

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

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THE AMERICAN SOCIETY FOR THE)
PREVENTION OF CRUELTY)
TO ANIMALS,)
424 E. 92nd St.)
New York, NY 10128-6804,)
)
<i>Plaintiff,</i>)
)
v.) Civil Action No. 24-1975
)
UNITED STATES DEPARTMENT)
OF AGRICULTURE,)
1400 Independence Ave., SW)
Washington, DC 20250)
)
And)
)
ANIMAL AND PLANT HEALTH) Complaint for Declaratory and
INSPECTION SERVICE,) Injunctive Relief
4700 River Rd.)
Riverdale, MD 20737)
)
<i>Defendants.</i>)
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COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff The American Society for the Prevention of Cruelty to Animals (“ASPCA”) brings this action against Defendants United States Department of Agriculture (“USDA”) and the Animal and Plant Health Inspection Service (“APHIS”) (together, “Defendants”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”).

NATURE OF THE ACTION

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, to compel the Defendants to release public records and information, in their entirety, unlawfully

withheld from the ASPCA in response to 42 FOIA requests submitted by the ASPCA between January 18, 2022, and April 22, 2024.

2. The records that Defendants have improperly withheld relate to entities and individuals regulated under the Animal Welfare Act (“AWA”), 7 U.S.C. §§ 2131, et seq., and Defendants’ statutory obligation to ensure those entities and individuals humanely treat and care for animals. They include enforcement action records, inspection reports, e-mails, inspection photographs, and related agency correspondence access to which is critical for effective oversight and monitoring of the Defendants’ implementation and enforcement of the AWA, which has historically been abysmal.

3. The Defendants have failed to comply with the statutory deadline to release all records in response to the 42 requests Plaintiff submitted pursuant to FOIA between January 18, 2022, and April 22, 2024. The Defendants should be required to turn the requested records over immediately, without unlawful redactions and should be further prohibited from using similar delay tactics to avoid full disclosure and compliance with FOIA in the future.

4. The filing of this instant action marks Plaintiff’s third FOIA lawsuit against Defendants in the last five years. In relevant part, Defendants agreed to settle Plaintiff’s first lawsuit after Congress enacted legislation requiring Defendants to publish the records at issue. Plaintiffs substantially prevailed in their second lawsuit against Defendants when this Court found that Defendants unlawfully withheld requested records. In its opinion, the Court suggested that Defendants made an “ill-advised” policy choice that left the agency unprepared to fulfill its statutory duty to timely respond to FOIA requests.

5. To date, Defendants continue to make ill-advised policy choices that impede Plaintiff's access to public records under the FOIA—demonstrating a policy or practice of violating the FOIA.

JURISDICTION AND VENUE

6. The Court has jurisdiction over this action pursuant to 5 U.S.C. §§ 552(a)(4)(B), (a)(6)(C)(i), and 28 U.S.C. §§ 1331, 1346.

7. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

8. Founded in 1866, Plaintiff ASPCA was the first animal welfare organization to be established in North America and today serves as the nation's leading voice for vulnerable and victimized animals. As a 501(c)(3) not-for-profit corporation with more than two million supporters nationwide, the ASPCA is committed to preventing cruelty to animals throughout the United States.

9. Defendant USDA is an executive agency within the federal government of the United States. Defendant USDA is responsible for implementing the Animal Welfare Act ("AWA") and has possession and control of the records at issue in this lawsuit.

10. Defendant APHIS is a component of Defendant USDA. Defendant USDA has charged Defendant APHIS with administering the AWA. Defendant APHIS has possession and control of the records at issue in this lawsuit.

STATUTORY FRAMEWORK

The Freedom of Information Act

11. Pursuant to the FOIA, an agency “shall make [] records promptly available to any person” upon request, unless the records fall within nine categories of statutorily exempt material. 5 U.S.C. § 552(a)(3)(A).

12. An agency must make a determination as to whether to comply with a FOIA request within 20 business days and immediately notify the requester of its decision. 5 U.S.C. § 552(a)(6)(A)(i).

13. The 20-day time limitation may only be extended if: 1) the agency makes a reasonable request for information from the requester, in which case the time limitation is tolled while awaiting a response; or 2) unusual circumstances exist and the agency notifies the requester of an extension of the time limitation, which shall not exceed ten business days. 5 U.S.C. § 552(a)(6)(B).

14. To make a determination, an agency must at least “(i) gather and review the documents; (ii) determine and communicate the scope of the documents it intends to produce and withhold, and the reasons for withholding any documents; and (iii) inform the requester that it can appeal whatever portion of the ‘determination’ is adverse.” *CREW v. FEC*, 711 F.3d 180, 188 (D.C. Cir. 2013).

15. “Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request.” 5 U.S.C. § 552(a)(6)(C)(i).

16. “Promptly available . . . typically [means] within days or a few weeks, of a ‘determination,’ not months or years.” *CREW*, 711 F.3d. at 188.

17. “Each agency shall . . . provide[] information about the status of a request to the person making the request using the assigned tracking number, including . . . (ii) an estimated date on which the agency will complete action on the request.” 5 U.S.C. § 552(a)(7)(B).

18. An agency must make “a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested.” *Oglesby v. U.S. Dep’t of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990).

19. A person making a FOIA request is deemed to have exhausted their administrative remedies, and may seek immediate judicial review, if the agency fails to make a determination within the statutory time frame. 5 U.S.C. § 552(a)(6)(C).

The Animal Welfare Act

20. The AWA, codified in Chapter 54 of Title 7 of the U.S. Code, was enacted in 1966 and has the stated policy objective of ensuring “that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment[.]” 7 U.S.C. § 2131(1).

21. The USDA, through APHIS, administers and enforces the AWA, and its implementing regulations, 9 C.F.R. §§ 1.1, *et seq.*

22. Defendants are charged with “mak[ing] such investigations or inspections” as “necessary to determine whether any [*inter alia*] dealer, exhibitor, [or] research facility . . . has violated or is violating any provision of this chapter or any regulation or standards issued thereunder, and for such purposes, the [Defendants] shall, at all reasonable times, have access to the places of business and the facilities, animals, and those records required to be kept” 7 U.S.C. § 2146(a).

23. Inspection records include reports, photographs, and videos taken by the inspector(s) at the time of inspection.

24. Enforcement records include administrative complaints, administrative decisions, settlement agreements, warnings, and records detailing cases initiated, civil penalties, monetary penalties, non-monetary stipulations, referrals to the Office of General Counsel, and stipulated penalties assessed. Enforcement action records should incorporate, by reference, inspection reports, photographs, and videos.

25. Defendants' administration and enforcement of the AWA has been the subject of concern and criticism, including by the USDA's own Office of the Inspector General. *See, e.g.*, Gil H. Harden, Assistant Inspector General for Audit, *Animal and Plant Health Inspection Service, Animal Care Program, Inspections of Problematic Dealers*, USDA Office of Inspector General (May 2010); Robert W. Young, Assistant Inspector General for Audit, *APHIS Animal Care Program—Inspection and Enforcement Activities*, USDA Office of Inspector General Audit Report No. 33002-3-SF (Sept. 30, 2005); *Animal and Plant Health Inspection Service Enforcement of the Animal Welfare Act*, USDA Office of Inspector General Audit Report No. 33600-1-Ch (Jan. 1995); James R. Ebbitt, Assistant Inspector General for Audit, *Animal and Plant Health Inspection Service—Implementation of the Animal Welfare Act*, USDA Office of Inspector General Audit Report No. 33002-0001-Ch (Mar. 16, 1992).

26. This precedent underscores the need for continued public scrutiny of the Defendants' administration and enforcement of the AWA.

STATEMENT OF FACTS

27. Plaintiff regularly submits FOIA requests to Defendants seeking records related to the administration and enforcement of the AWA, including inspection and enforcement records for commercial dog dealers.

28. The records that Plaintiff obtains through the FOIA provide critical information about Defendants' administration and enforcement of the AWA as well as dealers' compliance with the AWA.

29. The records that Plaintiff obtains through the FOIA enables the ASPCA to identify needed policy changes, provide guidance to lawmakers, and educate the public about the administration, enforcement, and effectiveness of the AWA.

Plaintiff's Outstanding Requests

30. On June 3, 2022, Plaintiff submitted a FOIA request for all records related to or referencing "Clarification of Exhibit A issues, and a separate designation of Exhibit B potential claims to other dogs requested by the USDA as an assignment" as referenced in the October 19, 2021, email from Michael G. Byrne provided in the FOIA response 2022-OGC-00071-A.

31. On June 6, 2022, Defendants acknowledged receipt and assigned tracking number 2022-APHIS-03916-F to Plaintiff's request with a targeted response date of July 1, 2022.

32. On September 14, 2023, via email, Defendants advised Plaintiff that Plaintiff's June 3, 2022, request had been reassigned and Defendants would provide a response when able.

33. On February 23, 2024, via email, Defendants advised Plaintiff that Plaintiff's June 3, 2022, request is still outstanding with the program office(s) conducting the search.

34. On June 11, 2024, via email, Defendants notified Plaintiff that Plaintiff's request is still outstanding with the program office(s) conducting the search.

35. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

36. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from release under one or more of the FOIA's exemptions.

37. On October 12, 2022, Plaintiff submitted a FOIA request for all emails, including attachments, sent or received from October 10–12, 2022, by APHIS leadership Kevin Shea, Betty Goldentyer, and Roxanne Mullaney.

38. On October 13, 2022, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-00154-F to Plaintiff's request with a targeted response date of November 10, 2022. On January 13, 2023, Defendants advised Plaintiff that Defendants' response consisted of approximately 3,000 pages and Defendants anticipated sending a partial response to Plaintiff the following week.

39. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

40. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

41. On December 6, 2022, Plaintiff submitted a FOIA request for all emails, including attachments, sent or received from November 1, 2022, to the present by APHIS employees Tanya Woods, Betty Goldentyer, and Tamara Scott.

42. On December 8, 2022, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-00996-F to Plaintiff's request with a targeted response date of January 9, 2023.

43. On June 26, 2024, Defendants notified Plaintiff that Defendants' FOIA office had received records in response to this request totaling approximately 20,000 pages, and that Defendants were still in the process of reviewing said records.

44. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

45. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

46. On June 7, 2023, Plaintiff submitted a FOIA request for all records of equines shipped or otherwise transported for slaughter from the United States to Canada and Mexico, including all international health certificates, owner-shipper records, Forms VS 10-13, VS10-13a, and any equine certification documents and related documents endorsed by the USDA for the time period between January 1, 2023, to April 19, 2023.

47. On June 8, 2023, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-04343-F to Plaintiff's request with a targeted response date of July 7, 2023.

48. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

49. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

50. On June 7, 2023, Plaintiff submitted a FOIA request for all records related to equines that are rejected for import at the Canadian border, including Forms VS 17-145, VS10-13, or VS10-13a, any correspondence between the United States and Canadian officials related to such rejection, and any internal USDA communications relating to the United States response to such rejection from July 1, 2020, to June 7, 2023.

51. On June 8, 2023, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-04344-F to Plaintiff's request with a targeted response date of July 7, 2023.

52. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

53. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

54. On September 18, 2023, Plaintiff submitted a FOIA request for all filings, from August 24, 2023, to the present, in the following cases before the USDA ALJ: AWA Docket Nos. 23-J-0089 & 23-J-0090.

55. On September 19, 2023, Defendants acknowledged receipt and assigned tracking number 2023-OHA-06440-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

56. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

57. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

58. On October 4, 2023, Plaintiff submitted a FOIA request for all records relating to license applications, including any communication related to licensure, for Elena and Andrey Mikirtichev (USDA license # 52-B-0175) from January 1, 2021, to present.

59. On October 4, 2023, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-00055-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

60. On October 4, 2023, via email, Defendants notified Plaintiff that Plaintiff's October 4, 2023, request was assigned to APHIS employee Katherine Ebner. Defendants have provided nothing further in response to Plaintiff's October 4, 2023, request.

61. On March 7, 2024, via email, Defendants notified Plaintiff that they had requested an update from the program office regarding searching and producing records responsive to Plaintiff's October 4, 2023, request, and that Defendants would provide an update as soon as possible.

62. On June 7, 2024, via email, Defendants notified Plaintiff that the program office has not yet completed its records search.

63. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

64. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

65. On November 22, 2023, Plaintiff submitted a FOIA request for all records related to the complaint submitted by Plaintiff on June 26, 2023, to the U.S. Department of Agriculture (USDA) requesting the agency investigate concern regarding activity conducted by William Davenport, 42-A-1497, complaint tracking number AC23-0800, including: 1) Complete narratives of the investigation conducted by the USDA, including the USDA's findings; 2) Correspondence between the USDA and William Davenport, Jean Davenport, or anyone acting on their behalf for the period from June 26, 2023, to the present; 3) Copies of any photographic or video documentation recorded by the USDA during its investigation (in original format with full resolution); 4) Final investigative reports filed by the USDA; and 5) Outcome of investigation.

66. On November 22, 2023, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-01059-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

67. On December 8, 2023, via email, Defendants notified Plaintiff that its November 22, 2023, request was assigned to APHIS employee Alisha Daniel. Defendants have provided nothing further in response to Plaintiff's November 22, 2023, request.

68. On March 8, 2024, via email, Defendants notified Plaintiff that Defendants are still working on completing the search for records and a response will be provided as soon as practicable.

69. On June 10, 2024, via email, Defendants notified Plaintiff that Defendants are still working on completing the search for records.

70. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

71. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

72. On January 5, 2024, Plaintiff submitted a FOIA request for all records and correspondence regarding variances to sell dogs at auction for Southwest Auction, Miller, Schlessman, and Allmon(d) from November 1, 2023, to present.

73. On January 9, 2024, Defendants acknowledged receipt, issued a received date of January 5, 2024, and assigned tracking number 2024-APHIS-01745-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

74. On March 11, 2024, via email, Defendants notified Plaintiff that Defendants are still working on completing the search for records and a response will be provided as soon as practicable.

75. On June 10, 2024, via email, Defendants notified Plaintiff that Defendants are still working on completing the search for records.

76. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

77. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

78. On January 9, 2024, Plaintiff submitted a FOIA request for all records related to Ruby Fur Farms (USDA Certificate Number 42-B-0052) including but not limited to inspection reports, photographs (in original format with full resolution), videos, records describing any courtesy visits, notes, emails, and correspondence from September 1, 2023, to present.

79. On January 9, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-01810-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

80. On March 11, 2024, via email, Defendants notified Plaintiff that Defendants are still working on completing the search for records and a response will be provided as soon as practicable.

81. On June 10, 2024, via email, Defendants notified Plaintiff that Defendants are still working on completing the search for records.

82. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

83. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

84. On January 11, 2024, Plaintiff submitted a FOIA request for: 1) all records, including notes, attachments, photographs and videos, documents, CVIs and disposition forms, correspondence, and emails related to or referenced in the November 1, 2023, inspection of Ed Van Doorn, USDA # 42-B-0090, from October 1, 2023, to present, and 2) All FOIA search sheets generated in connection with this request.

85. On January 11, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-01856-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

86. On March 11, 2024, via email, Defendants notified Plaintiff that Defendants are still working on completing the search for records and a response will be provided as soon as practicable.

87. On June 10, 2024, via email, Defendants notified Plaintiff that Defendants are still working on completing the search for records.

88. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

89. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

90. On January 26, 2024, Plaintiff submitted a FOIA request for copies of all records related to the complaint submitted by Plaintiff on November 17, 2023, to the U.S. Department of Agriculture (USDA) requesting the agency investigate concern regarding activity conducted by Wilson Horse and Mule Inc (Tripe W Arena), 63-B-0180, and Six Shooters Investment Group LLC (Gulf Coast Livestock), 63-B-0182, for the period from November 17, 2023, to the present, including: 1) Complete narratives of the investigation conducted by the USDA, including the USDA's findings; 2) Correspondence between the USDA and Scotty Wilson, Wilson Horse and Mule, Six Shooters or anyone acting on their behalf; 3) Copies of any photographic or video documentation recorded by the USDA during its investigation (in original format with full resolution); 4) Final investigative reports filed by the USDA; 5) Outcome of investigation; and 6) All FOIA search sheets generated in connection with this response.

91. On January 29, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-02190-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

92. On March 11, 2024, via email, Defendants notified Plaintiff that Defendants are still working on completing the search for records and a response will be provided as soon as practicable.

93. On June 11, 2024, via email, Defendants notified Plaintiff that Defendants are still working on completing the search for records.

94. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

95. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

96. On February 9, 2024, Plaintiff submitted a FOIA request for all original format inspection photos with full .jpg resolution with no inspection recorded by the animal care employee reflecting any visit to or inspection of all dog dealers (breeders and brokers) from October 1, 2023, to December 31, 2023.

97. On February 9, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-02657-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

98. On March 28, 2024, via email Defendants requested clarification of Plaintiff's February 9, 2024, request.

99. On April 1, 2024, via email, Plaintiff provided the requested clarification regarding its February 9, 2024, request.

100. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

101. On June 26, 2024, Defendants notified Plaintiff that the program responsible for researching and retrieving potentially responsive records to Plaintiff's request has not completed its search, and that once the search is complete, Defendants will provide Plaintiff with an additional update and further details regarding the request.

102. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

103. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

104. On February 9, 2024, Plaintiff submitted a FOIA request for all records relating to any dog dealer's appeal of an inspection report(s) and any appeal determinations made for July 1, 2023, through December 31, 2023, including any records reflecting the inspection finding(s), the appeal(s) submitted by or on behalf of the licensee, the agency's consideration of the appeal(s), and any determination(s) made as a result of the appeal, including any final reports..

105. On February 9, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-02658-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

106. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

107. On June 26, 2024, Defendants notified Plaintiff that the program responsible for researching and retrieving potentially responsive records to Plaintiff's request has not completed its search, and that once the search is complete, Defendants will provide Plaintiff with an additional update and further details regarding the request.

108. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

109. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

110. On February 9, 2024, Plaintiff submitted a FOIA request for a list of all dog dealers referred from Animal Care (AC) to Investigative and Enforcement Services (IES) from July 1, 2023, to December 31, 2023, including date of referral, the status (open or closed), and outcome associated with each referral.

111. On February 9, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-02659-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

112. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

113. On June 26, 2024, Defendants notified Plaintiff that the program responsible for researching and retrieving potentially responsive records to Plaintiff's request has not completed its search, and that once the search is complete, Defendants will provide Plaintiff with an additional update and further details regarding the request.

114. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

115. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

116. On February 9, 2024, Plaintiff submitted a FOIA request for A list of all active/currently licensed Class A dog breeders and Class B dog brokers, including animal inventories, inspection report summaries and last date of inspection.

117. On February 9, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-02660-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

118. On April 18, 2024, via email, Defendants notified Plaintiff that no documents have been received from the program office conducting the search related to Plaintiff's February 9, 2024, request.

119. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

120. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

121. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

122. On February 26, 2024, Plaintiff submitted a FOIA request for all records pertaining to any animal care employee's inspection of or visit to a dog dealer or dog breeder during the month of January 2023, including any reports, photographs (in original format with full resolution with the inspection description), videos, and observations recorded by the animal care employee such as inspection reports, teachable moments or other documentation reflecting any visit to or inspection of the licensee.

123. On February 27, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-02944-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

124. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

125. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

126. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

127. On February 27, 2024, Plaintiff submitted a FOIA request for all original format inspection photos with full .jpg resolution with no inspection recorded by the animal care employee reflecting any visit to or inspection of all dog dealers (breeders and brokers) between July 1, 2023, and September 30, 2023.

128. On February 27, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-02958-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

129. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

130. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

131. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

132. On March 1, 2024, Plaintiff submitted a FOIA request for copies of all records related to the complaints submitted by ASPCA on January 23, 2024, January 26, 2024, and February 25, 2024, to the U.S. Department of Agriculture (USDA) requesting the agency investigate concern regarding activity conducted by Wuanita Swedlund, 42-B-0340, complaint tracking numbers AC24-0263 and AC24-0312, for the period from January 23, 2024, to the present. This request includes: 1) Complete narratives of the investigation conducted by the USDA, including the USDA's findings; 2) Correspondence between the USDA and Wuanita Swedlund, Steve Kruse, or anyone acting on their behalf; 3) Copies of any photographic or video documentation recorded by the USDA during its investigation (in original format with full resolution); 4) Final investigative reports filed by the USDA; 5) Outcome of investigation; and 6) All FOIA search sheets generated in connection with this response.

133. On March 5, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-03067-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

134. On June 12, 2024, via email, Defendants stated that they had not yet completed their records search and would provide an update when possible.

135. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

136. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

137. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

138. On April 1, 2024, Plaintiff submitted a FOIA request for all records pertaining to any animal care employee's inspection of or visit to a dog dealer or dog breeder during the month of February 2024. Please include any reports, photographs (in original format with full resolution with the inspection description), videos, and observations recorded by the animal care employee such as inspection reports, teachable moments or other documentation reflecting any visit to or inspection of the licensee.

139. On April 1, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-03680-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

140. On June 7, 2024, via email, Defendants stated that they had not yet completed their records search and would provide an update when possible.

141. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

142. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

143. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

144. On April 1, 2024, Plaintiff submitted a FOIA request for any findings by Animal Care that an Animal Welfare Act (AWA)-regulated entity is placing the health of an animal or animals in serious danger in violation of the AWA or AWA regulations or standards between January 1, 2024, and March 31, 2024.

145. On April 1, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-03681-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

146. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

147. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

148. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

149. On April 22, 2024, Plaintiff submitted a FOIA request for any and all records, including correspondences and emails, related to the cancellation of the license of Morgan Machnik (USDA #35-B-0226) from June 1, 2023, to present.

150. On April 24, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-04157-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

151. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

152. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not issued a determination as to whether they will comply with the request.

153. As of the date of this complaint, more than 20 business days after Plaintiff submitted its request, Defendants have not produced any responsive records or demonstrated that any responsive records are exempt from production under one or more of the FOIA's exemptions.

154. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendants were required to determine whether to comply with Plaintiff's requests within 20 business days of receipt and to immediately notify Plaintiff of their determination, the reasons therefor, and Plaintiff's right to appeal any adverse determination.

155. Defendants did not request any information from the Plaintiff, and therefore Defendants are not awaiting any response from Plaintiff that would toll the 20-day time limitation for Defendants to respond to Plaintiff's requests.

156. Defendants did not notify Plaintiff of any unusual circumstances that would extend the 20-day time limitation for up to 10 business days for any of Plaintiff's requests.

157. Because Defendants have failed to comply with the 20-day time limitation set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its request, pursuant to 5 U.S.C. § 552(a)(6)(C).

158. As a result of Defendants' failure to comply with the FOIA, Plaintiff has been prevented from monitoring Defendants' administration and enforcement of the AWA.

159. Timely access to the requested records enables Plaintiff to identify needed policy changes, provide guidance to lawmakers, and educate the public about the administration,

enforcement, and effectiveness of the AWA. Defendants' failure to provide timely access to the requested records directly impedes these efforts.

Defendants' Partial Responses

160. On March 6, 2024, Plaintiff submitted a FOIA request for all records relating to Long Island Game Farm (USDA Certificate Number 21-C-0016) including but not limited to complaints received by the agency, inspection reports, records describing any courtesy visits, photographs and videos (in original format with full resolution), notes, emails, text messages, correspondence, and records of any referrals to IES or other agencies dated July 1, 2023, to present.

161. On March 6, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-03170-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

162. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

163. On July 2, 2024, Defendants provided a first partial response to Plaintiff's March 6, 2024, request. Defendants redacted 9 of 35 pages of responsive records, citing Exemptions (b)(6) and (b)(7)(C). Defendants' partial response stated that Plaintiff may submit an administrative appeal. Defendants have not issued a final determination on the request.

164. On October 6, 2022, Plaintiff submitted a FOIA request for all written correspondence, including e-mail correspondence and attachments, from January 1, 2021, through the present, sent or received by Dr. Betty Goldentyer, or sent or received by Kevin Shea, concerning the Complaint Guidance SOP that APHIS agreed to develop and implement in response to the USDA Office of Inspector General's June 2021 audit.

165. On October 6, 2022, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-00077-F to Plaintiff's request with a target response date of November 4, 2022.

166. On July 12, 2023, Defendants provided a first partial response to Plaintiff's October 6, 2022, request. Defendants redacted, in full and in part, 326 pages of 488 pages of responsive records citing Exemptions (b)(3), (b)(5), (b)(6), (b)(7)(C), and (b)(7)(E). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

167. On September 25, 2023, Defendants provided a second partial response to Plaintiff's October 6, 2022, request. Defendants redacted, in full and in part, 551 pages of 633 pages of responsive records citing Exemptions (b)(3), (b)(5), and (b)(6). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

168. On September 29, 2023, Defendants provided a third partial response to Plaintiff's October 6, 2022, request. Defendants redacted, in full and in part, 91 pages of 436 pages of responsive records citing Exemption (b)(5). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

169. On October 11, 2023, Defendants provided a fourth partial response to Plaintiff's October 6, 2022, request. Defendants redacted, in full and in part, 52 pages of 654 pages of responsive records citing Exemption (b)(5). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

170. On November 6, 2023, Defendants provided a fifth partial response to Plaintiff's October 6, 2022, request. Defendants redacted, in full and in part, 122 pages of 440 pages of responsive

records citing Exemptions (b)(5) and (b)(6). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

171. On January 29, 2024, Defendants provided a sixth partial response to Plaintiff's October 6, 2022, request. Defendants redacted, in full and in part, 99 pages of 417 pages of responsive records citing Exemptions (b)(3) and (b)(5). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

172. On February 22, 2024, Defendants provided a seventh partial response to Plaintiff's October 6, 2022, request. Defendants redacted, in full and in part, 134 pages of 178 pages of responsive records citing Exemption (b)(5). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

173. On June 3, 2024, via email, Defendants stated that the remaining records were sent to various federal agencies for consultation and that records will be reviewed and released when the remaining consultation is completed.

174. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

175. On February 15, 2023, Plaintiff submitted a FOIA request for all work calendars or planners (electronic or otherwise) for APHIS employees Betty Goldentyer and Kevin Shea between January 1, 2022, and the present.

176. On February 15, 2023, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-02105-F to Plaintiff's request with a targeted response date of March 16, 2023.

177. On April 9, 2024, Defendants provided a final response of 24 pages of responsive records to Plaintiff's February 15, 2023, request for APHIS employee Betty Goldentyer's (the former deputy Administrator of the Animal Care program) work calendars and planners, and notified Plaintiff that Plaintiff's request related to APHIS employee Kevin Shea was referred to the USDA Office of Information Affairs. Defendants redacted several calendar entries in Betty Goldentyer's records citing the attorney-client privilege under Exemption (b)(5), but neither mentioned nor explained these redactions in Defendants' response letter.

178. On April 16, 2024, Plaintiff, via email, expressed concern that, contrary to Plaintiff's request, the records Defendants provided did not include any calendar entries between January, 2022, through and October 9, 2022. Plaintiff also asked if the records had been disposed of and requested the search sheet related to this search to verify when Defendants began their search for the requested records.

179. On April 18, 2024, Defendants, via email, notified Plaintiff that Defendants had amended Plaintiff's request, and an electronic search was being conducted. Defendants have provided no further communications regarding this request.

180. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

181. On July 2, 2024, Defendants provided an interim response to Plaintiff's February 15, 2023, request. Defendants redacted 148 of 200 pages of released records, citing Exemptions (b)(6), (b)(7)(C), (b)(7)(E), and (b)(7)(F). Defendants stated that the final response letter will contain appeal rights.

182. On February 27, 2023, Plaintiff submitted a FOIA request for all written communications (electronic, handwritten, or otherwise, including emails with attachments) sent or received by

Kelly Maxwell from July 26, 2021, to August 10, 2021, and November 1, 2021, to November 10, 2021.

183. On February 28, 2023, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-02311-F to Plaintiff's request with a targeted response date of March 27, 2023.

184. On January 4, 2024, Defendants provided a first partial response to Plaintiff's February 27, 2023, request. Defendants withheld 49 pages of records in full, and redacted 43 pages of 272 pages of responsive records citing Exemptions (b)(4), (b)(5), (b)(6) and (b)(7)(C). In the response letter, Defendants stated that they forwarded Plaintiff's request to the program office on February 14, 2023, despite Plaintiff submitting its request 13 days later on February 27, 2023. Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

185. On January 9, 2024, Defendants provided a second partial response to Plaintiff's February 27, 2023, request. Defendants redacted 59 pages of 319 pages of responsive records citing Exemptions (b)(6), (b)(7)(C), and (b)(7)(D). In the response letter, Defendants stated that they forwarded Plaintiff's request to the program office on February 14, 2023, despite Plaintiff submitting its request 13 days later on February 27, 2023. Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

186. On January 16, 2024, Defendants provided a third partial response to Plaintiff's February 27, 2023, request. Defendants redacted 72 pages of 314 pages of responsive records citing Exemptions (b)(6) and (b)(7)(C). In the response letter, Defendants stated that they forwarded Plaintiff's request to the program office on February 14, 2023, despite Plaintiff submitting its request 13 days later on February 27, 2023. Defendants advised Plaintiff that Defendants will

provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

187. On April 16, 2024, Defendants provided a fourth partial response to Plaintiff's February 27, 2023, request. Defendants redacted 74 pages of 280 pages of responsive records citing Exemptions (b)(5), (b)(6) and (b)(7)(C). In the response letter, Defendants stated that they forwarded Plaintiff's request to the program office on February 14, 2023, despite Plaintiff submitting its request 13 days later on February 27, 2023. Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

188. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

189. On February 27, 2023, Plaintiff submitted a FOIA request for all emails, including attachments and calendar invitations, sent or received, from February 15, 2023, to the present, by APHIS employees Kevin Shea, Betty Goldentyer, Kelly Maxwell, and Heather Cole.

190. On February 28, 2023, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-02312-F to Plaintiff's request with a targeted response date of March 27, 2023.

191. On April 30, 2024, Defendants provided a first partial response to Plaintiff's February 27, 2023, request. Defendants redacted numerous portions of 57 pages of responsive records citing Exemptions (b)(2), (b)(5), (b)(6) and (b)(7)(C). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response. In their response, Defendants stated that it located over 17,000 pages of records that may be responsive to Plaintiff's request. Defendants also stated that for processing, Defendants' program offices provided the records in four parts of 5,000 pages, with the fourth part containing

the balance of pages. Defendants stated that referrals and consults with other agencies or offices will be done at the end of review for each part, and that, due to the volume of records, the first part of Defendants' response was divided into 200-page increments for review.

192. On May 13, 2024, Defendants provided a second partial response to Plaintiff's February 27, 2023, request. Defendants redacted 27 of 66 pages of responsive records citing Exemptions (b)(5), (b)(6) and (b)(7)(C). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

193. On May 30, 2024, Defendants provided a third partial response to Plaintiff's February 27, 2023, request. Defendants withheld, in full, all 200 pages of responsive records citing the Deliberative Process Privilege under Exemption (b)(5). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

194. On June 7, 2024, Defendants provided a fourth partial response to Plaintiff's February 27, 2023, request. Defendants withheld, in full, 163 pages of responsive records citing the Deliberative Process Privilege of Exemption 5. Defendants redacted 24 of 37 of the remaining pages of responsive records citing Exemptions (b)(5), (b)(6) and (b)(7)(C). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

195. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

196. On April 19, 2023, Plaintiff submitted a FOIA request for all records relating to Steve Kruse, USDA certificate number 42-B-0182, including but not limited to inspection reports,

photographs and videos (in original format with full resolution), memorandum, correspondence, emails, and enforcement records, from March 1, 2023, to April 19, 2023.

197. On April 20, 2023, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-03310-F to Plaintiff's request with a targeted response date of May 17, 2023.

198. On March 26, 2024, Defendants provided a first partial response to Plaintiff's April 19, 2023, request. Defendants redacted 15 of 16 pages of responsive records citing Exemptions (b)(5), (b)(6), (b)(7)(A), (b)(7)(C) and (b)(7)(D). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

199. On June 3, 2024, via email, Defendants notified Plaintiff that Plaintiff's request is still outstanding with the program office(s) conducting the search.

200. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

201. On June 15, 2023, Plaintiff submitted a FOIA request for all communication, including attachments, sent or received by USDA regarding Ethan Zumbach, Garry Zumbach, USDA certificate # 42-A-1636, from November 24, 2022, through January 18, 2023.

202. On June 15, 2023, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-04540-F to Plaintiff's request with a targeted response date of July 17, 2023.

203. On October 30, 2023, Defendants provided an interim response to Plaintiff's June 15, 2023, request. Defendants redacted 8 pages of 63 pages of responsive records citing Exemptions (b)(6) and (b)(7)(C). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

204. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

205. On July 28, 2023, Plaintiff submitted a FOIA request for all records related to the complaint submitted by Plaintiff on June 23, 2023, to the Defendants requesting that Defendants investigate concern regarding activity conducted by Zachery Keeler/Even Keel Exotics, USDA license number 34-B-022, complaint tracking number AC23-0727, including complete narratives of the investigation conducted by Defendants, including the Defendants' findings, correspondence between the Defendants and Zachery Keeler or anyone acting on his behalf for the period from June 23, 2023, to July 28, 2023, copies of any photographic or video documentation recorded by Defendants during their investigation, final investigative reports filed by Defendants and outcome of the investigation.

206. On August 1, 2023, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-05446-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

207. On October 18, 2023, Defendants provided a partial response to Plaintiff's July 28, 2023, request. Defendants redacted 154 pages of 428 pages of responsive records citing Exemptions (b)(5), (b)(6), (b)(7)(C), (b)(7)(D) and (b)(7)(E). Defendants' partial response stated that Plaintiff may submit an administrative appeal. Defendants have not issued a final determination on the request.

208. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

209. On August 21, 2023, Plaintiff submitted a FOIA request for all records relating to Wuanita Swedlund (USDA certificate number 42-B-0340) including but not limited to all

pre-license inspection reports, including photographs and videos, license application, records describing any courtesy visits, notes, emails, and correspondence from January 1, 2023, to present.

210. On August 21, 2023, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-05847-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

211. On April 12, 2024, Defendants provided a partial response to Plaintiff's August 21, 2023, request. Defendants redacted 2 of 13 pages of responsive records citing Exemptions (b)(6) and (b)(7)(C). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

212. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

213. On August 30, 2023, Plaintiff submitted a FOIA request for documentation of Defendants' current personnel, along with titles and reporting structure, including but not limited to any chart or form that indicates the organizational hierarchy and reporting structure of Defendants.

214. On August 31, 2023, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-06018-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

215. On May 17, 2024, Defendants provided a first partial response to Plaintiff's August 30, 2023, request. Defendants redacted 6 of 38 pages of responsive records citing Exemption (b)(6). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

216. On June 14, 2024, Plaintiff sent a demand for an estimated completion date on the request. Defendants have not notified Plaintiff of the estimated completion date for the request.

217. On November 22, 2023, Plaintiff submitted a FOIA request for all records pertaining to any animal care employee's inspection of or visit to a dog dealer or dog breeder during the month of September 2023, including any reports, photographs (in original format with full resolution with the inspection description), videos, and observations recorded by the animal care employee such as inspection reports, teachable moments or other documentation reflecting any visit to or inspection of the licensee.

218. On November 22, 2023, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-01057-F to Plaintiff's request. In contrast to past practice, Defendants did not provide a target date for response.

219. On June 3, 2024, Defendants provided a first partial response to Plaintiff's November 22, 2023, request. Defendants redacted two of 300 pages of responsive records, and released one video in full and one video in part, citing Exemptions (b)(6) and (b)(7)(C). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

220. On June 10, 2024, Defendants provided a second partial response to Plaintiff's November 22, 2023, request. Defendants redacted 35 of 300 pages of responsive records, citing Exemption (b)(6), (b)(7)(A), and (b)(7)(C). Defendants advised Plaintiff that Defendants will provide Plaintiff with Plaintiff's right to appeal once Defendants complete Defendants' final response.

221. As of the date of this complaint, Defendants have not issued final determinations on whether to comply with Plaintiff's requests.

222. As of the date of this complaint, Defendants have not produced responsive records in full, or provided final responses, affirming and demonstrating that responsive records Defendants have claimed are exempt from production under one or more of the FOIA's exemptions in Defendants' partial responses.

223. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendants were required to determine whether to comply with Plaintiff's requests within 20 business days of receipt and to immediately notify Plaintiff of their determination, the reasons therefor, and Plaintiff's right to appeal any adverse determination.

224. Defendants did not request any information from the Plaintiff, and therefore are not awaiting any response from Plaintiff that would toll the 20-day time limitation.

225. Defendants did not notify Plaintiff of any unusual circumstances that would extend the 20-day time limitation for up to 10 business days.

226. Defendants failed to notify Plaintiff of its right to appeal for all but two of Plaintiff's outstanding requests. Defendants instead advised Plaintiff that it could not appeal Defendants' partial responses until Defendants completed their responses to Plaintiff's requests.

227. Because Defendants have failed to comply with the 20-day time limitation set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its request, pursuant to 5 U.S.C. § 552(a)(6)(C).

228. As a result of Defendants' failure to comply with the FOIA, Plaintiff's efforts to monitor Defendants' administration and enforcement of the AWA have been obstructed.

Plaintiff's Outstanding Appeals

Unlawfully Applied Exemptions and Failure to Identify Foreseeable Harm

229. On May 12, 2022, Plaintiff submitted a FOIA request for all records related to Steve Kruse, Stonehenge Kennel, Certificate: 42-B-0182, dated January 1, 2015, through January 1, 2017, including, but not limited to, all correspondence, memoranda and corresponding records relating to enforcement actions pending or taken against USDA licensee Steve Kruse including specifically a Notice of Suspension issued by Defendants on or about January 11, 2016, (Case Number IA170004).

230. On May 13, 2022, Defendants acknowledged receipt and assigned tracking number 2022-APHIS-03614-F to Plaintiff's request with a target response date of June 10, 2022.

231. On September 30, 2022, via email, Defendants notified Plaintiff that Defendants expected to respond to Plaintiff's May 12, 2022, request by December 31, 2022.

232. On December 28, 2022, Defendants provided a first partial response to Plaintiff's May 12, 2022, request. Defendants redacted 152 pages and 1 video of 437 total pages and 13 total videos of responsive records citing Exemptions (b)(5), (b)(6), (b)(7)(C), and (b)(7)(D).

Defendants advised Plaintiff that since the remainder of Plaintiff's request was still under review, Defendants will provide Plaintiff with Plaintiff's right to appeal in Defendants' final response.

233. On February 15, 2023, Defendants provided a second partial response to Plaintiff's May 12, 2022, request. Defendants redacted 165 pages of 379 pages of responsive records citing Exemptions (b)(5), (b)(6), (b)(7)(C), and (b)(7)(D). Defendants advised Plaintiff that since the remainder of Plaintiff's request was still under review, Defendants will provide Plaintiff with Plaintiff's right to appeal in Defendants' final response.

234. On March 28, 2023, via email, Plaintiff timely appealed Defendants' decision in the first and second partial responses to Plaintiff's May 12, 2022, request, challenging the applicability of

Exemptions (b)(5), (b)(6), (b)(7)(C), and (b)(7)(D) as a basis for the Defendants' redaction or withholding of responsive records.

235. On March 28, 2023, via email, Defendants informed Plaintiff that the partial response letter states: "This is a partial response. Since the remainder of your request is still under review, we will provide you with your right to appeal in the final response letter" and to contact Defendants' employee Kiva Williams regarding a status inquiry for Defendants' response to Plaintiff's May 12, 2022, request. Defendants provided no further communications regarding Plaintiff's appeal.

236. On July 20, 2023, Defendants provided a third partial response to Plaintiff's May 12, 2022, request. Defendants redacted, in full and in part, 64 pages of 220 pages of responsive records citing Exemptions (b)(5), (b)(6), and (b)(7)(C). Defendants determined that 386 additional pages were either nonresponsive, or required consultation with the USDA Office of General Counsel that would be released during a subsequent partial release. Defendants advised Plaintiff that once Defendants completed their final response Defendants will provide Plaintiff its right to appeal.

237. On August 16, 2023, Defendants provided a fourth partial response to Plaintiff's May 12, 2022, request. Defendants redacted 161 pages of 339 pages of responsive records citing Exemptions (b)(5), (b)(6), (b)(7)(C), and (b)(7)(D). Defendants stated that nonresponsive records and records requiring consultation had been removed. Defendants advised Plaintiff that once Defendants completed their final response Defendants will provide Plaintiff its right to appeal.

238. On September 7, 2023, Defendants provided a fifth partial response. Defendants redacted 174 pages of 313 pages of responsive records citing Exemptions (b)(5), and (b)(6), (b)(7)(C), and

(b)(7)(D). Defendants advised Plaintiff that once Defendants completed their final response Defendants will provide Plaintiff its right to appeal.

239. On November 22, 2023, Defendants provided a sixth, and final response. Defendants redacted 131 pages of 175 pages of responsive records citing Exemptions (b)(5), and (b)(6) and (b)(7)(C). Defendant advised Plaintiff of Plaintiff's right to appeal.

240. On February 19, 2024, Plaintiff timely appealed Defendants' decision on Plaintiff's May 12, 2022, request, challenging the applicability of Exemptions (b)(5), (b)(6), (b)(7)(C), and (b)(7)(D) as a basis for the Defendants' redaction or withholding of responsive records, and stating Defendants' failure to identify a legally sufficient "foreseeable harm" that would result if the responsive records were released, as required by 5 U.S.C. § 552(a)(8)(A).

241. On February 27, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-00050-A to Plaintiff's February 19, 2024, appeal.

242. As of the date of this filing, Defendants have failed to issue a determination on Plaintiff's February 19, 2024, appeal.

243. On July 20, 2022, Plaintiff submitted a FOIA request for all records related to or referencing Ura Gingerich from April 1, 2022, to July 20, 2022, including all inspection reports, photographs, videos (in original format with full resolution), memorandum, correspondence, emails, and enforcement records.

244. On July 21, 2022, Defendants acknowledged receipt and assigned tracking number 2022-APHIS-04637-F to Plaintiff's request with a targeted response date of August 17, 2022. On July 28, 2022, Defendants advised Plaintiff that Defendants anticipated a response date of August 31, 2022.

245. On November 22, 2023, Defendants provided a final response. Defendants redacted 93 pages of 666 pages of responsive records citing Exemptions (b)(5), and (b)(6), (b)(7)(C), (b)(7)(D) and (b)(7)(E). Defendants advised Plaintiff of Plaintiff's right to appeal.

246. On February 19, 2024, Plaintiff timely appealed Defendants' decision on Plaintiff's July 20, 2022, request, challenging the applicability of Exemptions (b)(5), (b)(6), (b)(7)(C), (b)(7)(D), and (b)(7)(E) as a basis for the Defendants' redaction or withholding of responsive records, and stating Defendants' failure to identify a legally sufficient "foreseeable harm" that would result if the responsive records were released, as required by 5 U.S.C. § 552(a)(8)(A).

247. On February 27, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-00051-A to Plaintiff's February 19, 2024, appeal.

248. As of the date of this filing, Defendants have failed to issue a determination on Plaintiff's February 19, 2024, appeal.

249. On October 6, 2022, Plaintiff submitted a FOIA request for:

- All applications for license or relicense submitted by Kruse including any attachments;
- A list of all locations or sites where dogs were held, including but not limited to site 1, site 2, site 3 and site 4 with corresponding addresses and the status of each site;
- Documents related to inspections or any visit by a USDA employee, including all relicense inspections or site visits, courtesy visits, associated field notes, inventory lists, photographs, or other documents;

- Copies of all records or reports related to enforcement actions, referrals, complaints, investigations, violations, warnings, citations, or recommended corrective measures taken issued by USDA;
- Copies of all documents and correspondence between USDA and Steve Kruse including but not limited to letters, emails, records of telephone conversation, forms, notes, or facsimiles;
- Copies of any internal communication, including letters, emails, and records of telephone conversations, among USDA regarding Steve Kruse; and
- Copies of communication including letters, emails, and records of telephone conversations, between USDA and other administrative agencies regarding Kruse.

250. On October 7, 2022, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-00076-F to Plaintiff's request with a target response date of November 4, 2022.

251. On January 18, 2023, Defendants provided a final response to Plaintiff's October 6, 2022, request. Defendants redacted, in part or in whole, 1,750 pages of 1,879 pages responsive records citing Exemptions (b)(5), (b)(6), (b)(7)(A) and (b)(7)(C). Defendants also released 26 videos. Defendants advised Plaintiff of Plaintiff's right to appeal Defendants' final response.

252. On January 24, 2023, via email, Plaintiff questioned Defendants' assertion of Exemptions (b)(7)(A) and (b)(7)(C) on the basis that the time period for the records sought begins with January 1, 2019, over three years before the commencement of the law enforcement investigation for which Defendants asserted Exemptions (b)(7)(A) and (b)(7)(C), which began in October of 2022.

253. On Monday January 30, 2023, via email, Defendants advised Plaintiff that they intended to release, in partial responses, some of the redacted records responsive to Plaintiff's October 6,

2022, request. In light of this, Defendants offered to reprocess Plaintiff's request. Plaintiff declined Defendants' reprocessing offer on the basis that Defendants' practice of releasing records in partial responses requires Plaintiff to wait months to years for a complete and final response. Plaintiff advised Defendants that Plaintiff intended to file an administrative appeal of Defendants' response and seek relief from the courts, as necessary.

254. On February 10, 2023, Defendants provided an amended final response releasing the records in part pursuant to Exemptions (b)(5), (b)(6), (b)(7)(A), and (b)(7)(C).

255. On May 11, 2023, Plaintiff timely appealed Defendants' decision on Plaintiff's October 6, 2022, request, challenging the applicability of Exemption (b)(5) as a basis for the Defendants' redaction or withholding of responsive records because Defendants failed to identify a legally sufficient "foreseeable harm" that would result if the responsive records were released, as required by 5 U.S.C. § 552(a)(8)(A).

256. On May 12, 2023, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-00069-A to Plaintiff's May 11, 2023, appeal with a target response date of June 12, 2023.

257. As of the date of this filing, Defendants have failed to issue a determination on Plaintiff's May 11, 2023, appeal.

258. On November 23, 2022, Plaintiff submitted a FOIA request for copies of all complaints, correspondence, emails, memorandum and records of any visits or inspections conducted by USDA regarding regulated activities at the following addresses dated January 1990 to present:

1946 High School Drive, Afton, IA 50830

3059 215th Street, Thayer, IA 50254

2937 210th Street, Afton, IA 50830

3027 215th Street, Thayer, IA 50254.

259. On November 23, 2022, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-00778-F to Plaintiff's request with a target response date of December 22, 2022.

260. On December 29, 2022, Defendants provided a partial response to Plaintiff's November 23, 2022, request. Defendants redacted 46 pages of 288 pages of responsive records citing Exemptions (b)(6), (b)(7)(C) and (b)(7)(D). Defendants advised Plaintiff of Plaintiff's right to appeal Defendants' response.

261. On March 13, 2023, Defendants provided a final response to Plaintiff's November 23, 2022, request. Defendants redacted 231 pages of 715 pages of responsive records, and withheld 11 pages in full, citing Exemptions (b)(5), (b)(6), (b)(7)(C), (b)(7)(D) and (b)(7)(E). Defendants advised Plaintiff of Plaintiff's right to appeal Defendants' response.

262. On June 9, 2023, Plaintiff timely appealed Defendants' decision on Plaintiff's November 23, 2022, request, challenging the applicability of Exemptions (b)(5), (b)(6), (b)(7)(C), (b)(7)(D) and (b)(7)(E) as a basis for the Defendants' redaction or withholding of responsive records because Defendants failed to identify a legally sufficient "foreseeable harm" that would result if the responsive records were released, as required by 5 U.S.C. § 552(a)(8)(A).

263. On June 12, 2023, acknowledged receipt and assigned tracking number 2023-APHIS-00080-A to Plaintiff's June 9, 2023, appeal, with a target response date of July 12, 2023.

264. As of the date of this filing, Defendants have failed to issue a determination on Plaintiff's June 9, 2023, appeal.

265. On February 13, 2023, Plaintiff submitted a FOIA request for copies of all records, including but not limited to written or e-mail correspondence and attachments, concerning,

discussing, or referencing: 1) An attached statement by Bill Jordan; 2) The euthanasia of dogs in August 2021 described in the attached statement; or 3) The euthanasia of any animals owned by or in the possession of USDA licensee Steve Kruse from January 1, 2019, to the present.

266. On February 14, 2023, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-02068-F to Plaintiff's request with a target response date of March 14, 2023.

267. On September 22, 2023, Defendants provided a partial response to Plaintiff's February 13, 2023, request. Defendants redacted 54 pages of 347 pages of responsive records citing Exemptions (b)(5), (b)(6), and (b)(7)(C). Defendants advised Plaintiff that once Defendants completed their final response Defendants will provide Plaintiff its right to appeal.

268. On November 13, 2023, Defendants provided a final response to Plaintiff's February 13 2023, request. Defendants redacted 128 of 181 pages of responsive records citing Exemptions (b)(5) and (b)(6). Defendants advised Plaintiff of its right to appeal.

269. On February 9, 2024, Plaintiff timely appealed Defendants' decision on Plaintiff's February 13, 2023, request, challenging the applicability of Exemptions (b)(5), (b)(6), and (b)(7)(C) as a basis for the Defendants' redaction or withholding of responsive records, as well as Defendants' failure to identify a legally sufficient "foreseeable harm" that would result if the responsive records were released, as required by 5 U.S.C. § 552(a)(8)(A). Pursuant to Defendants' direction in their final response, Plaintiff simultaneously filed this appeal with Defendants' Office of Information Affairs.

270. On February 9, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-00043-A to Plaintiff's February 9, 2024, appeal.

271. As of the date of this filing, Defendants have failed to issue a determination on Plaintiff's February 6, 2024, appeal.

272. On May 19, 2023, Plaintiff submitted a FOIA request for copies of all records relating to Wilson Horse and Mule Sale Inc or Triple W Arena (USDA Certificate Number 63-B-0180) including but not limited to inspection reports, photographs (in original format with full resolution), videos, records describing any courtesy visits, notes, emails, correspondence, and records of any enforcement action dated January 1, 2022, to present.

273. Defendants acknowledged receipt and assigned tracking number 2023-APHIS-03873-F to Plaintiff's request.

274. On November 6, 2023, Defendants provided an interim response to Plaintiff's May 19, 2023, request. Defendants redacted 267 pages of 369 pages and six of 11 videos of responsive records citing Exemptions (b)(4), (b)(5), (b)(6), (b)(7)(C) and (b)(7)(E). Defendants advised Plaintiff that once Defendants completed their final response Defendants will provide Plaintiff its right to appeal.

275. On November 6, 2023, Defendants provided a second interim response to Plaintiff's May 19, 2023, request. Defendants redacted 175 pages of 363 pages of responsive records citing Exemptions (b)(4), (b)(5), (b)(6), (b)(7)(C), and (b)(7)(E). Defendants advised Plaintiff that once Defendants completed their final response Defendants will provide Plaintiff its right to appeal.

276. On November 9, 2023, Defendants provided a final response to Plaintiff's May 19, 2023, request. Defendants redacted 15 of 30 pages of responsive records citing Exemptions (b)(5), (b)(6), and (b)(7)(C). Defendants advised Plaintiff of its right to appeal.

277. On February 6, 2024, Plaintiff timely appealed Defendants' decision on Plaintiff's May 19, 2023, request, challenging the applicability of Exemptions (b)(4), (b)(5), (b)(6), (b)(7)(C), and (b)(7)(E) as a basis for the Defendants' redaction or withholding of responsive records, as

well as Defendants' failure to identify a legally sufficient "foreseeable harm" that would result if the responsive records were released, as required by 5 U.S.C. § 552(a)(8)(A).

278. On February 6, 2024, Defendants acknowledged receipt and assigned tracking number 2024-APHIS-00040-A to Plaintiff's February 6, 2024, appeal.

279. As of the date of this filing, Defendants have failed to issue a determination Plaintiff's February 6, 2024, appeal.

Defendants' denials of Plaintiff's administrative appeals

280. On February 22, 2022, Plaintiff submitted a FOIA request for all written communications, including emails and attachments, sent or received by USDA employee Dr. Betty Goldentyer concerning USDA licensee Daniel Gingerich (Certificate Number 42-A-1632), the American Society for the Prevention of Cruelty to Animals (ASPCA), or the Animal Rescue League of Iowa (ARL) from September 9, 2021, through February 22, 2022.

281. On February 22, 2022, Defendants acknowledged receipt and assigned tracking number 2022-APHIS-02291-F to Plaintiff's request.

282. On June 16, 2022, Defendants provided a final response to Plaintiff's February 22, 2022, request. Defendants withheld in full 33 pages of 503 pages of responsive records citing Exemption (b)(7)(A). Defendants redacted, in full or in part, 150 pages of 503 pages of responsive records citing Exemptions (b)(5), (b)(6), (b)(7)(A), (b)(7)(C), and (b)(7)(D). Defendants advised Plaintiff of Plaintiff's right to appeal Defendants' final response.

283. On September 14, 2022, Plaintiff timely appealed Defendants' decision on Plaintiff's February 22, 2022, request, challenging the applicability of Exemptions (b)(5) and (b)(7) as a basis for the Defendants' redaction or withholding of responsive records, stating Defendants' failure to identify a legally sufficient "foreseeable harm" that would result if the responsive

records were released, as required by 5 U.S.C. § 552(a)(8)(A)(i), and stating Defendants' failure to release reasonably segregable material, as required by 5 U.S.C. § 552(a)(8)(A)(ii).

284. On September 15, 2022, Defendants acknowledged receipt and assigned tracking number 2022-APHIS-00121-A to Plaintiff's September 14, 2022, appeal with a target response date of October 13, 2022.

285. On October 27, 2022, Defendants provided a final response to Plaintiff's September 14, 2022, appeal, granting it in part, and denying it in part. Defendants released the information for which Defendants previously asserted Exemption (b)(7)(A) in response to Plaintiff's February 22, 2022, request. Defendants removed some redactions for which it previously asserted Exemption (b)(5) in response to Plaintiff's February 22, 2022, request, but improperly maintained the remainder, claiming the information was subject to the deliberative process and attorney-client privileges covered by Exemption (b)(5).

286. In violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in part or in their entirety, from Plaintiff.

287. Further, it is substantially likely that Defendants will similarly improperly rely on Exemption (b)(5) to withhold or redact similar information in response to future FOIA requests.

288. On January 18, 2022, Plaintiff submitted a FOIA request for all written communications, including emails and attachments, sent or received by USDA inspector Kelly Maxwell concerning USDA licensee Daniel Gingerich (Certificate Number 42-A-1632), the American Society for the Prevention of Cruelty to Animals (ASPCA), or the Animal Rescue League of Iowa (ARL) from September 9, 2021, through January 18, 2022.

289. On January 19, 2022, Defendants acknowledged receipt and assigned tracking number 2022-APHIS-01708-F to Plaintiff's request with a target response date of February 16, 2022.

290. On June 22, 2022, Defendants provided a final response to Plaintiff's January 18, 2022, request. Defendants withheld in full 15 pages of 156 pages of responsive records citing Exemption (b)(5). Defendants redacted portions of 100 pages of 156 pages of responsive records citing Exemptions (b)(5), (b)(6), and (b)(7)(C). Defendants advised Plaintiff of Plaintiff's right to appeal Defendants' final response.

291. In their June 22, 2022, final response, Defendants noted that some of the responsive records to Plaintiff's January 18, 2022, request contained equities of Defendants' Office of General Counsel and the United States Department of Justice. In addition to its right to appeal Defendants' determination through APHIS, Defendants provided Plaintiff a right to appeal Defendants' determination with respect to the Office of General Counsel equities under tracking number 2022-OGC-00115-C.

292. On September 20, 2022, Plaintiff timely appealed Defendants' decision on Plaintiff's January 18, 2022, request, challenging the applicability of Exemption (b)(5) as a basis for the Defendants' redaction or withholding of responsive records, stating Defendants' failure to identify a legally sufficient "foreseeable harm" that would result if the responsive records were released, as required by 5 U.S.C. § 552(a)(8)(A)(i), and stating Defendants' failure to release reasonably segregable material, as required by 5 U.S.C. § 552(a)(8)(A)(ii). Plaintiff submitted the same appeal to APHIS under tracking number 2022-APHIS-01708-F and to the Office of General Counsel under tracking number 2022-OGC-00115-C.

293. On September 20, 2022, Defendants acknowledged receipt and assigned tracking number 2022-APHIS-00124-A with respect to the APHIS equities of Plaintiff's September 20, 2022, appeal with a target response date of October 13, 2022.

294. On September 20, 2022, Defendants acknowledged receipt and assigned tracking number 2022-OGC-00124-A with respect to the Office of General Counsel equities of Plaintiff's September 20, 2022, appeal.

295. On September 21, 2022, Defendants acknowledged receipt of Plaintiff's September 20, 2022, administrative appeal and assigned tracking number 2022-APHIS-00125-A to Plaintiff's appeal with a target response date of October 19, 2022.

296. On November 22, 2022, Defendants provided a final response to both of Plaintiff's September 20, 2022, appeals under the new tracking number 2022-APHIS-00125-A.¹ Defendants denied Plaintiff's appeals and improperly maintained the redactions under Exemption (b)(5), claiming the information was subject to the deliberative process and attorney-client privileges covered by Exemption (b)(5).

297. In violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in part or in their entirety, from Plaintiff.

298. Further, it is substantially likely that Defendants will similarly improperly rely on Exemption (b)(5) to withhold or redact similar information in response to future FOIA requests.

299. On June 29, 2022, Plaintiff submitted a FOIA request for all written communications sent or received by USDA employees Tonya Woods, Andrea McNally, or Alexis Graves concerning the Memorandum from The Attorney General, Department of Justice to Heads of Executive Departments and Agencies, dated March 15, 2022,² or the "foreseeable harm" standard discussed therein, from March 15, 2022, through the date the request is fulfilled.

¹ Defendants addressed Plaintiff's appeal of Defendants' Office of General Counsel equities (tracking # 2022-OGC-00124-A) and Plaintiff's appeal of APHIS's equities (tracking # 2022-APHIS-00124-A) in a single response under new tracking # 2022-APHIS-00125-A.

² Available at <https://www.justice.gov/ag/page/file/1483516/download>.

300. On June 29, 2022, Defendants acknowledged receipt and assigned tracking number 2022-APHIS-04368-F to Plaintiff's request with a target response date of July 28, 2022.

301. On August 19, 2022, Defendants provided a final response to Plaintiff's June 29, 2022, request. Defendants redacted portions of 25 pages of responsive records citing Exemption (b)(5). Defendants advised Plaintiff of Plaintiff's right to appeal Defendants' final response.

302. On November 16, 2022, Plaintiff timely appealed Defendants' decision on Plaintiff's June 29, 2022, request, challenging the applicability of Exemption (b)(5) as a basis for the Defendants' redaction or withholding of responsive records, stating Defendants' failure to identify a legally sufficient "foreseeable harm" that would result if the responsive records were released, as required by 5 U.S.C. § 552(a)(8)(A)(i), and stating Defendants' failure to release reasonably segregable material, as required by 5 U.S.C. § 552(a)(8)(A)(ii).

303. On November 16, 2022, Defendants acknowledged receipt and assigned tracking number 2023-APHIS-00012-A to Plaintiff's November 16, 2022, appeal with a target response date of December 15, 2022.

304. On December 6, 2022, Defendants provided a final response to Plaintiff's November 16, 2022, appeal. Defendants granted in part and denied in part Plaintiff's appeal. Defendants released some of the information previously redacted under their assertion of Exemption (b)(5). Defendants improperly maintained other redactions under Exemption (b)(5) claiming the information was subject to the deliberative process privilege covered by Exemption (b)(5).

305. In violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in part or in their entirety, from Plaintiff.

306. Further, it is substantially likely that Defendants will similarly improperly rely on Exemption (b)(5) to withhold or redact similar information in response to future FOIA requests.

Plaintiff's previous FOIA lawsuits

307. As part of its ongoing monitoring of Defendants' administration and enforcement of the AWA, as well as dealers' compliance with the AWA, plaintiff has previously submitted numerous FOIA requests to Defendants and filed two prior lawsuits seeking Defendants' compliance with the FOIA after repeated violations.

308. On May 23, 2018, Plaintiff filed a complaint in the District Court for the Southern District of New York seeking release of redacted information and Defendants' response to four timely administrative appeals challenging the Agencies' changed practice. *See* Case No. 1:18-cv-04559 (S.D.N.Y.). While Plaintiff's May 23, 2018, lawsuit was pending, Defendants continued to ignore Plaintiff's subsequent FOIA administrative appeals.

309. On April 8, 2019, Plaintiff filed a second lawsuit in the Federal District Court for the Southern District of New York to obtain responses to the additional administrative appeals Defendants continued to ignore, as well as to seek release of records responsive to 26 FOIA requests that Defendants refused to fulfill. Case No. 1:19-cv-03112-NRB. In that lawsuit Plaintiff challenged Defendants' redactions of certain information under FOIA Exemptions (b)(4) and (b)(5), and alleged that Defendants had adopted a policy and practice of violating the FOIA that required court intervention.

310. The parties settled Plaintiff's first FOIA lawsuit against Defendants after Defendants released the requested records pursuant to Congressional action requiring their release. The parties resolved the matter of attorney's fees with Defendants paying Plaintiff's fees.

311. Plaintiffs substantially prevailed in their second FOIA lawsuit against Defendants by order of the court. The parties settled the matter of attorney fees with Defendants paying Plaintiff's fees.

312. Since the adjudication of Plaintiff’s most recent lawsuit, Defendants’ rate of responsiveness has decreased to pre-litigation levels.

COUNT 1

Violation of FOIA (5 U.S.C. § 552) – June 3, 2022, Request (2022-APHIS-03916-F)

313. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

314. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

315. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester’s right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

316. Plaintiff submitted a FOIA request on June 3, 2022, for agency records in Defendants’ possession, custody, and control.

317. As of the date of this filing, Defendants have failed to: (i) determine whether to comply with this request, (ii) notify Plaintiff of any such determination or reasons therefor, (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) release records to Plaintiff in response to this June 3, 2022, FOIA request—thus exceeding the statutory deadline for response by over one year.

318. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

319. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

320. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

321. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

322. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

323. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

324. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

325. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 2

Violation of FOIA (5 U.S.C. § 552) – October 12, 2022, Request (2023-APHIS-00154-F)

326. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

327. FOIA requires that Defendants "shall make [] records promptly available to any person" upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

328. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

329. Plaintiff submitted a FOIA request on October 12, 2022, for agency records in Defendants' possession, custody, and control.

330. As of the date of this filing, Defendants have failed to: (i) determine whether to comply with this request, (ii) notify Plaintiff of any such determination or reasons therefor, (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) release records to the ASPCA in response to this October 12, 2022, FOIA request—thus exceeding the statutory deadline for response by over one year.

331. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

332. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

333. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

334. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

335. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

336. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

337. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

338. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 3

Violation of FOIA (5 U.S.C. § 552) – December 6, 2022, Request (2023-APHIS-00996-F)

339. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

340. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

341. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester’s right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

342. Plaintiff submitted a FOIA request on December 6, 2022, for agency records in Defendants’ possession, custody, and control.

343. As of the date of this filing, Defendants have failed to: (i) determine whether to comply with this request, (ii) notify Plaintiff of any such determination or reasons therefor, (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) release records to the ASPCA in response to this December 6, 2022, FOIA request—thus exceeding the statutory deadline for response by over one year.

344. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

345. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

346. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff’s requests. 5 U.S.C. § 552(a)(6)(A)(i).

347. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff’s right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

348. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

349. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

350. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

351. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 4

Violation of FOIA (5 U.S.C. § 552) – June 7, 2023, Request (2023-APHIS-04343-F)

352. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

353. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

354. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

355. Plaintiff submitted a FOIA request on June 7, 2023, for agency records in Defendants' possession, custody, and control.

356. As of the date of this filing, Defendants have failed to: (i) determine whether to comply with this request, (ii) notify Plaintiff of any such determination or reasons therefor, (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) release records to the ASPCA in

response to this June 7, 2023, FOIA request—thus exceeding the statutory deadline for response by nearly one year.

357. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

358. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

359. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

360. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

361. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

362. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

363. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

364. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 5

Violation of FOIA (5 U.S.C. § 552) – June 7, 2023, Request (2023-APHIS-04344-F)

365. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

366. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

367. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester’s right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

368. Plaintiff submitted a FOIA request on June 7, 2023, for agency records in Defendants’ possession, custody, and control.

369. As of the date of this filing, Defendants have failed to: (i) determine whether to comply with this request, (ii) notify Plaintiff of any such determination or reasons therefor, (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) release records to the ASPCA in response to this June 7, 2023, FOIA request—thus exceeding the statutory deadline for response by nearly one year.

370. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

371. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

372. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff’s requests. 5 U.S.C. § 552(a)(6)(A)(i).

373. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff’s right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

374. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

375. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

376. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

377. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 6

Violation of FOIA (5 U.S.C. § 552) – September 18, 2023, Request (2023-OHA-06440-F)

378. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

379. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

380. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

381. Plaintiff submitted a FOIA request on September 18, 2023, for agency records in Defendants' possession, custody, and control.

382. As of the date of this filing, Defendants have failed to: (i) determine whether to comply with this request, (ii) notify Plaintiff of any such determination or reasons therefor, (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) release records to the ASPCA in response to this September 18, 2023, FOIA request—thus exceeding the statutory deadline for response by several months.

383. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

384. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

385. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

386. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

387. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

388. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

389. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

390. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 7

Violation of FOIA (5 U.S.C. § 552) – October 4, 2023, Request (2024-APHIS-00055-F)

391. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

392. FOIA requires that Defendants "shall make [] records promptly available to any person" upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

393. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

394. Plaintiff submitted a FOIA request on October 4, 2023, for agency records in Defendants' possession, custody, and control.

395. As of the date of this filing, Defendants have failed to: (i) determine whether to comply with this request, (ii) notify Plaintiff of any such determination or reasons therefor, (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) release records to the ASPCA in response to this October 4, 2023, FOIA request—thus exceeding the statutory deadline for response by several months.

396. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

397. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

398. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

399. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

400. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

401. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

402. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

403. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 8

Violation of FOIA (5 U.S.C. § 552) – November 22, 2023, Request (2024-APHIS-01059-F)

404. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

405. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

406. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

407. Plaintiff submitted a FOIA request on November 22, 2023, for agency records in Defendants' possession, custody, and control.

408. As of the date of this filing, Defendants have failed to: (i) determine whether to comply with this request, (ii) notify Plaintiff of any such determination or reasons therefor, (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) release records to the ASPCA in response to this November 22, 2023, FOIA request—thus exceeding the statutory deadline for response by several months.

409. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

410. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

411. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

412. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

413. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

414. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

415. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

416. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 9

Violation of FOIA (5 U.S.C. § 552) – January 5, 2024, Request (2024-APHIS-01745-F)

417. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

418. FOIA requires that Defendants "shall make [] records promptly available to any person" upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

419. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

420. Plaintiff submitted a FOIA request on January 5, 2024, for agency records in Defendants' possession, custody, and control.

421. As of the date of this filing, Defendants have failed to: (i) determine whether to comply with this request, (ii) notify Plaintiff of any such determination or reasons therefor, (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) release records to the ASPCA in response to this January 5, 2024, FOIA request—thus exceeding the statutory deadline for response by several months.

422. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

423. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

424. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

425. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

426. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

427. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

428. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

429. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 10

Violation of FOIA (5 U.S.C. § 552) – January 9, 2024, Request (2024-APHIS-01810-F)

430. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

431. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

432. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester’s right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

433. Plaintiff submitted a FOIA request on January 9, 2024, for agency records in Defendants’ possession, custody, and control.

434. As of the date of this filing, Defendants have failed to: (i) determine whether to comply with this request, (ii) notify Plaintiff of any such determination or reasons therefor, (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) release records to the ASPCA in response to this January 9, 2024, FOIA request—thus exceeding the statutory deadline for response by several months.

435. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

436. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

437. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff’s requests. 5 U.S.C. § 552(a)(6)(A)(i).

438. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff’s right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

439. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

440. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

441. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

442. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 11

Violation of FOIA (5 U.S.C. § 552) – January 11, 2024, Request (2024-APHIS-01856-F)

443. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

444. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

445. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

446. Plaintiff submitted a FOIA request on January 11, 2024, for agency records in Defendants' possession, custody, and control.

447. As of the date of this filing, Defendants have failed to: (i) determine whether to comply with this request, (ii) notify Plaintiff of any such determination or reasons therefor, (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) release records to the ASPCA in

response to this January 11, 2024, FOIA request—thus exceeding the statutory deadline for response by several months.

448. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

449. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

450. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

451. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

452. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

453. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

454. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

455. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 12

Violation of FOIA (5 U.S.C. § 552) – January 26, 2024, Request (2024-APHIS-02190-F)

456. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

457. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

458. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester’s right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

459. Plaintiff submitted a FOIA request on January 26, 2024, for agency records in Defendants’ possession, custody, and control.

460. As of the date of this filing, Defendants have failed to: (i) determine whether to comply with this request, (ii) notify Plaintiff of any such determination or reasons therefor, (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) release records to the ASPCA in response to this January 26, 2024, FOIA request—thus exceeding the statutory deadline for response by several months.

461. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

462. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

463. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff’s requests. 5 U.S.C. § 552(a)(6)(A)(i).

464. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff’s right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

465. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

466. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

467. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

468. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 13

Violation of FOIA (5 U.S.C. § 552) – February 9, 2024, Request (2024-APHIS-02657-F)

469. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

470. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

471. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

472. Plaintiff submitted a FOIA request on February 9, 2024, for agency records in Defendants' possession, custody, and control.

473. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) determine whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse determination; or (v) release records to the ASPCA in response to this February 9, 2024, FOIA request—thus exceeding the statutory deadline for response by several months.

474. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

475. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

476. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

477. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

478. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

479. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

480. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

481. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

482. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 14

Violation of FOIA (5 U.S.C. § 552) – February 9, 2024, Request (2024-APHIS-02658-F)

483. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

484. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

485. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester’s right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

486. Plaintiff submitted a FOIA request on February 9, 2024, for agency records in Defendants’ possession, custody, and control.

487. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) determine whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse determination; or (v) release records to the ASPCA in response to this February 9, 2024, FOIA request—thus exceeding the statutory deadline for response by several months.

488. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

489. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

490. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

491. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff’s requests. 5 U.S.C. § 552(a)(6)(A)(i).

492. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff’s right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

493. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

494. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

495. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

496. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 15

Violation of FOIA (5 U.S.C. § 552) – February 9, 2024, Request (2024-APHIS-02659-F)

497. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

498. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

499. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

500. Plaintiff submitted a FOIA request on February 9, 2024, for agency records in Defendants' possession, custody, and control.

501. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) determine whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse

determination; or (v) release records to the ASPCA in response to this February 9, 2024, FOIA request—thus exceeding the statutory deadline for response by several months.

502. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

503. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

504. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

505. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

506. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

507. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

508. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

509. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

510. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 16

Violation of FOIA (5 U.S.C. § 552) – February 9, 2024, Request (2024-APHIS-02660-F)

511. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

512. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

513. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester’s right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

514. Plaintiff submitted a FOIA request on February 9, 2024, for agency records in Defendants’ possession, custody, and control.

515. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) determine whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse determination; or (v) release records to the ASPCA in response to this February 9, 2024, FOIA request—thus exceeding the statutory deadline for response by several months.

516. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

517. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

518. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

519. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff’s requests. 5 U.S.C. § 552(a)(6)(A)(i).

520. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff’s right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

521. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

522. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

523. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

524. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 17

Violation of FOIA (5 U.S.C. § 552) – February 26, 2024, Request (2024-APHIS-02944-F)

525. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

526. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

527. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

528. Plaintiff submitted a FOIA request on February 26, 2024, for agency records in Defendants' possession, custody, and control.

529. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) determine whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse

determination; or (v) release records to the ASPCA in response to this February 26, 2024, FOIA request—thus exceeding the statutory deadline for response by several months.

530. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

531. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

532. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

533. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

534. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

535. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

536. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

537. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

538. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 18

Violation of FOIA (5 U.S.C. § 552) – February 27, 2024, Request (2024-APHIS-02958-F)

539. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

540. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

541. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester’s right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

542. Plaintiff submitted a FOIA request on February 27, 2024, for agency records in Defendants’ possession, custody, and control.

543. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) determine whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse determination; or (v) release records to the ASPCA in response to this February 27, 2024, FOIA request—thus exceeding the statutory deadline for response by several months.

544. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

545. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

546. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

547. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff’s requests. 5 U.S.C. § 552(a)(6)(A)(i).

548. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff’s right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

549. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

550. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

551. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

552. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 19

Violation of FOIA (5 U.S.C. § 552) – March 1, 2024, Request (2024-APHIS-03067-F)

553. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

554. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

555. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

556. Plaintiff submitted a FOIA request on March 1, 2024, for agency records in Defendants' possession, custody, and control.

557. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) determine whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse

determination; or (v) release records to the ASPCA in response to this March 1, 2024, FOIA request—thus exceeding the statutory deadline for response by several months.

558. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

559. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

560. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

561. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

562. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

563. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

564. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

565. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

566. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 20

Violation of FOIA (5 U.S.C. § 552) – April 1, 2024, Request (2024-APHIS-03680-F)

567. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

568. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

569. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester’s right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

570. Plaintiff submitted a FOIA request on April 1, 2024, for agency records in Defendants’ possession, custody, and control.

571. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) determine whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse determination; or (v) release records to the ASPCA in response to this April 1, 2024, FOIA request—thus exceeding the statutory deadline for response by several months.

572. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

573. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

574. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

575. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff’s requests. 5 U.S.C. § 552(a)(6)(A)(i).

576. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff’s right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

577. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

578. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

579. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

580. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 21

Violation of FOIA (5 U.S.C. § 552) – April 1, 2024, Request (2024-APHIS-03681-F)

581. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

582. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

583. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

584. Plaintiff submitted a FOIA request on April 1, 2024, for agency records in Defendants' possession, custody, and control.

585. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) determine whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse

determination; or iv) release records to the ASPCA in response to this April 1, 2024, FOIA request—thus exceeding the statutory deadline for response by several months.

586. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

587. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

588. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

589. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

590. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

591. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

592. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

593. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

594. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 22

Violation of FOIA (5 U.S.C. § 552) – April 22, 2024, Request (2024-APHIS-04157-F)

595. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

596. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

597. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester’s right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

598. Plaintiff submitted a FOIA request on April 22, 2024, for agency records in Defendants’ possession, custody, and control.

599. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) determine whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse determination; or (v) release records to the ASPCA in response to this April 22, 2024, FOIA request—thus exceeding the statutory deadline for response by several months.

600. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

601. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

602. Defendants are violating the FOIA by failing to make responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

603. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff’s requests. 5 U.S.C. § 552(a)(6)(A)(i).

604. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff’s right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

605. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

606. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

607. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

608. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 23

Violation of FOIA (5 U.S.C. § 552) – March 6, 2024, Request (2024-APHIS-03170-F)

609. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

610. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

611. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

612. Plaintiff submitted a FOIA request on March 6, 2024, for agency records in Defendants' possession, custody, and control.

613. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) determine whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor; or (iv) release all responsive non-exempt

records to the ASPCA in response to this March 6, 2024, FOIA request—thus exceeding the statutory deadline for response by several months.

614. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.
615. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).
616. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).
617. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).
618. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.
619. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.
620. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.
621. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 24

Violation of FOIA (5 U.S.C. § 552) – October 6, 2022, Request (2023-APHIS-00077-F)

622. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

623. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

624. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester’s right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

625. Plaintiff submitted a FOIA request on October 6, 2022, for agency records in Defendants’ possession, custody, and control.

626. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) make a final determination whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse determination; or (v) release all responsive non-exempt records to the ASPCA in response to this October 6, 2022, FOIA request —thus exceeding the statutory deadline for response by over 1 year.

627. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

628. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

629. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

630. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff’s requests. 5 U.S.C. § 552(a)(6)(A)(i).

631. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

632. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

633. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

634. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

635. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 25

Violation of FOIA (5 U.S.C. § 552) – February 15, 2023, Request (2023-APHIS-02105-F)

636. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

637. FOIA requires that Defendants "shall make [] records promptly available to any person" upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

638. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

639. Plaintiff submitted a FOIA request on February 15, 2023, for agency records in Defendants' possession, custody, and control.

640. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (i) make a final determination whether to comply with this request, (ii) notify

Plaintiff of any such determination or reasons therefor, (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) release all responsive non-exempt records to the ASPCA in response to this February 15, 2023, FOIA request—thus exceeding the statutory deadline for response by over 1 year.

641. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

642. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

643. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

644. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

645. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

646. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

647. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

648. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

649. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 26

Violation of FOIA (5 U.S.C. § 552) – February 27, 2023, Request (2023-APHIS-02311-F)

650. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

651. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

652. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester’s right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

653. Plaintiff submitted a FOIA request on February 27, 2023, for agency records in Defendants’ possession, custody, and control.

654. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) make a final determination whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse determination; or (v) release all responsive non-exempt records to the ASPCA in response to this February 27, 2023, FOIA request—thus exceeding the statutory deadline for response by over 1 year.

655. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

656. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

657. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

658. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

659. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

660. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

661. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

662. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

663. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 27

Violation of FOIA (5 U.S.C. § 552) – February 27, 2023, Request (2023-APHIS-02312-F)

664. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

665. FOIA requires that Defendants "shall make [] records promptly available to any person" upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

666. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

667. Plaintiff submitted a FOIA request on February 27, 2023, for agency records in Defendants' possession, custody, and control.

668. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) make a final determination whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse determination; or (v) release all responsive non-exempt records to the ASPCA in response to this February 27, 2023, FOIA request—thus exceeding the statutory deadline for response by nearly 1 year.

669. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

670. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

671. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

672. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

673. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

674. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

675. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

676. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

677. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 28

Violation of FOIA (5 U.S.C. § 552) – April 19, 2023, Request (2023-APHIS-03310-F)

678. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

679. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

680. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

681. Plaintiff submitted a FOIA request on April 19, 2023, for agency records in Defendants' possession, custody, and control.

682. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) make a final determination whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse determination; or (v) release all responsive non-exempt records to the ASPCA in response to this April 19, 2023, FOIA request—thus exceeding the statutory deadline for response by several months.

683. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

684. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

685. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

686. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

687. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

688. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

689. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

690. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

691. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 29

Violation of FOIA (5 U.S.C. § 552) – June 15, 2023, Request (2023-APHIS-04540-F)

692. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

693. FOIA requires that Defendants "shall make [] records promptly available to any person" upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

694. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

695. Plaintiff submitted a FOIA request on June 15, 2023, for agency records in Defendants' possession, custody, and control.

696. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) make a final determination whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse determination; or (v) release all responsive non-exempt records to the ASPCA in response to this June 15, 2023, FOIA request—thus exceeding the statutory deadline for response by nearly one year.

697. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

698. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

699. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

700. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

701. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

702. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

703. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

704. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

705. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 30

Violation of FOIA (5 U.S.C. § 552) – July 28, 2023, Request (2023-APHIS-05446-F)

706. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

707. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

708. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

709. Plaintiff submitted a FOIA request on July 28, 2023, for agency records in Defendants' possession, custody, and control.

710. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) make a final determination whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor; or (iv) release all responsive non-exempt records to the ASPCA in response to this July 28, 2023, FOIA request—thus exceeding the statutory deadline for response by several months.

711. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

712. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

713. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

714. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

715. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

716. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

717. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

718. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 31

Violation of FOIA (5 U.S.C. § 552) – August 21, 2023, Request (2023-APHIS-05847-F)

719. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

720. FOIA requires that Defendants "shall make [] records promptly available to any person" upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

721. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

722. Plaintiff submitted a FOIA request on August 21, 2023, for agency records in Defendants' possession, custody, and control.

723. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) make a final determination whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse determination; or (v) release all responsive non-exempt records to the ASPCA in response to this August 21, 2023, FOIA request—thus exceeding the statutory deadline for response by several months.

724. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

725. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

726. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

727. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

728. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

729. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

730. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

731. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

732. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 32

Violation of FOIA (5 U.S.C. § 552) – August 30, 2023, Request (2023-APHIS-06018-F)

733. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

734. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

735. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

736. Plaintiff submitted a FOIA request on August 30, 2023, for agency records in Defendants' possession, custody, and control.

737. As of the date of this filing, Defendants have failed to: (i) provide an estimated date of completion, (ii) make a final determination whether to comply with this request, (iii) notify Plaintiff of any such determination or reasons therefor, (iv) advise Plaintiff of the right to appeal any adverse determination; or (v) release all responsive non-exempt records to the ASPCA in response to this August 30, 2023, FOIA request—thus exceeding the statutory deadline for response by several months.

738. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

739. Defendants are violating FOIA by failing to provide an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

740. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

741. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff's requests. 5 U.S.C. § 552(a)(6)(A)(i).

742. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff's right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

743. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

744. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

745. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

746. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 33

Violation of FOIA (5 U.S.C. § 552) – November 22, 2023, Request (2024-APHIS-01057-F)

747. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

748. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

749. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester’s right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

750. Plaintiff submitted a FOIA request on November 22, 2023, for agency records in Defendants’ possession, custody, and control.

751. As of the date of this filing, Defendants have failed to: (i) determine whether to comply with this request, (ii) notify Plaintiff of any such determination or reasons therefor, (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) release all records to the ASPCA in response to this November 22, 2023, FOIA request—thus exceeding the statutory deadline for response by several months.

752. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

753. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

754. Defendants violated the FOIA by failing to issue a determination within 20 business days of Plaintiff’s requests. 5 U.S.C. § 552(a)(6)(A)(i).

755. Defendants are violating FOIA by failing to provide Plaintiff with notification of Plaintiff’s right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

756. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records from the ASPCA.

757. Plaintiff has exhausted its administrative remedies with regard to its FOIA request.

758. Further, it is substantially likely that Defendants will similarly improperly withhold such information in response to future FOIA requests.

759. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 34

Violation of FOIA (5 U.S.C. § 552) – May 12, 2022, Request (2022-APHIS-03614-F)

760. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

761. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

762. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

763. Agencies must make a determination with respect to an appeal within 20 business days, notifying the requester of its decision regarding the grant or denial of such appeal, and the release of the requested records. 5 U.S.C. § 552(a)(6)(A)(ii).

764. Agencies shall only withhold responsive records if the agency reasonably foresees that disclosure would harm an interest protected by a lawful FOIA exemption. 5 U.S.C. § 552(a)(8)(A)(i).

765. Agencies shall consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible and take

reasonable steps necessary to segregate and release nonexempt information. 5 U.S.C. § 552(a)(8)(A)(ii).

766. Plaintiff submitted a FOIA request on May 12, 2022, for agency records in Defendants' possession, custody, and control.

767. In its responses, Defendants improperly relied on FOIA Exemption (b)(5), (b)(6), (b)(7)(C) and (b)(7)(D) and failed to conduct a proper foreseeable harm analysis to withhold or redact all or portions of the requested agency records to which the stated Exemptions did not lawfully apply.

768. Subsequently, Plaintiff exhausted its administrative remedies with Defendants: Plaintiff timely appealed Defendants' determination of Plaintiff's May 12, 2022, request on February 19, 2024, and Defendants have not issued a determination on the administrative appeal.

769. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

770. Defendants are violating the FOIA by failing to make a determination as to Plaintiff's February 19, 2024, appeal. 5 U.S.C. §§ 552(a)(6)(A)(ii).

771. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

772. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

773. Further, it is substantially likely that Defendants will similarly improperly rely on Exemptions (b)(5), (b)(6), (b)(7)(C) and (b)(7)(D) and improper foreseeable harm analyses to withhold or redact such information in response to future FOIA requests.

774. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 35

Violation of FOIA (5 U.S.C. § 552) – July 20, 2022, Request (2022-APHIS-04637-F)

775. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

776. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

777. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

778. Agencies must make a determination with respect to an appeal within 20 business days, notifying the requester of its decision regarding the grant or denial of such appeal, and the release of the requested records. 5 U.S.C. § 552(a)(6)(A)(ii).

779. Agencies shall only withhold responsive records if the agency reasonably foresees that disclosure would harm an interest protected by a lawful FOIA exemption. 5 U.S.C. § 552(a)(8)(A)(i).

780. Agencies shall consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible and take reasonable steps necessary to segregate and release nonexempt information. 5 U.S.C. § 552(a)(8)(A)(ii).

781. Plaintiff submitted a FOIA request on July 20, 2022, for agency records in Defendants' possession, custody, and control.

782. In their responses, Defendants improperly relied on FOIA Exemptions (b)(5), (b)(6), (b)(7)(C), (b)(7)(D) and (b)(7)(E), and failed to conduct a proper foreseeable harm analysis to withhold or redact all or portions of the requested agency records to which the stated Exemptions did not lawfully apply.

783. Subsequently, Plaintiff exhausted its administrative remedies with Defendants: Plaintiff timely appealed Defendants' determination of Plaintiff's July 20, 2022, request on February 19, 2024, and Defendants have not responded to that administrative appeal.

784. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

785. Defendants are violating the FOIA by failing to make a determination as to Plaintiff's February 19, 2024, appeal. 5 U.S.C. §§ 552(a)(6)(A)(ii).

786. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

787. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

788. Further, it is substantially likely that Defendants will similarly improperly rely on Exemptions (b)(5), (b)(6), (b)(7)(C), (b)(7)(D) and (b)(7)(E) and improper foreseeable harm analyses to withhold or redact such information in response to future FOIA requests.

789. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 36

Violation of FOIA (5 U.S.C. § 552) – October 6, 2022, Request (2023-APHIS-00076-F)

790. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

791. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

792. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester’s right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

793. Agencies must make a determination with respect to an appeal within 20 business days, notifying the requester of its decision regarding the grant or denial of such appeal, and the release of the requested records. 5 U.S.C. § 552(a)(6)(A)(ii).

794. Agencies shall only withhold responsive records if the agency reasonably foresees that disclosure would harm an interest protected by a lawful FOIA exemption. 5 U.S.C. § 552(a)(8)(A)(i).

795. Agencies shall consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible and take reasonable steps necessary to segregate and release nonexempt information. 5 U.S.C. § 552(a)(8)(A)(ii).

796. Plaintiff submitted a FOIA request on October 6, 2022, for agency records in Defendants’ possession, custody, and control.

797. In their February 10, 2023, final response, Defendants improperly relied on FOIA Exemption (b)(5) and failed to conduct a proper foreseeable harm analysis to withhold or redact

all or portions of the requested agency records to which the stated Exemptions did not lawfully apply.

798. Subsequently, Plaintiff exhausted its administrative remedies with Defendants: Plaintiff timely appealed Defendants' determination of Plaintiff's October 6, 2022, request on May 11, 2023, and Defendants have not issued a determination on that administrative appeal.

799. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

800. Defendants are violating the FOIA by failing to make a determination as to Plaintiff's May 11, 2023, appeal. 5 U.S.C. §§ 552(a)(6)(A)(ii).

801. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

802. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

803. Further, it is substantially likely that Defendants will similarly improperly rely on Exemption (b)(5) and improper foreseeable harm analyses to withhold or redact such information in response to future FOIA requests.

804. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 37

Violation of FOIA (5 U.S.C. § 552) – November 23, 2022, Request (2023-APHIS-00778-F)

805. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

806. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

807. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester’s right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

808. Agencies must make a determination with respect to an appeal within 20 business days, notifying the requester of its decision regarding the grant or denial of such appeal, and the release of the requested records. 5 U.S.C. § 552(a)(6)(A)(ii).

809. Agencies shall only withhold responsive records if the agency reasonably foresees that disclosure would harm an interest protected by a lawful FOIA exemption. 5 U.S.C. § 552(a)(8)(A)(i).

810. Agencies shall consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible and take reasonable steps necessary to segregate and release nonexempt information. 5 U.S.C. § 552(a)(8)(A)(ii).

811. Plaintiff submitted a FOIA request on November 23, 2022, for agency records in Defendants’ possession, custody, and control.

812. In their responses to Plaintiff’s November 23, 2022, request, Defendants improperly relied on FOIA Exemptions (b)(5), (b)(6), (b)(7)(C), (b)(7)(D) and (b)(7)(E) and failed to conduct a proper foreseeable harm analysis to withhold or redact all or portions of the requested agency records to which the stated Exemptions did not lawfully apply.

813. Subsequently, Plaintiff exhausted its administrative remedies with Defendants: Plaintiff timely appealed Defendants' determination of Plaintiff's November 23, 2022, request on June 9, 2023, and Defendants has not issued a determination on that administrative appeal.

814. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

815. Defendants are violating the FOIA by failing to make a determination as to Plaintiff's June 9, 2023, appeal. 5 U.S.C. §§ 552(a)(6)(A)(ii).

816. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

817. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

818. Further, it is substantially likely that Defendants will similarly improperly rely on Exemptions (b)(5), (b)(6), (b)(7)(C), (b)(7)(D) and (b)(7)(E) and improper foreseeable harm analyses to withhold or redact such information in response to future FOIA requests.

819. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 38

Violation of FOIA (5 U.S.C. § 552) – February 13, 2023, Request (2023-APHIS-02068-F)

820. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

821. FOIA requires that Defendants "shall make [] records promptly available to any person" upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

822. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

823. Agencies must make a determination with respect to an appeal within 20 business days, notifying the requester of its decision regarding the grant or denial of such appeal, and the release of the requested records. 5 U.S.C. § 552(a)(6)(A)(ii).

824. Agencies shall only withhold responsive records if the agency reasonably foresees that disclosure would harm an interest protected by a lawful FOIA exemption. 5 U.S.C. § 552(a)(8)(A)(i).

825. Agencies shall consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible and take reasonable steps necessary to segregate and release nonexempt information. 5 U.S.C. § 552(a)(8)(A)(ii).

826. Plaintiff submitted a FOIA request on February 13, 2023, for agency records in Defendants' possession, custody, and control.

827. In their responses, Defendants improperly relied on FOIA Exemptions (b)(5), (b)(6), and (b)(7)(C), and failed to conduct a proper foreseeable harm analysis to withhold or redact all or portions of the requested agency records to which the stated Exemptions did not lawfully apply.

828. Subsequently, Plaintiff exhausted its administrative remedies with Defendants: Plaintiff timely appealed Defendants' determination of Plaintiff's February 13, 2023, request on February 9, 2024, and Defendants have not issued a determination on that administrative appeal.

829. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

830. Defendants are violating the FOIA by failing to make a determination as to Plaintiff's February 9, 2024, appeal. 5 U.S.C. §§ 552(a)(6)(A)(ii).

831. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

832. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

833. Further, it is substantially likely that Defendants will similarly improperly rely on Exemptions (b)(5), (b)(6) and (b)(7)(C) and improper foreseeable harm analyses to withhold or redact such information in response to future FOIA requests.

834. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 39

Violation of FOIA (5 U.S.C. § 552) – May 19, 2023, Request (2023-APHIS-03873-F)

835. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

836. FOIA requires that Defendants "shall make [] records promptly available to any person" upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

837. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

838. Agencies must make a determination with respect to an appeal within 20 business days, notifying the requester of its decision regarding the grant or denial of such appeal, and the release of the requested records. 5 U.S.C. § 552(a)(6)(A)(ii).

839. Agencies shall only withhold responsive records if the agency reasonably foresees that disclosure would harm an interest protected by a lawful FOIA exemption. 5 U.S.C. § 552(a)(8)(A)(i).

840. Agencies shall consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible and take reasonable steps necessary to segregate and release nonexempt information. 5 U.S.C. § 552(a)(8)(A)(ii).

841. Plaintiff submitted a FOIA request on May 19, 2023, for agency records in Defendants' possession, custody, and control.

842. In their responses, Defendants improperly relied on FOIA Exemptions (b)(4), (b)(5), (b)(6), (b)(7)(C) and (b)(7)(E), and failed to conduct a proper foreseeable harm analysis to withhold or redact all or portions of the requested agency records to which the stated Exemptions did not lawfully apply.

843. Subsequently, Plaintiff exhausted its administrative remedies with Defendants: Plaintiff timely appealed Defendants' determination of Plaintiff's May 19, 2023, request on February 6, 2024, and Defendants have failed to issue a determination to that administrative appeal.

844. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

845. Defendants are violating the FOIA by failing to make a determination as to Plaintiff's February 6, 2024, appeal. 5 U.S.C. §§ 552(a)(6)(A)(ii).

846. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

847. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

848. Further, it is substantially likely that Defendants will similarly improperly rely on Exemptions (b)(4), (b)(5), (b)(6), (b)(7)(C) and (b)(7)(E) and improper foreseeable harm analyses to withhold or redact such information in response to future FOIA requests.

849. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 40

Violation of FOIA (5 U.S.C. § 552) – February 22, 2022, Request (2022-APHIS-02291-F)

850. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

851. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

852. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

853. Agencies must make a determination with respect to an appeal within 20 business days, notifying the requester of its decision regarding the grant or denial of such appeal, and the release of the requested records. 5 U.S.C. § 552(a)(6)(A)(ii).

854. Agencies shall only withhold responsive records if the agency reasonably foresees that disclosure would harm an interest protected by a lawful FOIA exemption. 5 U.S.C. § 552(a)(8)(A)(i).

855. Agencies shall consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible and take reasonable steps necessary to segregate and release nonexempt information. 5 U.S.C. § 552(a)(8)(A)(ii).

856. Plaintiff submitted a FOIA request on February 22, 2022, for agency records in Defendants' possession, custody, and control.

857. In their June 16, 2022, response to Plaintiff's February 22, 2022, request, Defendants unlawfully relied on FOIA Exemption (b)(5) and (b)(7) and failed to conduct a proper foreseeable harm analysis to withhold or redact all or portions of the requested agency records to which the stated Exemptions did not lawfully apply. Defendants also failed to release reasonably segregable nonexempt information.

858. Subsequently, Plaintiff exhausted its administrative remedies with Defendants: Plaintiff timely appealed Defendants' determination of Plaintiff's February 22, 2022, request on September 14, 2022.

859. On October 27, 2022, Defendants again unlawfully relied on FOIA Exemption (b)(5) to deny, in part, Plaintiff's September 14, 2022, appeal.

860. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

861. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

862. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

863. Further, it is substantially likely that Defendants will similarly unlawfully rely on Exemption (b)(5) and improper foreseeable harm analyses to withhold or redact such information in response to future FOIA requests, and that Defendants will unlawfully withhold reasonably segregable, nonexempt information.

864. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 41

Violation of FOIA (5 U.S.C. § 552) – January 18, 2022, Request (2022-APHIS-01708-F)

865. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

866. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

867. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

868. Agencies must make a determination with respect to an appeal within 20 business days, notifying the requester of its decision regarding the grant or denial of such appeal, and the release of the requested records. 5 U.S.C. § 552(a)(6)(A)(ii).

869. Agencies shall only withhold responsive records if the agency reasonably foresees that disclosure would harm an interest protected by a lawful FOIA exemption. 5 U.S.C. § 552(a)(8)(A)(i).

870. Agencies shall consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible and take reasonable steps necessary to segregate and release nonexempt information. 5 U.S.C. § 552(a)(8)(A)(ii).

871. Plaintiff submitted a FOIA request on January 18, 2022, for agency records in Defendants' possession, custody, and control.

872. In their June 22, 2022, response to Plaintiff's January 18, 2022, request, Defendants unlawfully relied on FOIA Exemption (b)(5) and failed to conduct a proper foreseeable harm analysis to withhold or redact all or portions of the requested agency records to which the stated Exemptions did not lawfully apply. Defendants also failed to release reasonably segregable nonexempt information.

873. Subsequently, Plaintiff exhausted its administrative remedies with Defendants: Plaintiff timely appealed Defendants' determination of Plaintiff's January 18, 2022, request on September 20, 2022.

874. On November, 22, 2022, Defendants again unlawfully relied on FOIA Exemption (b)(5) to deny Plaintiff's September 20, 2022, appeal.

875. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

876. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

877. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

878. Further, it is substantially likely that Defendants will similarly unlawfully rely on Exemption (b)(5) and improper foreseeable harm analyses to withhold or redact such information in response to future FOIA requests, and that Defendants will unlawfully withhold reasonably segregable, nonexempt information.

879. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 42

Violation of FOIA (5 U.S.C. § 552) – June 29, 2022, Request (2022-APHIS-04368-F)

880. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

881. FOIA requires that Defendants “shall make [] records promptly available to any person” upon request, unless exemption lawfully permits withholding of the record or redaction of a segregable portion of the record. 5 U.S.C. §§ 552 (a)(3)(A),(b).

882. Agencies must respond to FOIA requests within 20 business days, notifying the requester of its decision regarding release of the records, and, in the case of adverse determination, the requester's right to appeal the decision. 5 U.S.C. § 552(a)(6)(A)(i).

883. Agencies must make a determination with respect to an appeal within 20 business days, notifying the requester of its decision regarding the grant or denial of such appeal, and the release of the requested records. 5 U.S.C. § 552(a)(6)(A)(ii).

884. Agencies shall only withhold responsive records if the agency reasonably foresees that disclosure would harm an interest protected by a lawful FOIA exemption. 5 U.S.C. § 552(a)(8)(A)(i).

885. Agencies shall consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible and take reasonable steps necessary to segregate and release nonexempt information. 5 U.S.C. § 552(a)(8)(A)(ii).

886. Plaintiff submitted a FOIA request on June 29, 2022, for agency records in Defendants' possession, custody, and control.

887. In their August 19, 2022, response to Plaintiff's June 29, 2022, request, Defendants unlawfully relied on FOIA Exemption (b)(5) and failed to conduct a proper foreseeable harm analysis to withhold or redact all or portions of the requested agency records to which the stated Exemptions did not lawfully apply. Defendants also failed to release reasonably segregable nonexempt information.

888. Subsequently, Plaintiff exhausted its administrative remedies with Defendants: Plaintiff timely appealed Defendants' determination of Plaintiff's June 29, 2022, request on November 16, 2022.

889. In their responses to Plaintiff's November 16, 2022, appeal, Defendants again unlawfully relied on FOIA Exemption (b)(5) to deny, in part, Plaintiff's November 16, 2022, appeal.

890. Defendants are violating the FOIA by failing to conduct a reasonable search for all records responsive to the request.

891. Defendants are violating the FOIA by failing to make all responsive records promptly available to Plaintiff. 5 U.S.C. §§ 552(a)(3)(A),(b).

892. Thus, in violation of FOIA, Defendants have and continue to improperly withhold requested agency records, in their entirety, from the ASPCA.

893. Further, it is substantially likely that Defendants will similarly unlawfully rely on Exemption (b)(5) and improper foreseeable harm analyses to withhold or redact such information in response to future FOIA requests, and that Defendants will unlawfully withhold reasonably segregable, nonexempt information.

894. Plaintiff is being irreparably harmed by Defendants' FOIA violations and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to fully comply with the FOIA.

COUNT 43

Violation of FOIA (5 U.S.C. § 552) – Policy or Practice

895. Plaintiff realleges paragraphs 1 through 312 above as if fully set forth herein.

896. Defendants have adopted, endorsed, or implemented a policy or practice that constitutes an ongoing failure or refusal to abide by the FOIA's requirements in connection with the processing of Plaintiff's FOIA requests and appeals and, in particular, of regularly and repeatedly failing to provide an estimated date of completion, failing to provide Plaintiff its appeal rights, refusing to respond to Plaintiff's appeals or release requested records or otherwise demonstrate that requested records are lawfully exempt from release within the time period required by FOIA or at least within a reasonable period of time.

897. Upon information and belief, Defendants engage in these tactics as a policy or practice when interacting with FOIA requesters such as the Plaintiff which amounts to Defendants ignoring their FOIA responsibilities.

898. Plaintiff's current FOIA requests have been, and are likely to continue to be, subject to that same practice.

899. Plaintiff is being irreparably harmed by reason of Defendants' unlawful policy or practice and will continue to be irreparably harmed unless Defendants are compelled to comply fully with the FOIA's procedural requirements.

900. Plaintiff is entitled to injunctive relief enjoining Defendants from continuing their policy or practice of violating the FOIA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

1. Declare that Defendants have violated the FOIA by failing to make a determination regarding Plaintiff's FOIA requests within the statutory time frame;
2. Declare that Defendants are violating the FOIA by failing to promptly provide Plaintiff with records responsive to its requests;
3. Order Defendants to conduct a reasonable search for records;
4. Order Defendants to immediately make a determination as to whether it will comply with Plaintiff's FOIA requests;
5. Order Defendants to produce, by a date certain, all non-exempt records responsive to Plaintiff's requests and a *Vaughn* index of any responsive records withheld under claim of exemption;
6. Enjoin Defendants from continuing to unlawfully withhold all non-exempt records responsive to Plaintiff's requests;
7. Enjoin Defendants from continuing their unlawful policy or practice of violating the FOIA;

8. Maintain jurisdiction over this action until Defendants comply with the FOIA and all orders of this Court;
9. Grant Plaintiff an award of attorney fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
10. Grant Plaintiff such other relief as the Court deems just and proper.

Dated: July 8, 2024

RESPECTFULLY SUBMITTED,

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