

From: <Charis_Wilson@nps.gov>

To: <bruce@schundler.net>

Cc: <Alexandra_Mallus/PIR/OS/DOI.DOI.NPSX@nps.gov>; <Jack_O'Brian@nps.gov>; <John_R_Snyder@nps.gov>

Subject: FOIA Request 2009-145

Date: Friday, November 06, 2009 11:47 AM

Dear Mr. Schundler,

Thank you for your letter of October 26, 2009, regarding the status of your July 31, 2009, Freedom of Information Act (FOIA) request (IMRO FOIA 2009-145). I have reviewed the materials you sent and have discussed the matter with Jack O'Brian, Intermountain Region FOIA Officer and have also reviewed his files related to your request.

I understand the park has already prepared two fee estimates for you, one for your original request and another for a modified request dated September 8. I also noted that in your letter of September 8, you stated that we did not have to begin processing your request until October 10, 2009. I have, moreover, ascertained that Mesa Verde National Park staff are currently preparing a third fee estimate for you, based your modified request of October 26, 2009.

Department of Interior FOIA regulations specifically state that requests cannot be processed until all issues regarding the scope or nature of your request are resolved and fee issues are resolved (43 CFR 2.12). While your request instructs us that we should respond only up to the two hours of search time you are entitled to, as an "Other" requester, you go on to state that you are "willing to pay any reasonable cost" for copies above the 100 free pages you are entitled to. Such instructions do not meet the standards listed in 43 CFR 2.8(b)(1). Since you did not request a fee waiver your request must either include statement of a willingness to pay all fees or specify a monetary limit. Since you did not, the National Park Service has no choice but to prepare a fee estimate and obtain your approval for all fees, before we can begin processing your request. In addition, in accordance with 43 CFR 2.18(c), should the estimated amount

total more than \$250, we are required to obtain payment in full from you before we can begin processing your request, as we have no indication of your having paid fees for previous requests.

In your letter you expressed that you felt the previous fee estimates you had been provided, both of which were more than \$250, had been artificially inflated. I have reviewed your request and find that I not only agree with the previous estimates but feel that in fact they may actually have been underestimated. For example, in all three of your letters, you initially request information on funds which may have been paid to either CyArk or the Kacyra Family Foundation during the 2005, 2006, 2007, 2008 and 2009 fiscal years. However, in the next item you state that the records you are looking for "might be in Larry Wiese's files, or in the files of some appropriate division of the National Park Service at the national level, or in the files of the NPS Intermountain Regional office." Based on that statement we are required to search not only the records of Mesa Verde National Park but also the regional and national offices in order to locate "any written minutes or a written memorandum or any documents" which would indicate whether Larry Wiese's involvement with CyArk was authorized. This requires reviewing five years of records, including notes from regularly scheduled staff meetings involving park, region and national level staff. Staff meetings such as these typically cover a multitude of topics, so each set of notes will need to be reviewed to determine if any of them mention either CyArk or the Kacyra Family Foundation and further if such mention amounts to or includes anything that might be considered as "authorizing" Larry Wiese's involvement or participation with that organization or any of the events listed in your request. Such a search is time consuming and under the regulations, 43 CFR 2.16(c), we are required to include all of that time in our fee estimates.

I hope this helps you understand not only the current status of your request but also the regulatory requirements which we must comply with, before we can begin processing your request. Should you wish to you may view the Department of Interior's FOIA regulations, 43 CFR, online at http://www.access.gpo.gov/nara/cfr/waisidx_03/43cfr2_03.html. Please feel free to contact me with any other questions you may have.

Sincerely,

C.

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"What we find changes who we become." - Peter Morville

"The historian works with records...there is no substitute for records: no records, no history." - Paraphrasing Langlois & Seignobos (1903)

"Let us be guardians, not gardeners" - Adolph Murie