



United States
Department of
Agriculture

Marketing and
Regulatory
Programs

Animal and
Plant Health
Inspection
Service

Legislative and
Public Affairs

Freedom of
Information

4700 River Road
Unit 50
Riverdale, MD
20737-1232

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

JAN 12 2006

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.



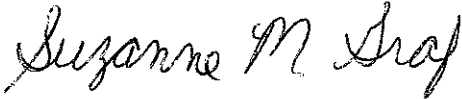
Safeguarding American Agriculture
APHIS is an agency of USDA's Marketing and Regulatory Programs
An Equal Opportunity Provider and Employer

L. Kettler
FOIA 05-803


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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,



Lesia M. Banks, MBA



Director
Freedom of Information & Privacy Act Staff
Legislative and Public Affairs

Enclosures



All redactions on this page are pursuant to (b)(6) & (b)(7)(c).

United States
Department of
Agriculture

Animal and
Plant Health
Inspection
Service

Marketing &
Regulatory
Programs Business
Services

4700 River Road
Riverdale, MD
20737

[Redacted]
dba Le Mas Limited
1818 North Taylor, Suite
Little Rock, AR 72207

Dear [Redacted]

The Animal and Plant Health Inspection Service (APHIS) enforces regulations in order to protect the health and care of animals, plants, and agricultural industry. Violations of these regulations jeopardize the animal and plant health systems that are vital to protect American agriculture.

Our investigation shows that you have violated Federal Regulations as described on the enclosed Civil Penalty Stipulation Agreement form. APHIS laws and regulations provide for administrative and criminal penalties to enforce these regulatory requirements. The amount of the monetary penalty, or possible criminal charges, depends on the number and severity of the violations.

The Secretary of Agriculture may assess a civil penalty for such violations after notice and an opportunity for a hearing. However, you may waive your right to a hearing and settle this matter by paying \$2,750 and signing the **agreement form**. You may voluntarily accept this reduced agreement to avoid further action.

Please pay the civil penalty by certified check or money order made payable to the Treasurer of the United States. Write the Case Number (AR05002-AC) on your check or money order and mail it with the signed agreement form to:

USDA, APHIS, (General) (AR05002-AC)
P. O. Box 952180
St. Louis, MO 63195-2180

If we do not receive your signed stipulation agreement and payment within 30 days, we will seek higher civil or criminal penalties for each violation. You may contact our office at telephone number (301) 734-8684 if you have any questions.

Sincerely,

Herbert M. Jordan
Acting Assistant Director, Enforcement
Investigative and Enforcement Services

Enclosure

cc: T. Fordahl, IES, WR

Dr. R. Gibbens, AC, WR

(b)(6), (b)(7)(c)

IES, AR

APHIS:IES:(b)(6), (b)(7)(c) :734-8759:03/24/05:AR05002-AC



Safeguarding American Agriculture
APHIS is an agency of USDA's Marketing and Regulatory Program

An Equal Opportunity Provider and Employer

Investigative and Enforcement Services

Settlement Agreement

USDA, APHIS, IES
 4700 River Road, Unit 85
 Riverdale, MD 20737
 Phone: (301) 734-8684
 Fax: (301) 734-4328

RESPONDENT:
 (b)(6), (b)(7)c
 dba Le Mas Limited
 1818 North Taylor, Suite 213
 Little Rock, AR 72207

CASE NUMBER AR05002-AC
DUE ON OR BEFORE April 28, 2005
CONTACT (b)(6), (b)(7)c
PHONE 301-734-8759

DATE	CITATION	DESCRIPTION
Approx. Nov 2003	9 CFR 2 30(a)	Requirements and procedures. Conducted research on hogs without being a registered research facility.
	9 CFR 2 31(a)	Institutional Animal Care and Use Committee (IACUC). Failed to appoint an IACUC prior to conducting research on hogs.
	9 CFR 2 32(a)	Personnel qualification. Conducted research on hogs without being properly trained of by having a properly trained staff.
	9 CFR 2.33(a)	Attending veterinarian and adequate veterinary care. Conducted research on hogs without first obtaining an attending veterinarian.
	9 CFR 2 35(a)	Recordkeeping requirements. Failed to maintain IACUC records while conducting research on hogs.
	9 CFR 2 38(f)(1)	Handling. Caused trauma and behavioral stress on hogs while conducting research.
	2 38(f)(2)(i)	Physical abuse. Physically abused hogs while conducting research.
	9 CFR 2.38(k)(1)	Compliance with standards and prohibitions. Failed to comply with the regulations in the humane handling, care and treatment of animals.

PENALTY \$2,750 **TERMS**

Titles 7, 15, 19, and 21 of the United States Code authorize the Secretary of Agriculture to impose civil penalties and other sanctions to resolve violations after providing notice and opportunity for a hearing.

You may waive your right to a hearing and agree to pay the specified civil penalty in settlement of this matter. If you do not agree to the specified penalty, a complaint shall be issued charging you with the violation(s) and seeking higher penalties. You will have the opportunity for a hearing before an Administrative Law Judge to present your case.

I acknowledge that I have been given an opportunity for a hearing and waive such hearing. I neither admit nor deny the violations cited above and agree to pay the civil penalty in full settlement of this matter.

Signature of Respondent: _____ **Date:** _____

PAYMENT RECORD - FOR IES USE ONLY

Payment Type	Date	Amount	Signature of IES Representative
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UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
INVESTIGATIVE AND ENFORCEMENT SERVICES
WESTERN REGION
FORT COLLINS, CO

REPORT OF INVESTIGATION

Violator(s): (b)(6), (b)(7)c dba Le Mas Limited
1818 North Taylor
Suite 213
Little Rock, AR 72207
Phone: (b)(6), (b)(7)c
(b)(6), (b)(7)c

Case Number: AR05002-AC

Violation(s): 9 CFR, 2

Investigator: (b)(6), (b)(7)c
2150 Centre Ave.
Building B, 3W10
Fort Collins, CO 80526
Phone: 970-494-7493

Date of Report: March 1, 2005

FOR OFFICIAL USE ONLY

This document and its contents are not to be distributed
outside your agency, nor duplicated, without prior consent
from USDA, APHIS, Investigative and Enforcement Services.

EXPLANATION OF THE EVIDENCE

9 CFR

Approximately November, 2003

2.30(a)

Requirements and procedures:

(b)(6), (b)(7)b conducted research on hogs without being a registered research facility as evidenced by:

Exhibit 1: Letter of complaint from PETA describing the research as depicted on a CD, dated 9/20/04.

Exhibit 2: Copy of CD created by Le Mas, received from PETA showing hogs being shot.

Exhibit 3: Copy of CD created by Le Mas, received from (b)(6), (b)(7)c showing hogs being shot.

Exhibit 4: APHIS Form 7162, Affidavit of (b)(7)c, (b)(6)
(b)(7)c, (b)(6)

Exhibit 5: APHIS Form 7162, Affidavit of (b)(7)c, (b)(6)
(b)(7)c, (b)(6)

2.31(a)

Institutional Animal Care and Use Committee (IACUC):

(b)(6), (b)(7)(C) failed to appoint an IACUC prior to conducting research on hogs as evidenced by:

Exhibit 1: Letter of complaint from PETA describing the research as depicted on a CD, dated 9/20/04.

Exhibit 2: Copy of CD created by Le Mas, received from PETA showing hogs being shot.

Exhibit 3: Copy of CD created by Le Mas, received from (b)(6), (b)(7)c showing hogs being shot.

Exhibit 4: APHIS Form 7162, (b)(7)c, (b)(6)
(b)(7)c, (b)(6)

Exhibit 5: APHIS Form 7162, Affidavit of (b)(7)c, (b)(6)
(b)(7)c, (b)(6)

2.32(a)

Personnel qualifications:

(b)(6), (b)(7)c conducted research on hogs without being properly trained or by having a properly trained staff as evidenced by:

Exhibit 1: Letter of complaint from PETA describing the research as depicted on a CD, dated 9/20/04.

Exhibit 2: Copy of CD created by Le Mas, received from PEIA showing hogs being shot.

Exhibit 3: Copy of CD created by Le Mas, received from (b)(6), (b)(7)c showing hogs being shot

Exhibit 4: APHIS Form 7162, (b)(7)c, (b)(6)
(b)(7)c, (b)(6)

Exhibit 5: APHIS Form 7162, Affidavit of (b)(7)c, (b)(6)
(b)(7)c, (b)(6)

2.33(a)

Attending veterinarian and adequate veterinary care:

(b)(6), (b)(7)(C) conducted research on hogs without first obtaining an attending veterinarian as evidenced by:

Exhibit 1: Letter of complaint from PETA describing the research as depicted on a CD, dated 9/20/04.

Exhibit 2: Copy of CD created by Le Mas, received from PEIA showing hogs being shot.

Exhibit 3: Copy of CD created by Le Mas, received from (b)(6), (b)(7)c showing hogs being shot.

Exhibit 4: APHIS Form 7162, Affidavit of (b)(7)c, (b)(6)
(b)(7)c, (b)(6)

Exhibit 5: APHIS Form 7162, (b)(7)c, (b)(6)
(b)(7)c, (b)(6)

2.35(a)

Recordkeeping requirements:

(b)(6), (b)(7)c failed to maintain IACUC records while conducting research on hogs as evidenced by:

Exhibit 1: Letter of complaint from PETA describing the research as depicted on a CD, dated 9/20/04.

Exhibit 2: Copy of CD created by Le Mas, received from PETA showing hogs being shot.

Exhibit 3: Copy of CD created by Le Mas, received from (b)(6), (b)(7)c showing hogs being shot.

Exhibit 4: APHIS Form 7162, Affidavit of (b)(7)c, (b)(6)

Exhibit 5: APHIS Form 7162, Affidavit of (b)(7)c, (b)(6)

(b)(7)c, (b)(6)

2.38(f)(1)

Handling:

(b)(6), (b)(7)c handled hogs while conducting research which caused trauma and behavioral stress as evidenced by:

Exhibit 1: Letter of complaint from PETA describing the research as depicted on a CD, dated 9/20/04.

Exhibit 2: Copy of CD created by Le Mas, received from PETA showing hogs being shot.

Exhibit 3: Copy of CD created by Le Mas, received from (b)(6), (b)(7)c showing hogs being shot.

Exhibit 4: APHIS Form 7162, Affidavit of (b)(7)c, (b)(6)

(b)(7)c, (b)(6)

Exhibit 5: APHIS Form 7162, Affidavit of (b)(7)c, (b)(6)

(b)(7)c, (b)(6)

2.38(f)(2)(i) Physical abuse shall not be used:

(b)(6), (b)(7)c [redacted] abused hogs while conducting research as evidenced by:

Exhibit 1: Letter of complaint from PETA describing the research as depicted on a CD, dated 9/20/04.

Exhibit 2: Copy of CD created by Le Mas, received from PETA showing hogs being shot.

Exhibit 3: Copy of CD created by Le Mas, received from (b)(6), (b)(7)c [redacted] showing hogs being shot.

Exhibit 4: APHIS Form 7162, Affidavit of (b)(7)c, (b)(6) [redacted]

Exhibit 5: APHIS Form 7162, Affidavit of (b)(7)c, (b)(6) [redacted]

2.38(k)(1) Compliance with standards and prohibitions:

(b)(6), (b)(7)c [redacted] failed to comply with the regulations in subpart C as evidenced by:

Exhibit 1: Letter of complaint from PETA describing the research as depicted on a CD, dated 9/20/04.

Exhibit 2: Copy of CD created by Le Mas, received from PETA showing hogs being shot.

Exhibit 3: Copy of CD created by Le Mas, received from (b)(6), (b)(7)c [redacted] showing hogs being shot.

Exhibit 4: APHIS Form 7162, Affidavit of (b)(7)c, (b)(6) [redacted]

Exhibit 5: APHIS Form 7162, Affidavit of (b)(7)c, (b)(6) [redacted]

OTHER EVIDENCE

Exhibit 6: Email from Lori E. Kettler, PEIA, dated 11/30/04, which authenticates the CD.

EXHIBIT LIST

- Exhibit 1:** Letter of complaint from PETA, dated 9/20/04.
- Exhibit 2:** Copy of CD created by Le Mas, received from PETA.
- Exhibit 3:** Copy of CD created by Le Mas, received from (b)(6), (b)(7)c
- Exhibit 4:** APHIS Form 7162 (b)(7)c, (b)(6)
- Exhibit 5:** APHIS Form 7162 (b)(7)c, (b)(6)
- Exhibit 6:** Email from Lori E. Kettler, PETA, dated 11/30/04.

WITNESS LIST

(b)(6), (b)(7)c

USDA APHIS IES
2150 Centre Ave Bldg B 3W10
Fort Collins, CO 80524
970-494-7493

Lori Kettler
PETA
501 Front Street
Norfolk, VA 23510
757-622-7382