



United States
Department of
Agriculture

Office of the
General
Counsel

Washington,
D.C.
20250-1400

October 9, 2007

OCT 09 2007

The Honorable John D. Dingell
Chairman, Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515-6115

The Honorable Bart Stupak
Chairman, Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515-6115

Dear Chairmen Dingell and Stupak:

I write in response to your June 6, 2007, letter to Dr. Richard A. Raymond, Under Secretary for Food Safety, United States Department of Agriculture ("USDA"), in which you requested various documents and communications related to the decision to allow China to export poultry products to the United States.

USDA is committed to assisting the Committee and the Subcommittee (collectively the "Committee") in this request for information in a manner that accommodates both the Committee's legitimate oversight interests and the interests of the Executive Branch.

The Committee's letter included three separate inquiries (processing, slaughter, and audit) and has therefore required a substantial amount of work on the part of the Department. In response to your request, FSIS officials promptly commenced a search of the records of the immediate office of the Under Secretary for Food Safety, as well as of the Food Safety and Inspection Service ("FSIS"). Due to the extremely broad scope of the request, we devoted a substantial amount of personnel hours, effort, and resources to this undertaking.

In response to your request, we are providing you with 7,147 pages of responsive materials (Bates stamped 1 – 7147), which are enclosed herewith. The documents responsive to your request are organized chronologically into categories in accordance with the three requests specified in your June 6, 2007, letter.

Among the documents being produced are a number of documents of a deliberative character that would not normally be shared outside of the Executive Branch. We are nonetheless providing them in an effort to accommodate the Committee. Please be advised that we have identified some additional documents that are of a distinct character

due to their highly deliberative nature reflecting internal Executive Office of the President decision-making processes. In light of the extraordinary accommodation and in-depth insight being provided regarding each of the Committee's three subject matter inquiries, these additional documents have not been included in the attached production. Should the Committee wish to discuss this matter, we would be willing to explore the possibility of further accommodation.

Regarding the extensive number of documents provided today, we are concerned that disclosure of USDA's internal deliberative documents outside the Congress would have a potential chilling effect on the candor and quality of future Executive Branch deliberations regarding matters of public health, and would hamper our ability to assert applicable exemptions and privileges under the Freedom of Information Act and other disclosure statutes. We request that the Committee use these documents for Committee purposes only and strictly maintain their confidentiality. Accordingly, should the Committee determine that public disclosure is necessary in the exercise of the Committee's responsibilities, we request an opportunity to discuss our concerns with you before the documents are released.

Thank you very much for your consideration. If members of your staff would like to discuss this matter further, please ask them to contact John Golden, Associate General Counsel, at 202-720-3155, or Job Serebrov, Senior Counselor to the General Counsel, at 202-205-4725.

Sincerely,



Marc L. Kesselman
General Counsel

Enclosures

cc: The Honorable Joe Barton
Ranking Member, Committee on Energy and Commerce

The Honorable Ed Whitfield
Ranking Member, Subcommittee on Oversight and Investigations
Committee on Energy and Commerce

The Honorable Richard Raymond
Under Secretary for Food Safety
United States Department of Agriculture