



Union of Concerned Scientists

Citizens and Scientists for Environmental Solutions

January 23, 2006

Freedom of Information Act Office
USDA, APHIS, LPA
4700 River Road, Unit 50
Riverdale, MD 20737-1232

Via facsimile to 301-734-5941

RE: Request for compliance documents under APHIS permits 05-073-01r, 05-117-01r, 05-117-02r

To whom it may concern:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, *et seq.*, and implementing regulations of the U.S. Department of Agriculture (USDA), Section 7 C.F.R. 1.1-1.16, the Union of Concerned Scientists (UCS) requests the following documents concerning Animal and Plant Health Inspection Service (APHIS) permits 05-073-01r, 05-117-01r, and 05-117-02r allowing Ventria Bioscience to plant pharmaceutical-producing rice in North Carolina during the 2005 growing season:

- All documents related to Ventria Bioscience's compliance with APHIS requirements for permits 05-073-01r, 05-117-01r, and 05-117-02r, including, but not limited to, the following:
 - Written communications, email messages, and logs of telephone calls among USDA APHIS personnel, Ventria Bioscience personnel, and any contractors or consultants working with Ventria Bioscience and/or USDA;
 - USDA inspectors' reports and any other USDA compliance-related documents; and
 - Compliance-related submissions from Ventria Bioscience to USDA.

If you decide that any of the statutory FOIA exemptions apply to any requested record, we ask that you nonetheless disclose the record pursuant to your discretionary power to disclose exempted materials. Otherwise, we request that you release all segregable portions of that record which are not exempt (5 U.S.C. § 552(b)).

Should any portions of the documents be claimed confidential under 5 U.S.C. § 552(b)(4), we request specific explanation of the direct relationship between the trade secret and the productive process. See *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1288 (D.C. Cir. 1983).

We respectfully request that you waive all fees in connection with this matter. As shown below, it is our opinion that we meet the two-pronged test under the fee waiver standard found at 5 U.S.C. § 552(a)(iii), and that all fees should be waived.

UCS is a nongovernmental, independent, non-profit organization dedicated to advancing responsible public policies in areas where technology plays a critical role. To that end, UCS maintains an active education program to inform its members and the general public about technology and public policy

issues. This is accomplished through a number of educational programs, activities, and services, which include, but are not limited to:

- publishing *Catalyst* and *earthwise*, quarterly newsletters; and
- producing and distributing educational materials for citizen participation in global resource, agriculture, transportation, energy, arms control, and nuclear safety issues.

UCS represents its members in advocating improvements in federal and state statutes, regulations, and procedures pertaining to threats to the environment, public health, and human security. Through the publications and services described above, the information requested under this FOIA is likely to significantly contribute both to the public and our membership's understanding of USDA's biotechnology regulatory activities and the impact of these activities on the environment and human health.

Access to government documents, reports, disclosure forms and other similar material through FOIA requests is essential to our organization, especially in our role educating the general public.

UCS has no commercial interest in the requested information and as such, a waiver of fees is in the public interest. Please request additional information concerning our fee waiver request if you believe it is needed to make a final decision. Nothing in this request, however, shall be construed as a waiver of our statutory right to receipt of the requested records within the time periods established by statute or rule.

Thank you for your prompt consideration of our request. We look forward to your response within ten working days.

Sincerely,



Jane Rissler, Ph.D.
Deputy Director/Senior Scientist
Food and Environment Program