

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WHITE COAT WASTE PROJECT
7288 Hanover Green Dr.
Mechanicsville, VA 23111

Plaintiff,

v.

THE UNITED STATES DEPARTMENT OF
AGRICULTURE,
1400 Independence Ave SW
Washington, DC 20250

Defendant.

Civ. No. 21-cv-2215

**Complaint for Declaratory and
Injunctive Relief**

1. This is an action under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, seeking the release of records related to feline euthanasia, feline transfer, and feline transfer from the United States Department of Agriculture's Beltsville Agricultural Research Center (Beltsville ARS) and records related to USDA experiments on dogs.

Jurisdiction and Venue

2. This Court has jurisdiction over the parties and subject matter pursuant to 5 U.S.C. § 552(a)(4)(B).

3. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B).

Parties

4. Plaintiff White Coat Waste Project, Inc. (WCW) is a bipartisan taxpayer watchdog organization pursuant to Section 501(c)(3) of the Internal Revenue Code, located at 7288 Hanover Green Drive, Mechanicsville, VA, 23111. WCW's mission is

to unite animal-lovers and liberty-lovers to expose and end wasteful taxpayer-funded animal experiments. WCW is the requester of the information at issue in this case.

5. Defendant United States Department of Agriculture is an agency of the United States. The USDA has possession, custody, and control of the records WCW seeks.

Statement of Facts

6. The Animal Welfare Act (AWA) and the Public Health Service Policy on Humane Care and Use of Laboratory Animals (PHS Policy) require that every research facility that uses animals for laboratory research—including in federal facilities—maintain certain records and have an Institutional Animal Care and Use Committee (IACUC), which evaluates the facility’s use and care of animals used in experiments.

FOIA 2021-REE-02066-F

7. On January 28, 2021, WCW sent a FOIA request to the USDA Department of Research, Education, and Economics seeking “emails (including their attachments), memos, letters, PowerPoint presentations, reports and meeting minutes regarding feline euthanasia, feline retirement and/or feline transfer from the Beltsville Agricultural Research Center (January 1, 2019–August 1, 2019).”

8. That same day, the agency issued WCW an acknowledgement of its request, assigned the request FOIA Case No. 2021-REE-02066-F, and identified an agency employee WCW could contact for questions regarding the process of the request.

9. After nearly four months with no response from the agency, WCW followed requested a status update and estimated production date for its request.

10. A different FOIA officer replied, stating that “the records search process seems to have been initiated but that [the agency has] not yet received a response.” The agency could not provide an estimate of when it would produce responsive records.

11. As of the filing of this Complaint, WCW has not received a final determination and response from the USDA with regard to FOIA Case No. 2021-REE-02066-F.

12. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), WCW is deemed to have exhausted its administrative remedies with regard to FOIA Case No. 2021-REE-02066-F because the agency has failed to comply with the statutory time limit.

13. The USDA continues to wrongfully withhold the requested records from WCW.

FOIA 2021-APHIS-04413-F

14. On June 21, 2021, WCW sent a FOIA request to the FOIA Director of the USDA Legislative and Public Affairs Free of Information and Privacy Acts Office seeking “materials related to all approved research involving dogs performed by, or in conjunction with, the U.S. Department of Agriculture (January 1, 2018-present)[, including:] Funding applications and budgets[;] Complete IACUC-approved protocols with all appendices, secondary reviews, and amendments[;] IACUC meeting minutes related to research involving the use of dogs[;] Training guides, liability releases, non-disclosure agreements, and other materials distributed during training[;] Invoices for the purchase of dogs, or other records of procurement[;] Acquisition and disposition records for dogs obtained for use in research[;] Complete veterinary records for dogs acquired[;] Complete raw and unedited videos, edited videos, and photographs with

associated documents related to the research[; and] Physical or electronic correspondence (including their attachments), memos, and/or notes about noncompliance incidents.”

15. Because USDA’s FOIA request portal on its website was not working, WCW emailed this request to the agency’s FOIA Director.

16. WCW resubmitted the request on the website’s FOIA request portal three days later.

17. That same day, the agency acknowledged the request, assigned it tracking number #2021-APHIS-04413-F, and stated the target response date for the request was July 23, 2021.

18. WCW has received no other response or information from the agency related to this request.

19. As of the filing of this Complaint, WCW has not received a final determination and response from the USDA with regard to FOIA 2021-APHIS-04413-F.

20. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), WCW is deemed to have exhausted its administrative remedies with regard to FOIA 2021-APHIS-04413-F because the agency has failed to comply with the statutory time limit.

21. The USDA continues to wrongfully withhold the requested records from WCW.

Count I: Violation of FOIA

22. WCW realleges and incorporates by reference the allegations in each of the preceding paragraphs of this Complaint.

23. The Department of Agriculture has wrongfully withheld agency records requested by WCW in FOIA Case No. 2021-REE-02066-F, in violation of FOIA.

24. WCW and the public have been and will continue to be irreparably harmed until the Department of Agriculture is ordered to comply with WCW's FOIA request.

25. WCW is entitled to injunctive relief with respect to the release and disclosure of the requested documents.

Count II: Violation of FOIA

26. WCW realleges and incorporates by reference the allegations in each of the preceding paragraphs of this Complaint.

27. The Department of Agriculture has wrongfully withheld agency records requested by WCW in FOIA 2021-APHIS-04413-F, in violation of FOIA.

28. WCW and the public have been and will continue to be irreparably harmed until the Department of Agriculture is ordered to comply with WCW's FOIA request.

29. WCW is entitled to injunctive relief with respect to the release and disclosure of the requested documents.

30.

Request for Relief

WHEREFORE, WCW respectfully requests that this Court:

(1) Declare the USDA's failure to comply with FOIA to be unlawful;

(2) Enjoin the USDA from continuing to withhold the public records responsive to WCW's FOIA requests and otherwise order the USDA to produce the requested public records without further delay;

(3) Grant WCW an award of attorney fees and other litigation costs reasonably incurred in this action, to the extent permitted by law; and

(4) Grant WCW such other and further relief which the Court deems proper.

Date: August 19, 2021

Respectfully submitted,

/s/ Matthew Strugar
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