

Bruce & Sara Schundler

From: "Bruce & Sara Schundler" <bruce@schundler.net>
To: <William_Nelligan@nps.gov>
Cc: <Charis_Wilson@nps.gov>
Sent: Thursday, January 28, 2010 3:44 PM
Subject: Bruce Schundler's FOIA Request
Dear Bill

From all we've heard, things are going well at Mesa Verde and the summer of 2010 should be a good one! Some of the budget issues have been addressed, some new programs and activities have been considered, and generally there seems to be a much healthier, more positive attitude all around. And for a lot of this, if not all of it, you are to be congratulated!

I don't know if you ever saw the letter I wrote to Charis Wilson in which I said I thought the Park Service in general ---and Mesa Verde in particular--- had nothing to lose and a lot to gain if they just sent me all the information I had requested in my second, modified FOIA request of September 8, 2009. If you never saw the letter, let me just sayI think it's still true. You have nothing to lose and a lot to gain by just sending me everything I had requested.

The basic problem is that the park should have released some of the information right away, the Park Service tried to stall the process by incorrect interpretations of 43 CFR 2.18; and when the Park Service finally granted my request, it was long overdue--and the penalty for that can be a full granting of the initial request without any fees.

As you probably know or can read on my web site at www.schundler.net/FOIA.htm I appealed the Park Service's initial granting of information on the basis that it was late, that it was not nearly enough information based on what could have been generated in two hours, and that some of the information may simply have been inaccurate. I didn't hear back officially from the Appeal Office within the permitted 20 days, and after two months contacted them and was told that they knew they were late, that consequently I could pursue my next administrative appeal or a legal review, or that I could wait a short time for their formal response. I have given them until the end of January to respond (e.g. until the end of this week).

If they grant me my appeal, I'm all set.

If they deny it, or if I don't hear from them soon, I will pursue the next and final level of administrative appeal which is to write Secretary Salazar with a cc to Director Jarvis. And if that doesn't work, two news organizations have offered to pursue the same request---and they won't have to pay any fees for research and review time. Or, I could pursue a legal review, but that would cost a relatively small filing fee for me, but a lot of unnecessary legal expenses for the government. And that would be silly.

At this point, since the OIG has already been to Mesa Verde NP, you might wonder why am I pursuing this. It's because I believe in our system of government. I believe in the checks and balances of our government, and in the logic that openness and transparency makes government more efficient and better. And I believe it's just as important for managers of governmental agencies and superintendents of national parks to follow the directives and

memorandums of the President and the laws of Congress as it is for me to follow rules and regulations--like keeping my uniform clean and my shoes polished and not wearing a fleece jacket when the superintendent directs everyone not to wear a fleece jacket. In a word, it's the principle of the thing; it's a test of whether our system works, or whether it fails.

Consequently, I hope you will consider sending me everything I had requested in my second, modified FOIA request dated September 8, 2009.

In the meantime, good luck and best wishes for a safe and successful 2010 season!

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P.S. By the way, having lived in New Jersey for a while, you might be > interested in the fact that my younger brother, the one who had been mayor of Jersey City for nine years and who ran for governor several years ago, has been nominated to be the NJ Commissioner of Education, and until he is confirmed by the senate, he is the Acting Commissioner of Education.