

National Institutes of Health
Bethesda, Maryland 20892

November 17, 2009

Ms. Susan Spray
261 La Veta Avenue
Encinitas, California 92024

Re: NIH FOI Case No. 36730

Dear Ms. Spray:

This is the final response to your September 9, 2009, Freedom of Information Act (FOIA) request addressed to Dr. Margaret Snyder, Office of Extramural Research (OER), National Institutes of Health (NIH). Your request was referred to this office because of my responsibilities under the FOIA. The Department of Health and Human Services (DHHS) policy calls for the fullest possible disclosure provided by the FOIA, consistent with the protections contained therein. The implementing DHHS FOIA Regulations establish the criteria under which the FOIA is administered. *See* 45 C.F.R. Part 5. Copies of the FOIA and the DHHS FOIA Regulations are available on our website at: <http://www.nih.gov/icd/od/foia/efoia.htm>, and <http://www.nih.gov/icd/od/foia/cfr45.htm>.

You requested a copy of "all materials regarding and within the Scripps Research Institute's file at the Office of Laboratory Animal Welfare (OLAW) Division of Grants Compliance and Oversight beginning April 2008 to current, including all annual reports and associated minority reports from 2005 to current."

The search of the OLAW files produced a total of 118 pages of responsive records. By letter dated September 29, 2009, Dr. Snyder released 34 pages responsive to your request. The remaining 84 pages of responsive records were referred to my office for review and determination of releasability. Enclosed are 14 of those pages with certain information redacted. I have determined to withhold the remaining 66 pages in their entirety consisting of correspondence and other records, including references to projects not funded by the Federal Government and information provided to the Agency by a confidential source.

The additional four pages of responsive records fall under the jurisdiction of the United States Department of Agriculture (USDA). Because NIH does not have jurisdiction over USDA records, we have forwarded those four pages to Tonya Woods, FOIA/PA Officer, USDA Animal & Plant Health Inspection Service, 4700 River Road, Unit 50, Riverdale, MD 20737-1232, for review and determination of releasability. I am sure you will be hearing from her shortly.

Page 2 – Ms. Spray (36730)

The information redacted from the enclosed records and the material being withheld in full are protected from release pursuant to Exemptions 4, 6, 7(C) and 7(D) of the FOIA, 5 U.S.C. §§ 552(b)(4), (b)(6), (b)(7)(C) and (b)(7)(D) and sections 5.65, 5.67, 5.68(c) and 5.68(d) of the DHHS FOIA Regulations, 45 C.F.R. Part 5.

Exemption 4 protects from disclosure trade secrets and commercial or financial information that is privileged and confidential. Exemption 6 exempts from disclosure records the release of which would cause a clearly unwarranted invasion of personal privacy. Exemption 7(C) permits withholding of investigative records the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. Exemption 7(D) permits withholding the records the release of which could reasonably be expected to disclose the identity of a confidential source.

You have the right to appeal this determination to deny you access to information into the Agency's possession. Should you wish to do so, you should send your appeal within 30 days of receipt of this letter to the Deputy Assistant Secretary for Public Affairs (Media), United States Department of Health and Human Services, Parklawn Building, Room 17-66, 5600 Fishers Lane, Rockville, Maryland 20857, following the procedures outlined in Subpart C of the Regulations which is located on our website at: <http://www.nih.gov/icd/od/foia/cfr45.htm>. Please mark both the envelope and the appeal letter "FOIA Appeal."

In certain circumstances, provisions of the FOIA and DHHS FOIA Regulations allow us to recover part of the cost of responding to your request. Because no unusual circumstances apply to the processing of your request, there is no charge associated with our response.

Sincerely,



Susan R. Cornell, J.D.
FOIA Officer, NIH
Building 31, Room 5B35
9000 Rockville Pike
Bethesda, MD 20892

Enclosures: 14 pages

cc: Tonya Woods, USDA