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

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

Plaintiff,

vs.

UNITED STATES DEPARTMENT OF STATE,  
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 (“USRTK”) seeks access to  
3 government records held by the U.S. Department of State (hereinafter “Defendant” and/or “State  
4 Department”), pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 *et seq.*, and  
5 United States Department of State FOIA regulations promulgated thereunder, 22 C.F.R. 171.1, *et*  
6 *seq.* This action challenges The State Department’s unlawful failure to abide by the statutory  
7 requirements of the FOIA and applicable implementing regulations.

8 2. The State Department is unlawfully withholding from public disclosure information  
9 sought by USRTK, information to which USRTK is entitled and for which no valid disclosure  
10 exemption applies or has been properly asserted. In particular, the State Department has violated,  
11 and remains in violation of, the statutory mandates imposed by the FOIA by: (Count I) failing to  
12 provide a timely final determination on USRTK’s FOIA Requests; (Count II) unlawfully  
13 withholding records from public disclosure for which no valid disclosure exemption applies or has  
14 been properly asserted, or to provide the reasonably segregable portions of those records; (Count  
15 III) failing to provide an updated “estimated date of completion” and (Count IV) failure to a  
16 determination to USRTK’s administrative appeal.

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. Further, the State Department is unlawfully failing to adjudicate USRTK’s timely-  
21 filed Administrative Appeal (“Appeal”).

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

**JURISDICTION AND VENUE**

6. This Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B). That provision of the FOIA grants jurisdiction to “the district court of the United States in the district in which the complainant resides or has his principal place of business[.]” 5 U.S.C. § 552(a)(4)(B). USRTK is a nonprofit public benefit corporation organized under the Nonprofit Public Benefit Corporation Law for charitable purposes. USRTK was incorporated in the State of California in May 2014. USRTK maintains its principal place of business in the Northern District of California.

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

**INTRADISTRICT ASSIGNMENT**

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

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

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

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

**PARTIES**

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

13. The State Department is an agency of the United States executive branch.

14. The State Department qualifies as an “agency” under the FOIA, the records sought are “records” under the FOIA, and because the State Department is in possession and control of the

1 records sought by USRTK, the State Department is subject to the FOIA pursuant to 5 U.S.C.  
2 §552(f).

### 3 **LEGAL FRAMEWORK**

4 15. The FOIA requires U.S. government agencies to “promptly” make public records  
5 available to any person if that person makes a request which (1) reasonably describes the records  
6 sought and (2) complies with any applicable agency rules for making such a request. 5 U.S.C. §  
7 552(a)(3)(A).

8 16. Freedom of Information Act Requests to the State Department and the Foreign  
9 Service Grievance Board are subject to the policies and procedures contained in 22 C.F.R. §§ 171.1,  
10 et seq.

11 17. The State Department’s policies and procedures contained in 22 C.F.R. §§ 171.1, et  
12 seq. should be read in conjunction with the text of the FOIA, the Privacy Act of 1974 (PA) and the  
13 Uniform Freedom of Information Fee Schedule and Guidelines published by the Office of  
14 Management and Budget. 22 C.F.R. §§ 171.1(a).

15 18. The FOIA requires an agency to issue a final determination on any such information  
16 request within twenty business days from the date of its receipt. 5 U.S.C. § 552(a)(6)(A)(i). In  
17 issuing a final determination, an agency is required to inform the requester of three things: (1) the  
18 agency’s determination of whether or not it must comply with the request; (2) the reasons for its  
19 decision; and (3) notice of the right of the requester to appeal to the head of the agency. 5 U.S.C. §  
20 552(a)(6)(A)(i).

21 19. The FOIA allows an agency to extend the twenty-day determination deadline,  
22 however, by ten working days when “unusual circumstances” exist and when the agency so notifies  
23 a requester in writing. 5 U.S.C. § 552(a)(6)(B)(i)-(iii); 22 C.F.R. § 171.12(c). A notice informing a  
24 requester of the invocation of the “unusual circumstances” provision must specify the applicable  
25 “unusual circumstances.” *Id.*

26 20. Permissible “unusual circumstances” are limited to: “(I) the need to search for and  
27 collect the requested records from field facilities or other establishments that are separate from the  
28 office processing the request; (II) the need to search for, collect, and appropriately examine a

1 voluminous amount of separate and distinct records which are demanded in a single request; or (III)  
2 the need for consultation, which shall be conducted with all practicable speed, with another agency  
3 having a substantial interest in the determination of the request or among two or more components  
4 of the agency having substantial subject-matter interest therein.” 5 U.S.C. § 552(a)(6)(B)(iii).

5 21. An agency is entitled to one ten-business day extension. 5 U.S.C. § 552(a)(6)(B)(i).  
6 The written notice provided to the requester must specify the specific unusual circumstances  
7 justifying the extension and the date on which a final determination is expected to be dispatched. *Id.*

8 22. In some circumstances, the FOIA allows an agency to invoke an extension beyond  
9 ten days. To invoke a longer extension, the FOIA requires an agency to provide written notification  
10 to the requester that (1) offers the requester an opportunity to limit the scope of the request so that it  
11 may be processed within that time limit, or (2) offers the requester an opportunity to arrange with  
12 the agency an “alternative time frame” for processing the request. 5 U.S.C. § 552(a)(6)(B)(ii); 22  
13 C.F.R. § 171.12(c).

14 23. As part of invoking an “alternative time frame” extension, the agency must also  
15 make available to the requester its FOIA Public Liaison, who is tasked to resolve any dispute  
16 between the requester and the agency. 5 U.S.C. § 552(a)(6)(B)(ii); 22 C.F.R. § 171.12(c).

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

20 25. Even when an “unusual circumstances” extension is made, the agency must still  
21 notify the requester of its expected date on which a final determination will be dispatched. 5 U.S.C.  
22 § 552(a)(6)(B)(i).

23 26. “Exceptional circumstances” for failure to comply with applicable time limits “does  
24 not include a delay that results from a predictable agency workload of requests under this section,  
25 unless the agency demonstrates reasonable progress in reducing its backlog of pending requests.”  
26 5 U.S.C. § 552(a)(6)(C)(ii).

27 27. If an agency fails to provide a final determination on a FOIA request within the  
28 statutory timeframe, the requester is deemed to have exhausted its administrative remedies and may

1 immediately file suit against the agency. 5 U.S.C. § 552(a)(6)(C)(i).

2 28. The FOIA also requires agencies to provide “an estimated date on which the agency  
3 will complete action on the request.” 5 U.S.C. § 552(a)(7)(B)(ii); *see also* 5 U.S.C.  
4 § 552(a)(6)(B)(i).

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

10 30. In furnishing records responsive to a request under the FOIA, an agency may, for a  
11 limited set of categories of information, exclude or withhold such information from disclosure.  
12 5 U.S.C. § 552(b). However, even where proper justification exists for withholding such  
13 information, the agency must provide the remaining portions of records that are reasonably  
14 segregable from the properly withheld portions thereof. *Id.*

15 31. Except in certain circumstances, when an agency produces a record in response to a  
16 FOIA request but withholds a portion thereof, the agency must indicate the volume of information  
17 withheld and the exemption under which such information has been withheld. *Id.*; 5 U.S.C. §  
18 552(a)(6)(F).

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

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

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

28 35. Agencies are prohibited from assessing search fees if the agency fails to comply with

1 the FOIA's twenty-day determination deadline or any lawful extension under the statute's "unusual  
2 circumstances" provisions. 5 U.S.C. § 552(a)(4)(A)(viii).

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

6 37. Upon request, the State Department will provide an estimated date by which the  
7 Department expects to provide a response to the requester. 22 C.F.R. §171.13(c).

8 38. Administrative appeals of adverse determinations by the State Department must be  
9 postmarked or electronically submitted within 90 calendar days after the date of adverse  
10 determination. 22 C.F.R. §171.15(a)(1).

11 39. The FOIA requires agencies to make a determination on an administrative appeal  
12 within 20 business days of receiving the appeal, excluding weekends and legal public holidays . 5  
13 U.S.C.S § 552, (a)(6)(A)(ii), *Oglesby v. United States Dep't of Army*, 920 F.2d 57, 62.

14 40. If the agency fails to comply with this deadline, the requester is deemed to have  
15 constructively exhausted administrative remedies, and the appeal is treated as denied by operation  
16 of law. 5 U.S.C. § 552(a)(6)(C)(i), *Oglesby v. United States Dep't of Army*, 920 F.2d 57 71.  
17 *Wildlands CPR v. United States Forest Serv.*, 558 F. Supp. 2d 1096, 1102.

18 41. According to its policies and procedures, the State Department has 30 working days  
19 from the date an appeal from a denial to waive or reduce fees is received to respond.  
20 [https://foia.state.gov/request/Appeals2.aspx#/.](https://foia.state.gov/request/Appeals2.aspx#/)

21 42. According to its policies and procedures, the State Department has 10 calendar days  
22 from the date of the receipt of an appeal from a denial to grant expedited processing to issue a  
23 decision in writing. [https://foia.state.gov/request/Appeals2.aspx#/.](https://foia.state.gov/request/Appeals2.aspx#/)

#### 24 **STATEMENT OF OPERATIVE FACTS**

25 43. On January 15, 2026, USRTK submitted a 23-page FOIA Request to the State  
26 Department, Office of Information Programs and Services, via e-mail at [FOIARquest@state.gov](mailto:FOIARquest@state.gov).  
27 A true and accurate copy of this FOIA Request is attached hereto as "**Exhibit A**" and is hereinafter  
28 referred to as "the Request."

44. The Request sought copies of all diplomatic cable traffic, including front-channel cables/telegrams and any other records commonly referred to as “cables,” in State Department systems that were transmitted between the American Institute in Taiwan (AIT Taipei) and the U.S. Department of State during the date range January 1, 2020, through November 1, 2020, that refer or relate to Taiwanese data or assessments of or about the origins of COVID-19 and/or SARS-CoV-2. **Exhibit A, pg. 1.**

45. The Request included a Request for Fee Waiver pursuant to 5 U.S.C. §552(a)(4)(A)(iii) which was supported by five single-spaced pages of documentation. The documentation supporting USRTK’s Request for Fee Waiver demonstrated that USRTK was entitled to a Fee Waiver because the “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the [Federal] government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). **Exhibit A, pp. 2-7.**

46. The Request also included a Request for Expedited Processing, pursuant to 5 U.S.C. §552(a)(6)(E)(v)(II). The basis of the Request for Expedited Processing was that the Request involved “a matter of current exigency to the American public” and “the consequences of delaying a response would compromise a significant recognized interest” in that the possibility of a research-related origin of Covid-19 involves significant public safety issues, as well as tax allocation issues and the future direction of science regarding regulations surrounding biosafety. **Exhibit A, pp. 6-9.**

47. On January 15, 2026, USRTK received email confirmation of receipt of the Request from FOIA.gov, assigning Submission ID 2690101, and stating that USRTK’s FOIA Request had been created and was being sent to the Department of State.

48. On January 15, 2026, an email from [foiastatus@state.gov](mailto:foiastatus@state.gov) to Lewis Kamb of USRTK acknowledged receipt of USRTK’s FOIA Request and assigned it Request No. F-2026-08723. The email also stated that “...for further assistance or to discuss any aspect of your request, you may contact our FOIA Requester Service Center or our FOIA Public Liaison via email to FOIAStatus@state.gov or by telephone at (202) 261-8484.”

49. On January 28, 2026, Megan Farrell, Lead Government Information Specialist,

1 FOIA Case Processing Office, Information Access Programs Directorate, sent a letter via email to  
2 Lewis Kamb at USRTK. The letter stated that Ms. Farrell's office would not be able to respond  
3 within 20 days due to "unusual circumstances" which included the need to search for and collect  
4 requested records from other Department offices or Foreign Services posts.

5 50. The January 28, 2026, Farrell letter denied USRTK's Request for Expedited  
6 Processing, stating that "Your request does not demonstrate a 'compelling need' for the requested  
7 information."

8 51. The January 28, 2026, Farrell letter denied USRTK's Request for Fee Waiver,  
9 stating it did not meet the public interest standard set forth in 22 CFR 171.16(j)(2)(ii).

10 52. 22 CFR 171.16(j)(2)(ii) provides in pertinent part that "...the (State) Department  
11 must furnish records responsive to a request without charge or at a reduced rate when it  
12 determines...that the disclosure of the requested information is likely to contribute significantly to  
13 public understanding of these (Federal Government) operations or activities."

14 53. On February 12, 2026, Hana Mensendiek of USRTK sent an email to both  
15 [FOIAStatus@State.gov](mailto:FOIAStatus@State.gov) and [FOIARequest@state.gov](mailto:FOIARequest@state.gov) asking for the status of production of  
16 documents for FOIA Request F-2026-08723. Her email asked whether the State Department was  
17 on track to produce documents within 10 business days from the original 20-day statutory deadline.

18 54. The State Department never responded to Ms. Mensendiek's e-mail of February 12,  
19 2026.

20 55. On March 20, 2026, Ms. Mensendiek sent a letter to the State Department via e-mail  
21 to both [FOIAStatus@state.gov](mailto:FOIAStatus@state.gov) and [FOIARequest@state.gov](mailto:FOIARequest@state.gov). This letter stated that it was a  
22 determination request under the FOIA regarding Request F-2026-08723.

23 56. The March 20, 2026, determination request asked that the State Department issue an  
24 official determination on the Request within ten business days or at the very least, provide a date  
25 certain by which USRTK could expect to receive an official determination on the Request.

26 57. To date, the State Department has not responded to the March 20, 2026,  
27 determination request from USRTK.

28 58. On April 7, 2026, USRTK, through its counsel of record, timely filed an

1 Administrative Appeal of the State Department's denial of USRTK's Request for Expedited  
2 Treatment and the State Department's denial of USRTK's Request for Fee Waiver.

3 59. USRTK submitted its Administrative Appeal by e-mail to [FOIA-Appeals@state.gov](mailto:FOIA-Appeals@state.gov).

4 60. On April 8, 2026, the State Department acknowledged receipt of USRTK's  
5 Administrative Appeal by e-mail to Lewis Kamb of USRTK, assigning tracking number A-2026-  
6 00296 to USRTK's Administrative Appeal.

7 61. On May 27, 2026, counsel for USRTK sent an e-mail to the State Department's  
8 Appeals Office at [FOIA-Appeals@state.gov](mailto:FOIA-Appeals@state.gov). The May 27, 2026, e-mail stated that neither USRTK  
9 nor counsel for USRTK had received a decision on the Administrative Appeal and that the decision  
10 was due no later than May 19, 2026.

11 62. The May 27, 2026, e-mail advised the State Department that if a decision on  
12 USRTK's Administrative Appeal was not provided to counsel for USRTK on or before Monday,  
13 June 1, 2026, that counsel for USRTK would have no choice but to seek appropriate remedies for  
14 USRTK through the civil justice system.

15 63. Later that day, on May 27, 2026, the State Department's Litigation and Appeals  
16 Office sent a responsive e-mail to counsel for USRTK stating that it operated on a first in-first out  
17 basis and that counsel for USRTK would be notified once a final determination had been made  
18 concerning USRTK's Administrative Appeal.

19 64. No further correspondence of any kind was sent by the State Department to either  
20 USRTK or counsel for USRTK after May 27, 2026.

21 65. As of the date of the filing of this lawsuit, the State Department has failed to make a  
22 final determination or decision on USRTK's Administrative Appeal.

23 66. Ten calendar days from April 17, 2026, the date of the submission of USRTK's  
24 administrative appeal, is May 5, 2026.

25 67. Thirty working days from April 7, 2026, the date of the submission of USRTK's  
26 administrative appeal, is May 19, 2026.

27 68. As of the date of the filing of this Complaint, the State Department has failed to issue  
28 a decision on USRTK's Administrative Appeal.

69. The State Department has violated the provisions of the FOIA, 5 U.S.C. § 552, (a)(6)(A)(ii), as well as its own policies and procedures, by failing to provide USRTK with a determination or decision on USRTK's Administrative Appeal.

70. USRTK has no commercial interest or value in records responsive to the Request.

71. The records requested by USRTK are likely to contribute significantly to the public understanding of the operations and activities of the government. USRTK's FOIA Request stated that "the requested records will contribute to public understanding of whether the State Department's actions relating to concerns about origins of COVID-19 were consistent with its mission to 'protect and promote U.S. security, prosperity, and democratic values and shape an international environment in which all Americans can thrive.'" **Exh. A, pg. 4.**

72. USRTK has a demonstrated track record of obtaining and disseminating information obtained under the FOIA and state public records laws concerning public health. Since 2015, USRTK has obtained, posted online, and reported on thousands of industry and government documents gathered via public records requests. USRTK's work has contributed to three New York Times investigations, 16 academic papers in public health journals, 14 articles in the BMJ, one of the world's leading medical journals, and global media coverage documenting how food and chemical corporations impact public health and the environment. USRTK's staff has expertise in investigative journalism and advanced research, especially as it concerns impacts on human health. (<https://usrtk.org/about-u-s-right-to-know/>). USRTK is a recognized news outlet and is a member of the Institute for Nonprofit News, a network of more than 500 nonprofit news organizations dedicated to public service journalism.

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

74. In February 2025, USRTK received a James Madison Freedom of Information Award from the Society for Professional Journalists Northern California chapter. This award recognizes people and organizations that have made "significant contributions to advancing

1 freedom of information and expression in the spirit of James Madison, the creative force behind the  
2 First Amendment.” The award states in part that:

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

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

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

21 76. To date, the State Department has not provided USRTK or its legal counsel with a  
22 timely and lawful “determination” that informs USRTK of (1) the State Department’s determination  
23 of whether or not to comply with Request One; (2) the reasons for its decision; and (3) notice of  
24 USRTK’s right to appeal to the head of the agency. 5 U.S.C. § 552(a)(6)(A)(i).

25 77. At no time has the State Department lawfully invoked the FOIA’s “unusual  
26 circumstances” exception to the FOIA’s twenty-day determination deadline. The State Department  
27 claimed that the “unusual circumstances” “...include the need to search for and collect requested  
28 records from other Department offices or Foreign Service posts.” However, even when an “unusual  
circumstances” extension is made, the agency must still notify the requester of its expected date on  
which a final determination will be dispatched. 5 U.S.C. § 552(a)(6)(B)(i).



1 87. Unless enjoined and made subject to a declaration of USRTK's legal rights by this  
2 Court, The State Department will continue to violate USRTK's rights to receive public records  
3 under the FOIA.

4 88. The State Department's failure to make a final determination on the FOIA Request  
5 within the statutory timeframe has prejudiced USRTK's ability to timely obtain public records.

6 **COUNT II**

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

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

11 90. USRTK has a statutory right to have the State Department process its FOIA requests  
12 in a manner that complies with the FOIA. USRTK's rights in this regard were violated when The  
13 State Department failed to promptly provide public, non-exempt records to USRTK in response to  
14 the Request, 5 U.S.C. §§ 552(a)(3)(A) & (b), to provide a reasonable estimate of the volume of  
15 withheld records, 5 U.S.C. § 552(a)(6)(F), and to reasonably segregate all non-exempt portions of  
16 otherwise exempt material, 5 U.S.C. § 552(b).

17 91. The State Department is unlawfully withholding public disclosure of information  
18 sought by USRTK, information to which it is entitled and for which no valid disclosure exemption  
19 applies.

20 92. USRTK has constructively exhausted its administrative remedies with respect to the  
21 Request.

22 93. USRTK is entitled to injunctive relief to compel production of all non-exempt,  
23 responsive records.

24 94. Based on the nature of USRTK's organizational activities, USRTK will undoubtedly  
25 continue to employ FOIA's provisions to request information from the State Department in the  
26 foreseeable future.

27 95. USRTK's organizational activities will be adversely affected if the State Department  
28 is allowed to continue violating FOIA's response deadlines as it has in this case.

**COUNT III**

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

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

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

99. USRTK formally requested that the State Department provide an estimated date of completion for the Request. No such date was provided by the State Department.

100. Based on the nature of USRTK's organizational activities, USRTK will continue to employ FOIA's provisions to request information from the State Department in the foreseeable future. These activities will be adversely affected if the State Department is allowed to continue violating the FOIA's requirements for providing USRTK with an estimated date of completion for the Request.

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

**COUNT IV**

## Violation of the Freedom of Information Act: Failure to Provide Determination on Administrative Appeal

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

103. USRTK has a statutory right to have the State Department process its Administrative Appeal in a manner that complies with the FOIA.

104. The FOIA requires agencies to make a determination on an administrative appeal within 20 business days of receiving the appeal, excluding weekends and legal public holidays.

5 U.S.C. § 552, (a)(6)(A)(ii), *Oglesby v. United States Dep't of Army*, 920 F.2d 57, 62.

105. If the agency fails to comply with this deadline, the requester is deemed to have constructively exhausted administrative remedies, and the appeal is treated as denied by operation of law. 5 U.S.C. § 552(a)(6)(C)(i), *Oglesby v. United States Dep't of Army*, 920 F.2d 57, 71, *Wildlands CPR v. United States Forest Serv.*, 558 F. Supp. 2d 1096, 1102.

106. According to its policies and procedures, the State Department has 30 working days from the date an appeal from a denial to waive or reduce fees is received to respond.

[https://foia.state.gov/request/Appeals2.aspx#/.](https://foia.state.gov/request/Appeals2.aspx#/)

107. According to its policies and procedures, the State Department has 10 calendar days from the date of the receipt of an appeal from a denial to grant expedited processing to issue a decision in writing. [https://foia.state.gov/request/Appeals2.aspx#/.](https://foia.state.gov/request/Appeals2.aspx#/)

108. The State Department has failed to make a determination on USRTK's Administrative Appeal.

109. Based on the nature of USRTK's organizational activities, USRTK will continue to employ FOIA's provisions to request information from the State Department in the foreseeable future. These activities will be adversely affected if the State Department is allowed to continue violating the FOIA's requirements for providing USRTK with an estimated date of completion for the Request.

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

### REQUEST FOR RELIEF

THEREFORE, USRTK prays that this Court:

1. Order the State Department to promptly provide USRTK all the information sought in this action and to immediately disclose the requested records for the Request in unredacted

1 format unless an exemption is properly claimed and properly applies.

2 2. Declare the State Department failure to provide USRTK with a final determination  
3 for the Request as unlawful under the FOIA.

4 3. Declare the State Department failure to promptly provide USRTK with all non-  
5 exempt records responsive to the Request as unlawful under the FOIA.

6 4. Declare the State Department failure to provide USRTK with an estimated date of  
7 completion for the Request, as required by 5 U.S.C. § 552(a)(7)(B)(ii), unlawful under the FOIA.

8 5. Declare the State Department failure to provide USRTK with a determination on its  
9 Administrative Appeal as unlawful under the FOIA.

10 6. Award USRTK its reasonable attorneys' fees and costs pursuant to 5 U.S.C.  
11 § 552(a)(4)(E) or 28 U.S.C. § 2412.

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

14 Dated: August 18, 2026

Respectfully Submitted,

15  
16 By: /s/ Jessica L. Blome

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