

**U.S. District Court  
District of Columbia (Washington, DC)  
CIVIL DOCKET FOR CASE #: 1:23-cv-03806-APM**

ENVIRONMENTAL WORKING GROUP v. FOOD SAFETY  
AND INSPECTION SERVICE et al  
Assigned to: Judge Amit P. Mehta  
Cause: 05:552 Freedom of Information Act

Date Filed: 12/22/2023  
Jury Demand: None  
Nature of Suit: 895 Freedom of  
Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff**

**ENVIRONMENTAL WORKING  
GROUP**

represented by **Jeffrey Stein**  
EARTHJUSTICE  
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*PRO HAC VICE*  
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**Carrie F. Apfel**  
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*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**FOOD SAFETY AND INSPECTION  
SERVICE**

represented by **Sian Jones**  
DOJ-USAO  
601 D Street, NW  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**UNITED STATES DEPARTMENT OF  
AGRICULTURE**

represented by **Sian Jones**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
12/22/2023	<u>1</u>	COMPLAINT against FOOD SAFETY AND INSPECTION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE ( Filing fee \$ 405 receipt number ADCDC-10577895) filed by ENVIRONMENTAL WORKING GROUP. (Attachments: # <u>1</u> Exhibit Ex. A FOIA Request, # <u>2</u> Exhibit Ex. B FSIS Final Response, # <u>3</u> Exhibit Ex. C Records, # <u>4</u> Exhibit Ex. D FOIA Appeal, # <u>5</u> Exhibit Ex. E FOIA Appeal Acknowledgment, # <u>6</u> Civil Cover Sheet Civil Cover Sheet, # <u>7</u> Summons Summons – Att’y General, # <u>8</u> Summons Summons –Dist. Att’y, # <u>9</u> Summons Summons – FSIS, # <u>10</u> Summons Summons – USDA)(Apfel, Carrie) (Entered: 12/22/2023)

12/22/2023	<u>2</u>	ENTERED IN ERROR.....LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by ENVIRONMENTAL WORKING GROUP (Apfel, Carrie) Modified on 12/26/2023 (zsl). (Entered: 12/22/2023)
12/26/2023		NOTICE OF ERROR re <u>1</u> Complaint, <u>2</u> LCvR 26.1 CERTIFICATE OF DISCLOSURE; emailed to capfel@earthjustice.org, cc'd 5 associated attorneys -- The PDF file you docketed contained errors: 1. Blank or missing coversheet. Please use the cover sheet at <a href="https://www.dcd.uscourts.gov/new-case-forms">https://www.dcd.uscourts.gov/new-case-forms</a> & file using the event Civil Cover Sheet., 2. Form filed as fillable PDF. Please file form in a non-fillable PDF format., 3. <b>COMPLIANCE DEADLINE is by close of business today. This case will not proceed any further until all errors are satisfied.</b> (zsl, ) (Entered: 12/26/2023)
12/26/2023	<u>3</u>	CIVIL COVER SHEET by ENVIRONMENTAL WORKING GROUP filed by ENVIRONMENTAL WORKING GROUP.(Apfel, Carrie) (Entered: 12/26/2023)
12/26/2023	<u>4</u>	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by ENVIRONMENTAL WORKING GROUP (Apfel, Carrie) (Entered: 12/26/2023)
12/26/2023	<u>5</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Jeffrey Stein, Filing fee \$ 100, receipt number ADCDC-10581891. Fee Status: Fee Paid. by ENVIRONMENTAL WORKING GROUP. (Attachments: # <u>1</u> Declaration Declaration, # <u>2</u> Exhibit Certificate of Good Standing)(Apfel, Carrie) (Entered: 12/26/2023)
12/26/2023		Case Assigned to Judge Amit P. Mehta. (zsl) (Entered: 12/26/2023)
12/26/2023		NOTICE OF ERROR regarding <u>5</u> MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Jeffrey Stein, Filing fee \$ 100, receipt number ADCDC-10581891. Fee Status: Fee Paid. The following error(s) need correction: Declaration must have an original, ink signature. Please refile using the event Declaration. (mg) (Entered: 12/26/2023)
01/10/2024	<u>6</u>	DECLARATION by ENVIRONMENTAL WORKING GROUP re <u>5</u> MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Jeffrey Stein, Filing fee \$ 100, receipt number ADCDC-10581891. Fee Status: Fee Paid.. (Apfel, Carrie) (Entered: 01/10/2024)
02/13/2024		MINUTE ORDER granting <u>5</u> Motion for Leave to Appear Pro Hac Vice. Attorney Jeffrey Stein is hereby admitted pro hac vice to appear in this matter. <b>Counsel should register for e-filing via PACER and file a notice of appearance pursuant to LCvR 83.6(a).</b> <a href="#">Click for instructions.</a> Signed by Judge Amit P. Mehta on 02/13/2024. (lcapm3) (Entered: 02/13/2024)
02/27/2024	<u>7</u>	REQUEST FOR SUMMONS TO ISSUE filed by ENVIRONMENTAL WORKING GROUP. Related document: <u>1</u> Complaint,, filed by ENVIRONMENTAL WORKING GROUP. (Attachments: # <u>1</u> Summons Summons-FOIA - Dist Att'y, # <u>2</u> Summons Summons-FOIA - FSIS, # <u>3</u> Summons Summons-FOIA - USDA)(Apfel, Carrie) (Entered: 02/27/2024)
02/27/2024	<u>8</u>	SUMMONS (4) Issued Electronically as to All Defendants, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent)(mg) (Entered: 02/27/2024)
03/05/2024	<u>9</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 03/01/2024. (Apfel, Carrie) (Entered: 03/05/2024)
03/05/2024	<u>10</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES DEPARTMENT OF AGRICULTURE served on 3/4/2024 (Apfel, Carrie) (Entered: 03/05/2024)
03/05/2024	<u>11</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. FOOD SAFETY AND INSPECTION SERVICE served on 2/29/2024 (Apfel, Carrie) (Entered: 03/05/2024)
03/05/2024	<u>12</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 3/1/2024. Answer due for ALL FEDERAL DEFENDANTS by 3/31/2024. (Apfel, Carrie)

		(Entered: 03/05/2024)
03/21/2024	<u>13</u>	NOTICE of Appearance by Sian Jones on behalf of FOOD SAFETY AND INSPECTION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE (Jones, Sian) (Entered: 03/21/2024)
04/01/2024	<u>14</u>	ANSWER to Complaint by FOOD SAFETY AND INSPECTION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE.(Jones, Sian) (Entered: 04/01/2024)
04/04/2024	<u>15</u>	ORDER. Both a Complaint and an Answer are now before the court in this FOIA case. It is hereby ordered that the parties shall meet and confer and file a Joint Status Report on or before April 18, 2024. The Joint Status Report shall include (1) the status of Plaintiff's FOIA request; (2) the anticipated number of documents responsive to Plaintiff's FOIA request; (3) the anticipated date(s) for release of the documents requested by Plaintiff; (4) whether a motion for stay is likely under <i>Open America v. Watergate Special Prosecution Force</i> , 547 F.2d 605 (D.C. Cir. 1976); and (5) whether the parties anticipate summary judgment briefing and, if so, a proposed briefing schedule. Signed by Judge Amit P. Mehta on 04/04/2024. (lcapm3) (Entered: 04/04/2024)
04/05/2024		Set/Reset Deadlines: Meet and Confer and file a Joint Status Report by 4/18/2024. (znbn) (Entered: 04/05/2024)
04/05/2024	<u>16</u>	NOTICE of Appearance by Jeffrey Stein on behalf of All Plaintiffs (Stein, Jeffrey) (Entered: 04/05/2024)
04/18/2024	<u>17</u>	Joint STATUS REPORT by FOOD SAFETY AND INSPECTION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE. (Attachments: # <u>1</u> Text of Proposed Order)(Jones, Sian) (Entered: 04/18/2024)
04/19/2024		MINUTE ORDER. The parties shall file an additional Joint Status Report on or before May 17, 2024, which advises whether Defendants in fact withheld any responsive records pursuant to Exemption 4. If there remains a dispute about the invocation of Exemption 4, the parties shall propose a schedule for further proceedings. Signed by Judge Amit P. Mehta on 04/19/2024. (lcapm3) (Entered: 04/19/2024)
04/30/2024		Set/Reset Deadlines: Status Report due by 5/17/2024 (zglw) (Entered: 04/30/2024)
05/17/2024	<u>18</u>	Joint STATUS REPORT by FOOD SAFETY AND INSPECTION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE. (Attachments: # <u>1</u> Text of Proposed Order)(Jones, Sian) (Entered: 05/17/2024)
05/20/2024	<u>19</u>	ORDER entering the briefing schedule proposed in the parties <u>18</u> Joint Status Report. The schedule for further proceedings in this matter is as follows: (1)Plaintiff's Motion for Summary Judgment is due on or before June 26, 2024; (2) Defendants' Opposition to Plaintiff's Motion and any Cross-Motion for Summary Judgment is due on or before July 19, 2024; (3) Plaintiff's Reply in Support of Summary Judgment and Opposition to any Cross-Motion for Summary Judgment is due on or before August 14, 2024; and (4) Defendants' Reply in Support of any Cross-Motion for Summary Judgment is due on or before September 5, 2024. See the attached Order for additional details. Signed by Judge Amit P. Mehta on 05/18/2024. (lcapm3) Modified to correct date signed on 5/20/2024 (smc). (Entered: 05/20/2024)
05/20/2024		Set/Reset Deadlines: Summary Judgment motions due by 6/26/2024. Opposition and Cross Motions due by 7/19/2024. Reply and Response to Cross Motions due by 8/14/2024. Reply to Cross Motions due by 9/5/2024. (smc) (Entered: 05/20/2024)
06/26/2024	<u>20</u>	MOTION for Summary Judgment by ENVIRONMENTAL WORKING GROUP. (Attachments: # <u>1</u> Memorandum in Support of Plaintiff's Motion for Summary Judgment, # <u>2</u> Text of Proposed Order, # <u>3</u> Statement of Facts Pursuant to Local Rule 7(h)(1), # <u>4</u> Declaration of Carrie Apfel, # <u>5</u> Exhibit A, # <u>6</u> Exhibit B, # <u>7</u> Exhibit C, # <u>8</u> Exhibit D, # <u>9</u> Exhibit E, # <u>10</u> Exhibit F, # <u>11</u> Exhibit G)(Apfel, Carrie) (Entered: 06/26/2024)
07/16/2024	<u>21</u>	Consent MOTION for Extension of Time to File , Consent MOTION for Briefing Schedule ( <i>Amended</i> ) by FOOD SAFETY AND INSPECTION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE. (Attachments: # <u>1</u> Text of Proposed

		Order)(Jones, Sian) (Entered: 07/16/2024)
07/17/2024	<u>22</u>	ORDER granting Defendants' <u>21</u> Consent Motion for Extension of Time and Amended Briefing Schedule. The schedule for further proceedings in this matter is as follows: (1) Defendants' Opposition to Plaintiff's Motion and Cross-Motion for Summary Judgment is due on or before August 7, 2024; (2) Plaintiff's Reply in Support of Summary Judgment and Opposition to Defendants' Cross-Motion for Summary Judgment is due on or before August 29, 2024; and (3) Defendants' Reply in Support of their Cross-Motion for Summary Judgment is due on or before September 23, 2024. See the attached Order for additional details. Signed by Judge Amit P. Mehta on 07/17/2024. (lcapm3) (Entered: 07/17/2024)
07/19/2024		Set/Reset Deadlines: Defendant's Opposition/Cross Motions due by 8/7/2024. Plaintiff's reply to Cross Motions due by 8/29/2024. Defendant's reply due by 9/23/2024. (zakb) (Entered: 07/19/2024)
08/02/2024	<u>23</u>	MOTION to Stay re <u>22</u> Order on Motion for Extension of Time to File,, Order on Motion for Briefing Schedule,, by FOOD SAFETY AND INSPECTION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE. (Attachments: # <u>1</u> Text of Proposed Order)(Jones, Sian) (Entered: 08/02/2024)
08/05/2024	<u>24</u>	Memorandum in opposition to re <u>23</u> Motion to Stay, filed by ENVIRONMENTAL WORKING GROUP. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Text of Proposed Order)(Apfel, Carrie) (Entered: 08/05/2024)
08/06/2024	<u>25</u>	REPLY to opposition to motion re <u>23</u> MOTION to Stay re <u>22</u> Order on Motion for Extension of Time to File,,, Order on Motion for Briefing Schedule,, filed by FOOD SAFETY AND INSPECTION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE. (Jones, Sian) (Entered: 08/06/2024)
08/08/2024	<u>26</u>	REPLY to opposition to motion re <u>20</u> MOTION for Summary Judgment filed by ENVIRONMENTAL WORKING GROUP. (Apfel, Carrie) (Entered: 08/08/2024)
08/13/2024	<u>27</u>	NOTICE of Defendants' Position by FOOD SAFETY AND INSPECTION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE re <u>26</u> Reply to opposition to Motion (Jones, Sian) (Entered: 08/13/2024)
08/28/2024		MINUTE ORDER granting Defendants' <u>23</u> Motion to Stay Briefing. A stay is warranted in this case to promote judicial economy, as a single set of briefs addressing both the prior and present productions will be more efficient than if done serially. The court recognizes that the delay will cause some prejudice to Plaintiff and the public, but that prejudice is mitigated by the short duration of the stay. This matter is hereby stayed until September 6, 2024. Defendant shall endeavor to complete production by that date, and the parties shall file a Joint Status Report by September 10, 2024, which proposes a schedule for further proceedings. Signed by Judge Amit P. Mehta on 08/28/2024. (lcapm3) (Entered: 08/28/2024)
09/10/2024	<u>28</u>	Joint STATUS REPORT by FOOD SAFETY AND INSPECTION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE. (Attachments: # <u>1</u> Text of Proposed Order Plaintiff, # <u>2</u> Text of Proposed Order Defendant)(Jones, Sian) (Entered: 09/10/2024)
09/12/2024		MINUTE ORDER. The schedule for further proceedings shall be as follows: (1) Defendants shall file their opposition and cross-motion for summary judgment on or before October 24, 2024; (2) Plaintiff shall file its reply and cross-opposition on or before November 21, 2024; and (3) Defendants shall file their cross-reply on or before December 12, 2024. The court selected the later October date for Defendants' opposition to ensure that the court has a full and complete record as to all contested exemptions, including those relating to the recently produced records. Signed by Judge Amit P. Mehta on 09/12/2024. (lcapm3) (Entered: 09/12/2024)
09/23/2024		Set/Reset Deadlines: Cross Motions due by 10/24/2024. Response to Cross Motions due by 11/21/2024. Reply to Cross Motions due by 12/12/2024. (zakb) (Entered: 09/23/2024)