

*David G. Ball Jr  
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*marked from Ft Worth  
Office on 4/22/00*

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

IN DEFENSE OF ANIMALS,

Plaintiff,

Case No. 1:99CV03024  
Judge Thomas F Hogan

DEPARTMENT OF HEALTH AND  
HUMANS SERVICES,

Defendant.

**SUPPLEMENTAL DECLARATION OF ROBERT M. GIBBENS**

MR. ROBERT GIBBENS declares as follows:

1. I am the Regional Director for the Western Region Office of the Animal and Plant Health Inspection Service ("APHIS"), Animal Care, United States Department of Agriculture ("USDA"). As the Regional Director, I have overall responsibility for the administration and enforcement of the Animal Welfare Act ("AWA") in the fourteen western states and Guam. I have served in this position since February 1997.

2. I am familiar with the 5 E-mails that the Department of Health and Human Services ("HHS") withheld in full in this Freedom of Information Act ("FOIA") litigation. These E-mails originated with the USDA. HHS forwarded these E-mails to the USDA to allow the USDA to determine whether the E-mails should be released in full, released with redactions, or withheld in full. In March 2000, I reviewed these E-mails and informed HHS that release of these E-mails could reasonably be expected to interfere with the USDA's on-going investigation regarding the deaths of several chimpanzees at The Coulston Foundation ("TCF"). Specifically, the USDA



investigation included whether the adequacy of veterinary care at TCF may have contributed to the chimpanzees' deaths.

3 The USDA closed its investigation on May 26, 2000. Because this investigation is now closed, I informed HHS that it can release in full three of the five E-mails. HHS can release in full the E-mails dated April 28, 1999, May 3, 1999 and June 4, 1999. I instructed HHS to continue to withhold portions of the E-mail dated April 1, 1999. I understand, however, that another institute at the National Institutes of Health ("NIH"), the National Center for Research Resources ("NCRR"), inadvertently released this E-mail without consulting the USDA.

4. Although the USDA closed its investigation of TCF, it anticipates issuing a formal complaint against TCF for violations of the AWA. Release of the E-mail dated February 17, 1999 could reasonably be expected to interfere with the USDA's prospective law enforcement proceeding against TCF because it provides information about the adequacy of care provided by current and former TCF veterinarians. Further, release of this information would provide TCF the opportunity to view the USDA's evidence and its sources before it files the formal complaint. TCF could use this information to intimidate potential witnesses, create or destroy documents, and interfere with the USDA's ability to successfully argue the matter in court.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed on June 22, 2000

  
Robert M. Gibbens