

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

FRIENDS OF THE EARTH)
1101 15th Street, NW)
Washington, D.C. 20005,)
)
LUKAS ROSS, PROGRAM MANAGER,)
Climate and Energy Program,)
Friends of the Earth,)
1101 15th Street, NW)
Washington, D.C. 20005,)
)
Plaintiffs,)

Civ No.

v.

U.S. DEPARTMENT OF STATE,)
2201 C. Street, NW)
Washington, DC 20520,)
)
Defendant.)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. A year has passed since the United States Department of State (“State Department”) granted expedited processing to Plaintiff Friends of the Earth’s request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, seeking information that is urgently needed to inform the public about the United States’ response to the Russo-Ukrainian War and the ensuing energy crisis. Yet, despite this significant passage of time and the clearly impending threat that the requested information will be rendered stale and thus, of little value, responsive records have trickled out of the State Department at an average pace of fewer than thirty pages per month, and the agency has yet to even make a final determination on Plaintiffs’ expedited request. Accordingly, this is an action under FOIA to compel the United States Department of State (“State Department”) to promptly make a final determination on Friends of the Earth’s

expedited request number F-2022-08430, and promptly release non-exempt information concerning efforts by Amos Hochstein, a senior Administration official and so-called “energy whisperer”, and the joint Task Force on Energy Security (“Task Force”) to address the impacts from the Russo-Ukrainian War and the ensuing energy crisis.

2. Plaintiffs have demonstrated an urgent need for the information sought here—including, in particular, information about how special interests may be influencing the United States’ response to the energy crisis generated by the Russo-Ukrainian War. As co-chair of the Task Force, Mr. Hochstein has met, and continues to meet, with representatives of the European Union, as well as oil and gas industry representatives, in secret to discuss a wide-range of policies and commit to long-term courses of action with potentially dire and irreversible implications for climate change and the future of sustainable energy in the United States and abroad. Accordingly, information about Mr. Hochstein’s activities, particularly those undertaken in connection with the Task Force, is urgently needed to allow the public, Congress, and other stakeholders to exercise meaningful oversight of the State Department’s highly consequential actions undertaken in response to the Russo-Ukrainian War—and the extent to which those actions are influenced by special-interest groups—before the agency commits to a course of action that cannot easily be undone. Significantly, the window in which to exert such meaningful oversight is short; the Task Force continues to move quickly to develop and implement plans to respond to the rapidly evolving situation in Europe and increasing public pressure to address rising gas and utility prices across the United States and Europe. Hence, the usefulness of the requested information hinges on a timely release.

3. The information sought is essential to Plaintiff Friends of the Earth’s efforts to monitor and educate the public regarding the State Department’s exercise of federal influence

and authority to encourage and facilitate public and private investment in the domestic natural gas industry, an industry that is both financially risky and environmentally destructive. The information is also essential to evaluating whether the State Department's actions in connection with the Task Force and its response to the energy crisis will delay or reverse the global energy sector's movement away from fossil fuels, and shed light on the degree to which the agency's actions are unduly influenced by special interests. Additionally, the information will provide vital insight into the fossil fuel industry's well-publicized efforts to use the war to lobby agencies within the federal government—including the State Department—to expand natural gas production and infrastructure, benefiting fossil fuel companies in the short-term while pushing the long-term, exorbitant costs of climate change onto society. This invaluable insight will assist in determining whether closer congressional oversight of the State Department's response to the Russo-Ukrainian War is necessary to ensure that the United States' actions to address the currently unfolding humanitarian, energy, and environmental crises adequately consider the long-term risks to public health and the environment posed by fossil fuels, as well as protect communities and the stability of our financial system from the fossil fuel industry.

4. Plaintiff Friends of the Earth submitted its FOIA request to the State Department on May 12, 2022.¹ The FOIA request included a well-substantiated request for expedited processing, as well as a signed declaration and multiple exhibits in support which explained in detail the basis for Plaintiffs' request. In brief, Plaintiffs' request, declaration, and exhibits demonstrated that expedited processing of the FOIA request is necessary to inform the public about how the State Department is working with the European Union through the Task Force (in

¹ Plaintiff Friends of the Earth's FOIA request, including Lukas Ross's declaration and all attachments, are attached as Exhibit 1 for the Court's convenience.

which Mr. Hochstein plays a prominent role) to refine and implement a plan to address the currently unfolding energy crisis brought on by the Russo-Ukrainian War and develop long-term solutions to ensuring Western nation's energy security. However, despite all of the evidence that Friends of the Earth submitted with its request, on May 24, 2022, the State Department denied Friends of the Earth's request for expedited processing, stating that Friends of the Earth's "request does not demonstrate a 'compelling need' for the requested information."

5. Faced with the State Department's explicit—but unsubstantiated—unwillingness to expedite processing of Friends of the Earth's FOIA request and a brief window of opportunity to exert meaningful oversight of the agency's actions with respect to the Task Force and its activities, Friends of the Earth filed suit on May 31, 2022 to compel the State Department to grant Friends of the Earth's request for expedited processing, as required by FOIA. On June 13, 2022, in response to the lawsuit, the State Department abruptly reversed course and granted expedited processing to Friends of the Earth's request, which the parties agreed mooted that case raising only claims related to the State Department's denial of expedited processing. In the twelve months since that date, the State Department has located and processed 304 pages responsive to Friends of the Earth's expedited request. In other words, over the year since the agency moved Friends of the Earth's FOIA request to the front of the line, it has processed an average of 25.33 pages per month. At no point has the State Department provided even an estimate of the number of records (or pages of records) it has identified as potentially responsive to Friends of the Earth's FOIA request. Nor has the agency provided a production schedule for responsive records, much less an estimated date of completion.

JURISDICTION

6. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B).

PARTIES

7. Plaintiff Friends of the Earth is a non-profit organization headquartered in Washington, D.C. For more than fifty years, it has championed the causes of a clean and sustainable environment, protection of the nation's public lands and waterways, and the exposure of political malfeasance and corporate greed. Friends of the Earth currently counts more than 6.8 million activists, including more than 244,000 members.

8. Friends of the Earth utilizes various means of communication to update its members and activists, as well as the media and general public, on government activities that may impact human health and the environment. These methods include, but certainly are not limited to, providing essential information in easy-to-read reports, a quarterly news magazine, fact sheets, press statements, public hearings and events, phone calls, letters to the editor, blogs, email alerts, and webpage updates. Relevant here, Friends of the Earth has been at the forefront of ensuring that the oil and gas industry does not exploit the crisis in Ukraine for either short-term profits or long-term policy concessions. It has risen to this task by developing expert analysis designed to inform members of media, Congress, the Biden Administration, and the general public. Friends of the Earth is a widely recognized leading voice and source of expert information and analysis for the public regarding the debate over the use of government influence and public programs and funds to subsidize the fossil fuel industry. Indeed, reports authored by Friends of the Earth staff on the fossil fuel industry's exploitation of the Russo-Ukrainian War for short-term gains have been cited by major national and international news

media sources, as well as by members of Congress in various fora. Friends of the Earth is the requester of the records at issue.

9. Plaintiff Lukas Ross is the Program Manager for the Climate and Energy Program at Friends of the Earth. In that role, his primary responsibility is to scrutinize government activity that may impact human health and the environment, and to disseminate information on those activities to the public. To that end, Mr. Ross compiles information obtained both from public sources and through FOIA requests, and uses his expertise and editorial skills to quickly synthesize the information, develop meaningful alerts, reports, fact sheets, infographics, editorials, press releases, and articles, and disseminate those products to Friends of the Earth's members and supporters, journalists and other members of the news media, policymakers, congressional offices, and the public at large. In this way, Mr. Ross helps facilitate and promote Friends of the Earth's primary objective of disseminating information relevant to environmental concerns.

10. Mr. Ross has personally co-authored fact sheets and reports highlighting the risks presented by the fossil fuel industry's short-sighted attempts to use the current crisis in Ukraine to increase dependence on fossil fuels precisely at the time it is imperative to stop using them. Friends of the Earth has disseminated these fact sheets and reports to Friends of the Earth's members and supporters, members of the news media, as well as the public in general by posting them on Friends of the Earth's website. Mr. Ross has also shared these reports with members of Congress and their staff, as well as with journalists. Demonstrating both the significant public interest in the topic, and Friends of the Earth's recognized expertise in the subject, Mr. Ross's analyses on the fossil fuel industry's efforts to exploit the Russo-Ukrainian War for short-term gains have been cited by major national and international news sources and members of

Congress in various fora. Mr. Ross submitted a sworn declaration in support of the FOIA request at issue as part of his duties at Friends of the Earth. On behalf of Friends of the Earth, Mr. Ross requested of the records at issue.

11. Defendant United States Department of State is partially responsible for engaging with the European Union and developing a coordinated federal response to the Russo-Ukrainian War and ensuing energy crisis. The State Department employed Mr. Hochstein until his reported departure for the White House in May 2023. The State Department is in possession of the information at issue. The State Department is therefore responsible for the actions and omissions challenged herein.

FACTS GIVING RISE TO PLAINTIFFS' CLAIMS

A. The Russo-Ukrainian War and Ensuing Energy Crisis

12. On February 24, 2022, Russia invaded Ukraine. Western nations, including the United States, responded to the escalation of hostilities by increasing arms shipments to Ukraine and imposing severe economic sanctions on Russia, as well as on its political leaders and oligarchs. Russia retaliated with economic measures of its own, including by threatening to sharply curtail—or even halt—its shipment of natural gas to European nations. In late March 2022, Russian President Putin announced that “unfriendly” nations would have to purchase Russian gas using Russian currency. In April 2022, upon the expiration of long-term contracts with the Russian-state-owned energy company, Gazprom, Poland and Bulgaria refused to comply with Russia’s demand. As a result, Gazprom cut off gas supplies to Poland and Bulgaria and stated that it would not resume supply until payments are made in rubles. In late May,

Gazprom cut off gas supplies to Finland just days after Finland formally applied to join NATO.² Finland also refused to pay for Russian gas in rubles.³ Gazprom eventually stopped shipments to companies supplying the Netherlands, Denmark, Latvia, and Germany on the grounds that those countries refused to pay in rubles.⁴ Although this policy later changed to allow Gazprom to accept foreign currencies, Russian gas shipments did not resume. In fact, following sabotage in September 2022, gas flows through the controversial Russian pipeline Nord Stream 1 ceased entirely.⁵ Gas imports from Russia into Europe are now a quarter of what they were prior to the Russo-Ukrainian War, and the EU plans to phase out imports from Russia entirely by 2030.⁶

13. Natural gas currently represents around a quarter of the European Union's overall energy consumption. Prior to the Russo-Ukrainian War, over 40% of the European Union's natural gas was imported from Russia. The disruption in Russian energy supplies therefore threatens the European Union's energy security and economy. Accordingly, the European Union has moved to reduce Russian imports, leaving gas producers in other regions to make up the

² Terje Solsvik, *Russia stops gas flows to Finland over payments dispute*, REUTERS (May 22, 2022 3:13 AM EDT), <https://tinyurl.com/ytnxe422> (attached as Exhibit 2 for the Court's convenience).

³ See Nina Chestney, *As deadlines loom, Russia says EU gas clients open payment accounts*, REUTERS (May 19, 2022 11:20 AM EDT), <https://tinyurl.com/d3rrphan> (attached as Exhibit 3 for the Court's convenience).

⁴ Emre Gürkan Abay, *Putin Allows Western Countries to Pay Gas Debts in Foreign Currencies*, Anadolu Agency (Dec. 12, 2022), <https://tinyurl.com/bde9cxva> (attached as Exhibit 4 for the Court's convenience).

⁵ Leslie Palti-Guzman et al., Ctr. for Strategic & Int'l Studies, *U.S. LNG Remapping Energy Security* (Jan. 17, 2023), <https://tinyurl.com/35bkpw5a> (attached as Exhibit 5 for the Court's convenience).

⁶ Lexie Ryan, Cong. Res. Serv., *U.S. Measures to Provide Liquefied Natural Gas for the European Union* (Mar. 6, 2023), <https://tinyurl.com/4rfb9r43> (attached as Exhibit 6 for the Court's convenience).

shortfall. In particular, the European Union has turned to the United States, the world's largest producer and exporter of liquified natural gas ("LNG"). The "[i]ncreased global prices and fear of global supply shortage" is predicted to "drive construction of new export capacity in the United States."⁷

14. In response to Russia's weaponization of the global natural gas supply, the United States dramatically increased LNG exports bound for Europe and the United Kingdom. By December 2022, United States LNG exports to the region had increased to more than 42% of total LNG imports to Europe. In total, the United States added 37 billion cubic meters ("bcm") to Europe's supply, more than all other sources of LNG combined.⁸ U.S. LNG has become the second-largest source of gas imports to Europe, after pipeline gas from Norway, following accelerated Russian pipeline cuts over the summer of 2022. The strong demand for U.S. LNG means these facilities are being run close to or above maximum capacity. The demand for U.S. LNG will only increase; as explained, the United States has pledged to expand the United States-EU natural gas trade by "*at least 50 bcm per year by 2030.*" (emphasis added).⁹

15. Russia's unprovoked invasion of Ukraine and use of its natural-gas supplies as leverage have roiled the international energy market. The market instability has driven oil and gas prices to their highest levels in nearly a decade and forced many countries to reconsider their energy supplies. In the United States, utility and gas prices are soaring while fossil fuel companies report windfall profits.

⁷ Leslie Palti-Guzman et al., *supra* note 5 (Ex. 5).

⁸ *Id.*

⁹ Press Release, White House, Joint Statement on U.S.-EU Task Force on Energy Security (Apr. 3, 2023), <https://tinyurl.com/y3m8yx7b> (attached as Exhibit 7 for the Court's convenience).

B. The Joint Task Force

16. On March 25, 2022, President Biden and European Commission President von der Leyen announced a joint Task Force on Energy Security to address the energy crisis spurred by the Russo-Ukrainian War. The Task Force is co-chaired by representatives from the United States and the European Union, and has two primary goals: (1) to diversify LNG supplies in alignment with climate objectives; and (2) to reduce demand for natural gas.

17. Mr. Hochstein, former businessman and veteran diplomat with experience in natural gas exports, has held several positions at the State Department relevant to international energy policy during the time period covered by Plaintiffs' request. In August 2021, Mr. Hochstein was appointed State Department Senior Advisor for Energy Security. In February 2022, Mr. Hochstein was appointed the Special Presidential Coordinator for Global Infrastructure and Energy Security. During Mr. Hochstein's tenure at the State Department, he played a leading role in the United States' foreign policy response to the Russo-Ukrainian War, including by co-chairing the Task Force.

18. In early May 2023, it was reported that Mr. Hochstein would move to the White House to serve as Senior Adviser to the President for Energy and Investment and Deputy Assistant to the President.

19. As part of the Task Force's plan to achieve its goals, the Biden Administration pledged to expand U.S.-EU gas trade by at least 50 bcm per year by 2030. The Biden Administration has also pledged to "maintain[] an enabling regulatory environment with procedures to review and expeditiously act upon applications to permit any additional export LNG capacities."

20. Mr. Hochstein has assumed a leading role on the Task Force. According to a recent article published in Politico, Mr. Hochstein’s “role is expansive,” and he’s “often been by the key point of contact backchanneling with European countries seeking to find alternatives to Russian gas.”¹⁰ However, prior to returning to federal service, Mr. Hochstein “worked as an executive at natural gas company Tellurian, and promoted liquified natural gas exports.” His close ties to the industry have come under scrutiny as the Task Force works to diversify Europe’s energy supply and break its dependence on Russian gas. Indeed, as Mr. Hochstein has explained, to increase domestic LNG production, new export terminals must be constructed. Although several terminals have gone through all or part of the permitting process, they have not been constructed because of a lack of financing, which requires long-term contracts. Accordingly, through the Task Force and other State Department offices, Mr. Hochstein and other federal officials are working to facilitate long-term contractual arrangements between domestic gas extraction and infrastructure companies and European Union member states to allow those facilities to be financed. However, these meetings that decide matters of significant public interest and importance are being held entirely behind closed doors, with no opportunity for public comment or involvement.

21. Although the Task Force has held several meetings with government officials and industry participants, outside of the two co-chairs and two persons occupying “leadership role[s]”, the identities of individual government participants and the role (and influence) of private sector representatives remains unclear. The White House has acknowledged that meetings “are chaired by Björn Seibert, Head of Cabinet of the European Commission President,

¹⁰ Max Tani & Sam Stein, *A-mos Powerful Biden Aide*, POLITICO (May 13, 2022 5:52 PM EDT), <https://tinyurl.com/4n25am3w> (attached as Exhibit 8 for the Court’s convenience).

and [Mr.] Hochstein,” and that “Ditte Juul Jørgensen, European Commission Director General for Energy, and Sarah Ladislaw, Special Assistant to the President and Senior Director for Climate and Energy at the White House National Security Council also play a leadership role[s].” Meetings are attended by “senior representatives of the U.S. Department of State, the U.S. Department of Energy, the European Commission Directorate General of Energy as well as by representatives of the European External Action Service,” as well as unnamed “private sector representatives” from the oil and gas industry.¹¹ At present, only one industry participant—Cheniere, the largest LNG exporter in the US—has been identified; however, its participation was disclosed not by the State Department, but by executives to shareholders during its first quarter earnings call on May 4, 2022, where it was stated that the company had been actively involved in the Task Force.

22. The lack of transparency has underscored serious concerns that the Task Force may be subject to undue influence and pressure from fossil fuel industry representatives. As reported by Bloomberg reporter Jennifer A. Dlouhy, advocacy group Global Witness wrote to the State Department to accuse the Task Force of violating the Federal Advisory Committee Act by “illegally operating in secrecy.”¹² Concerns over the lack of transparency are compounded by reports from various news media sources that United States energy companies are seizing on the impacts of the Russo-Ukrainian War to push the Biden Administration (as well as Congress and the federal courts) to endorse the expansion of natural gas extraction and the construction of new

¹¹ Press Release, White House, *supra* note 9 (Ex. 7).

¹² Jennifer A. Dlouhy, *White House LNG Task Force Compared to Secretive Cheney Group*, BLOOMBERG (May 23, 2022, 5:00 AM), <https://tinyurl.com/yc7ksp27> (attached as Exhibit 9 for the Court’s convenience).

LNG infrastructure. For example, the “unleashing LNG” effort, spearheaded by the largest gas producer in the country EQT, aims to quadruple US export capacity in the next decade.

23. The Biden Administration’s commitments to increase domestic natural gas exports despite limited additional export capacity, increasing European demand, and high natural gas prices have combined to serve as powerful market forces driving investment in domestic natural gas infrastructure. Indeed, according to a report co-authored by Friends of the Earth, the United States fossil fuel industry has locked in 45 long-term contracts and contract expansions since the start of the Russo-Ukrainian War.¹³ Moreover, in 2022, two export terminals received final investment decisions (i.e., a formal decision to proceed with construction once the facility has secured sufficient contracted buyers and financing to secure investment). Additional facilities are expected to receive final investment decisions in 2023. In fact, “[u]nder planned expansions, the United States will increase its export capacity by 17 percent by the end of 2025 and will increase further by 43 percent before 2028.”¹⁴

24. The expansion of domestic natural gas production would amount to a significant roll-back of the Biden Administration’s oft-repeated campaign goal of ending the United States’ dependence on fossil fuels and aggressively addressing climate change. Additionally, the logistics of how the United States will meet its commitments to increase LNG exports are unclear. Both the export and import of LNG require specialized facilities, the permitting and construction of which take significant time. Indeed, most of the new contracts signed in 2022 will not deliver gas until 2026 or later. Thus, investments in new gas fields or LNG infrastructure

¹³ See Friends of the Earth et al., *Liquefied Natural Crash* (2023), <https://tinyurl.com/y6txnft6> (attached as Exhibit 10 for the Court’s convenience).

¹⁴ Leslie Palti-Guzman et al., *supra* note 5 (Ex. 5).

will have little impact on the current crisis, particularly as price volatility for gas in Europe is already easing. Yet, despite having little to no short-term value, the new or expanded facilities will vastly increase greenhouse gas emissions and fossil fuel use for decades to come.¹⁵

25. The United States' potential financial commitment to expanding domestic natural gas extraction and LNG infrastructure threatens to lock in decades of production and significantly undermines efforts to move away from fossil fuels at a time that is critical to determining the course of the planet's future. Although misleadingly heralded as a "cleaner" energy source, the production and transportation of natural gas emits methane, a greenhouse gas that is more than *twenty-five times* as potent as carbon dioxide at trapping heat in the atmosphere. Additionally, natural gas is still a fossil fuel, and the scientific consensus is that the world must move away from the use of *all* fossil fuels in order to avoid the worst impacts of climate change. As the International Panel on Climate Change ("IPCC") warned with "extremely high confidence, "[t]he cumulative scientific evidence is unequivocal: Climate change is a threat to human well-being and planetary health. Any further delay in concerted anticipatory global action on adaptation and mitigation will miss a brief and rapidly closing window of opportunity to secure a livable and sustainable future for all." Indeed, projected greenhouse gas emissions over the lifetime of existing and currently planned fossil fuel infrastructure will push global warming past 1.5 degrees Celsius, the generally accepted threshold that will avoid the worst impacts of climate change. The IPCC warned that averting climate disaster requires immediate and deep reductions across all sectors; it "cannot be achieved through incremental change."

¹⁵ See Friends of the Earth et al., *Liquified Natural Crash*, *supra* note 13 (Ex. 10); see also Amy Westervelt, *US energy firms use Ukraine war to lock in long-term gas contracts, report says*, THE GUARDIAN (Feb. 22, 2023), <https://tinyurl.com/2s3czksk> (quoting Friends of the Earth Report, *supra*) (attached as Exhibit 11 for the Court's convenience).

26. The International Energy Agency (“IEA”) has likewise concluded that to limit the long-term increase in global temperatures to 1.5 degrees Celsius, there must be “a complete transformation of how we produce, transport and consume energy.” The IEA determined that to achieve climate goals, there can be no new investments in fossil fuel supplies beyond those committed as of 2021.

27. In addition to the nexus between fossil fuels and climate catastrophe, the fossil fuel industry and associated infrastructure is contributing to serious environmental justice problems. Expansion of fossil fuel extraction and use for energy will only perpetuate these grave injustices.¹⁶ Over the past eighteen months, there have been numerous notices published in the Federal Register for rulemakings to amend the regulatory requirements applicable to natural gas infrastructure, *see, e.g.* 87 Fed. Reg. 17,281 (Mar. 28, 2022) (seeking public input regarding the U.S. Army Corps of Engineers’ comprehensive review of its nationwide permit 12 requirements applicable to pipelines), as well as numerous applications to expand LNG infrastructure or

¹⁶ Indeed, research has shown that fossil fuels disproportionately harm Black, Brown, Indigenous and low-income communities in many ways and at every phase of their lifecycle. *See, e.g.*, Tim Donaghy & Charlie Jiang, Greenpeace & Gulf Coast Ctr. for L. & Policy, *Red, Black & Green Movement, and Movement for Black Lives, Fossil Fuel Racism: How Phasing Out Oil, Gas, and Coal Can Protect Communities* (2021), available at <https://tinyurl.com/2p9cxt9>; U.S. EPA, *Climate Change and Social Vulnerability in the United States: A Focus on Six Impacts*, EPA 430-R-21-003 (2021), available at <https://tinyurl.com/58982xyw>. Fossil fuel infrastructure projects are also very often concentrated in and directly harm communities who are already overburdened with air and water pollution, disproportionately high health risks and harms, destruction of natural resources, depression of property values, and other negative impacts. *See, e.g.*, Robert D. Bullard et al., *Toxic Wastes and Race at Twenty: 1987-2007* (2007), <https://tinyurl.com/bdd9smxk>; Adrian Wilson et al., NAACP, Indigenous Env'tl. Network, & Little Village Env'tl. Justice Org., *Coal Blooded: Putting Profits Before People* (2012), <https://tinyurl.com/5n8euk9y>; Lesley Fleischman & Marcus Franklin, Clean Air Task Force & NAACP *Fumes Across the Fence-Line: The Health Impacts of Air Pollution from Oil & Gas Facilities on African American Communities*, (2017), <https://tinyurl.com/34j6wa2a>; Ryan Emanuel et al, GeoHealth, *Natural Gas Gathering and Transmission Pipelines and Social Vulnerability in the United States*, (May 2021), <https://tinyurl.com/2s3nb98e>.

construct new LNG facilities, *see, e.g.*; 87 Fed. Reg. 24,388 (Apr. 25, 2022) (application from New Fortress Energy Louisiana FLNG LLC for the licensing of a deepwater port); 87 Fed. Reg. 24,613 (Apr. 26 2022) (notice of intent to prepare an environmental impact statement for New Fortress Energy’s application for a deepwater port); 87 Fed. Reg. 29,141 (May 12, 2022); 87 Fed. Reg. 29,151 (May 12, 2022) (application from New Fortress Energy requesting authorization to export LNG from “its proposed deepwater port export terminal project”); 87 Fed. Reg. 30,475 (May 19, 2022) (notice of availability of draft environmental impact statement for proposed natural gas pipeline); 87 Fed. Reg. 31,228 (May 23, 2022) (scoping notice required under National Environmental Policy Act for proposed expansion of natural gas facilities by Northern Natural Gas Company). Most of these applications concern projects in and around the Gulf of Mexico. These new and expanded fossil fuel projects have serious environmental justice implications because they have been sited in or near communities where residents are already subjected to degraded air and water quality, and suffer from adverse health impacts associated with that exposure. Natural gas pipeline developments on land are also notorious for disregarding indigenous peoples’ rights and irreparably harming culturally significant areas and artifacts.

28. On May 18, 2022, the European Commission issued the REPowerEU Plan, which details the European Union’s “response to the hardships and global energy market disruption caused by Russia’s invasion of Ukraine.” The plan has four primary elements: save energy; diversify supplies; quickly substitute fossil fuels by accelerating Europe’s clean energy transition; and smartly combine investments and reforms. A related new initiative, the EU Energy Platform, is working to implement REPowerEU’s goal of supply diversification,

including through the creation of a proposed “joint purchasing mechanism” for member states to negotiate the purchase of LNG imports as a bargaining unit.¹⁷

29. Congress has held oversight hearings regarding the energy crisis precipitated by the Russo-Ukrainian War and the fossil fuel industry’s efforts to exploit the crisis for its own monetary gain. Senator Schumer has suggested that further government action is necessary, arguing that “[i]nstead of giving Americans a break at the gas pump, [fossil fuel companies have] used their gushing profits to reward shareholders with stock buybacks, which demands answers and inquiry.” Additionally, Congress has proposed legislation, including the Unlocking Our Domestic LNG Potential Act of 2023 and the Lower Energy Costs Act, *see* H.R. 118-1130; H.R. 118-1, seeking to alleviate—or even eliminate—restrictions on the permitting, export, and/or import of natural gas.¹⁸ Significantly, the Lower Energy Costs Act, which would accelerate the permitting process for LNG facilities, mandate more oil and gas lease sales and support the export of LNG, passed the House of Representatives in March 2023.¹⁹

30. On April 23, 2023, the White House issued a Joint Statement on the U.S.-EU Task Force on Energy Security, reporting that the Task Force “has made major progress in meeting its goals to reduce the EU’s reliance on Russian energy, including by diversifying its natural gas supplies.” The statement notes that in the year since its formation, the “Task Force

¹⁷ European Commission Press Release IP/22/3131, REPowerEU: A Plan to Rapidly Reduce Dependence on Russian Fossil Fuels and Fast Forward the Green Transition (May 18, 2022), <https://bit.ly/38ZXHdI> (attached as Exhibit 12 for the Court’s convenience).

¹⁸ *See also* Lindsey McPherson & Benjamin J. Hulac, *House GOP’s energy bill hitting the floor amid market volatility*, ROLL CALL (Mar. 27, 2023), <https://tinyurl.com/ys3xzbcn> (attached as Exhibit 13 for the Court’s convenience).

¹⁹ Benjamin J. Hulac, *House passes GOP energy bill*, ROLL CALL (Mar. 30, 2023), <https://tinyurl.com/25vyspx9> (attached as Exhibit 14 for the Court’s convenience).

has discussed global LNG markets and market projections,” as well as “the regulatory environment and permitting outlook in the United States and the EU, [and] the development of U.S. LNG export capacities.” The statement touts the Task Force’s accomplishments over the past year, while also setting the Task Force’s priorities and goals over the course of 2023. According to the statement, “the Task Force will continue to focus on the energy market shocks and high energy prices caused by Putin’s war of aggression against Ukraine.” Specifically, the Task Force’s “priorities for 2023 will include: 1) continuous assessments of LNG markets and ensuring U.S. LNG deliveries to Europe of 50 bcm in 2023, 2) reduction of methane emissions, and 3) energy savings and efficiency measures.” With respect to domestic energy production, the Task Force “will continue to work on keeping a high level of U.S. LNG supplies to Europe in 2023 of at least 50 bcm[,]” which “is necessary given the challenging supply situation and the need to ensure storage filling for the next winter 2023-24.” The Task Force has also “facilitated engagement with the U.S. LNG industry” in support of the “EU Energy Platform,” the first “joint tender[] under the Aggregate EU, a new means of demand aggregation and joint purchasing,” in order to “attract U.S. LNG to Europe.” This work will continue into 2023.²⁰

31. On information and belief, Mr. Hochstein, and/or members of the Task Force, and/or the Task Force itself are currently engaging with representatives from the European Union and the oil and gas industry to encourage and/or facilitate engagement with and investment in United States natural gas infrastructure ostensibly to increase supply to the European Union.

²⁰ Press Release, White House, *supra* note 9 (Ex. 7). The first joint gas purchasing tender offered on the EU Energy Platform attracted bids from a total of twenty-five supplying companies equivalent to more than 13.4 bcm. News Announcement, Directorate-Gen. for Energy, European Comm’n, *EU Energy Platform: EU attracted over 13.4 bcm of gas in first joint gas purchasing tender* (May 16, 2023), <https://tinyurl.com/45sbn48z>.

C. The Freedom of Information Act

32. “The basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed.” *John Doe Agency v. John Doe Corp.*, 493 U.S. 146, 152 (1989) (citations omitted). FOIA was enacted to “permit access to official information long shielded unnecessarily from public view” by creating a “right to secure such information from possibly unwilling official hands.” *Dep’t of Air Force v. Rose*, 425 U.S. 352, 361 (1976) (citation omitted). “[D]isclosure, not secrecy, is the dominant objective of the Act.” *John Doe*, 493 U.S. at 152 (citation omitted).

33. Once an agency receives a request for records under FOIA, the agency must “determine within 20 [working] days . . . whether to comply with such request” and must “immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination.” 5 U.S.C. § 552(a)(6)(A)(i). When an agency makes a determination to comply with a FOIA request, the agency must make the records “promptly available,” 5 U.S.C. § 552(a)(3)(A), (6)(C)(i), “which . . . typically . . . mean[s] within days or a few weeks of a ‘determination,’ not months or years.” *Citizens for Responsibility & Ethics in Wash. v. Fed. Election Comm’n*, 711 F.3d 180, 188 (D.C. Cir. 2013); *see also Long v. IRS*, 693 F.2d 907, 910 (9th Cir. 1982) (holding that an agency’s unreasonable delay in disclosing nonexempt records violated FOIA, and “courts have a duty to prevent these abuses”).

34. FOIA also requires agencies to provide requestors “information about the status of [a request],” including “an estimated date on which the agency will complete action on the request.” 5 U.S.C. § 552(a)(7)(B)(ii).

35. FOIA requires agencies of the federal government to conduct a reasonable search for requested records and to release them to a requester, unless one of nine specific statutory exemptions applies to the requested information. 5 U.S.C. § 552(a)(3), (b). An agency must construe FOIA's nine enumerated exemptions "narrowly." *Milner v. Dep't of Navy*, 562 U.S. 562, 565 (2011). An agency can only withhold information in a responsive record "if the agency reasonably foresees that disclosure would harm an interest protected by an exemption described in [FOIA]" or "disclosure is prohibited by law." 5 U.S.C. § 552(a)(8)(A). The agency bears the burden of proving that it properly withheld records or portions of records under one of FOIA's enumerated exemptions. 5 U.S.C. § 552(a)(4)(B).

36. Relevant here, Exemption 6 requires allows agencies to withhold "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6). Exemption 6 only applies when (1) the requested information is a personnel, medical, or similar file; (2) there is a significant privacy interest at stake; and (3) the privacy interest outweighs the public interest in disclosure. *Am. Immigration Lawyers Ass'n v. Exec. Office for Immigration Rev.*, 830 F.3d 667, 673 (D.C. Cir. 2016).

37. FOIA requires federal agencies to release all non-exempt segregable information that is requested. *Id.* § 552(b).

38. FOIA allows requesters to seek expedited processing of requests "in cases in which the person requesting the record demonstrates a compelling need." 5 U.S.C. § 552(a)(6)(E). An agency must determine whether or not to grant a request for expedited processing "within [ten] days after the date of the request." *Id.* § 552(a)(6)(E)(ii)(I). "Agency action to deny . . . a request for expedited processing . . . shall be subject to judicial review." *Id.*

§ 552(a)(6)(E)(iii). An agency must provide some reasonable explanation for the denial of a request for expedited processing. *See, e.g., Citizens for Responsibility & Ethics in Wash. v. U.S. Dep't of Justice*, 436 F. Supp. 3d 354, 361 (D.D.C. 2020) (finding that where an agency “provided no explanation for its flat assertion” that a requester had not met the standards for expedited processing, the agency’s rejection of expedited processing “does not stand up to judicial review”).

39. FOIA defines “compelling need” to mean “with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(ii)(II). State Department regulations implementing FOIA likewise specify that requests “shall receive expedited processing when a requestor demonstrates that . . . [t]he information is urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal government activity.” 33 C.F.R. § 171.11(f)(2). As explained by the D.C. Circuit, three factors are pertinent to assessing whether there is an urgency to inform: “(1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity.” *Al-Fayed v. CIA*, 254 F.3d 300, 310 (D.C. Cir. 2001).

40. In “unusual circumstances,” an agency may extend FOIA’s standard deadline by an additional ten working days and, in these circumstances, must specify “the date on which a determination is expected to be dispatched.” 5 U.S.C. § 552(a)(6)(B)(i).

41. FOIA requires that an agency make a “determination” regarding a request within the statutory time period. 5 U.S.C. § 552(a)(6)(A). To constitute a determination, “the agency

must at least: (i) gather and review the documents; (ii) determine and communicate the scope of the documents it intends to produce and withhold, and the reasons for withholding any documents; and (iii) inform the requester that it can appeal whatever portion of the ‘determination’ is adverse.” *Citizens for Responsibility & Ethics in Wash.*, 711 F.3d at 188.

42. Where the agency issues a determination that is adverse to the requester, the requester may appeal the adverse determination to the agency within ninety days. 5 U.S.C. § 552(a)(6)(A). The agency must respond to any administrative appeal within twenty working days of its receipt of the appeal, unless “unusual circumstances” apply, in which case the agency may extend its response time by ten working days. *Id.* § 552(a)(6)(A)-(B).

43. FOIA generally requires the exhaustion of administrative remedies prior to filing suit in federal court. 5 U.S.C. § 552(a)(6). However, when an agency fails to respond to a FOIA request or administrative appeal within the statutory response period, a requester “shall be deemed to have exhausted his administrative remedies with respect to such request,” 5 U.S.C. § 552(a)(6)(C), and may therefore immediately seek judicial review in federal district court. *See, e.g., Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1310 (D.C. Cir. 2003) (“A requester is considered to have constructively exhausted administrative remedies and may seek judicial review immediately if . . . the agency fails to answer the request within twenty days.”); *Agolli v. Off. of Inspector Gen., U.S. Dep’t of Justice*, 125 F. Supp. 3d 274, 281 (D.D.C. 2015) (“Plaintiffs are considered to have constructively exhausted their remedies if the agency does not respond to a request within 20 business days (or 30 working days in unusual circumstances), or if the agency does not respond to an administrative appeal within 20 business days.”) (citing *Citizens for Responsibility & Ethics in Wash.*, 711 F.3d at 184; *Aftergood v. CIA*, 225 F. Supp. 2d 27, 29-30 (D.D.C. 2002); 5 U.S.C. § 552(a)(6)(A)(ii)).

44. Federal courts are authorized under FOIA “to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.” 5 U.S.C. § 552(a)(4)(B).

D. Friends of the Earth’s FOIA Request

45. Plaintiff Friends of the Earth has serious concerns that the State Department’s response to the energy crisis precipitated by the Russo-Ukrainian War and spearheaded by Mr. Hochstein until his reported departure from the agency, may be subject to undue influence by special interests, especially by fossil fuel industries. Demonstrating this concern, Friends of the Earth has published and disseminated fact sheets and reports highlighting the fossil fuel industry’s efforts to exploit the crisis in Ukraine for short-term gains. One such report, entitled *Big Oil’s Wartime Bonus*, highlights the fact that “[s]everal [major fossil fuel] companies have baldly touted their intention to profit off the war via increased drilling and exports,” and shows that in the leadup and aftermath of Russia’s invasion of Ukraine, the twenty largest US-based fossil fuel companies expanded share repurchase programs and boosted dividends, even as gas prices soar.²¹

46. Another Friends of the Earth report, entitled *All-American Oligarchs: The Big Oil CEOs Profiting From War In Ukraine*, explains that fossil fuel companies “are using the rapid spike in profit and personal wealth to cash out and pay off wealthy investors and insiders.” The report further explains that fossil fuel company “CEOs are billions of dollars richer than they were at the start of the Biden Administration, and have sold shares in their companies worth

²¹ Lukas Ross et al., *Big Oil’s Wartime Bonus* (Apr. 5, 2022), <https://bit.ly/3NBo9ZU> (included as Attachment K to Friends of the Earth’s FOIA request, which is attached as Exhibit 1 for the Court’s convenience).

millions of dollars in the weeks since the war.” The companies then “us[e] their windfall profits on share buybacks and dividends that further enrich their executives and shareholders.”²²

47. A recent report co-authored by Friends of the Earth, *Liquefied Natural Cash*, explained that “[f]ossil fuel executives are exploiting the Russian invasion of Ukraine to justify contracts that commit the United States to keep exporting LNG into the 2040s.” Research conducted for the report found that “the [fossil fuel] industry seized on the price volatility” in the wake of the war “to lock in 45 long-term contracts and contract expansions to send US-produced methane gas overseas,” which is “more than double the previous two years combined.” As explained, “[t]hese long-term supply contracts . . . make it possible to build new export terminals by guaranteeing annual delivery of millions of tons of gas for 20 years or more to overseas consumers.” However, despite “[a]n all-out lobbying and public relations blitz by Big Oil falsely present[ing] LNG expansion as necessary for Europe and beneficial to the climate,” the drive to expand domestic natural gas production “ignor[es] the perilous consequences for Americans,” including climate and environmental justice costs, higher consumer costs, and serious implications for Europe’s long-term energy security.²³ Of note, the report received coverage in the mainstream media, including a feature in the Guardian.²⁴

48. Exacerbating these concerns, in August 2021, the State Department appointed Mr. Hochstein, a former executive of an LNG company, to act on behalf of the United States to increase LNG exports to Europe. Mr. Hochstein’s work for the State Department on international

²² Friends of the Earth et al., *All-American Oligarchs: The Big Oil CEOs Profiting From War In Ukraine* (Mar. 10, 2022), <https://tinyurl.com/ypz9xdnc> (included as Attachment O to Friends of the Earth’s FOIA request, which is attached as Exhibit 1 for the Court’s convenience).

²³ See Friends of the Earth et al., *Liquefied Natural Crash*, *supra* note 13 (Ex. 10).

²⁴ Amy Westervelt, *supra* note 15 (Ex. 11).

energy policy continued in several capacities until his reported departure for a position at the White House in May 2023.

49. Meanwhile, the fossil fuel industry is calling unapologetically for a quadrupling of domestic LNG exports by 2030 as part of its “unleashing LNG” initiative, and on information and belief, is currently exploring ways to subsidize the expansion of natural gas production and transportation. For example, Friends of the Earth has previously reported on proposed policy changes that would allow the use of the United States’ Export-Import Bank to finance new LNG facilities. While the fossil fuel industry continues to press the Biden Administration, Congress, and even federal courts to endorse the construction of new LNG facilities, Mr. Hochstein is engaging in private meetings with members of the Task Force, his European Union counterparts, and representatives from the fossil fuel industry to develop and implement the United States’ response to the energy crisis. Hence, in light of his close ties to the fossil fuel industry, Mr. Hochstein’s role as a driver of the United States’ policy response to the energy crisis is a matter of significant and immediate public concern.

50. In light of Friends of the Earth’s well-founded concerns that the State Department’s actions regarding the Task Force and the energy crisis may be subject to undue influence from special interests associated with fossil fuel industries, Friends of the Earth submitted a FOIA request to the State Department on May 12, 2022. Friends of the Earth’s FOIA request sought records pertaining to the agency’s engagement with the European Union and the fossil fuel industry to, *inter alia*, discuss, facilitate, and/or promote the expansion of domestic natural gas extraction and infrastructure development in response to the energy crisis precipitated by the Russo-Ukrainian War, despite the impending climate crisis and the existence of viable sustainable alternatives—e.g., justly sourced renewables and increased energy efficiency—to

meeting energy demands. Specifically, Friends of the Earth requested “information concerning Amos Hochstein’s actions in his official capacity as the State Department’s Senior Advisor for Energy Security,” including:

- Any and all ethics forms, agreements, or documentation for Amos Hochstein, Senior Advisor for Energy Security, including but not limited to: ethics agreements; recusal agreements, lists, or other documentation; written waivers; regulatory exemptions; conflict of interest disclosures or other documentation; and disclosures of investments in and/or divestments from fossil fuel companies from August 10, 2021 through the date the records search is made for this request;
- Communications between Mr. Hochstein and the [State Department’s] Office of the Assistant Legal Advisor for Ethics and Financial Disclosure from August 10, 2021 through the date the records search is made for this request;
- Communications between Mr. Hochstein and members of and participants in the Task Force from March 25, 2022 through the date the records search is made for this request;
- All calendar entries from Mr. Hochstein’s official calendar from August 10, 2021 through the date the records search is made for this request, including but not limited to: calendar entry titles; dates; times; meeting locations; meeting attendees; and the meeting descriptions from the electronic calendar entries; and
- Any communications generated or received by Mr. Hochstein concerning the encouragement or facilitation of the expansion of domestic natural gas production and infrastructure from August 10, 2021 through the date the records search is made for this request.

51. Because the value of the requested information hinges on its timely release, Friends of the Earth’s FOIA request also included a detailed request for expedited processing supported by a sworn declaration from Plaintiff Lukas Ross, submitted on behalf of Plaintiff Friends of the Earth.

52. In its request for expedited processing, Friends of the Earth explained that it is primarily engaged in information dissemination. Friends of the Earth also explained that its request involved an urgency to inform the public about actual government activity. For instance, Friends of the Earth explained that the records requested concern the actions of a high-level

government official acting on behalf of the United States government to facilitate and encourage the expansion of an industry that much of the public considers to be a risk to public health and the environment. The public's concerns over the federal government's role in the expansion of the fossil fuel industry, as well as the undue influence that the fossil fuel industry may exercise over policymakers, is corroborated by the "[n]umerous newspaper articles concerning the European Union's dependence on Russian natural gas, the United States' efforts to reduce that dependence, the participation of a former industry executive in policy deliberations that could imminently benefit his former colleagues, and concerns over the expansion of fossil fuels at this critical point in the fight against climate change."²⁵ The records Friends of the Earth requests also "clearly pertain to matters that are 'the subject of a currently unfolding story,'" specifically, the United States' and Task Force's work to refine and implement Europe's plan for the ongoing energy crisis. Thus, because Friends of the Earth's request "implicates matters that are currently being debated and acted upon, the consequences of delaying any response are severe and prejudicial." Moreover, as Friends of the Earth explained,

If production of the requested records is unduly delayed, Friends of the Earth, the public at large, and Congress will be precluded from exercising meaningful oversight of [the State Department's] actions and activities responding to the crisis—and the extent to which those actions are influenced by special-interest groups—before the agency commits to a course of action that cannot easily be undone.

In other words, the nature of the United States' involvement in the Task Force—i.e., its support for potential contractual commitments, as well as new contractual mechanisms to support the export of certain quantities of fossil fuels—delimits the timeframe in which the requested information is valuable; the public should be permitted to scrutinize and voice objections to the

²⁵ Friends of the Earth included these news articles as attachments to its FOIA request, which is attached to this Complaint in its entirety as Exhibit 1 for the Court's convenience.

State Department's dealings *before* it binds the United States to a long-term and environmentally destructive course of action. Friends of the Earth concluded that "any delay in processing its request will compromise significant recognized interests in facilitating meaningful public debate regarding high-profile government action."

53. In a sworn declaration accompanying the FOIA request, Lukas Ross, Program Manager for the Climate and Energy Program at Friends of the Earth, provided additional detailed information in support of Friends of the Earth's request for expedited processing. For example, Mr. Lukas attested that its "primary objective" is "disseminating information relevant to environmental concerns." Indeed, "a key aspect of Friends of the Earth's recent work is investigation and publication of how the fossil fuel industry continues to benefit from the fossil fuel export boom that threatens our climate and puts our oceans at risk." Mr. Ross further explained that his "primary responsibility" in his role at Friends of the Earth "is to scrutinize government activity that may impact human health and the environment, and to disseminate information on those activities to the public." Mr. Ross also explained that he "compile[s] information obtained both from public sources and through FOIA requests, and use[s] [his] expertise and editorial skills to quickly synthesize the information, develop meaningful alerts, reports, fact sheets, infographics, editorials, press releases, and articles, and disseminate those products to Friends of the Earth's members and supporters, journalists and other members of the news media, policymakers, congressional offices, and the public at large."

54. Mr. Ross noted that he has "personally co-authored" several fact-sheets and reports that "highlight[] the risks presented by the fossil fuel industry's short-sighted attempts to use the current energy crisis to increase our dependence on natural gas precisely at the time it is imperative to stop using fossil fuels." Mr. Ross's reports have been shared with members of

Congress and their staff, Friends of the Earth's members and supporters, and journalists, as well as with the general public by posting them on Friends of the Earth's website. Some have even "received significant and widespread coverage in several national and international publications, which demonstrates both the significant public interest in the topic, and Friends of the Earth's recognized expertise in the subject."

55. As Mr. Ross explained, "Mr. Hochstein is working to encourage and facilitate the expansion of natural gas extraction and infrastructure. At the same time, the fossil fuel industry continues to pressure the Biden Administration and federal agencies to explore ways to subsidize new LNG facilities and infrastructure." However, because new natural gas export facilities and infrastructure will take years—if not decades—to construct, "expanding domestic natural gas production and exports" to address the immediate crisis will not have any impact on the immediate energy crisis and thus, "is short-sighted and makes little sense." Moreover, "the construction of new LNG facilities will increase greenhouse gas emissions, making it harder to stay below the 1.5-degree Celsius threshold scientists agree will avoid the worst climate impacts," thereby "deepen[ing] the climate crisis and increase[ing] the long-term risks posed by global warming." Mr. Ross pointed out that responding to the energy crisis by increasing natural gas production "is particularly untenable because several reports have outlined how Europe could get off Russian gas and meet its energy needs without fossil fuels."

56. Mr. Ross highlighted the fact that the State Department's "development and implementation of its policy responses to the energy crisis are occurring behind closed doors without any participation from the public or non-governmental organizations." Mr. Ross explained that "[w]ithout public input, [the State Department] risks basing its determination of whether to encourage and/or facilitate the expansion of domestic natural gas extraction and

infrastructure solely on the fossil fuel industry's interests and self-serving representations.”

Moreover, Mr. Ross noted the public's “significant interest in ensuring that public funds are not redirected towards propping up an industry that is environmentally destructive, particularly where sustainable pathways forward exist.”

57. Mr. Ross's declaration explained that “Friends of the Earth's FOIA request will provide information directly relevant to the ongoing public debate regarding the appropriate use of public programs and funds to benefit the fossil fuel industry.” He also attested that the information sought by Friends of the Earth's FOIA request will allow it “to quickly respond to the fossil fuel industry's lobbying efforts by disseminating information to its members, Congress, and the public at large to ensure that [the State Department] and the Task Force receives input from all stakeholders.”

58. Mr. Ross's declaration asserted that “[a]ny delay in processing Friends of the Earth's request will seriously compromise Friends of the Earth's and the public's interests in meaningfully participating in debates over such important and pressing issues as the appropriate use of federal programs and funds to facilitate the expansion of natural gas extraction and infrastructure, the government's support of an industry that has brought the world to the brink of climate catastrophe, and the outsized influence that industry lobbyists exercise over policymakers.” Mr. Ross further explained that “any delay in the processing of Friends of the Earth's request risks delivering information that is ultimately of limited utility.” As Mr. Ross detailed, “[o]nce financing” for natural gas facilities and LNG infrastructure “is secured and the long-term contracts are signed, there will be little the government or public can do to prevent the dangerous expansion of natural gas production.” Additionally, as Mr. Ross noted, in light of “mounting Congressional and public pressure on the Biden Administration to address rising

energy prices,” federal officials have a “a sense of urgency . . . to solve the crisis quickly (or at least, appear to be working to solve the crisis quickly), underscoring the importance of monitoring [the State Department’s] actions.” Thus, as Mr. Ross argued, “any delay in the processing of Friends of the Earth’s request would preclude Friends of the Earth, the public, and Congress’s access to information directly relevant to legislative proposals and negotiations regarding the fossil fuel industry’s exploitation of the Russo-Ukrainian War to its own benefit.” Mr. Ross concluded that “it is of paramount importance that Friends of the Earth, the public, and Congress understand how [the State Department] and Mr. Hochstein plan to exercise the United States’ authority and influence to address the energy crisis while there is still time for meaningful course correction.”²⁶

59. Although Friends of the Earth received confirmation via United States Postal Service certified mail tracking that the State Department received Friends of the Earth’s expedited FOIA request on May 16, 2022, Friends of the Earth did not receive any acknowledgment of its request for over a week.

60. On May 24, 2022, Mr. Ross left a voicemail message with the State Department’s FOIA office requesting confirmation that the agency had received Friends of the Earth’s FOIA request.

61. On May 24, 2022, the State Department emailed Friends of the Earth acknowledging that it had received Friends of the Earth’s FOIA request on May 17, 2022 and assigning it the tracking number F-2022-08430. In its email, the State Department denied Friends

²⁶ Friends of the Earth’s FOIA request included a well-substantiated request for a fee waiver, offering a detailed explanation as to why the disclosure of the requested information is “in the public interest because it is likely to contribute significantly to the public understanding of the operation or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).

of the Earth’s request for expedited processing. Without addressing any of the detailed explanations provided in Friends of the Earth’s FOIA request or in Mr. Ross’s declaration—and, in fact, totally ignoring the evidence supplied therein—the State Department asserted that “[y]our request does not demonstrate a ‘compelling need’ for the requested information.” The State Department’s May 24, 2022 email also informed Friends of the Earth that the agency would not comply with FOIA’s requirement to provide a determination within twenty working days. Instead, the State Department asserted that “unusual circumstances” applied to excuse its failure to comply with the statutory deadline, including “the need to search for and collect requested records from other Department offices or Foreign Service posts.”²⁷

62. Although FOIA explicitly requires that agencies claiming an extension of deadlines due to “unusual circumstances” must inform the requester of “the date on which a determination is expected to be dispatched,” 5 U.S.C. § 552(a)(6)(B)(i), the State Department failed to provide any such information. Instead, the State Department’s email stated that Friends of the Earth would have to contact the agency’s FOIA Requester Service Center or the FOIA Public Liaison to obtain “an estimated date of completion.”

63. On May 25, 2022, Friends of the Earth contacted the State Department’s FOIA Requester Service Center at the email address provided in the agency’s May 24, 2022 communication. In its email, Friends of the Earth reminded the State Department that “FOIA mandates fulfillment of requests within [twenty] working days, and provides a one-time extension of an additional [ten] working days in unusual circumstances,” and that in those circumstances, the agency “must specify “the date on which a determination is expected to be dispatched.” Without conceding the propriety of the State Department’s invocation of “unusual

²⁷ The State Department’s email granted Friends of the Earth’s request for a fee waiver.

circumstances,” Friends of the Earth “request[ed] that [the State Department] provide, at its earliest opportunity, an estimated date of completion,” which cannot be later than ten working days after the agency received Friends of the Earth’s FOIA request. Friends of the Earth also “express[ed] its strong disagreement with [the State Department’s] decision to deny its request for expedited processing.” Friends of the Earth did not receive a response to its email.

64. Faced with the State Department’s explicit—but unsubstantiated—unwillingness to expedite processing of FOE’s FOIA request and a brief and rapidly closing window of opportunity to exert meaningful oversight of the agency’s actions with respect to the Task Force and energy crisis, Friends of the Earth filed suit on May 31, 2022, to compel the State Department to grant FOE’s request for expedited processing, as required by FOIA.

65. On June 9, 2022, Friends of the Earth emailed government counsel to confer on a proposed schedule for a preliminary injunction motion. On June 10, 2022, Friends of the Earth conferred with government counsel via phone. Friends of the Earth reiterated the urgency of its FOIA request and its commitment to obtaining the requested information in a timely manner; however, Friends of the Earth also expressed its willingness to work out a mutually agreeable production schedule.

66. On June 13, 2022, only after Friends of the Earth filed the prior lawsuit, the State Department abruptly reversed course and granted Friends of the Earth’s request for expedited processing. The State Department explained that it “reconsidered [FOE’s] request for expedited processing based on the additional information provided since [FOE] submitted [its] request in [May] 2022, and [the agency] ha[s] determined that [FOE’s] request does meet the established criteria for expedited processing.” The State Department also informed Friends of the Earth that

it had “further determined to process [FOE’s] request, which is now in [the] ‘expedited’ queue, and to release any responsive, non-exempt records as soon as practicable.”

67. That same day, counsel for Friends of the Earth conferred with counsel for the State Department in the interest of expediting the search for and disclosure of the important records. Relevant here, to reduce the burden on the State Department, Friends of the Earth offered to provide a list of initial search terms to assist the agency in fulfilling request subpart 5 of the request: “communications generated or received by Mr. Hochstein concerning the encouragement or facilitation of the expansion of domestic natural gas production and infrastructure.”

68. In subsequent discussions with counsel for the State Department, Friends of the Earth offered further clarification of subpart 5 of its request by providing additional context for the request and proposing an initial, non-exhaustive list of search terms to assist State Department in fulfilling the request. However, the State Department rejected Friends of the Earth’s list of proposed search terms in its entirety.

69. On June 28, 2022, the State Department informed Friends of the Earth that the agency “denies [subpart 5] as currently written because it does not reasonably describe the records sought.” The State Department insisted that “[a] request must reasonably describe the Department records that are sought to enable personnel to begin a search for responsive records.” The agency explained that “[s]uch details may include the subject, timeframe, names of any individuals involved, a contract number (if applicable), and reasons why the requester believes the Department may have records regarding the subject of the request.” The State Department did not offer any meaningful explanation for why Friends of the Earth’s request failed to meet this standard. The State Department’s June 28, 2022 partial denial also addressed subpart 1 of

Friends of the Earth's FOIA request, which sought, *inter alia*, ethics forms for Mr. Hochstein. The agency informed Friends of the Earth of its right to administratively appeal the State Department's partial determination. Additionally, the State Department informed Friends of the Earth that "processing of the remaining [] subparts of your request [i.e., subparts 2-4] remains ongoing."²⁸

70. On August 12, 2022, Friends of the Earth appealed the State Department's June 28, 2022 partial denial with respect to subpart 5 of its FOIA request, explaining that subpart 5 reasonably described the records sought. In any event, in an effort to assist the State Department in processing its FOIA request, Friends of the Earth provided additional context for its request, as well as a non-exhaustive list of suggested search terms.

71. Also on August 12, 2022, the State Department informed Friends of the Earth that the agency conducted a search for "potentially responsive records" to subpart 3 of Friends of the Earth's request, which sought "[c]ommunications between Mr. Hochstein and members of and participants in the Task Force." The State Department reported its determination that "two records, responsive to subpart three of your request are exempt from disclosure in their entirety pursuant to [Exemption 6], which concerns material the release of which would constitute a clearly unwarranted invasion of an individual's personal privacy." The State Department did not offer any meaningful explanation for why the two records at issue fell under the claimed FOIA exemption.²⁹

²⁸ With respect to subpart 1 of Friends of the Earth's FOIA request, the State Department's June 28, 2022 partial determination informed Friends of the Earth that "to request the production of financial disclosure reports, you must submit an OGE Form 201 Request to Inspect to the State Department's ethics office."

²⁹ The State Department's August 12, 2022 partial denial of Friends of the Earth's FOIA request is attached as Exhibit 15 for the Court's convenience.

72. The State Department's August 12, 2022 partial denial also addressed subparts 2 and 4 of Friends of the Earth's FOIA request, which sought, inter alia, communications between Mr. Hochstein and the State Department's Office for the Assistant Legal Advisor for Ethics and Financial Disclosure, and calendar entries from Mr. Hochstein's official calendar, respectively. The State Department informed Friends of the Earth that it had conducted a search for records responsive to both subparts and identified four records responsive to subpart 2 appropriate for partial disclosure. Additionally, the State Department informed Friends of the Earth that it "continue[s] to process" subparts 2-4 of Friends of the Earth's request.

73. On September 23, 2022, the State Department informed Friends of the Earth that it was continuing to process the FOIA request. The State Department noted that it had conducted a search for "potentially responsive records" to subpart 2 of Friends of the Earth's request, which sought "[c]ommunications between Mr. Hochstein and the DOS's Office of the Assistant Legal Advisor for Ethics and Financial Disclosure . . . from August 10, 2021, through the date the records search is made for this request." The State Department reported that it had located responsive records and determined that those records were "appropriate for release in part pursuant to" Exemption 5, which concerns material regarding interagency or intra-agency communications forming part of the deliberative process, attorney-client privilege, or attorney work-product, and Exemption 6. According to the State Department's September 23, 2022 partial determination, the processing of subpart 2 of the request was concluded. Thus, the State Department has issued a final determination as to subpart 2 of Friends of the Earth's request.

74. On September 28, 2022, the State Department informed Friends of the Earth that the agency had received the organization's August 12, 2022 appeal of the State Department's June 28, 2022 partial denial of subpart 5 of the FOIA request in which the State Department had

determined that the request for “any communications generated or received by Mr. Hochstein concerning the encouragement or facilitation of the expansion of domestic natural gas production and infrastructure” was invalid. The State Department assigned Friends of the Earth’s August 12, 2022 appeal the tracking number A-2022-00372.

75. On October 6, 2022, the State Department informed Friends of the Earth that it had granted the organization’s August 12, 2022 appeal of the agency’s June 28, 2022 partial denial of subpart 5 in its entirety, stating that it was “remanding [the] request for further processing.” Because “this [was] the action sought by [the] appeal,” the Department “closed the appeal.” Friends of the Earth has not received any further communication regarding the State Department’s processing of subpart 5.

76. On November 4, 2022, the State Department informed Friends of the Earth that the agency “has continued to review and process records responsive to your request, but as of today’s date these records are not yet ready for production.” The State Department additionally stated that it “will continue to process your request and keep you apprised of its progress.”

77. On November 9, 2022, Friends of the Earth appealed the State Department’s August 12, 2022 partial denial of subpart 3 of its FOIA request pursuant to Exemption 6. Friends of the Earth explained that the State Department’s Exemption 6 withholdings were overbroad, vague, and fail to provide segregable records in response to Friends of the Earth’s FOIA request. Moreover, Friends of the Earth reminded the State Department of the agency’s statutory duty to disclose responsive records expeditiously. At that time, nearly five months had passed since Friends of the Earth’s request had been granted expedited processing. Friends of the Earth thus explained that, absent any evidence that it was impracticable to process Friends of the Earth’s

request promptly, such a delay was patently unreasonable. Friends of the Earth concluded that any continued delay in processing its expedited request would be unlawful.³⁰

78. On November 17, 2022, the State Department informed Friends of the Earth by letter that the agency had received the organization's November 9, 2022 appeal of the State Department's August 12, 2022 partial denial, and assigned the appeal tracking number A-2023-00036.

79. On December 16, 2022, the State Department informed Friends of the Earth that the agency was continuing to process the organization's FOIA request. The Department explained that it had located "pages responsive to subpart four (Mr. Hochstein's calendar) of your request subject to the FOIA" and "determined that all [responsive] pages are appropriate for release in part," subject to partial withholdings pursuant to Exemption 5 and Exemption 6. The State Department informed Friends of the Earth that it "will continue to process [the] request and keep [the organization] apprised of its progress."

80. By letters dated January 27, 2023 and March 10, 2023, the State Department informed Friends of the Earth that the agency was continuing to process the organization's FOIA request. The Department explained that "[s]ince the date of our last correspondence, [it] has continued to review and process records responsive to your request, but as of today's date these records are not yet ready for production." The agency further stated that it would "continue to process [the] request and keep [the organization] apprised of its progress."

81. On April 3, 2023, frustrated with the State Department's continued delay in processing its FOIA request, Friends of the Earth sent a letter to the State Department reminding

³⁰ Friends of the Earth's November 9, 2023 administrative appeal is attached as Exhibit 16 for the Court's convenience

the agency of its obligations with respect to expedited FOIA requests. Specifically, Friends of the Earth reminded the State Department that Because Friends of the Earth’s request was granted expedited processing, it should have been moved to “the front of the agency’s queue” and processed “as soon as practicable.” *Leadership Conf. on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 259-60 (D.D.C. 2005) (internal quotation omitted). Yet, as Friends of the Earth explained in its letter, since the agency moved Friends of the Earth’s FOIA request to the front of the line, the State Department has failed to provide even an estimate of the number of records it has identified as potentially responsive to the FOIA request. Nor has the agency provided a production schedule for responsive records, much less an estimated date of completion.

82. Meanwhile, as the State Department delays processing Friends of the Earth’s FOIA request, the impacts of Russia’s actions and threats continue to reverberate through the global economy, and the conflict has only escalated since Friends of the Earth submitted its FOIA request and appeals. Mr. Hochstein and the State Department are reportedly working to encourage and facilitate the financing of new LNG export infrastructure, and the Task Force is moving quickly to develop and implement plans to respond to the rapidly evolving situation in Europe. To that end, experts have stated that “2022 will definitely go down as an inflection point in the history of energy markets.”³¹

83. Given this volatile and rapidly evolving climate, any additional delay in processing Friends of the Earth’s FOIA request risks delivering information that is stale and thus “of little value” to Friends of the Earth’s efforts to inform its members, Congress, and the public of matters of extreme public importance and concern. *See Payne Enters., Inc.*, 837 F.2d at 494

³¹ Benjamin J. Hulac, *War in Ukraine has reshaped global energy markets*, ROLL CALL (Feb. 23, 2023), <https://tinyurl.com/ygy28zzf> (attached as Exhibit 17 for the Court’s convenience).

("[S]tale information is of little value."); *see also Prot. Democracy Proj. Inc. v. U.S. Dep't of Def.*, 263 F. Supp. 3d 293, 299 (D.D.C. 2017) (finding that a delay in processing FOIA request would compromise a significant recognized interest where the information sought was highly relevant to ongoing debates regarding "high profile government action"). Accordingly, to facilitate the prompt disclosure of responsive records consistent with FOIA's provisions regarding expedited requests, Friends of the Earth requested that by May 3, 2023, the State Department:

- Provide an estimate of the total number of records that are responsive to Friends of the Earth's expedited FOIA request; and
- Propose a processing schedule that would produce the documents within a reasonable amount of time, especially in light of the important fact that the agency has already prioritized this FOIA request by expediting it to the front of its search and disclosure queue.³²

84. By email dated April 5, 2023, the State Department confirmed receipt of Friends of the Earth's April 3, 2023 letter. However, as of the filing of this Complaint, the State Department has not responded to the letter.

85. On April 21, 2023, the State Department informed Friends of the Earth that it has located records "responsive to subpart [4] of [the] request subject to FOIA" and determined that, while a few of the records were "appropriate for release in full," the majority of the identified records were appropriate for release in part," subject to partial withholdings pursuant to Exemption 5 and Exemption 6. The State Department insisted that, "[w]here applicable," the agency had "considered the foreseeable harm standard when reviewing these records and

³² Friends of the Earth's April 3, 2023 letter is attached as Exhibit 18 for the Court's convenience.

applying FOIA exemptions.” The agency informed Friends of the Earth that it “will continue to process [the] request and keep [the organization] apprised of its progress.”

86. On June 2, 2023, the State Department informed Friends of the Earth that it has located records “responsive to subpart [4] of [the] request” and determined that, while a few of the records were “appropriate for release in full,” the majority of the identified records were appropriate for release in part,” subject to partial withholdings pursuant to Exemption 1, which “protects information that is properly classified in the interest of national security,” Exemption 5, and Exemption 6. The State Department insisted that, “[w]here applicable,” the agency had “considered the foreseeable harm standard when reviewing these records and applying FOIA exemptions.” The agency informed Friends of the Earth that it “will continue to process [the] request and keep [the organization] apprised of its progress.”

87. Since June 13, 2022, the date Friends of the Earth’s FOIA request was granted expedited processing, the State Department has located and reviewed 304 records for potential disclosure. Of those 304 records that have been identified as responsive to Friends of the Earth’s FOIA request, the State Department has fully or partially disclosed 302. In other words, over the twelve months since the agency moved Friends of the Earth’s FOIA request to the front of the line, it has processed an average of 25.33 records per month.

88. The information sought by Friends of the Earth’s request is highly relevant to the ongoing public debate surrounding the future of energy production in light of the worsening climate crisis. For example, the final communique issued at the conclusion of the recent Group of Seven conference of the world’s wealthiest nations—which was negotiated and endorsed by the United States—expressly supports “increased deliveries of LNG” to counter Russian gas production, as well as new support for the public financing of gas infrastructure. Mr. Hochstein

was among a list of US officials involved in the negotiations. The ability of Congress and the public to exercise oversight of the State Department's activities at the G7 meeting, including the negotiation of the language of the final communique, was stymied by the secrecy and lack of transparency surrounding the relationships between federal officials and the fossil fuel industry—information that is contained in the records sought by the FOIA request at issue. On information and belief, to achieve the Biden Administration's stated goals on energy security, Mr. Hochstein and the Task Force continue to work to encourage and facilitate the expansion of the domestic natural gas industry and infrastructure. Several proposed facilities have received regulatory approval and are awaiting financing, while still more facilities are currently undergoing federal permitting review. As explained, once a facility secures sufficient financing and contract purchase agreements, the proverbial writing is on the wall; the facility will be built and its emissions over the next several decades will exacerbate the climate crisis.

89. Over the twelve months since Friends of the Earth was granted expedited processing for its request regarding Mr. Hochstein and the Task Force's activities with respect to the fossil fuel industry, two LNG facilities received final investment decisions and are therefore locked in; the public has lost its ability to meaningfully influence the decisionmaking process. However, at least two more facilities are slated for final investment decisions in 2023, meaning that there may still be time to exercise meaningful oversight over the State Department's activities in this space.³³ Moreover, Congress is currently considering legislation to facilitate the expansion of natural gas production and export in the United States. Permitting reform for LNG facilities and infrastructure—specifically, the elimination of permitting requirements—is

³³ Scott Disavino, *U.S. LNG producers poised to leapfrog rivals with three new projects*, REUTERS (Feb. 16, 2023), <https://tinyurl.com/y4whfbyc> (attached as Exhibit 19 for the Court's convenience).

considered a top priority for Republicans, and Congressional Democrats have suggested a willingness to seek bipartisan compromise on permitting during this Congressional session.³⁴ Thus, to participate in the ongoing debate surrounding decisions and policies of such high national and global consequence as federal support and/or facilitation of an industry that is a major contributor to greenhouse gas emissions—and the extent to which such support is influenced by special interest groups—it is essential that Friends of the Earth obtain the requested information as soon as possible. Any additional delay risks further compromising the significant recognized interests in facilitating meaningful public debate regarding high-profile government action.

90. As of the filing of this Complaint, Friends of the Earth has not received any response to its November 9, 2022 appeal of the State Department’s August 12, 2022 partial denial of its FOIA request pursuant to Exemption 6. More than twenty working days have elapsed since the date the State Department received the organization’s appeal.

91. As of the filing of this Complaint, the State Department has consistently failed to provide any reasoning supporting its partial determinations or its invocation of the FOIA exemptions to withhold responsive material.

92. As of the filing of this Complaint, the State Department has not issued a final determination as to subparts 3, 4, and 5 of Friends of the Earth’s expedited FOIA request. The State Department has not provided Friends of the Earth with any information regarding the full scope of documents the agency plans to produce in response to all subparts of the request, nor has the State Department provided any information regarding the full scope of documents that the agency plans to withhold under any FOIA exemptions.

³⁴ See Benjamin J. Hulac, *House passes GOP energy bill*, *supra* note 19 (Ex. 14).

93. As of the filing of this Complaint, the State Department has failed to provide an estimated date of completion for all subparts of the request. More than thirty working days have elapsed since the State Department received Friends of the Earth's FOIA request.

94. As of the filing of this Complaint, the State Department has not offered any explanation as to why it is unable to comply with FOIA's statutory deadlines. Nor has the agency offered any explanation as to how the average production of fewer than thirty responsive records per month over the course of a year is reasonable considering Friends of the Earth's demonstrated "compelling need" for the requested information.

PLAINTIFFS' CLAIMS FOR RELIEF

95. Plaintiffs incorporate all above paragraphs by reference herein.

96. By failing to issue a final determination regarding Plaintiffs' expedited FOIA request within the statutorily mandated timeframe, the State Department is in violation of FOIA, 5 U.S.C. § 552(a)(6).

97. By failing to make reasonable efforts to search for records responsive to Plaintiffs' expedited request, the State Department is in violation of FOIA, 5 U.S.C. § 552(a)(3).

98. By failing to provide Plaintiffs all nonexempt information that they have requested under FOIA, the State Department is in violation of FOIA, including but not limited to 5 U.S.C. § 552(a)(3), (b).

99. By failing to disclose and produce records responsive to Plaintiffs' expedited request without a legal basis for withholding such records, the State Department is in violation of FOIA, including but not limited to 5 U.S.C. § 552(a)(3)(A), (4), (6)(A).

100. By failing to process Plaintiffs' expedited FOIA request as soon as practicable, and instead unreasonably delaying production of the requested records, the State Department is in violation of FOIA, including but not limited to 5 U.S.C. § 552(a)(6)(E).

101. By failing to provide any justification or explanation for the agency's year-long delay in processing, issuing a final determination on, and disclosing records responsive to Plaintiffs' expedited FOIA request, the State Department is in violation of FOIA, including but not limited to 5 U.S.C. § 552(a)(4), (6).

102. By failing to provide any explanation as to why processing Plaintiffs' expedited FOIA request within the statutorily mandated timeframe is impracticable, the State Department is in violation of FOIA, including but not limited to 5 U.S.C. § 552(a)(4), (6).

103. By failing to respond to Plaintiffs' November 9, 2022 administrative appeal of the State Department's August 12, 2022 partial denial of its expedited FOIA request within the statutorily mandated timeframe, the State Department is in violation of FOIA, 5 U.S.C. § 552(a)(6).

104. By improperly withholding nonexempt information responsive to Plaintiffs' expedited FOIA request pursuant to Exemption 6, the State Department is in violation of FOIA, including but not limited to 5 U.S.C. § 552(a)(3), (b).

105. By failing to carry the burden of establishing that records responsive to Plaintiffs' expedited FOIA request are exempt from disclosure in whole or in part pursuant to Exemption 6, the State Department is in violation of FOIA, including but not limited to 5 U.S.C. § 552(a)(3), (a)(4), (b).

106. Plaintiffs have a right to obtain the requested information, and the State Department has no lawful basis for withholding it.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Declare that the State Department is in violation of FOIA;
2. Declare that the State Department's failure to timely respond and disclose records responsive to Plaintiffs' expedited FOIA request was unlawful;
3. Declare that the State Department's failure to timely respond to Plaintiffs' November 9, 2022 administrative appeal of the State Department's August 12, 2022 partial denial of its expedited FOIA request was unlawful;
4. Declare that the State Department improperly withheld nonexempt information, including information that was the subject of Plaintiffs' November 9, 2022 administrative appeal;
5. Enjoin the State Department from withholding responsive information to Plaintiffs' expedited FOIA request;
6. Enjoin the State Department from improperly withholding nonexempt information responsive to Plaintiffs' expedited FOIA request under Exemption 6;
7. Order the State Department to immediately issue a final determination on Plaintiffs' expedited FOIA request;
8. Order the State Department to promptly process and release all nonexempt information responsive to Plaintiffs' expedited FOIA request;
9. Award Plaintiffs their costs and attorneys' fees; and
10. Award Plaintiffs such other and further relief as the Court may deem just and proper.

Respectfully submitted,

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