

## **Basis of our Whistleblower Protection Act Complaints**

### **Bruce E. and Sara F. Schundler**

#### **Bruce and Sara Schundler's Qualifications as Park Rangers:**

- Bruce and Sara have worked for four summers as seasonal Park Ranges and Park Guides and for two of those years they worked at Mesa Verde National Park.
- At the end of each and every year, their performance evaluations have been excellent.

#### **Re-Hire Policies and Practices at Mesa Verde NP:**

- For many years, the re-hiring procedures and/or policies for seasonal Rangers at Mesa Verde NP have been consistent and well known. Simply stated, former Park Rangers who want to return ...and who have had good evaluations... are re-hired. They are called in mid-January by Linda Martin—a supervisor who has been at the park for decades---to confirm their re-hire. These returning Park Rangers are not required to apply in any formal way, they do not submit any paperwork beforehand, and the re-hiring procedures have been consistent, predictable, and long-standing.

As a class or group, every Park Ranger (Interpretation) who has worked at Mesa Verde NP in the past, who received good evaluations, and who could not be classified as a Whistleblower in any way, has been re-hired every year .....and this has been the pattern for decades.

- Bruce and Sara had contacted Linda Martin during the summer of 2010 to confirm that they would like to return as seasonal Park Rangers in 2011. There is a good paper trail of emails confirming these discussions and confirming that Linda Martin had intended to re-hire Bruce and Sara Schundler as seasonal Park Rangers during the 2011 summer season.

#### **Bruce Schundler's FOIA Requests and OIG Activities:**

- In 2009, Bruce filed a FOIA request at Mesa Verde National Park seeking certain financial records and files and some other information. Before filing the FOIA request, he spoke with Alexandra Mallus of the DOI's FOIA Office and with Diane Cooke of the NPS's FOIA Office to clarify the procedures for filing a FOIA request, to ascertain his rights as a citizen to file a FOIA request and to determine if there was any reason why an employee of the NPS could not file a FOIA request at the park in which he or she worked. Encouraged by the Secretary of Interior's memorandum to all employees of DOI on July 8, 2009, and following meticulously the guidance given by Diane Cooke, Bruce filed a FOIA request on July 31, 2009 which later was modified several times. He wrote his FOIA requests on his own time, in his own home, and never confused or crossed the line between his responsibilities and obligations as a Park Ranger and his activities as a private citizen.
- Possibly as a result of Bruce's filing a modified FOIA request on September 8, 2009, Larry Wiese, the former Superintendent of Mesa Verde NP, announced his sudden and unexpected retirement on September 22, 2009.
- As a result of the Superintendent's sudden decision to retire, Bruce wrote the DOI's OIG. Specifically, Bruce suspected there may have been cases of waste, fraud, and abuse at Mesa Verde NP, and the sudden retirement of the Superintendent after the filing of a FOIA request which could have highlighted some of those problems was very suspicious. An investigation was initiated by the OIG---case number PI-PI-10-0044-I
- On February 2, 2010, Bruce wrote another letter to the DOI's OIG. This letter concerned "what I think could be or will be a violation of federal code 5 U.S.C. § 3110 and the Department of Interior's "Ethics Guide for DOI Employees" dated January 2009 as it relates to nepotism".

- On January 5, 2011, Bruce asked for a copy of the final report of the investigation of Mesa Verde during 2009 and early 2010. That FOIA request has been designated case number: II-FOI-00013.
- Two of the men very involved in Bruce's FOIA activates, Bill Nelligan the Deputy Superintendent at Mesa Verde NP, and Jack O'Brian, the NPS Intermountain FOIA Officer, were notified on January 5, 2011, that Bruce had filed another FOIA request.

### **Bruce and Sara Schundler are denied re-hire at Mesa Verde NP**

- On January 14, 2011, Linda Martin called Bruce and Sara to say that she had been given a "direct order from the Superintendent" not to hire Bruce Schundler. There was uncertainty as to whether Sara could be re-hired. On January 18<sup>th</sup>, Linda called again to clarify that the Superintendent did not want either Bruce or Sara Schundler rehired.

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## **Basis of WPA Complaints**

### **Bruce E. Schundler:**

In Bruce Schundler's case, it seems the new Superintendent of Mesa Verde National Park is in clear violation of the Whistleblower Protection Act. His orders to Linda Martin that Bruce not be re-hired can only be explained as a reaction to Bruce's FOIA and OIG activities; and to everyone at the Park and elsewhere, it will appear as no more than an example of retaliation against someone who filed FOIA requests and/or contacted the OIG.

As a Park Ranger, Bruce received only excellent evaluations; other former Park Rangers at Mesa Verde who have had good evaluations and who wanted to be re-hired have been rehired. In fact, this year, they have re-hired more than in any other year....and so the argument that the park is taking "a new direction" in not hiring Bruce and Sara seems disingenuous. In fact, it seems the only new direction that has been established has been to not re-hire anyone who has filed FOIA requests and/or contacted the OIG. It's clearly a case of retaliation and punishment.

In many ways, Bruce's case is reminiscent of a case at Crater Lake ten years ago:

<http://www.craterlakeinstitute.com/crater-lake-news/whistleblower.htm> .

### **Sara F. Schundler:**

In Sara Schundler's case, her only fault was guilt by association. She was never involved in any of Bruce's FOIA or OIG activities; she carefully separated herself from what he was doing, and just continued working as a faithful and dedicated Park Ranger---receiving excellent evaluations at the end of each season.

As such, she was not involved in any "protected activities" as per the Whistleblower Protection Act, but she clearly has a case---strengthened significantly by the Supreme Court's recent landmark decision (January 24, 2011) in the Thompson v. North American Stainless LP case: [www.supremecourt.gov/opinions/10pdf/09-291.pdf](http://www.supremecourt.gov/opinions/10pdf/09-291.pdf) .