

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

_____	)	
PUBLIC EMPLOYEES FOR	)	
ENVIRONMENTAL RESPONSIBILITY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No.: 17-00652-BAH
	)	
UNITED STATES ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Defendant.	)	
_____	)	

**OPPOSITION TO DEFENDANT’S MOTION  
FOR ENLARGEMENT OF TIME**

Within days of when Defendant Environmental Protection Agency (EPA) was to have completed its search for documents responsive to both parts of Plaintiff Public Employees for Environmental Responsibility’s (PEER) FOIA request, EPA has requested an enlargement of time to comply, revealing that it has not even commenced a search. The Court’s Order, ECF 24, required EPA to “conduct and complete a search for records responsive to both parts of PEER’s request” by July 2, 2018 and promptly produce, on a rolling basis, any non-exempt records. By July 11, 2018, EPA was to provide to plaintiff any explanation concerning any withheld records. ECF Doc. No. 24. Yet, nearly one month after the June 1 Order, EPA informs that it is “still working on developing an appropriate search methodology.” EPA Mtn. at 2, ECF Doc. 26. In other words, EPA has not even commenced a search ordered to be completed four business days later. This is in addition to the more than one year that elapsed between PEER’s FOIA request and the Court’s Order.

Even more concerning, in addition to putting off all the dates for compliance with the

Court's Order regarding the first part of the request for up to six weeks, EPA asks that there be no deadline at all for completion of its search, production, or explanation of any withholdings for Part 2 of the request. Instead, EPA asks to have another month, until July 26, 2018, to even initiate a search, with only a status report due after that. Doc. No. 26, p. 2, 4. To justify this request that essentially nullifies the Court's Order regarding Part 2 of the request, EPA makes the same arguments that the Court rejected when it ruled on the merits, that the request is unduly broad and burdensome and calls for a "subjective judgment." *Id.* at 2-3. *Compare*, Memorandum Opinion, ECF Doc. 25, pp. 13-18.

The Court should reject EPA's attempt to further delay its search, production and explanation of withholdings for Part 1 of the request, and its effort to nullify the Court's ruling with regard to Part 2 of the request. If anything, the Court should grant only a short extension of all existing deadlines for both parts of the request.

For the foregoing reasons, EPA's motion for enlargement of time should be denied.

June 27, 2018

Respectfully submitted,

/s/ Paula Dinerstein

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