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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

US RIGHT TO KNOW, a California Non-Profit Corporation,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF STATE,

Defendant.

Case No. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Freedom of Information Act

INTRODUCTION

1
2 1. This action, through which Plaintiff US Right to Know (“USRTK” or “Plaintiff”) seeks
3 access to government records held by Defendant United States Department of State (“State
4 Department,” “the Agency,” or “Defendant”), is premised upon, and consequent to, violations of the
5 federal Freedom of Information Act (“FOIA”), 5 U.S.C. section 552 *et seq.*, and State Department FOIA
6 regulations promulgated thereunder, 22 C.F.R. Part 171, Subpart B – “Freedom of Information Act
7 Provisions.” This action challenges Defendant’s unlawful failure to abide by the statutory requirements
8 of the FOIA and the State Department’s own implementing regulations.

9 2. Defendant is unlawfully withholding from public disclosure information sought by
10 USRTK, information to which USRTK is entitled and for which no valid disclosure exemption applies
11 or has been properly asserted. In particular, Defendant has violated, and remains in violation of, the
12 statutory mandates imposed by the FOIA by: (Count I) failing to provide timely final determinations on
13 USRTK’s FOIA Requests; (Count II) unlawfully withholding records from public disclosure for which
14 no valid disclosure exemption applies or has been properly asserted, or to provide the reasonably
15 segregable portions of those records; and (Count III) unlawfully failing to grant USRTK’s request for a
16 fee waiver under the FOIA.

17 3. The records requested by USRTK are likely to contribute significantly to the
18 understanding of the operations or the activities of the government. USRTK is a 501(c)(3) not-for-profit
19 organization and, by its nature, has no commercial interest in the requested records.

20 4. USRTK seeks declaratory relief establishing that the Defendant has violated the FOIA
21 and that such actions entitle USRTK to relief thereunder. USRTK also seeks injunctive relief directing
22 Defendant to conduct a reasonably adequate search for records and to promptly provide responsive
23 material, to reasonably segregate portions of non-exempt records, and to provide proper justifications for
24 any disclosure exemptions that are applied. Finally, USRTK requests that the Court award Plaintiff its
25 reasonable attorneys’ fees and costs incurred in bringing this action.

JURISDICTION AND VENUE

26
27 5. This Court has jurisdiction pursuant to 5 U.S.C. section 552(a)(4)(B). That provision of
28

1 the FOIA grants jurisdiction to “the district court of the United States in the district in which the
2 complainant resides, or has his principal place of business[.]” USRTK both resides and maintains its
3 principal place of business in the Northern District of California.

4 6. The Court also has federal question jurisdiction pursuant to 28 U.S.C. section 1331
5 because this action arises under the FOIA and the Declaratory Judgment Act, 28 U.S.C. section 2201 *et*
6 *seq.*

7 INTRADISTRICT ASSIGNMENT

8 7. Pursuant to Local Rule 3-2(c), this case is properly brought in the San Francisco Division
9 of the Northern District of California because a substantial part of the events and omissions which give
10 rise to the claims alleged herein occurred in the County of San Francisco.

11 8. Under the FOIA, 5 U.S.C. section 552(a)(4)(B), jurisdiction vests in the district court
12 where “the complainant resides” or “has his principal place of business.”

13 9. Plaintiff resides in the County of San Francisco.

14 10. Plaintiff has its principal place of business in the County of San Francisco.

15 11. As such, under the L.R. 3-2(c), (d), intradistrict assignment to the San Francisco division
16 is proper.

17 PARTIES

18 12. Plaintiff USRTK is a 501(c)(3) non-profit corporation organized under the laws of the
19 State of California. USRTK is a public interest, investigative research group focused on promoting
20 transparency for public health. USRTK works nationally and globally to expose corporate wrongdoing
21 and government failures that threaten the integrity of food systems, the environment, and human health.

22 13. Defendant United States Department of State is a department within the United States
23 executive branch.

24 14. Defendant is an “agency” under the FOIA, the records sought are “records” under the
25 FOIA, and because Defendant is in possession and control of the records sought by USRTK, Defendant
26 is subject to the FOIA pursuant to 5 U.S.C. section 552(f).

27 LEGAL FRAMEWORK

1 15. The FOIA requires U.S. government agencies to “promptly” make public records
2 available to any person if that person makes a request which (1) reasonably describes the records sought
3 and (2) complies with any applicable agency rules for making such a request. 5 U.S.C. § 552(a)(3)(A).

4 16. The FOIA requires an agency to issue a final determination on any such information
5 request within twenty business days from the date of its receipt. 5 U.S.C. § 552(a)(6)(A)(i). In issuing a
6 final determination, an agency is required to inform the requester of three things: (1) the agency’s
7 determination of whether or not it must comply with the request; (2) the reasons for its decision; and (3)
8 notice of the right of the requester to appeal to the head of the agency. 5 U.S.C. § 552(a)(6)(A)(i).

9 17. The FOIA allows an agency to extend the twenty-day determination deadline, however,
10 by ten working days when “unusual circumstances” exist and when the agency so notifies a requester in
11 writing. 5 U.S.C. § 552(a)(6)(B)(i)-(iii); 22 C.F.R. § 171.11(g). A notice informing a requester of the
12 invocation of the “unusual circumstances” provision must specify the applicable “unusual
13 circumstances.” *Id.*

14 18. Permissible “unusual circumstances” are limited to: “(I) the need to search for and collect
15 the requested records from field facilities or other establishments that are separate from the office
16 processing the request; (II) the need to search for, collect, and appropriately examine a voluminous
17 amount of separate and distinct records which are demanded in a single request; or (III) the need for
18 consultation, which shall be conducted with all practicable speed, with another agency having a
19 substantial interest in the determination of the request or among two or more components of the agency
20 having substantial subject-matter interest therein.” 5 U.S.C. § 552(a)(6)(B)(iii); 22 C.F.R. §
21 171.11(b)(4).

22 19. An agency is entitled to one ten-business day extension. 5 U.S.C. § 552(a)(6)(B)(i). The
23 written notice provided to the requester must specify the specific unusual circumstances justifying the
24 extension and the date on which a final determination is expected to be dispatched. *Id.*; 22 C.F.R. §
25 171.11(g).

26 20. In some circumstances, the FOIA allows an agency to invoke an extension beyond ten
27 days. To invoke a longer extension, the FOIA requires an agency to provide written notification to the
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1 requester that (1) offers the requester an opportunity to limit the scope of the request so that it may be
2 processed within that time limit, or (2) offers the requester an opportunity to arrange with the agency an
3 “alternative time frame” for processing the request. 5 U.S.C. § 552(a)(6)(B)(ii); 22 C.F.R. § 171.11(g).

4 21. As part of invoking an “alternative time frame” extension, the agency must also make
5 available to the requester its FOIA Public Liaison, who is tasked to resolve any dispute between the
6 requester and the agency. 5 U.S.C. § 552(a)(6)(B)(ii); 22 C.F.R. § 171.11(g).

7 22. FOIA Public Liaisons “shall serve as supervisory officials” and “shall be responsible for
8 assisting in reducing delays, increasing transparency and understanding of the status of requests, and
9 assisting in the resolution of disputes.” 5 U.S.C. § 552(l).

10 23. Even when an “unusual circumstances” extension is made, the agency must still notify
11 the requester of its expected date on which a final determination will be dispatched. 5 U.S.C. §
12 552(a)(6)(B)(i); 22 C.F.R. § 171.11(g) (“Whenever the statutory time limit for processing a request
13 cannot be met because of ‘unusual circumstances’ as defined in the FOIA, and the Department extends
14 the time limit on that basis, the Department shall, before expiration of the 20-day period to respond,
15 notify the requester in writing of the unusual circumstances involved and of the date by which
16 processing of the request can be expected to be completed.”).

17 24. “Exceptional circumstances” for failure to comply with applicable time limits “does not
18 include a delay that results from a predictable agency workload of requests under this section, unless the
19 agency demonstrates reasonable progress in reducing its backlog of pending requests.” 5 U.S.C. §
20 552(a)(6)(C)(ii).

21 25. Final determinations by the State Department concerning the granting or denial of a
22 FOIA request must be made in writing.

23 26. If an agency fails to provide a final determination on a FOIA request within the statutory
24 timeframe, the requester is deemed to have exhausted its administrative remedies and may immediately
25 file suit against the agency. 5 U.S.C. § 552(a)(6)(C)(i).

26 27. The FOIA also requires agencies to provide “an estimated date on which the agency will
27 complete action on the request.” 5 U.S.C. § 552(a)(7)(B)(ii); *see also* 5 U.S.C. § 552(a)(6)(B)(i).

1 28. Agencies shall make reasonable efforts to maintain their records so they are reproducible
2 for FOIA purposes, and “shall make reasonable efforts to search” for responsive records. 5 U.S.C. §
3 552(a)(3)(B), (C). The term “search” “means to review, manually or by automated means, agency
4 records for the purpose of locating those records which are responsive to a request.” 5 U.S.C. §
5 552(a)(3)(D).

6 29. In furnishing records responsive to a request under the FOIA, an agency may, for a
7 limited set of categories of information, exclude or withhold such information from disclosure. 5 U.S.C.
8 § 552(b). However, even where proper justification exists for withholding such information, the agency
9 must provide the remaining portions of records that are reasonably segregable from the properly
10 withheld portions thereof. *Id.*

11 30. Except in certain circumstances, when an agency produces a record in response to a
12 FOIA request but withholds a portion thereof, the agency must indicate the volume of information
13 withheld and the exemption under which such information has been withheld. *Id.*; 5 U.S.C. §
14 552(a)(6)(F).

15 31. An agency that withholds public records from a requestor under the FOIA bears the
16 burden of sustaining the legality of its action. 5 U.S.C. § 552(a)(4)(B).

17 32. Requesters under the FOIA may ask that an agency waive fees associated with any
18 request for records “if disclosure of the information is in the public interest because it is likely to
19 contribute significantly to the public understanding of the operations or activities of the government and
20 is not primarily in the commercial interest of the requester. 5 U.S.C. § 552(a)(4)(A)(iii); 22 C.F.R. §
21 171.16.

22 33. An agency may only charge certain fees depending on the category of requester. For non-
23 commercial requesters such as USRTK, “fees shall be limited to reasonable standard charges for
24 document search and duplication.” 5 U.S.C. § 552(a)(4)(A)(ii)(III).

25 34. Agencies are prohibited from assessing search fees if the agency fails to comply the
26 FOIA’s twenty-day determination deadline or any lawful extension under the statute’s “unusual
27 circumstances” provisions. 5 U.S.C. § 552(a)(4)(A)(viii).

1 **STATEMENT OF OPERATIVE FACTS**

2 *FOIA Request One*

3 35. USRTK submitted a FOIA Request (“Request One”) to the State Department on January
4 27, 2021. Request One sought a waiver of all fees associated with processing the Request. A copy of
5 Request One is attached hereto as **Exhibit A**.

6 36. Request One seeks Agency records “supporting or underpinning or providing evidence
7 for: (1) a State Department report published on 15 January 2021, titled ‘Fact Sheet: Activity at the
8 Wuhan Institute of Virology,’ and (2) a State Department press statement by former Secretary of State
9 Michael Pompeo on 15 January 2021, titled ‘Ensuring a transparent, thorough investigation of COVID-
10 19’s origins.’” Exhibit A at 1.

11 37. USRTK has no commercial interest or value in records responsive to Request One.

12 38. The records requested by USRTK are likely to contribute significantly to the public
13 understanding of the operations and activities of the government, especially as they pertain to the origins
14 of the SARS-CoV-2 virus and the COVID-19 pandemic in the United States.

15 39. USRTK has a demonstrated track record of obtaining and disseminating information
16 obtained under the FOIA and state public records laws concerning public health. Since 2015, USRTK
17 has obtained, posted online, and reported on thousands of industry and government documents gathered
18 via public records requests. USRTK’s work has contributed to three New York Times investigations, 13
19 academic papers in public health journals, 13 articles in the BMJ, one of the world’s leading medical
20 journals, and global media coverage documenting how food and chemical corporations impact public
21 health and the environment. USRTK’s staff has expertise in investigative journalism and advanced
22 research, especially as it concerns impacts on human health.

23 40. USRTK’s investigation of the origins of COVID-19 has been featured in news outlets
24 around the world, including the Wall Street Journal, Science, BMJ, USA Today, New Yorker, Vanity
25 Fair, Fox News, The Intercept, Sky News Australia, Daily Mail, The Australian, Bulletin of the Atomic
26 Scientists, RAI 3’s Presadiretta, Le Parisien, Le Point, CNET, Taiwan News, La Jornada, The Sun,
27 Daily Caller, New York Post, and many others.

1 41. USRTK shares its findings with media outlets, public health and medical journals, and
2 through its own library of information, available online at: <<http://www.usrtk.org>>. Many of USRTK's
3 documents are available through the USRTK Agrichemical Collection of the University of California,
4 San Francisco's ("UCSF") Chemical Industry Documents Archive, available online at:
5 <<https://www.industrydocuments.ucsf.edu/chemical/collections/usrtk-agrichemical-collection/>>, and the
6 USRTK Food Industry Collection of the UCSF Food Industry Documents Archive, available online at:
7 <<https://www.industrydocuments.ucsf.edu/food/collections/usrtk-food-industry-collection/>>.

8 42. Request One was received by the State Department on January 27, 2021, as
9 acknowledged by Defendant's email to USRTK on January 29, 2021. The State Department assigned
10 Request One a FOIA tracking number of F-2021-02743. That email was signed by Nicholas J. Cormier,
11 Chief, Requester Communications Branch, Office of Information Programs and Services.

12 43. In that same January 29, 2021, email, the State Department informed USRTK that it had
13 placed Request One into the "complex" processing track. It also informed USRTK that the Agency
14 would not be able to issue a determination on Request One within the FOIA's twenty-day determination
15 deadline.

16 44. The Agency's January 29, 2021, email invoked the FOIA's "unusual circumstances"
17 extension. The reason given was: "the need to search for and collect requested records from other
18 Department offices or Foreign Service posts."

19 45. The Agency's January 29, 2021, email invoking the FOIA's "unusual circumstances"
20 exception to the statute's twenty-day determination deadline did not inform USRTK of "the date on
21 which a determination is expected to be dispatched." 5 U.S.C. § 552(a)(6)(B)(i). This failure renders the
22 Agency's invocation of unusual circumstances unlawful.

23 46. Having received no further communication or responsive records from the Agency
24 regarding Request One, on April 15, 2021, USRTK sent an e-mail to Nicholas J. Cormier, Chief,
25 Requester Communications Branch, Office of Information Programs and Services. In that email,
26 USRTK requested that the State Department provide an update on the FOIA request as well as an
27 estimated date of completion pursuant to the FOIA.

1 47. On April 28, 2021, USRTK received a response from the State Department to its April
2 15, 2021, email. In its response, the State Department identified March 10, 2022, as the estimated date
3 of completion.

4 48. Having received no further communication from the Agency on Request One, on
5 February 8, 2022, USRTK sent an email to “FOIAstatus@state.gov” and Kellie N. Robinson, the FOIA
6 Program Manager and Public Liaison for the Office of Information Program and Services within the
7 State Department. That email requested the Agency to provide a formal “determination” on the Request
8 as required by the FOIA, a decision from the Agency on USRTK’s fee waiver request, and an estimated
9 date of completion.

10 49. The State Department responded to USRTK’s February 8, 2022, email on February 11,
11 2022. In that email from the generic FOIAstatus@state.gov address, the Agency reiterated its March 10,
12 2022, estimated date of completion, that a determination regarding USRTK’s fee waiver would be
13 rendered “at a later date,” and did not provide USRTK with a lawful “determination,” as that term is
14 used in the FOIA.

15 50. As of the date of this Complaint, USRTK has received no further communications from
16 the State Department. The March 10, 2022, estimated completion date is long past.

17 51. To date, the Agency has not provided USRTK with a lawful “determination” that informs
18 USRTK of (1) the Agency’s determination of whether or not to comply with Request One; (2) the
19 reasons for its decision; and (3) notice of USRTK’s right to appeal to the head of the agency. 5 U.S.C. §
20 552(a)(6)(A)(i).

21 52. The Agency has not shown due diligence in responding to Request One. 5 U.S.C.
22 § 552(a)(6)(C)(i).

23 53. To date, the Agency has failed to issue a decision on USRTK’s request for a waiver of
24 fees associated with the processing of Request One.

25 54. To date, the Agency has not produced a single record responsive to Request One.

26 55. USRTK has constructively exhausted all administrative remedies required by the FOIA. 5
27 U.S.C. § 552(a)(6)(A), (a)(6)(C).

1 56. USRTK has been forced to retain the services of counsel and to expend funds litigating
2 Defendant's unlawful actions and omissions under the FOIA.

3 *FOIA Request Two*

4 57. USRTK submitted a FOIA Request ("Request Two") to the State Department on June 8,
5 2021. Request Two sought a waiver of all fees associated with processing the Request. A copy of
6 Request Two is attached hereto as **Exhibit B**.

7 58. Request Two seeks Agency records containing a series of specific keywords for an
8 identified set of State Department employees. Exhibit B at 1-2.

9 59. USRTK has no commercial interest or value in records responsive to Request Two.

10 60. USRTK incorporates and restates Para. 39-41.

11 61. On June 14, 2021, the State Department acknowledged via email that it had received
12 Request Two on June 8, 2021 and assigned it tracking number F-2021-07160. In that same email, the
13 State Department stated that it would not make a determination on USRTK's request for a fee waiver
14 until a later date. The Agency also indicated it was placing Request Two into the "complex" processing
15 track and that it was invoking the FOIA's "unusual circumstances" exception to the FOIA's twenty-day
16 determination deadline. The stated reasons: "the need to search for and collect requested records from
17 other Department offices or Foreign Service posts."

18 62. Defendant's June 14, 2021, email did not identify a date by which USRTK should expect
19 an official "determination" on Request Two.

20 63. Having received no further communication from the Agency regarding Request Two, on
21 February 8, 2022, USRTK sent an email to "FOIAstatus@state.gov" and Kellie N. Robinson, the FOIA
22 Program Manager and Public Liaison for the Office of Information Program and Services within the
23 State Department. That email requested the Agency to provide a formal "determination" on Request
24 Two as required by the FOIA, a decision from the Agency on USRTK's fee waiver request, and an
25 estimated date of completion.

26 64. USRTK received a response to its February 8, 2022, correspondence from the generic
27 "FOIAStatus@state.gov" email address on February 23, 2022. In that response, the Agency identified
28

1 February 2, 2024, as the estimated completion date for Request Two, approximately 2.5 years after the
2 date on which the Agency received Request Two.

3 65. The Agency’s February 23, 2022, response did not provide USRTK with a
4 “determination” on Request Two. It also did not provide USRTK with a determination on USRTK’s fee
5 waiver request.

6 66. Having received no further communication from the Agency regarding Request Two, on
7 May 17, 2022, USRTK sent an email to “FOIAstatus@state.gov.” That email again requested the
8 Agency to provide a formal “determination” on Request Two as required by the FOIA. USRTK
9 concluded its May 17 correspondence with: “Please do tell us if there is anything we can do to help you
10 process our request.”

11 67. The State Department responded on May 20, 2022. In its response, the Agency reiterated
12 its February 2, 2024, estimated date of completion. The Agency did not provide a formal determination,
13 as USRTK had requested.

14 68. The State Department’s February 2, 2024, estimated completion date for Request Two is
15 unlawful under the FOIA, which requires that records be “promptly” provided to a requester.

16 69. As of the date of this Complaint, USRTK has received no further communications from
17 the State Department.

18 70. To date, the Agency has not provided USRTK with a lawful “determination” that informs
19 USRTK of (1) the Agency’s determination of whether or not to comply with Request Two; (2) the
20 reasons for its decision; and (3) notice of USRTK’s right to appeal to the head of the agency. 5 U.S.C. §
21 552(a)(6)(A)(i).

22 71. The Agency has not shown due diligence in responding to the request. 5 U.S.C.
23 § 552(a)(6)(C)(i).

24 72. To date, the Agency has failed to issue a decision on USRTK’s request for a waiver of
25 fees associated with the processing of Request Two.

26 73. To date, the Agency has not produced a single record responsive to Request Two.

27 74. USRTK has constructively exhausted all administrative remedies required by the FOIA. 5
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1 U.S.C. § 552(a)(6)(A), (a)(6)(C).

2 75. USRTK has been forced to retain the services of counsel and to expend funds litigating
3 Defendant's unlawful actions and omissions under the FOIA.

4 **CAUSES OF ACTION**

5 **COUNT I**

6 **VIOLATIONS OF THE FREEDOM OF INFORMATION ACT**
7 **AND STATE DEPARTMENT REGULATIONS:**

8 **FAILURE TO PROVIDE TIMELY FINAL DETERMINATION**
9

10 76. The allegations made in all preceding paragraphs are realleged and incorporated by
11 reference herein.

12 77. USRTK has a statutory right to have Defendant process its FOIA request in a manner that
13 complies with the FOIA. USRTK's rights in this regard were violated by the State Department's failure
14 to provide a timely and legally adequate final determination on Request One and Two (collectively, "the
15 FOIA Requests").

16 78. To date, USRTK has not received any written communication from the State Department
17 about whether the Agency will comply with Requests One or Two, the Agency's reasons for making
18 that decision, and any right of USRTK to administratively appeal that decision. 5 U.S.C.
19 § 552(a)(6)(A)(i).

20 79. The Agency's invocation of "unusual circumstances" is improper, unlawful, and void, as
21 the Agency failed to apprise USRTK of the "date on which a determination is expected to be
22 dispatched" for both Requests One and Two. 5 U.S.C § 552(a)(6)(B)(i); 22 C.F.R. § 171.11(g).

23 80. Based on the nature of USRTK's organizational activities, USRTK will continue to
24 employ FOIA's provisions to request information from Defendant in the foreseeable future. These
25 activities will be adversely affected if Defendant is allowed to continue violating FOIA's response
26 deadlines.

27 81. Unless enjoined and made subject to a declaration of USRTK's legal rights by this Court,
28 Defendant will continue to violate USRTK's rights to receive public records under the FOIA.

1 82. Defendant's failure to make a final determination on the FOIA Requests within the
2 statutory timeframe prejudices USRTK's ability to timely obtain public records.

3 **COUNT II**

4 **VIOLATION OF THE FREEDOM OF INFORMATION ACT:**

5 **UNLAWFUL WITHHOLDING OF NON-EXEMPT PUBLIC RECORDS**

6
7 83. The allegations made in all preceding paragraphs are realleged and incorporated by
8 reference herein.

9 84. USRTK has a statutory right to have Defendant process its FOIA requests in a manner
10 that complies with FOIA.

11 85. USRTK's rights in this regard were violated when Defendant failed to promptly provide
12 public, non-exempt records to USRTK that are responsive to Requests One and Two, 5 U.S.C. sections
13 552(a)(3)(A), & (b), to provide a reasonable estimate of the volume of withheld records, 5 U.S.C.
14 section 552(a)(6)(F), and to reasonably segregate all non-exempt portions of otherwise exempt material.
15 5 U.S.C. § 552(b).

16 86. Defendant is unlawfully withholding public disclosure of information sought by USRTK,
17 information to which it is entitled, and for which no valid disclosure exemption applies.

18 87. USRTK has constructively exhausted its administrative remedies with respect to this
19 claim.

20 88. USRTK is entitled to injunctive relief to compel production of all non-exempt,
21 responsive records.

22 89. Based on the nature of USRTK's organizational activities, USRTK will undoubtedly
23 continue to employ FOIA's provisions to request information from Defendant in the foreseeable future.

24 90. USRTK's organizational activities will be adversely affected if Defendant is allowed to
25 continue violating FOIA's response deadlines as it has in this case.

26 91. Unless enjoined and made subject to a declaration of USRTK's legal rights by this Court,
27 Defendant will continue to violate the rights of USRTK to receive public records under the FOIA.

COUNT III

VIOLATION OF THE FREEDOM OF INFORMATION ACT:

FAILURE TO TIMELY APPROVE USRTK'S FEE WAIVER REQUEST

92. The allegations made in all preceding paragraphs are realleged and incorporated by reference herein.

93. USRTK has a statutory right to have Defendant process its FOIA requests in a manner that complies with FOIA.

94. USRTK's rights in this regard were violated by Defendant's unlawful delay in informing USRTK of its decision concerning USRTK's requests for a fee waiver.

95. Based on the nature of USRTK's organizational activities, USRTK will continue to employ FOIA's provisions to request information from Defendant in the foreseeable future. These activities will be adversely affected if Defendant is allowed to continue violating the FOIA's requirements and deadlines for fee waiver requests.

96. USRTK's requests for a waiver of all fees associated with the FOIA Requests is appropriate and satisfies all elements required for approval of a fee waiver.

97. Unless enjoined and made subject to a declaration of USRTK's legal rights by this Court, Defendant will continue to violate the rights of USRTK to receive public records under the FOIA.

98. Defendant's failure to make a timely determination on USRTK's fee waiver request has prejudiced USRTK's ability to timely obtain public records.

REQUEST FOR RELIEF

Wherefore, USRTK prays that this Court:

1. Order Defendant to promptly provide USRTK all of the information sought in this action and to immediately disclose the requested documents in unredacted format unless an exemption is properly claimed and properly applies.

2. Declare Defendant's failure to provide USRTK with final determinations for Requests One and Two as unlawful under the FOIA.

3. Declare Defendant's failure to promptly provide USRTK with all non-exempt records

1 responsive to the Requests as unlawful under the FOIA.

2 4. Declare Defendant’s failure to timely approve USRTK’s request for a waiver of all fees
3 associated with the FOIA Requests unlawful, and Order Defendant to approve USRTK’s fee waiver
4 request.

5 5. Award USRTK its reasonable attorneys’ fees and costs pursuant to 5 U.S.C.
6 section 552(a)(4)(E) or 28 U.S.C. section 2412.

7 6. Grant such other and further relief to USRTK as the Court may deem just and proper.
8

9 DATED: July 28, 2022

10 /s/ Rachel S. Doughty
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17 *Attorneys for Plaintiff US Right to Know*
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