

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NATURAL RESOURCES DEFENSE
COUNCIL, INC.; CENTER FOR SCIENCE
IN THE PUBLIC INTEREST; FOOD
ANIMAL CONCERNS TRUST; PUBLIC
CITIZEN, INC.; and UNION OF
CONCERNED SCIENTISTS, INC.,

Plaintiffs,

v.

UNITED STATES FOOD AND DRUG
ADMINISTRATION; MARGARET
HAMBURG, in her official capacity as
Commissioner, United States Food and Drug
Administration; CENTER FOR
VETERINARY MEDICINE;
BERNADETTE DUNHAM, in her official
capacity as Director, Center for Veterinary
Medicine; UNITED STATES
DEPARTMENT OF HEALTH AND
HUMAN SERVICES; and KATHLEEN
SEBELIUS, in her official capacity as
Secretary, United States Department of
Health and Human Services,

Defendants.

11 Civ. 3562 (JCF)
ECF Case

ORDER

USDS SDNY DOCUMENT ELECTRONICALLY FILED DATE FILED: 4/27/12

The Clerk of Court is hereby directed to enter final judgment in this case as follows:

1. For the reasons stated in the Court's Memorandum Opinion and Order dated March 22, 2012 (Docket no. 70), plaintiffs' motion for summary judgment on their first claim for relief (Docket no. 19) is granted and defendants' motion for summary judgment (Docket no. 40) is denied.
2. For the reasons stated in the Court's Memorandum Opinion and Order dated June 1, 2012 (Docket no. 95), plaintiffs' motion for summary judgment on their third claim for relief

(Docket no. 56) is granted and defendants' motion for summary judgment on plaintiffs' first supplemental complaint (Docket no. 63) is denied.

3. For the reasons stated in the Court's Memorandum and Order dated August 8, 2012 (Docket no. 103), plaintiffs' motion to strike (Docket no. 79) is granted in part, and Document no. 78-6 is stricken from the record. Defendants' motion for a stay pending appeal, or, in the alternative, for an interim stay pending resolution of defendants' planned application for a stay in the Second Circuit (Docket no. 92), is denied. Defendants are ordered to comply with the Court's order of March 22, 2012, according to the schedule set forth in paragraphs 11 through 25 of the Declaration of William T. Flynn dated May 15, 2012 (Docket no. 86).

4. The Court will retain jurisdiction over this matter for the following limited purposes: (1) to hear any motion for compliance with the schedule for withdrawal proceedings ordered by the Court on August 8, 2012; and (2) assuming plaintiffs prevail on appeal, to entertain any motion for attorneys' fees.

Dated: New York, New York
August 27, 2012

SO ORDERED:



THE HONORABLE JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE