



United States  
Department of  
Agriculture

Marketing and  
Regulatory  
Programs

Animal and  
Plant Health  
Inspection  
Service

Legislative and  
Public Affairs

Freedom of  
Information

4700 River Road  
Unit 50  
Riverdale, MD  
20737-1232

Mr. Drew L Kershen  
Earl Sneed Centennial Professor of Law  
University of Oklahoma, College of Law  
300 West Timberdell Road  
Norman, Oklahoma 73019-5081

August 15, 2011

Dear Mr. Kershen:

This is in response to your July 22, 2011 Freedom of Information Act (FOIA) request. You requested a copy of an opinion letter to Pioneer Hi-Bred International relating to maize (corn) (transgenic that did not involve any plant pest or pest components). The letter may be dated 1989-1991 or 1999-2001 and was signed by Dr. John H. Payne, Director of BBEP. The decision in the letter was that the transgenic maize is not a "regulated article." Your request was received in this office on July 22, 2011, and assigned case number FOIA 11-669.

Biotechnology Regulatory Services (BRS) employees conducted a thorough search of their files and could only locate a two-page letter dated December 19, 1988, signed by Dr. Arnold Foundi, Biotechnology, Biologics and Environmental Protection, that may be relevant to your request. BRS also contacted Dr. John Payne and he stated that he has no copy or recollection of the letter you are seeking.

You make appeal our adequacy of search determination. If you chose to appeal, your appeal must be in writing and must be received within 45 days of the date of this letter to the following address:

Administrator  
Animal and Plant Health Inspection Service  
Ag Box 3401  
Washington, DC 20250-3401

Please refer to FOIA 11-669 in your appeal letter and add the words "FOIA Appeal" to the front of the envelope. To assist the Administrator in reviewing your appeal, provide specific reasons why you believe modification of the determination warranted.

If you have any questions, please do not hesitate to contact Kacie Edwards of my staff at (301) 734-5385.

Sincerely,

*Katy Woods*  
for:

Tonya Woods  
Director  
Freedom of Information & Privacy Act  
Legislative and Public Affairs

Enclosures