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Permanent Injunction and Final Judgment

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Permanent Injunction and Final Judgment

Background

In November 1997 and in April 1999, Freedom of Information Act (FOIA) requests for documents containing the locations and personal identifying information regarding the use of the livestock protection collar (LPC) in the United States were submitted by the Animal Protection Institute (API) to U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS).

Responses were provided for each of the requests but cooperators' personal identifying information, such as their names and addresses, was excluded.

On August 31, 1999, API filed suit in the United States District Court in the District of Columbia alleging that APHIS had violated FOIA by withholding personal identifying information. In the lawsuit, API sought data identifying participants in the LPC program. After learning that APHIS was negotiating a settlement with API that would include release of the personal information, the American Farm Bureau, Texas Farm Bureau, and a number of unnamed individuals filed a lawsuit in the United States District Court for the Western District of Texas seeking to block the release of this information by APHIS. This lawsuit has since become known as the John Doe case. In January 2000, plaintiffs added to their lawsuit a request to block the Agency from releasing the data contained in APHIS' Wildlife Services (WS) Management Information System (MIS) database, which contains information of all WS specialists' activities and the identities of cooperators and patrons, to Forest Guardians in response to their FOIA request to APHIS.

On February 9, 2000, a modified preliminary injunction was issued by the District Court in Texas preventing APHIS from releasing cooperators' personal identifying information to API, Forest Guardians, or anyone else while the lawsuit was ongoing.

The Final Decision

On September 30, 2002, the United States District Court for the Western District of Texas issued a final decision in the lawsuit, which prohibited, as a violation of FOIA and the Privacy Act, the release of cooperators' personal identifying information by USDA, APHIS, or WS, or officers, agents, servants, employees, representatives, attorneys, and other

persons acting for or on their behalf. The court issued a permanent injunction on February 14, 2003, to **permanently restrain** and **prohibit** any of the above entities or individuals from releasing to any third parties, individuals, groups, or agencies any personal information that allows the recipient to obtain or deduce the specific identity or personal identifying information of farmers, ranchers, and other individuals and entities who have requested, executed cooperative agreements, or allowed WS to enter their property for any purpose. The injunction covers records such as LPC program documents and documents regarding the location where restricted use pesticides, such as compound 1080, M-44 cyanide capsules, and sodium cyanide have been, or will be, applied.

Personal information includes names, telephone numbers, street addresses, towns, cities, counties, acreage, map coordinates of WS trapping devices, or other unique identifying characteristic of the cooperators that allow the recipient to ascertain the specific identity of the cooperators.

This permanent injunction excludes information that identifies government entities as cooperators. If a government entity is a cooperator with WS, then information about its relationship with WS, including the type of services WS provides for the entity, as well as the location of the services, can be released unless release of this information reveals the locations and identities of nongovernmental cooperators. No personal identifying information can be released for nongovernmental cooperators.

Additional Information

For more information about this and other WS programs or to find out how to request assistance from your WS State office, contact the WS Operational Support Staff at (301) 734-7921 or write to:

USDA, APHIS, WS
4700 River Road
Unit 87
Riverdale, MD 20737

You can also find information on WS programs by visiting our Web site at <http://www.aphis.usda.gov/ws>
Information concerning the livestock protection collar and compound 1080 can be found at http://www.aphis.usda.gov/lpa/pubs/fsheet_faq_notice/fs_wslivestockcollar.pdf.

Information concerning M-44 and sodium cyanide can be found at http://www.aphis.usda.gov/lpa/pubs/fsheet_faq_notice/fs_wsm4_4.pdf.

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