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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 U.S. RIGHT TO KNOW, a California Non-Profit
12 Corporation,

13 Plaintiff,

14 vs.

15 NATIONAL ARCHIVES AND RECORDS
ADMINISTRATION,

16 Defendant.

Case No.:

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Freedom of Information Act, 5 U.S.C. §
552 *et seq.*

INTRODUCTION

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2 1. Through this action, Plaintiff U.S. Right to Know (USRTK) seeks access to
3 government records held by Defendant National Archives and Records Administration (NARA),
4 and specifically, the George W. Bush Presidential Library, pursuant to the Freedom of Information
5 Act (FOIA), 5 U.S.C. § 552 *et seq.*, and the NARA FOIA regulations, promulgated thereunder, 36
6 C.F.R. Part 1270 – “PRESIDENTIAL RECORDS.” This action challenges Defendant NARA’s
7 unlawful failure to abide by the statutory requirements of FOIA and the NARA’s own
8 implementing regulations.

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

16 3. The records requested by USRTK are likely to contribute significantly to the
17 understanding of the operations or the activities of the government. USRTK is a 501(c)(3) nonprofit
18 organization and, by its nature, has no commercial interest in the requested records.

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

JURISDICTION AND VENUE

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27 5. This Court has jurisdiction pursuant to 5 U.S.C. section 552(a)(4)(B). That provision
28 of the FOIA grants jurisdiction to “the district court of the United States in the district in which the

1 complainant resides or has his principal place of business[.]” 5 U.S.C. § 552(a)(4)(B). USRTK is a
2 nonprofit public benefit corporation organized under the Nonprofit Public Benefit Corporation Law
3 for charitable purposes. USRTK was incorporated in the State of California in May 2014. USRTK
4 maintains its principal place of business in the Northern District of California.

5 6. This Court also has federal question jurisdiction pursuant to 28 U.S.C. section 1331
6 because this action arises under the FOIA and the Declaratory Judgment Act, 28 U.S.C. section
7 2201 *et seq.*

8 INTRADISTRICT ASSIGNMENT

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

12 8. Under the FOIA, 5 U.S.C. § 522(a)(4)(B), jurisdiction vests in the district court
13 where “the complainant resides” or “has his principal place of business.”

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

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

17 PARTIES

18 11. Plaintiff USRTK is a 501(c)(3) nonprofit 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
21 wrongdoing and government failures that threaten the integrity of food systems, the environment,
22 and human health.

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

A. The Freedom of Information Act

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

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

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

16. In some circumstances, the FOIA allows an agency to invoke an extension beyond ten days. To invoke a longer extension, the FOIA requires an agency to provide written notification to the requester that (1) offers the requester an opportunity to limit the scope of the request so that it may be processed within that time limit, or (2) offers the requester an opportunity to arrange with the agency an “alternative time frame” for processing the request. 5 U.S.C. § 552(a)(6)(B)(ii); 36 C.F.R. § 1250.26.

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

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

4 19. Even when an “unusual circumstances” extension is made, the agency must still
5 notify the requester of its expected date on which a final determination will be dispatched. 5 U.S.C.
6 § 552(a)(6)(B)(i); (“Whenever we cannot meet the statutory time limit for processing a request
7 because of ‘unusual circumstances,’ as defined in the FOIA, and we extend the time limit on that
8 basis, we will notify you, before expiration of the 20-day period to respond and in writing of the
9 unusual circumstances involved and of the date by which we estimate processing of the request will
10 be completed.”).

11 20. “Exceptional circumstances” for failure to comply with applicable time limits “does
12 not include a delay that results from a predictable agency workload of requests under this section,
13 unless the agency demonstrates reasonable progress in reducing its backlog of pending requests.”
14 5 U.S.C. § 552(a)(6)(C)(ii).

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

18 22. The FOIA also requires agencies to provide “an estimated date on which the agency
19 will complete action on the request.” 5 U.S.C. § 552(a)(7)(B)(ii); *see also* 5 U.S.C.
20 § 552(a)(6)(B)(i).

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

26 24. In furnishing records responsive to a request under the FOIA, an agency may, for a
27 limited set of categories of information, exclude or withhold such information from disclosure.
28 5 U.S.C. § 552(b). However, even where proper justification exists for withholding such

1 information, the agency must provide the remaining portions of records that are reasonably
2 segregable from the properly withheld portions thereof. *Id.*

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

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

9 27. Requesters under the FOIA may ask that an agency waive fees associated with any
10 request for records “if disclosure of the information is in the public interest because it is likely to
11 contribute significantly to the public understanding of the operations or activities of the government
12 and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).

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

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

19 30. This Court has jurisdiction to enjoin the agency from withholding agency records
20 and to order the production of any agency records improperly withheld from the complainant,
21 pursuant to 5 U.S.C. § 552(a)(4)(A)(i)(B).

22 **B. The NARA’s FOIA Regulations Regarding Release of Presidential Records**

23 31. Defendant NARA preserves records of all three executive branches, and operational
24 and archival records are subject to the FOIA. 5 U.S.C. § 552; 36 C.F.R. § 1250.10

25 32. The FOIA applies to records of the executive branch of the Federal Government and
26 certain Presidential and Vice-Presidential records. 36 C.F.R. § 1250.6.
27
28

1 33. Public access to Presidential records is governed through the FOIA, as modified by
2 the Presidential Records Act. 5 U.S.C. § 552; 44 U.S.C § 2204(c); 36 C.F.R. § 1270.38.

3 34. Regarding release of presidential records to the public, additional steps are required.
4 The NARA places FOIA requests in simple or complex processing queues, to be processed in the
5 order received. 36 C.F.R. § 1250.26(f). A complex processing queue may include a request that
6 cannot be completed within 20 working days due to complexity, volume, or because it contains
7 national security information or Presidential or Vice-Presidential records. *Id.* at (g).

8 35. The NARA must “promptly” notify the current and former Presidents of its intention
9 to disclose the requested records. 44 U.S.C. § 2208(a)(1)(A); 36 C.F.R. § 1270.46(a). The
10 Presidents then have a 60-day period to review the records and decide whether to invoke executive
11 privilege to withhold them. 44 U.S.C. § 2208(a)(3); 36 C.F.R. § 1270.46(a). This period can be
12 extended by an additional 30 days if necessary for adequate review. 44 U.S.C. § 2208(a)(1)(B).
13 Thus, the final response to the FOIA request, including the production of records, can only occur
14 after the expiration of this notification and review. U.S.C. § 2208(a)(3)(A) and (B); 36 C.F.R. §
15 1270.48(c).

16 36. Additionally, when the NARA determines it is in the public interest to make a
17 Presidential record available, it must notify the public with disclosure including but not limited to
18 the number of pages, a brief description of the records, the NARA case number, and the date on
19 which the 6-working-day period set out in 36 C.F.R. section 1270.48(a) expires. 36 C.F.R. §
20 1270.46(b).

21 37. For purposes of presidential records, any decision to assert a claim of constitutional
22 based privilege against disclosure, or to reasonably segregate a part of a record must be made
23 personally by a former President or the incumbent President. 44 U.S.C. § 2208(b).

24 **STATEMENT OF OPERATIVE FACTS**

25 38. On July 16, 2025, USRTK submitted a FOIA Request (“Request”) to the NARA.
26 USRTK submitted their request to the NARA by e-mailing its request to the George W. Bush
27 Presidential Library c/o FOIA Coordinator, NARA at the NARA address for submission of FOIA
28

1 requests, gw bush.library@nara.gov. The request sought a waiver of all fees associated with
2 processing the request. The request also requested a rolling release of records, including disclosure
3 of documents and materials as they become available, without waiting until all the documents are
4 assembled. A true and accurate copy of USRTK's Request is attached hereto as **Exhibit A** and is
5 incorporated by reference as though set forth in full herein.

6 39. USRTK has no commercial interest or value in records responsive to its Request.

7 40. The records requested by USRTK are likely to contribute significantly to the public
8 understanding of the operations and activities of the government, especially as they pertain to
9 presidential decisions and policy, and specifically, the George W. Bush administration's 2001
10 decision to reject the proposed Verification Protocol to the Biological Weapons Convention.

11 41. USRTK has a demonstrated track record of obtaining and disseminating information
12 obtained under the FOIA and state public records laws concerning public health. Since 2015,
13 USRTK has obtained, posted online, and reported on thousands of industry and government
14 documents gathered via public records requests. USRTK's work has contributed to three New York
15 Times investigations, 15 academic papers in public health journals, 13 articles in the BMJ, one of
16 the world's leading medical journals, and global media coverage documenting how food and
17 chemical corporations impact public health and the environment. USRTK's staff has expertise in
18 investigative journalism and advanced research, especially as it concerns impacts on human health.
19 (<https://usrtk.org/about-u-s-right-to-know/>). USRTK is a recognized news outlet and is a member
20 of the Institute for Nonprofit News, a membership organization that supports and advocates for the
21 growth and sustainability of the nonprofit news sector; it has a network of over 400 local to global,
22 topic-specific, and investigative nonprofit news organizations and over 3,000 practitioners
23 dedicated to public service journalism.

24 42. USRTK's investigation of the origins of COVID-19 has been featured in news
25 outlets around the world, including the [Wall Street Journal](#), [New York Times](#), [Washington Post](#),
26 [USA Today](#), [New Yorker](#), [Vanity Fair](#), [Science](#), [the BMJ](#), [Journal of Medical Ethics](#) and many other
27 outlets. (<https://usrtk.org/about-u-s-right-to-know/>).
28

1 43. In February 2025, USRTK received the James Madison Freedom of Information
2 Award from the Society for Professional Journalists Northern California chapter. This award
3 recognizes people and organizations that have made “significant contributions to advancing
4 freedom of information and expression in the spirit of James Madison, the creative force behind the
5 First Amendment.” The award states in part that:

6
7 By filing more than 160 requests under the Freedom of Information
8 Act, initiating 30 lawsuits to uncover documents held by federal
9 officials, and combing through tens of thousands of documents, U.S.
10 Right to Know unearthed crucial information about the potential
11 origins of COVID-19 and the high-risk research being conducted at
12 the Wuhan Institute of Virology.

11 See Thomas Peele & Laura Wenus, *SPJ NORCAL Honors Transparency Champions in James*
12 *Madison Freedom of Information Awards*, Society of Professional Journalists, Northern California,
13 [https://spjnorcal.org/2025/02/12/spj-norcal-honors-transparency-champions-in-james-madison-](https://spjnorcal.org/2025/02/12/spj-norcal-honors-transparency-champions-in-james-madison-freedom-of-information-awards-3/)
14 [freedom-of-information-awards-3/](https://spjnorcal.org/2025/02/12/spj-norcal-honors-transparency-champions-in-james-madison-freedom-of-information-awards-3/) (last visited February 10, 2026).

15 44. USRTK shares its findings with media outlets, public health and medical journals,
16 and through its own library of information, available online at: <https://www.usrtk.org>. Many of
17 USRTK’s documents are available through the USRTK Agrichemical Collection of the University
18 of California, San Francisco’s (UCSF) Chemical Industry Documents Archive, available online at:
19 <https://www.industrydocuments.ucsf.edu/chemical/collections/usrtk-agrichemical-collection/>,
20 and the USRTK Food Industry Collection of the UCSF Food Industry Documents Archive,
21 available online at: [https://www.industrydocuments.ucsf.edu/food/collections/usrtk-food-industry-](https://www.industrydocuments.ucsf.edu/food/collections/usrtk-food-industry-collection/)
22 [collection/](https://www.industrydocuments.ucsf.edu/food/collections/usrtk-food-industry-collection/).

23 45. On July 24, 2025, on behalf of the NARA, Malisa Culpepper, FOIA Coordinator,
24 emailed USRTK and attached two letters. In the content of the email, Ms. Culpepper wrote that the
25 attached information concerned the Request. Ms. Culpepper stated that, “the search for unclassified
26 records is complete.” She added, “We are still for running the initial search for potentially
27 responsive classified records and you will hear back from us once that is complete.”
28

1 46. In the attached letter, “NW 89712.pdf” dated July 24, 2025, Mr. Justin Banks,
2 Supervisory Archivist for the George W. Bush Presidential Library (“GWB Library”), stated that
3 the Request had been received on July 17, 2025. Additionally, this letter stated that the request
4 would be processed under the 1978 Presidential Records Act, 44 U.S.C. §§ 2201-2209, which
5 incorporates the FOIA in substantial part. This letter stated that the GWB Library was still
6 searching for Presidential records related to the Request and would provide an update upon
7 completion of those searches.

8 47. In a second attached letter, “2025-0183-F,” dated July 24, 2025, Mr. Banks, on
9 behalf of the GWB Library, assigned the Request a case log number of 2025-0183-F. Mr. Banks
10 wrote that the GWB Library performed a search of its collection for Presidential records related to
11 the Request and identified approximately 625 pages and 40 electronic files potentially responsive.
12 Mr. Banks wrote that the GWB Library is processing and reviewing FOIA requests that “precede
13 your request” and that the Request had been placed in the simple unclassified textual queue by the
14 date it was received in the office. Mr. Banks wrote that provisions of the Presidential Records Act
15 and FOIA apply, in accordance with 36 C.F.R. § 1270.46 and accordingly, representatives of the
16 former President and incumbent President must be notified prior to the release of any Presidential
17 records. Finally, this letter stated that the GWB Library would notify USRTK of the availability of
18 requested records and may then request copies at a fee of \$0.80 per page, or may view the records in
19 a research room.

20 48. Having heard nothing from the agency for months, on September 26, 2025, USRTK
21 emailed Mr. Banks and requested a status update for release of the records responsive to the
22 Request.

23 49. On September 29, 2025, Mr. Banks sent a letter by email stating that the “best
24 estimate” for a date of completion of the Request was 13 months, i.e. early November 2026. Mr.
25 Banks stated that request 2025-0183-F is in the simple unclassified textual queue and that “there are
26 55 requests ahead of yours in this queue.”

27 50. On November 3, 2025, on behalf of USRTK, Richard Brody, an attorney at
28 Greenfire Law, P.C., emailed Mr. Banks and attached a letter regarding the Request. Mr. Brody

1 requested that the GWB Library provide the statutorily required determination regarding the
2 Request. Mr. Brody requested a response to USRTK's request for a Fee Waiver. Finally, Mr. Brody
3 requested a timely production of documents, within twenty calendar days of the date of the letter.
4 Within the email, Mr. Brody requested an acknowledgement of receipt of the letter within two
5 business days, and a substantive response by Monday, November 24, 2025.

6 51. On November 3, 2025, Mr. Brody received an automated response from the GWB
7 Library email address at GWBush.Library@nara.gov, stating that the NARA was closed to normal
8 operations due to a lack of appropriations. The email stated, "staff will be out of the office until
9 authorized to return and will respond to your inquiry at that time."

10 52. On November 13, 2025, Ms. Culpepper, FOIA Coordinator, wrote to Mr. Brody
11 from the GWB Library email address. Mr. Culpepper stated, "We are unable to begin processing a
12 FOIA request until it reaches the top of the queue." She added that there are currently 55 requests
13 ahead of the Request and again stated that representatives of the former President and incumbent
14 President must be notified prior to the release of any Presidential records. This email added "The
15 Representatives have 60 working days in which to perform their executive privilege review with the
16 possibility of one extension of 30 working days." Regarding the fee waiver, Ms. Culpepper stated
17 that historical records at NARA are not governed by the FOIA fee and fee waiver provisions in the
18 FOIA, section 552(a)(4)(A)(vi). "Accordingly," she wrote, "the George W. Bush Presidential
19 Library does not provide fee waivers for copying."

20 53. On January 14, 2026, on behalf of USRTK, Lily Rivo, an attorney at Greenfire Law,
21 P.C., emailed the GWB Library with the subject line, "U.S. Right to Know FOIA Request 2025-
22 0183-F, Attn. Justin Banks and Malis Culpepper." This email attached a letter dated January 14,
23 2026, which stated it was a final request for: "(1) an estimated date of production that substantially
24 complies with the FOIA;(2) a rolling production of responsive documents; and (3) a formal
25 determination under the FOIA that meets those requirements as outlined in our previous letter of
26 November 3, 2025, attached hereto as Exhibit A." This letter reiterated that, as stated in the
27 November 3, 2025, letter, the GWB Library's estimated completion date of 13 months violates the
28 FOIA deadlines and the Presidential Records Act deadlines. Ms. Rivo also stated that if responsive

1 documents are not produced by or before January 23, 2026, or if other arrangements are not agreed
2 to, USRTK may be required to reply upon formal legal action.

3 54. Having received no response, on January 27, 2026, Ms. Rivo emailed the GWB
4 Library with the subject line, "U.S. Right to Know FOIA Request 2025-0183-F, Attn. Justin Banks
5 and Malisa Culpepper." Ms. Rivo stated in the content of the email that she had no record of a
6 response from the GWB Library to her January 14, 2026, letter. She attached another copy of the
7 letter to the email. Ms. Rivo repeated the requests that the GWB Library provide a reasonable
8 estimated date of completion for the Request and make a formal determination of the Request. Ms.
9 Rivo requested a response from the agency by or before Tuesday, February 3, 2026.

10 55. On January 30, 2026, Ms. Culpepper, FOIA Coordinator for the GWB Library,
11 transmitted a letter to Ms. Rivo from Mr. Banks, Supervisory Archivist for the GWB Library. Ms.
12 Culpepper's transmittal email stated that an updated search for responsive records yielded "18
13 electronic files and 505 pages" of potentially responsive records. Additionally, Ms. Culpepper
14 stated "FOIA requests are processed on a first-in, first-out basis," and there are "55 requests ahead
15 of this one." This apparently meant that no FOIA claims had been processed since November 2025,
16 when the GWB Library stated that it had 55 requests ahead of this Request. Finally, Ms. Culpepper
17 added that fee waiver provisions set forth in the FOIA do not apply to historical records at NARA.

18 56. In the January 30, 2026, letter from Ms. Banks, on behalf of the GWB Library, Mr.
19 Banks wrote that the estimated date of completion for the Request was now 13 months from
20 January 30, 2026, i.e. March 2027. The letter stated that, "as stated in our letter dated July 24,
21 2025," the Request was in the simple unclassified textual queue and "there are 55 requests ahead of
22 yours in this queue." This letter also stated that the estimate includes time for NARA to complete
23 the necessary notification to the representatives of the former and incumbent Presidents, to conduct
24 a privilege review, as required by the PRA.

25 57. To date, the NARA has not provided USRTK or its legal counsel with an estimated
26 date of completion that complies with the FOIA because it is not promptly providing public -non-
27 exempt records to USRTK.

28

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

5 59. The NARA has not shown due diligence in responding to the Request. 5 U.S.C. §
6 552(a)(6)(C)(i).

7 60. To date, the NARA has not produced a single record responsive to USRTK’s
8 Request.

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

11 62. Due to the failure of the NARA to comply with the FOIA, USRTK has been forced
12 to retain the services of counsel and to expend funds litigating Defendant NARA’s unlawful actions
13 and omissions under the FOIA.

14 **CAUSES OF ACTION**

15 **COUNT I**

16 **Violations of the Freedom of Information Act and the NARA Regulations:**
17 **Failure to Provide Timely Final Determination**

18 63. The allegations made in all preceding paragraphs are realleged and incorporated by
19 reference herein.

20 64. USRTK has a statutory right to have Defendant process its FOIA requests in a
21 manner that complies with the FOIA. USRTK’s rights in this regard were violated by the NARA’s
22 failure to provide a timely and legally adequate final determination for the Request.

23 65. To date, USRTK has not received written communication from the NARA about
24 whether the NARA will comply with the FOIA Request, the Defendant’s reasons for making that
25 decision, and any right of USRTK to administratively appeal that decision. 5 U.S.C.
26 § 552(a)(6)(A)(i); 32 C.F.R. §1270.46.

27 66. Based on the nature of USRTK’s organizational activities, USRTK will continue to
28 employ FOIA’s provisions to request information from Defendant in the foreseeable future. These

1 activities will be adversely affected if Defendant is allowed to continue violating FOIA’s response
2 deadlines.

3 67. Unless enjoined and made subject to a declaration of USRTK’s legal rights by this
4 Court, the NARA will continue to violate USRTK’s rights to receive public records under the
5 FOIA.

6 68. The NARA’s failure to make a final determination on the FOIA Request within the
7 statutory timeframe has prejudiced USRTK’s ability to timely obtain public records.

8
9 **COUNT II**

10 **Violation of the Freedom of Information Act:
11 Unlawful Withholding of Non-Exempt Public Records**

12 69. The allegations made in all preceding paragraphs are realleged and incorporated by
13 reference herein.

14 70. USRTK has a statutory right to have Defendant process its FOIA request in a manner
15 that complies with FOIA. USRTK’s rights in this regard were violated when the NARA failed to
16 promptly provide public, non-exempt records to USRTK in response to the FOIA Request, 5 U.S.C.
17 §§ 552(a)(3)(A) & (b)), and to reasonably segregate all non-exempt portions of otherwise exempt
18 material, 5 U.S.C. § 552(b).

19 71. The FOIA requires U.S. government agencies to “promptly” make public records
20 available to any person if that person makes a request which (1) reasonably describes the records
21 sought and (2) complies with any applicable agency rules for making such a request. 5 U.S.C. §
22 552(a)(3)(A). Defendant NARA’s initial anticipated date of compliance with the FOIA of March
23 2027, is approximately 20 months following the submission of USRTK’s FOIA Request. Defendant
24 NARA’s updated anticipated date of compliance, 13 months from January 2026, is approximately 2
25 years after the FOIA request was submitted.

26 72. In July 2026, NARA placed USRTK’s July 16, 2025, FOIA request in the “simple”
27 processing queue. 36 C.F.R. § 1250.26(f).

1 73. A two-year period to respond to USRTK’s FOIA request is not and cannot
2 reasonably be construed as a “prompt” response to USRTK’s FOIA Request. 5 U.S.C. §
3 552(a)(3)(A).

4 74. USRTK has a statutory right to have Defendant NARA process its FOIA requests in
5 a manner that complies with the FOIA. USRTK’s rights in this regard were violated when
6 Defendant failed to promptly provide public, non-exempt records to USRTK in response to the
7 FOIA Request, 5 U.S.C. §§ 552(a)(3)(A) & (b), to provide a reasonable estimate of the volume of
8 withheld records, 5 U.S.C. § 552(a)(6)(F), and to reasonably segregate all non-exempt portions of
9 otherwise exempt material, 5 U.S.C. § 552(b).

10 75. Defendant is unlawfully withholding public disclosure of information sought by
11 USRTK, information to which it is entitled and for which no valid disclosure exemption applies.

12 76. USRTK has constructively exhausted its administrative remedies with respect to its
13 Request.

14 77. USRTK is entitled to injunctive relief to compel production of all non-exempt,
15 responsive records.

16 78. Based on the nature of USRTK’s organizational activities, USRTK will undoubtedly
17 continue to employ FOIA’s provisions to request information from Defendant in the foreseeable
18 future.

19 79. USRTK’s organizational activities will be adversely affected if Defendant is allowed
20 to continue violating FOIA’s response deadlines as it has in this case.

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

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REQUEST FOR RELIEF

THEREFORE, USRTK prays that this Court:

1. Order Defendant NARA to promptly provide USRTK all the information sought in this action and to immediately disclose the requested records for their Request in unredacted format unless an exemption is properly claimed and properly applies.
2. Declare Defendant’s failure to provide USRTK with a final determination for their Request as unlawful under the FOIA.
3. Declare Defendant NARA’s failure to promptly provide USRTK with all non-exempt records responsive to their Request as unlawful under the FOIA.
4. Award USRTK its reasonable attorneys’ fees and costs pursuant to 5 U.S.C. § 552(a)(4)(E) and/or 28 U.S.C. § 2412.
5. Grant such other and further relief to USRTK as the Court may deem just and proper.

Dated: February 12, 2026

Respectfully Submitted,

By: /s/ Jessica L. Blome

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