

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

NUCLEAR WATCH NEW MEXICO

903 W. Alameda #325

Santa Fe, New Mexico 87501,

Plaintiff,

v.

No.26-cv-2589

**NATIONAL NUCLEAR SECURITY
ADMINISTRATION OF THE U.S.**

1000 Independence Avenue SW

Washington, D.C. 20585,

Defendant,

and

U.S. DEPARTMENT OF ENERGY

1000 Independence Avenue SW

Washington, D.C. 20585,

Defendant.

COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff, complaining of the Defendants, alleges and says:

Parties

1. Plaintiff Nuclear Watch New Mexico is a project of the Southwest Research and Information Center (SRIC), a non-profit organization formed under the laws of New Mexico with a principal place of business in Santa Fe, New Mexico.

2. Defendant United States Department of Energy is an agency of the United States government with its principal office located in Washington, District of Columbia.

3. Defendant National Nuclear Security Administration is an administration within the United States Department of Energy with its principal office located in Washington, District of Columbia.

Jurisdiction and Venue

4. This Court has subject matter jurisdiction over this action pursuant to 28 USCS § 1331, as this action arises under the laws of the United States, specifically the Freedom of Information Act (FOIA), 5 USCS § 552.

5. This Court has personal jurisdiction over Defendant United States Department of Energy because it is an agency of the United States with its principal office in the District of Columbia, and this action is brought against the agency in its official capacity.

6. This Court has personal jurisdiction over Defendant National Nuclear Security Administration of the United States Department of Energy because it is an agency of the United States with its principal office in the District of Columbia, and this action is brought against the agency in its official capacity.

7. Venue is proper in this Court pursuant to 28 USCS § 1391, which provides that a civil action in which a defendant is an officer or employee of the United States or any agency thereof acting in official capacity, or an agency of the United States, may be brought in any judicial district in which a defendant in the action resides, and the defendants have their principal offices in the District of Columbia.

Statement of Facts

8. On August 11, 2025, Defendant James P. Danly, in his capacity as Deputy Secretary of Energy, issued a memorandum to the Director of the Office of Enterprise Assessments and the Acting Undersecretary of Energy for Nuclear Security and Administrator of the National Nuclear Security Administration (NNSA).
9. The memorandum was titled "Special Study of the National Nuclear Security Administration's Leadership and Management of the Plutonium Pit Production Mission."
10. In the memorandum, Deputy Secretary Danly expressed concern about the NNSA's ability to consistently deliver on nuclear weapons production capabilities needed to support the national defense of the United States.
11. Deputy Secretary Danly noted that the ability of NNSA to reestablish the capability to produce plutonium pits at Los Alamos National Laboratory and the Savannah River Site is of paramount importance to long-term national security.
12. The memorandum stated that for nearly three decades, the United States has not had the ability to produce plutonium pits in the quantities required for the nuclear weapons stockpile and to maintain nuclear deterrence.
13. Deputy Secretary Danly directed the Office of Enterprise Assessments to conduct a special study of NNSA's leadership and management of the plutonium pit production mission and its associated projects at Los Alamos National Laboratory and Savannah River Site.
14. The special study was to evaluate key leadership and management processes critical to delivery of pit production mission commitments, including establishment of clear lines of authority and accountability, identification and management of project risks, facility infrastructure improvement initiatives, use of contractual mechanisms to hold contractors

accountable for mission delivery, and leadership engagement to resolve technical, human capital, regulatory, and other challenges impeding progress.

15. Deputy Secretary Danly mandated that the special study be completed within 120 days of August 11, 2025.

16. Based on the 120-day deadline, the special study should have been completed by December 9, 2025.

17. On December 16, 2025, United States Senator Elizabeth Warren and United States Representative John Garamendi sent a letter to the Secretary of Energy expressing concerns regarding NNSA's effort to reestablish plutonium pit production.

18. The December 16, 2025 letter referenced the August 2025 memorandum launching the special study into NNSA's leadership and management of the plutonium pit production mission.

19. The December 16, 2025 letter stated that if properly conducted, the special study should find that years of mismanagement have put billions of taxpayer dollars at risk with an unrealistic pit production schedule and goals.

20. The December 16, 2025 letter requested that the Secretary of Energy provide answers to questions by January 9, 2026, including when the findings and recommendations of the special study would be completed and whether there would be a public version of the special study's findings.

21. On December 22, 2025, Plaintiff Nuclear Watch New Mexico submitted a FOIA request to the NNSA seeking the special study ordered by Deputy Secretary Danly.

22. The FOIA request was sent via email to NNSA FOIA Public Liaison, Office of General Counsel, FOIA Officer Annie Maxfield (email address: foiofficer@nnsa.doe.gov) and Lora

Bright (email address: bright@nnsa.doe.gov). The office received the request on December 23, 2025.

23. The FOIA request specifically sought "The 'Special Study of the National Nuclear Security Administration's (NNSA's) Leadership and Management of the Plutonium Pit Mission,' ordered by DOE Deputy Secretary James Danly on August 11, 2025."

24. The FOIA request noted that Deputy Secretary Danly mandated the completion of the special study within 120 days and therefore it should be available.

25. The FOIA request also requested expedited processing, fee waiver, and rolling production of documents as they became available.

26. NNSA received Plaintiff's FOIA request on December 23, 2025.

27. On January 6, 2026, NNSA sent Plaintiff a letter stating that it was transferring Plaintiff's FOIA request to the Department of Energy FOIA Officer, Todd Burns.

28. The January 6, 2026 letter stated that NNSA had conducted a cursory search and determined that any responsive records would be under the jurisdiction of the Department of Energy.

29. The letter indicated that DOE would respond to Plaintiff directly regarding the results of their search.

30. On April 1, 2026, Plaintiff sent a follow-up inquiry to DOE FOIA Officer Todd Burns, noting that more than three months had passed since the original filing on December 23, 2025, and requested information on DOE's progress in fulfilling the FOIA request.

31. On April 6, 2026, DOE sent Plaintiff an interim response denying expedited processing of the FOIA request. No mention was made in this letter of the underlying request or its status.

32. The April 6, 2026 letter stated that upon completion of the search and review of any records located, Plaintiff would be provided a response.

33. The April 6, 2026 letter did not constitute a determination on whether to comply with the FOIA request or provide the requested records.

34. As of the date of this Complaint, more than 20 working days have passed since NNSA received Plaintiff's FOIA request on December 23, 2025, or the follow up request of April 1, 2026.

35. As of the date of this Complaint, Defendants have not made a determination on whether to comply with Plaintiff's FOIA request.

36. As of the date of this Complaint, Defendants have not released the requested special study or any portion thereof to Plaintiff.

37. As of the date of this Complaint, Defendants have not provided Plaintiff with any substantive information regarding the existence, location, or status of the requested special study.

38. As of the date of this Complaint, Defendants have not invoked any FOIA exemptions or provided any justification for withholding the requested records.

39. Plaintiff is a non-profit, tax-exempt, public policy research and information organization.

40. Plaintiff makes information available to thousands of citizens by means of its numerous and varied publications, educational programs, and public-interest litigation.

41. The information disclosed pursuant to Plaintiff's FOIA request will be made directly available to the public and others engaged in policy analysis and research, including historians, area specialists, and journalists.

42. The requested special study concerns the operations and activities of the federal government, specifically the Department of Energy and the NNSA.

43. A citizen lawsuit under the National Environmental Policy Act resulted in a court order that NNSA complete a programmatic environmental impact statement (PEIS) on plutonium pit production. The citizen comment period on NNSA's draft Pit Production PEIS expires on July 15, 2026. The disclosure of the special study is likely to significantly inform public comment on that document.

44. The disclosure of the special study is likely to contribute significantly to public understanding of government operations and activities related to the plutonium pit production mission.

45. Plaintiff has no commercial interest in the FOIA request.

Claims for Relief

Count I - Violation of FOIA - Failure to Make Timely Determination in Violation of 5 USCS § 552

(against all defendants)

46. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 44 as if fully set forth herein.

47. Plaintiff submitted a proper FOIA request to Defendants.

48. On December 22, 2025, Plaintiff submitted a written FOIA request to NNSA seeking the special study ordered by Deputy Secretary Danly on August 11, 2025.

49. The FOIA request was received by NNSA on December 23, 2025.

50. NNSA transferred the FOIA request to DOE on January 6, 2026.

51. The FOIA request clearly identified the records sought and complied with all applicable FOIA regulations.

52. Defendants failed to make a determination within 20 working days after receipt of the request.

53. Under 5 USCS § 552, Defendants were required to determine within 20 working days (excluding Saturdays, Sundays, and legal public holidays) after receipt of the FOIA request whether to comply with the request.

54. More than 20 working days have passed since NNSA received Plaintiff's FOIA request on December 23, 2025 and follow up on April 1, 2026.

55. More than 20 working days have passed since DOE received the transferred FOIA request on January 6, 2026 and follow up on April 1, 2026.

56. As of the date of this Complaint, Defendants have not made a determination on whether to comply with Plaintiff's FOIA request.

57. Defendants failed to notify Plaintiff of the determination and the reasons therefor.

58. Under 5 USCS § 552, Defendants were required to notify Plaintiff of their determination and the reasons therefor.

59. Defendants have not provided Plaintiff with any determination on whether to comply with the FOIA request.

60. The only significant communication from Defendants regarding the FOIA request was the April 6, 2026 denial of expedited processing, which did not constitute a determination on the request itself.

61. Defendants have not provided Plaintiff with any reasons for failing to make a determination or release the requested records.

62. The failure of the defendants to make a timely determination was improper and violated the statutory deadline.

63. Defendants had a clear statutory obligation to make a determination within 20 working days.

64. Defendants failed to comply with this statutory obligation without justification.

65. The requested special study should have been completed by December 9, 2025, and should have been made readily available for release.

66. Defendants have not invoked any FOIA exemptions or provided any basis for withholding the requested records.

67. As a result of Defendants' violations, Plaintiff has been unlawfully deprived of access to agency records to which it is entitled under FOIA.

Count II - Violation of FOIA - Failure to Conduct Adequate Search in Violation of 5 USCS § 552

(against all defendants)

68. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 66 as if fully set forth herein.

69. Plaintiff submitted a proper FOIA request to Defendants.

70. On December 22, 2025, Plaintiff submitted a written FOIA request to NNSA seeking the special study ordered by Deputy Secretary Danly on August 11, 2025.

71. The FOIA request was received by NNSA on December 23, 2025, and transferred to DOE on January 6, 2026.

72. The FOIA request clearly and specifically identified the records sought.
73. Defendants failed to make a reasonable effort to search for records responsive to the request.
74. Under 5 USCS § 552, Defendants are required to conduct a reasonable search for records responsive to a FOIA request.
75. The special study requested by Plaintiff was ordered by Deputy Secretary Danly, a high-ranking DOE official, in a formal memorandum dated August 11, 2025.
76. The special study should be readily identifiable and locatable within DOE's and NNSA's records systems.
77. NNSA stated in its January 6, 2026 letter that it conducted only a " cursory search" before transferring the request to DOE.
78. DOE has not indicated that it has conducted any search for the requested records.
79. DOE has not provided any information regarding the existence, location, or status of the requested special study.
80. Defendants' search was inadequate or Defendants failed to conduct a search at all.
81. A reasonable search would have located the special study ordered by Deputy Secretary Danly.
82. The special study was ordered to be completed within 120 days of August 11, 2025, and should have been completed by December 9, 2025.
83. Defendants have not provided any evidence that they conducted a thorough and comprehensive search for the requested records.

84. Defendants have not provided any explanation for their inability to locate the requested special study.

85. As a result of Defendants' failure to conduct an adequate search, Plaintiff has been unlawfully deprived of access to agency records to which it is entitled under FOIA.

Count III - Violation of FOIA - Failure to Promptly Make Records Available in Violation of 5 USCS § 552

(against all defendants)

86. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 84 as if fully set forth herein.

87. Plaintiff submitted a proper FOIA request to Defendants.

88. On December 22, 2025, Plaintiff submitted a written FOIA request to NNSA seeking the special study ordered by Deputy Secretary Danly on August 11, 2025.

89. The FOIA request was received by NNSA on December 23, 2025, and transferred to DOE on January 6, 2026.

90. The requested records are agency records subject to disclosure under FOIA.

91. The special study was ordered by Deputy Secretary Danly, a high-ranking DOE official, in his official capacity.

92. The special study was to be conducted by the Office of Enterprise Assessments, a component of DOE.

93. The special study concerns NNSA's leadership and management of the plutonium pit production mission, a matter of official government business.

94. The special study is an agency record created by or for a federal agency while conducting official business.
95. The special study is subject to disclosure under FOIA unless a specific exemption applies.
96. Defendants have improperly withheld the records.
97. Defendants have not released the special study or any portion thereof to Plaintiff.
98. Defendants have not invoked any FOIA exemptions to justify withholding the special study.
99. Defendants have not provided any justification for withholding the requested records.
100. More than three months have passed since Plaintiff filed the FOIA request on December 22, 2025.
101. The special study should have been completed by December 9, 2025, and should be available for release.
102. Defendants have failed to promptly make the records available.
103. Under 5 USCS § 552, Defendants are required to promptly make agency records available to any person upon proper request.
104. Defendants have failed to make the requested special study available to Plaintiff despite the passage of more than three months since the FOIA request was filed.
105. Defendants have failed to provide any timeline for when the requested records will be made available.
106. Defendants have failed to provide any explanation for the delay in making the records available.

107. The delay in making the records available is unreasonable and violates FOIA's requirement of prompt disclosure.

108. As a result of Defendants' failure to promptly make the records available, Plaintiff has been unlawfully deprived of access to agency records to which it is entitled under FOIA.

Prayer for Relief

WHEREFORE, Plaintiff respectfully requests that this Court:

109. Enter a declaratory judgment that Defendants have violated the Freedom of Information Act by failing to make a timely determination on Plaintiff's FOIA request in violation of 5 USCS § 552 against all Defendants.

110. Enter a declaratory judgment that Defendants have violated the Freedom of Information Act by failing to conduct an adequate search for records responsive to Plaintiff's FOIA request in violation of 5 USCS § 552 against all Defendants.

111. Enter a declaratory judgment that Defendants have violated the Freedom of Information Act by failing to promptly make available records responsive to Plaintiff's FOIA request in violation of 5 USCS § 552 against all Defendants.

112. Issue an order pursuant to 5 USCS § 552 enjoining Defendants from withholding the requested records and ordering Defendants to immediately conduct a thorough and comprehensive search for all records responsive to Plaintiff's FOIA request against all Defendants.

113. Issue an order pursuant to 5 USCS § 552 requiring Defendants to produce all records responsive to Plaintiff's FOIA request, including the special study ordered by Deputy Secretary Danly on August 11, 2025, within a time certain to be determined by the Court against all Defendants.

114. Issue an order prohibiting Defendants from charging Plaintiff any search, review, or duplication fees for the processing of the FOIA request against all Defendants.

115. Award Plaintiff reasonable attorney's fees and litigation costs incurred in this action pursuant to 5 USCS § 552 against all Defendants.

116. Grant such other and further relief as the Court deems just and proper.

Dated: July 23, 2026

Respectfully submitted,

By: /s/ Gaillard T. Hunt

Address: 10705 Tenbrook Drive
Silver Spring, Maryland 20901
DC Bar #089375

Phone No. 301-530-2807

Email: gaillardhunt@gmail.com

Attorney for Plaintiff Nuclear Watch New Mexico

By: /s/ Jules Zacher

Address: 2133 Saint James Place
Philadelphia PA 19103
PA Bar # 20574

Phone No. 215-988-0160

Email: zacherlaw@gmail.com

Attorney for Plaintiff Nuclear Watch New Mexico
Pro hac vice motion forthcoming