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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
TUCSON DIVISION

Center for Biological Diversity,
Plaintiff,

v.

United States Environmental Protection
Agency,
Defendant.

Civil Action No.:

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

INTRODUCTION

1. From April 15, 2025, to March 23, 2026, Plaintiff Center for Biological Diversity (“Center”) has submitted ten specific and narrow requests for records pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), to Defendant U.S. Environmental Protection Agency (“EPA”). The requests seek records containing one keyword, “dicamba,” solely contained in communications involving two 2025 political appointees to EPA’s Office of Chemical Safety and Pollution Prevention: Nancy Beck,

1 Principal Deputy Assistant Administrator, and Kyle Kunkler, Deputy Assistant
2 Administrator.

3 2. In violation of FOIA, EPA has improperly withheld agency records by
4 failing to promptly produce records responsive to the Center's requests according to
5 FOIA's disclosure mandate and timeframes. Instead, without lawful basis to withhold
6 responsive records, EPA has repeatedly asserted that there are "unusual circumstances" in
7 boilerplate letters that have caused delays in production of records to the Center. In
8 addition, productions of responsive records have been delayed by numerous levels of
9 review, including "equity" review by EPA's Office of the Administrator and, in one case,
10 the White House. EPA has produced responsive records and made final determinations
11 for three of the Center's requests after significant delays ranging from nearly five months
12 to a year. The remaining seven requests are outstanding with delays of one year, ninth
13 months (2 requests) seven months (two requests), six months, and over five months.

14 3. Accordingly, the Center seeks (1) declaratory relief establishing that EPA
15 violated FOIA for each FOIA request at issue; and (2) injunctive relief ordering EPA to
16 promptly release all requested records and information, including all reasonably
17 segregable portions of any lawfully exempt records, by a date certain, among other relief.

18 **JURISDICTION AND VENUE**

19 4. Jurisdiction over this action is conferred by FOIA, 5 U.S.C. § 552(a)(4)(B),
20 because EPA has failed to comply with FOIA's statutory time limits for responding to the
21 Center's requests, and the Center is therefore deemed to have exhausted its administrative
22 remedies. 5 U.S.C. § 552(a)(6)(C)(i).

23 5. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) because
24 the Center has its principal place of business in this judicial district.

25 6. Assignment of this case to the Tucson Division is appropriate because the
26 Center has its principal place of business in Pima County. Local Rule 77.1(a), (c).

27 7. Declaratory relief is appropriate under 5 U.S.C. § 552(a)(4)(B) and 28
28 U.S.C. § 2201.

8. Injunctive relief is appropriate under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 2202.

PARTIES

9. Plaintiff CENTER FOR BIOLOGICAL DIVERSITY (“Center”) is the submitter of the requests for the records at issue. The Center is a national, non-profit conservation organization with offices throughout the United States and its headquarters in Tucson, Arizona.

10. The Center works through science, law, policy, and creative media to maintain and increase protections for air and water; plants, animals, and their native habitats; a livable climate; public lands; and healthy communities. The Center has over 1 million members and online activists.

11. The Center's Environmental Health Program works to protect biodiversity and human health from toxic substances, including, specifically, the pesticide dicamba, while promoting a deep understanding of the inextricable connection between the health of humans and all other species.

12. EPA’s refusal to process the Center’s FOIA requests as required by FOIA deprives the Center of timely access to information concerning the involvement of two political appointees in EPA decisions related to the pesticide dicamba, including whether those decisions are subject to undue influence by the appointees’ former employers—the American Chemistry Council (Beck) and the American Soybean Association (Kunkler)—or other pesticide-aligned entities.

13. Having this information would inform the Center—and allow the Center to inform its members and the public—about this undue influence that will impact plants, wildlife, people and their farms, orchards, and backyard gardens around the United States that are likely to experience damage from EPA’s further approval of uses of dicamba.

14. EPA's failure to comply with FOIA also harms the Center's ability to provide full, accurate, and current information to the public and its members on a matter of public interest. Absent this information, the Center cannot fully advance its mission to

1 protect air and water, wildlife and nature, public lands, the climate, and vulnerable
2 communities.

3 15. The Center's activities and its interests in the information are adversely
4 affected by EPA's failure to promptly disclose all requested records. This injury will be
5 redressed if the Court orders EPA to disclose all requested records.

6 16. Defendant UNITED STATES ENVIRONMENTAL PROTECTION
7 AGENCY is a federal agency tasked with protecting human health and the environment.
8 EPA administers the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"),
9 which authorizes EPA to register pesticides only upon determining that they "will not
10 generally cause unreasonable adverse effects on the environment," defined as "any
11 unreasonable risk to man or the environment." 7 U.S.C. §§ 136a(c)(5), 136(bb). EPA is a
12 federal governmental agency within the meaning of FOIA and is in possession and
13 control of records responsive to the Center's FOIA request and, as such, it is subject to
14 FOIA pursuant to 5 U.S.C. § 552(f) and is responsible for fulfilling the Center's FOIA
15 request.

16 **STATUTORY BACKGROUND**

17 17. FOIA's primary purpose is to improve government transparency and
18 accountability by requiring the disclosure of agency records and information. It
19 establishes the public's right to access all federal agency records, 5 U.S.C. § 552(a),
20 unless one or more narrow statutory exemptions apply, *id.* § 552(b). An agency shall
21 withhold information "only if" the agency "reasonably foresees that disclosure would
22 harm an interest protected by an exemption" or disclosure is prohibited by law. *Id.* §
23 552(a)(8)(A)(i).

24 18. Recognizing that the timely disclosure of requested records is essential to
25 fulfilling its purpose, FOIA includes a disclosure mandate which requires federal
26 agencies to promptly disclose all agency records that are requested in accordance with
27 FOIA. *Id.* § 552(a)(3)(A), (a)(6)(C)(i).

1 19. Within 20 working days of receiving a request, an agency must: (1)
2 “determine” if it will release the requested records; and (2) notify the requester of (a) its
3 determination and reasons for it, (b) the right to seek assistance from the FOIA Public
4 Liaison, and (c) the right to appeal an adverse determination. *Id.* § 552(a)(6)(A)(i).

5 20. To make the statutorily required determination, the agency must at least: (i)
6 gather and review the documents; (ii) determine and communicate the scope of the
7 documents it intends to produce and withhold, and the reasons for withholding any
8 documents; and (iii) inform the requester that it can appeal whatever portion of the
9 determination is adverse.

10 21. In “unusual circumstances,” an agency may extend the time to make a
11 determination by *no more than* 10 additional working days, but it must provide written
12 notice to the requester setting forth the unusual circumstances for the extension and “the
13 date on which a determination is expected to be dispatched.” *Id.* § 552(a)(6)(B)(i); 40
14 C.F.R. § 2.104(f)(1). “Unusual circumstances” are limited to (1) the need to search for
15 and collect responsive records from field facilities or other establishments separate from
16 the office processing the request; (2) the need to search for, collect, and appropriately
17 examine a voluminous amount of separate and distinct records; or (3) the need for
18 consultation with another agency or among multiple components of the agency having a
19 substantial interest in the determination of the request. *Id.* § 552(a)(6)(B)(iii).

20 22. If the agency fails to comply with the applicable time limit, any person
21 making a request for records “shall be deemed to have exhausted” administrative
22 remedies for that request. *Id.* § 552(a)(6)(C)(i).

23 23. If the agency provides written notice that the request cannot be processed
24 within the specified time limit, the agency shall provide “an opportunity to limit the
25 scope of the request so that it may be processed within” the statutory time limit or “an
26 opportunity to arrange with the agency an alternative time frame for processing the
27 request or a modified request,” and the agency shall “make available its FOIA Public
28

1 Liaison” to “assist in the resolution of any disputes between the requester and the
2 agency.” 5 U.S.C. § 552(a)(6)(B)(ii).

3 24. FOIA requires each agency to make reasonable efforts to search for records
4 in a manner that is reasonably calculated to locate records that are responsive to the FOIA
5 request. *Id.* § 552(a)(3)(C)–(D).

6 25. In certain limited instances, records may be withheld pursuant to nine
7 specific exemptions. *Id.* § 552(b). However, the agency may only withhold records if it
8 “reasonably foresees that disclosure would harm an interest protected by an exemption . .
9 . .” *Id.* § 552(a)(8)(A)(i). The exemptions must be narrowly construed in light of FOIA’s
10 dominant objective of disclosure, not secrecy. Even where records may be exempt from
11 disclosure, FOIA requires agencies to disclose reasonably segregable portions of those
12 records. *Id.* § 552(b).

13 26. An agency bears the burden of proof if it claims any exemption applies to
14 withhold responsive documents. *Id.* § 552(a)(4)(B).

15 27. FOIA requires agencies to make a final determination on a request for
16 records within the timeframes prescribed by statute. The statute does not authorize
17 agencies to satisfy this obligation by providing interim or partial responses in lieu of a
18 final determination. Although FOIA permits limited extensions of the determination
19 deadline in certain circumstances, *see id.* § 552(a)(6)(B)(i), agencies may disclose
20 responsive, non-exempt records on a rolling basis as such records become available.

21 28. Upon request, FOIA requires agencies to provide an “estimated date of
22 completion” to FOIA requesters which informs them of an estimated date when the
23 agency will complete action on their request. *Id.* § 552(a)(7)(B).

24 29. Under FOIA, an agency must determine within 20 working days whether to
25 comply with a request and notify the requester of its determination and of the right to
26 appeal any adverse determination to the head of the agency. 5 U.S.C. § 552(a)(6)(A)(i).
27 The agency must make a determination on any administrative appeal within 20 working
28 days. *Id.* § 552(a)(6)(A)(ii). If the agency fails to respond to an appeal within 20 working

1 days, the requester is deemed to have exhausted their administrative remedies and may
2 seek judicial review. *Id.* § 552(a)(6)(C)(i).

3 30. FOIA provides this Court jurisdiction “to enjoin the agency from
4 withholding agency records and to order the production of any agency records improperly
5 withheld from the complainant.” *Id.* § 552(a)(4)(B).

6 **STATEMENT OF FACTS**

7 **First Beck Request**

8 31. On April 15, 2025, the Center submitted to EPA a FOIA request for records
9 dated from January 1, 2025, to the date EPA conducts the relevant search, seeking: “the
10 records of communications involving Nancy Beck that include the keyword ‘dicamba.’”

11 32. EPA assigned this request tracking number 2025-EPA-05318.
12 On May 12, 2025, EPA informed the Center that it needed an extension of time citing the
13 following “unusual circumstances”: “Given the scope of the request, EPA anticipates that
14 the response will require a significant amount of EPA resources and time to collect and
15 appropriately examine the requested records from EPA offices that are separate from the
16 office processing the request.” EPA estimated that it would be able to complete this
17 request by September 12, 2025, more than five months after receiving it.

18 33. On the same day, May 12, the Center responded to EPA that the request
19 does not meet the criteria for an extension based on unusual circumstances under FOIA 5
20 U.S.C. § 552(a)(6)(B)(iii). The Center explained that the request involves
21 communications with one keyword, dicamba, to or from a single employee, Nancy Beck,
22 who works in a single office, during a limited timeframe. For these same reasons, the
23 Center explained that there was no reasonable way to narrow or modify the request and
24 asked EPA to provide relevant records to the Center immediately and on a rolling basis.

25 34. On September 5, 2025, nearly five months after the Center submitted this
26 request, EPA informed the Center there were 29 responsive records, released 19 records
27 in full, released 10 records in part, and withheld 3 records. The released records totaled
28 81 pages.

First Kunkler Request

35. On July 29, 2025, the Center submitted to EPA a FOIA request for records dated from June 1, 2025, to the date EPA conducts the relevant search, seeking: “the records of communications involving Kyle Kunkler that include the keyword ‘dicamba.’”

36. EPA assigned this request tracking number 2025-EPA-07893.

37. On August 27, 2025, EPA informed the Center that it needed an extension of time citing the following “unusual circumstances”:

Given the scope of the request, EPA anticipates that the response will require a significant amount of EPA resources and time (1) to appropriately examine the voluminous amount of records to complete this request; and/or (2) for consultation with another agency having a substantial interest in the determination of the request.

EPA estimated that it would be able to complete this request by February 23, 2026, about seven months after receiving it.

38. On September 8, 2025, the Center responded to EPA’s unusual circumstances letter, that the request does not meet the criteria for an extension based on unusual circumstances under FOIA 5 U.S.C. § 552(a)(6)(B)(iii). The Center explained that the request involves communications with one keyword, dicamba, to or from a single employee, Kyle Kunkler, who works in a single office, during a limited timeframe. For these same reasons, the Center explained that there was no reasonable way to narrow or modify the request and asked EPA to provide relevant records to the Center immediately and on a rolling basis.

39. On February 17, 2026, over six months since the Center submitted this request, EPA issued a Final Determination Letter releasing 156 records (117 in full, 39 in part, and withholding 18 in their entirety) pursuant to FOIA Exemptions 5 and 6. The released records totaled 383 pages.

40. On March 9, 2026, the Center timely appealed EPA’s determination, challenging the adequacy of EPA’s search, its withholdings under Exemption 5, and its failure to reasonably segregate non-exempt information. EPA assigned the appeal tracking number 2026-EPA-03380.

41. On April 1, 2026, EPA Office of General Counsel (OGC) granted the administrative appeal, in part, finding that “the execution of the search was partially deficient” because some emails and attachments were “erroneously determined to be not responsive to the request.” The appeal determination stated that the Office of Chemical Safety and Pollution Prevention (OCSPP) would contact the Center within ten business days (April 15, 2026) with an estimated time for completion.

42. On May 7, 2026, the Center requested a status update of time for completion of the remand to which EPA responded it slipped through the cracks and will provide an update the following week. On May 18, 2026, the Center again asked for a status update. On May 19, 2026, EPA responded that it was “on track to complete first level review this week,” then “the records will go to our second level review, then continue through our internal process to final production and release.

43. On August 3, 2026, the Center requested a status update. On August 11, 2026, EPA responded that review was complete and release of additional records would be forthcoming.

44. On August 17, 2026, more than a year after the Center submitted this request, EPA released a total of 37 additional records: 33 released in full, 4 released with redaction, and 3 withheld in their entirety. The released records totaled 137 pages.

Second Beck Request

45. On September 9, 2025, the Center submitted to EPA a FOIA request for records dated from April 17, 2025, to the date EPA conducts the relevant search, seeking: “the records of communications to and/or from Nancy Beck that include the keyword ‘dicamba.’”

46. EPA assigned this request tracking number 2025-EPA-08814.

47. EPA submitted the search for this request on September 16, 2025, with a date range of April 17, 2025, through September 16, 2025.

48. On September 30, 2025, EPA contacted the Center to ask whether it preferred EPA to prioritize this request (2025-EPA-08814) or a separate pending request

1 for Kunkler's calendar (2025-EPA-08437). EPA estimated it could complete this request
2 in approximately two months if prioritized, or three months if the calendars request were
3 prioritized first. On the same day, the Center confirmed that it preferred EPA to prioritize
4 this communications request over the calendar request.

5 49. On October 1, 2025, EPA informed the Center that it needed an extension
6 of time citing the following “unusual circumstances”: “Given the scope of the request,
7 EPA anticipates that the response will require a significant amount of EPA’s resources and
8 time to search for, and appropriately examine the voluminous amount of records to
9 complete this request.” EPA estimated that it would be able to complete this request by
10 December 2, 2025.

11 50. On the same day, October 1, the Center responded to EPA that the request
12 does not meet the criteria for an extension based on unusual circumstances under FOIA 5
13 U.S.C. § 552(a)(6)(B)(iii). The Center again explained that the request involves
14 communications with one keyword, dicamba, to or from a single employee, Nancy Beck,
15 who works in a single office, during a limited timeframe; thus, it is unlikely the records
16 are voluminous. For these same reasons, the Center explained that there was no
17 reasonable way to narrow or modify the request and asked EPA to provide relevant
18 records to the Center immediately and on a rolling basis.

19 51. On December 2, 2025, EPA informed the Center that it now estimated that
20 it would be able to complete this request by January 2, 2026, in an unusual circumstances
21 letter, referring to the “scope of the request,” the “voluminous amount of records,” and
22 the lapse in appropriations.

23 52. On January 2, 2026, EPA informed the Center that it now estimated that it
24 would complete this request by February 3, 2026, in an unusual circumstances letter,
25 referring to the “scope of the request,” the “voluminous amount of records,” and the lapse
26 in appropriations.

1 53. On February 3, 2026, EPA issued another “unusual circumstances” letter,
2 citing “voluminous amount of records” and significant agency resources and extending
3 its estimated completion day to February 18, 2026.

4 54. On February 18, 2026, EPA issued a Final Determination Letter for this
5 request, releasing 106 records: 64 in full, 42 in part, and withholding 8 in their entirety
6 pursuant to FOIA Exemptions 5 and 6. The letter asserted redactions under the
7 Deliberative Process Privilege, Attorney-Client Privilege, and/or Attorney Work Product
8 Privilege, and personal privacy. The released records totaled 137 pages.

9 55. On March 10, 2026, the Center timely appealed EPA's February 18, 2026,
10 determination, challenging the adequacy of EPA's search, its withholdings under
11 Exemption 5, and its failure to reasonably segregate non-exempt information. EPA
12 assigned the appeal tracking number 2026-EPA-03394.

13 56. On April 1, 2026, EPA OGC granted the Center’s administrative appeal, in
14 part, for three reasons. First, it found that “the execution of the search was partially
15 deficient” because some communications were “erroneously determined to be not
16 responsive to the request.” Second, OGC held three redacted records were not subject to
17 Exemption 5. Third, in some records, EPA redacted non-exempt segregable material.
18 OGC ordered the OCSPP to re-review the records at issue and issue a supplemental
19 production.

20 57. On May 7, 2026, the Center requested a status update of time for
21 completion of the remand to which EPA responded the same day that the “2L Reviewer
22 has a jam-packed queue” and EPA would try to re-staff to keep it moving. On May 20,
23 2026, the Center again asked for a status update. On May 26, 2026, EPA responded that it
24 was in “2L Review” that should wrap up in the next couple of days, and that “a few
25 records were marked for equity review with the Administrator’s Office, but we can
26 separate those and move forward with the others while we wait.”

58. On June 23, 2026, EPA provided an update that a “portion of the records are going to the administrator’s office for an equity review, and the rest are being released to you this week, once I get the production back from our IT folks.”

59. On July 1, 2026, EPA emailed the Center and attached 118 pages of additional records as an interim response to the appeal remand and informed the Center that 15 outstanding records were “with the Administrator’s Office for equity review.”

60. On August 27, 2026, the Center asked EPA for the status on the 15 outstanding records and when EPA anticipated releasing them. On the same date, EPA responded that they would ping the Administrator's Office.

61. To date, more than a year after the Center submitted this request, EPA still has not released the remaining 15 outstanding records.

Second Kunkler Request

62. On September 9, 2025, the Center submitted to EPA a FOIA request for records dated from August 7, 2025, to the date EPA conducts the relevant search, seeking: “the records of communications to and/or from Kyle Kunkler that include the keyword ‘dicamba.’”

63. EPA assigned this request tracking number 2025-EPA-08813.

64. On January 28, 2026, EPA issued a Final Determination Letter releasing 48 records, including 27 records in full, 19 records in part, and withholding 2 records in their entirety pursuant to FOIA Exemptions 5 and 6. The released records totaled 137 pages.

65. On February 2, 2026, the Center timely appealed EPA’s determination, challenging the adequacy of EPA’s search, its withholdings under Exemption 5, and its failure to reasonably segregate and disclose non-exempt information. EPA assigned the appeal tracking number 2026-EPA-02681.

66. On February 27, 2026, EPA OGC granted the Center’s appeal, in part, for three reasons. First, the execution of the search was partially deficient because some emails and attachments should have been considered responsive. Second, EPA erroneously asserted Attorney Work Product privilege. Third, with respect to assertion of

1 the Deliberative Process Privilege, OGC found three records that had redactions must be
2 released without them, and one record that was withheld in full must be released
3 (ED_019723_00000175, ED_019723_00000068, ED_019723_00000114, and
4 ED_019723_00000125).

5 67. On March 30, 2026, about seven months after the Center submitted this
6 request, EPA released 24 additional records: 19 in full and 5 in part. The released records
7 totaled 172 pages.

8 **Third Beck Request**

9 68. On December 4, 2025, the Center submitted to EPA a FOIA request for
10 records dated from September 9, 2025, to the date EPA conducts the relevant search,
11 seeking: “the records of communications to and/or from Nancy Beck that include the
12 keyword ‘dicamba.’”

13 69. EPA assigned this request tracking number 2026-EPA-01526.

14 70. On December 30, 2025, EPA informed the Center that it needed an
15 extension of time citing the following “unusual circumstances”: “Given the scope of the
16 request, EPA anticipates that the response will require a significant amount of EPA’s
17 resources and time to search for and collect the requested records from EPA offices that
18 are separate from the office processing the request.” EPA estimated that it would be able
19 to complete this request by January 22, 2026.

20 71. On January 14, 2026, the Center responded to EPA that the request does not
21 meet the criteria for an extension based on unusual circumstances under FOIA, 5 U.S.C.
22 § 552(a)(6)(B)(iii). The Center again explained that the request involves communications
23 with one keyword, dicamba, to or from a single employee, Nancy Beck, who works in a
24 single office, during a limited timeframe; thus, it is unlikely the records are voluminous.
25 For these same reasons, the Center explained that there was no reasonable way to narrow
26 or modify the request and asked EPA to provide relevant records to the Center
27 immediately and on a rolling basis.

1 72. On January 20, 2026, EPA informed the Center that the search date range
2 for this request was September 16, 2025, to January 14, 2026.

3 73. On January 20, 2026, EPA sent the Center another “unusual circumstances”
4 letter that it requires an extension given “the scope of the request” and to collect records
5 from separate EPA offices. EPA then estimated that it would be able to complete this
6 request by February 12, 2026.

7 74. On January 22, 2026, EPA informed the Center that the records search for
8 the request would not be submitted until January 27, 2026. On January 28, 2026, EPA
9 confirmed that the date of search would cover September 16, 2025, through January 14,
10 2026.

11 75. On February 11, 2026, EPA sent another “unusual circumstances” letter,
12 again stating that it requires an extension given “the scope of the request” and to collect
13 records from separate EPA offices. EPA then estimated that the records search for the
14 request would not be complete until February 27, 2026. On the same day, the Center
15 responded that this request does not meet the criteria for an “unusual circumstances”
16 extension and requested the number of potentially responsive records. EPA responded
17 there are 298 potentially responsive records, and that it was mid-review, then the records
18 would be “handed off to our second level management reviewer”

19 76. On February 26, 2026, EPA sent the Center another “unusual
20 circumstances” letter, stating that an extension is necessary given the scope of the request
21 and it needed resources and time to search for and collect requested records from EPA
22 offices that are separate from the office processing the request. EPA estimated it would be
23 able to complete the request by March 13, 2026. On March 5, 2026, the Center again
24 informed EPA that this request does not satisfy the unusual circumstances criteria.

25 77. On March 16, 2026, EPA again sent the Center an “unusual circumstances”
26 letter repeating the identical rationale in the February 26, 2026, letter. EPA estimated it
27 would be able to complete the request by March 27, 2026. The Center again informed
28 EPA that this request does not satisfy the unusual circumstances criteria.

1 78. On March 31, 2026, EPA sent the Center an “unusual circumstances” letter
2 with the same rationale as previous letters. EPA estimated it would be able to complete
3 the request by April 17, 2026. The Center responded on the same day reiterating that this
4 request does not satisfy the unusual circumstances criteria.

5 79. On April 2, 2026, EPA informed the Center that it had completed initial and
6 management review in the FOIA office and the documents have been sent for standard
7 legal equity review.

8 80. On April 16, 2026, EPA sent the Center an “unusual circumstances” letter
9 and estimated it would complete the request by May 8, 2026. On May 7, 2026, the Center
10 responded that this request does not satisfy the unusual circumstances criteria.

11 81. On May 13, 2026, EPA sent the Center an “unusual circumstances” letter
12 and estimated it would complete the request by June 1, 2026. EPA also informed the
13 Center on this date that FOIA office review was complete, and that the “records have
14 been sent for equity review to the White House and to the EPA Office of the
15 Administrator as standard procedure.”

16 82. On June 2, 2026, EPA sent the Center an “unusual circumstances” letter and
17 estimated it would complete the request by June 23, 2026.

18 83. On June 23, 2026, EPA sent the Center an “unusual circumstances” letter
19 and estimated it would complete the request by July 15, 2026.

20 84. On July 15, 2026, EPA sent the Center an “unusual circumstances” letter
21 and estimated it would complete the request by August 5, 2026.

22 85. On August 5, 2026, EPA sent the Center an “unusual circumstances” letter
23 and estimated it would complete the request by August 26, 2026. On the same day, the
24 Center reminded EPA that this request does not satisfy the unusual circumstances criteria.

25 86. On August 26, 2026, EPA sent the Center an “unusual circumstances” letter
26 and estimated it would complete the request by September 24, 2026.

87. On August 31, 2026, the Center asked whether records were still out for equity review at the White House and in the Administrator’s Office, and, if so, how many records each is reviewing.

88. On September 1, 2026, EPA informed the Center that the White House equity is complete and that it is waiting on the Administrator’s Office equity review of 4 records. EPA indicated that “to speed things along,” it would proceed with an interim release of records for this request within 7 business days, September 10, 2026.

89. To date, more than nine months after the Center submitted this request, EPA has not provided any records or issued a final determination in response to this request within the timeframes required by FOIA; therefore, Plaintiff is deemed to have exhausted its administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

Third Kunkler Request

90. On December 4, 2025, the Center submitted to EPA a FOIA request for records dated from September 30, 2025, to the date EPA conducts the relevant search, seeking: “the records of communications to and/or from Kyle Kunkler that include the keyword ‘dicamba’, prioritizing the release of external communications first.”

91. EPA assigned this request tracking number 2026-EPA-01539.

92. On January 9, 2026, EPA informed the Center that it was invoking “unusual circumstances” and extending the time to respond to the request. EPA asserted: “Given the scope of the request, EPA anticipates that the response will require a significant amount of EPA’s resources and time to search for and collect the requested records from EPA offices that are separate from the office processing the request.” EPA estimated that it would complete the request by March 9, 2026.

93. On January 9, 2026, the Center responded that the request does not meet the criteria for an extension based on unusual circumstances under FOIA, 5 U.S.C. § 552(a)(6)(B)(iii). The Center explained that the request involves communications to or from a single EPA employee, Kyle Kunkler, containing a single keyword, “dicamba”, over a limited timeframe, and therefore is unlikely to yield voluminous records. The

Center further explained that the request does not require the collection of records from multiple offices and that there was no reasonable way to narrow or modify the request. The Center requested that EPA begin producing responsive records immediately and on a rolling basis.

94. On January 22, 2026, EPA informed the Center that the records search request for this matter would be submitted on January 27, 2026.

95. On January 28, 2026, EPA confirmed that it had submitted the search request and that the date range for the search would cover September 30, 2025, through January 28, 2026.

96. On February 11, 2026, the Center requested the number of potentially responsive records that resulted from EPA's January 28 search.

97. On February 18, 2026, EPA responded that the initial workspace had 401 potentially responsive records requiring review.

98. On March 3, 2026, EPA sent the Center another "unusual circumstances" letter stating: "Given the scope of the request, EPA anticipates that the response will require significant amount of EPA's resources and time to search for and appropriately examine the voluminous amount of records to complete this request." EPA stated it would be able to complete the request by July 10, 2026.

99. On March 5, 2026, the Center responded to EPA's unusual circumstances letter, that the request does not meet the criteria for an extension based on unusual circumstances under FOIA 5 U.S.C. § 552(a)(6)(B)(iii). The Center asked EPA to provide relevant records to the Center immediately and on a rolling basis.

100. On July 8, 2026, EPA updated the status for this request: "The records are undergoing equity review in other EPA offices. They will then be sent for final quality assurance, production and prepared for release." EPA stated it was working on a target date of August 14, 2026.

101. On July 22, 2026, EPA updated the status for this request, which stated that the records were still in equity review and the target date is August 27, 2026.

102. On August 5, 2026, the Center informed EPA that FOIA does not provide exceptions to its timeframes for outside review. EPA responded the same day that it would provide an update once it heard from the other office doing equity review.

103. On August 27, 2026, EPA sent the Center another unusual circumstances letter, estimating it would complete this request by October 9, 2026.

104. On September 10, 2026, EPA informed the Center that it was finalizing an interim response and that there are 22 records with the Administrator’s Office for equity review.

105. To date, more than nine months after the Center submitted this request, EPA has not provided any records or issued a final determination in response to this request within the timeframes required by FOIA; therefore, Plaintiff is deemed to have exhausted its administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

Fourth Beck Request

106. On January 29, 2026, the Center submitted to EPA a FOIA request for records dated from January 15, 2026, to the date EPA conducts the relevant search, seeking: “the records of communications that include Nancy Beck (to/from/CC/BCC) and include the keyword ‘dicamba,’ prioritizing the release of external communications first.”

107. EPA assigned this request tracking number 2026-EPA-02629.

108. On February 26, 2026, EPA informed the Center that it needed an extension of time citing the following “unusual circumstances”: “Given the scope of the request, EPA anticipates that the response will require a significant amount of EPA’s resources and time to search for, and appropriately examine the voluminous amount of records to complete this request.” EPA estimated that it would be able to complete this request by March 20, 2026.

109. On March 5, 2026, the Center responded to EPA that the request does not meet the criteria for an extension based on unusual circumstances under FOIA 5 U.S.C. § 552(a)(6)(B)(iii). The Center explained that the request involves communications with one keyword, dicamba, to or from a single employee, Nancy Beck, who works in a single

1 office, during a limited timeframe; thus, it is unlikely the records are voluminous. For
2 these same reasons, the Center explained that there was no reasonable way to narrow or
3 modify the request and asked EPA to provide relevant records to the Center immediately
4 and on a rolling basis. The Center also requested that EPA provide the dates of search for
5 this request and the number of potentially responsive records or pages resulting from the
6 search.

7 110. On March 17, 2026, the Center followed up with EPA, noting that it had not
8 received a response to its March 5 email seeking additional information about the
9 request: dates of search and scope of potentially responsive records.

10 111. On March 20, 2026, EPA responded that it had located 149 potentially
11 responsive records through the eDiscovery search, that the search covered the date range
12 of January 15, 2026, to February 5, 2026, and that the records were expected to move to
13 second-level management review the following week.

14 112. On March 23, 2026, EPA again informed the Center that it needed an
15 additional extension of time again citing continued “unusual circumstances.” EPA
16 estimated that it would be able to complete this request by April 10, 2026.

17 113. On the same day, March 23, the Center responded to EPA that the request
18 does not meet the criteria for an extension based on unusual circumstances under FOIA 5
19 U.S.C. § 552(a)(6)(B)(iii). The Center asked EPA to provide relevant records to the
20 Center immediately and on a rolling basis.

21 114. On April 16, 2026, EPA sent the Center an “unusual circumstances” letter
22 and estimated it would complete the request by May 8, 2026. On May 7, 2026, the Center
23 reminded EPA that this request does not satisfy the criteria for unusual circumstances.

24 115. On May 13, 2026, EPA sent the Center an “unusual circumstances” letter
25 and estimated it would complete the request by June 1, 2026.

26 116. On June 2, 2026, EPA sent the Center an “unusual circumstances” letter and
27 estimated it would complete the request by June 23, 2026.
28

117. On June 24, 2026, EPA sent the Center an “unusual circumstances” letter and estimated it would complete the request by July 15, 2026.

118. On July 15, 2026, EPA sent the Center an “unusual circumstances” letter and estimated it would complete the request by August 5, 2026.

119. On August 5, 2026, EPA sent the Center an “unusual circumstances” letter and estimated it would complete the request by August 26, 2026. On the same day, the Center reminded EPA that this request does not satisfy the criteria for unusual circumstances.

120. On August 26, 2026, EPA sent the Center an “unusual circumstances” letter and estimated it would complete the request by September 24, 2026.

121. On August 31, 2026, the Center asked EPA to confirm whether the Administrator’s Office and/or the White House is conducting equity review and how many records were in equity review.

122. To date, more than seven months after the Center submitted this request, EPA has not provided any records or issued a final determination in response to this request within the timeframes required by FOIA; therefore, Plaintiff is deemed to have exhausted its administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

Fourth Kunkler Request

123. On January 29, 2026, the Center submitted to EPA a FOIA request for records dated from January 29, 2026, to the date EPA conducts the relevant search, seeking: “the records of communications that involve Kyle Kunkler (to/from/CC/BCC) and include the keyword ‘dicamba,’ prioritizing the release of external communications first.”

124. EPA assigned this request tracking number 2026-EPA-02683.

125. On March 3, 2026, EPA informed the Center that it needed an extension of time citing the following “unusual circumstances”: “Given the scope of the request, EPA anticipates that the response will require a significant amount of EPA resources and time to search for and appropriately examine the voluminous amount of records to complete

1 this request.” EPA estimated that it would be able to complete this request by May 27,
2 2026.

3 126. On March 5, 2026, the Center responded to EPA’s unusual circumstances
4 letter, that the request does not meet the criteria for an extension based on unusual
5 circumstances under FOIA 5 U.S.C. § 552(a)(6)(B)(iii). The Center explained that the
6 request involves communications with one keyword, dicamba, to or from a single
7 employee, Kyle Kunkler, who works in a single office, during a limited timeframe. For
8 these same reasons, the Center explained that there was no reasonable way to narrow or
9 modify the request and asked EPA to provide relevant records to the Center immediately
10 and on a rolling basis. The Center also asked EPA to provide the date of search and
11 number or pages of potentially responsive records.

12 127. On the same day, March 5, EPA responded that it had conducted the search
13 on February 4, 2026, with a complete date range of January 29, 2026, through February
14 4, 2026, and that the initial search had returned approximately 148 potentially responsive
15 records, which were in queue for initial review.

16 128. On May 21, 2026, EPA informed the Center that its request was in the
17 queue for second level review and extending the target date to June 30, 2026.

18 129. On June 25, 2026, EPA informed the Center that second level review was
19 complete and that the records are undergoing equity review and extending the target date
20 to July 31, 2026.

21 130. On July 22, 2026, EPA informed the Center that the records “are with other
22 EPA offices for equity” and extending the target date to August 27, 2026.

23 131. On August 5, 2026, the Center noted to EPA that FOIA does not provide
24 exceptions to the timeframes for equity of review. EPA responded on the same day that it
25 has requested an update from the other offices doing equity review on when they
26 expected to complete such review and that it would get back to the Center with that
27 information.

1 132. On August 27, 2026, EPA provided an interim release to the Center totaling
2 115 pages. On September 10, 2026, EPA provided the interim response letter for this
3 release, which detailed that EPA had released 33 responsive records: 20 released in full
4 and 13 released in part due to FOIA exemptions 5, deliberative process privilege, and/or
5 exemption 6, personal privacy.

6 133. On August 31, 2026, the Center asked EPA how many responsive records
7 remain in the Administrator's Office for equity review. On September 10, 2026, EPA
8 informed the Center that there are 61 records with the Administrator's Office for equity
9 review.

10 134. To date, more than seven months after the Center submitted this request,
11 EPA has not provided the 61 records in equity review or issued a final determination in
12 response to this request within the timeframes required by FOIA; therefore, Plaintiff is
13 deemed to have exhausted its administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

14 **Fifth Kunkler Request**

15 135. On March 9, 2026, the Center submitted to EPA a FOIA request for records
16 dated from February 5, 2026, to the date EPA conducts the relevant search, seeking: "the
17 records of communications that involve Kyle Kunkler (to/from/CC/BCC) and include the
18 keyword 'dicamba,' prioritizing the release of external communications first."

19 136. EPA assigned this request tracking number 2026-EPA-03371.

20 137. On May 5, 2026, the Center asked EPA for the status of this request,
21 including the date the search was conducted, the number of potentially responsive records
22 or pages, and the estimated completion date.

23 138. On the same day, May 5, EPA responded that the search was submitted on
24 March 11, 2026, and that there were 213 records in the workspace awaiting first level
25 review.

26 139. On May 11, 2026, EPA informed the Center that, today, the records would
27 go in the queue for 2L review, and that other offices will need to conduct equity review.
28 EPA estimated it would release the records no later than June 30, 2026.

140. On June 29, 2026, EPA informed the Center that initial review of the records was complete and that they were undergoing other office equity review. EPA extended the estimated production of the records to August 4, 2026.

141. On July 22, 2026, EPA informed the Center that the records were still with other EPA offices for equity review and extended the release date to August 27, 2026.

142. On August 5, 2026, the Center noted to EPA that equity review has resulted in numerous production delays and that FOIA does not provide an exception for this type of review.

143. On August 18, 2026, EPA informed the Center that the Administrator's Office intended to complete equity review by September 11, 2026. EPA said it would release the records for which it has completed review by the following week.

144. On August 27, 2027, EPA sent the Center an unusual circumstances letter, extending the time to complete this request to October 9, 2026.

145. On August 27, 2026, EPA provided an interim release to the Center totaling 484 pages. On September 10, 2026, EPA provided the interim response letter for this release, which detailed that EPA had released 72 responsive records: 55 released in full and 17 released in part due to FOIA exemptions 5, deliberative process privilege, and/or exemption 6, personal privacy.

146. On August 31, 2026, the Center asked EPA how many responsive records remain in the Administrator’s Office for equity review. On September 10, 2026, EPA informed the Center that there are 77 records with the Administrator’s Office for equity review.

147. To date, more than six months after the Center submitted this request, EPA has not provided the 77 records in equity review or issued a final determination in response to this request within the timeframes required by FOIA; therefore, Plaintiff is deemed to have exhausted its administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

Fifth Beck Request

1 148. On March 23, 2026, the Center submitted to EPA a FOIA request for
2 records dated from February 6, 2026, to the date EPA conducts the relevant search,
3 seeking: “the records of communications that involve Nancy Beck (to/from/CC/BCC)
4 and include the keyword ‘dicamba,’ prioritizing the release of external communications
5 first.”

6 149. EPA assigned this request tracking number 2026-EPA-03653.

7 150. On April 16, 2026, EPA sent the Center an unusual circumstances letter:
8 “Given the scope of the request, EPA anticipates that the response will require a
9 significant amount of EPA resources and time to search for and appropriately examine the
10 voluminous amount of records to complete this request.” EPA estimated that it would be
11 able to complete this request by May 12, 2026.

12 151. On May 7, 2026, the Center informed EPA that this request does not meet
13 the criteria for unusual circumstances extensions. The Center requested production on a
14 rolling basis. The Center also asked for the date the search was conducted and how many
15 potentially responsive records were located.

16 152. On May 13, 2026, EPA sent the Center an unusual circumstances letter,
17 extending the release date to June 3, 2026.

18 153. On June 2, 2026, EPA sent the Center an unusual circumstances letter,
19 extending the release date to June 25, 2026.

20 154. On June 26, 2026, the Center asked for the status on this request.

21 155. On June 29, 2026, EPA sent the Center an unusual circumstances letter,
22 extending the release date to July 21, 2026.

23 156. On July 20, 2026, EPA sent the Center an unusual circumstances letter,
24 extending the release date to August 11, 2026.

25 157. On August 5, 2026, the Center reminded EPA that this request does not
26 meet the criteria for unusual circumstances extensions and asked for records on a rolling
27 basis. The Center again requested the date the search was conducted and how many
28 potentially responsive records were located.

1 158. On August 6, 2026, EPA informed the Center that the date of search was
2 June 3, 2026, and that the search produced about 400 potentially responsive records.

3 159. On August 11, 2026, EPA sent the Center an unusual circumstances letter,
4 extending the release date to September 9, 2026.

5 160. On August 11, 2026, the Center reminded EPA that this request does not
6 meet the criteria for unusual circumstances extensions and asked for records on a rolling
7 basis.

8 161. On August 31, 2026, the Center asked EPA to confirm whether the
9 Administrator's Office and/or the White House is conducting equity review and how
10 many records were in equity review.

11 162. On September 9, 2026, EPA sent the Center an unusual circumstances
12 letter, extending the release date to September 30, 2026.

13 163. To date, nearly six months after the Center submitted this request, EPA has
14 not provided any records or issued a final determination in response to this request within
15 the timeframes required by FOIA; therefore, Plaintiff is deemed to have exhausted its
16 administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

17 **CLAIMS FOR RELIEF**

18 **FIRST CLAIM FOR RELIEF**

19 **EPA Has Failed to Promptly Disclose all Responsive Records**

20 **Second Beck Request (2025-EPA-08814) September 9, 2025**

21 164. Plaintiff re-alleges and incorporates by reference the allegations made in all
22 preceding paragraphs.

23 165. The Center has a statutory right to the prompt disclosure of requested
24 records. 5 U.S.C. § 552(a)(3)(A).

25 166. EPA has violated the Center's rights in this regard by withholding records
26 that are responsive to the Center's September 9, 2025, FOIA request number 2025-EPA-
27 08814.

1 167. EPA has provided no lawful basis to withhold records responsive to the
2 Center's September 9, 2025, FOIA request number 2025-EPA-08814, pursuant to any of
3 FOIA's nine exemptions to mandatory disclosure or to withhold any segregable,
4 nonexempt portion of the records. *See id.* § 552(a)(8)(A), (b)(1)–(9).

5 168. EPA has no lawful basis under FOIA for its delay and has provided no
6 lawful basis to withhold responsive records in response to the Center's September 9,
7 2025, FOIA request number 2025-EPA-08814.

8 169. The Center is deemed to have exhausted its administrative remedies
9 pursuant to 5 U.S.C. § 552(a)(6)(C)(i).

10 170. Based on the nature of the Center's organizational activities, it will
11 undoubtedly continue to employ FOIA's provisions in records requests to EPA in the
12 foreseeable future.

13 171. Unless enjoined and made subject to a declaration of the Center's legal
14 rights by this Court, EPA will continue to violate the Center's right to promptly receive
15 all records responsive to its FOIA request.

16 **SECOND CLAIM FOR RELIEF**

17 **EPA Has Failed to Promptly Disclose all Responsive Records**

18 **Third Beck Request (2026-EPA-01526) December 4, 2025**

19 172. Plaintiff re-alleges and incorporates by reference the allegations made in all
20 preceding paragraphs.

21 173. The Center has a statutory right to the prompt disclosure of requested
22 records. 5 U.S.C. § 552(a)(3)(A).

23 174. EPA has violated the Center's rights in this regard by withholding records
24 that are responsive to the Center's December 4, 2025, FOIA request number 2026-EPA-
25 01526.

26 175. EPA has provided no lawful basis to withhold records responsive to the
27 Center's December 4, 2025, FOIA request number 2026-EPA-01526, pursuant to any of
28

1 FOIA's nine exemptions to mandatory disclosure or to withhold any segregable,
2 nonexempt portion of the records. *See id.* § 552(a)(8)(A), (b)(1)–(9).

3 176. EPA has no lawful basis under FOIA for its delay and has provided no
4 lawful basis to withhold responsive records in response to the Center's December 4,
5 2025, FOIA request number 2026-EPA-01526.

6 177. The Center is deemed to have exhausted its administrative remedies
7 pursuant to 5 U.S.C. § 552(a)(6)(C)(i).

8 178. Based on the nature of the Center's organizational activities, it will
9 undoubtedly continue to employ FOIA's provisions in records requests to EPA in the
10 foreseeable future.

11 179. Unless enjoined and made subject to a declaration of the Center's legal
12 rights by this Court, EPA will continue to violate the Center's right to promptly receive
13 all records responsive to its FOIA request.

14 **THIRD CLAIM FOR RELIEF**

15 **EPA Has Failed to Promptly Disclose all Responsive Records**

16 **Third Kunkler Request (2026-EPA-01539) December 4, 2025**

17 180. Plaintiff re-alleges and incorporates by reference the allegations made in all
18 preceding paragraphs.

19 181. The Center has a statutory right to the prompt disclosure of requested
20 records. 5 U.S.C. § 552(a)(3)(A).

21 182. EPA has violated the Center's rights in this regard by withholding records
22 that are responsive to the Center's December 4, 2025, FOIA request number 2026-EPA-
23 01539.

24 183. EPA has provided no lawful basis to withhold records responsive to the
25 Center's December 4, 2025, FOIA request number 2026-EPA-01539, pursuant to any of
26 FOIA's nine exemptions to mandatory disclosure or to withhold any segregable,
27 nonexempt portion of the records. *See id.* § 552(a)(8)(A), (b)(1)–(9).
28

1 184. EPA has no lawful basis under FOIA for its delay and has provided no
2 lawful basis to withhold responsive records in response to the Center's December 4,
3 2025, FOIA request number 2026-EPA-01539.

4 185. The Center is deemed to have exhausted its administrative remedies
5 pursuant to 5 U.S.C. § 552(a)(6)(C)(i).

6 186. Based on the nature of the Center's organizational activities, it will
7 undoubtedly continue to employ FOIA's provisions in records requests to EPA in the
8 foreseeable future.

9 187. Unless enjoined and made subject to a declaration of the Center's legal
10 rights by this Court, EPA will continue to violate the Center's right to promptly receive
11 all records responsive to its FOIA request.

12 **FOURTH CLAIM FOR RELIEF**

13 **EPA Has Failed to Promptly Disclose all Responsive Records**

14 **Fourth Beck Request (2026-EPA-02629) January 29, 2026**

15 188. Plaintiff re-alleges and incorporates by reference the allegations made in all
16 preceding paragraphs.

17 189. The Center has a statutory right to the prompt disclosure of requested
18 records. 5 U.S.C. § 552(a)(3)(A).

19 190. EPA has violated the Center's rights in this regard by withholding records
20 that are responsive to the Center's January 29, 2026, FOIA request number 2026-EPA-
21 02629.

22 191. EPA has provided no lawful basis to withhold records responsive to the
23 Center's January 29, 2026, FOIA request number 2026-EPA-02629, pursuant to any of
24 FOIA's nine exemptions to mandatory disclosure or to withhold any segregable,
25 nonexempt portion of the records. *See id.* § 552(a)(8)(A), (b)(1)–(9).

26 192. EPA has no lawful basis under FOIA for its delay and has provided no
27 lawful basis to withhold responsive records in response to the Center's January 29, 2026,
28 FOIA request number 2026-EPA-02629.

193. The Center is deemed to have exhausted its administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C)(i).

194. Based on the nature of the Center's organizational activities, it will undoubtedly continue to employ FOIA's provisions in records requests to EPA in the foreseeable future.

195. Unless enjoined and made subject to a declaration of the Center's legal rights by this Court, EPA will continue to violate the Center's right to promptly receive all records responsive to its FOIA request.

FIFTH CLAIM FOR RELIEF

EPA Has Failed to Promptly Disclose all Responsive Records

Fourth Kunkler Request (2026-EPA-02683) January 29, 2026

196. Plaintiff re-alleges and incorporates by reference the allegations made in all preceding paragraphs.

197. The Center has a statutory right to the prompt disclosure of requested records. 5 U.S.C. § 552(a)(3)(A).

198. EPA has violated the Center's rights in this regard by withholding records that are responsive to the Center's January 29, 2026, FOIA request number 2026-EPA-02683.

199. EPA has provided no lawful basis to withhold records responsive to the Center’s January 29, 2026, FOIA request number 2026-EPA-02683, pursuant to any of FOIA’s nine exemptions to mandatory disclosure or to withhold any segregable, nonexempt portion of the records. *See id.* § 552(a)(8)(A), (b)(1)–(9).

200. EPA has no lawful basis under FOIA for its delay and has provided no lawful basis to withhold responsive records in response to the Center’s January 29, 2026, FOIA request number 2026-EPA-02683.

201. The Center is deemed to have exhausted its administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C)(i).

1 202. Based on the nature of the Center’s organizational activities, it will
2 undoubtedly continue to employ FOIA’s provisions in records requests to EPA in the
3 foreseeable future.

4 203. Unless enjoined and made subject to a declaration of the Center’s legal
5 rights by this Court, EPA will continue to violate the Center’s right to promptly receive
6 all records responsive to its FOIA request.

7 **SIXTH CLAIM FOR RELIEF**

8 **EPA Has Failed to Promptly Disclose all Responsive Records**

9 **Fifth Kunkler Request (2026-EPA-03371) March 9, 2026**

10 204. Plaintiff re-alleges and incorporates by reference the allegations made in all
11 preceding paragraphs.

12 205. The Center has a statutory right to the prompt disclosure of requested
13 records. 5 U.S.C. § 552(a)(3)(A).

14 206. EPA has violated the Center’s rights in this regard by withholding records
15 that are responsive to the Center’s March 9, 2026, FOIA request number 2026-EPA-
16 03371.

17 207. EPA has provided no lawful basis to withhold records responsive to the
18 Center’s March 9, 2026, FOIA request number 2026-EPA-03371, pursuant to any of
19 FOIA’s nine exemptions to mandatory disclosure or to withhold any segregable,
20 nonexempt portion of the records. *See id.* § 552(a)(8)(A), (b)(1)–(9).

21 208. EPA has no lawful basis under FOIA for its delay and has provided no
22 lawful basis to withhold responsive records in response to the Center’s March 9, 2026,
23 FOIA request number 2026-EPA-03371.

24 209. The Center is deemed to have exhausted its administrative remedies
25 pursuant to 5 U.S.C. § 552(a)(6)(C)(i).

26 210. Based on the nature of the Center’s organizational activities, it will
27 undoubtedly continue to employ FOIA’s provisions in records requests to EPA in the
28 foreseeable future.

1 211. Unless enjoined and made subject to a declaration of the Center’s legal
2 rights by this Court, EPA will continue to violate the Center’s right to promptly receive
3 all records responsive to its FOIA request.

4 **SEVENTH CLAIM FOR RELIEF**

5 **EPA Has Failed to Promptly Disclose all Responsive Records**

6 **Fifth Beck Request (2026-EPA-03653) March 23, 2026**

7 212. Plaintiff re-alleges and incorporates by reference the allegations made in all
8 preceding paragraphs.

9 213. The Center has a statutory right to the prompt disclosure of requested
10 records. 5 U.S.C. § 552(a)(3)(A).

11 214. EPA has violated the Center’s rights in this regard by withholding records
12 that are responsive to the Center’s March 23, 2026, FOIA request number 2026-EPA-
13 03653.

14 215. EPA has provided no lawful basis to withhold records responsive to the
15 Center’s March 23, 2026, FOIA request number 2026-EPA-03653, pursuant to any of
16 FOIA’s nine exemptions to mandatory disclosure or to withhold any segregable,
17 nonexempt portion of the records. *See id.* § 552(a)(8)(A), (b)(1)–(9).

18 216. EPA has no lawful basis under FOIA for its delay and has provided no
19 lawful basis to withhold responsive records in response to the Center’s March 23, 2026,
20 FOIA request number 2026-EPA-03653.

21 217. The Center is deemed to have exhausted its administrative remedies
22 pursuant to 5 U.S.C. § 552(a)(6)(C)(i).

23 218. Based on the nature of the Center’s organizational activities, it will
24 undoubtedly continue to employ FOIA’s provisions in records requests to EPA in the
25 foreseeable future.

26 219. Unless enjoined and made subject to a declaration of the Center’s legal
27 rights by this Court, EPA will continue to violate the Center’s right to promptly receive
28 all records responsive to its FOIA request.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, the Center requests that this Court:

3 A. Declare that the Defendant violated FOIA by failing to promptly disclose all
4 records responsive to the request;

5 B. Order the Defendant to immediately produce all nonexempt responsive records
6 not subject to equity review or segregable portions of those records and a *Vaughn* index
7 of any such responsive records or portions of responsive records withheld under a claim
8 of exemption, at no cost to Plaintiff;

9 C. Order the Defendant to produce within 30 days all nonexempt responsive
10 records subject to equity review or segregable portions of those records and a *Vaughn*
11 index of any such responsive records or portions of responsive records withheld under a
12 claim of exemption, at no cost to Plaintiff;

13 D. Enjoin the Defendant from continuing to withhold any nonexempt responsive
14 records or segregable portions of the records;

15 E. Retain jurisdiction of this action to ensure the processing of the Center's FOIA
16 requests and that no agency records or portions of the records are improperly withheld;

17 F. Award the Center its costs and reasonable attorney fees pursuant to 5 U.S.C. §
18 552(a)(4)(E) or 28 U.S.C. § 2412; and

19 G. Grant such other and further relief as the Court may deem just and proper.
20

21 DATED: September 17, 2026

22 Respectfully submitted,

23 /s/ Stephanie M. Parent
24 Stephanie M. Parent
25 (OR Bar No. 925908)
26 Center for Biological Diversity
27 P.O. Box 11374
28 Portland, OR 97211
Phone: (503) 320-3235
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Pro Hac Vice

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UNITED STATES DISTRICT COURT DISTRICT OF ARIZONA

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s): Center for Biological Diversity , , , ;

County of Residence: Pima

County Where Claim For Relief Arose: Pima

Plaintiff's Atty(s):

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(202) 849-8402

Defendant(s): United States Environmental Protection Agency , ;

County of Residence: Outside the State of Arizona

Defendant's Atty(s):

,

,

IFP REQUESTED

REMOVAL FROM COUNTY, CASE #

II. Basis of Jurisdiction:

2. U.S. Government Defendant

III. Citizenship of Principal Parties(Diversity Cases Only)

Plaintiff:-

N/A

Defendant:-

N/A

IV. Origin :

1. Original Proceeding

V. Nature of Suit:

895 Freedom of Information Act

VI.Cause of Action:

5 U.S.C. § 552; Failure to Promptly Disclose All Responsive Records

VII. Requested in Complaint

Class Action:

No

Dollar Demand:

Jury Demand:

No

VIII. This case is not related to another case.

Signature: Benjamin Rankin

Date: 09/10/2026

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.

Revised: 01/2014