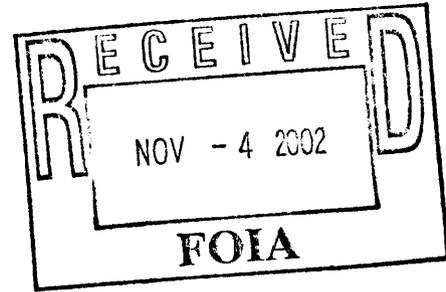


Michael Marquis
FOIA Officer
4700 River Road, Unit 50
Ricerdale, MD 20737-1232



October 20, 2002

03 - 094

Dear Michael Marquis:

AC
C/S

NOV - 4 2002
DEC - 3 2002

This is a request under the Freedom Of Information Act. I request that a copy of the following documents from the 2002 Tennessee Walking Horse National Celebration held in Shelbyville Tennessee August 21 through August 31, 2002, containing the following information be provided to me.

A copy of all DQP evaluation forms filled out by Dr. Michael Guedron and affidavits pertaining to those forms.

A copy of all DQP evaluation forms filled out by Dr. Bourgeois and any affidavits pertaining to those forms.

A copy of the Show Report form filled out by Dr. Michael Guedron.

A copy of the Show Report Form completed by Dr. Bourgeois

A copy of any 7077 forms pertaining to class number 104 signed by Michael Guedron or Dr Bourgeois and documentation supporting those 7077 forms.

A copy of the narrative reports filled out by Dr. Michael Guedron and or Dr. Bourgeois.

A copy of any affidavits pertaining to any entries in class 104.

A copy of any other documents relevant to Dr. Michael Guedron.

In order to help to determine my status for purposes of determining the applicability of any fees, you should know that I am an individual seeking information for personal use and not for a commercial use.

I ask that my request receive expedited processing due to ongoing discussions with my congressman.

I also include a telephone number at which I can be contacted if necessary to discuss any aspect of my request. 270-781-8237

Thank you for your consideration of this request and your time.

Sincerely,

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

Kim Bennett
636 Mt. Lebanon Road
Alvaton, Kentucky 42122



United States
Department of
Agriculture

Animal and
Plant Health
Inspection
Service

Legislative and
Public Affairs

Freedom of
Information

4700 River Road
Unit 50
Riverdale, MD
20737-1232

March 14, 2005

Mr. Kim Bennett
636 Mt. Lebanon Road
Alvaton, Kentucky 42122

Dear Mr. Bennett:

This is in response to your October 20, 2002 Freedom of Information Act (FOIA) request (copy enclosed). You requested copies of documents pertaining to the 2002 Tennessee Walking Horse National Celebration held in Shelbyville, Tennessee August 21 through August 31, 2002. Your request was received in this office on November 4, 2002 and assigned case number FOIA 03-094. I apologize for the delay of this response.

The records responsive to your request are being withheld in their entireties. For your information, these records are contained in a Privacy Act (PA) System of Records, *Investigative and Enforcement Records Regarding Regulatory Activities, USDA/APHIS*. This system has been exempted pursuant to 5 U.S.C. § 552a(k)(2) from the disclosure requirements of the PA, 5 U.S.C. §§ 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). In addition 5 U.S.C. § 552a(d)(5) an exemption from the access provisions of the PA, prohibits an individual from gaining access to any information compiled in reasonable anticipation of a civil action or proceeding.

Please see USDA Regulation 7 C.F.R. § 1.23 Records in formal adjudication proceedings. Records in formal adjudication proceedings are on file in the Hearing Clerk's office, Office of Administrative Law Judges, U.S. Department of Agriculture, Washington, DC 20250, and shall be made available to the public.

However, prior to the filing of the records with the Clerk's office, these records remain agency records exempt from disclosure pursuant to Exemption 7A of the FOIA, 5 U.S.C. § 552 (b)(7)(A), and pertain to information the release of which could reasonably be expected to interfere with enforcement proceedings.

Access to certain records is also being denied pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552 (b)(5). This exemption protects from disclosure interagency or intra-agency information that is deliberative or pre-decisional.



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Mr. Kim Bennett
Page 2

You may appeal this denial of access to information. If you choose to appeal, your appeal must be in writing and must be sent within 45 days from the date of this letter to:

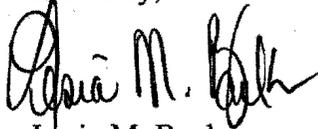
Administrator
Animal Plant Health Inspection Service
Ag Box 3401
Washington, D.C. 20250-3401.

Please refer to FOIA 03-094 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 is warranted.

The fees incurred in processing your request have been waived due to our delay in processing your request.

Please direct any questions you may have regarding your request to Francis Reali of my staff at Area Code (301) 734-8807.

Sincerely,



Lesia M. Banks
Assistant Director
Freedom of Information
Legislative and Public Affairs

Enclosure:
Copy of FOIA 03-094

April 24, 2005

Administrator
Animal Plant Health Inspection Service
Ag Box 3401 Washington, D.C. 20250-3401

FOIA 03-094

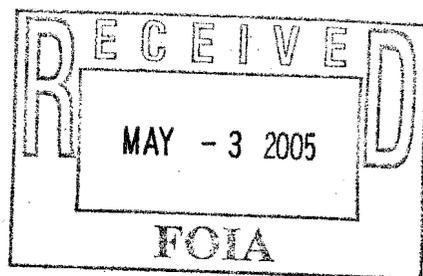
Dear Dr. Dehaven:

Please consider this as an Official Appeal to my Freedom Of Information request number FOIA 03-094. It is also in response to a March 14, 2005 denial of my Freedom Of Information request I made on October 20, 2002. I received a letter of acknowledgment dated November 18, 2002. (copy enclosed) I was assigned a case number of FOIA 03-094. I heard nothing more, and on August 31, 2004 I sent another letter and a copy of my initial request. (copy enclosed)

I participated in a conference call with USDA attorney Frank Martin and Judge Victor Palmer on October 20, 2004 in which Judge Palmer told me that Mr. Martin would help me retrieve my FOIA request.

I heard nothing until I brought this to the attention of Senator Mitch McConnell. In a January 7, 2005 letter to Senator Mitch McConnell in which you wrote "*I assure you that our officials will handle Mr. Bennett's request with all due diligence, and that he will receive the documents in the near future.*" (copy enclosed) I was under the impression I would soon receive my request. That is why I was surprised when I received the denial of March 14, 2005.

To refuse me the right to these request does not fall under the provisions mentioned in the letter of March 14, 2005. "*In addition 5 U.S.C. 552a(d)(5)an exemption from the access provisions of the PA, prohibits an individual from gaining access to any information complied in reasonable anticipation of civil action or proceeding.*" There is no reasonable anticipation. Civil action has been filed and exhibits have been exchanged as directed by Judge Palmer by Friday, December 10, 2004.(copy included) The USDA used only one item being requested, affidavit of Lynn Bourgeois, marked CX-3, (copy of list included) and I am willing to retract the request for that particular document but still request all others listed on my initial request. The USDA must feel that the other items I requested are not relevant to their case and have not used any of them as exhibits in HPA Docket No. 04-0001.



*Appeal
Lammie*

Accessed by Frank

APR 27 REC'D

I made several phone calls to the FOIA office every time getting a different answer or no answer. I followed up with letters, I got no response from the FOIA office until Senator McConnell's office got involved.

I requested this information on October 20, 2002, one year and seven months prior to the USDA deciding to file charges against me. One might hypothesize that I was charged simply to have my request denied. Regardless of the reason I am only asking for what the USDA has chosen not to use and what I think as a Citizen, Tax Payer, and an American I have the right to receive.

I would also request the names and titles or their positions of each person responsible for the denial as directed in. "5 U.S.C. 552(a)(6)(C)

Thank you for your attention and time to this matter. I would be glad to answer any other questions you might have and can be reached at 270-781-8237 both home and barn.

Sincerely

A handwritten signature in black ink that reads "Kim Bennett". The signature is written in a cursive style with a large, sweeping initial "K".

Kim Bennett

cc

Senator Mitch McConnell
David Broderick



United States
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Plant Health
Inspection
Service

Legislative and
Public Affairs

Freedom of
Information

4700 River Road
Unit 50
Riverdale, MD
20737-1232

Mr. Kim Bennett
636 Mt. Lebanon Road
Alvaton, KY 42122

NOV -9 2007

Dear Mr. Bennett:

This is in response to your Freedom of Information Act (FOIA) appeal under FOIA number 03-094 dated April 24, 2005 that you filed concerning our response for copies of documents pertaining to the 2002 Tennessee Walking Horse National Celebration held in Shelbyville, Tennessee on August 21-31, 2002 (copy enclosed).

Our records indicate that further processing may be necessary. Frequently, we find that requesters' needs for records change. Please let us know if you wish to continue with the FOIA appeal that was filed with the Animal and Plant Health Inspection Service (APHIS) on April 24, 2005. I regret that we have been unable to reply sooner and appreciate your patience and understanding.

Please indicate below if you wish to withdraw your appeal or to continue by checking one of the blocks.

Withdraw appeal

Continue appeal

Please return with a box checked to the address below no later than 15 days from the date of this correspondence:

Garfield O. Daley
APHIS Acting FOIA Director
4700 River Road, Unit 50
Riverdale, MD 20737-1232

Or you may email me your response no later than 15 days from the date of this correspondence at: Garfield.O.Daley@aphis.usda.gov or by fax at: 301-734-5941.

If we do not receive a response from you pertaining to the continuance of this appeal our office will close the file on November 30, 2007.

Sincerely,

Garfield O. Daley
Acting FOIA Director
Freedom of Information & Privacy Act Staff
Legislative and Public Affairs

Enclosure



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[Redacted]

PM To

Garfield.O.Daley@aphis.usda.gov

cc

bcc

Subject

FOIA request 03-094

Mr. Daley the following attachment is what I tried to fax you this afternoon about continueing my appeal. Once again I will forward you a hard copy of my response. Thank you once again for your attention to this. If you have any questions I will be out of town but my cell phone number is [Redacted]

(b)(6)

Kim Bennett

Check out AOL Money & Finance's list of the hottest products and top money wasters of 2007.

Kim Bennett

Manager-Trainer Telephone 270-781-8237
Bennett Stables Fax cell 270-792-1471
636 Mt. Lebanon Road
Avalon, Kentucky 42122

November 29, 2007

ATTENTION

Garfield O. Daley
APHIS Acting FOIA Director
4700 River Road, Unit 50
Riverdale, MD 20737-1232

The following is a request to continue my appeal for my FOIA request. The number you listed on your correspondence to fax my response to evidently in error. I will email you at the address given and forward a hard copy to you as well. Thanks once again for your attention to this matter. Have a nice day.

Sincerely



Kim Bennett

Kim Bennett

Manager-Trainer Telephone 270-781-8237
Bennett Stables Fax cell 270-792-1471
636 Mt. Lebanon Road
Alvaton, Kentucky 42122

November 29, 2007

Garfield O. Daley
APHIS Acting FOIA Director
4700 River Road, Unit 50
Riverdale, MD 20737-1232

Dear Mr. Garfield:

This is in response to your letter concerning my FOIA request, initially made October 20, 2002 and appealed March 14, 2005. I notice in your correspondence you give a deadline of 15 days to respond. For some reason I just received this in the mail yesterday. Your letter is stamped November 9, 2007. I do not understand why it would take so long for me to receive it. The appeal is something I had thought I would wait until next week to decide on but I see your date of November 30 to close the file is tomorrow. This gives me no choice today other than to request to you to continue with my appeal. I am scheduled to leave and be out of town for the rest of the week. If I were given more time possibly 15 days after receipt I might have a different answer for you. It seems after waiting more than 5 years for my request I am a bit rushed. Thank you for your time on this matter.

Sincerely



Kim Bennett

cc

Senator Mitch McConnell
David Broderick



United States
Department of
Agriculture

Mr. Kim Bennett
636 Mt. Lebanon Road
Alvaton, KY 42122

NOV -9 2007

Marketing and
Regulatory
Programs

Dear Mr. Bennett:

Animal and
Plant Health
Inspection
Service

This is in response to your Freedom of Information Act (FOIA) appeal under FOIA number 03-094 dated April 24, 2005 that you filed concerning our response for copies of documents pertaining to the 2002 Tennessee Walking Horse National Celebration held in Shelbyville, Tennessee on August 21-31, 2002 (copy enclosed).

Legislative and
Public Affairs

Our records indicate that further processing may be necessary. Frequently, we find that requesters' needs for records change. Please let us know if you wish to continue with the FOIA appeal that was filed with the Animal and Plant Health Inspection Service (APHIS) on April 24, 2005. I regret that we have been unable to reply sooner and appreciate your patience and understanding.

Freedom of
Information

4700 River Road
Unit 50
Riverdale, MD
20737-1232

Please indicate below if you wish to withdraw your appeal or to continue by checking one of the blocks.

Withdraw appeal

Continue appeal

Please return with a box checked to the address below no later than 15 days from the date of this correspondence:

Garfield O. Daley
APHIS Acting FOIA Director
4700 River Road, Unit 50
Riverdale, MD 20737-1232

Or you may email me your response no later than 15 days from the date of this correspondence at: Garfield.O.Daley@aphis.usda.gov or by fax at: 301-734-5941.

If we do not receive a response from you pertaining to the continuance of this appeal our office will close the file on November 30, 2007.

Sincerely,

Garfield O. Daley
Acting FOIA Director
Freedom of Information & Privacy Act Staff
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Additional Search in response to FOIA APPEAL: FOIA 03-094 HPA

SENT for SEARCH: 09/17/2008

TO: IESFOIA@aphis.usda.gov

REQUESTER: Kim Bennett

REQUEST: FOIA 03-094

DUE TO FOIA: ASAP

Attached is a FOIA request for documents maintained by your office. Please conduct a thorough search for all responsive records, including files that may be kept in locations other than your office.

Please provide copies of the results of you initial seach documents. To include copies of CITS Reports, etc. and

Please complete this page and return it with one single-sided copy of the responsive records by MAIL to USDA, APHIS, LPA, FOI, 4700 Riverdale Road, Unit 50, Riverdale, MD 20737 or HAND DELIVER to Suite 2B-02, Place records in box outside Space 2B-02.7 *Address records to the attention of Deborah (Debbie) Leilich Space 2B-02.1*

DO NOT STAPLE DOCUMENTS.

SEARCH START DATE: _____

Search time* (clerical): _____

Search time* (professional): _____

*Does not include photocopying time

Review time (professional): _____

Search conducted by:

Name

Title

Office and Phone

Missing Document Explanation/Special Notes:

FOI Liaison's Initials & Date: _____

*****PLEASE NOTE: Agency records retention periods are affected by this FOIA/PA request. DO NOT DESTROY ORIGINALS for a minimum of 3 years. Please see APHIS Records Management Handbook: Inf 8 - Privacy Act Requests and Inf 9 - FOIA Requests.**