

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

U.S. RIGHT TO KNOW,

Plaintiff,

v.

U.S. DEPARTMENT OF ENERGY,

Defendant.

Civil Action No. 25-2308 (TNM)

JOINT STATUS REPORT

Plaintiff U.S. Right to Know and Defendant U.S. Department of Energy (“DOE”), through counsel, respectfully submit this, in-part, Joint Status Report pursuant to this Court’s September 8, 2025, Minute Order.

1. This is a Freedom of Information Act (“FOIA”) case about records related to the Department of Energy’s assessment of the origins of COVID-19 pandemic. Plaintiff filed a complaint on July 18, 2025, and Defendant answered on September 8, 2025. This case concerns a June 2, 2025, FOIA request by Plaintiff to DOE.

2. On September 8, 2025, the Court ordered the parties to meet and confer and then file a Joint Status Report proposing a schedule for proceeding in this matter and providing certain information requested by the Court on or before October 8, 2025. This deadline was automatically extended to December 1, 2025, by Standing Order 25-59 (JEB).¹

¹ Paragraph 1 of Standing Order 25-59 automatically extended the October 10, 2025, deadline by fifty-three (53) days to Sunday, November 30, 2025, making the new deadline December 1, 2025, due to the lapse in appropriations.

3. On November 17, 2025, Plaintiff contacted Defendant to arrange a conference pursuant to this Court's Minute Order dated September 8, 2025.

4. On November 19, 2025, Defendant issued a response to Plaintiff, releasing in part eleven (11) records, consisting of twenty-nine (29) pages and making certain withholdings under applicable FOIA exemptions.

5. On November 21, 2025, the parties met and conferred by telephone. Defendant is conducting a review of its search to address concerns raised by Plaintiff in the parties' meet-and-confer. Plaintiff's concerns regarding the production are detailed below. Defendant expects to issue another response to Plaintiff by January 9, 2026.

6. Defendant does not currently anticipate seeking an *Open America* stay.

7. The parties agree to defer questions regarding the need for a *Vaughn* index or briefing schedule to the next Joint Status Report.

8. The parties propose that they file an additional Joint Status Report on or before January 16, 2025, to inform the Court about the status of their discussions and any other issues of relevance that they believe should be brought to its attention.

Plaintiff's Position²

9. Plaintiff adds the following additional relevant statements because, as of December 1, 2025, counsel for the Defendant asserts that they are unable to address these statements notwithstanding the fact that they were raised, during the conference on November 21, 2025, and

² Counsel for the Defendant, asserts that they were unaware or unfamiliar with Defendant's two separate responses to Plaintiff's FOIA request. These responses are dated November 17, 2025, and November 19, 2025. Counsel for Defendant further asserted that they are unfamiliar with certain of Plaintiff's citations below. Thus, on the afternoon of December 1, 2025, counsel for Defendant requested that certain of Plaintiff's position statements be set off from the rest of the Joint Status Report. Plaintiff has done so.

notwithstanding the fact that Plaintiff requested that this Joint Status Report be drafted and exchanged well in advance of its filing deadline.

10. On November 17, 2025, the DOE issued what it termed its “final response” to Plaintiff’s FOIA request. In that response DOE purported to have identified 11 pages of responsive records. That same day or the next the DOE asserted it was withdrawing that response.

11. On November 19, 2025, Defendant issued another purportedly “final response” to Plaintiff, releasing twenty-nine (29) pages almost entirely redacted records. The “response” itself however asserted that it had, to date, produced 74 pages of responsive records. Plaintiff in fact has only ever received 29 pages of records.

12. Shortly prior to, and again during the conference on November 21, 2025, Plaintiff informed Defendant of several very significant problems with Defendant’s production.

13. For instance, Plaintiff explained to Defendant that their production was almost completely redacted and that it was thus almost impossible to ascertain what documents had been produced and/or what their subject matter was.³

14. For instance, Plaintiff explained to Defendant that while Plaintiff’s FOIA request sought the latest assessment or intelligence reports on the origins of COVID-19 and included newspaper articles⁴ indicating that responsive records were likely created in 2023 or later, none of the produced records were dated later than June 14, 2022. This is even though at least the

³ Plaintiff notes that the near entire redaction of the responsive records begs the question of whether the Defendant has complied with its obligation under FOIA to “take reasonable steps necessary to segregate and release non-exempt information.” *Kwoka v. Internal Revenue Serv.*, 989 F.3d 1058, 1066 (D.C. Cir. 2021) (cleaned up).

⁴ E.g., Plaintiff’s FOIA request cited to the following two articles: Julian E. Barnes: Lab leak most likely caused pandemic, Energy Dept. says, *The New York Times*. (February 26, 2023); Michael R Gordon and Warren P. Strobel: Lab Leak Most Likely Origin of Covid-19 Pandemic, Energy Department Now Says, *The Wall Street Journal*. (February 26, 2023).

DOE and ODNI appear to have indicated in several public statements that their COVID-19 assessments have been updated since January 1, 2023.^{5,6}

15. For instance, Plaintiff explained to Defendant that while Plaintiff's FOIA request sought reports, analyses or appendices referred to, described in, or attached to responsive records, numerous records cited directly in the DOE's production have never actually been produced to Plaintiff or otherwise accounted for. For example: p.p. 6-7 of the production appears to reference a document titled "U/FOUO 90 Day Workplan" and an attachment titled "POTUS-90Day-Workplan-DOE-IN Final.docx"; p.8 of the production appears to reference a document titled "Finalizing QA Memo, and update on IC Efforts"; p.9 of the production referenced what appears to be another document titled the "NIC Assessment"; p.11 of the production appears to reference a document titled "OC Release"; p.13 of the production referenced a document titled "90 Day Study on COVID-19 Origins"; p.15 of the production referenced a document titled "Updated Assessment of COVID-19 Origins"; p.p.20-21 of the production referenced a document titled "LLNL Product Proposal"; p.22 of the production referenced a completely redacted attachment and an unspecified "proposal"; p.p. 27-29 of the production reference what appear to potentially be numerous research citations. Plaintiff further asserts that the above list is

⁵ See e.g., Office of the Director of National Intelligence, *Potential Links Between the Wuhan Institute of Virology and the Origin of the COVID-19 Pandemic*, June 2023, <https://www.dni.gov/files/ODNI/documents/assessments/Report-on-Potential-Links-Between-the-Wuhan-Institute-of-Virology-and-the-Origins-of-COVID-19-20230623.pdf> (last electronically accessed on Dec. 1, 2025).

⁶ See e.g. Select Subcommittee on the Coronavirus Pandemic, *Investigating the Origins of COVID, Part 2: China and the Available Intelligence*, Apr. 18, 2023, <https://congress.gov/118/chrg/CHRG-118hhrg51891/CHRG-118hhrg51891.pdf> (last electronically accessed on Dec. 1, 2025) (in that hearing transcript former director of the ODNI, John Ratcliffe stated to Congress "My understanding, specifically from the Department of Energy, that there was new intelligence that persuaded them to make their assessment of a lab leak. So, new intelligence is always being gained.").

a mere sample of the referenced records that have neither been produced nor accounted for and that due to the almost entire redaction of the produced records it is not unlikely that there are further responsive reference documents that are unknown to Plaintiff due to redactions of same.

16. Plaintiff for its part believes that the extent of apparently missing records and redactions may warrant a *Vaughn* index soon. Plaintiff is, however, willing to wait until the DOE's next response on January 9, 2026, and then address this further at the next Joint Status Report.

Dated: December 1, 2025

/s/ Nathaniel M. Lindzen
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Respectfully submitted,

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