

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:21-cv-02936-TSC**

U.S. RIGHT TO KNOW v. NATIONAL INSTITUTES OF HEALTH
Assigned to: Judge Tanya S. Chutkan
Cause: 05:552 Freedom of Information Act

Date Filed: 11/08/2021
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff**U.S. RIGHT TO KNOW**

represented by **C. Peter Sorenson**
SORENSEN LAW OFFICE
P.O. Box 10836
Eugene, OR 97440
541-606-9173
Email: peter@sorensonfoialaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant**NATIONAL INSTITUTES OF HEALTH**

represented by **Thomas Duffey**
U.S. ATTORNEY'S OFFICE
555 4th Street, NW
Washington, DC 20530
(202) 252-2510
Email: thomas.duffey@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/08/2021	<u>1</u>	COMPLAINT against NATIONAL INSTITUTES OF HEALTH (Filing fee \$ 402 receipt number ADCDC-8851266) filed by U.S. RIGHT TO KNOW. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons NIH, # <u>3</u> Summons USAG, # <u>4</u> Summons USAO)(Sorenson, C.) (Entered: 11/08/2021)
11/08/2021		Case Assigned to Judge Tanya S. Chutkan. (zsb) (Entered: 11/08/2021)
11/08/2021	<u>2</u>	SUMMONS (3) Issued Electronically as to NATIONAL INSTITUTES OF HEALTH, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent)(adh,) (Entered: 11/08/2021)
11/29/2021	<u>3</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 11/15/2021. Answer due for ALL FEDERAL DEFENDANTS by 12/15/2021. (Sorenson, C.) (Entered: 11/29/2021)
11/29/2021	<u>4</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 11/15/2021., RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. NATIONAL INSTITUTES OF HEALTH served on 11/16/2021. (See Docket Entry <u>3</u> to view document). (znmw) (Entered: 11/30/2021)
12/10/2021	<u>5</u>	NOTICE of Appearance by Thomas Duffey on behalf of NATIONAL INSTITUTES OF HEALTH (Duffey, Thomas) (Entered: 12/10/2021)
12/15/2021	<u>6</u>	Consent MOTION for Extension of Time to File Answer re <u>1</u> Complaint, <i>with proposed order</i> by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 12/15/2021)

12/15/2021		MINUTE ORDER: Granting Consent <u>6</u> Motion for Extension of Time to Answer. Defendant shall answer or otherwise respond to the Complaint by 1/17/22. Signed by Judge Tanya S. Chutkan on 12/15/21. (DJS) (Entered: 12/15/2021)
12/17/2021		Set/Reset Deadlines: Answer due by 1/17/2022. (tb) (Entered: 12/17/2021)
01/17/2022	<u>7</u>	Consent MOTION for Extension of Time to File Answer re <u>1</u> Complaint, <i>with proposed order</i> by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 01/17/2022)
01/17/2022		MINUTE ORDER: Granting <u>7</u> Motion for Extension of Time to Answer. Defendant shall answer or otherwise respond to the Complaint by February 17, 2022. Signed by Judge Tanya S. Chutkan on 1/17/22. (DJS) (Entered: 01/17/2022)
01/19/2022		Set/Reset Deadlines: Answer due by 2/17/2022. (tb) (Entered: 01/19/2022)
02/10/2022	<u>8</u>	Unopposed MOTION for Leave to File <i>Amended Complaint</i> by U.S. RIGHT TO KNOW. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order, # <u>3</u> Exhibit Amended Complaint, # <u>4</u> Exhibit 101, # <u>5</u> Exhibit 102, # <u>6</u> Exhibit 103, # <u>7</u> Exhibit 104, # <u>8</u> Exhibit 105, # <u>9</u> Exhibit 106, # <u>10</u> Exhibit 107, # <u>11</u> Exhibit 108, # <u>12</u> Exhibit 109, # <u>13</u> Exhibit 110, # <u>14</u> Exhibit 111, # <u>15</u> Exhibit 112, # <u>16</u> Exhibit 113, # <u>17</u> Exhibit 114, # <u>18</u> Exhibit 115, # <u>19</u> Exhibit 116, # <u>20</u> Exhibit 117, # <u>21</u> Exhibit 118, # <u>22</u> Exhibit 119, # <u>23</u> Exhibit 120, # <u>24</u> Exhibit 121, # <u>25</u> Exhibit 122, # <u>26</u> Exhibit 123, # <u>27</u> Exhibit 124, # <u>28</u> Exhibit 125, # <u>29</u> Exhibit 126, # <u>30</u> Exhibit 127, # <u>31</u> Exhibit 128, # <u>32</u> Exhibit 129, # <u>33</u> Exhibit 130, # <u>34</u> Exhibit 131, # <u>35</u> Exhibit 132, # <u>36</u> Exhibit 133, # <u>37</u> Exhibit 134, # <u>38</u> Exhibit 135, # <u>39</u> Exhibit 136, # <u>40</u> Exhibit 137, # <u>41</u> Exhibit 138, # <u>42</u> Exhibit 139)(Sorenson, C.) Modified event on 2/11/2022 (znmw). (Entered: 02/10/2022)
02/14/2022		MINUTE ORDER: Granting Consent <u>8</u> Motion for Leave to File Amended Complaint. Signed by Judge Tanya S. Chutkan on 2/14/22. (DJS) (Entered: 02/14/2022)
02/14/2022	<u>9</u>	AMENDED COMPLAINT against NATIONAL INSTITUTES OF HEALTH filed by U.S. RIGHT TO KNOW. (Attachments: # <u>1</u> Exhibit 101, # <u>2</u> Exhibit 102, # <u>3</u> Exhibit 103, # <u>4</u> Exhibit 104, # <u>5</u> Exhibit 105, # <u>6</u> Exhibit 106, # <u>7</u> Exhibit 107, # <u>8</u> Exhibit 108, # <u>9</u> Exhibit 109, # <u>10</u> Exhibit 110, # <u>11</u> Exhibit 111, # <u>12</u> Exhibit 112, # <u>13</u> Exhibit 113, # <u>14</u> Exhibit 114, # <u>15</u> Exhibit 115, # <u>16</u> Exhibit 116, # <u>17</u> Exhibit 117, # <u>18</u> Exhibit 118, # <u>19</u> Exhibit 119, # <u>20</u> Exhibit 120, # <u>21</u> Exhibit 121, # <u>22</u> Exhibit 122, # <u>23</u> Exhibit 123, # <u>24</u> Exhibit 124, # <u>25</u> Exhibit 125, # <u>26</u> Exhibit 126, # <u>27</u> Exhibit 127, # <u>28</u> Exhibit 128, # <u>29</u> Exhibit 129, # <u>30</u> Exhibit 130, # <u>31</u> Exhibit 131, # <u>32</u> Exhibit 132, # <u>33</u> Exhibit 133, # <u>34</u> Exhibit 134, # <u>35</u> Exhibit 135, # <u>36</u> Exhibit 136, # <u>37</u> Exhibit 137, # <u>38</u> Exhibit 138, # <u>39</u> Exhibit 139)(znmw) (Entered: 02/16/2022)
02/28/2022	<u>10</u>	ANSWER to <u>9</u> Amended Complaint,, by NATIONAL INSTITUTES OF HEALTH.(Duffey, Thomas) (Entered: 02/28/2022)
04/29/2022		MINUTE ORDER: Before the Court in this FOIA case are a complaint and an answer. The requirements of LCvR 16.3 and Rule 26(f) of the Federal Rules of Civil procedure appear to be inapplicable. IT IS HEREBY ORDERED that the parties shall meet and confer and propose a schedule for proceeding in this matter. The schedule shall address the status of Plaintiff's FOIA request, the anticipated number of documents responsive to Plaintiff's FOIA request, the anticipated date(s) for release of the documents requested by Plaintiff, whether a motion for an Open America stay is likely in this case, whether a Vaughn index will be required in this case, whether and when either party anticipates filing a dispositive motion, and any other pertinent issues. The parties shall file a joint status report that addresses these issues no later than 5/27/22. The joint status report shall be accompanied by a proposed order. Signed by Judge Tanya S. Chutkan on 4/29/22. (DJS) (Entered: 04/29/2022)
05/02/2022		Set/Reset Deadlines: Joint Status Report due by 5/27/2022. (tb) (Entered: 05/02/2022)
05/27/2022	<u>11</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 05/27/2022)
07/01/2022	<u>12</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 07/01/2022)

08/07/2022		MINUTE ORDER: Having considered the parties' joint status report, it is hereby ordered that the parties shall meet, confer and file another joint report by September 1, 2022, and every 60 days thereafter. To the extent the parties propose a change to the status quo, they shall file a proposed order. Signed by Judge Tanya S. Chutkan on 8/7/22. (DJS) (Entered: 08/07/2022)
08/10/2022		Set/Reset Deadlines: Joint Status Report due by 9/1/2022. (tb) (Entered: 08/10/2022)
09/01/2022	<u>13</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 09/01/2022)
10/31/2022	<u>14</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 10/31/2022)
01/03/2023	<u>15</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 01/03/2023)
03/06/2023	<u>16</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 03/06/2023)
03/16/2023	<u>17</u>	MOTION for Order <i>to Establish Record Processing</i> by U.S. RIGHT TO KNOW. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Declaration Sorenson, # <u>3</u> Declaration Quay, # <u>4</u> Declaration Ruskin, # <u>5</u> Exhibit 101, # <u>6</u> Exhibit 102, # <u>7</u> Exhibit 103, # <u>8</u> Exhibit 104, # <u>9</u> Exhibit 105, # <u>10</u> Exhibit 106, # <u>11</u> Exhibit 107, # <u>12</u> Exhibit 108, # <u>13</u> Exhibit 109, # <u>14</u> Exhibit 110, # <u>15</u> Exhibit 111, # <u>16</u> Exhibit 112, # <u>17</u> Exhibit 113, # <u>18</u> Exhibit 114, # <u>19</u> Exhibit 115, # <u>20</u> Exhibit 116, # <u>21</u> Exhibit 117, # <u>22</u> Exhibit 118, # <u>23</u> Exhibit 119, # <u>24</u> Exhibit 120, # <u>25</u> Exhibit 121, # <u>26</u> Exhibit 122, # <u>27</u> Exhibit 123, # <u>28</u> Exhibit 124, # <u>29</u> Exhibit 125, # <u>30</u> Exhibit 126, # <u>31</u> Exhibit 127, # <u>32</u> Exhibit 128, # <u>33</u> Exhibit 129, # <u>34</u> Exhibit 130, # <u>35</u> Exhibit 131, # <u>36</u> Exhibit 132, # <u>37</u> Exhibit 133, # <u>38</u> Exhibit 134, # <u>39</u> Exhibit 135, # <u>40</u> Exhibit 136, # <u>41</u> Exhibit 137, # <u>42</u> Exhibit 138, # <u>43</u> Exhibit 139, # <u>44</u> Memorandum in Support)(Sorenson, C.) (Entered: 03/16/2023)
03/29/2023	<u>18</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>17</u> MOTION for Order <i>to Establish Record Processing with proposed order</i> by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 03/29/2023)
04/03/2023		MINUTE ORDER: Defendants' <u>18</u> Consent Motion for Extension of Time to File Response/Reply is hereby GRANTED. Defendant shall file its Response no later than May 1, 2023, and Plaintiff shall file its Reply no later than June 22, 2023. Signed by Judge Tanya S. Chutkan on 4/03/2023. (lcja) (Entered: 04/03/2023)
04/06/2023		Set/Reset Deadlines: Response due by 5/1/2023. Reply due by 6/22/2023. (tb) (Entered: 04/06/2023)
04/28/2023	<u>19</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>17</u> MOTION for Order <i>to Establish Record Processing with proposed order</i> by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 04/28/2023)
05/01/2023		MINUTE ORDER: Defendants' <u>19</u> Consent Motion for Extension of Time to File Response/Reply is hereby GRANTED. Defendant shall file its Response no later than June 1, 2023, and Plaintiff shall file its Reply no later than July 21, 2023. Signed by Judge Tanya S. Chutkan on 5/1/2023. (lcja) (Entered: 05/01/2023)
05/02/2023		Set/Reset Deadlines: Response due by 6/1/2023. Reply due by 7/21/2023. (tb) (Entered: 05/02/2023)
05/08/2023	<u>20</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 05/08/2023)
05/08/2023	<u>21</u>	ERRATA <i>Corrected Joint Status Report</i> by NATIONAL INSTITUTES OF HEALTH re <u>20</u> Status Report. (Duffey, Thomas) (Entered: 05/08/2023)
05/31/2023	<u>22</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>17</u> MOTION for Order <i>to Establish Record Processing with proposed order</i> by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 05/31/2023)
06/01/2023		MINUTE ORDER: Defendant's <u>22</u> Consent Motion for Extension of Time is hereby GRANTED. Defendant shall file its response to Plaintiff's motion to set a processing

		schedule on or before June 9, 2023. Signed by Judge Tanya S. Chutkan on 06/01/2023. (lcja) (Entered: 06/01/2023)
06/01/2023		Set/Reset Deadlines/Hearings: Response to <u>17</u> due by 6/9/2023. (zcdw) (Entered: 06/01/2023)
06/09/2023	<u>23</u>	Memorandum in opposition to re <u>17</u> Motion for Order,,,, filed by NATIONAL INSTITUTES OF HEALTH. (Attachments: # <u>1</u> Declaration Gorka Garcia-Malene)(Duffey, Thomas) (Entered: 06/09/2023)
07/10/2023	<u>24</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 07/10/2023)
07/17/2023	<u>25</u>	REPLY to opposition to motion re <u>17</u> MOTION for Order to <i>Establish Record Processing</i> filed by U.S. RIGHT TO KNOW. (Attachments: # <u>1</u> Exhibit 201)(Sorenson, C.) (Entered: 07/17/2023)
07/24/2023		MINUTE ORDER: In consideration of Plaintiff's <u>17</u> Motion to Establish a Record Processing Order and the parties' responsive briefing, the parties are hereby ORDERED to confer and submit three dates for a status conference in this case to proceed either in-person or telephonically, by no later than August 7, 2023. Signed by Judge Tanya S. Chutkan on 7/24/2023. (lcja) (Entered: 07/24/2023)
07/24/2023		Set/Reset Deadlines: Meet & Confer Statement due by 8/7/2023. (lsj) (Entered: 07/24/2023)
08/04/2023	<u>26</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 08/04/2023)
08/09/2023		MINUTE ORDER: Upon consideration of the parties' <u>26</u> Joint Status Report, the court hereby sets a telephonic hearing in this matter for August 11, 2023 at 3 PM. The parties shall be prepared to argue their respective positions on Plaintiff's <u>17</u> Motion to Establish Record Processing, and to respond to the court's questions. Signed by Judge Tanya S. Chutkan on 8/9/23. (lcb) (Entered: 08/09/2023)
08/09/2023		Set/Reset Hearings: Telephonic Hearing set for 8/11/2023 at 3:00 PM before Judge Tanya S. Chutkan. The parties shall be prepared to argue their respective positions on Plaintiff's <u>17</u> Motion to Establish Record Processing, and to respond to the court's questions. (jth) (Entered: 08/09/2023)
08/11/2023		Minute Entry for proceedings held before Judge Tanya S. Chutkan: Telephone Conference Call re: Plaintiff's <u>17</u> Motion for Order to Establish Record Processing held on 8/11/2023. (Court Reporter Bryan A. Wayne). (jth) (Entered: 08/11/2023)
08/11/2023		MINUTE ORDER: For the reasons explained in today's hearing on Plaintiff's <u>17</u> Motion to Establish Record Processing, Plaintiff's Motion is hereby GRANTED in part and DENIED in part. Defendant is ORDERED to process and produce at least 500 pages per month until it completes the release of all non-exempt records in this FOIA action. The parties shall continue to meet and confer and file joint status reports with the court every 30 days, to keep the court apprised of the Defendant's production. Within 30 days of the release of all documents, the parties shall file another joint status report informing the court whether any disputes remain in this case and recommending a path forward for resolution of this matter. Signed by Judge Tanya S. Chutkan on 8/11/2023. (lcb) (Entered: 08/11/2023)
09/10/2023	<u>27</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 09/10/2023)
10/10/2023	<u>28</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 10/10/2023)
11/10/2023	<u>29</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 11/10/2023)
12/14/2023	<u>30</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 12/14/2023)
01/16/2024	<u>31</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 01/16/2024)

02/16/2024	<u>32</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 02/16/2024)
03/18/2024	<u>33</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 03/18/2024)
04/18/2024	<u>34</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 04/18/2024)
05/20/2024	<u>35</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 05/20/2024)
06/20/2024	<u>36</u>	Consent MOTION for Extension of Time to File <i>with proposed order</i> by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 06/20/2024)
06/20/2024		MINUTE ORDER: GRANTING <u>36</u> Consent Motion for Extension of Time. The parties shall file a joint status report on or before June 27, 2024, and every 30 days thereafter. To the extent the parties seek a change in the status quo, the report shall be accompanied by a proposed order. Signed by Judge Tanya S. Chutkan on 6/20/24. (lce) (Entered: 06/20/2024)
06/25/2024	<u>37</u>	<p>TRANSCRIPT OF 8/11/23 TELEPHONE CONFERENCE before Judge Tanya S. Chutkan held on August 11, 2023; Page Numbers: 1–16. Date of Issuance: 6/25/2024. Court Reporter: Bryan A. Wayne. Transcripts may be ordered by submitting the Transcript Order Form</p> <p>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi–page, condensed, CD or ASCII) may be purchased from the court reporter.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty–one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.</p> <p>Redaction Request due 7/16/2024. Redacted Transcript Deadline set for 7/26/2024. Release of Transcript Restriction set for 9/23/2024.(Wayne, Bryan) (Entered: 06/25/2024)</p>
06/27/2024	<u>38</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 06/27/2024)
06/27/2024		MINUTE ORDER: Upon consideration of <u>38</u> Joint Status Report, the parties shall confer and file an additional joint status report on or before September 25, 2024, and every 90 days thereafter. To the extent that the parties request a change in the status quo, the report shall be accompanied by a proposed order. Signed by Judge Tanya S. Chutkan on 6/27/24. (lce) (Entered: 06/27/2024)
09/25/2024	<u>39</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH. (Duffey, Thomas) (Entered: 09/25/2024)