



United States
Department of
Agriculture

June 23, 2011

Marketing and
Regulatory
Programs

Terry Torrance

Animal and
Plant Health
Inspection
Service

Legislative and
Public Affairs

Dear Ms. Torrance:

Freedom of
Information

This is in response to your May 26, 2011, Freedom of Information Act, (FOIA) request for copies of all paperwork, owner/shippers, photos, exhibits submitted as evidence by the U.S. Department of Agriculture (USDA) in case against violator in A.Q. Docket No. 08-0146, Smith Brothers. Also, you would like copies of the penalties, fines, and amount paid on fines by the violator as well. Your request was received in this office on May 26, 2011, and assigned case number FOIA 11-534.

4700 River Road
Unit 50
Riverdale, MD
20737-1232

Agency employees conducted a thorough search of their files and located the enclosed 64 pages of responsive records which are on the enclosed CD-ROM. Pages 7, 8, 16, 17, and 18 are being withheld pursuant to FOIA Exemption 5, 5 U.S.C. § 552(b)(5). This exemption is being applied to protect the information contained on the Animal Care Penalty Worksheet. The information being withheld reflects confidential recommendations between the Investigative Enforcement Services (IES) and the Office of General Counsel (OGC). The release of this information would reveal certain confidential communications between IES and OGC. Furthermore, it could harm the government's interest in protecting the candor of the deliberative process and effectively enforcing APHIS administered statutes. This satisfies the foreseeable harm standard set forth by the Attorney General and our office has determined not to make a discretionary release of the information being withheld.

Information has also been withheld under FOIA Exemption 6, 5 U.S.C. § 552(b)(6). This exemption protects information from disclosure when its release would cause a clearly unwarranted invasion of personal privacy. Certain personal information, such as third party names, signatures, telephone numbers, and social security numbers were redacted from these pages. This same information has also been withheld under FOIA Exemption 7(C), 5 U.S.C. § 552(b)(7)(C). This exemption protects from disclosure records or information compiled for law enforcement purposes when its release could reasonably be expected to constitute an unwarranted invasion of personal privacy.

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



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An Equal Opportunity Provider and Employer

Ms. Terry Torrance
FOIA 11-534

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

Please refer to FOIA 11-534 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.

Please be advised, during our review, we identified 90 pages originated with the Departmental Management (DM). USDA, APHIS does not have the authority to make release determinations on DM records. Therefore, by copy of this letter, we are referring the documents(s) to DM for release determination and direct response to you. To check the status of DM response, please contact them at the following address:

Ms. Phyllis Holmes, FOIA Officer
Departmental Administration
Room 209-A Whitten Building
1400 Independence Avenue
Washington, DC 20250
Tel. (202) 720-0068

Also contained on the CD-ROM are a copy of your FOIA request and a copy of Adobe® Acrobat® Reader™, which is needed to view the responsive records. By opening rp505enu.exe and following the on-screen instructions, you will install Adobe Reader. After the installation, the Adobe Reader should render the PDF files correctly.

Because the cost to process your request is less than \$25, the fee has been waived. If you have any questions, please do not hesitate to contact Ms. Sophie Lau-Lopez of my staff at (301) 734-5360.

Sincerely,



for: Tonya G. Woods
Director
Freedom of Information & Privacy Act
Legislative and Public Affairs

Enclosure