Civ. Action No. 06-930 (RMC)

EXHIBIT 59
Ms. Katherine A. Meyer
Meyer & Glitzenstein
1601 Connecticut Avenue, N.W.
Washington, D.C. 20009-1056

Re: Freedom of Information Act Request FOIA-01-363
Ringling Bros. and Barnum & Bailey Circus

Dear Ms. Meyer:

This is in further response to your Freedom of Information Act request (FOIA-01-363) for information regarding Ringling Brothers and Barnum & Bailey Circus - treatment of elephants. In our letter of February 22, 2002, we advised you that there were approximately 1283 pages of Animal Care records requiring review. After a page by page review, there are actually 1308 pages of material.

Of these 1308 pages, 258 pages are being released in their entirety. Portions of information have been deleted in an additional 235 pages. These redactions were made pursuant to 5 U.S.C. 552 (b)(4), (b)(5), and (b)(6) as marked on the pages partially released. Exemption 4 protects information when release would cause substantial harm to the competitive position of the person/company from whom the information was obtained. Exemption 5 protects from disclosure interagency or intra-agency information that is deliberative and pre-decisional when release would cause a foreseeable harm to the Agency’s decision making process.

Information that is personal in nature has also been deleted pursuant to 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.

It has recently come to our attention that the Agency Investigative and Enforcement Services (IES) staff has closed case number CA00136, with no action, concerning alleged violations by Ringling Brothers Barnum and Bailey Circus. Thus, the 96 pages of animal care information, and the 1111 pages of IES information that were being withheld under 5 U.S.C. 552 (b)(7a) because of the ongoing investigation are now being re-reviewed, and will be the subject of future correspondence.
Ms. Katherine A. Meyer

The remaining 498 pages were deemed non-responsive. A majority of these pages concern tigers. Others concern animals such as sea lions and hippopotami. Several of these pages were duplicates of pages or documents already provided or that will be covered in future correspondence.

Two hundred and ninety-five pages are still under review. Any information releasable under the FOIA will be sent to you when review is complete.

Of the seven video tapes reviewed, portions of 5 tapes will be withheld in part pursuant to 5 U.S.C. 552 (b)(6). The other 2 tapes are being withheld in their entirety pursuant to 5 U.S.C. 552 (b)(6), (b)(7)(c) and (b)(7)(d).

PLEASE NOTE:

Agency personnel have advised that the copying and editing of the 5 video tapes would cost approximately $1287.00. This represents $287.00 for copying the VHS tapes to Beta for editing, and back to VHS after editing. We estimate that 8 hours will be required for actual editing @ $125.00 per hour. This totals $1000.00. Where fees to be charged exceed $250.00, agencies may require an advance payment of an amount up to the full estimated charges (but not less than 50%) from the requester before any of the requested material is reproduced. Since the cost of copying and editing the tapes will be considerable, we need you to indicate in writing whether or not you are willing to pay the fees that would be incurred for the processing of the five video tapes.

During our search for records responsive to this request, we located documents in our files that originated with the Department of Interior, U.S. Fish and Wildlife Service, and the USDA, Office of General Council.

Five pages originated with the USDA, Office of General Counsel, and have been referred for review and direct response to you.

Seven pages originated with the Department of Interior, U.S. and have been referred to that agency for review and direct response to you.

We have forward your request along with a copy of each agency’s respective documents to:

Mr. Johnny Hunt
Department of Interior
U.S. Fish and Wildlife Service
Division of Policy and Directives Management
Ms. Katherine Meyer

4401 Fairfax Drive
Room 222, Arlington Square
Arlington, Virginia 22203
Phone: (703) 358-2504
Fax: (703) 358-2269

Mr. Kenneth E. Cohen
Assistant General Counsel
Attn: Barbara Good
Office of the General Counsel
General Law Division
1400 Independence Avenue, SW., Room 3311-S
Washington, D.C. 20250

Finally, we are in receipt of your letter of February 26, 2002. Pursuant to your direction, we will not include recitation of the standard appeal process procedures on the withholdings in connection with any further correspondence concerning FOIA-01-363.

Also, in further review of our February 22, 2002, letter, certain exemptions were not identified in that letter, that apply to the documents withheld in their entirety, we wish to advise that 5 U.S.C. 522 (b)(7)(e) and (b)(7)(d) are applicable to the 1111 pages of material withheld in their entirety due to the open investigation by the Agency’s Investigative and Enforcement Services staff.

Sincerely,

Michael S. Marquis
Assistant Director
Executive Correspondence and Freedom of Information Act Legislative and Public Affairs

Enclosures:
493 Pages