

1 Jessica L. Blome (Cal. Bar No. 314898)  
Lily A. Rivo (Cal. Bar No. 242688)  
2 Richard A. Brody (Cal. Bar No. 100379)  
GREENFIRE LAW, PC  
3 2748 Adeline Street, Suite A  
4 Berkeley, CA 94703  
Ph/Fax: (510) 900-9502  
5 Email: jblome@greenfirelaw.com  
lrivero@greenfirelaw.com  
6 rbrody@greenfirelaw.com

7 *Attorneys for Plaintiff U.S. Right to Know*

8  
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 U.S. DEPARTMENT OF HEALTH AND  
HUMAN SERVICES,

16 Defendant.

Case No.:

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

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

**INTRODUCTION**

1  
2 1. Through this action, Plaintiff U.S. Right to Know (hereinafter “Plaintiff” and/or  
3 “USRTK”) seeks access to government records held by Defendant U.S. Department of Health and  
4 Human Services (hereinafter “Defendant” and/or “HHS”), pursuant to the Freedom of Information  
5 Act (hereinafter “FOIA”), 5 U.S.C. § 552 *et seq.*, and United States Department of Health & Human  
6 Services FOIA regulations promulgated thereunder, 45 C.F.R. Part 5. This action challenges  
7 Defendant’s unlawful failure to abide by the statutory requirements of FOIA and applicable  
8 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  
11 applies or has been properly asserted. In particular, Defendant has violated, and remains in  
12 violation of, the statutory mandates imposed by the FOIA by: (Count I) failing to provide a timely  
13 final determination on USRTK’s FOIA Requests; (Count II) unlawfully withholding records from  
14 public disclosure for which no valid disclosure exemption applies or has been properly asserted, or  
15 to provide the reasonably segregable portions of those records; and (Count III) failing to provide an  
16 updated “estimated date of completion.”

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) nonprofit  
19 organization and, by its nature, has no commercial interest in the requested records.

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

20 12. USRTK is a nonprofit newsroom and public health research group. USRTK  
21 investigates and reports on corporate wrongdoing and government failures that threaten our health,  
22 environment or food system.

23 13. Defendant HHS is an agency of the United States executive branch.

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

**LEGAL FRAMEWORK**

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

6 16. The FOIA requires an agency to issue a final determination on any such information  
7 request within twenty business days from the date of its receipt. 5 U.S.C. § 552(a)(6)(A)(i). In  
8 issuing a final determination, an agency is required to inform the requester of three things: (1) the  
9 agency’s determination of whether or not it must comply with the request; (2) the reasons for its  
10 decision; and (3) notice of the right of the requester to appeal to the head of the agency. 5 U.S.C. §  
11 552(a)(6)(A)(i).

12 17. The FOIA allows an agency to extend the twenty-day determination deadline,  
13 however, by ten working days when “unusual circumstances” exist and when the agency so notifies  
14 a requester in writing. 5 U.S.C. § 552(a)(6)(B)(i)-(iii); 45 C.F.R. § 5.24(f). A notice informing a  
15 requester of the invocation of the “unusual circumstances” provision must specify the applicable  
16 “unusual circumstances.” *Id.*

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

24 19. An agency is entitled to one ten-business day extension. 5 U.S.C. § 552(a)(6)(B)(i).  
25 The written notice provided to the requester must specify the specific unusual circumstances  
26 justifying the extension and the date on which a final determination is expected to be dispatched.  
27 *Id.*; 45 C.F.R. § 5.24(f).

1           20.     In some circumstances, the FOIA allows an agency to invoke an extension beyond  
2 ten days. To invoke a longer extension, the FOIA requires an agency to provide written notification  
3 to the requester that (1) offers the requester an opportunity to limit the scope of the request so that it  
4 may be processed within that time limit, or (2) offers the requester an opportunity to arrange with  
5 the agency an “alternative time frame” for processing the request. 5 U.S.C. § 552(a)(6)(B)(ii); 45  
6 C.F.R. § 5.24(f).

7           21.     As part of invoking an “alternative time frame” extension, the agency must also  
8 make available to the requester its FOIA Public Liaison, who is tasked to resolve any dispute  
9 between the requester and the agency. 5 U.S.C. § 552(a)(6)(B)(ii); 45 C.F.R. § 5.24(f).

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

13          23.     Even when an “unusual circumstances” extension is made, the agency must still  
14 notify the requester of its expected date on which a final determination will be dispatched. 5 U.S.C.  
15 § 552(a)(6)(B)(i); 45 C.F.R. § 5.24(f) (“Whenever we cannot meet the statutory time limit for  
16 processing a request because of ‘unusual circumstances,’ as defined in the FOIA, and we extend the  
17 time limit on that basis, we will notify you, before expiration of the 20-day period to respond and in  
18 writing of the unusual circumstances involved and of the date by which we estimate processing of  
19 the request will be completed.”).

20          24.     “Exceptional circumstances” for failure to comply with applicable time limits “does  
21 not include a delay that results from a predictable agency workload of requests under this section,  
22 unless the agency demonstrates reasonable progress in reducing its backlog of pending requests.”  
23 5 U.S.C. § 552(a)(6)(C)(ii).

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

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

1 § 552(a)(6)(B)(i).

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

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

12 29. Except in certain circumstances, when an agency produces a record in response to a  
13 FOIA request but withholds a portion thereof, the agency must indicate the volume of information  
14 withheld and the exemption under which such information has been withheld. *Id.*; 5 U.S.C. §  
15 552(a)(6)(F).

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

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

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

25 33. Agencies are prohibited from assessing search fees if the agency fails to comply with  
26 the 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).

28 34. This Court has jurisdiction to enjoin the agency from withholding agency records

1 and to order the production of any agency records improperly withheld from the complainant,  
2 pursuant to 5 U.S.C. § 552(a)(4)(A)(i)(B).

3 **STATEMENT OF OPERATIVE FACTS**

4 **FOIA Request One**

5 35. On September 6, 2024, USRTK submitted a two-part FOIA Request to the HHS  
6 (referred to herein as “Request One”). USRTK submitted Request One to the HHS by e-mailing  
7 Request One to Ms. Arianne Perkins, Freedom of Information Officer for the HHS, at the HHS  
8 address for submission of FOIA requests – [FOIARequest@HHS.gov](mailto:FOIARequest@HHS.gov). Request One sought a  
9 waiver of all fees associated with processing the request. A true and accurate copy of Request One  
10 is attached hereto as **Exhibit A** and is incorporated by reference as though set forth in full herein.

11 36. Request One sought documents pertaining to certain former or then-current HHS  
12 employees who participated in the Potential Pandemic Pathogens Care and Oversight (P3CO)  
13 Committee at the HHS. **Exhibit A, pp. 1-2**. USRTK stated in Request One that the documents  
14 sought “...will provide U.S. Right to Know and the public with crucial insight into the activities of  
15 the HHS in relation to the US Government’s efforts to regulate high risk research.” **Exhibit A, pg.**  
16 **4**.

17 37. USRTK has a demonstrated track record of obtaining and disseminating information  
18 obtained under the FOIA and state public records laws concerning public health. Since 2015,  
19 USRTK has obtained, posted online, and reported on thousands of industry and government  
20 documents gathered via public records requests. USRTK’s work has contributed to three New York  
21 Times investigations, 15 academic papers in public health journals, 13 articles in the BMJ, one of  
22 the world’s leading medical journals, and global media coverage documenting how food and  
23 chemical corporations impact public health and the environment. USRTK’s staff has expertise in  
24 investigative journalism and advanced research, especially as it concerns impacts on human health.  
25 (<https://usrtk.org/about-u-s-right-to-know/>). USRTK is a recognized news outlet and is a member  
26 of the Institute for Nonprofit News, a network of more than 500 nonprofit news organizations  
27 dedicated to public service journalism.

28 38. USRTK’s investigation of the origins of COVID-19 has been featured in news

1 outlets around the world, including the [Wall Street Journal](#), [New York Times](#), [Washington Post](#),  
2 [USA Today](#), [New Yorker](#), [Vanity Fair](#), [Science](#), the [BMJ](#), [Journal of Medical Ethics](#) and many other  
3 outlets. (<https://usrtk.org/about-u-s-right-to-know/>).

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

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

13 See Thomas Peele & Laura Wenus, *SPJ NORCAL Honors Transparency Champions in James*  
14 *Madison Freedom of Information Awards*, Society of Professional Journalists, Northern California,  
15 [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/)  
16 [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 March 04, 2026).

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

25 41. USRTK did not receive any communications from the HHS following the  
26 submission of Request One.

27 42. On October 8, 2024, Plaintiff USRTK sent a letter to Ms. Arianne Perkins, stating  
28

1 that USRTK has not received an acknowledgement of Request One or information about when  
2 USRTK would receive an official “determination” on its request, as required by FOIA, 5 U.S.C. §  
3 552(a)(6)(B)(i). The October 8, 2024, letter demanded that Defendant HHS provide, within 10  
4 business days, an official determination on Request One or, at the very least, a certain date by which  
5 USRTK should expect a determination. Plaintiff USRTK also asked that Defendant HHS address  
6 USRTK’s request for a fee waiver in a timely manner. Finally, Plaintiff USRTK asked that  
7 Defendant HHS provide an estimated completion date that complied with the FOIA's requirement to  
8 "promptly" make records available upon request.

9 43. USRTK did not receive any communications from the HHS following the  
10 submission of the October 8, 2024, letter.

11 44. On November 14, 2024, Plaintiff USRTK again sent a letter to Ms. Arianne Perkins,  
12 stating that USRTK has not received an acknowledgement of Request One or information about  
13 when USRTK would receive an official “determination” on its request, as required by FOIA, 5  
14 U.S.C. § 552(a)(6)(B)(i). The October 8, 2024, letter demanded that Defendant HHS provide,  
15 within 10 business days, an official determination on Request One or, at the very least, a certain  
16 date by which USRTK should expect a determination. Plaintiff USRTK also asked that Defendant  
17 HHS address USRTK’s request for a fee waiver in a timely manner. Finally, Plaintiff USRTK asked  
18 that Defendant HHS provide an estimated completion date that complied with the FOIA's  
19 requirement to "promptly" make records available upon request.

20 45. USRTK did not receive any communications from the HHS following the  
21 submission of the November 14, 2024, letter.

22 46. On December 29, 2025, Richard Brody, an attorney at Greenfire Law, PC and  
23 counsel for Plaintiff USRTK, sent a letter to Ms. Perkins and to Ms. Karen Lampe, the Acting FOIA  
24 Officer at the National Institutes of Health. The December 29, 2025, letter was submitted by email  
25 to the FOIA submission email addresses for both the NIH and Defendant HHS, namely  
26 [nihfoia@od.nih.gov](mailto:.nihfoia@od.nih.gov) and [FOIARequest@HHS.gov](mailto:FOIARequest@HHS.gov).

27 47. The December 29, 2025, letter asked that, on or before January 9, 2026, the HHS  
28 and/or the NIH assign a FOIA Request number to Request One, make the formal determination

1 required by both the FOIA and the Request for Determination submitted by USRTK on October 6,  
2 2024, provide a date certain for the production of documents subject to Request One, and approve  
3 USRTK's Request for Fee Waiver.

4 48. Neither USRTK or USRTK's legal counsel ever received any communications from  
5 either the HHS or the NIH following the submission of the December 29, 2025, letter.

6 49. On January 26, 2026, Mr. Brody sent an email to both Ms. Perkins and Ms. Lampe  
7 which referenced the December 29, 2025, letter, and stated that he had no record of receiving a  
8 response to that letter. The January 26, 2026, email stated that unless Mr. Brody received a  
9 response on or before Monday, February 2, 2026, with the requested information, USRTK would  
10 have no choice but to seek all available remedies under law, including a request for the payment of  
11 attorneys' fees and costs.

12 50. Neither USRTK or USRTK's legal counsel ever received any communications from  
13 the HHS and the NIH following the submission of the January 26, 2026, Brody email.

14 **FOIA Request Two**

15 51. On July 16, 2025, USRTK submitted a FOIA request to the HHS. This FOIA  
16 request is referred to herein as Request Two. USRTK submitted Request Two to the HHS by email  
17 to [FOIARequest@hhs.gov](mailto:FOIARequest@hhs.gov). Request Two sought a waiver of all fees associated with processing the  
18 request. Request Two also included a request for expedited processing pursuant to 5 U.S.C. §  
19 552(a)(6)(E)(i) and 45 CFR 5.27 (A)(5)(B). A true and accurate copy of Request Two is attached  
20 hereto as **Exhibit B** and is incorporated by reference as though set forth in full herein.

21 52. Request Two sought copies of emails and attachments sent or received by HHS  
22 Secretary Alex Alaz between November 1, 2019, and May 1, 2020, that were exchanged with  
23 certain individuals and/or email addresses or domains, relating to identified keywords pertaining to  
24 the origins of the Covid-19 virus. **Exhibit B, pp. 1-2.**

25 53. Request Two stated that the request would provide U.S. Right to Know and the  
26 public with crucial insight into the activities of the HHS about the US Government's efforts to  
27 utilize information from foreign partners in understanding the origins of the COVID-19 pandemic.  
28 **Exhibit B, pg. 4.**

1 54. On July 17, 2025, USRTK received an Automatic Reply from OS FOIA Request  
2 (HHS/ASPA) from the email address [FOIARequest@hhs.gov](mailto:FOIARequest@hhs.gov) acknowledging receipt of Request  
3 Two and recommending that USRTK submit Request Two via the HHS Public Access Link (PAL).

4 55. On July 17, 2025, USRTK submitted Request Two via the HHS Public Access Link  
5 (PAL).

6 56. On July 17, 2025, the HHS sent an email to Lewis Kamb, Investigative Reporter at  
7 USRTK, acknowledging receipt of Request Two and assigning it Request #2025-03348-FOIA-OS.  
8 The email was sent from the HHS' FOIA email address [FOIARequest@HHS.gov](mailto:FOIARequest@HHS.gov).

9 57. On July 17, 2025, the HHS sent an additional email to Mr. Kamb advising that the  
10 status of Request #2025-03348-FOIA-OS had been updated to the status of "Received." The email  
11 was sent from the HHS' FOIA email address [FOIARequest@HHS.gov](mailto:FOIARequest@HHS.gov).

12 58. On October 1, 2025, Mr. Kamb sent an email to the HHS at [FOIARequest@hhs.gov](mailto:FOIARequest@hhs.gov)  
13 asking for an update on the status of FOIA #2025-03348-FOIA-OS.

14 59. The HHS did not respond to the October 1, 2025, request from Mr. Kamb for an  
15 update on the status of Request Two.

16 60. On October 11, 2025, USRTK sent a letter to Arianne Perkins at the Department of  
17 Health and Human Services Office of the Secretary, Freedom of Information Act Office. The  
18 October 11, 2025, letter was sent via email to the HHS' FOIA email address  
19 [FOIARequest@hhs.gov](mailto:FOIARequest@hhs.gov).

20 61. The October 11, 2025, USRTK letter, stated that it was a determination request  
21 under the FOIA regarding Request Two. The October 11, 2025, USRTK letter demanded that,  
22 within 10 business days, the HHS provide an official determination on this request or, at the very  
23 least, a certain date by which USRTK should expect a determination. USRTK also asked that the  
24 HHS address its request for expedited processing and a fee waiver in a timely manner. Finally,  
25 USRTK asked that the HHS also provide an estimated completion date that complies with the  
26 FOIA's requirement to "promptly" make records available upon request.

27 62. On October 11, 2025, USRTK received an Automatic Reply from the HHS at  
28 [FOIARequest@hhs.gov](mailto:FOIARequest@hhs.gov) acknowledging receipt of USRTK's Request for Determination, as set forth

1 in USRTK's October 11, 2025, letter to the HHS.

2 63. USRTK did not receive a response to its determination request other than the  
3 Automatic Reply from the HHS.

4 64. On December 30, 2025, Richard Brody, legal counsel for USRTK, wrote to Karen  
5 Lampe, Acting FOIA Officer of the National Institutes of Health, and to Arianne Perkins, at the  
6 Department of Health and Human Services. Mr. Brody's letter was submitted by email to both  
7 [nihfoia@od.nih.gov](mailto:nihfoia@od.nih.gov) and [FOIARequest@HHS.gov](mailto:FOIARequest@HHS.gov).

8 65. The December 30, 2025, letter advised Defendant HHS of Greenfire Law PC's  
9 representation of USRTK concerning Request Two. The letter attached a copy of USRTK's  
10 Request Two. The letter asked that the HHS and/or the NIH take the following actions on or before  
11 Friday, January 9, 2026:

- 12 1. Make the formal determination required by both the FOIA and the Request for
- 13 Determination submitted by U.S. Right to Know on October 11, 2025,
- 14 2. Approve U.S. Right to Know's Request for Expedited Processing,
- 15 3. Approve U.S. Right to Know's Request for Fee Waiver, and
- 16 4. Provide a date certain for the production of the documents subject to this FOIA Request.

17 66. Neither the HHS nor the NIH responded to the December 30, 2025, letter from  
18 counsel for USRTK to both the HHS and the NIH concerning Request Two.

19 67. On January 27, 2026, Mr. Brody sent an email to both Ms. Lampe and Ms. Perkins at  
20 their official email addresses at [nihfoia@od.nih.gov](mailto:nihfoia@od.nih.gov) and [FOIARequest@HHS.gov](mailto:FOIARequest@HHS.gov).

21 68. The January 27, 2026, email to Ms. Lampe and Ms. Perkins attached a copy of the  
22 December 30, 2025, letter to both individuals from Mr. Brody. The email stated that no response  
23 had been provided to the December 30, 2025, email. The January 27, 2026, email stated that unless  
24 Mr. Brody received a response on or before February 2, 2026, with the information requested in the  
25 December 30, 2025, letter, USRTK would have no choice but to begin litigation proceedings  
26 against the appropriate agency for failure to comply with the FOIA. The January 27, 2026, email  
27 stated that if litigation was necessary, USRTK would seek all available remedies under law,  
28 including a request for payment of attorneys' fees and costs.

1 69. Neither the HHS nor the NIH responded to the January 27, 2026, email from counsel  
2 for USRTK to both the HHS and the NIH concerning Request Two.

3 **CAUSES OF ACTION**

4 **COUNT I**

5 **Violations of the Freedom of Information Act:  
6 Failure to Provide Timely Final Determination**

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

9 71. USRTK has a statutory right to have Defendant process its FOIA requests in a  
10 manner that complies with the FOIA. USRTK's rights in this regard were violated by Defendant's  
11 failure to provide a timely and legally adequate final determination for Request One and Request  
12 Two.

13 72. To date, approximately seventeen months after USRTK submitted Request One and  
14 approximately seven months after USRTK submitted Request Two, USRTK has not received any  
15 written communication from Defendant HHS about whether the Agency will comply with the FOIA  
16 Requests, the Defendant's reasons for making that decision, and any right of USRTK to  
17 administratively appeal that decision. 5 U.S.C. § 552(a)(6)(A)(i); 45 C.F.R. Part 5.

18 73. Based on the nature of USRTK's organizational activities, USRTK will continue to  
19 employ the FOIA's provisions to request information from Defendant in the foreseeable future.  
20 These activities will be adversely affected if Defendant is allowed to continue violating the FOIA's  
21 response deadlines.

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

24 75. Defendant's failure to make a final determination on the FOIA Request One and  
25 FOIA Request Two within the statutory timeframe has prejudiced USRTK's ability to timely obtain  
26 public records.

27 **COUNT II**

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

76. The allegations made in all preceding paragraphs are realleged and incorporated by

1 reference herein.

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

8 78. Defendant is unlawfully withholding public disclosure of information sought by  
9 USRTK, information to which it is entitled and for which no valid disclosure exemption applies.

10 79. USRTK has constructively exhausted its administrative remedies with respect to  
11 Request One and Request Two.

12 80. USRTK is entitled to injunctive relief to compel production of all non-exempt,  
13 responsive records.

14 81. Based on the nature of USRTK's organizational activities, USRTK will undoubtedly  
15 continue to employ FOIA's provisions to request information from Defendant in the foreseeable  
16 future.

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

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

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**COUNT III**

**Violation of the Freedom of Information Act:  
Failure to Provide Estimated Date of Completion**

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2  
3 84. The allegations made in all preceding paragraphs are realleged and incorporated by  
4 reference herein.

5 85. USRTK has a statutory right to have Defendant process FOIA Request One and  
6 FOIA Request Two in a manner that complies with the FOIA. USRTK's rights in this regard were  
7 violated by Defendant's unlawful failure to provide an estimated date of completion for Request  
8 One and Request Two, as required by the FOIA, 5 U.S.C. § 552(a)(7)(B)(ii).

9 86. USRTK formally requested that the HHS provide an estimated date of completion  
10 for both Request One and Request Two. No such date was provided by the HHS.

11 87. Based on the nature of USRTK's organizational activities, USRTK will continue to  
12 employ FOIA's provisions to request information from Defendant HHS in the foreseeable future.  
13 These activities will be adversely affected if Defendant is allowed to continue violating the FOIA's  
14 requirements for providing USRTK with an estimated date of completion on FOIA Request One  
15 and FOIA Request Two.

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

19  
20 **REQUEST FOR RELIEF**

21 THEREFORE, USRTK prays that this Court:

22 1. Order Defendant HHS to promptly provide USRTK all the information sought in this  
23 action and to immediately disclose the requested records for Request One and Request Two in  
24 unredacted format unless an exemption is properly claimed and properly applies.

25 2. Declare Defendant HHS failure to provide USRTK with a final determination for  
26 Request One and Request Two as unlawful under the FOIA.

27 3. Declare Defendant HHS failure to promptly provide USRTK with all non-exempt  
28 records responsive to Request One and Request Two as unlawful under the FOIA.

1 4. Declare Defendant HHS's failure to provide USRTK with an estimated date of  
2 completion for Request One and Request Two, as required by 5 U.S.C. § 552(a)(7)(B)(ii), unlawful  
3 under the FOIA.

4 5. Award USRTK its reasonable attorneys' fees and costs pursuant to 5 U.S.C.  
5 § 552(a)(4)(E) and/or 28 U.S.C. § 2412.  
6 Grant such other and further relief to USRTK as the Court may deem just and proper.

7 Dated: March 06, 2026

Respectfully Submitted,

8  
9 By: /s/ Lily A. Rivo

Jessica L. Blome  
Lily A. Rivo  
Richard A. Brody  
GREENFIRE LAW, PC  
2748 Adeline Street, Suite A  
Berkeley, CA 94703  
Telephone: (510) 900-9502  
Email: jblome@greenfirelaw.com  
livo@greenfirelaw.com  
rbrody@greenfirelaw.com

*Attorneys for Plaintiff U.S. Right to Know*