



June 1, 2021

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**Re: Request for Issuance of Final Decision, and Alternative Notice of Intent to Sue**

Dear Secretary Raimondo, Director Olthoff, and Associate Director Lin:

We write regarding an appeal filed under the Data Quality Act (DQA), Section 515 of Public Law 106-554 (aka the Information Quality Act), on a matter of considerable public importance that is pending before the National Institute of Standards and Technology (“NIST”), which is the Appeal of the Initial Decision Regarding the Request for Correction to NIST’s Final Report on the Collapse of World Trade Center Building 7 (Information Quality #20-01) (hereafter “Appeal”). This Appeal was submitted to NIST on September 28, 2020. This Appeal is an appeal of an initial decision issued by NIST on August 28, 2020 (hereafter “Initial Decision”), on a Request for Correction submitted on April 15, 2020, by ten family members of people killed on September 11, 2001, by 88 architects and structural engineers, and by the organization Architects & Engineers for 9/11 Truth, Inc. (referred to herein collectively as “Requesters”). Pursuant to OMB Guidelines, the NIST Information Quality Standards (IQS) provide an administrative appeal process to allow for objective and independent review of the agency’s Initial Decision. The Request for Correction, the Initial Decision, and the Appeal can all be found at <https://AE911Truth.org/nist>.

The information that is the subject of this Appeal, and of the underlying Request for Correction, is NIST’s *Final Report on the Collapse of the World Trade Center Building 7*

(NCSTAR 1A) and NIST's *Fire Response and Probable Collapse Sequence of World Trade Center Building 7* (NCSTAR 1-9), collectively referred to herein as the "NIST WTC 7 Report." Secondly, NIST's webpage titled *FAQs – NIST WTC 7 Investigation* (referred to herein as the "NIST WTC 7 FAQs") is also the subject of this Appeal, and of the underlying Request for Correction.

By this letter we respectfully request that NIST issue its final decision on the Requesters' Appeal within thirty days of the date of this letter. NIST's policy is to issue such appeal decisions within 60 days but Requesters' Appeal has been pending for more than eight months. In addition, via this letter we also hereby provide you Requesters' Notice of Intent to Sue for agency action unreasonably delayed, a Notice we hope will be mooted by NIST honoring our request for issuance of NIST's final decision on Requesters' Appeal within the next thirty days. This letter is submitted on behalf of all the Requesters. Requesters prefer to be contacted via email through the designated representative of Architects & Engineers for 9/11 Truth.

NIST has had sufficient time to decide Requesters' Appeal, more than four times the 60 days contemplated in NIST's own DQA policy. The Requesters' Appeal clearly establishes that NIST's Initial Decision is demonstrably in error in concluding that the NIST WTC 7 Report did not violate the DQA, OMB Guidelines, and NIST's IQS requirements. The Requesters' Appeal, and their Request for Correction, make an irrefutable case using clear logic, established scientific principles, and careful documentation of dispositive evidence. Because of the painstaking efforts of the Requesters to lay out this case clearly and to include all of the necessary documentation and references, it should not take the agency appeal decision maker more than a few days of review of the Appeal documents to understand that the NIST WTC 7 Report violated the DQA, OMB Guidelines, and NIST's own IQS requirements.

The Requestors' Appeal, and their Request for Correction, clearly show, contrary to NIST's Initial Decision, that the NIST WTC 7 Report's conclusion and rationale that the collapse of WTC 7 on 9/11 was due to fires and not the use of explosives and incendiaries was more than just wrong. Requester's Appeal, and their Request for Correction, clearly establish that the NIST WTC 7 Report was so factually inaccurate, methodologically unreliable, scientifically unsound, illogical, and biased that it blatantly violated NIST's IQS requirements of objectivity, utility, transparency, and reproducibility. Requesters' Appeal also clearly establishes that NIST's Initial Decision should be vacated not only because of the clear errors in what is stated in that Initial Decision, but also because of what is not stated in the Initial Decision. NIST's Initial Decision on Requesters' Request for Correction fails to even provide a response to most of the relevant data quality arguments contained in the Request for Correction, in violation of the NIST IQS, which requires NIST to provide a "point-by-point response to any relevant data quality arguments contained in the request." (See NIST IQS, Part III(C)(3).) It would take the agency appeal decision maker only a few hours to review the Appeal and identify this fatal flaw in the Initial Decision.

This matter is of sufficient national importance to warrant priority attention from Associate Director Lin as the agency appeal decision maker. The horrendous attacks of September 11, 2001, were the worst attacks on American soil since Pearl Harbor. Nearly 3,000 people died on 9/11, the vast majority at the World Trade Center. Many more have died after

9/11 as a result of exposure to the toxic and corrosive materials that contaminated the air following the collapse of WTC 7, WTC 1, and WTC 2. NIST was statutorily tasked with telling the 9/11 victims' families, the building and fire safety industries, the American people, and the U.S. government how and why WTC 7 collapsed. The fact that NIST, through the NIST WTC 7 Report and the NIST WTC 7 FAQs, has disseminated inaccurate, unreliable, and biased information about the collapse of WTC 7 has not only significant architectural and engineering implications, but also immense legal, political, and policy ramifications.

Should NIST make the finding requested in the Appeal, and in the Request for Correction, that the collapse of WTC 7 was caused not by fires but by a controlled demolition, as the scientific evidence reflects, it would instantly cast extreme doubt on NIST's finding that the total destruction of the WTC Towers was caused by the airplane impacts and ensuing fires, in which case congressional and criminal investigations should promptly ensue. The results would likely fundamentally reshape the American people's understanding of the 9/11 attacks and have broad and profound influence on the policies of the U.S. government. All of the Requesters, including those of the Requestors who lost family members on 9/11 at the World Trade Center, respectfully request that Secretary Raimondo and Director Olthoff ask Associate Director Lin to proceed expeditiously to decide Requesters' Appeal, and provide him the necessary resources to do so.

Requesters would prefer to avoid litigation on this issue but are prepared to seek judicial review if NIST provides them no meaningful alternative. Federal law provides citizens certain substantive and procedural rights regarding agency actions. Citizens, for example, have the substantive right under the Administrative Procedures Act (APA) to bring a legal action to have a court "hold unlawful and set aside agency action, findings, and conclusions found to be -- (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; ... ." 5 U.S.C. § 706. If NIST were to issue a final decision on Requesters' DQA Appeal and deny the Appeal and simply adopt the Initial Decision — which refused to order correction of NIST's WTC 7 Report notwithstanding the violations of NIST's IQS requirements documented in Requesters' Request for Correction — then Requesters would have the option of bringing suit under this APA provision.

If NIST were to issue such a final decision, Requesters could ask a federal court to set aside such a decision as arbitrary and an abuse of discretion. Such a suit would have merit because such a final decision by NIST could only be made by continuing to assume facts known to be false, by continuing to ignore established scientific principles including the laws of physics, by continuing to rely on computer modeling that produced results contrary to the observed collapse of WTC 7, by ignoring all of the firsthand reports from first responders, survivors, and news reporters who reported explosions, and by ignoring the seismic evidence and expert analysis of WTC metal explained in the Appeal, all of which evidence confirms the use of explosives and incendiaries to cause the collapse of WTC 7 on 9/11.

Although NIST's delay in issuing its final decision on Requester's Appeal prevents the use of the substantive APA provisions for setting aside arbitrary agency action or agency action contrary to law, because such action has yet to be taken, an agency cannot stall judicial review indefinitely by simply refusing to officially act. One of the Requesters' procedural rights under

federal law is the right to agency action within a reasonable time. The APA gives citizens the right to bring a legal action to compel agency action unreasonably delayed. 5 U.S.C. §§ 702, 706. See, e.g., *In re Natural Resources Def. Council*, 645 F.3d 400, 406 (D.C.Cir. 2011); *In re Am. Rivers & Idaho Rivers United*, 372 F.3d 413, 420 (D.C. Cir. 2004) (a court need not find any impropriety behind agency lassitude in order to hold that agency action is unreasonably delayed); *Pub. Citizen Health Rsch. Grp. v. Comm'r, Food & Drug Admin.*, 740 F.2d 21, 35 (D.C. Cir. 1984); *Env't Def. Fund, Inc. v. Costle*, 657 F.2d 275, 283–84 (D.C. Cir. 1981); *Nader v. F.C.C.*, 520 F.2d 182, 206 (D.C.Cir. 1975); *Harper v. Levi*, 520 F.2d 53 (D.C.Cir. 1975); *Geneme v. Holder*, 935 F. Supp. 2d 184, 188–89 (D.D.C. 2013). Even in matters where the substance of the agency decision is left by Congress to the agency's discretion, the agency may still be compelled to exercise that discretion by issuing a decision. *F.T.C. v. Anderson*, 631 F.2d 741, 750 (D.C. Cir. 1979); *Env't Def. Fund, Inc. v. Hardin*, 428 F.2d 1093, 1099–100 (D.C. Cir. 1970).

We look forward to receiving NIST's decision on Requestors' DQA Appeal within the next thirty days, and we hope that we can avoid the need for litigation on this important matter.

Respectfully submitted,



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Richard Gage, AIA  
Architect  
Founder of Architects & Engineers for 9/11 Truth



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Mick G. Harrison, Attorney at Law

CC:

The Honorable Carolyn Maloney, Chairwoman  
The Honorable James Comer, Ranking Member  
House Committee on Oversight and Reform

The Honorable Eddie Bernice Johnson, Chairwoman  
The Honorable Frank Lucas, Ranking Member  
House Committee on Science, Space, and Technology

The Honorable Maria Cantwell, Chairwoman  
The Honorable Roger Wicker, Ranking Member  
U.S. Senate Committee on Commerce, Science, and Transportation