

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. 18-2070

**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 experiments conducted on cats at the United States Department of Agriculture's Beltsville Agricultural Research Center (Beltsville ARS).

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

Background

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.

7. On June 4, 2018, WCW sent a FOIA request to USDA Department of Research, Education, and Economics seeking: (1) Newest IACUC-approved version of the protocol for the Beltsville ARS project titled "Toxoplasmosis in Cats" (PI: J. Dubey) (May 2018-present); 2) Complete veterinary records for all cats and kittens used on the protocol above (Jan 1, 2017-present); A complete copy of the "Cat Record Book" for the above project as mentioned in ARS's "Feline Breeding Husbandry" SOP document; 3) A complete copy of the "Daily Log Book" for the above project as mentioned in ARS's "Feline Breeding Husbandry" SOP document; 4) Complete project budget; 5) All emails sent to and from Jitender Dubey related to the use of cats in experiments (May 1, 2018-present).

8. WCW never received any acknowledgement or response to this request.

9. USDA did not notify WCW of any FOIA tracking number assigned to this request.

10. As of the filing of this Complaint, WCW has not received a final determination and response from the USDA with regard to its June 4, 2018 request.

11. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), WCW is deemed to have exhausted its administrative remedies with regard to its June 4, 2018 request because the agency has failed to comply with the statutory time limit.

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

Count I: Violation of FOIA

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

14. The Department of Agriculture has wrongfully withheld agency records requested by WCW, in violation of FOIA.

15. 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.

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

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 request 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: September 4, 2018

Respectfully submitted,

/s/ Matthew Strugar _____
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