Civ. Action No. 06-930 (RMC)

EXHIBIT 38
Lori E. Kettler  
People for the Ethical Treatment of Animals  
Research & Investigations Department  
501 Front Street  
Norfolk, VA 23510  

Dear Ms. Kettler:

This is in response to your August 15, 2005 Freedom of Information Act (FOIA) request for a copy of the investigation regarding a complaint submitted by PETA on September 20, 2004 concerning Le Mas, Ltd in Little Rock, Arkansas. Your request was received on August 16, 2005 and assigned case number FOIA 05-803. I apologize for the delay of this response.

Agency employees conducted a thorough search of their files and enclosed are 17 pages of responsive records. However, information has been withheld under Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5). This exemption protects from disclosure interagency or intra-agency information that is deliberative and pre-decisional. Three pages have been withheld in their entirety under this exemption.

In addition, we withheld information under Exemption 6 of the FOIA, 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. We also withheld information under Exemption 7(C) of the FOIA, 5 U.S.C. § 552(b)(7)(C). This exemption protects from disclosure records or information collected for law enforcement purposes when its release could reasonably be expected to constitute an unwarranted invasion of personal privacy. Two pages have been withheld in their entirety under these exemptions.

Please be advised that Exhibit 2 was supplied to us by you, therefore, we did not provide you with a copy. Furthermore, Exhibit 3 is an identical copy of Exhibit 2.

You may appeal our 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:

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

Please refer to FOIA 05-803 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.
L. Kettler
FOIA 05-803

Because the cost to process your request is less than $25.00, the fee has been waived.
If you have any questions, please contact Ms. Katy Vagnoni of this office at (301) 734-3254.

Sincerely,

[Signature]

Lesia M. Banks, MBA
Director
Freedom of Information & Privacy Act Staff
Legislative and Public Affairs

Enclosures