

## NASA APPEAL UNDER THE FREEDOM OF INFORMATION ACT

SUBMITTED VIA U.S. MAIL

June 3, 2025

Administrator  
NASA Headquarters  
Executive Secretariat  
ATTN: FOIA Appeals  
MS 9R17  
300 E Street S.W.  
Washington, DC 20546

Re: *NASA FOIA Tracking Number 25-00177-F-JPL (IR#I3082D)*

Dear Sir or Madam:

This firm represents Informed Consent Action Network (“**ICAN**”). On behalf of ICAN, on November 19, 2024, we submitted the following request for records (“**FOIA Request**”) pursuant to the Freedom of Information Act (5 U.S.C. § 552, as amended) (“**FOIA**”):

All communications (including but not limited to emails, text messages, direct messages, Teams chats, Slack chats, Signal messages, etc.) sent and/or received by Robert T. Pappalardo from January 1, 2017 through the date of the search that contain the term(s) “geoengineering”, “solar radiation modification”, “stratospheric aerosol injection”, “SAI”, “SRM”, and/or “climate intervention”.

**(Attachment 1.)**

On December 18, 2024, National Aeronautics and Space Administration (NASA), (“**Agency**”) acknowledged the request and assigned NASA FOIA Tracking Number 25-00177-F-JPL. The letter stated in relevant part:

Your request was assigned the above-referenced tracking number.  
You seek:

All communications (including but not limited to emails, text messages, direct messages, Teams chats, Slack chats, Signal messages, etc.) sent and/or received by Robert T. Pappalardo from January 1, 2017 through the date of the search that contain the term(s) “geoengineering”, “solar radiation modification”, “stratospheric aerosol injection”, “SAI”, “SRM”, and/or “climate intervention”.

(Attachment 2.)

On March 5, 2025, the Agency responded to the FOIA Request (“**Final Response**”). The letter stated in relevant part:

Your request was assigned the above-referenced tracking number.  
You seek:

*All communications (including but not limited to emails, text messages, direct messages, Teams chats, Slack chats, Signal messages, etc.) sent and/or received by a **specific CalTech employee** from January 1, 2017 through the date of the search that contain the term(s) “geoengineering”, “solar radiation modification”, “stratospheric aerosol injection”, “SAI”, “SRM”, and/or “climate intervention”*

In response to your request, we asked our Prime Contractor, California Institute of Technology (Caltech) at JPL to perform a search using the information in your request. As a result of this search, Caltech at JPL did not locate any responsive records.

(Attachment 3.) (emphasis added.)

For the reasons set forth below, ICAN appeals the Agency’s Final Response.

**I. ADEQUACY OF SEARCH**

**A. Legal Standard**

The Agency has failed to conduct an adequate search of the requested records. An agency’s search is adequate only if it is reasonably calculated to uncover all relevant documents. *Valencia-Lucena v. United States Coast Guard*, 180 F.3d 321, 325 (D.C. Cir. 1999). “An agency fulfills its obligations under FOIA if it can demonstrate *beyond material doubt* that its search was reasonably calculated to uncover all relevant documents.” *Defs. of Wildlife v. United States Border Patrol*, 623 F. Supp. 2d 83, 91 (D.D.C. 2009) (internal quotation marks omitted) (emphasis added). To satisfy its FOIA obligations, an agency needs to adequately describe the scope and methods of its searches, which can reasonably be expected to uncover the records sought and demonstrate that the places most likely to contain responsive materials were searched. *Davidson v. E.P.A.*, 121 F. Supp. 2d 38, 39 (D.D.C. 2000). At a minimum, the Agency must specify “what records were searched, by whom, and through what process.” *Steinberg v. U.S. Dep’t of Justice*, 23 F.3d 548, 552 (D.C. Cir. 1994).

To determine whether a search for responsive records was adequate, a court must first determine the scope of the documents the plaintiff requested. *Wallick v. Agric. Mktg. Serv.*, 281 F. Supp. 3d 56, 66 (D.D.C. 2017). In determining the scope of a request, it has long been established that an agency has a duty to construe FOIA requests liberally. *Hemenway v. Hughes*, 601 F. Supp.

1002, 1005 (D.D.C. 1985); *Conservation Force v. Ashe*, 979 F. Supp. 2d 90, 100-104 (D.D.C. 2013); *Rodriguez v. DOD*, 236 F. Supp. 3d 26, 36-38 (D.D.C. 2017). This means an agency is compelled to interpret requests broadly, even if a narrower reading is also reasonable. *Id.* An agency has a duty under the FOIA to select the interpretation that would likely yield the greatest number of responsive documents. *Conservation Force*, 979 F. Supp. 2d at 102; *Nat'l Sec. Counselors v. CIA*, 849 F. Supp. 2d 6, 12 (D.D.C. 2012). Technical precision is not required in FOIA requests, and a request certainly should not fail where the agency knew or should have known what the requester was seeking all along. *Institute for Justice v. Internal Revenue Service*, 941 F.3d 567, 572 (D.C. Cir. 2019). An “agency may [not] ignore what it cannot help but know.” *Kowalczyk v. DOJ*, 73 F.3d 386, 389 (D.C. Cir. 1996).

Finally, a court can conclude a search is inadequate when the facts reveal a “positive indication of overlooked materials.” *Valencia-Lucena*, 180 F.3d at 326. While there is no requirement that an agency search every location or record system, the agency cannot limit its search to only one record system if there are others that are likely to turn up the requested information. *Wallick*, 281 F. Supp. 3d at 73. FOIA demands a reasonable search tailored to the nature of a particular request. *Campbell v. United States DOJ*, 164 F.3d 20, 28 (D.C. Cir. 1998). Agencies must perform more than “perfunctory searches” and “follow through on obvious leads to discover requested documents.” *Valencia-Lucena*, 180 F.3d at 325.

## **B. Application of Legal Standard**

The Agency’s Final Response provided no information regarding the adequacy of its search. The Agency failed to identify what records it searched, who searched for the records, and through what process the Agency searched for the records. The Final Response merely states the Agency asked its contractor “to perform a search using the information in your request.” (**Attachment 3.**) However, the Final Response does not state what search terms the contractor used to perform the search nor what records the contractor searched. Without specifying what records were searched, by whom, and through what process, ICAN cannot assume that the Agency’s search was adequate to uncover all responsive documents. *Steinberg*, 23 F.3d at 552. The Agency may not withhold responsive documents simply because it did not locate responsive documents. A request certainly should not fail where the agency knew or should have known what the requester was seeking all along. *Institute for Justice v. Internal Revenue Service*, 941 F.3d 567, 572 (D.C. Cir. 2019).

Moreover, the Agency altered the language of ICAN’s FOIA Request in the Final Response by removing the name of the subject of the request, Robert T. Pappalardo and replacing him, without permission from ICAN, with “a specific CalTech employee”. (**Attachment 3.**) If the Agency provided this altered version of ICAN’s request to the contractor, the contractor would have been unable to properly execute the search. The Agency may not skirt its FOIA obligations by unilaterally altering ICAN’s request without its consent thereby making it impossible for its third party contractor to execute the search.

Additionally, FOIA obligates agencies to conduct searches in good faith and in a manner “reasonably calculated to uncover all relevant documents” sought through a FOIA request. *Steinberg*, 23 F.3d at 551. The Agency did not act in good faith when it altered ICAN’s request without ICAN’s permission, and the lack of detail in the Agency’s response regarding its search

suggests it likely could not demonstrate beyond material doubt that it conducted a reasonably calculated search to uncover all relevant documents. *Valencia-Lucena*, 180 F.3d at 325.

For these reasons, ICAN respectfully requests the Agency review its search methods to ensure it will meet its FOIA obligations in litigation by providing the missing documents.

## **II. APPELLATE REQUEST**

Given the foregoing, ICAN hereby appeals and requests that the documents responsive to the FOIA Request be produced within 20 days of this appeal. Thank you for your time and attention to this matter. If you require any additional information, please contact us at (888) 747-4529 or through email at [ear@sirillp.com](mailto:ear@sirillp.com).

Very truly yours,

/s/ Aaron Siri  
Aaron Siri, Esq.  
745 Fifth Avenue  
Suite 500  
New York, NY 10151

Enclosures

# Attachment 1

## NASA JET PROPULSION LABORATORY FREEDOM OF INFORMATION ACT REQUEST

VIA EMAIL

November 19, 2024

Dennis B. Mahon  
JPL FOIA Public Liaison Officer  
NASA Office of JPL Management and Oversight (NOJMO)  
4800 Oak Grove Drive  
M/S: 180-200K  
Pasadena, CA 91109-8001  
[jpl-foia@nasa.gov](mailto:jpl-foia@nasa.gov)

Re: *Pappalardo Communications Concerning Geoengineering (IR#13082D)*

Dear Sir or Madam:

This firm represents Informed Consent Action Network (“ICAN”). On behalf of ICAN, please provide the following records to [ear@sirillp.com](mailto:ear@sirillp.com) in electronic form:

**All communications (including but not limited to emails, text messages, direct messages, Teams chats, Slack chats, Signal messages, etc.) sent and/or received by Robert T. Pappalardo from January 1, 2017 through the date of the search that contain the term(s) “geoengineering”, “solar radiation modification”, “stratospheric aerosol injection”, “SAI”, “SRM”, and/or “climate intervention”.**

We ask that you waive any and all fees or charges pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). ICAN is a not-for-profit news media organization whose mission is to raise public awareness about vaccine safety, other medical treatments, environmental pollutants and toxins, and overall health choices, and to provide the public with information needed in order to give informed consent. As part of its mission, ICAN actively investigates and disseminates scientifically-based health information regarding the safety of vaccines, other medical treatments, environmental pollutants and toxins, and governmental activities for free through its website,<sup>1</sup> a weekly health news and talk show,<sup>2</sup> and through press events and releases. The HighWire website has approximately 3.4 million weekly visitors. On X (formerly known as Twitter), The High Wire has approximately 190,000 followers and 1 to 2.5 million impressions in a 28-day period. On Rumble, The HighWire has approximately 83,000 followers and growing. The size of ICAN's audience and subscribers continues to grow and is illustrative of the wide public interest in the subject of health and medical

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<sup>1</sup> <https://www.icandecide.org/>.

<sup>2</sup> <https://thehighwire.com/>.

safety. Critical to ICAN's mission is its proven ability to find and review critical scientific and governmental records and meaningfully report about their social impacts. One of the tools ICAN uses to gather the raw material it uses in its popular investigative reporting is the Freedom of Information Act (“**FOIA**”). ICAN is seeking the information in this FOIA request to allow it to contribute to the public understanding of government programs and any potential effects of same on public health. The information ICAN is requesting will not contribute to any commercial activities. Therefore, ICAN should be properly categorized as a media requester, and it is entitled to the search and processing privileges associated with such a category designation. Accordingly, ICAN will be forced to challenge any agency decision that categorizes it as any other category of requester.

Please note that the FOIA provides that if only portions of a requested file are exempted from release, the remainder must still be released. We therefore request that we be provided with all non-exempt portions which are reasonably segregable. We further request that you describe any deleted or withheld material in detail and specify the statutory basis for the denial as well as your reasons for believing that the alleged statutory justification applies. Please also separately state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements may help to avoid unnecessary appeal and litigation. ICAN reserves all rights to appeal the withholding or deletion of any information.

Access to the requested records should be granted within twenty (20) business days from the date of your receipt of this letter. Failure to respond in a timely manner shall be viewed as a denial of this request and ICAN may immediately take further administrative or legal action.

Furthermore, we specifically request that the agency provide us with an estimated date of completion for this request.

If you would like to discuss our request or any issues raised in this letter, please feel free to contact us at (240) 732-6737 or [ear@sirillp.com](mailto:ear@sirillp.com) during normal business hours. Thank you for your time and attention to this matter.

Sincerely,

/s/ Aaron Siri

Aaron Siri, Esq.  
745 Fifth Ave., Suite 500  
New York, NY 10151  
[ear@sirillp.com](mailto:ear@sirillp.com)  
(240) 732-6737

# Attachment 2



National Aeronautics and  
Space Administration  
**Jet Propulsion Laboratory**  
**NASA Office of JPL Management and Oversight**  
FOIA Public Liaison Office  
4800 Oak Grove Dr., M/S 180-200K  
Pasadena, CA 91109-8001



Reply to Attn of: Office of Communications  
History and Information Services Division

December 18, 2024

Informed Consent Action Network  
c/o  
Aaron Siri  
Attorney at Law  
Siri & Glimstad  
745 Fifth Ave., Ste. 500  
New York, NY 10151-0099

Re: NASA FOIA Tracking Number 25-00177-F-JPL

Dear Aaron Siri:

This acknowledges your Freedom of Information Act (FOIA) request to the National Aeronautics and Space Administration (NASA), Jet Propulsion Laboratory (JPL) dated and received in this office on November 19, 2024. Your request was assigned the above-referenced tracking number. You seek:

**All communications (including but not limited to emails, text messages, direct messages, Teams chats, Slack chats, Signal messages, etc.) sent and/or received by Robert T. Pappalardo from January 1, 2017 through the date of the search that contain the term(s) "geoengineering", "solar radiation modification", "stratospheric aerosol injection", "SAI", "SRM", and/or "climate intervention".**

Your request was placed in the queue for processing in the order in which it was received. Although NASA's goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period under 5 U.S.C. § 552(a)(6)(B). Because of the need to consult with multiple entities regarding responsive records, NASA hereby invokes this 10-day extension for your request and estimates a response to your request to be provided within 30 federal government business days of receipt of your request, or a fee agreement, if necessary. Please note, however, that the actual time required to respond to your request depends on the workload of the other entities with which we must consult, and number and types of responsive records identified and located in our records search. Although the Agency has a backload of requests, your request is processing. If you care to narrow the scope of your request, please contact our office. Some of the records not specifically identified may need more information and clarification from you. Once we have more information from the offices performing the searches, we may reach out to you, if necessary. We will make every

effort to comply with your request in a timely manner. We are using our best efforts to process all requests with due diligence, and we appreciate your patience as we proceed with your request.

### **Fee Category**

Provisions of the FOIA allow us to recover part of the cost of complying with your request. The fees that may be assessed to process a FOIA request vary depending on the category into which the FOIA requester falls. 5 U.S.C. § 552(a)(4)(A)(ii)(I),(II),(III). Based on the information in your request, we determined that you are in the below fee category. **If you disagree with this determination, please provide us with additional information to support the assessment of a different fee category.**

We placed you in the media requester category. Such requesters are charged for duplication at a rate of \$0.15 per page, although the first 100 pages are free. You did not agree to pay any fees. Should our search locate any records responsive to your request and should your fee waiver request be denied, we will only provide you with records up to your statutory entitlement of 100 pages.

### **Fee Waiver Request**

We have not yet made a decision on your request for a fee waiver. We will do so after we determine whether fees will be assessed for this request. Should the fee waiver be denied, however, you did not agree to pay any fees. Should our search locate any records responsive to your request and should your fee waiver request be denied, we will only provide you with records up to your statutory entitlement of 100 pages.

If you have any questions, please contact me at [jpl-foia@nasa.gov](mailto:jpl-foia@nasa.gov) or 818-393-6779 and provide the above-referenced tracking number.

Sincerely,

*Dennis B. Mahon*

Dennis B. Mahon  
Freedom of Information Act  
Public Liaison Officer

# Attachment 3

National Aeronautics and  
Space Administration  
**Jet Propulsion Laboratory**  
**NASA Office of JPL Management and Oversight**  
FOIA Public Liaison Office  
4800 Oak Grove Dr., M/S 180-200K  
Pasadena, CA 91109-8001



Reply to Attn of:

Office of Communications  
History and Information Services Division

March 5, 2025

Informed Consent Action Network  
c/o  
Aaron Siri  
Attorney at Law  
745 Fifth Ave., Ste. 500  
New York, NY 10151-0099

Re: NASA FOIA Tracking Number 25-00177-F-JPL (IR#13082D)

Dear Aaron Siri:

This pertains to your Freedom of Information Act (FOIA) request to the National Aeronautics and Space Administration (NASA), Jet Propulsion Laboratory (JPL) dated and received in this office on November 19, 2024. Your request was assigned the above-referenced tracking number. You seek:

*All communications (including but not limited to emails, text messages, direct messages, Teams chats, Slack chats, Signal messages, etc.) sent and/or received by a specific CalTech employee from January 1, 2017 through the date of the search that contain the term(s) "geoengineering", "solar radiation modification", "stratospheric aerosol injection", "SAI", "SRM", and/or "climate intervention"*

In response to your request, we asked our Prime Contractor, California Institute of Technology (Caltech) at JPL to perform a search using the information in your request. As a result of this search, Caltech at JPL did not locate any responsive records.

### **Fees**

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$50 minimum, there is no charge.

### **Appeal**

You have the right to appeal my action regarding your request. Your appeal must be received within 90 days of the date of this response. Please send your appeal to:

Administrator  
NASA Headquarters  
Executive Secretariat  
ATTN: FOIA Appeals  
MS 9R17  
300 E Street S.W.  
Washington, DC 20546

Both the envelope and letter of appeal should be clearly marked, "Appeal under the Freedom of Information Act." You must also include a copy of your initial request, the adverse determination, and any other correspondence with the FOIA office. In order to expedite the appellate process and ensure full consideration of your appeal, your appeal should contain a brief statement of the reasons you believe this initial determination should be reversed. Additional information on submitting an appeal is set forth in the NASA FOIA regulations at 14 C.F.R. § 1206.700.

### **Assistance and Dispute Resolution**

If you have any questions, please feel free to contact me in writing at the address shown on the letterhead. You may also e-mail correspondence to [jpl-foia@nasa.gov](mailto:jpl-foia@nasa.gov) [preferred] or reach me by telephone at 818-393-6779 and fax at 818-393-3160. For further assistance and to discuss any aspect of your request you may also contact:

Stephanie Fox  
Deputy Agency FOIA Officer/FOIA Public Liaison  
Freedom of Information Act Office  
NASA Headquarters  
300 E Street, S.W., 5P32  
Washington D.C. 20546  
Phone: 202-358-1553  
Email: [Stephanie.K.Fox@nasa.gov](mailto:Stephanie.K.Fox@nasa.gov)

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services it offers. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

**Important:** Please note that contacting any agency official including myself, NASA's FOIA Public Liaison, and/or OGIS is not an alternative to filing an administrative appeal and does not stop the 90-day appeal clock.

In accordance with § 1206.804 (c), after consultation with the NASA Office of JPL Management and Oversight General Counsel Office, I am the official responsible for the initial determination of your request. If I can be of further assistance, please feel free to contact me in writing to this center at the address shown on the letterhead. You may also e-mail correspondence to [jpl-foia@nasa.gov](mailto:jpl-foia@nasa.gov) [preferred] or reach me by telephone at 818-393-6779 and fax at 818-393-3160.

Also, you may contact Ms. Sarah Scharf, Principal Agency FOIA Officer, [sarah.a.scharf@nasa.gov](mailto:sarah.a.scharf@nasa.gov), or 202-358-0625 or Ms. Stephanie Fox, Deputy Agency FOIA Officer/FOIA Public Liaison, [stephanie.l.fox@nasa.gov](mailto:stephanie.l.fox@nasa.gov), or 202-358-1553.

Thank you very much.

Sincerely,

*Dennis B. Mahon*

Dennis B. Mahon  
Freedom of Information Act  
Public Liaison Officer

So we may improve our FOIA Program, please complete a short survey at the following web site: [http://www.hq.nasa.gov/office/pao/FOIA/jpl/foia\\_survey.htm](http://www.hq.nasa.gov/office/pao/FOIA/jpl/foia_survey.htm)