



April 5, 2002

Office of the Attorney General
Melanie Ann Pustay, Deputy Director
Office of Information and Privacy
Suite 570, Flag Building
Department of Justice
Washington, DC 20530-0001

VIA OVERNIGHT MAIL

Ms. Pustay:

**Re: *FOIA Request Regarding Communications and/or Meetings
between Attorney General Ashcroft and/or Deputy Attorney
General Thompson and Monsanto***

Environmental Working Group ("EWG") is a § 501(c)(3) not-for-profit watchdog organization that focuses on the environmental programs of the federal government. As a watchdog organization, EWG is engaged in public education and the review of the government's implementation of its statutory mandates. Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, EWG seeks the following information from the Environmental Protection Agency:

- 1) All dates of meetings, lists of attendees, agendas, and minutes of meetings, and all correspondence, including memoranda, letters, notes, and emails, between the Attorney General John Ashcroft and representatives of (including employees or contractors) or lobbyists for Monsanto, Inc., Pharmacia, Inc., or Solutia, Inc. (hereafter collectively referred to as "Monsanto") from January 20, 2001 to the present.
- 2) All dates of meetings, lists of attendees, agendas, and minutes of meetings, and all correspondence, including memoranda, letters, notes, and emails, between the Deputy Attorney General Larry Thompson and representatives of or lobbyists for Monsanto from January 20, 2001 to the present.

If you deny any part of this request, please cite each specific exemption that you believe justifies your refusal to release the information.

Environmental Working Group ("EWG") is a not-for profit § 501(c)(3) organization engaged in public education and the review the government's implementation of its statutory mandates. EWG will use the requested documents to evaluate the influence that a campaign contributor to the Attorney General and former employer of the Deputy Attorney General may have at the Justice Department, especially related to the enforcement of environmental issues. Therefore, EWG's request is consistent with the purposes of the Freedom of Information Act, namely citizens' right to know the actions

of their government. As the Supreme Court noted, "official information that sheds light on an agency's performance of its statutory duties falls squarely within that statutory purpose." *U.S. Department of Justice v. Reporters Committee for Freedom of the Press*, 109 S. Ct. 1468, 1481 (1989).

Pursuant to 5 U.S.C. § 552, EWG requests a fee waiver because the "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations of the government." See 5 U.S.C. § 552(a)(4)(A)(iii); see also OMB FOIA Regs. § 1303.70 (2002). Furthermore, fee waivers are most likely to be warranted when, as here, the records requested are for a public interest watchdog group and the information primarily benefits the public as opposed to the requester. See, e.g., *Better Gov't Ass'n v. Department of State*, 788 F.2d 86, 88-89 (D.C. Cir. 1986)(fee waivers intended to benefit public interest watchdogs). EWG's request for a fee waiver should be granted because this request squarely fits into the six factors outlined in the Department of Justice Freedom of Information Act Guide to determine whether fee waivers are appropriate. See U.S. Department of Justice, Freedom of Information Act Guide & Privacy Act Overview 502 (May 2000 Edition).

1) The Subject Matter of Requested Records Concerns Identifiable Operations.

First, the subject matter of the requested records concerns identifiable operations or activities of the government. The Justice Department's recent approval of a consent decree with Monsanto for its contamination of Anniston, Alabama is a controversial issue. See, e.g., Michael Grunwald, "Proposed Settlement in PCB Case Denounced," *The Washington Post* (Mar. 24, 2002). Mr. Ashcroft's and Mr. Thompson's ties to Monsanto have also received national attention. See Karen Branch-Brioso, "Ashcroft and his Donors: Did Monsanto Buy itself an Attorney General?," *St. Louis Post-Dispatch* (Apr. 2, 2002). The subject matter of the request is the Attorney General's and the Deputy Attorney General's meetings and communications with Monsanto lobbyists. The Attorney General, with the assistance of the Deputy Attorney General, oversees the administration of justice within the United States. Industry lobbyists routinely contact DOJ about current law and policy issues. Correspondence and information related to meetings with industry lobbyists and representatives concern easily identifiable operations of the Attorney General's Office and the Deputy Attorney General's Office.

2) The Releasable Material is "Meaningfully Informative."

Second, the releasable material is meaningfully informative in relation to the subject matter of the request. The subject matter in this request includes the Attorney General's and the Deputy Attorney General's meetings and communications with Monsanto officials. Release of the correspondence, communication, emails, and meeting notes between Mr. Ashcroft and Mr. Thompson and Monsanto representatives would allow EWG and the public to evaluate Monsanto's influence upon the administration of justice. Disclosure of what Monsanto communications the Attorney General received and how Mr. Ashcroft evaluated Monsanto's statements is meaningfully informative on how Mr. Ashcroft administers the Justice Department. Given that Mr. Ashcroft received campaign contributions from Monsanto during his Senate race, any meetings

with Monsanto will also be meaningfully informative on how the Justice Department has acted or not acted on Monsanto's behalf. In addition, communications between Mr. Thompson and Monsanto officials will also be insightful as to how his former employer might influence the administration of legal policy at the Justice Department.

3) The Disclosure will contribute to the Understanding of the Public at Large.

Third, the disclosure will contribute to the understanding of the public at large because EWG, through its cutting-edge research reports, has and will continue to disseminate information broadly to the public. The public at large is very concerned about the health effects of PCBs in our air, water, soil, and our blood. The public is also very concerned about campaign contributors' access and influence over government officials. EWG plans to independently evaluate the meetings and correspondence between Mr. Ashcroft, Mr. Thompson, and Monsanto representatives to determine the influence this multinational corporation might have within the Justice Department. Specifically, EWG plans to evaluate Monsanto's influence upon the Administration and any influence it might have over environmental law and policy. EWG plans to disseminate its findings to a large range of media outlets, public citizens' groups, and other activists.

EWG is qualified to digest these communications about Monsanto's influence on the Administration, as evidenced in its groundbreaking report *PCBs: Pollution, Contamination & Betrayal*. This report was one of the first reports in the country to expose how Monsanto, the only manufacturer of PCBs in the United States, knew of the health risks of PCBs since the late 1930s. EWG's public education campaigns involve solid scientific analysis, media outreach, and grassroots activism. Other EWG reports have been widely distributed in newspaper articles in *The Washington Post*, *New York Times*, *The Boston Globe*, and *The L.A. Times*, and hundreds of local media outlets. As demonstrated from our past experiences, information released from EWG FOIA requests often results in dynamic, well-researched, high-impact reports and effective public education programs. Thus, release of the information in this FOIA request will contribute to the understanding of the public at large about Mr. Ashcroft's and Mr. Thompson's relationships with Monsanto. This information should also shed light on whether Monsanto's connections to the Attorney General and Deputy Attorney General might have influenced current DOJ policy.

4) The Disclosure will Contribute Significantly to Public Understanding of Government Operations.

Fourth, the disclosure will contribute significantly to public understanding of government operations or activities in that this information will show the public how Monsanto representatives have access to the Justice Department at the highest levels. As a government watchdog organization, EWG will use the requested information to show the public that a big campaign contributor can influence the administration of justice.

5) This Disclosure Will Not Serve EWG's Commercial Interest.

Fifth, this disclosure will not serve EWG's commercial interest, since EWG is a 501(c)(3) nonprofit organization.

6) The Identified Public Interest Clearly Outweighs EWG's Commercial Interest.

Sixth, the identified public interest of insight into how Monsanto might have influenced Mr. Ashcroft, Mr. Thompson, and Justice Department policy clearly outweighs EWG's commercial interest because 1) this issue is of critical importance to public health, the administration of justice, and the safety of American citizens; and 2) EWG has no commercial interest in the information.

This request clearly meets the six factors for a fee waiver and EWG therefore requests that the Department of Justice waive all fees in connection to the request. In the event that fees are not waived, I ask that you notify me and subsequently inform me of the basis for such a decision.

I look forward to your prompt response to this request. If you have any questions with respect to this request, please contact me at (202) 667-6982.

Sincerely,



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