverkeeper.org  
Upper Delaware Council @upperdelawarecouncil.org  
Delaware River Basin Commission @drbc.gov  
River Reporter @riverreporter.com  
Charles Schumer @schumer.senate.gov

A separate email will be sent regarding clarification needs for NPS-2023-005915, with we also discussed in our calls.

Please let me know if you have any questions.

Jessica C. McHugh  
Government Information Specialist  
Interior Region 1, National Park Service  
267-279-4905 (mobile)

# **EXHIBIT K**



November 27, 2023

**Via Email Correspondence**

Department of the Interior  
Office of the Solicitor  
1849 C Street, N.W.  
MS-6556 MIB  
Washington, DC 20240  
(202) 208-6677  
FOIA.Appeals@sol.doi.gov

ATTN: FOIA Appeals Officer

**Re: FREEDOM OF INFORMATION APPEAL – FOIA Requests NPS-23-5758,  
NPS-23-5905, and NPS-2023-005915**

Dear FOIA Appeals Officer,

This letter is an appeal regarding several Freedom of Information Act (FOIA)<sup>1</sup> requests made to the National Park Service (NPS). As required by 43 C.F.R. § 2.59(b)(1), attached to this letter is all correspondence regarding the three above-mentioned FOIA requests. This appeal letter appeals multiple FOIA requests because all three requests have been discussed simultaneously in communications between the Delaware Riverkeeper Network (DRN) and NPS.

On July 21, 2023, I, on behalf of DRN, requested the following records under FOIA:

- (1) All documents, including internal and external communications, emails, meeting minutes, applications, reports and studies, including all materials provided to, and all attachments mentioned in any documents, relating to Camp FIMFO Catskills, between National Parks Service (NPS), Northgate Resorts, Upper Delaware

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<sup>1</sup> 5 U.S.C. § 552.

Council, and the Town of Highland Sullivan County, New York, from August 1, 2022 to July 31, 2023.

- (2) All communications, and documentation between NPS, Northgate Resorts, and the Town of Highland regarding compliance with local town code/ordinance and the Delaware River Wild & Scenic River Management Plan regarding Camp FIMFO Catskills, from August 1, 2022 to July 31, 2023.
- (3) All communications, and documentation between NPS, and the Town of Highland, concerning the properties formerly owned by Kittatinny Canoes, from August 1, 2022 to July 31, 2023.
- (4) All communications between NPS or parties representing NPS, related to NPS, or otherwise communicating on behalf of NPS, Northgate Resorts, and the Town of Highland regarding Camp FIMFO Catskills, from August 1, 2022 to July 31, 2023.
- (5) All documents reflecting, summarizing, referencing, or responding to communications between NPS or parties representing NPS, related to NPS, or otherwise communicating on behalf of NPS, and Northgate Resorts, Town of Highland, regarding Camp FIMFO Catskills, from August 1, 2022 to July 31, 2023.
- (6) a full waiver of all search and duplication fees.

The request asked for records from August 1<sup>st</sup> 2022 to July 31<sup>st</sup> 2023. The request was assigned the following identification number: NPS-23-5758. The request was placed in the normal processing track. There is still no decision regarding this request. Pursuant to 43 C.F.R. § 2.57(a)(7), a decision should have been made within twenty business days.

On August 29, 2023, I, on behalf of DRN, requested the following records under FOIA:

- (1) All documents, including internal and external communications, emails, meeting minutes, applications, reports and studies, including all materials provided to, and all attachments mentioned in any documents, relating to Camp FIMFO Catskills, between National Parks Service (NPS), Northgate Resorts, Upper Delaware Council, and the Town of Highland Sullivan County, New York, from July 31, 2023 to August 31, 2023.
- (2) All communications, and documentation between NPS, Northgate Resorts, and the Town of Highland regarding compliance with local town code/ordinance and the Delaware River Wild & Scenic River Management Plan regarding Camp FIMFO Catskills, from July 31, 2023 to August 31, 2023.
- (3) All communications, and documentation between NPS, and the Town of Highland, concerning the properties formerly owned by Kittatinny Canoes, from July 31, 2023 to August 31, 2023.

- (4) All communications between NPS or parties representing NPS, related to NPS, or otherwise communicating on behalf of NPS, Northgate Resorts, and the Town of Highland regarding Camp FIMFO Catskills, from July 31, 2023 to August 31, 2023.
- (5) All documents reflecting, summarizing, referencing, or responding to communications between NPS or parties representing NPS, related to NPS, or otherwise communicating on behalf of NPS, and Northgate Resorts, Town of Highland, regarding Camp FIMFO Catskills, from July 31, 2023 to August 31, 2023.
- (6) A full waiver of all search and duplication fees.

The request asked for the same records as the July 20th request, but the request was submitted to extend the time frame for records from July 31<sup>st</sup> 2023 to August 31<sup>st</sup> 2023. The request was assigned the following identification number: NPS-2023-005905. DRN did not receive a confirmation letter. After coordinating with the FOIA Officer, DRN elected to consolidate the July 21 and August 28 requests due to their similarity. Therefore, both requests are now reflected in request number NPS-23-5758. There is still no decision regarding this request. Pursuant to 43 C.F.R. § 2.57(a)(7), a decision should have been made within twenty business days.

On August 31, 2023, I, on behalf of DRN, requested the following records under FOIA:

- (1) A copy of the National Park Service's River Management Plan conformance assessment and determination for the Town of Highland Code issued in 2019.
- (2) A copy of the National Park Service's River Management Plan conformance assessment and determination for the Town of Highland Code issued in 2021.
- (3) All National Park Service assessments of the Town of Highland Code that informed the National Park Service's River Management Plan conformance assessment and determination for the Town of Highland Code issued in either 2019 or 2021.
- (4) All Upper Delaware Council assessments of the Town of Highland Code that informed the National Park Service's River Management Plan conformance assessment and determination of the Town of Highland Code issued in either 2019 or 2021.
- (5) A full waiver of all search and duplication fees.

The request was assigned the following identification number: NPS-2023-005915. The request did not receive a confirmation letter. After requesting an update on when this request would be completed, the FOIA Officer identified a similar request from a different requester. The FOIA Officer asked and DRN agreed to the search terms that were being used for that other request to move up in the queue of FOIA requests. There is still no decision regarding this request. Pursuant to 43 C.F.R. § 2.16, the agency generally has 20 days to respond to a request.



Pursuant to 43 C.F.R. § 2.57(a)(7), as the above-mentioned FOIA requests have still not been responded to, I appeal the timeliness of responding and completing the above FOIA requests.

Thank you for your consideration of this appeal. Please do not hesitate to contact Devon Guyer with any questions at [devon@delawariverkeeper.org](mailto:devon@delawariverkeeper.org).

Sincerely,

A handwritten signature in blue ink that reads "Maya K. van Rossum". The signature is written in a cursive style with a long horizontal line extending to the right.

Maya K. van Rossum,  
the Delaware Riverkeeper  
Delaware Riverkeeper Network  
925 Canal Street, Suite 3701  
Bristol, PA 19107  
[keepermaya@delawariverkeeper.org](mailto:keepermaya@delawariverkeeper.org)

# **EXHIBIT L**

**From:** [Devon Guyer](#)  
**To:** [FOIA.Appeals@sol.doi.gov](mailto:FOIA.Appeals@sol.doi.gov)  
**Subject:** Inquiring About Nov. 27th FOIA Appeal  
**Date:** Wednesday, January 3, 2024 11:02:00 AM  
**Attachments:** [image003.png](#)

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Good morning,

I am reaching out regarding a FOIA Appeal that was filed via email on November 27<sup>th</sup> on behalf of Maya K. van Rossum and the Delaware Riverkeeper Network. There has been no response regarding this appeal. When do you anticipate responding to the request?

Thanks so much for your help.

Best,

Devon Guyer  
Legal Research Fellow



Delaware Riverkeeper Network  
925 Canal Street, Suite 3701  
Bristol, PA 19007  
Office: (267) 390-4129 | ext. 107  
[devon@delawareriverkeeper.org](mailto:devon@delawareriverkeeper.org)  
Pronouns: she, her, hers