

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

---

CENTER FOR BIOLOGICAL DIVERSITY,  
378 N. Main Avenue  
Tucson, AZ 85701

Plaintiff,

Case No. 1:17-cv-1208

v.

U.S. BUREAU OF LAND MANAGEMENT  
1849 C St., NW  
Washington, DC 20240

Defendant.

---

**DECLARATION OF DAVID D. ALSPACH**

---

I, David D. Alspach, hereby declare as follows:

1. I am the Departmental Records Officer in the Office of the Chief Information Officer (“OCIO”) in the Department of the Interior (the “Department”). The Department’s Solicitor’s Office requested this declaration (“Declaration”) describing the circumstances surrounding former-Secretary Zinke’s (the “Secretary’s”) lack of text messages, which I understand is at issue in the above-captioned case. All information herein is based upon my personal knowledge and/or experience and/or my personal review of the Plaintiff’s FOIA request and documents and/or upon information furnished to me in my official capacity.

2. The Secretary, like all high-ranking political officials in the Department, was issued a government mobile phone when he joined Federal service (the “Original Phone”). The Original Phone had texting capabilities, the ability to make phone calls, and the ability to use Departmental email. Any use of Departmental email on the Original Phone was archived in the Department’s

email database and, I understand, access to the Secretary's government email account is not at issue in this case.

3. The Secretary was also issued – again like all high-ranking officials in the Department – a government mobile phone for his use overseas (the “International Phone”). The Secretary used the International Phone (and only the International Phone) on various trips overseas.

4. On or about November 13, 2018, the Secretary lost his Original Phone. The Secretary was issued a replacement phone (the “Replacement Phone”) which he used to conduct official business.

5. The Secretary's Original Phone contained sensitive government information. Therefore, as a security measure, when the Secretary lost his Original Phone, the OCIO attempted to remotely “wipe” its contents. Unfortunately, and unintentionally, during this security wipe of the contents of the Secretary's International Phone were wiped *instead* of the contents of his Original Phone. There is no way to restore the data on the International Phone following the wipe.

6. The Secretary found his Original Phone on or about December 14, 2018.

7. After learning of Secretary Zinke's intent to resign his position, on December 18, 2018, prior to the government shutdown, I conducted a records clearance interview with the Secretary where he confirmed and signed documentation indicating that all Federal Records had been turned over to appropriate personnel within his office.

8. On January 2, 2019, during a government shutdown, the Secretary resigned from his office. The OCIO collected his (found) Original Phone, International Phone, and Replacement

Phone and requested the Secretary's passcodes in order to download the contents of the phone for Federal records purposes.

9. Before the OCIO attempted to access the phones, they were sent to the Office of the Inspector General (the OIG). The OIG collected data on the phones before sending them back to the OCIO. The OCIO requested any data that the OIG collected from any of the Secretary's phones. The OIG declined to provide any data because it related to an OIG investigation that is on-going.

10. Once the OCIO received the phones from the OIG, the passcode provided by the Secretary worked for the Replacement Phone, but the Replacement Phone did not contain any text messages. This process was completed several weeks after the end of the government shutdown, nearly two months after the Secretary left office.

11. As to the Original Phone, the Secretary provided the same passcode used on his other devices, but the passcode did not work. Unfortunately, the passcode issue only became apparent several weeks after the government shutdown, well after the Secretary had separated from Federal service. Without the passcode the Department has no technological means, and knows of no means, to access the Replacement Phone without the passcode. It is my understanding that the Department cannot force – even if the Secretary could remember the passcode – the Secretary to provide the passcode as he is no longer an employee of the Department.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 21st of October, 2020

---

David D. Alspach  
Office of the Chief Information Officer  
U.S. Department of the Interior