



3. Defendant United States Department of the Interior (“DoI” or “the Department”) is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1). The Department has possession, custody, and control of records responsive to Plaintiff’s FOIA request.

**JURISDICTION AND VENUE**

4. This Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
5. Venue is proper in this Court under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

**PROTECT THE PUBLIC’S TRUST’S FOIA REQUEST**

6. This action concerns a FOIA request submitted to Defendant via Electronic Mail on or about May 7, 2021. A true and correct copy of the request at issue is attached as Exhibit A.
7. The request sought certain described communications pertaining to meeting requests, travel and schedules for Secretary Haaland as well as visitor logs, including but not limited to communications and other records with or from the Department Ethics Office and Office of the Solicitor relating to meeting approvals.
8. The Department’s shift in practice from posting previous Secretaries’ schedules, public commitments by the Department’s Communications Director to produce schedule information, and accompanying admissions that political appointees had blocked its public release, has led to media attention to the change in practice and suggests a significant public interest in the subject matter of the request at issue.
9. Defendant received Plaintiff’s FOIA request at issue on or about May 7, 2021 and assigned it tracking number HQ-2021-00691-F. Defendant assigned it to the “Simple” processing track on or about May 13, 2021.

10. After some correspondence back and forth between the parties in which the Plaintiff sought updates in processing, on June 11, 2021, Cindy Sweeney of DoI sent an email to Plaintiff saying the request “is currently being reviewed by a processor” and, after that review, would be sent to the Solicitor's office for review, possibly by the end of the following week. Then, on June 23, 2021, DoI sent another letter, which it termed "Outside Time Limit," this time stating, *inter alia*, “As yet, we have been unable to make a determination on your request” which DoI now stated was on the “Normal” track (generally a 6-20 day processing time). DoI did not reference the original “Simple” track classification.
11. Plaintiff followed up by email on June 28, 2021, but has heard nothing from DOI since.
12. Despite the passage of several months’ time and various communications between Plaintiff and Defendant, the Department has failed to provide a “determination” regarding the request as required by *Citizens for Responsibility & Ethics in Washington v. Federal Election Commission*, 711 F.3d 180, 816 (D.C. Cir. 2013).
13. FOIA provides that a requesting party is entitled to a substantive agency response within twenty working days, including a determination of whether the agency intends to comply with the request. 5 U.S.C. § 552(a)(6)(A)(i). Within that deadline, the agency must also “determine and communicate the scope of the documents it intends to produce and withhold, and the reasons for withholding any documents,” and “inform the requester that it can appeal whatever portion of” the agency’s “determination” is adverse to the requestor. *CREW v. FEC*, 711 F.3d 180, 188 (D.C. Cir. 2013); *accord Shermco Industries v. Secretary of U.S. Air Force*, 452 F. Supp. 306, 317 (N.D. Tex. 1978).

14. 5 U.S.C.S. § 552(a)(6)(A) prescribes that the 20-day time limit shall not be tolled by the agency except in two narrow scenarios: The agency may make one request to the requester for information and toll the 20-day period while it is awaiting such information that it has reasonably requested from the requester, § 552(a)(6)(A)(ii)(I), and agencies may also toll the statutory time limit if necessary to clarify with the requester issues regarding fee assessment. § 552(a)(6)(A)(ii)(II). In either case, the agency's receipt of the requester's response to the agency's request for information or clarification ends the tolling period. Neither apply here as the Department did not seek additional information from Plaintiff regarding the request at issue in this suit.
15. The Defendant is now past the statutory period for issuing a "determination" on the above-described request.
16. Defendant is thereby improperly denying Plaintiff access to agency records in violation of FOIA.
17. Plaintiff need not pursue further administrative remedies for the reasons set forth in *CREW v. FEC*, 711 F.3d 180, 188 (D.C. Cir. 2013).

**FIRST CLAIM FOR RELIEF**  
**Duty to Produce Records – Declaratory Judgment**

18. Plaintiff restates and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.
19. Plaintiff has sought and been denied production of responsive records reflecting the conduct of official business.
20. Plaintiff has a statutory right to the information it seeks, and the Defendant has unlawfully withheld the information.

21. Plaintiff is not required to further pursue administrative remedies.
22. Plaintiff asks this Court to enter a judgment declaring that:
  - a. Plaintiff is entitled to records responsive to its FOIA request described above, and any attachments thereto, but Defendant failed to provide the records;
  - b. Defendant's processing of Plaintiff's FOIA request described above is not in accordance with the law, and does not satisfy Defendant's obligations under FOIA;
  - c. Defendant must now produce records responsive to Plaintiff's request.

**SECOND CLAIM FOR RELIEF**  
**Duty to Produce Records – Injunctive Relief**

23. Plaintiff restates and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.
24. Plaintiff is entitled to injunctive relief compelling Defendant to produce the records responsive to the FOIA request described herein.
25. Plaintiff asks the Court to enter an injunction ordering Defendant to produce to Plaintiff, within 10 business days of the date of the order, the requested records sought in Plaintiff's FOIA request described above, and any attachments thereto.
26. Plaintiff asks the Court to order the Parties to consult regarding withheld documents and to file a status report to the Court within 30 days after Plaintiff receives the last of the produced documents, addressing Defendant's preparation of a *Vaughn* log and a briefing schedule for resolution of remaining issues associated with Plaintiff's challenges to Defendant's withholdings, if any, and any other remaining issues.

**THIRD CLAIM FOR RELIEF**  
**Costs And Fees – Injunctive Relief**

27. Plaintiff restates and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.
28. Pursuant to 5 U.S.C. § 552(a)(4)(E), the Court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.
29. This Court should enter an injunction ordering the Defendant to pay reasonable attorney fees and other litigation costs reasonably incurred in this case.

**PRAYER FOR RELIEF**

Protect the Public's Trust respectfully requests this Court:

1. Assume jurisdiction in this matter, and maintain jurisdiction until the Defendant complies with FOIA and every order of this Court;
2. Declare Defendant has violated FOIA by failing to provide Plaintiff with the requested records and failing to notify Plaintiff of a final determination within the statutory time limit;
3. Declare the documents sought by the request, as described in the foregoing paragraphs, are public under 5. U.S.C. § 552 and must be disclosed;
4. Order Defendant to expeditiously provide the requested records to Plaintiff within 20 business days of the Court's order;
5. Award Plaintiff's attorneys their fees and other litigation costs reasonably incurred pursuant to 5 U.S.C. § 552(a)(4)(E); and
6. Grant such other relief as this Court deems just and proper.

Respectfully submitted this the 29<sup>th</sup> day of September 2021,

PROTECT THE PUBLIC'S TRUST

By Counsel:

/s/Matthew D. Hardin

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