



BUFFALO

FIELD CAMPAIGN

Kevin Shea, Administrator
Animal and Plant Health Inspection Service
4700 River Road
Riverdale, MD 20737
(202) 799-7017 phone
(202) 720-3054 fax
Kevin.a.shea@aphis.usda.gov

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Dear Administrator Shea,

It has come to our attention U.S. Dept. of Agriculture Animal and Plant Health Inspection Service employees may have unlawfully destroyed public records and removed scientific data in a government funded study.

As the supervising authority, it is your responsibility to oversee Animal and Plant Health Inspection Service employees' compliance with public records law. 36 CFR § 1230.10(a-d).

Federal law specifies the duties of federal agencies and employees to retain records and the heads of each agency to establish safeguards against the loss or removal of records. 44 U.S.C. §§ 3101, 3102, 3105, 3106.

As an agency of the Department of Agriculture (USDA) you must also comply with USDA-specific Freedom of Information Act (FOIA) regulations, 7 C.F.R. §§ 1.1-1.25, in addition to agency-specific guidelines. USDA employees must "maintain record and non-record . . . material" and "safeguard records until they are authorized for disposition." USDA Departmental Regulations No. 3080-001 at 10 (Aug. 16, 2016).

The Animal and Plant Health Inspection Service (APHIS) Employee Handbook echoes those same responsibilities: "[a]s with paper records, electronic records can only be disposed of according to the approved [APHIS Disposition Procedures]." APHIS Records Management Handbook, Files Management, Ch. 4 Electronic Recordkeeping at 3. The Disposition Procedures explicitly instructs employees to "not destroy any official government record without written authorization." APHIS Records Management, Files Management, Disposition Procedures.

Indeed, it should go without saying that federal agencies are required to keep and maintain federal records in accordance with federal law. *See, e.g., American Friends Service Committee v. Webster*, 494 F. Supp. 803, 805 (D.D.C. 1980) (substantive provisions of federal law require agencies to retain records, not destroy them). For this reason, the Code

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of Federal Regulations makes it unlawful to remove or destroy public records, or even attempt to do so. The punishment for such an act is a fine, imprisonment, or both. 36 CFR § 1230.12.

Federal law also specifies the procedures for the disposal of records including proper notification of any “actual, impending or threatened unlawful removal” or “destruction of records in the custody of the agency.” 44 U.S.C. § 3106(a).

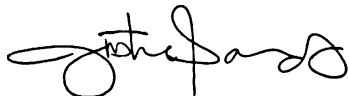
During the course of Buffalo Field Campaign’s Freedom of Information Act lawsuit against the U.S. Dept. of Agriculture, several records were produced indicating Animal and Plant Health Inspection Service employees may have destroyed public records and or removed scientific data produced in a government funded study.

We have attached the records in question.

We are requesting you open an investigation and determine the facts and circumstances surrounding the potentially unlawful destruction of public records by Animal and Plant Health Inspection Service employees, and removal of scientific data in a government funded study.

We request Buffalo Field Campaign be informed of the official actions you take and any determination you may make.

Sincerely,

A handwritten signature in black ink, appearing to read 'Justine Sanchez', with a stylized flourish at the end.

Justine Sanchez, President
Buffalo Field Campaign
PO Box 957
West Yellowstone, MT 59758
(406) 646-0070
sanchez@buffalofieldcampaign.org

Cc: U.S. Dept. of Agriculture, Office of Inspector General