



Office of the University Custodian of Records  
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May 15, 2012

*Via E-mail Only*  
Edward Hammond  
3103 Powell Circle  
Austin, TX 78704  
ehpricklyresearch.com

**OPEN PUBLIC RECORDS ACT REQUEST # 1275**

Dear Mr. Hammond:

Please accept this letter as the University Custodian's response to your request for records pursuant to the Open Public Records Act ("OPRA"). On April 23, 2012, this office received your request and on April 25, 2012, we received your clarification of your request. You requested the following:

1. All material transfer agreements applicable to Combretum accessions utilized by the laboratory of James Simon.
2. All benefit sharing agreements applicable to the accessions covered by the MTAs of Item 1 of this request and/or to the working of the invention claimed in Patent Cooperation Treaty publication WO2011140066.
3. All federal permits for the importation of plant germplasm to the United States from Africa by James Simon or persons affiliated with his laboratory, including, but not limited to H. Rodolfo Juliani, Quing Li Wu and Cara Welch, valid at any time between January 1, 2006 and the present.
4. The itinerary and receipt for each airfare involving travel to Africa by James Simon, or other persons currently or formerly affiliated with his lab, including but not limited to H. Rodolfo Juliani, Quing Li Wu and Cara Welch from January 1, 2006 to the present.
5. All contracts, subcontracts and work orders pursuant thereto with the US Agency for International Development in relation to The Partnership for Food Industry Development/Natural Products and/or the New Use Agricultural Plant Products program.

You further stated that your request included the records of NJAES and that persons affiliated with the Simon laboratory further include persons listed on a cited website. Due to the scope of your request, the number of departments that were record-holders, and the age of records requested, I requested an extension until May 15, 2012. I further requested clarification of Item 5 of your request, seeking a timeframe for the records requested.

This office has been diligently working to respond to your request, and now responds as follows:

### **Item 1**

You requested all material transfer agreements applicable to Combretum accessions utilized by the laboratory of James Simon. The Department of Plant Biology and Pathology has advised this office that records responsive to this request do not exist. Dr. Simon and researchers affiliated with his lab do not collect live germplasm from Africa. OPRA provides access to identifiable, existing records. N.J.S.A. 47:1A-1.1. Accordingly, because Material Transfer Agreements do not exist for Combretum accessions, your request is denied.

### **Item 2**

You requested all benefit sharing agreements applicable to the accessions covered by the Material Transfer Agreements of Item 1 of this request and/or to the working of the invention claimed in Patent Cooperation Treaty publication WO2011140066. The Department of Plant Biology and Pathology has advised this office that a benefit sharing agreement responsive to this request does not exist. Because a licensee does not exist at this time, a benefit sharing agreement does not exist. The Department of Plant Biology and Pathology has advised this office, however, that should the University decide to execute a benefit sharing agreement with a licensee in the future, the Department's policy on Benefit Sharing Agreements would apply. The policy is being provided to you with this letter, for your reference:

1. 1275 Agreement on Benefit Sharing Policy

### **Item 3**

You requested all federal permits for the importation of plant germplasm to the United States from Africa by James Simon or persons affiliated with his laboratory, including, but not limited to H. Rodolfo Juliani, Quing Li Wu and Cara Welch, valid at any time between January 1, 2006 and the present. One record exists in response to your request:

1. 1275 Federal Permit

This record is being provided to you with this letter, via e-mail as requested.

### **Item 4**

You requested the itinerary and receipt for each airfare involving travel to Africa by James Simon, or other persons currently or formerly affiliated with his lab, including but not limited to H. Rodolfo Juliani, Quing Li Wu and Cara Welch from January 1, 2006 to the present. The Department of Plant Biology and Pathology is searching for records responsive to your request. However, due to the number of years requested and the age of the records, the search process is ongoing and we are not sure if records dating back to January 1, 2006 still exist.

At this time, we are able to provide you with records for 2012 (January 1, 2012 to the present) and 2011 (January 1, 2011 through December 31, 2011). Accordingly, the following records are responsive:

1. 1275 Travel Receipt 1-3-11
2. 1275 Travel Receipt 2-18-11

3. 1275 Travel Receipt 3-23-11
4. 1275 Travel Receipt 4-4-11
5. 1275 Travel Receipt 7-1-11
6. 1275 Travel Receipt 8-1-11
7. 1275 Travel Receipt 9-14-11
8. 1275 Travel Receipt 10-5-11
9. 1275 Travel Receipt 11-21-11
10. 1275 Travel Receipt 1-10-12
11. 1275 Travel Receipt 3-21-12
12. 1275 Travel Receipt 4-10-12
13. 1275 Travel Receipt 4-24-12

The records listed above are being provided to you with this letter, via e-mail as requested. We are requesting an additional 10 business days to continue our search for records responsive to this item of your request, bringing the due date to May 29, 2012.

**Item 5**

You requested "all contracts, subcontracts and work orders pursuant thereto with the US Agency for International Development in relation to The Partnership for Food Industry Development/Natural Products and/or the New Use Agricultural Plant Products program." This office is still in the process of searching for responsive records and reviewing the records for disclosure pursuant to OPRA. OPRA specifically exempts "academic research records and/or the specific details of any research project conducted under the auspices of a public higher education institution in New Jersey" and "trade secrets and proprietary commercial or financial information obtained from any source." N.J.S.A. 47:1A-1.1. Accordingly, we are requesting an additional 10 business days to respond, bring the due date to May 29, 2012.

If your request has been denied, you may take your appeal to the Government Records Council which has mediation and dispute resolution procedures or you may file a lawsuit with the New Jersey Superior Court, as provided by N.J.S.A. 47:1A-1, et seq. A brochure listing the procedures for appeal is being provided to you with this letter.

Very truly yours,



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