

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ORGANIZATION FOR)	
COMPETITIVE MARKETS,)	
)	
Plaintiff,)	
)	Civil Action No. 14-1902 (EGS)
v.)	
)	
OFFICE OF INSPECTOR)	
GENERAL, USDA,)	
)	
Defendant,)	
)	
and)	
)	
NATIONAL CATTLEMEN’S BEEF)	
ASSOCIATION,)	
)	
Defendant-Intervenor.))	
_____)	

NOTICE TO THE COURT

Defendant, United States Department of Agriculture (“Defendant USDA”), Office of Inspector General (“USDA-OIG”), by and through undersigned counsel, pursuant to the Court’s February 16, 2018, Minute Order, respectfully files this notice, along with the Declarations of David Trykowski (“Trykowski Decl.”) and Alison Decker (“Decker Decl.”) (attached hereto) informs the Court as follows:

Understanding its continuing obligations pursuant to the Freedom of Information Act (“FOIA”), the USDA sub-component, the Agricultural Marketing Service (“AMS”) has recently determined that it will no longer be asserting FOIA Exemption 4, to a subset of records provided to USDA-OIG by the Cattlemen’s Beef Board (“CBB”), which are records already provided to Plaintiff. (Trykowski Decl. ¶ 3). To that end, on February 13, 2018, AMS informed Intervenor

National Cattlemen's Beef Association ("NCBA")¹ that AMS will potentially be releasing over 10,000 pages of unredacted information previously provided to Plaintiff with redactions (herein the "Potential Release"). (Trykowski Decl. ¶¶ 4-5). The Potential Release contains lengthy ledgers that may contain confidential business information of NCBA and other business entities. (Trykowski Decl. ¶¶ 6-8).

In order to comply with USDA procedures, Executive Order 12,600 and 7 C.F.R. § 1.12, AMS is required to engage in a time consuming review of each ledger line by line to segregate out information pertaining to the specific businesses whose information is at issue. In addition, USDA-OIG is required to review the records it referred to USDA-AMS to ensure that the Potential Release does not include equities of USDA-OIG. (Decker Decl. § 6). USDA-OIG has begun this process and has so far identified a small number of pages to claw back and process for response to Plaintiff. (Decker Decl. ¶¶ 6-7).

¹ On February 13, 2018, AMS provided NCBA with a representative sampling of information contained in the Potential Release. In addition, pursuant to Executive Order 12,600 (Predisclosure notification procedures for confidential commercial information) and 7 C.F.R. § 1.12 (Handling information from a private business), USDA had not previously provided NCBA this responsive material for review. (Trykowski Decl. ¶ 5).

Defendant USDA respectfully requests a monthly status report schedule to begin on April 1, 2018, to provide the Court and the parties with an update on the review of the records at issue.

Respectfully submitted,

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/s/

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