

EXHIBIT 4



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

July 21, 2016

Sunni R. Harris, Esq.
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Re: Appeal No. DOJ-AP-2016-003369
& DOJ-AP-2016-003370
Request Nos. DOJ-2016-002331
(AG) & DOJ-2016-002827 (ASG)
SRO:JNW

VIA: FOIAonline

Dear Ms. Harris:

You attempted to appeal from the failure of the Initial Request Staff (IR Staff) of the Office of Information Policy, acting on behalf of the Offices of the Attorney General and the Associate Attorney General, to respond to your Freedom of Information Act request for access to certain records concerning *Keepseagle v. USDA*. I note that you also appeal the IR Staff's determination that the processing of your request involves "unusual circumstances," and the IR Staff's assignment of your request in its "complex" track.

Department of Justice regulations provide for an administrative appeal to the Office of Information Policy only after there has been an adverse determination by a component. See 28 C.F.R. § 16.8(a) (2015). As no adverse determination has yet been made by the IR Staff, there is no action for this Office to consider on appeal.¹

As you may know, the FOIA authorizes requesters to file a lawsuit when an agency takes longer than the statutory time period to respond. See 5 U.S.C. § 552(a)(6)(C)(i). However, I can assure you that this Office has spoken with the IR Staff and has been advised that your request is currently being processed. If you are dissatisfied with the IR Staff's final response, you may appeal again to this Office.

This Office has forwarded a copy of your letter to the IR Staff. You should contact the IR Staff's Requester Service Center at 202-616-5459 for further updates regarding the status of your request.

As to your challenge of the assignment of your request by the IR Staff to its complex track and the IR Staff's determination that your request involves "unusual circumstances," I am affirming the IR Staff's action on your request. Because the records you seek require the IR Staff to conduct searches in other Offices, the IR Staff properly assigned your request to its

¹ Except to the extent that you consider the IR Staff's "unusual circumstances" determination and its assignment of your request to the "complex" track as adverse determinations, which are addressed herein.

- 2 -

complex track. See 28 C.F.R. § 16.5(b). Furthermore, the IR Staff properly invoked unusual circumstances for the same reason.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of the IR Staff in response to your request. If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

X 

Sean R. O'Neill
Chief, Administrative Appeals Staff