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**CONSENT ORDER
APPROVING SETTLEMENT**

Defendant,

AGRICULTURE
STATES DEPARTMENT OF
INSPECTION SERVICE, UNITED
ANIMAL AND PLANT HEALTH
WILDLIFE SERVICES,

v.

Plaintiffs,

WILDLIFE DAMAGE REVIEW
and
CANADA GESE
COALITION TO PROTECT
and
ANIMAL PROTECTION
INSTITUTE, INC.

Civil No. 1:99CV03149(PLB)

WALTER H. BROWN, WASHINGTON CLERK
U.S. DISTRICT COURT

AUG 2 2000

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ORIGINAL

1. In this Freedom of Information Act case, it is hereby stipulated and agreed between plaintiffs Animal Protection Institute, Inc., Coalition to Protect Canada Geese, and Wildlife Damage Review, and defendants United States Department of Agriculture and Animal Plant Health Inspection Services [APHIS], by and through their respective attorneys, as follows:

2. This case involves Plaintiffs' allegations that Defendant, APHIS, has failed to make records available for inspection and copying in its reading room and over the Internet as required by 5 U.S.C. §552(a)(2).

3. As a result of settlement discussions, the defendant have agreed to make certain agency records available for public inspection and copying in APHIS's Reading Room and to place certain records on APHIS's website. APHIS has also agreed to create an index with links to these records on its E-FOIA Reading Room web page.

4. The parties have attached a chart to this stipulation that identifies the tasks and time frame that APHIS has agreed to. See Attachment 1.

5. There are certain manuals and other records that defendant APHIS has decided are not required to be placed in the agency's reading room or on its website. By entering into this settlement stipulation, plaintiffs do not waive their rights to challenge APHIS's decision to exclude any records from its reading room and website.

6. In return for Plaintiffs' agreement to dismiss all claims in this case, the United States agrees to pay Plaintiffs a lump sum of twelve thousand dollars (\$12,000) in attorneys' fees and costs made payable to plaintiffs' law firm, the request for which will be submitted for payment within ten days of the Court's approval of this Stipulation.

7. The undersigned counsel represent that they are authorized to make this agreement on behalf of their clients.

8. The Court hereby approves this settlement and orders defendants to make the records identified in Attachment 1 available in its reading room and on its website on or before the dates set forth in the Attachment.

Executed this 31st day of July 2000.

W. Lewis
WILMA A. LEWIS, D.C. BAR #358637
Assistant United States Attorney
Kodish & Ukelley, P.C.

Robert Ukelley
Robert Ukelley, #MD 14062
Kodish & Ukelley, P.C.

Mark E. Nagle
MARK E. NAGLE, D.C. BAR #416364
Assistant United States Attorney
Marina Utgoff Braswell
MARINA UTGOFF BRASWELL, D.C. BAR #416364

Counsel for Plaintiffs
Counsel for Defendants

Case dismissed with prejudice

Marina Utgoff Braswell

IT IS SO ORDERED:

United States District Judge

August 7, 2000

DATED:

Marina Utgoff Braswell
Assistant U.S. Attorney
Judiciary Center, Room 10-413
Washington, D.C. 20001

Robert Ukelley
Jeffrey A. Kodish
Kodish & Ukelley, P.C.
2260 Baseline Rd., Suite 205
Boulder, CO 80302

Attachment #1: CIV. No. 99CV0314 (PLF)

APHIS

Time Table for FOIA Compliance

PROGRAM	ANIMAL CARE (AC)			MANUALS			DIRECTIVES		
	RR*	INDEX	WEB	RR	INDEX	WEB	RR	INDEX	WEB
	Complete	Complete	11-01-00	N/A	N/A	N/A	N/A	N/A	N/A
COMMENTS: AC has all manuals and policy statements available on the Internet, except the following manuals: The Dealer Inspection Guide, the Horse Protection Training DQP Handbook, and the VMO Handbook at http://www.aphis.usda.gov/mc . Estimated completion date is November 1, 2000.									
PROGRAM	VETERINARY SERVICES (VS)			MANUALS			DIRECTIVES		
	RR*	INDEX	WEB	RR	INDEX	WEB	RR	INDEX	WEB
	Complete	Complete	Complete	Complete	Complete	Complete	Complete	Complete	Complete
COMMENTS: VS has an internet link only to their Guidelines, Memoranda, Notices, and Data Base Reports. The FOIA office has identified some VS Guidelines, Memoranda, Notices, and Data Base Reports that appear to qualify for Reading Room treatment. The FOIA Office has activated links to these VS Guidelines, Memoranda, Notices, and Data Base Reports to the E-FOIA web site.									
PROGRAM	APHIS BUSINESS SERVICES			MANUALS			DIRECTIVES		
	RR*	INDEX	WEB	RR	INDEX	WEB	RR	INDEX	WEB
	Complete	Complete	Complete	Complete	Complete	Complete	Complete	Complete	Complete
COMMENTS: The ABS program has placed the Budget and Accounting Manual in the Reading Room. Other Manuals and Handbooks listed and available electronically at http://www.aphis.usda.gov/library are not included in the Reading Room because they do not appear to qualify as Reading Room types of materials.									
PROGRAM	PLANT PROTECTION AND QUARANTINE			MANUALS			DIRECTIVES		
	RR	INDEX	WEB	RR	INDEX	WEB	RR	INDEX	WEB
	Complete	Complete	11-01-00	Complete	Complete	Complete	Complete	Complete	Complete

COMMENTS: Plant Protection and Quarantine manuals published on line are available at: <http://www.aphis.usda.gov/ppq/manuals/online/manuals.htm>. Currently, the following four manuals are being converted to an on-line format: Animal Product Manual, Pink Hibiscus Mealybug Manual, Plant Import Nonpropagative Manual, and Treatment Manual. It is estimated that these manuals will be available on-line by November 1, 2000

PROGRAM		MANUALS		DIRECTIVES	
RR	INDEX	RR	INDEX	RR	INDEX
06-01-00	06-01-00	06-01-00	06-01-00	N/A	N/A
Policy and Program Development					

COMMENTS: Some are available at the following address which is being installed on the e-join reading room: <http://www.aphis.usda.gov/ppd/ead>

PROGRAM		MANUALS		DIRECTIVES	
RR	INDEX	RR	INDEX	RR	INDEX
Complete	Complete	6/1/00	6/1/00	6/1/00	6/1/00
Wildlife Services					

COMMENTS: Due to the preliminary injunction by the U.S. District Court Western District, Waco Division in Texas, a voluminous amount of information previously released in full, must now be redacted in accordance with the injunction order prior to placement in the reading room. APHIS agrees to convert Wildlife Services' National Directives, which are currently on its web site, into text format on or before August 14, 2000 and to place the remainder of Wildlife Services Directives on its web site within two years of the date of this settlement agreement.

PROGRAM		Frequently requested records	
RR	INDEX	RR	INDEX
See "Repeat Request Records" below	5/1/01	5/1/02	5/1/02
Freedom of Information Legislative and Public Affairs			

COMMENTS: The Legislative and Public Affairs program has no manuals or directives that qualify as Reading Room materials. However, one component of the Legislative and Public Affairs program - the Freedom of Information Act (FOIA) Office - has developed an Internet web site available from the main APHIS page or accessible at the following address: <https://foia.aphis.usda.gov>. The format of the majority of frequently requested information lies in hard copy records which need to be scanned, named, and placed on the E-FOIA web site. A lot of the frequently requested information is waiting in que to be processed due to the preliminary injunction issued in Texas. There is a voluminous amount of information that previously was releasable, now requires redaction in accordance with the order. FOIA staff have learned with the Information Technology group to effect improvements and compliance with E-FOIA amendments. New links to APHIS program Reading Room materials have been added to the E-FOIA Reading Room at the following address: <https://foia.aphis.usda.gov/read room>

*Reading Room

Repeat Request Records

APHIS has identified the following possible categories of repeat requests records which it found to contain disclosable records, will be placed in its Reading Room and on its E-FOIA Reading Room Web site. With the exception of Wildlife Service's annual tables, APHIS will place the following categories of repeat request records in its Reading Room on or before January 13, 2002. APHIS will make the annual tables, from March 31, 1997 forward, available on its E-FOIA Reading Room Web Site in text format or some other format that is quickly accessible to the public on or before October 1, 2000:

The parties agree that disclosable repeat request records covered by this settlement agreement are records requested on or after March 31, 1997 that have become or are likely to become the subject of subsequent requests for substantially the same records.

- APHIS
- Animal Care:
- Horse show reports
- Elephant database
- Annual Reports of Research Facilities
- APHIS Business Services:
- Last of I.M.P.A.C. Credit card holders
- Veterinary Services:
- Bovine Spongiform Encephalopathy
- BSE response plan
- Wildlife Services:
- Operational reports
- Annual tables
- Fiscal information
- Cooperative agreements

Memorandum of understanding

Canada geese

Coyote control

WS activities broken down by methods used, location, target, non target, coast, region

Lpc collar/comound 1080

Aerial gunning

Activities on public lands

Contracts

NEPA Documents

ESA Documents

WS Form 160s

Modifications to E-FOIA Reading Room Web Site

APHIS will post the indexes to the records that are available in its physical Reading Room

on its E-FOIA Reading Room Web Site on or before October 1, 2000. For all records that are

currently available electronically, APHIS agrees to create links to these records from its E-FOIA

Reading Room Web Site on or before October 1, 2000.

APHIS agrees that all other records that the agency has agreed to make available

electronically will be linked to APHIS's E-FOIA Reading Room Web Site as they are placed

online.

APHIS also agrees to place its Aviation Manual under the Wildlife Services program

heading on its E-FOIA Reading Room Web Site on or before August 28, 2000.