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OF THE UNITED STATES**

Incl

12/2/2010

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December 2, 2010

Ms. Tonya Woods, FOIA Director
Animal and Plant Health Inspection Service
Legislative and Public Affairs
Freedom of Information Act Staff
4700 River Road
Unit 50
Riverdale, MD 20737

Sent Via Email: foia.officer@aphis.usda.gov

RE: Freedom of Information Act Request

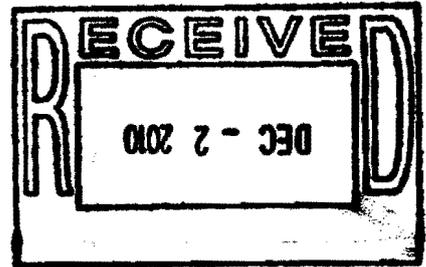
Dear Ms. Woods:

This is a request for records under the Federal Freedom of Information Act (FOIA), 5 U.S.C. § 552. The Humane Society of the United States (HSUS) is requesting:

Copies of all records in the custody or control of the USDA related to the following USDA licensed dealers:

- Duane, Rhonda, and Wylie Slagley, Happy Acres Kennel, 71-A-0693
- Cliff and Linda Watts, Hillside Kennel, 71-A-0807
- Cody and Richard Fox, Cross Creek Kennels, 71-A-0981
- Melva Langford, 74-A-1230
- Stillmeadow, Inc., 74-B-0254
- Pam Sims, Pams Cockers & Schnauzers, 74-A-1327
- Justin and La Nae Jackson, Jackson Kennels, 48-A-1849
- Keith and Lila Ratzlaff, 48-A-1793
- Norman and Erma Jean Witt, Witt's Kennel, 48-A-0805

For this request, the term "records" includes, but is not limited to, correspondence of any kind, memoranda, letters, notes, schedules, electronic mail, telephone logs, minutes of meetings, work papers, reports, studies, videos, DVDs, CDs, or data. If any information is withheld, please identify all such information with specificity and state the FOIA exemption under which the information is being withheld.



DEC - 3 2010

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The FOIA provides that if portions of a document are exempt from release, the remainder must nevertheless be segregated and disclosed, so please provide us with all non-exempt portions of any otherwise exempt records. 5 U.S.C. § 552(b). Please explain any redactions by reference to specific FOIA exemptions.

As required by 5 U.S.C. § 552(a)(6)(A)(i), we will expect a response to this request within twenty days of the date of receipt. If it is not possible to promptly comply with all portions or aspects of this request, please provide a partial response with materials readily available. Do not hesitate to call me should you have any questions concerning this request.

Fee Waiver Justification

The FOIA provides for a fee waiver when disclosure of the documents is in the public's interest. Specifically, the FOIA states that:

Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

5 U.S.C. § 552(a)(4)(A)(iii). The HSUS believes that this request satisfies the criterion for a fee waiver or reduction. The HSUS is a 501(c)(3) non-profit organization dedicated for over five decades to the protection of animals. The information sought in this request will enable The HSUS to further educate the public about the sale of dogs from wholesale dealers. This is a matter of legitimate public interest and concern. The disclosure of the requested records will primarily benefit the general public by helping the public better understand the operations and activities of the government's oversight of these dealers.

The information obtained will be disseminated to the general public. The HSUS has devoted substantial time and resources to monitoring activities of the federal government and keeping the public informed of these activities, as well as educating the public about the sale of dogs and cats and the role of the USDA in regulating and inspecting dog and cat dealers. The HSUS disseminates information to the general public through

various sources including its websites, media outlets, litigation, legislation and public education.

The use of this information will help The HSUS further its function as a disseminator of information on recent issues involving the pet trade. Finally, in no way will this information be used in any commercial practices. The request for this information does not relate to use for business, trade, or profit.

Accordingly, The HSUS requests that charges for searching and duplicating be waived. Should there be any difficulty with the fee waiver, please contact the HSUS by phone at 202-676-2329 or email at aspector@hsus.org so that The HSUS may decide whether to pay the fees or to appeal the denial of the request for waiver or reduction

Thank you for your prompt attention to this matter. We look forward to receiving your response within twenty business days as required by law.

Sincerely,



Andrew Spector
Animal Protection Litigation
The Humane Society of the United States

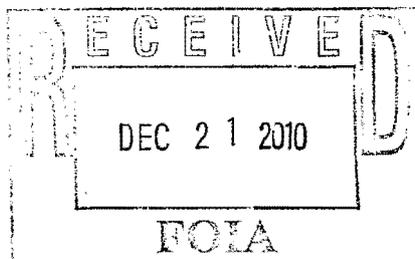


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**THE HUMANE SOCIETY
OF THE UNITED STATES**

December 21, 2010



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Sent Via Email: foia.officer@aphis.usda.gov

RE: Freedom of Information Act Request

Dear Ms. Woods:

This is a request for records under the Federal Freedom of Information Act (FOIA), 5 U.S.C. § 552. The Humane Society of the United States (HSUS) is requesting:

Copies of all records in the custody or control of the USDA that were received or generated in the past ten years related to the following USDA licensed dealer:

Jeff Fortin, 48-B-0225

For this request, the term "records" includes, but is not limited to, correspondence of any kind, memoranda, letters, notes, schedules, electronic mail, telephone logs, minutes of meetings, work papers, reports, studies, videos, DVDs, CDs, or data. If any information is withheld, please identify all such information with specificity and state the FOIA exemption under which the information is being withheld.

The FOIA provides that if portions of a document are exempt from release, the remainder must nevertheless be segregated and disclosed, so please provide us with all non-exempt portions of any otherwise exempt records. 5 U.S.C. § 552(b). Please explain any redactions by reference to specific FOIA exemptions.

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JAN 21 2011

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As required by 5 U.S.C. § 552(a)(6)(A)(i), we will expect a response to this request within twenty days of the date of receipt. If it is not possible to promptly comply with all portions or aspects of this request, please provide a partial response with materials readily available. Do not hesitate to call me should you have any questions concerning this request.

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Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

5 U.S.C. § 552(a)(4)(A)(iii). The HSUS believes that this request satisfies the criterion for a fee waiver or reduction. The HSUS is a 501(c)(3) non-profit organization dedicated for over five decades to the protection of animals. The information sought in this request will enable The HSUS to further educate the public about the sale of dogs from wholesale dealers. This is a matter of legitimate public interest and concern. The disclosure of the requested records will primarily benefit the general public by helping the public better understand the operations and activities of the government's oversight of these dealers.

The information obtained will be disseminated to the general public. The HSUS has devoted substantial time and resources to monitoring activities of the federal government and keeping the public informed of these activities, as well as educating the public about the sale of dogs and cats and the role of the USDA in regulating and inspecting dog and cat dealers. The HSUS disseminates information to the general public through various sources including its websites, media outlets, litigation, legislation and public education.

The use of this information will help The HSUS further its function as a disseminator of information on recent issues involving the pet trade. Finally, in no way will this information be used in any commercial practices. The request for this information does not relate to use for business, trade, or profit.

Accordingly, The HSUS requests that charges for searching and duplicating be waived. Should there be any difficulty with the fee waiver, please contact the HSUS by phone at 202-676-2329 or email at aspector@hsus.org so that The HSUS may decide whether to pay the fees or to appeal the denial of the request for waiver or reduction

Thank you for your prompt attention to this matter. We look forward to receiving your response within twenty business days as required by law.

Sincerely,

Andrew Spector

Andrew Spector
Animal Protection Litigation
The Humane Society of the United States.



"Andrew Spector"
<aspector@humanesociety.org>

12/21/2010 04:21 PM

To <foia.officer@aphis.usda.gov>
cc
bcc
Subject FOIA Request

Dear Ms. Woods,

Attached is a copy of a FOIA request on behalf of the Humane Society of the United States ("HSUS"). A copy of this request has been mailed to you as well.

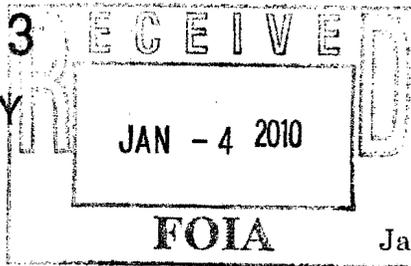
Thanks,

Andrew Spector



THE HUMANE SOCIETY OF THE UNITED STATES

10- 173



Handwritten notes: "Cler AC I es"

January 4, 2010

By Facsimile and Certified Mail

FEB - 2 2010

Tonya Woods, FOIA/PA Officer
4700 River Road, Unit 50
Riverdale, MD 20737-1232

Freedom of Information Act Request

Dear Ms. Woods:

On behalf of The Humane Society of the United States ("The HSUS"), I am requesting records under the Federal Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, et seq. If you are not the appropriate official to handle this request, please forward this letter to the appropriate person, and let me know that you have done so.

A. Records Request

This request is for records related to the licensing and inspection of Connie Casey (a.k.a. Connie Braun Casey, Connie Braun) and/or James Casey (a.k.a. Mike Casey) for exhibition of non-human primates, and/or the following businesses with which they are affiliated: Missouri Primate Foundation, Chimparty, Chimparty Pampered Primates, Missouri Chimpanzee Sanctuary, and A "Great Ape" Experience. According to the Electronic Freedom of Information Act Reports posted on the APHIS website, Ms. Casey and Mr. Casey recently cancelled a jointly held Class-C Exhibitor License (#43-C-0126); Ms. Casey currently holds a Class-C Exhibitor License (#43-C-0315); and Mr. Casey also currently holds a Class-C Exhibitor License (#43-C-0314).

Specifically, The HSUS requests the following:

1. All records received and/or created by APHIS related to the cancellation of USDA license #43-C-0126.
2. All records received and/or created by APHIS since the cancellation of USDA license #43-C-0126 related to the application for a USDA license by Ms. Casey, Mr. Casey, and/or any of the above-named entities. These records should include, but not be limited to, all initial and renewal applications, including those relevant to license #43-C-0314, license #43-C-0315, or any other licenses applied for, granted and/or denied.
3. All records related to any complaints received by APHIS or the USDA concerning Ms. Casey, Mr. Casey, or any of the above-named entities since the cancellation of license #43-C-0126.

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4. All records received or generated since the cancellation of license #43-C-0126 related to any correspondence between Ms. Casey and APHIS or the USDA, or between Mr. Casey and APHIS or the USDA.

For this request, the term "records" includes, but is not limited to, correspondence of any kind, memoranda, letters, notes, schedules, electronic mail, telephone logs, minutes of meetings, work papers, reports, studies, videos, DVDs, CDs, or data. If any information is withheld, please identify all such information with specificity and state the Exemption under which the information is being withheld.

The FOIA provides that if portions of a document are exempt from release, the remainder must nevertheless be segregated and disclosed, so please provide us with all non-exempt portions of any otherwise exempt records. 5 U.S.C. § 552(b). Please explain any redactions by reference to specific FOIA exemptions.

B. Statutory Fee Waiver Request

1. Representatives of the News Media

The HSUS qualifies for the preferred fee status of "representative of the news media." See 5 U.S.C. § 552(A)(ii); 7 C.F.R. Pt. 1, Subpt. A, App. A, Sec. 5(c). In 2007 the FOIA was amended to include a definition of the term "representative of the news media" that comports with the previous interpretation applied by the courts. OPEN Government Act of 2007, Pub. L. No. 110-175; See *National Security Archives v. U.S. Dep't of Defense*, 880 F.2d 1381, 1388 (D.C. Cir. 1989). An entity is a "representative of the news media" if it "gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." 5 U.S.C. § 552(a)(4)(A)(ii) (2008).

The HSUS is unquestionably a "representative of the news media." The HSUS has extensive and well-exercised means to investigate and keep the public informed about the operations and activities of the United States government and has invariably done so for many years. The HSUS does not merely obtain information and then contact members of the press to relate that information. Rather, The HSUS independently collects and analyzes information, drafts its own reports and articles on the issues by putting facts and issues into context, and disseminates the information broadly through its own publications to interested persons, legislators, its members and the public at large.

Relevant to this request, as a result of its longstanding advocacy and work on issues affecting non-human primates, The HSUS has developed a substantial level of expertise which commands public attention when such information is disseminated. For instance, The HSUS actively monitors and reports on issues related to the exploitation of primates kept as pets and for entertainment purposes, and maintains a website where frequently asked questions about chimpanzees used in research are addressed and where the public and interested parties are provided with the results of The HSUS's research and investigations. See

http://www.hsus.org/animals_in_research/chimps_deserve_better/chimpanzees_in_research_fact.html. As a result of synthesizing such research and investigations, the public is informed about the use of primates in research and as privately owned pets or exhibitions,

the effects such use and ownership has on the safety and well-being of the animals and the public at large and about the effect USDA licensing and inspection has, or fails to have, on the same. Through these efforts, The HSUS serves to inform and protect the public by alerting people about the laws and current practices related to ownership and use of these animals. In addition to maintaining the website, The HSUS also publishes a Fact Sheet that tracks instances of primate attacks, demonstrating a real risk to public health and safety. (Available at <http://www.hsus.org/web-files/PDF/legislation/primate-incidents-2007.pdf>). Given its independent and extensive public dissemination of information about the policies and activities relating to non-human primates, The HSUS meets the criteria for a representative of the news media.

2. Public Interest Fee Waiver

In addition to being eligible for preferred fee status, HSUS is also entitled to a public interest fee waiver. Under the FOIA, records are to be furnished completely without charge when "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of government and is not in the commercial interest of the requestor." 5 U.S.C. § 552(a)(4)(A)(iii); see also 7 C.F.R. Pt. 1, Subpt. A, App. A, Sec. 6. Pursuant to this provision, The HSUS seeks a waiver of any search and copy fees for this request.

As a threshold matter, the information sought in this request is in the public interest. The issue of captive primates is of intense and ongoing interest to the public at large, due to the inhumane conditions in which monkeys and apes are kept in certain research and exhibition facilities and because of the injuries that primates kept as pets and for exhibition purposes can, and often do, inflict on members of the public. Indeed, numerous national mainstream newspapers, television shows and other mass media outlets have repeatedly reported on these issues, demonstrating that the interest in preventing cruelty to animals and ensuring public safety are commonly held by the public generally, and is not limited to merely a subsection of the population. See, e.g., Monica Hortobagyi, *People who own chimps rethink choice of pet*, USA TODAY, April 6, 2009; Amos Bridge, *Sanctuary for monkeys under review*, MISSOURI NEWS LEADER, April 24, 2009; R.D. Rosen, *Lie of the Jungle*, WASH. POST, December 7, 2008; Rich Schapiro, *All it takes is \$45,000 and a phone call to get a pet chimp*, N.Y. DAILY NEWS, February 22, 2009.

More specifically, as it pertains to this request, Mr. and Ms. Casey's possession, exhibition, and sale of primates has and continues to garner interest related to the safety of the animals in her charge, her surrounding community, and the public at large. As recently reported by media outlets throughout the country, a chimpanzee bred and sold by Ms. Casey brutally mauled a woman in Connecticut. Andy Newman, *Pet Chimp Is Killed After Mauling Woman*, N.Y. TIMES, February 17, 2009, at A30; Rich Schapiro, *Mom of crazed chimpanzee, Travis, also shot dead during rage in 2001*, N.Y. DAILY NEWS, Feb. 21, 2009. Similarly, a chimpanzee owned by Ms. Casey was killed when the chimp, Suzy, escaped from the "Missouri Primate Foundation" in Festus, Missouri along with two other primates and "wreaked havoc." Schapiro, *id.* These issues are of serious, ongoing concern to the public.

i. Operations & Activities of the Government

All of the requested information significantly contributes to the public's understanding of the "operations and activities of the government," because it details the USDA's actions in providing a private person the license needed to exhibit, breed, and sell potentially dangerous animals. Similarly, the records will shine light upon the USDA's related inspection authority of such licensees and will help inform the public of the sufficiency of a federal government's enforcement practices. Indeed, the light these disclosures will shine upon USDA's activities is particularly bright given the fact that USDA is charged with enforcing the AWA and an animal bred by a license holder ultimately caused severe and permanent physical injuries. Chase Wright, *Chimp victim blind for life*, STAMFORD TIMES, April 7, 2009; Anahad O'Connor, *Woman Mauled by Chimp Has Surgery, and Her Vital Signs Improve*, N.Y. TIMES, February 19, 2009.

ii. Public Understanding

The HSUS is a non-profit organization dedicated for over five decades to the protection of animals. The HSUS has devoted substantial time and resources to monitoring activities of the federal government and keeping the public informed of these activities, as well as educating the public about captive primates and the role of the USDA in regulating and inspecting their possessors.

The HSUS contributes to the public's understanding of issues related to captive primates generally, and the public danger and inhumane treatment of privately owned chimpanzees in particular, due to its size and proven ability to disseminate information to a large segment of the public. The HSUS disseminates information to the general public through various sources including its websites, media outlets, litigation, legislation and public education. See, e.g., http://www.hsus.org/wildlife/issues_facing_wildlife/should_wild_animals_be_kept_as_pets/fact_and_fiction_monkeys_and_apes_as_pets.html. In particular, The HSUS has actively informed the public about instances of primate attacks, which demonstrate a real and recognized risk to public health and safety. See <http://www.hsus.org/web-files/PDF/legislation/primate-incidents-2007.pdf>. Indeed, a recent HSUS undercover investigation into the federally-funded New Iberia Research Center, which conducts invasive procedures on monkeys and chimpanzees, resulted in a subsequent inspection of the facility by the USDA. See Marsha Sills, *USDA Report cites NIRC*, THE ADVOCATE, April 11, 2009.

The information sought in this request will enable The HSUS to further educate the public about the possession of non-human primates and what, if any, risks may be realized by such ownership. It will also demonstrate the USDA's role in the licensing and inspection of exhibitors of potentially dangerous animals. Information obtained through this request may be disseminated to the public through publication on any of The HSUS's webpages cited above or in various reports and action alerts produced for our members and the public. Reports, comments, action alerts, press releases, and other materials relevant to operation and activities of the USDA as it relates to captive primates have been, and will continue to be, added to the The HSUS's webpages to ensure that interested citizens have unfettered access to information.

iii. Significant Contribution

The contribution of this information to the public understanding will be "significant," because the records are the sole source of information as to the success and sufficiency of USDA's licensing and inspecting of this particular permit holder under the Animal Welfare Act.

iv. No Commercial Interest

The HSUS does not have a commercial, trade, or profit interest in the information requested.

Accordingly, The HSUS asks that any search and duplication fees in this case be waived or reduced. If the fee waiver request is denied, please notify me by telephone at 202-676-2335, or by email at katiesmith@hsus.org, so that The HSUS may decide whether to pay the fees or to appeal the denial of the request for waiver or reduction.

C. Conclusion

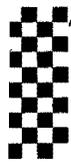
I look forward to receiving your reply within 20 business days as required by law. If you have any questions or need additional information regarding this request, please contact me. Thank you for your assistance.

Sincerely,



/s/ - 12/4/09

Katie Smith, Esq.
Litigation Fellow, Animal Protection Litigation
The Humane Society of the United States
2100 L Street, NW
Washington, DC 20037



2100 L Street, NW
Washington DC 20037
Phone: 202.452.1100
Fax: 202.676.2357



THE HUMANE SOCIETY
OF THE UNITED STATES

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Fax

To:

From:

Tanya Woods

Katie Smith

Fax:

(301) 734-6941

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(includes fax cover sheet)

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Date:

1/4/10

cc:

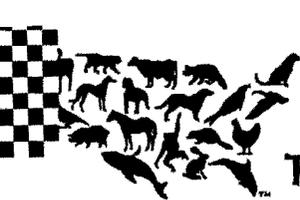
Urgent

For Review

Please Comment

Please Reply

Please Recycle



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Joseph AC

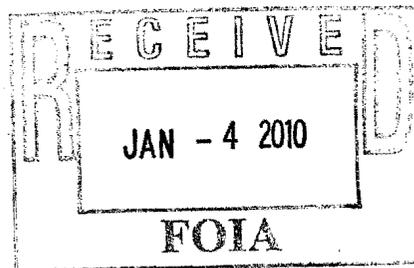
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Operations
- Michael Markarian
Executive Vice President
External Affairs

January 4, 2010

Animal and Plant Health Inspection Service
 Director, Freedom of Information and Privacy Act Staff
 4700 Riverdale Road, Unit 50
 Riverdale, MD 20737



Via Facsimile: 301-734-5941

Re: FREEDOM OF INFORMATION ACT REQUEST

Dear FOIA Officer:

FEB - 2 2010

On behalf of The Humane Society of the United States (HSUS), I hereby make this request for records under the Federal Freedom of Information Act, 5 U.S.C. § 552 and applicable regulations. If you are not the appropriate official to handle this request, please forward this letter to the appropriate person, and let us know that you have done so.

The HSUS is a national animal protection organization headquartered in Washington, D.C., with four regional offices located throughout the country and international offices located throughout the world. It is dedicated to educating the public about issues concerning animal protection.

This request is for

A noncompliant item summary (per section code), including but not limited to the number of animals affected by each noncompliant item, for the year 2009 specific to all animal research facilities that were registered with the USDA during that year (as separate from other entities regulated under the AWA. The USDA currently has a noncompliant item summary for 2007 posted on its website for all regulated entities—we are interested in noncompliant items pertaining to research facilities only).

The HSUS is not interested in any personal, privacy information that is exempt from release under Exemption b(6), or trade secrets or commercial / financial information that is exempt from release under Exemption 4. The FOIA provides that if portions of a document are exempt from release, the remainder of the information must nevertheless be segregated and disclosed. Accordingly, please provide all nonexempt portions of the records requested and justify deletions, if any, by reference to the specific provisions of the FOIA.

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- ### STAFF VICE PRESIDENTS
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The HSUS requests a waiver of fees incurred in connection with this FOIA request. This request satisfies the criteria for a waiver of all search and reproduction fees. In 1986, Congress revised the fee waiver criteria because it was disturbed by the restrictive interpretation the U.S. Department of Justice had given to the fee waiver provisions in its 1983 guidelines. Indeed, as one Congressman explained, the purpose of the amendments was "to make it easier for more requesters, *especially noncommercial requesters*, to qualify for fee waivers" Thus, he explained, "the new fee waiver standard should be liberally construed in order to encourage full and complete disclosure of information in the possession of the government that does not require withholding for a public or private interest."

Statement of Representative Glen English, 132 Cong. Rec. 22 (Oct. 6, 1987) (emphasis added).

To carry out the objective of liberalizing fee waivers, Congress adopted a multi-tiered fee waiver system. Under that system, documents are furnished completely without charge when the "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of government and is not in the commercial interest of the requestor." 5 U.S.C. § 552 (a) (4) (A) (iii). If the organization is a "representative of the news media," the organization is charged no more than reasonable duplication fees. *Id.* at § 552 (a)(4)(A)(ii)(II).

The requested records pertain to the "operations and activities of the federal government" because they aid The HSUS in its ongoing monitoring of the way in which federal animal research facilities follow the Animal Welfare Act, 7 U.S.C. § 2141, *et seq.*, as well as the manner in which the USDA enforces compliance with that Act

The HSUS undeniably has the ability to contribute to the public's understanding of federal agencies' operations as well as their policies and activities relating to animal welfare at animal research institutions due to its size and proven ability to disseminate information to a large segment of the public. The HSUS is a national animal protection organization headquartered in Washington, D.C. with four regional offices, various hands-on animal care facilities located throughout the country, and international offices located throughout the world. Policies and activities relating to proper animal care and use at research institutions are of national concern. The HSUS is particularly well suited to distribute information to concerned citizens and others throughout the country, because of its long standing dedication and ongoing efforts to promote the humane care and treatment of animals in laboratories, and to promote humane alternatives to live animal testing. The HSUS routinely distributes information, press releases, reports, and copies of original documents to members of the media to generate articles. The HSUS also routinely distributes, at no charge, its own information and information obtained from other sources regarding policies and activities relating to research facilities, to anyone requesting such information. This includes the public, media, students, and scientists.

One of the primary methods through which The HSUS educates and informs the public concerning the policies and activities of the USDA and the research facilities the agency

regulates is through the World Wide Web (<http://www.hsus.org>). The HSUS regularly posts reports, comments, action alerts, press releases, and other materials relevant to these matters, and we will continue to do so to ensure that interested citizens have around the clock access to such information. In sum, The HSUS is well positioned to contribute significantly to the public understanding of policies and activities relating to the welfare of animals used in research, once it receives and digests the requested information.

Aside from The HSUS's clear qualification for a fee waiver for the reasons just stated, The HSUS alternatively qualifies for a fee waiver under the fee exemption provided for "representative[s] of the news media." The definition of "representative of the news media" has a well-accepted interpretation which stems from the District of Columbia Circuit:

A representative of the news media is, in essence, a person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience.

Nat'l Security Archive v. U.S. Dep't of Defense, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

In reaching this conclusion, the Court relied on strong statements by legislators in support of the amendments who argued that the terms be "broadly interpreted if the Act is to work as expected" and extend to "any person or organization which regularly disseminates information to the public," even if it is a public interest group that "might also want the information for other purposes." See 132 Cong. Rec. 27190.

Under this definition and interpretation, The HSUS unquestionably is a "representative of the news media." The HSUS has extensive and well-exercised means to keep the public informed on the operations and activities of the United States government. The HSUS does not merely obtain information and then contact members of the press to relate that information; rather, The HSUS independently analyzes the information, drafts its own reports and articles on the issues, and disseminates the information broadly through its own publications to members and other interested persons. Thus, the HSUS has shown a "firm intention . . . to publish" this important information and to make it easily accessible. Nat'l Security Archive, 880 F.2d at 1386 (A later case has explicitly required this. See Judicial Watch, Inc. v. United States Dep't of Justice, 122 F.Supp.2d 13, 24 (D.D.C. 2000.)). As a result of its longstanding interest in policies and activities relating to animals used in research, The HSUS has developed a substantial level of expertise on the issues which commands public attention when it disseminates such information. Given its independent and extensive public dissemination of information pertaining to policies and activities relating to animal research, The HSUS meets the criteria for a representative of the news media.

Therefore, in summary The HSUS believes that this request satisfies the criteria for fee waiver or reduction for the following reasons:

- 1) The Humane Society of the United States is a non-profit, public interest group whose tax exempt number is 53-0225390. The primary purpose for requesting these records is to obtain

information about policies and activities relating to the welfare of animals used in research, not to commercially profit from the sale of this information.

2) The disclosure of the requested records would be to the benefit of the general public. The HSUS has demonstrated its ability to disseminate to the general public the information it acquires. This is achieved by state and nationally distributed newsletters, statewide membership mailings, information available electronically via the Internet, and extensive and reliable media contacts. This is evidenced by such articles and reports as: see e.g., THE HUMANE SOCIETY OF THE UNITED STATES, *Nature: System That Protects Animals in Laboratories Needs Revamp* (accessed April 6, 2009), *at*

http://www.hsus.org/animals_in_research/animals_in_research_news/nature_system_that_protects_animals_in_laboratories_needs_revamp.html; THE HUMANE SOCIETY OF THE UNITED STATES, *USDA Complaint Against University Alleges 60 Animal Welfare Violations* (October 6, 2004), *at*

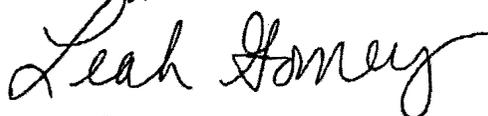
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3) The HSUS alternatively qualifies for a fee waiver because it is a "member of the news media" as that term has been interpreted by the D.C. Circuit.

Therefore, The HSUS asks that any search and duplication fees in this case be waived or reduced. It understands that the first two search hours and first one hundred pages of documents are free. If the request will involve more than two (2) search hours or more than one hundred (100) pages of documents and the waiver or reduction is denied, and fees are estimated to exceed two hundred and fifty dollars (\$250.00), please notify me immediately by telephone at 301-258-3041 before the request is processed so The HSUS may decide whether to pay the fees, whether to narrow our request based on your description of the records, or to appeal the denial of the request for waiver or reduction.

I may be reached during business hours at 301-258-3041. If you have any questions regarding any aspect of this request, please contact me by telephone rather than by mail in order to expedite timely disclosure. Thank you for your assistance. I look forward to receiving your determination regarding this request within the twenty business days as specified by law.

Sincerely,



Leah Gomez
Project Manager
The Humane Society of the United States



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AC

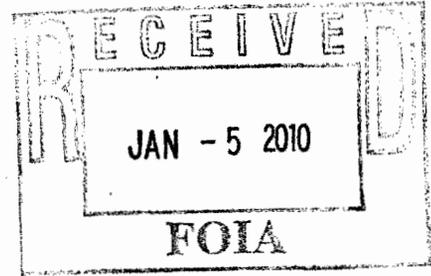
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 - David O. Wheelers, M.D.

January 5, 2010

Animal and Plant Health Inspection Service
Director, Freedom of Information and Privacy Act Staff
4700 Riverdale Road, Unit 50
Riverdale, MD 20737

Via Facsimile: 301-734-5941



Re: FREEDOM OF INFORMATION ACT REQUEST

FEB - 3 2010

Dear FOIA Officer:

On behalf of The Humane Society of the United States (HSUS), I hereby make this request for records under the Federal Freedom of Information Act, 5 U.S.C. § 552 and applicable regulations. If you are not the appropriate official to handle this request, please forward this letter to the appropriate person, and let us know that you have done so.

The HSUS is a national animal protection organization headquartered in Washington, D.C., with four regional offices located throughout the country and international offices located throughout the world. It is dedicated to educating the public about issues concerning animal protection.

This request is for

The United States Department of Agriculture's Animal Care Annual Report of Enforcement for fiscal year 2008 through the most recent year available at the time this request is processed.

The HSUS is not interested in any personal, privacy information that is exempt from release under Exemption b(6), or trade secrets or commercial / financial information that is exempt from release under Exemption 4. The FOIA provides that if portions of a document are exempt from release, the remainder of the information must nevertheless be segregated and disclosed. Accordingly, please provide all nonexempt portions of the records requested and justify deletions, if any, by reference to the specific provisions of the FOIA.



The HSUS requests a waiver of fees incurred in connection with this FOIA request. This request satisfies the criteria for a waiver of all search and reproduction fees. In 1986, Congress revised the fee waiver criteria because it was disturbed by the restrictive interpretation the U.S. Department of Justice had given to the fee waiver provisions in its 1983 guidelines. Indeed, as one Congressman explained, the purpose of the amendments was "to make it easier for more requesters, *especially noncommercial requesters*, to qualify for fee waivers" Thus, he explained, "the new fee waiver standard should be liberally construed in order to encourage full and complete disclosure of information in the possession of the government that does not require withholding for a public or private interest."

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To carry out the objective of liberalizing fee waivers, Congress adopted a multi-tiered fee waiver system. Under that system, documents are furnished completely without charge when the "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of government and is not in the commercial interest of the requestor." 5 U.S.C. § 552 (a) (4) (A) (iii). If the organization is a "representative of the news media," the organization is charged no more than reasonable duplication fees. *Id.* at § 552 (a)(4)(A)(ii)(II).

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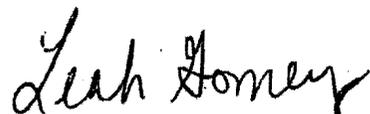
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Therefore, The HSUS asks that any search and duplication fees in this case be waived or reduced. It understands that the first two search hours and first one hundred pages of documents are free. If the request will involve more than two (2) search hours or more than one hundred (100) pages of documents and the waiver or reduction is denied, and fees are estimated to exceed two hundred and fifty dollars (\$250.00), please notify me immediately by telephone at 301-258-3041 before the request is processed so The HSUS may decide whether to pay the fees, whether to narrow our request based on your description of the records, or to appeal the denial of the request for waiver or reduction.

I may be reached during business hours at 301-258-3041. If you have any questions regarding any aspect of this request, please contact me by telephone rather than by mail in order to expedite timely disclosure. Thank you for your assistance. I look forward to receiving your determination regarding this request within the twenty business days as specified by law.

Sincerely,

A handwritten signature in black ink that reads "Leah Gomez". The signature is written in a cursive style with a large initial "L" and a long, sweeping underline.

Leah Gomez
Project Manager
The Humane Society of the United States

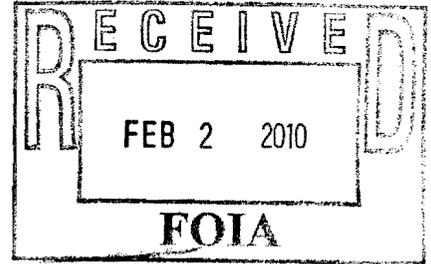


10- 233

**THE HUMANE SOCIETY
OF THE UNITED STATES**

Collette
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FOI

February 1, 2010



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Ms. Tonya Woods
Director, FOIA Officer
Animal and Plant Health Inspection Services
4700 River Road, Unit 50
Riverdale, MD 20737-1232

MAR 3 - 2010

Dear Ms. Woods,

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& Veterinary Services
John M. Snyder
Companion Animals
Martin L. Stephens, Ph.D.
Animal Research Issues

On behalf of The Humane Society of the United States (HSUS), I hereby request records from the Animal and Plant Health Inspection Services (APHIS) under the Freedom of Information Act (FOIA, 5 U.S.C. § 552 *et seq.*). If you are not the appropriate official to handle this request, please forward this letter to the appropriate person, and let me know that you have done so.

This request is for all records related to exhibitors Betty and Gus White (d/b/a Collins Zoo, aka Collins Exotic Animal Refuge and Collins Exotic Animal Orphanage). According to reports posted on the APHIS website, Mr. White currently holds a Class C Exhibitors License (65-C-0012).

The response should include, but not be limited to, the following records:

- (1) All records received or created by APHIS in the last ten years related to the application for a USDA license by Betty or Gus White and/or any of the above-named entities. These records should include, but not be limited to, all initial and renewal applications relevant to license #65-C-0012 or any other licenses applied for, granted, or denied.
- (2) All records related to the inspection of Betty or Gus White and/or any of the above-named entities carried out by APHIS in the last ten years. These records should include, but not be limited to, any Inspection Report created by APHIS. The HSUS is aware that as of January 27, 2010, APHIS has posted some inspection reports on its webpage, and this request does not include those inspection reports already posted.

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Persia White
David O. Wiebers, M.D.
Lona Williams

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- AC (3) All records related to the number and species of animals maintained by Betty or Gus White or any of the above-named entities in the past ten years.
- Joh (4) All records related to any complaints received by APHIS or the USDA in the past ten years concerning Betty or Gus White or any of the above-named entities.
- AC (5) All records received or generated over the last ten years related to any correspondence between Betty or Gus White or any of the above-named entities and APHIS or USDA.
- FOIA (6) Any and all responses to similar FOIA requests generated by APHIS in the past ten years.

For this request, the term "records" includes, but is not limited to, correspondence of any kind, memoranda, letters, notes, schedules, electronic mail, telephone logs, minutes of meetings, work papers, reports, studies, videos, DVDs, CDs, or data. If any information is withheld, please identify all such information with specificity and state the statutory exemption under which the information is being withheld.

The Freedom of Information Act provides that if portions of a document are exempt from release, the remainder must nevertheless be segregated and disclosed, so please provide us with all non-exempt portions of any otherwise exempt records. 5 U.S.C. § 552(b). Please explain any redactions by reference to specific statutory exemptions.

Fee Waiver Request

1. Representatives of the News Media

The HSUS qualifies for the preferred fee status of "representative of the news media." See 5 U.S.C. § 552(A)(ii); 7 C.F.R. Pt. 1, Subpt. A, App. A, Sec. 5(c). In 2007 the FOIA was amended to include a definition of the term "representative of the news media" that comports with the previous interpretation applied by the courts. OPEN Government Act of 2007, Pub. L. No. 110-175; See *National Security Archives v. U.S. Dep't of Defense*, 880 F.2d 1381, 1388 (D.C. Cir. 1989). An entity is a "representative of the news media" if it "gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." 5 U.S.C. § 552(a)(4)(A)(ii) (2008).

The HSUS is unquestionably a "representative of the news media." The HSUS has extensive and well-exercised means to investigate and keep the public informed about the operations and activities of the United States government and has invariably done so for many years. The HSUS does not merely obtain information and then contact members of the press to relate that information. Rather, The HSUS independently collects and analyzes information, drafts its own reports and articles on the issues by putting facts and

issues into context, and disseminates the information broadly through its own publications to interested persons, legislators, its members and the public at large.

Relevant to this request, as a result of its longstanding advocacy and work on issues affecting animals in captivity, The HSUS has developed a substantial level of expertise about exotic animal possession which commands public attention when such information is disseminated. For instance, The HSUS actively monitors and reports on issues related to big cats, primates, and snakes kept as pets or exhibited for entertainment, and maintains a website where the public and interested parties are provided with information about state and federal legislation and the hazards of keeping non-domesticated animals.

See

http://www.humanesociety.org/news/press_releases/2009/03/worst_exotic_pet_states_031809.html;

http://www.humanesociety.org/news/press_releases/2009/02/senate_introduces_captive_primate_safety_act_022509.html; http://www.humanesociety.org/issues/exotic_pets/facts/.

As a result of synthesizing such research and investigations, the public is informed about the use of exotic animals as privately owned pets or exhibitions, the effects such use and ownership has on the safety and well-being of the animals and the public at large and about the effect USDA licensing and inspection has, or fails to have, on the same. Through these efforts, The HSUS serves to inform and protect the public by alerting people about the laws and current practices related to ownership and use of exotic animals. In addition to maintaining the website, The HSUS also directly educates and informs the public through nationally distributed newsletters, statewide membership mailings, and action alerts. Given its independent and extensive public dissemination of information about the policies and activities relating to exotic animals in captivity, The HSUS meets the criteria for a representative of the news media.

2. Public Interest Fee Waiver

In addition to being eligible for preferred fee status, HSUS is also entitled to a public interest fee waiver. Under the Freedom of Information Act, records are to be furnished completely without charge when "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of government and is not in the commercial interest of the requestor." 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 7 C.F.R. Pt. 1, Subpt. A, App. A, Sec. 6. Pursuant to this provision, The HSUS seeks a waiver of any search and copy fees for this request.

As a threshold matter, the information sought in this request is in the public interest. The issue of captive exotic animals is of intense and ongoing interest to the public at large, due to the inhumane conditions in which they are kept in certain exhibition facilities and because of the injuries these animals can, and often do, inflict on members of the public. Indeed, numerous national mainstream newspapers, television shows and other mass media outlets have repeatedly reported on these issues, demonstrating that

the interest in preventing cruelty to animals and ensuring public safety are commonly held by the public generally, and are not limited to merely a subsection of the population. See, e.g., Oren Dorrell et al., *Local Gov'ts Confront Dangerous Pets*, USA Today, February 26, 2009; Francine Milford, *Roadside Zoo Sparks Protest, Second Thoughts*, Sarasota Herald-Tribune, January 19, 2007. More specifically, as it pertains to this request, the Whites' possession of exotic animals has and continues to garner interest related to the safety of the animals in their charge, the surrounding community, and the public at large. See Associated Press, *Collins Zoo Owner Wants Animals Back or State to Pay Up*, Picayune Item, June 20, 2007. Plainly these issues are of serious, ongoing concern to the public.

i. Operations & Activities of the Government

All of the requested information significantly contributes to the public's understanding of the "operations and activities of the government," because it details the USDA's actions in providing a private person the license needed to exhibit potentially dangerous animals. Similarly, the records will shine light upon the USDA's related inspection authority of such licensees and will help inform the public of the sufficiency of a federal government's enforcement practices, including those pertaining to the Animal Welfare Act, 7 U.S.C. § 2131 *et seq.*

ii. Public Understanding

The HSUS is a non-profit organization dedicated for over five decades to the protection of animals. The HSUS has devoted substantial time and resources to monitoring activities of the federal government and keeping the public informed of these activities, as well as educating the public about captive animals and the role of the USDA in regulating and inspecting their possessors.

The HSUS contributes to the public's understanding of issues related to captive exotic animals generally, as well as the dangers of keeping primates, snakes, and big cats in particular, and the deleterious conditions many animals owned by licensees are kept in, due to its size and proven ability to disseminate information to a large segment of the public. The HSUS disseminates information to the general public through various sources including its websites, media outlets, litigation, legislation and public education. In particular, The HSUS has actively informed the public about instances of animal attacks, which demonstrate a real and recognized risk to public health and safety. See <http://www.hsus.org/web-files/PDF/legislation/primate-incidents-2007.pdf>; http://www.humanesociety.org/assets/pdfs/wildlife/circus/2004_HSUS_Circus_Incidents.pdf.

The information sought in this request will enable The HSUS to further educate the public about the possession of exotic animals and what, if any, risks may be realized by such ownership. It will also demonstrate the USDA's role in the licensing and inspection of exhibitors of potentially dangerous animals. Information obtained through this request

may be disseminated to the public through publication on any of The HSUS's webpages cited above or in various reports and action alerts produced for our members and the public. Reports, comments, action alerts, press releases, and other materials relevant to operation and activities of the USDA as it relates to captive animals have been, and will continue to be, added to the HSUS's webpages to ensure that interested citizens have constant access to information.

iii. Significant Contribution

The contribution of this information to the public understanding will be "significant," because the records are the sole source of information as to the success and sufficiency of USDA's licensing and inspecting of this particular permit holder under the Animal Welfare Act.

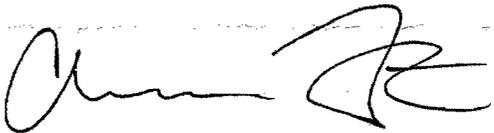
iv. No Commercial Interest

The HSUS does not have a commercial, trade, or profit interest in the information requested.

Accordingly, The HSUS asks that any search and duplication fees in this case be waived or reduced. If the fee waiver request is denied, please notify me prior to processing this request by telephone (202-676-2336) or by email (afrostitic@hsus.org), so that The HSUS may decide whether to pay the fees or to appeal the denial of the request for waiver or reduction.

I look forward to receiving your reply within 20 business days as required by law. If you have any questions or need additional information regarding this request, please contact me. Thank you for your assistance.

Sincerely,



Anna Frostitic
Attorney, Animal Protection Litigation
The Humane Society of the United States
2100 L Street NW Washington, DC 20037
ph (202) 676-2336
fax (202) 676-2357
afrostitic@hsus.org



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Director, FOIA Officer
Animal & Plant Health Inspection Svcs.
4700 River Road, Unit 50
Riverdale, MD 20737-1232

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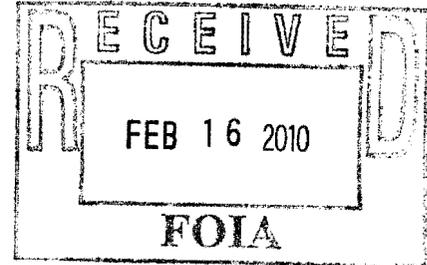
Janice
FOIA
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"Aaron Green"
<agreen@humanesociety.org
>
02/16/2010 04:57 PM

To <foia.officer@aphis.usda.gov>
cc
bcc
Subject FOIA Request

Tonya Woods, FOIA/PA Officer
4700 River Road, Unit 50
Riverdale, MD 20737-1232



February 16, 2010

Freedom of Information Act Request

Dear Ms. Woods:

MAR 16 2010

On behalf of The Humane Society of the United States ("The HSUS"), I am requesting records under the Federal Freedom of Information Act ("FOIA"), 5 U.S.C. §§ 552, *et seq.* If you are not the appropriate official to handle this request, please forward this letter to the appropriate person, and let me know that you have done so.

Background

In 2003, APHIS announced that animal dealers Roy Allen Stevens, Ted Eric Stevens, and Lois Stevens (doing business as Bone Farm Kennels) were to be charged with violations of the Animal Welfare Act and that APHIS could prove 379 violations of the AWA. USDA Press Release, Sept. 29, 2003 (available at http://www.aphis.usda.gov/lpa/news/2003/09/stevens_cmp_ac.html). In the same press release, APHIS indicated that Lois Stevens settled a case in 1998 by agreeing to surrender her license and that in 2002, Bone Farm Kennels applied for a license. *Id.* It appears as though Lois Stevens continues to sell dogs through kennels named "Lazy S Aussies" and "Bone Fam Pets." (http://www.lazysaussies.info/Home_Page.php).

A. Records Request

This request is for all records related to Bone Farm Kennels, also known as "Bone Fam Pets" and "Lazy S Aussies," and for all records related to Lois Stevens, Ted Eric Stevens and/or Roy Allen Stevens (herein collectively referred to as "the Stevens").

The responsive records should include but not be limited to the following:

1. All records received and/or created by APHIS in the last 15 years related to the application for a USDA license by the Stevens and/or any of the above-named associated entities including but not limited to Bone Farm Kennels, Bone Fam Pets or Lazy S Aussies. These records should include, but not be limited to, all initial and renewal applications, including any approved or denied applications.

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2. All records related to the inspection of the Stevens and any related business regulated by APHIS carried out by APHIS in the last 15 years. These records should include, but not be limited to, any Inspection Report created by APHIS.
3. All records related to any complaints received by APHIS or the USDA in the past 15 years concerning the Stevens or any of the above-named entities.
4. All records related to AWA Docket No. 98-0002 (1/12/98).
5. All records related to AWA Docket No. 03-0025 (2/24/04).
6. All records received or generated over the last 15 years related to any correspondence between the Stevens and APHIS or the USDA.
7. Any and all responses to similar FOIA requests generated by APHIS in the past 10 years. FOIA

For this request, the term "records" includes, but is not limited to, correspondence of any kind, memoranda, letters, notes, schedules, electronic mail, telephone logs, minutes of meetings, work papers, reports, studies, videos, DVDs, CDs, or data. If any information is withheld, please identify all such information with specificity and state the FOIA Exemption under which the information is being withheld. The FOIA provides that if portions of a document are exempt from release, the remainder must nevertheless be segregated and disclosed, so please provide us with all non-exempt portions of any otherwise exempt records. 5 U.S.C. § 552(b). Please explain any redactions by reference to specific FOIA exemptions.

B. Statutory Fee Waiver Requests

1. Representatives of the News Media

The HSUS qualifies for the preferred fee status of "representative of the news media." See 5 U.S.C. § 552(A)(ii); 7 C.F.R. Pt. 1, Subpt. A, App. A, Sec. 5(c). The FOIA was amended to include a definition of the term "representative of the news media" that is in line with the previous interpretation applied by the courts. OPEN Government Act of 2007, Pub. L. No. 110-175; See *National Security Archives v. U.S. Dep't of Defense*, 880 F.2d 1381, 1388 (D.C. Cir. 1989). As such, an entity is a "representative of the news media" if it "gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." 5 U.S.C. § 552(a)(4)(A)(ii) (2008).

The HSUS is unquestionably a "representative of the news media." The HSUS has extensive and well-exercised means to investigate and keep the public informed about the operations and activities of the United States government and has invariably done so for many years. The HSUS does not merely obtain information and then contact members of the press to relate that information. Rather, The HSUS independently collects and analyzes information, drafts its own reports and articles on the issues by putting facts and issues into context, and disseminates the information broadly through its own publications to interested persons, legislators, its members and the public at large. As a result of its longstanding advocacy and work on companion animal issues, The HSUS has developed a substantial level of expertise about puppy mills which commands public attention when such information is

disseminated.

For instance, The HSUS Stop Puppy Mills Campaign maintains a website, <http://www.stoppupmills.org/>, where frequently asked questions about puppy mills are addressed and where the public and interested parties are provided with the results of The HSUS's research and investigations. As an end result of synthesizing such research and investigations, the public is informed about puppy mills and the effect USDA licensing and inspection has, or fails to have, on the same. Through these efforts, The HSUS also serves to inform and protect consumers by alerting them to false and misleading statements made by puppy sellers such as Bone Fam Pets/Lazy S Aussies. In addition to maintaining the website, The HSUS also publishes materials such as the Canine Chronicle newspaper which exposes the conditions of puppy mills, discusses the laws that regulate them and covers the USDA's role in inspecting such facilities and enforcing the Animal Welfare Act ("AWA"). The HSUS, "Behind the Scenes: What Investigators Found," Canine Chronicle, 2006, pg. 3. Given its independent and extensive public dissemination of information pertaining to policies and activities relating to puppy mills, The HSUS meets the criteria for a representative of the news media.

2. Public Interest Fee Waiver

In addition to granting preferred fee status, under federal law, records are to be furnished completely without charge when "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of government and is not in the commercial interest of the requestor." 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 7 C.F.R. Pt. 1, Subpt. A, App. A, Sec. 6. Pursuant to this requirement, The HSUS seeks a waiver of any search and copy fees for this FOIA request.

As a threshold matter, the information sought in this request is in the public interest. The issue of puppy mills is of intense and ongoing interest to the public at large, due to the inhumane conditions in which puppy mill dogs are kept, the illnesses and congenital defects suffered by many puppy mill puppies, the rampant consumer deception in the puppy mill industry, and the risk to human and animal health posed by the transmissible diseases often carried by puppy mill puppies. National mainstream newspapers, television shows and other mass media have run stories discussing these issues, demonstrating that the interest in preventing egregious cruelty to animals is commonly held by the public generally, and is not limited to merely a subsection of the population. *See, e.g.*, Jeanette Trompeter, "I-TEAM: Inside A Minnesota Puppy Mill," WCCO (available at <http://wcco.com/pets/i.team.puppy.2.872927.html>); The Oprah Winfrey Show, April 4, 2008; Jane Weaver, "Pet store chain linked to puppy mills," MSNBC, Nov. 20, 2008.

i. Operations & Activities of the Government

All of the requested information significantly contributes to the public's understanding of the "operations and activities of the government," because it details the USDA's efforts in enforcing the Animal Welfare Act and holding violators of the law accountable.

ii. Public Understanding

The HSUS is a non-profit organization dedicated to animal protection and has focused its efforts on puppy mills for over four decades. The HSUS has devoted substantial time and resources to monitoring activities of the federal government and keeping the public abreast of these activities, as well as educating the public about puppy mills and the role of the USDA in regulating and inspecting

commercial breeding operations.

The HSUS contributes to the public's understanding of companion animal issues generally, as well as the controversy surrounding puppy mills, due to its size and proven ability to disseminate information to a large segment of the public. The HSUS disseminates information to the general public through various sources including its websites, media outlets, litigation, legislation and public education. See, e.g., <http://www.stoppupmills.org>; <http://www.hsus.org/pets>. The information sought in this request will enable The HSUS to further educate the public about the role USDA plays in regulating breeders as well as the seemingly absent oversight of non-licensed breeders.

iii. Significant Contribution

The contribution of this information to the public understanding will be "significant," because it is the sole source of information as to the conditions surrounding the Stevens' kennel operations.

iv. No Commercial Interest

The HSUS does not have a commercial, trade, or profit interest in the information requested.

C. Conclusion

Therefore, The HSUS asks that any search and duplication fees in this case be waived or reduced. If the fee waiver request is denied, please notify me by telephone at 202-676-2334, or by email at agreen@hsus.org, so that The HSUS may decide whether to pay the fees or to appeal the denial of the request for waiver or reduction. If you have any questions or need additional information regarding this request, please contact me. I look forward to receiving your reply within 20 business days as required by law. Thank you for your assistance.

Sincerely,

Aaron D. Green, Esq.

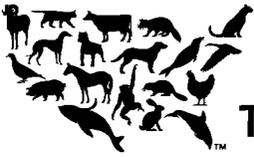
Litigation Fellow

agreen@humanesociety.org

t 202.676.2334 f 202.676.2357

Animal Protection Litigation & Research
The Humane Society of the United States
2100 L Street NW Washington, DC 20037
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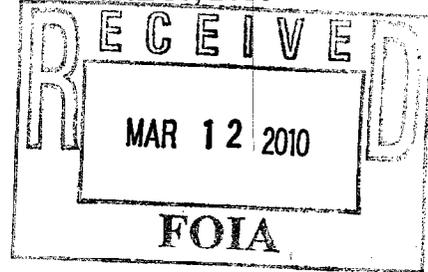


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March 10, 2010



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Animal and Plant Health Inspection Service
Director, Freedom of Information and Privacy Act Staff
4700 Riverdale Road, Unit 50
Riverdale, MD 20737

Via Facsimile: 301-734-5941

FREEDOM OF INFORMATION ACT REQUEST

APR - 9 2010

Dear FOIA Officer:

On behalf of The Humane Society of the United States (HSUS), I hereby make this request for records under the Federal Freedom of Information Act (FOIA), 5 U.S.C. § 552 *et seq.* and applicable regulations. If you are not the appropriate official to handle this request, please forward this letter to the appropriate person, and let me know that you have done so.

The HSUS is a national animal protection organization headquartered in Washington, D.C., with four regional offices located throughout the country and international offices located throughout the world. The organization is dedicated to educating the public about issues concerning animal protection.

This request is for copies of the following records in the possession of the United States Department of Agriculture (USDA) and/or the Animal and Plant Health Inspection Service (APHIS):

- 1) Any and all correspondence created or received since 2005 between USDA and the University of Oklahoma Health Sciences Center (Registration Number 73-R-0007) regarding the suspension of research protocols involving Deborah J. Stearns-Kurosawa, and/or Shinichiro Kurosawa.
- 2) Any and all correspondence created or received since 2005 between USDA and the Oklahoma Medical Research Foundation regarding the suspension of research protocols involving Deborah J. Stearns-Kurosawa, and/or Shinichiro Kurosawa.

For this request, the term "correspondence" includes, but is not limited to, letters, notes, electronic mail, telephone logs, and minutes of meetings, whether such information is stored electronically or in hard copy.

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The FOIA provides that if portions of a document are exempt from release, the remainder of the information must nevertheless be segregated and disclosed. 5 U.S.C. § 552(b). Accordingly, please provide all nonexempt portions of the records requested and justify deletions, if any, by reference to the specific provisions of the FOIA.

Request for Fee Waiver

The HSUS requests a waiver of fees incurred in connection with this FOIA request. 5 U.S.C. § 552(a)(4)(A). This request satisfies the criteria for a waiver of all search and reproduction fees. In 1986, Congress revised the fee waiver criteria because it was disturbed by the restrictive interpretation the U.S. Department of Justice had given to the fee waiver provisions in its 1983 guidelines. Indeed, as one Congressman explained, the purpose of the amendments was "to make it easier for more requesters, *especially noncommercial requesters*, to qualify for fee waivers" Thus, he explained, "the new fee waiver standard should be liberally construed in order to encourage full and complete disclosure of information in the possession of the government that does not require withholding for a public or private interest." Statement of Representative Glen English, 132 Cong. Rec. 22 (Oct. 6, 1987) (emphasis added).

To carry out the objective of liberalizing fee waivers, Congress adopted a multi-tiered fee waiver system. Under that system, documents are furnished completely without charge when the "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of government and is not in the commercial interest of the requestor." 5 U.S.C. § 552(a)(4)(A)(iii). If the organization is a "representative of the news media," the organization is charged no more than reasonable duplication fees. *Id.* at § 552 (a)(4)(A)(ii)(II).

Disclosure of the Information Is In the Public Interest

The requested documents, images and videos pertain to the "operations and activities of the federal government" (5 U.S.C. § 552(a)(4)(A)(iii)) because they aid The HSUS in its ongoing monitoring of animal research facilities' compliance with the Animal Welfare Act, 7 U.S.C. § 2141, *et seq.*, and the Public Health Service's Policy on Humane Care and Use of Laboratory Animals.

The HSUS undeniably has the ability to contribute to the public's understanding of federal agencies' operations as well as their policies relating to animal welfare at animal research institutions due to its size and proven ability to disseminate information to a large segment of the public. The HSUS is particularly well suited to distribute information of national import to concerned citizens and others throughout the country, because of its long standing dedication and ongoing efforts to promote the humane care and treatment of animals in laboratories, and to promote humane alternatives to live animal testing. The HSUS routinely distributes information, press releases, reports, and copies of original documents to members of the media to generate articles to inform the public. The HSUS also routinely distributes, at no charge, its own information and information obtained from other sources to anyone requesting such information, including the public, media, students, and scientists.

In addition, The HSUS posts reports, comments, action alerts, press releases, and other materials relevant to policies and activities relating to research facilities on its website (<http://www.hsus.org>) to ensure that interested citizens have constant access to the information. See e.g., THE HUMANE SOCIETY OF THE UNITED STATES, *Nature: System That Protects Animals in Laboratories Needs Revamp* (accessed April 6, 2009), at http://www.hsus.org/animals_in_research/animals_in_research_news/nature_system_that_protects_animals_in_laboratories_needs_revamp.html; THE HUMANE SOCIETY OF THE UNITED STATES, *USDA Complaint Against University Alleges 60 Animal Welfare Violations* (October 6, 2004), at http://www.hsus.org/animals_in_research/animals_in_research_news/usda_complaint_against_university_alleges_60_animal_welfare_violations.html. Thus, The HSUS is well positioned to contribute significantly to the public understanding of policies and activities relating to the welfare of animals used in research, once it receives and analyzes the requested information.

HSUS is a Representative of the News Media

Not only does The HSUS qualify for a fee waiver due to the significance of the material requested, The HSUS also qualifies under the fee exemption provided for “representative[s] of the news media.” The definition of “representative of the news media” has a well-accepted meaning:

A representative of the news media is, in essence, a person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience. *Nat'l Security Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

In reaching this conclusion, the Court relied on strong statements by legislators in support of the amendments who argued that the terms be “broadly interpreted if the Act is to work as expected” and extend to “any person or organization which regularly disseminates information to the public,” even if it is a public interest group that “might also want the information for other purposes.” See 132 Cong. Rec. 27190.

Under this definition and interpretation, The HSUS unquestionably is a “representative of the news media.” The HSUS has extensive and well-exercised means to keep the public informed on the operations and activities of the United States government. The HSUS does not merely obtain information and then contact members of the press to relate that information; rather, The HSUS independently analyzes the information, drafts its own reports and articles on the issues, and disseminates the information broadly through its own publications to members and other interested persons. Thus, the HSUS has shown a “firm intention . . . to publish” this important information and to make it easily accessible. *Nat'l Security Archive*, 880 F.2d at 1386; see also *Judicial Watch, Inc. v. United States Dep't of Justice*, 122 F.Supp.2d 13, 24 (D.D.C. 2000). As a result of its longstanding interest in policies and activities relating to animals used in research, The HSUS has developed a substantial level of expertise on the issues which commands public attention when it disseminates such information. Given its independent and extensive public dissemination of information pertaining to policies and activities relating to animal research, The HSUS meets the criteria for a representative of the news media.

Therefore, The HSUS asks that any search and duplication fees in this case be waived or reduced. It understands that the first two search hours and first one hundred pages of documents are free. If the request will involve more than two (2) search hours or more than one hundred (100) pages of documents and the waiver or reduction is denied, and fees are estimated to exceed two hundred and fifty dollars (\$250.00), please notify me immediately by email (afrostic@hsus.org) or telephone (202-676-2333) before the request is processed so The HSUS may decide whether to pay the fees, whether to narrow our request based on your description of the records, or to appeal the denial of the request for waiver or reduction.

If you have any questions regarding any aspect of this request, please contact me by telephone rather than by mail in order to expedite timely disclosure. Thank you for your assistance. I will look forward to receiving your reply within the twenty business days as specified by law.

Sincerely,



Anna Frostic
Attorney, Animal Protection Litigation
The Humane Society of the United States
2100 L Street NW
Washington, D.C. 20037
(202) 676-2333
afrostic@hsus.org

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THE HUMANE SOCIETY OF THE UNITED STATES

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*Callie
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March 15, 2010

Ms. Tonya Woods
Animal and Plant Health Inspection Service
Freedom of Information and Privacy Act Staff
4700 River Road
Unit 50
Riverdale, MD 20737



RE: Freedom of Information Act Request

Sent Via Mail/Fax: (301) 734-5941

APR 13 2010

Dear Ms. Woods:

This is a request for records under the Federal Freedom of Information Act (FOIA), 5 U.S.C. § 552. The Humane Society of the United States (HSUS) is requesting:

All records relating to the stipulation(s) signed by Brandi Cheney and Diana Stephenson, S&S Family Puppies/CC Puppies, 43-B-0435 within the past five years (2010-2005).

For this request, the term "records" includes, but is not limited to, correspondence of any kind, memoranda, letters, notes, schedules, electronic mail, telephone logs, minutes of meetings, work papers, reports, studies, photographs, videos, DVDs, CDs, or data. If any information is withheld, please identify all such information with specificity and state the Exemption under which the information is being withheld.

The FOIA provides that if portions of a document are exempt from release, the remainder must nevertheless be segregated and disclosed. Please provide us with all non-exempt portions of any otherwise exempt records. 5 U.S.C. § 552(b). Please explain any redactions by reference to specific FOIA exemptions.

This request is a matter of great concern to The HSUS, and thus your prompt and complete report is appreciated. As required by 5 U.S.C. § 552(a)(6)(A)(1), an agency response is expected within twenty days of the date of receipt. If it is not possible to promptly comply with all portions or aspects of this report, please provide a partial response with materials readily available. Do not hesitate to call me should you have any questions concerning this request.

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Celebrating Animals, Confronting Cruelty

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Fee Waiver Justification

FOIA provides for a fee waiver when disclosure of the documents is in the public's interest. Specifically, FOIA states that:

Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

5 U.S.C. § 552(a)(4)(A)(iii). The HSUS believes that this request satisfies the criterion for a fee waiver or reduction. The HSUS is a 501(c)3 non-profit organization dedicated for over five decades to the protection of animals. The information sought in this request will enable The HSUS to further educate the public about dealers with violations and the agency's enforcement actions. This is a matter of legitimate public interest and concern. The disclosure of the requested records will primarily benefit the general public by helping the public better understand the operations and activities of the government's oversight of dealers.

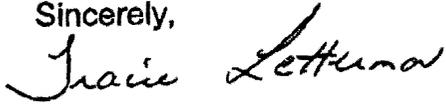
The information obtained will be disseminated to the general public. The HSUS has devoted substantial time and resources to monitoring activities of the federal government and keeping the public informed of these activities, as well as educating the public about USDA's role in regulating and inspecting dealers. The HSUS disseminates information to the general public through various sources including its websites, media outlets, litigation, legislation and public education.

The use of this information will help The HSUS further its function as a disseminator of information on recent issues involving the pet trade. Finally, in no way will this information be used in any commercial practices. The request for this information does not relate to use for business, trade, or profit.

In the course of carrying out its educational and other charitable public interest activities, The HSUS requests that charges for searching and duplicating be waived. Should there be any difficulty with the fee waiver, please contact the HSUS by phone at 202-676-2303 or email at tletterman@hsus.org so that The HSUS may decide whether to pay the fees or to appeal the denial of the request for waiver or reduction.

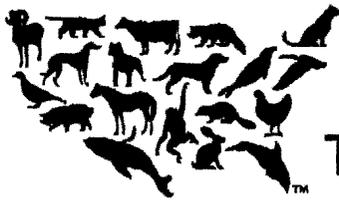
Thank you for your prompt attention to this matter. We look forward to receiving your reply within twenty business days as required by law.

Sincerely,

A handwritten signature in cursive script that reads "Tracie Letterman". The signature is written in black ink and is positioned above the printed name and title.

Tracie Letterman

Director of Regulatory Affairs



**THE HUMANE SOCIETY
OF THE UNITED STATES**

FAX

TO: Tonya Woods

FROM: Tracie Lettman

FAX: 301-734-5941

FAX: 202-676-2301

PHONE:

PHONE: 202-676-2303

SUBJECT:

DATE: 3/15/10

COMMENTS:

FOIA Attached

2100 L Street NW
Washington, DC 20037
202.452.1100
HumaneSociety.org

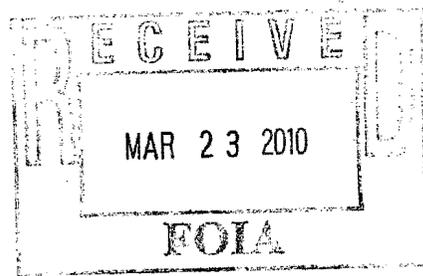
James
WS



THE HUMANE SOCIETY OF THE UNITED STATES

March 22, 2010

Tonya Woods
Animal and Plant Health Inspection Service
Freedom of Information and Privacy Act Staff
4700 River Road
Unit 50
Riverdale, MD 20737



Sent Via Fax: (301) 734-5941 and mail

APR 20 2010

Dear Ms. Woods:

This is a request for STAFF VICE PRESIDENTS under the Federal Freedom of Information Act (FOIA), 5 U.S.C. § 552. The Humane Society of the United States (HSUS) is requesting:

1. Records of all incidents of poisoning of domestic animals by the sodium flouroacetate Compound 1080 livestock protection collar occurring between October 1, 2000 and the present;
2. Records of all incidents of poisoning of non-target wildlife by the sodium flouroacetate Compound 1080 livestock protection collar occurring between October 1, 2000 and the present; and
3. Records of all incidents in which humans were or were thought to have been affected by exposure to the sodium flouroacetate Compound 1080 livestock protection collar occurring between October 1, 2000 and the present.

For this request, the term "records" includes, but is not limited to, correspondence of any kind, memoranda, letters, notes, schedules, electronic mail, telephone logs, minutes of meetings, work papers, reports, studies, photographs, videos, DVDs, CDs, or data. If any information is withheld, please identify all such information with specificity and state the exemption under which the information is being withheld.

The FOIA provides that if portions of a document are exempt from release, the remainder must nevertheless be segregated and disclosed. Please provide us with all non-exempt portions of any otherwise exempt records. 5 U.S.C. § 552(b). Please explain any redactions by reference to specific FOIA exemptions.

This request is a matter of great concern to The HSUS, and thus your prompt and complete report is appreciated. As required by 5 U.S.C. § 552(a)(6)(A)(1), an agency response is expected within twenty days of the date of receipt. If it is not possible to promptly comply with all portions or aspects of this report, please

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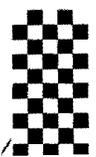
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provide a partial response with materials readily available. Do not hesitate to call me should you have any questions concerning this request.

Fee Waiver Justification

FOIA provides for a fee waiver when disclosure of the documents is in the public's interest. Specifically, FOIA states that:

Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

5 U.S.C. § 552(a)(4)(A)(iii). The HSUS believes that this request satisfies the criterion for a fee waiver or reduction. The HSUS is a 501(c)3 non-profit organization dedicated for over five decades to the protection of animals. The disclosure of the requested records will primarily benefit the general public by helping it better understand the government's use of this poison and its effects on non-target wildlife, domestic animals, and human health.

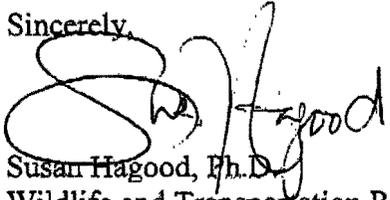
The information obtained will be disseminated to the general public. The HSUS has devoted substantial time and resources to monitoring activities of the federal government and keeping the public informed of these activities. The HSUS disseminates information to the general public through various sources including its websites, media outlets, litigation, legislation and public education.

The use of this information will help The HSUS further its function as a disseminator of information on recent issues involving government-sponsored predator control. Finally, in no way will this information be used in any commercial practices. The request for this information does not relate to use for business, trade, or profit.

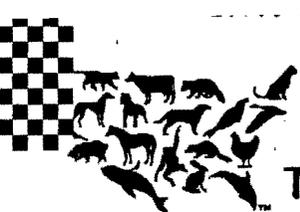
In the course of carrying out its educational and other charitable public interest activities, The HSUS requests that charges for searching and duplicating be waived. Should there be any difficulty with the fee waiver, please contact the HSUS by phone at 301 258-3149 or email at shagood@humanesociety.org. The HSUS may decide whether to pay the fees or to appeal the denial of the request for waiver or reduction

Thank you for your prompt attention to this matter. We look forward to receiving your reply within twenty business days as required by law.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Hagood". The signature is written in a cursive style with a large, looped initial "S".

Susan Hagood, Ph.D.
Wildlife and Transportation Regulatory Affairs Specialist
The Humane Society of the United States



10- 342

THE HUMANE SOCIETY OF THE UNITED STATES

Reggie
W

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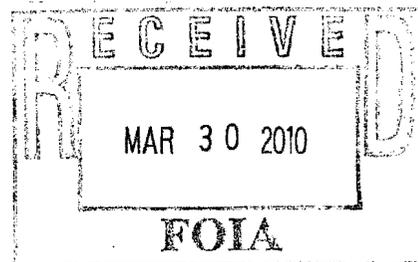
Andrew Weinstein

Persia White

David D. Wiebers, M.D.

March 30, 2010

Tonya Woods
Animal and Plant Health Inspection Service
Freedom of Information and Privacy Act Staff
4700 River Road
Unit 50
Riverdale, MD 20737



APR 27 2010

Sent Via Fax: (301) 734-5941 and mail

Dear Ms. Woods:

This is a request for records under the Federal Freedom of Information Act (FOIA), 5 U.S.C. § 552. The Humane Society of the United States (HSUS) is requesting:

1. Records of all incidents of poisoning of domestic animals by the sodium cyanide M-44 occurring between October 1, 2000 and the present;
2. Records of all incidents of poisoning of non-target wildlife by the sodium cyanide M-44 occurring between October 1, 2000 and the present; and
3. Records of all incidents in which humans were or were thought to have been affected by exposure to sodium cyanide in the M-44, occurring between October 1, 2000 and the present, including incidents required to be reported under Directive 2.45.

For this request, the term "records" includes, but is not limited to, correspondence of any kind, memoranda, letters, notes, schedules, electronic mail, telephone logs, minutes of meetings, work papers, reports, studies, photographs, videos, DVDs, CDs, or data. If any information is withheld, please identify all such information with specificity and state the exemption under which the information is being withheld.

The FOIA provides that if portions of a document are exempt from release, the remainder must nevertheless be segregated and disclosed. Please provide us with all non-exempt portions of any otherwise exempt records. 5 U.S.C. § 552(b). Please explain any redactions by reference to specific FOIA exemptions.

This request is a matter of great concern to The HSUS, and thus your prompt and complete report is appreciated. As required by 5 U.S.C. § 552(a)(6)(A)(1), an agency response is expected within twenty days of the date of receipt. If it is not

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possible to promptly comply with all portions or aspects of this report, please provide a partial response with materials readily available. Do not hesitate to call me should you have any questions concerning this request.

Fee Waiver Justification

FOIA provides for a fee waiver when disclosure of the documents is in the public's interest. Specifically, FOIA states that:

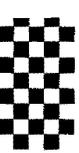
Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

5 U.S.C. § 552(a)(4)(A)(iii). The HSUS believes that this request satisfies the criterion for a fee waiver or reduction. The HSUS is a 501(c)3 non-profit organization dedicated for over five decades to the protection of animals. The disclosure of the requested records will primarily benefit the general public by helping it better understand the government's use of this poison and its effects on non-target wildlife, domestic animals, and human health.

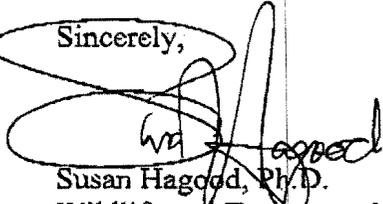
The information obtained will be disseminated to the general public. The HSUS has devoted substantial time and resources to monitoring activities of the federal government and keeping the public informed of these activities. The HSUS disseminates information to the general public through various sources including its websites, media outlets, litigation, legislation and public education.

The use of this information will help The HSUS further its function as a disseminator of information on recent issues involving government-sponsored predator control. Finally, in no way will this information be used in any commercial practices. The request for this information does not relate to use for business, trade, or profit.

In the course of carrying out its educational and other charitable public interest activities, The HSUS requests that charges for searching and duplicating be waived. Should there be any difficulty with the fee waiver, please contact the HSUS by phone at 301 258-3149 or email at shagood@humanesociety.org. The HSUS may decide whether to pay the fees or to appeal the denial of the request for waiver or reduction



Thank you for your prompt attention to this matter. We look forward to receiving your reply within twenty business days as required by law.

Sincerely,


Susan Hagood, Ph.D.
Wildlife and Transportation Regulatory Affairs Specialist
The Humane Society of the United States

Thank you for your prompt attention to this matter. We look forward to receiving your reply within twenty business days as required by law.

Sincerely,

Susan Hagood, Ph.D.
Wildlife and Transportation Regulatory Affairs Specialist
The Humane Society of the United States



10- 348

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Animal Research Issues

DIRECTORS

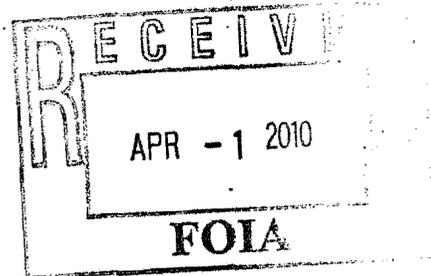
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April 1, 2010

Animal and Plant Health Inspection Service
Director, Freedom of Information and Privacy Act Staff
4700 Riverdale Road, Unit 50
Riverdale, MD 20737

Via Facsimile: 301-734-5941

Re: FREEDOM OF INFORMATION ACT REQUEST



Dear FOIA Officer:

APR 29 2010

On behalf of The Humane Society of the United States (HSUS), I hereby make this request for records under the Federal Freedom of Information Act, 5 U.S.C. § 552 and applicable regulations. If you are not the appropriate official to handle this request, please forward this letter to the appropriate person, and let us know that you have done so.

The HSUS is a national animal protection organization headquartered in Washington, D.C., with four regional offices located throughout the country and international offices located throughout the world. It is dedicated to educating the public about issues concerning animal protection.

This request is for

All records involving Animal Welfare Act violations at all Charles River Laboratories, Inc. facilities (USDA registration number 14-R-0144), including, but not limited to, the final stipulations, from the year 2007 until the date that this request is processed. For this request, the term "records" includes, but is not limited to, correspondence of any kind, memoranda, letters, notes, schedules, electronic mail, telephone logs, minutes of meetings, work papers, reports, studies, photographs, videos, DVDs, CDs, or data. If any information is withheld, please identify all such information with specificity and state the Exemption under which the information is being withheld.

The HSUS is not interested in any personal, privacy information that is exempt from release under Exemption b(6), or trade secrets or commercial / financial information that is exempt from release under Exemption 4. The FOIA provides that if portions of a document are exempt from release, the remainder of the information must nevertheless be segregated and disclosed. Accordingly, please provide all nonexempt portions of the

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records requested and justify deletions, if any, by reference to the specific provisions of the FOIA.

The HSUS requests a waiver of fees incurred in connection with this FOIA request. This request satisfies the criteria for a waiver of all search and reproduction fees. In 1986, Congress revised the fee waiver criteria because it was disturbed by the restrictive interpretation the U.S. Department of Justice had given to the fee waiver provisions in its 1983 guidelines. Indeed, as one Congressman explained, the purpose of the amendments was "to make it easier for more requesters, *especially noncommercial requesters*, to qualify for fee waivers" Thus, he explained, "the new fee waiver standard should be liberally construed in order to encourage full and complete disclosure of information in the possession of the government that does not require withholding for a public or private interest."

Statement of Representative Glen English, 132 Cong. Rec. 22 (Oct. 6, 1987) (emphasis added).

To carry out the objective of liberalizing fee waivers, Congress adopted a multi-tiered fee waiver system. Under that system, documents are furnished completely without charge when the "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of government and is not in the commercial interest of the requestor." 5 U.S.C. § 552 (a) (4) (A) (iii). If the organization is a "representative of the news media," the organization is charged no more than reasonable duplication fees. *Id.* at § 552 (a)(4)(A)(ii)(II).

The requested records pertain to the "operations and activities of the federal government" because they aid The HSUS in its ongoing monitoring of the way in which federal animal research facilities follow the Animal Welfare Act, 7 U.S.C. § 2141, *et seq.*, as well as the manner in which the USDA enforces compliance with that Act.

The HSUS undeniably has the ability to contribute to the public's understanding of federal agencies' operations as well as their policies and activities relating to animal welfare at animal research institutions due to its size and proven ability to disseminate information to a large segment of the public. The HSUS is a national animal protection organization headquartered in Washington, D.C. with four regional offices, various hands-on animal care facilities located throughout the country, and international offices located throughout the world. Policies and activities relating to proper animal care and use at research institutions are of national concern. The HSUS is particularly well suited to distribute information to concerned citizens and others throughout the country, because of its long standing dedication and ongoing efforts to promote the humane care and treatment of animals in laboratories, and to promote humane alternatives to live animal testing. The HSUS routinely distributes information, press releases, reports, and copies of original documents to members of the media to generate articles. The HSUS also routinely distributes, at no charge, its own information and information obtained from other sources regarding policies and activities relating to research facilities, to anyone requesting such information. This includes the public, media, students, and scientists.

One of the primary methods through which The HSUS educates and informs the public concerning the policies and activities of the USDA and the research facilities the agency regulates is through the World Wide Web (<http://www.hsus.org>). The HSUS regularly posts reports, comments, action alerts, press releases, and other materials relevant to these matters, and we will continue to do so to ensure that interested citizens have around the clock access to such information. In sum, The HSUS is well positioned to contribute significantly to the public understanding of policies and activities relating to the welfare of animals used in research, once it receives and digests the requested information.

Aside from The HSUS's clear qualification for a fee waiver for the reasons just stated, The HSUS alternatively qualifies for a fee waiver under the fee exemption provided for "representative[s] of the news media." The definition of "representative of the news media" has a well-accepted interpretation which stems from the District of Columbia Circuit:

A representative of the news media is, in essence, a person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience.

Nat'l Security Archive v. U.S. Dep't of Defense, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

In reaching this conclusion, the Court relied on strong statements by legislators in support of the amendments who argued that the terms be "broadly interpreted if the Act is to work as expected" and extend to "any person or organization which regularly disseminates information to the public," even if it is a public interest group that "might also want the information for other purposes." See 132 Cong. Rec. 27190.

Under this definition and interpretation, The HSUS unquestionably is a "representative of the news media." The HSUS has extensive and well-exercised means to keep the public informed on the operations and activities of the United States government. The HSUS does not merely obtain information and then contact members of the press to relate that information; rather, The HSUS independently analyzes the information, drafts its own reports and articles on the issues, and disseminates the information broadly through its own publications to members and other interested persons. Thus, the HSUS has shown a "firm intention . . . to publish" this important information and to make it easily accessible. Nat'l Security Archive, 880 F.2d at 1386 (A later case has explicitly required this. See Judicial Watch, Inc. v. United States Dep't of Justice, 122 F.Supp.2d 13, 24 (D.D.C. 2000.)). As a result of its longstanding interest in policies and activities relating to animals used in research, The HSUS has developed a substantial level of expertise on the issues which commands public attention when it disseminates such information. Given its independent and extensive public dissemination of information pertaining to policies and activities relating to animal research, The HSUS meets the criteria for a representative of the news media.

Therefore, in summary The HSUS believes that this request satisfies the criteria for fee waiver or reduction for the following reasons:

1) The Humane Society of the United States is a non-profit, public interest group whose tax exempt number is 53-0225390. The primary purpose for requesting these records is to obtain information about policies and activities relating to the welfare of animals used in research, not to commercially profit from the sale of this information.

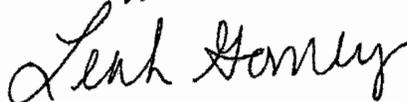
2) The disclosure of the requested records would be to the benefit of the general public. The HSUS has demonstrated its ability to disseminate to the general public the information it acquires. This is achieved by state and nationally distributed newsletters, statewide membership mailings, information available electronically via the Internet, and extensive and reliable media contacts. This is evidenced by such articles and reports as: see e.g., THE HUMANE SOCIETY OF THE UNITED STATES, [Nature: System That Protects Animals in Laboratories Needs Revamp](http://www.hsus.org/animals_in_research/animals_in_research_news/nature_system_that_protects_animals_in_laboratories_needs_revamp.html) (accessed April 6, 2009), *at* http://www.hsus.org/animals_in_research/animals_in_research_news/nature_system_that_protects_animals_in_laboratories_needs_revamp.html; THE HUMANE SOCIETY OF THE UNITED STATES, [USDA Complaint Against University Alleges 60 Animal Welfare Violations](http://www.hsus.org/animals_in_research/animals_in_research_news/usda_complaint_against_university_alleges_60_animal_welfare_violations.html) (October 6, 2004), *at* http://www.hsus.org/animals_in_research/animals_in_research_news/usda_complaint_against_university_alleges_60_animal_welfare_violations.html.

3) The HSUS alternatively qualifies for a fee waiver because it is a "member of the news media" as that term has been interpreted by the D.C. Circuit.

Therefore, The HSUS asks that any search and duplication fees in this case be waived or reduced. It understands that the first two search hours and first one hundred pages of documents are free. If the request will involve more than two (2) search hours or more than one hundred (100) pages of documents and the waiver or reduction is denied, and fees are estimated to exceed two hundred and fifty dollars (\$250.00), please notify me immediately by telephone at 301-258-3041 before the request is processed so The HSUS may decide whether to pay the fees, whether to narrow our request based on your description of the records, or to appeal the denial of the request for waiver or reduction.

I may be reached during business hours at 301-258-3041. If you have any questions regarding any aspect of this request, please contact me by telephone rather than by mail in order to expedite timely disclosure. Thank you for your assistance. I look forward to receiving your determination regarding this request within the twenty business days as specified by law.

Sincerely,



Leah Gomez
Project Manager
The Humane Society of the United States



**THE HUMANE SOCIETY
OF THE UNITED STATES**

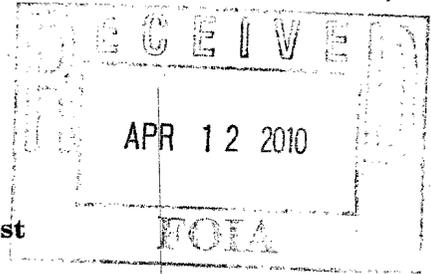
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MAY 10 2010

Glen
AC
EC

Referred to DM
Christine Wilkerson
4/13/10

April 12, 2010



Freedom of Information Act Request

Tonya Woods, FOIA/PA Officer
4700 River Road, Unit 50
Riverdale, MD 20737-1232
tonya.g.woods@aphis.usda.gov

Dear Ms. Woods:

On behalf of The Humane Society of the United States ("The HSUS"), I am requesting records under the Federal Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, *et seq.* If you are not the appropriate official to handle this request, please forward this letter to the appropriate person, and let me know that you have done so.

A. Records Request

This request is for records related to the licensing and inspection of Danny Kolwyck and/or Debra Kolwyck (a.k.a. Debbie Kolwyck) for exhibition of non-human primates, and/or the following businesses with which they are affiliated: Blitzen & Co. and Savannahland Educational Park in Pleasant Hill, Missouri. According to the Electronic Freedom of Information Act Reports posted on the APHIS website, Mr. and Mrs. Kolwyck currently hold a Class-C Exhibitor License (#43-C-0208).

Specifically, The HSUS requests the following:

1. All records received or created by APHIS in the last 10 years related to the application for a USDA license by Danny and/or Debra Kolwyck, or any of the above-named entities. These records should include, but not be limited to, all initial and renewal applications, including those relevant to license #43-C-0208, or any other license applied for, granted, or denied.
2. All records related to inspection of Danny and/or Debra Kolwyck, or any of the above-named entities, carried out by APHIS in the last 10 years. These records should include, but not be limited to, any Inspection Report created by APHIS. HSUS is aware that as of April 12, 2010, APHIS has posted some inspection reports on its website, and this request does not include those inspection reports already posted.
3. All records related to any complaints received by APHIS or the USDA in the last 10 years concerning Danny Kolwyck and/or Debra Kolwyck, or any of the above-named entities.
4. All records received or created in the last 10 years related to any correspondence between Danny Kolwyck and/or Debra Kolwyck, or any of the above-named entities, and APHIS or the USDA.

HUMANEWATCH.ORG

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For this request, the term “records” includes, but is not limited to, correspondence of any kind, memoranda, letters, notes, schedules, electronic mail, telephone logs, minutes of meetings, work papers, reports, studies, videos, DVDs, CDs, or data. If any information is withheld, please identify all such information with specificity and state the statutory exemption under which the information is being withheld.

The FOIA provides that if portions of a document are exempt from release, the remainder must nevertheless be segregated and disclosed, so please provide us with all non-exempt portions of any otherwise exempt records. 5 U.S.C. § 552(b). Please explain any redactions by reference to specific FOIA exemptions.

B. Statutory Fee Waiver Request

1. Representatives of the News Media

The HSUS qualifies for the preferred fee status of “representative of the news media.” See 5 U.S.C. § 552(A)(ii); 7 C.F.R. Pt. 1, Subpt. A, App. A, Sec. 5(c). In 2007 the FOIA was amended to include a definition of the term “representative of the news media” that comports with the previous interpretation applied by the courts. OPEN Government Act of 2007, Pub. L. No. 110-175; See *National Security Archives v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1388 (D.C. Cir. 1989). An entity is a “representative of the news media” if it “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii) (2008).

The HSUS is unquestionably a “representative of the news media.” The HSUS has extensive and well-exercised means to investigate and keep the public informed about the operations and activities of the United States government and has invariably done so for many years. The HSUS does not merely obtain information and then contact members of the press to relate that information. Rather, The HSUS independently collects and analyzes information, drafts its own reports and articles on the issues by putting facts and issues into context, and disseminates the information broadly through its own publications to interested persons, legislators, its members and the public at large.

Relevant to this request, as a result of its longstanding advocacy and work on issues affecting non-human primates, The HSUS has developed a substantial level of expertise which commands public attention when such information is disseminated. For instance, The HSUS actively monitors and reports on issues related to the exploitation of primates kept as pets and for entertainment purposes, and maintains a website where frequently asked questions about chimpanzees used in research are addressed and where the public and interested parties are provided with the results of The HSUS’s research and investigations. See

http://www.hsus.org/animals_in_research/chimps_deserve_better/chimpanzees_in_research_fact.html. As a result of synthesizing such research and investigations, the public is informed about the use of primates in research and as privately owned pets or exhibitions, the effects such use and ownership has on the safety and well-being of the animals and the public at large and about the effect USDA licensing and inspection has, or fails to have, on

the same. Through these efforts, The HSUS serves to inform and protect the public by alerting people about the laws and current practices related to ownership and use of these animals. In addition to maintaining the website, The HSUS also publishes a Fact Sheet that tracks instances of primate attacks, demonstrating the real risk to public health and safety posed by private ownership of such animals. (*Available at* <http://www.hsus.org/web-files/PDF/legislation/primate-incidents-2007.pdf>). Given its independent and extensive public dissemination of information about the policies and activities relating to non-human primates, The HSUS meets the criteria for a representative of the news media.

2. Public Interest Fee Waiver

In addition to being eligible for preferred fee status, HSUS is also entitled to a public interest fee waiver. Under the FOIA, records are to be furnished completely without charge when “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of government and is not in the commercial interest of the requestor.” 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 7 C.F.R. Pt. 1, Subpt. A, App. A, Sec. 6. Pursuant to this provision, The HSUS seeks a waiver of any search and copy fees for this request.

As a threshold matter, the information sought in this request is in the public interest. The issue of captive primates is of intense and ongoing interest to the public at large, due to the inhumane conditions in which monkeys and apes are kept in certain research and exhibition facilities and because of the injuries that primates kept as pets and for exhibition purposes can, and often do, inflict on members of the public. Indeed, numerous national mainstream newspapers, television shows and other mass media outlets have repeatedly reported on these issues, demonstrating that the interest in preventing cruelty to animals and ensuring public safety are commonly held by the public generally, and is not limited to merely a subsection of the population. *See, e.g.,* Monica Hortobagyi, *People who own chimps rethink choice of pet*, USA TODAY, April 6, 2009; Amos Bridge, *Sanctuary for monkeys under review*, MISSOURI NEWS LEADER, April 24, 2009; R.D. Rosen, *Lie of the Jungle*, WASH. POST, December 7, 2008; Rich Schapiro, *All it takes is \$45,000 and a phone call to get a pet chimp*, N.Y. DAILY NEWS, February 22, 2009. More specifically, as it pertains to this request, Mr. and Ms. Kolwyck’s possession, exhibition, and sale of primates raises serious, ongoing concerns about the safety of the animals in their charge, their surrounding community, and the public at large.

i. Operations & Activities of the Government

All of the requested information significantly contributes to the public’s understanding of the “operations and activities of the government,” because it details the USDA’s actions in providing a private person the license needed to exhibit, breed, and sell potentially dangerous animals. Similarly, the records will shine light upon the USDA’s related inspection authority of such licensees and will help inform the public of the sufficiency of a federal government’s enforcement practices. Indeed, the light these disclosures will shine upon USDA’s activities is particularly bright given that this licensee breeds and sells animals that are known to pose a serious risk to private owners and the public. *See* Chase Wright, *Chimp victim blind for life*, STAMFORD TIMES, April 7, 2009; Anahad O’Connor, *Woman Mauled by Chimp Has Surgery, and Her Vital Signs Improve*,

N.Y. TIMES, February 19, 2009; United Press International, *Chimp Shot and Killed After Escape*, Missouri Post Dispatch, April 2, 2009.

ii. Public Understanding

The HSUS is a non-profit organization dedicated for over five decades to the protection of animals. The HSUS has devoted substantial time and resources to monitoring activities of the federal government and keeping the public informed of these activities, as well as educating the public about captive primates and the role of the USDA in regulating and inspecting their possessors.

The HSUS contributes to the public's understanding of issues related to captive primates generally, and the public danger and inhumane treatment of privately owned chimpanzees in particular, due to its size and proven ability to disseminate information to a large segment of the public. The HSUS disseminates information to the general public through various sources including its websites, media outlets, litigation, legislation and public education. *See, e.g.,* http://www.hsus.org/wildlife/issues_facing_wildlife/should_wild_animals_be_kept_as_pets/fact_and_fiction_monkeys_and_apes_as_pets.html. In particular, The HSUS has actively informed the public about instances of primate attacks, which demonstrate a real and recognized risk to public health and safety. *See* <http://www.hsus.org/web-files/PDF/legislation/primate-incidents-2007.pdf>. Indeed, a recent HSUS undercover investigation into the federally-funded New Iberia Research Center, which conducts invasive procedures on monkeys and chimpanzees, resulted in a subsequent inspection of the facility by the USDA. *See* Marsha Sills, *USDA Report cites NIRC*, THE ADVOCATE, April 11, 2009.

The information sought in this request will enable The HSUS to further educate the public about the possession of non-human primates and what, if any, risks may be realized by such ownership. It will also demonstrate the USDA's role in the licensing and inspection of exhibitors of potentially dangerous animals. Information obtained through this request may be disseminated to the public through publication on any of The HSUS's webpages cited above or in various reports and action alerts produced for our members and the public. Reports, comments, action alerts, press releases, and other materials relevant to operation and activities of the USDA as it relates to captive primates have been, and will continue to be, added to the The HSUS's webpages to ensure that interested citizens have unfettered access to information.

iii. Significant Contribution

The contribution of this information to the public understanding will be "significant," because the records are the sole source of information as to the success and sufficiency of USDA's licensing and inspecting of this particular permit holder under the Animal Welfare Act.

iv. No Commercial Interest

The HSUS does not have a commercial, trade, or profit interest in the information requested.

Accordingly, The HSUS asks that any search and duplication fees in this case be waived or reduced. If the fee waiver request is denied, please notify me by telephone at 202-676-2333, or by email at afrostic@hsus.org, so that The HSUS may decide whether to pay the fees or to appeal the denial of the request for waiver or reduction.

C. Conclusion

I look forward to receiving your reply within 20 business days as required by law. If you have any questions or need additional information regarding this request, please contact me. Thank you for your assistance.

Sincerely,



Anna Frostic
Attorney, Animal Protection Litigation
The Humane Society of the United States
2100 L Street, NW
Washington, DC 20037



"Anna Frostic"
<afrostic@humanesociety.org
>

04/12/2010 02:06 PM

To <foia.officer@aphis.usda.gov>
cc
bcc
Subject *FOIA Request*

Dear FOIA Officer -

Please confirm your receipt of the attached Freedom of Information Act Request.

Thank you,

Anna Frostic

Attorney, Animal Protection Litigation

afrostic@hsus.org

t 202.676.2333

The Humane Society of the United States

2100 L Street NW Washington, DC 20037

humanesociety.org/litigation



THE HUMANE SOCIETY
OF THE UNITED STATES

Celebrating Animals | Confronting Cruelty

This is intended to be a confidential communication only to the person or persons to whom it is addressed, and may contain legally privileged and/or confidential information. If you are not the intended recipient(s), or the employee or agent responsible for delivery of this message to the intended recipient(s), you are hereby notified that any dissemination, distribution or copying of this e-mail message is strictly prohibited. If you have received this message in error, please immediately notify the sender and delete this e-mail message from your computer.

provide a partial response with materials readily available. Do not hesitate to call me should you have any questions concerning this request.

Fee Waiver Justification

FOIA provides for a fee waiver when disclosure of the documents is in the public's interest. Specifically, FOIA states that:

Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

5 U.S.C. § 552(a)(4)(A)(iii). The HSUS believes that this request satisfies the criterion for a fee waiver or reduction. The HSUS is a 501(c)3 non-profit organization dedicated for over five decades to the protection of animals. The information sought in this request will enable The HSUS to further educate the public about dealers with violations and the agency's enforcement actions. This is a matter of legitimate public interest and concern. The disclosure of the requested records will primarily benefit the general public by helping the public better understand the operations and activities of the government's oversight of dealers.

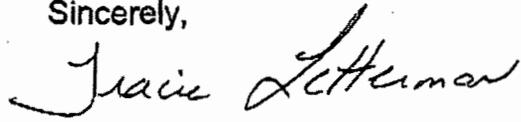
The information obtained will be disseminated to the general public. The HSUS has devoted substantial time and resources to monitoring activities of the federal government and keeping the public informed of these activities, as well as educating the public about USDA's role in regulating and inspecting dealers. The HSUS disseminates information to the general public through various sources including its websites, media outlets, litigation, legislation and public education.

The use of this information will help The HSUS further its function as a disseminator of information on recent issues involving the pet trade. Finally, in no way will this information be used in any commercial practices. The request for this information does not relate to use for business, trade, or profit.

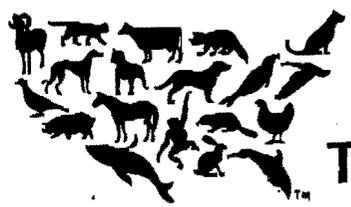
In the course of carrying out its educational and other charitable public interest activities, The HSUS requests that charges for searching and duplicating be waived. Should there be any difficulty with the fee waiver, please contact the HSUS by phone at 202-676-2303 or email at tletterman@hsus.org so that The HSUS may decide whether to pay the fees or to appeal the denial of the request for waiver or reduction.

Thank you for your prompt attention to this matter. We look forward to receiving your reply within twenty business days as required by law.

Sincerely,

A handwritten signature in cursive script that reads "Tracie Letterman". The signature is written in black ink and is positioned below the word "Sincerely,".

Tracie Letterman
Director of Regulatory Affairs



THE HUMANE SOCIETY OF THE UNITED STATES

FAX

TO: Tonya Woods FROM: Tracie Letterman
FAX: 301-734-5941 FAX: _____
PHONE: _____ PHONE: _____
SUBJECT: _____ DATE: 5/18/10
COMMENTS: FOIA Request

519 C Street NE
Washington, DC 20002
202.452.1100
Humanesociety.org

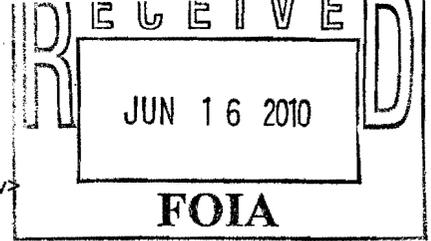


"Kathleen Conlee"
 <kconlee@humaneociety.org>
 05/12/2010 11:36 AM

10- 502

To <foia.officer@aphis.usda.gov>
 cc
 bcc

Subject FOIA Request--Stipulation agreement between USDA and
 New Iberia Research Center



JUL 15 2010

Dear FOIA Officer:

On behalf of The Humane Society of the United States (HSUS), I hereby make this request for records under the Federal Freedom of Information Act, 5 U.S.C. § 552 and applicable regulations.

The HSUS is a national animal protection organization headquartered in Washington, D.C., with four regional offices located throughout the country and international offices located throughout the world. It is dedicated to educating the public about issues concerning animal protection.

This request is for:

1. The most recent stipulation agreement signed between the USDA and New Iberia Research Center of the University of Louisiana-Lafayette
1. Any and all documentation (including documents, images and video) related to the case regarding the stipulation agreement between the USDA and New Iberia Research Center

The HSUS is not interested in any personal, privacy information that is exempt from release under Exemption b(6), or trade secrets or commercial / financial information that is exempt from release under Exemption 4. The FOIA provides that if portions of a document are exempt from release, the remainder of the information must nevertheless be segregated and disclosed. Accordingly, please provide all nonexempt portions of the records requested and justify deletions, if any, by reference to the specific provisions of the FOIA.

The HSUS requests a waiver of fees incurred in connection with this FOIA request. This request satisfies the criteria for a waiver of all search and reproduction fees. In 1986, Congress revised the fee waiver criteria because it was disturbed by the restrictive interpretation the U.S. Department of Justice had given to the fee waiver provisions in its 1983 guidelines. Indeed, as one Congressman explained, the purpose of the amendments was "to make it easier for more requesters, *especially noncommercial requesters*, to qualify for fee waivers" Thus, he explained, "the new fee waiver standard should be liberally construed in order to encourage full and complete disclosure of information in the possession of the government that does not require withholding for a public or private interest."

Statement of Representative Glen English, 132 Cong. Rec. 22 (Oct. 6, 1987) (emphasis added).

To carry out the objective of liberalizing fee waivers, Congress adopted a multi-tiered fee waiver system. Under that system, documents are furnished completely without charge when the "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of government and is not in the commercial interest of the requestor." 5 U.S.C. § 552 (a) (4) (A) (iii). If the organization is a "representative of the news



media,” the organization is charged no more than reasonable duplication fees. Id. at § 552 (a)(4)(A)(ii)(II).

The requested documents, images and videos pertain to the “operations and activities of the federal government” because they aid The HSUS in its ongoing monitoring of the way in which federal animal research facilities follow the Animal Welfare Act, 7 U.S.C. § 2141, et seq.

The HSUS undeniably has the ability to contribute to the public’s understanding of federal agencies’ operations as well as their policies and activities relating to animal welfare at animal research institutions due to its size and proven ability to disseminate information to a large segment of the public. The HSUS is a national animal protection organization headquartered in Washington, D.C. with four regional offices, various hands-on animal care facilities located throughout the country, and international offices located throughout the world. Policies and activities relating to proper animal care and use at research institutions are of national concern. The HSUS is particularly well suited to distribute information to concerned citizens and others throughout the country, because of its long standing dedication and ongoing efforts to promote the humane care and treatment of animals in laboratories, and to promote humane alternatives to live animal testing. In addition, The HSUS routinely distributes information, press releases, reports, and copies of original documents to members of the media to generate articles. The HSUS also routinely distributes, at no charge, its own information and information obtained from other sources regarding policies and activities relating to research facilities, to anyone requesting such information. This includes the public, media, students, and scientists.

Aside from educating and informing the public through the World Wide Web (<http://www.hsus.org>), reports, comments, action alerts, press releases, and other materials relevant to policies and activities relating to research facilities have been and will continue to be added to The HSUS home page to ensure that interested citizens have around the clock access to information. In sum, The HSUS is well positioned to contribute significantly to the public understanding of policies and activities relating to the welfare of animals used in research, once it receives and digests the requested information.

Aside from The HSUS’s obvious qualification for a fee waiver due to the significance of the material requested, The HSUS alternatively qualifies for a fee waiver under the fee exemption provided for “representative[s] of the news media.” The definition of “representative of the news media” has a well-accepted interpretation which stems from the District of Columbia Circuit:

A representative of the news media is, in essence, a person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience.

Nat’l Security Archive v. U.S. Dep’t of Defense, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

In reaching this conclusion, the Court relied on strong statements by legislators in support of the amendments who argued that the terms be “broadly interpreted if the Act is to work as expected” and extend to “any person or organization which regularly disseminates information to the public,” even if it is a public interest group that “might also want the information for other purposes.” See 132 Cong. Rec. 27190.

Under this definition and interpretation, The HSUS unquestionably is a “representative of the news

media.” The HSUS has extensive and well-exercised means to keep the public informed on the operations and activities of the United States government. The HSUS does not merely obtain information and then contact members of the press to relate that information; rather, The HSUS independently analyzes the information, drafts its own reports and articles on the issues, and disseminates the information broadly through its own publications to members and other interested persons. Thus, the HSUS has shown a “firm intention . . . to publish” this important information and to make it easily accessible. Nat’l Security Archive, 880 F.2d at 1386 (A later case has explicitly required this. See Judicial Watch, Inc. v. United States Dep’t of Justice, 122 F.Supp.2d 13, 24 (D.D.C. 2000.)). As a result of its longstanding interest in policies and activities relating to animals used in research, The HSUS has developed a substantial level of expertise on the issues which commands public attention when it disseminates such information. Given its independent and extensive public dissemination of information pertaining to policies and activities relating to animal research, The HSUS meets the criteria for a representative of the news media.

Therefore, in summary The HSUS believes that this request satisfies the criteria for fee waiver or reduction for the following reasons:

1) The Humane Society of the United States is a non-profit, public interest group whose tax exempt number is 53-0225390. The primary purpose for requesting these records is to obtain information about policies and activities relating to the welfare of animals used in research, not to commercially profit from the sale of this information.

2) The disclosure of the requested records would be to the primary benefit of the general public. The HSUS has demonstrated its ability to disseminate to the general public the information it acquires. This is achieved by state and nationally distributed newsletters, statewide membership mailings, information available electronically via the Internet, and extensive and reliable media contacts. This is evidenced by such articles and reports as: see e.g., The Humane Society of the United States, Chimpanzee Lab and Sanctuary Map (accessed August 4, 2009), at http://www.hsus.org/animals_in_research/chimps_deserve_better/research/chimpanzee-lab-and-sanctuary-map.html; The Humane Society of the United States, USDA Cites Primate Lab Exposed in HSUS Undercover Investigation (April 24, 2009), at http://www.hsus.org/animals_in_research/animals_in_research_news/usda_cites_primate_lab.html. Therefore, The HSUS asks that any search and duplication fees in this case be waived or reduced. It understands that the first two search hours and first one hundred pages of documents are free.

I may be reached during business hours by phone at 301-258-3043 or by email at kconlee@humanesociety.org. If you have any questions regarding any aspect of this request, please contact me by telephone or email rather than by mail in order to expedite timely disclosure. Thank you for your assistance. I will look forward to receiving your reply within the twenty business days as specified by law.

Kathleen Conlee

Director of Program Management, Animal Research Issues

kconlee@humanesociety.org

t 301.258.3043 f 301.258.7760

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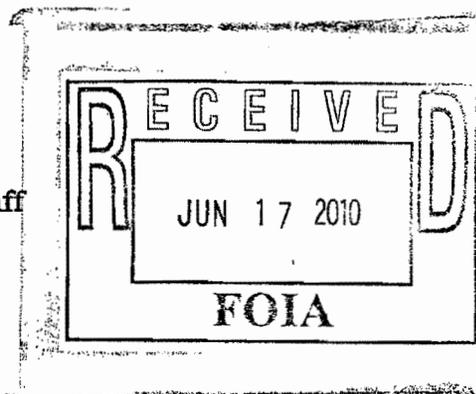
*IES
Kerwanda*

**THE HUMANE SOCIETY
OF THE UNITED STATES**

June 17, 2010

Animal and Plant Health Inspection Service
Director, Freedom of Information and Privacy Act Staff
4700 Riverdale Road, Unit 50
Riverdale, MD 20737

Via Facsimile: 301-734-5941



Re: FREEDOM OF INFORMATION ACT REQUEST

Dear FOIA Officer:

JUL 16 2010

On behalf of The Humane Society of the United States (HSUS), I hereby make this request for records under the Federal Freedom of Information Act, 5 U.S.C. § 552 and applicable regulations. If you are not the appropriate official to handle this request, please forward this letter to the appropriate person, and let us know that you have done so.

The HSUS is a national animal protection organization headquartered in Washington, D.C., with four regional offices located throughout the country and international offices located throughout the world. It is dedicated to educating the public about issues concerning animal protection.

This request is for

1. A summary, including but not limited to code(s) of the Animal Welfare Act violated and a description of the violation(s), of all fines imposed on research facilities (as separate from other regulated entities under the Animal Welfare Act) during the twelve-month calendar years of 2007, 2008, 2009, and from January 2010 through the date this request is processed of 2010, under the Animal Welfare Act, by

- a. administrative law judge; and
- b. USDA stipulation

The HSUS is not interested in any personal, privacy information that is exempt

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from release under Exemption b(6), or trade secrets or commercial / financial information that is exempt from release under Exemption 4. The FOIA provides that if portions of a document are exempt from release, the remainder of the information must nevertheless be segregated and disclosed. Accordingly, please provide all nonexempt portions of the records requested and justify deletions, if any, by reference to the specific provisions of the FOIA.

The HSUS requests a waiver of fees incurred in connection with this FOIA request. This request satisfies the criteria for a waiver of all search and reproduction fees. In 1986, Congress revised the fee waiver criteria because it was disturbed by the restrictive interpretation the U.S. Department of Justice had given to the fee waiver provisions in its 1983 guidelines. Indeed, as one Congressman explained, the purpose of the amendments was "to make it easier for more requesters, *especially noncommercial requesters*, to qualify for fee waivers" Thus, he explained, "the new fee waiver standard should be liberally construed in order to encourage full and complete disclosure of information in the possession of the government that does not require withholding for a public or private interest."

Statement of Representative Glen English, 132 Cong. Rec. 22 (Oct. 6, 1987) (emphasis added).

To carry out the objective of liberalizing fee waivers, Congress adopted a multi-tiered fee waiver system. Under that system, documents are furnished completely without charge when the "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of government and is not in the commercial interest of the requestor." 5 U.S.C. § 552 (a) (4) (A) (iii). If the organization is a "representative of the news media," the organization is charged no more than reasonable duplication fees. *Id.* at § 552 (a)(4)(A)(ii)(II).

The requested records pertain to the "operations and activities of the federal government" because they aid The HSUS in its ongoing monitoring of the way in which federal animal research facilities follow the Animal Welfare Act, 7 U.S.C. § 2141, *et seq.*, as well as the manner in which the USDA enforces compliance with that Act

The HSUS undeniably has the ability to contribute to the public's understanding of federal agencies' operations as well as their policies and activities relating to animal welfare at animal research institutions due to its size and proven ability to disseminate information to a large segment of the public. The HSUS is a national animal protection organization headquartered in Washington, D.C. with four regional offices, various hands-on animal care facilities located throughout the country, and international offices located throughout the world. Policies and activities relating to proper animal care and use at research institutions are of national concern. The HSUS is particularly well suited to distribute information to concerned citizens and others throughout the country, because of its long standing dedication and ongoing

efforts to promote the humane care and treatment of animals in laboratories, and to promote humane alternatives to live animal testing. The HSUS routinely distributes information, press releases, reports, and copies of original documents to members of the media to generate articles. The HSUS also routinely distributes, at no charge, its own information and information obtained from other sources regarding policies and activities relating to research facilities, to anyone requesting such information. This includes the public, media, students, and scientists.

One of the primary methods through which The HSUS educates and informs the public concerning the policies and activities of the USDA and the research facilities the agency regulates is through the World Wide Web (<http://www.hsus.org>). The HSUS regularly posts reports, comments, action alerts, press releases, and other materials relevant to these matters, and we will continue to do so to ensure that interested citizens have around the clock access to such information. In sum, The HSUS is well positioned to contribute significantly to the public understanding of policies and activities relating to the welfare of animals used in research, once it receives and digests the requested information.

Aside from The HSUS's clear qualification for a fee waiver for the reasons just stated, The HSUS alternatively qualifies for a fee waiver under the fee exemption provided for "representative[s] of the news media." The definition of "representative of the news media" has a well-accepted interpretation which stems from the District of Columbia Circuit:

A representative of the news media is, in essence, a person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience.

Nat'l Security Archive v. U.S. Dep't of Defense, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

In reaching this conclusion, the Court relied on strong statements by legislators in support of the amendments who argued that the terms be "broadly interpreted if the Act is to work as expected" and extend to "any person or organization which regularly disseminates information to the public," even if it is a public interest group that "might also want the information for other purposes." See 132 Cong. Rec. 27190.

Under this definition and interpretation, The HSUS unquestionably is a "representative of the news media." The HSUS has extensive and well-exercised means to keep the public informed on the operations and activities of the United States government. The HSUS does not merely obtain information and then contact members of the press to relate that information; rather, The HSUS independently analyzes the information, drafts its own reports and articles on the issues, and disseminates the information broadly through its own publications to members and other interested persons. Thus, the HSUS has shown a "firm intention . . . to publish" this important information and to make it easily accessible. Nat'l Security Archive, 880 F.2d at 1386

(A later case has explicitly required this. See Judicial Watch, Inc. v. United States Dep't of Justice, 122 F.Supp.2d 13, 24 (D.D.C. 2000.)). As a result of its longstanding interest in policies and activities relating to animals used in research, The HSUS has developed a substantial level of expertise on the issues which commands public attention when it disseminates such information. Given its independent and extensive public dissemination of information pertaining to policies and activities relating to animal research, The HSUS meets the criteria for a representative of the news media.

Therefore, in summary The HSUS believes that this request satisfies the criteria for fee waiver or reduction for the following reasons:

- 1) The Humane Society of the United States is a non-profit, public interest group whose tax exempt number is 53-0225390. The primary purpose for requesting these records is to obtain information about policies and activities relating to the welfare of animals used in research, not to commercially profit from the sale of this information.

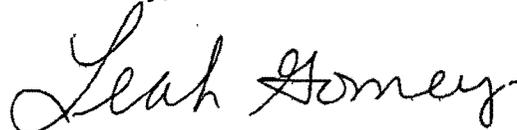
- 2) The disclosure of the requested records would be to the benefit of the general public. The HSUS has demonstrated its ability to disseminate to the general public the information it acquires. This is achieved by state and nationally distributed newsletters, statewide membership mailings, information available electronically via the Internet, and extensive and reliable media contacts. This is evidenced by such articles and reports as: see e.g., THE HUMANE SOCIETY OF THE UNITED STATES, [Nature: System That Protects Animals in Laboratories Needs Revamp](#) (accessed April 6, 2009), *at* http://www.hsus.org/animals_in_research/animals_in_research_news/nature_system_that_protects_animals_in_laboratories_needs_revamp.html; THE HUMANE SOCIETY OF THE UNITED STATES, [USDA Complaint Against University Alleges 60 Animal Welfare Violations](#) (October 6, 2004), *at* http://www.hsus.org/animals_in_research/animals_in_research_news/usda_complaint_against_university_alleges_60_animal_welfare_violations.html.

- 3) The HSUS alternatively qualifies for a fee waiver because it is a "member of the news media" as that term has been interpreted by the D.C. Circuit.

Therefore, The HSUS asks that any search and duplication fees in this case be waived or reduced. It understands that the first two search hours and first one hundred pages of documents are free. If the request will involve more than two (2) search hours or more than one hundred (100) pages of documents and the waiver or reduction is denied, and fees are estimated to exceed two hundred and fifty dollars (\$250.00), please notify me immediately by telephone at 301-258-3041 before the request is processed so The HSUS may decide whether to pay the fees, whether to narrow our request based on your description of the records, or to appeal the denial of the request for waiver or reduction.

I may be reached during business hours at 301-258-3041. If you have any questions regarding any aspect of this request, please contact me by telephone rather than by mail in order to expedite timely disclosure. Thank you for your assistance. I look forward to receiving your determination regarding this request within the twenty business days as specified by law.

Sincerely,

A handwritten signature in black ink that reads "Leah Gomez". The signature is written in a cursive style with a large initial "L".

Leah Gomez
Project Manager
The Humane Society of the United States

10- 511

Debbie
AC



"Aaron Green"
<agreen@humanesociety.org>
>

06/22/2010 01:02 PM

To <foia.officer@aphis.usda.gov>

cc

bcc

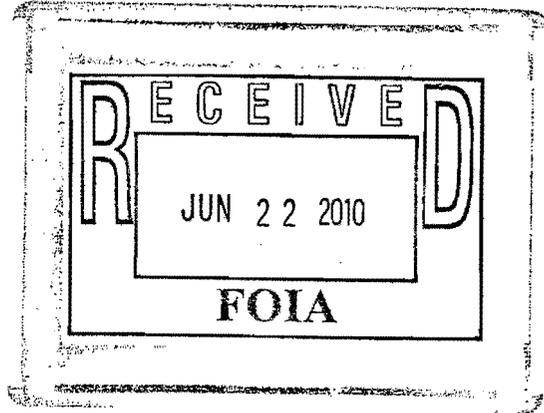
Subject FOIA Request

June 22, 2010

Tonya Woods, FOIA/PA Officer
4700 River Road, Unit 50
Riverdale, MD 20737-1232
(via email)

Freedom of Information Act Request

Dear Ms. Woods:



On behalf of The Humane Society of the United States ("The HSUS"), I am requesting records under the Federal Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, et seq. If you are not the appropriate official to handle this request, please forward this letter to the appropriate person, and let me know that you have done so.

JUL 20 2010

A. Records Request

This request is for all records created or received in the last 5 years related to the licensure and inspection of Isaac Martin by USDA Animal Plant Health Inspection Service ("APHIS").

Specifically, this request is for and should include:

1. All records received and/or created by APHIS in the last 5 years related to the application for a USDA license by Isaac Martin, AWA License No. 31-A-0015. These records should include, but not be limited to, any and all initial and renewal applications, including any approved or denied applications.

2. All records related to any inspection of Isaac Martin, AWA License No. 31-A-0015, carried out by APHIS during calendar year 2010. These records should include, but not be limited to, any and all Inspection Reports created by APHIS.

3. All records of any communications between USDA, APHIS and Isaac Martin, AWA licensee 31-1-0015, and/or any agents of the same during the past 5 years. - *my letters emails, records of telephone calls.*

For this request, the term "records" includes, but is not limited to, correspondence of any kind, memoranda, letters, notes, schedules, electronic mail, telephone logs, minutes of meetings, work papers, reports, studies, videos, DVDs, CDs, or data. If any information is withheld, please identify all such information with specificity and state the FOIA Exemption under which the information is being withheld. The FOIA provides that if portions of a document are exempt from release, the remainder

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must nevertheless be segregated and disclosed, so please provide us with all non-exempt portions of any otherwise exempt records. 5 U.S.C. § 552(b). Please explain any redactions by reference to specific FOIA exemptions.

B. Statutory Fee Waiver Requests

1. Representatives of the News Media

The HSUS qualifies for the preferred fee status of “representative of the news media.” See 5 U.S.C. § 552(A)(ii); 7 C.F.R. Pt. 1, Subpt. A, App. A, Sec. 5(c). The FOIA was amended to include a definition of the term “representative of the news media” that is in line with the previous interpretation applied by the courts. OPEN Government Act of 2007, Pub. L. No. 110-175; See *National Security Archives v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1388 (D.C. Cir. 1989). As such, an entity is a “representative of the news media” if it “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii) (2008).

The HSUS is unquestionably a “representative of the news media.” The HSUS has extensive and well-exercised means to investigate and keep the public informed about the operations and activities of the United States government and has invariably done so for many years. The HSUS does not merely obtain information and then contact members of the press to relate that information. Rather, The HSUS independently collects and analyzes information, drafts its own reports and articles on the issues by putting facts and issues into context, and disseminates the information broadly through its own publications to interested persons, legislators, its members and the public at large. As a result of its longstanding advocacy and work on companion animal issues, The HSUS has developed a substantial level of expertise about puppy mills which commands public attention when such information is disseminated.

For instance, The HSUS Stop Puppy Mills Campaign maintains a website, <http://www.stoppupmills.org/>, where frequently asked questions about puppy mills are addressed and where the public and interested parties are provided with the results of The HSUS’s research and investigations. As an end result of synthesizing such research and investigations, the public is informed about puppy mills and the effect USDA licensing and inspection has, or fails to have, on the same. Through these efforts, The HSUS also serves to inform and protect consumers by alerting them to false and misleading statements made by puppy sellers. In addition to maintaining the website, The HSUS also publishes materials such as the *Canine Chronicle* newspaper which exposes the conditions of puppy mills, discusses the laws that regulate them and covers the USDA’s role in inspecting such facilities and enforcing the Animal Welfare Act (“AWA”). The HSUS, “Behind the Scenes: What Investigators Found,” *Canine Chronicle*, 2006, pg. 3. Given its independent and extensive public dissemination of information pertaining to policies and activities relating to problematic dog dealers, The HSUS meets the criteria for a representative of the news media.

2. Public Interest Fee Waiver

In addition to granting preferred fee status, under federal law, records are to be furnished completely without charge when “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of government and is

not in the commercial interest of the requestor.” 5 U.S.C. § 552(a)(4)(A)(iii); see also 7 C.F.R. Pt. 1, Subpt. A, App. A, Sec. 6. Pursuant to this requirement, The HSUS seeks a waiver of any search and copy fees for this FOIA request.

As a threshold matter, the information sought in this request is in the public interest. The issue of problematic dog dealers is of intense and ongoing interest to the public at large, due to the inhumane conditions in which these dogs are kept, the illnesses and congenital defects suffered by many puppy mill puppies, the rampant consumer deception in the dog breeding industry, and the risk to human and animal health posed by the transmissible diseases often carried by these puppies. National mainstream newspapers, television shows and other mass media have run stories discussing these issues, demonstrating that the interest in preventing egregious cruelty to animals is commonly held by the public generally, and is not limited to merely a subsection of the population. See, e.g., Jeanette Trompeter, “I-TEAM: Inside A Minnesota Puppy Mill,” WCCO (available at <http://wcco.com/pets/i.team.puppy.2.872927.html>); The Oprah Winfrey Show, April 4, 2008; Jane Weaver, “Pet store chain linked to puppy mills,” MSNBC, Nov. 20, 2008. A recent audit conducted by the Office of Inspector General of USDA indicated major deficiencies with APHIS’ administration of the Animal Welfare Act including inspectors failing to appropriately document or cite violations. United States Department of Agriculture, Office of Inspector General, “Animal and Plant Health Inspection Service Animal Care Program Inspections of Problematic Dealers,” Audit Report 33002-4-SF (May 2010). This audit was featured in numerous news stories and the highlighted deficiencies are certainly newsworthy. See, e.g., Wayne Pacelle, “Federal audit, lawmakers spotlight puppy mill problems,” The Examiner (available at <http://www.examiner.com/x-45071-Animal-Protection-Examiner~y2010m5d26-Federal-audit-lawmakers-spotlight-puppy-mill-problems>); “Feds: Puppy mill problems growing across U.S.,” Chicago Sun-Times (available at <http://www.suntimes.com/news/nation/2332598,CST-NWS-puppy30.article>).

i. Operations & Activities of the Government

All of the requested information significantly contributes to the public’s understanding of the “operations and activities of the government,” because it details the USDA’s efforts in enforcing the Animal Welfare Act and holding violators of the law accountable.

ii. Public Understanding

The HSUS is a non-profit organization dedicated to animal protection and has focused its efforts on puppy mills for over four decades. The HSUS has devoted substantial time and resources to monitoring activities of the federal government and keeping the public abreast of these activities, as well as educating the public about puppy mills and the role of the USDA in regulating and inspecting commercial breeding operations.

The HSUS contributes to the public’s understanding of companion animal issues generally, as well as the controversy surrounding problematic dog dealers, due to its size and proven ability to disseminate information to a large segment of the public. The HSUS disseminates information to the general public through various sources including its websites, media outlets, litigation, legislation and public education. See, e.g., <http://www.stoppupmills.org>; <http://www.hsus.org/pets>. The information sought in this request will enable The HSUS to further educate the public about the role USDA plays in regulating breeders as well as the seemingly absent oversight of non-licensed breeders.

iii. Significant Contribution

The contribution of this information to the public understanding of how APHIS enforces the AWA and how such acts comport with the deficiencies and/or recommendations of Audit Report 33002-4-SF.

iv. No Commercial Interest

The HSUS does not have a commercial, trade, or profit interest in the information requested.

C. Conclusion

Therefore, The HSUS asks that any search and duplication fees in this case be waived or reduced. If the fee waiver request is denied, please notify me by telephone at 202-676-2334, or by email at agreen@hsus.org, so that The HSUS may decide whether to pay the fees or to appeal the denial of the request for waiver or reduction. If you have any questions or need additional information regarding this request, please contact me. I look forward to receiving your reply within 20 business days as required by law. Thank you for your assistance.

Sincerely,

Aaron D. Green, Esq.
Animal Protection Litigation
The Humane Society of the United States
2100 L Street, NW
Washington, DC 20037

agreen@humanesociety.org
t 202.676.2334 f 202.676.2357

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