

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

U.S. RIGHT TO KNOW,

Plaintiff,

v.

NATIONAL INSTITUTES OF HEALTH,

Defendant.

Civil Action No. 21-cv-2936 (TSC)

DECLARATION OF GARY MARK RUSKIN

I, Gary Mark Ruskin, do declare, subject to the penalties of perjury, that the following statements are true and correct to the best of my knowledge and belief:

1. I am executive director and co-founder of U.S. Right to Know. I am prepared to testify in open court or in a deposition to the truth of all matters in this Declaration.
2. U.S. Right to Know (USRTK) is a nonprofit investigative public health group working globally to expose corporate wrongdoing and government failures that threaten our health, environment and food system. We uncover, report on and share documents obtained through public records laws and from whistleblowers, and collaborate with public health academics and journalists around the world.

3. U.S. Right to Know's work has contributed to multiple *New York Times* investigations and to many articles published in the *BMJ*, which is one of the world's leading medical journals. Our work has received global media coverage documenting, for example, how food and agrichemical corporations work to protect their profits at the expense of public health and the environment. Many of the documents we have obtained through public records requests are now available in the UCSF food and chemical industry document libraries.
4. U.S. Right to Know was a recipient of a James Madison Freedom of Information Award from the Society of Professional Journalists, NorCal Chapter, in 2021 for our investigations of the food and agrochemical industries. We were also the first group to bring to light important internal academic communications regarding the origins of the COVID-19 pandemic.
5. I began doing public interest work in 1987. For fourteen years, I directed the Congressional Accountability Project, which opposed corruption in Congress. I co-founded an advertising watchdog group called Commercial Alert with Ralph Nader and served as its executive director for nine years.
6. In 2012, I served as campaign manager for Proposition 37, a California statewide ballot initiative to label genetically engineered food. I have also served as director of the Center for Corporate Policy "working to curb corporate abuses and make corporations publicly accountable" (corporatepolicy.org). I have authored or co-authored articles featured in the *Washington Post*, *Los Angeles Times*, *The Nation*, *Mothering*, *Multinational Monitor*, *Environmental Health News*, *Milbank Quarterly*, *Journal of Epidemiology and*

Community Health, Journal of Public Health Policy, Globalization and Health, Public Health Nutrition, International Journal of Environmental Research and Public Health, Critical Public Health, and many others. I earned my bachelor's degree in religion from Carleton College and earned my masters degree in public policy from Harvard University's John F. Kennedy School of Government.

NIH FOI Case No. 55201

7. On October 5, 2020, USRTK sent a FOIA request to the National Institutes of Health (NIH). Ex. 101 is attached and made part of this Declaration. The request was received the same day and assigned FOI Case No. 55201. Ex. 102 is attached and made part of this Declaration.
8. FOI Case No. 55201 sought records regarding NIH's Rocky Mountain Laboratories (RML). Specifically, the FOI Case No. 55201 sought disclosure of funding contracts, grant agreements, grant proposals, and communications about funding between the NIH's RML and the Defense Advanced Research Projects Agency (DARPA) pertaining specifically to the DARPA-funded Preventing Emerging Pathogenic Threats (PREEMPT) Program. It also sought disclosure of copies of RML meeting minutes and material transfer agreements of BEI Resources, which is managed by the NIH's National Institute of Allergy and Infectious Diseases (NIAID).
9. Our research suggested that the NIH's Rocky Mountain Labs (RML) and Dr. Vincent Munster's research at RML involved potentially risky bat-associated pathogen work on potential pandemic pathogens, in collaboration with UC Davis and Colorado State University, among other institutional partners. Specifically, we were interested in the

biosafety and ecological risks entailed in RML's DARPA-funded work to create self-spreading vaccines that aim to pre-empt spillover from bat populations to human populations. The ecological and biosafety risks of such work potentially include triggering novel pandemics. We sent our FOIA request to learn whether and how the RML had addressed the immense risks of their research.

10. On February 23, 2021, we amended our FOIA request via email, "withdrawing Part 2 of our FOI request (#55201) pertaining to Rocky Mountain Labs Institutional Biosafety Committee meeting minutes from January 1, 2003, to the present." On that same day, Marge Moore from the NIAID FOIA Office, responded by saying "NIAID completed our review of [our] amended request and forwarded [our] case to NIH FOIA for additional processing." Ex. 103 is attached and made part of this Declaration.
11. On June 29, 2021, and August 25, 2021, we sent two formal requests for NIH to provide an estimated completion date for FOI Case No. 55201. Ex. 104 from June 29, 2021, is attached and made part of this Declaration.
12. As of the date of this filing of the Declaration, more than 29 months after we filed this FOIA request, we have received no records responsive to FOI Case No. 55201, nor any estimated completion dates indicating when we might receive responsive records.
13. We have a statutory right to the requested records, and there is no legal basis for NIH's failure to promptly release them.

NIH FOI Case No. 55344

14. USRTK sent a FOIA request to the NIH on November 3, 2020. Ex. 105 is attached and made part of this Declaration. It was received the same day and assigned FOI Case No. 55344. Ex. 106 is attached and made part of this Declaration.
15. FOI Case No. 55344 sought records regarding the NIH's knowledge of the World Health Organization's (WHO's) investigation into the origins of SARS-CoV-2. Specifically, FOI Case No. 55344 sought disclosure of records of communications between specific personnel of NIAID and the WHO concerning efforts to ascertain the origins of COVID-19 or SARS-CoV-2.
16. WHO experts have been working to identify the origins of SARS-CoV-2, which is the infectious agent that causes COVID-19, but appear at times to have been reticent to disclose their findings. We made the request to learn what NIH officials knew about the origins of SARS-CoV-2 from interactions with their WHO counterparts.
17. Disclosure of the requested records may well provide scientific evidence that enhances the public's understanding of the origins of SARS-CoV-2.
18. Disclosure of the requested records may also provide the public with information about the activities of national and international health authorities, namely the NIH and WHO, regarding their search for origins of the COVID-19 pandemic that has killed millions worldwide.
19. We amended our request on November 16, 2020, and NIH sent an acknowledgement letter explaining the amended request was received. Ex. 107 is attached and made part of this Declaration.

20. We sent two formal requests on June 29, 2021, and August 25, 2021, for NIH to provide an estimated completion date regarding FOI Case No. 55344. The first request for the estimated completion date is Ex. 108, which is attached and made part of this Declaration.

21. As of the date of this filing of the Declaration, more than 27 months after filing our FOIA request, we have received no records responsive to FOI Case No. 55344, nor any estimated completion dates indicating when we might receive responsive records.

22. We have a statutory right to the requested records, and there is no legal basis for NIH's failure to promptly release them.

NIH FOI Case No. 55351

23. USRTK sent a FOIA request to the NIH on November 5, 2020. Ex. 109 is attached and made part of this Declaration. It was received the same day and assigned FOI Case No. 55351. Ex. 110 is attached and made part of this Declaration.

24. FOI Case No. 55344 sought records regarding Dr. H. Clifford Lane, Clinical Director of NIAID. Specifically, FOI Case No. 55344 seeks disclosure of records held by the NIH of Dr. Lane's communications with the Wuhan Institute of Virology (WIV), its American partner EcoHealth Alliance, and specific government officials, university professors, and experts who were involved with the World Health Organization (WHO)'s investigation of SARS-CoV-2 origins in China in February, 2020 (called the WHO-China Joint Mission).

25. The WHO-China Joint Mission involved governments and experts from across the world. Conducted when the rest of the world knew little about SARS-CoV-2 or its origins, it was influential to the globe's understanding of the novel coronavirus. However, the complete findings from the mission, as well as its operations, have been less than transparent. Emails obtained through the Freedom of Information Act show that the mission's final report was influenced by political considerations in China.
26. Dr. Lane was one of the two U.S. government officials on WHO's team investigating SARS-CoV-2 in China in February 2020. We made the request because disclosure of Dr. Lane's communications may well improve public understanding of the WHO-China Joint Mission's findings and operations.
27. We amended our request on November 13, 2021, and NIH sent an acknowledgement letter explaining that it had received the amended request. Ex. 111 is attached and made part of this Declaration.
28. We sent a formal request on June 29, 2021, for NIH to provide an estimated completion date regarding FOI Case No. 55351. Ex. 112 is attached and made part of this Declaration.
29. NIH responded to this request on July 8, 2021, by stating: "An NIAID FOIA processor is currently working on Case #55351. We anticipate that NIAID will finish processing on September 7, 2021. The case will then be transferred to NIH FOIA for additional review and processing. NIH FOIA will be able to give you their estimate once the case has been transferred to them." Ex. 112 is attached and made part of this Declaration.

30. We sent another formal request on August 25, 2021, for NIH to provide an estimated completion date regarding FOI Case No. 55351. NIH responded to this request on August 26, 2021, by stating: “Initial review of these records has been completed. This case has been moved into secondary review. We hope to complete that review and forward the records to NIH FOIA for additional review and processing by October 22, 2021.” Ex. 113 is attached and made part of this Declaration.
31. As of the date of this filing of the Declaration, more than 27 months after we filed the FOIA request, we have received no records responsive to FOI Case No. 55351.
32. We have a statutory right to the requested records and there is no legal basis for NIH’s failure to promptly release them.

NIH FOIA Case No. 55569

33. USRTK sent a FOIA request to the NIH on December 18, 2020. Ex. 114 is attached and made part of this Declaration.
34. FOI Case No. 55569 sought records regarding grants to EcoHealth Alliance, Inc., administered by the NIAID. Specifically, FOI Case No. 55569 seeks disclosure of records of grant applications, progress reports, agreements between recipient and subrecipient(s), and communications about funding.
35. NIAID has given grants to EcoHealth Alliance to conduct research on bat-related coronaviruses in China. We made the request in order to understand the goals and execution of EcoHealth Alliance’s coronavirus research in China.

36. Disclosure of the requested records may reveal information helpful to evaluating the possibility of a research-related origin or lab leak origin of COVID-19.
37. Disclosure of the requested records may also improve the public's understanding of the adequacy of NIH's oversight of high-risk research funded through its grants.
38. On December 22, 2020, NIH sent us a final response letter. Ex. 115 is attached and made part of this Declaration. In that letter, NIH explained it was withholding records "pursuant to Exemption 7(A), 5 U.S.C. § 552, and section 5.31 (g)(1) of the HHS FOIA Regulations, 45 CFR Part 5." *Id.*
39. We appealed NIH's decision to withhold the responsive records on January 25, 2021, and after its review, on January 29, 2021, NIH wrote to us stating it had "decided to reverse the initial decision and remand [our] appeal to the NIH. On remand, the NIH will issue a new determination in response to [our] initial request." Ex. 116 is attached and made part of this Declaration.
40. On June 29, 2021, we sent NIH a formal request for an estimated completion date. NIH responded on July 2, 2021, by stating, "Unfortunately I am unable to provide an estimated completion date because we follow a first in first out system when it comes to reviewing FOIA Requests. Litigation is also prioritized which is another reason why it is challenging to provide an estimated completion date. I can update you when the request comes up in our queue or any progress regarding your request." Ex. 117 is attached and made part of this Declaration.

41. We sent another formal request to NIH for an estimated completion date on August 25, 2021. Once again, we did not receive an estimated completion date from NIH.
42. On October 4, 2021, NIH sent us a “partial response” to our December 18, 2020, request. In the response, NIH told us that it had posted 914 responsive pages to the “NIH Reading Room” (<https://www.nih.gov/institutes-nih/nih-office-director/office-communications-public-liaison/freedom-information-act-office/nih-foia-library>) and that our request for the remaining grants and item 2 [communication about funding] will be responded to separately.” Ex. 118 is attached and made part of this Declaration. NIH continued by asserting that requesters usually only want to receive materials “that will help in understanding the process that led to the awards, or to improve their own methods of drafting grant applications.” *Id.* Consequently, NIH apparently decided to release only some of the responsive records, instead of all the responsive records to which we were entitled.
43. We wrote to NIH on October 4, 2021, expressing dissatisfaction with the improper withholding of responsive records, and requested that all responsive records be released. Ex. 119 is attached and made part of this Declaration.
44. On February 27, 2023, more than fifteen months after we filed our complaint in this matter, NIH provided another “partial response” to our request. It produced its initial batch of documents, with information withheld “pursuant to Exemptions 4 and 6 of the FOIA, 5 U.S.C. § 552 (b)(4) and (b)(6); and sections 5.31(d) and (f) of the HHS FOIA Regulations, 45 CFR Part 5.”

45. As of the date of this filing of the Declaration, more than twenty-six months after we filed our FOIA request, we still have not received the complete records NIH unlawfully withheld without a FOIA exemption, nor have we received any response for Item 2 [communication about funding] which NIH had said it would release “separately.”
46. We have a statutory right to the requested records and there is no legal basis for NIH’s failure to promptly release them.

NIH FOI Case No. 55570

47. USRTK sent a FOIA request to the NIH on December 18, 2020. Ex. 120 is attached and made part of this Declaration.
48. FOI Case No. 55570 seeks records regarding grants to EcoHealth Alliance, Inc., administered by NIH’s Fogarty International Center (FIC). Specifically, FOI Case No. 55570 seeks disclosure of records of all grant applications, progress reports, agreements between recipient and sub-recipient(s), and communications about funding.
49. NIH’s Fogarty International Center has given grants to EcoHealth Alliance to conduct research on bat-related coronaviruses. We made the request in order to ascertain the goals and execution of EcoHealth Alliance’s coronavirus research.
50. Disclosure of the requested records may well reveal information critical to evaluating the possibility of a research-related origin or lab leak origin of COVID-19.
51. Disclosure of the requested records may also improve the public’s understanding of the adequacy of the NIH’s oversight of high-risk research funded through its grants.

52. On the same day we filed our FOIA request, NIH sent us a final response letter. Ex. 121 is attached and made part of this Declaration. In that letter, NIH explained it was withholding records “pursuant to Exemption 7(A), 5 U.S.C. § 552, and section 5.31 (g)(l) of the HHS FOIA Regulations, 45 CFR Part 5.” *Id.*
53. We appealed NIH’s decision to withhold the responsive records on February 19, 2021. After its review, on February 23, 2021, NIH wrote to us stating it had “decided to reverse the initial, NIH decision and remand [our] appeal to the NIH. On remand, the NIH will issue a new determination in response to [our] initial request.” Ex. 122 is attached and made part of this Declaration.
54. On June 29, 2021, and August 25, 2021, we sent NIH formal requests for an estimated completion date for our request, but NIH did not provide us with any such dates. Ex. 123 is attached and made part of this Declaration.
55. On March 6, 2023, nearly sixteen months after we filed our complaint on this matter, NIH provided us with a “partial production” in response to our request.
56. As of the date of this filing of the Declaration, more than twenty-six months after we filed our FOIA request, we still have not received the complete records responsive to FOI Case No. 55570, nor any estimated completion dates indicating when we might receive the complete set of responsive records.
57. Furthermore, as of the date of this filing, we have not received a final determination letter regarding our request after our successful appeal and remand.

58. We have a statutory right to the requested records and there is no legal basis for NIH's failure to promptly release them.

NIH FOI Case No. 56077

59. USRTK submitted a FOIA request to the NIH on March 25, 2021. Ex. 124 is attached and made part of this Declaration. On that same day, NIH sent us an acknowledgment letter detailing its receipt of the request. Ex. 125 is attached and made part of this Declaration.

60. FOI Case No. 56077 seeks records regarding employees at NIH's Rocky Mountain Laboratories (RML). Specifically, FOI Case No. 56077 seeks disclosure of records held by the NIH of communications between two RML employees and the Wuhan Institute of Virology, EcoHealth Alliance, the Chinese Center of Disease Control and Prevention, the Shanghai Clinical Health Center, the Peking Union Medical College, as well as top virology experts at universities in the U.S. and Australia.

61. Vincent Munster and his then post-doc Michael Letko published a pre-print (<https://www.biorxiv.org/content/10.1101/2020.01.22.915660v1>) on January 22, 2020, in the early days of the COVID-19 pandemic. In the pre-print they wrote: "While our study was ongoing, a novel lineage B virus tentatively named 2019-nCoV was identified as the cause of a pneumonia outbreak in Hubei, China. Once the sequence was publicly available, we synthesized, cloned and tested the RBD from 2019-nCoV in our assay with human variants of known coronavirus receptors. The chimeric SARS-2019-nCoV spike protein expressed and was incorporated into particles similarly to other clade 1 chimeric

spikes.” We wanted to know what more Munster and Letko may have known about SARS-CoV-2 and its origins.

62. On March 25, 2021, we amended our request, and on the following day, NIH recognized its receipt of the amended request.
63. We sent NIH a formal request for an estimated completion date on August 25, 2021. Ex. 126 is attached and made part of this Declaration.
64. On August 31, 2021, NIH sent us two requests asking us to narrow our request in order to save time on processing, but we declined to do so. Ex. 127 is attached and made part of this Declaration.
65. Subsequently, on September 2, 2021, NIH sent two emails indicating it would take ten to twelve months for NIAID to process records responsive to our request, and NIH would need additional time to review the responsive records after NIAID’s initial processing. Ex. 128 and Ex. 129 are attached and made part of this Declaration.
66. As of the date of this filing of the Declaration, more than twenty-three months after filing our FOIA request, we have received no records responsive to FOI Case No. 56077 nor any estimated completion date indicating when we might receive responsive records.
67. We have a statutory right to the requested records and there is no legal basis for NIH’s failure to promptly release them.

68. USRTK sent a FOIA request to the NIH on April 21, 2021. Ex. 130 is attached and made part of this Declaration.
69. FOI Case No. 56212 sought records regarding Dr. Michael Lauer, NIH Deputy Director for Extramural Research. Specifically, FOI Case No. 56212 sought disclosure of records of communication between Dr. Lauer and the EcoHealth Alliance, the Wuhan Institute of Virology, and other related individuals.
70. Dr. Lauer emailed Peter Daszak, president of EcoHealth Alliance, in April 2020 asking for details about EcoHealth's collaborations with the WIV, as reported by Science Magazine.
71. We made the request in an attempt to ascertain what Dr. Lauer knew about the origins of SARS-CoV-2 from interactions with EcoHealth-affiliated individuals.
72. Disclosure of the requested records may reveal information useful to evaluating the possibility of a research-related origin or lab-leak origin of COVID-19.
73. Disclosure of the requested records may also provide the public with improved understanding of NIH officials' oversight of their grant programs.
74. We received an email on April 21, 2021, from FOIA_noreply@nih.gov stating, "The status of [our] FOIA request #56212 has been updated to the following status "Assigned for Processing.'" Ex. 131 is attached and made part of this Declaration.

75. Receiving no other notice from NIH, we sent a formal request for an estimated completion date on August 25, 2021. Ex. 132 is attached and made part of this Declaration.
76. On March 6, 2023, around sixteen months after we filed our complaint in this matter, NIH provided a “partial response” to our request.
77. Most of the documents produced in this “partial response” appear to have been previously produced in FOIA litigation with BuzzFeed, Inc.
78. As of the date of this filing of the Declaration, more than twenty-two months after we filed this FOIA request, we still have not received the complete set of records responsive to FOI Case No. 56212 nor any estimated completion date indicating when we might receive the complete set of responsive records.
79. We have a statutory right to the requested records and there is no legal basis for NIH’s failure to promptly release them.

NIH FOI Case No. 56247

80. USRTK sent a FOIA request to the NIH on April 29, 2021. Ex. 133 is attached and made part of this Declaration.
81. FOI Case No. 56247 seeks records regarding the NIH project titled “Understanding the risk of bat coronavirus emergence” (project number R01AI110964). Specifically, FOI Case No. 56247 sought disclosure of copies of all records created by, received by, or held in the possession of the Center for Scientific Review’s (CSR) Clinical Research and Field

Studies of Infectious Diseases Study Section (CRFS) with reference to all awarded versions of the above project.

82. The above project funds research on potential pandemic pathogens (PPPs). Disclosure of the requested information may well improve the public's understanding of NIH's operations concerning research on PPPs.

83. Furthermore, the grant for the above project was awarded to EcoHealth Alliance, which involved bat coronavirus research in collaboration with the Wuhan Institute of Virology. Disclosure of the requested records could reveal information critical to evaluating the possibility of a research-related origin or lab-leak origin of COVID-19.

84. After asking for and receiving clarification on minor issues, on May 17, 2021, NIH sent us an acknowledgement letter detailing the request and its receipt, as well as the clarifications we made on May 3, 2021. Ex. 134 is attached and made part of this Declaration.

85. On May 24, 2021, NIH sent us an email asking if we were willing to exclude "draft versions of the summary statement" from our request. Ex. 135 is attached and made part of this Declaration. We responded the same day saying we were unwilling to do so. *Id*

86. On May 28, 2021, NIH sent us an email stating it was transferring the request and records to the NIH FOIA Office for final determination.

87. Not receiving any more contact from NIH, we sent NIH a request for an estimated completion date on August 25, 2021. Ex. 136 is attached and made part of this Declaration.

88. As of the date of this filing of the Declaration, more than twenty-two months after filing this FOIA request, we have received no records responsive to FOI Case No. 56247 nor any estimated completion date indicating when we might receive responsive records.

89. We have a statutory right to the requested records and there is no legal basis for NIH's failure to promptly release them.

NIH FOI Case No. 56301

90. We sent a FOIA request to the NIH on May 11, 2021. Ex. 137 is attached and made part of this Declaration.

91. FOI Case No. 56301 seeks records regarding Dr. Erik Stemmy, DPCC Project Officer, and Human Coronavirus, Rhinovirus Research Program Officer, National Institute of Allergy and Infectious Diseases (NIAID). Specifically, FOI Case No. 56301 seeks disclosure of records held by the NIH of Dr. Stemmy's communications with EcoHealth Alliance, the Wuhan Institute of Virology, and other EcoHealth affiliated individuals.

92. FOI Case No. 56301 concerns the NIH's knowledge of SARS-CoV-2 origins and history. Dr. Stemmy corresponded with EcoHealth's Peter Daszak in early January 2020 about the unfolding COVID-19 situation. We made the request in order to better understand the discussion between NIAID staff and EcoHealth Alliance prior and during the COVID-19 pandemic, in relation to its origins.

93. On the same day we filed our request, NIH sent an acknowledgement letter detailing our request and its receipt. Ex. 138 is attached and made part of this Declaration.

94. On August 25, 2021, we sent NIH a request for an estimated completion date. Ex. 139 is attached and made part of this Declaration. After an email exchange, NIH provided a December 31, 2021 estimated completion date. Ex. 139 is attached and made part of this Declaration.

95. As of the date of this filing of the Declaration, more than twenty-two months after filing this FOIA request, we have received no records responsive to FOI Case No. 56301.

96. We have a statutory right to the requested records and there is no legal basis for NIH's failure to promptly release them.

NO PRODUCTION SCHEDULE YET

97. After sixteen months of not producing any records in response to this litigation, on February 27, 2023, NIH did finally produce a 1,260-page batch of records related to only one out of the nine FOIA requests at issue. NIH has already produced many if not most of these documents through FOIA litigation to *The Intercept*.

98. On March 6, 2023, NIH produced a 6,698-page batch of documents that appears largely to have been previously produced in FOIA litigation to *Buzzfeed*. The batch also contains one additional document.

99. This litigation's two most recent Joint Status Reports were filed on January 3, 2023, and on March 6, 2023, one occurring before and one occurring after the two recent productions. The NIH each time "identified 22,041 potentially responsive pages" related to this litigation.

100. This language suggests that neither of the NIH's two recent productions was responsive to the FOIA requests at issue in this litigation, because neither of the two productions reduced either the total number of pending potentially responsive pages, or any of NIH's tallies of the pages pending to be released for each of the nine FOIA requests at issue.
101. It appears that NIH produced records at this late date, most of which had been previously released in other FOIA cases, shortly before we filed this motion, merely to be able to claim that it had released records, although some of the records may not be responsive to the FOIA requests at issue.
102. We believe that, in the production of *Buzzfeed* records made on March 6, 2023, the NIH produced at least some records which are not responsive to our FOIA requests. To use the most obvious example, the *Buzzfeed* productions contain published materials, including published news articles and scientific papers. We have conveyed to the NIH in FOIA requests that we do not request published articles or other widely available public materials.
103. As of the date of filing of this Declaration, the NIH has provided no timeline or schedule for production of records for any of our nine FOIA requests. The NIH has not agreed to a monthly minimum number of pages of records it will produce for any of the nine FOIA requests. Nor has the NIH agreed to a final date by which all records will be produced for any or all of the nine FOIA requests.
104. This litigation is not one that should take years to complete. If ordered to produce 4,000 pages a month, NIH would produce all remaining 22,041 pages of records at issue in six months or less.

CONCLUSION

105. I declare that U.S. Right to Know made all of the above requests to help uncover what is known about the origins of SARS-CoV-2, to better understand the risks of high-risk virological research, and to enhance public oversight of government activities and decision-making. We made the FOIA requests in a manner consistent with NIH's recommendations, and according to the FOIA statute.
106. In the months that followed the submission of FOIA requests, we made many efforts to encourage NIH to produce the requested records. Such efforts included multiple emails and at least two formal requests per case for an estimated completion date. However, these efforts were mostly unsuccessful.
107. Most of the requested information relates to the origins and onset of a pandemic that has killed millions, and drastically impacted most of the world's population, and the global economy. The information is time-sensitive: the pandemic still continues to take many lives, and to impact the lives of many American citizens. The operations of the government in relation to the pandemic should be monitored closely and in a timely manner.
108. Furthermore, information about the origins of the pandemic is crucial to avoiding, or preparing for, a similar calamity in the future.
109. The *Proceedings of the National Academy of Sciences* released an article in May 2022 titled "A call for an independent inquiry into the origin of the SARS-CoV-2 virus" (<https://www.biorxiv.org/content/10.1101/2020.01.22.915660v1>). The article noted that

“the NIH has resisted the release of important evidence, such as the grant proposals and project reports of EHA, and has continued to redact materials released under FOIA, including a remarkable 290-page redaction in a recent FOIA release,” and calls for NIH to “say more about the possible role of its grantees in the emergence of SARS-CoV-2,” especially in light of serious concerns raised by certain NIH emails released through FOIA. Further, the article states that the “failure of NIH [...] to facilitate the investigation into the origins of SARS-CoV-2 has fostered distrust regarding US biodefense research activities.”

110. The United States House of Representatives Committee on Oversight and Accountability quotes its then-ranking member (now chairman) James Comer in a July, 2021, press release which clearly states the importance of the requested information. Rep. Comer states: “The relationship between the NIH, the WIV, and EcoHealth raises serious questions about use of taxpayer dollars for gain-of-function research and when U.S. health officials became aware of the WIV’s role in the COVID-19 pandemic. The public health community—including the NIH—and the American people deserve the truth. The truth will enable American public health officials to prevent and minimize the effects of future global pandemics.” (<https://oversight.house.gov/release/oversight-republicans-press-nih-niaid-on-taxpayer-funds-awarded-to-wuhan-lab/>)

111. An April, 2022, *Newsweek* article highlights how the NIH “lock[s] out the vast majority of Americans from accessing federal records” by “forcing public interest groups to spend money on litigation before complying with FOIA requests.” The article, titled “The Public’s Business Ought to be Public,” notes that news organizations and nonprofits across the political spectrum have been forced to take their FOIA requests to NIH to

court in order to make pandemic documents public. For example, “the NIH has denied that federal monies were used for gain-of-function research at the WIV that could have led to the pandemic, but Vanity Fair reported in October that the agency was forced to admit it had funded the risky research. A week afterward, *The Intercept* published even more NIH emails, this time showing that the EcoHealth Alliance had helped to craft the very language that governed the gain-of-function research that the NIH funds and is supposed to regulate. But none of this would have come to light if *The Intercept* had not taken the NIH to court to force the agency to comply with public information requests.” The article further states, “We all pay extra when anyone sues the government. The process sucks up court time and expenses, and forces lawyers at the Department of Justice to get involved and collect agency documents. It would all be cheaper and faster if the NIH simply followed the law in the first place. [...] In short, we are all losing. Americans pay far too much to force agencies like the NIH to be transparent.” We echo these sentiments.

112. Attached and made part of this Declaration are the following Exhibits:

- Ex. 101: October 5, 2020 FOIA Request.
- Ex. 102: October 5, 2020 Receipt of FOI Case No. 55201 by NIH.
- Ex. 103: February 23, 2021 Amending Request via Email.
- Ex. 104: June 29, 2021 Request for Estimated Completion Date.
- Ex. 105: November 3, 2020 FOIA Request.
- Ex. 106: November 3, 2020 Receipt of FOI Case No. 55344 by NIH.
- Ex. 107: November 16, 2020 acknowledgment letter of amended request.
- Ex. 108: June 29, 2021 ECD for FOIA Case No. 55344.
- Ex. 109: November 5, 2020 FOIA request to NIH.
- Ex. 110: November 5, 2020 receipt of FOI Case No. 55351.
- Ex. 111: November 13, 2021 acknowledgment letter of amended request.
- Ex. 112: June 29, 2021 request for Estimated Completion Date.
- Ex. 113: August 25, 2021 response to request for estimated completion date regarding 55351.
- Ex. 114: December 18, 2020 FOIA Request, which was assigned number 55569.

- Ex. 115: December 22, 2020 Final response letter to 55569.
- Ex. 116: January 29, 2021, NIH Response to Appeal
- Ex. 117: July 2, 2021 Response to Request for Estimated Completion Date.
- Ex. 118: October 4, 2021 Partial Response to December 18, 2020 Request.
- Ex. 119: October 4, 2021 Communication to NIH
- Ex. 120: December 18, 2020 FOIA Request, to become 55570.
- Ex. 121: December 18, 2020 Final Response Letter.
- Ex. 122: February 19, 2021 appeal to 55570.
- Ex. 123: June 29, 2021 Request for Estimated Completion Dates
- Ex. 124: March 25, 2021 FOIA Request
- Ex. 125: March 25, 2021 Acknowledgment Letter of 56077.
- Ex. 126: August 25, 2021 Request for Estimated Completion Date.
- Ex. 127: August 31, 2021 Two Requests to Narrow and Declining
- Ex. 128: September 2, 2021 email from NIH.
- Ex. 129: September 2, 2021 email from NIH.
- Ex. 130: April 21, 2021 FOIA Request.
- Ex. 131: April 21, 2021 Request #56212 Assigned for Processing.
- Ex. 132: August 25, 2021 Request for Estimated Completion Date.
- Ex. 133: April 29, 2021 FOIA Request sent to NIH.
- Ex. 134: May 17, 2021 Clarifications from NIH.
- Ex. 135: May 24, 2021 Request to Exclude from NIH.
- Ex. 136: August 25, 2021 Request for Estimated Completion Date.
- Ex. 137: May 11, 2021 FOIA Request.
- Ex. 138: May 11, 2021 Acknowledgment Letter.
- Ex. 139: August 25, 2021 Request for Estimated Completion Date.

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

DATED this 16th day of March, 2023.

/s/ Gary Mark Ruskin

Gary Mark Ruskin

Oakland, California