

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

FILED IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. 17 CVD _____

2017 AUG -3 A 11: 56

<p>CAROLINE BYRD and LORRAINE MOE, Plaintiffs,</p> <p>v.</p> <p>TREGEMBO ANIMAL PARK, LLC; RITA TREGEMBO; ROBERT TREGEMBO; and SHERRY TREGEMBO, Defendants.</p>

NEW HANOVER CO., C.S.C.

**COMPLAINT AND REQUEST FOR
PERMANENT INJUNCTION**

A TRUE COPY
CLERK OF SUPERIOR COURT
NEW HANOVER COUNTY
BY: *Nicole P. Davis*
Deputy Clerk of Superior Court

NOW COME Plaintiffs CAROLINE BYRD and LORRAINE MOE, complaining of Defendants TREGEMBO ANIMAL PARK, LLC; RITA TREGEMBO; ROBERT TREGEMBO; and SHERRY TREGEMBO, and say and allege as follows:

INTRODUCTION

1. Bears are highly intelligent, inquisitive, and energetic creatures who suffer greatly if their complex physical and mental needs are not met in captivity.
2. In recognition of the significant challenges posed by keeping bears in captivity, the North Carolina legislature and Wildlife Resources Commission have codified minimum requirements for keeping black bears in captivity, including space to roam and the ability to engage in innate natural behaviors such as foraging, climbing, nesting, exploring, denning, and digging. *See* N.C. Gen. Stat. § 19A-10; 15A N.C. A.C. 10H.0302(b)(5)(B).
3. For many years, two bears named Ben and Booger (together, the “Bears”) have been confined at Tregembo Animal Park (“TAP”) in conditions that fail to meet these minimum requirements.

4. As a result, the Bears have suffered greatly, and they continue to suffer greatly.
5. TAP is an unaccredited roadside zoo in Wilmington, North Carolina, run by members of the Tregembo family (together with TAP, the “Defendants”).
6. As described more fully herein, Defendants have violated and continue to violate N.C. Gen. Stat. § 19A-1 by causing Ben and Booger unjustifiable pain and suffering.
7. Among other things, the Bears’ cages are less than 2% percent of an acre each – or less than 0.0004% of the 5,000 acre minimum range they would occupy in the wild.
8. Forcing bears to live in such cramped enclosures is functionally equivalent to forcing a human to live in a small closet.
9. Denying captive bears the opportunity to engage in bear-specific behavior—such as running, climbing, denning, foraging, swimming, and digging—also places them at risk from suffering from muscle atrophy, decreased cardiovascular health, foot and skeletal problems, dental problems, frustration, boredom, and other adverse physical and psychological effects.
10. Dr. Heather Bacon is an internationally renowned bear expert.
11. Dr. Bacon visited TAP twice and concluded unequivocally that the Bears’ conditions are “dire,” that they live in a sensory-deprived environment, that their enclosures are far too small to meet their basic needs, and that Ben and Booger are in distress and suffering.
12. Despite Ben’s and Booger’s obvious suffering, for years, Defendants have done nothing to improve the Bears’ inhumane conditions.
13. These conditions will continue unabated without judicial intervention.
14. Plaintiffs Caroline Byrd and Lorraine Moe (“Plaintiffs”) bring this action pursuant to N.C. Gen. Stat. § 19A-1, which protects animals such as Ben and Booger from inhumane treatment and authorizes “any person” to seek civil relief and protection on their behalf.

15. Plaintiffs seek a permanent injunction pursuant to N.C. Gen. Stat. § 19A-4, terminating Defendants' ownership and possessory rights in the Bears and ordering the Bears' immediate transfer to a reputable wildlife sanctuary in order to allow them to live out their remaining years free from unjustified pain and suffering.

PARTIES

16. Plaintiff Caroline Byrd is a natural person over the age of 18 years, and a citizen of North Carolina. Ms. Byrd learned at a young age to respect animals and has a lifelong love for animals. Ms. Byrd is an undergraduate student in her senior year at the University of North Carolina, Wilmington, pursuing a degree in psychology with a minor in biology.

17. Growing up in New Hanover County, Ms. Byrd visited TAP many times as a child. As a teenager and adult, as Ms. Byrd became more knowledgeable about wild animals, she became increasingly troubled during her visits by the conditions in which the animals, particularly the Bears, were confined. Ms. Byrd has personal knowledge of the conditions in which Ben and Booger were and are held, and she is concerned for the Bears' well-being.

18. Ms. Byrd is a real party in interest as defined by N.C. Gen. Stat. § 19A-2.

19. Plaintiff Lorraine Moe is a natural person over the age of 18 years, and a citizen of North Carolina. Ms. Moe learned at a young age to respect animals and has a lifelong love for animals. Ms. Moe works as a caregiver for a senior care company.

20. Residing near TAP in New Hanover County, Ms. Moe has visited TAP several times. She was so appalled by the conditions in which the animals, particularly the Bears, were confined that she repeatedly voiced her concerns and complained to TAP about these conditions. Ms. Moe has personal knowledge of the conditions in which Ben and Booger were and are held, and she is concerned for the Bears' well-being.

21. Ms. Moe is a real party in interest as defined by N.C. Gen. Stat. § 19A-2.
22. Defendant TAP is a domestic corporation incorporated and doing business under the laws of North Carolina. TAP is located at 5811 Carolina Beach Road, Wilmington, North Carolina.
23. TAP is not a zoo operated by a federal, state, or local government agency.
24. TAP is not an educational institution, and Defendants are not engaged in bona fide research in the natural sciences.
25. Upon information and belief, TAP is in possession of the Bears, and it has an ownership interest in them.
26. TAP is a real party in interest as defined by N.C. Gen. Stat. § 19A-2.
27. Defendant Rita Tregembo is a natural person over the age of 18 and an officer of TAP. Upon information and belief, she resides in New Hanover County, she is in possession of the Bears, and she has an ownership interest in them.
28. Rita Tregembo is a real party in interest as defined by N.C. Gen. Stat. § 19A-2.
29. Defendant Robert Tregembo is a natural person over the age of 18 and an officer of TAP. Upon information and belief, he resides in New Hanover County, he is in possession of the Bears, and he has an ownership interest in them.
30. Robert Tregembo is a real party in interest as defined by N.C. Gen. Stat. § 19A-2.
31. Defendant Sherry Tregembo is a natural person over the age of 18 and an officer of TAP. Upon information and belief, she resides in New Hanover County, she is in possession of the Bears, and she has an ownership interest in them.
32. Sherry Tregembo is a real party in interest as defined by N.C. Gen. Stat. § 19A-2.

JURISDICTION AND VENUE

33. This Court has jurisdiction over this subject matter pursuant to N.C. Gen. Stat. §§ 19A-2 and 19A-4.

34. This Court has jurisdiction over the parties to this action pursuant to N.C. Gen. Stat. § 1-75.4.

35. Venue is proper in this Court pursuant to N.C. Gen. Stat. §§ 1-79, 1-82, and 19A-2.

FACTS

Basic Requirements to Protect Bears' Well-being in Captivity

36. The complexities of keeping wild animals in captivity—and the suffering caused if their needs are not met—have been recognized and extensively documented.

37. Animal scientists have shown that bears suffer in inappropriate captive conditions because of their innate biological needs, high intelligence, and energy level. *See Ray v. Jambbas Ranch Tours*, 12 CVD 669, Cumberland County, N.C. (Aug. 27, 2012), Permanent Injunction Order entered by District Court Judge Kimbrell K. Tucker (attached hereto as Exhibit A), Findings of Fact ¶ 18.

38. “One of the reasons that bears suffer from living in small spaces is that inhumane confinement prevents them from engaging in species-specific behaviors that are essential to their physical and psychological health.” *Id.*

39. Bears have a genetic need to live in large tracts of land that provide space for them to roam and forage, vegetation and materials from which to build nests, soft surfaces that allow them to dig dens, places to seek privacy, and the ability to climb, explore, swim, and seek out mates and their own family members.

40. Bears in the wild in North Carolina live in an area (home range) of 5,000 to 50,000 acres and may run at speeds over 35 miles per hour. They spend considerable time and energy finding and processing food and defending their territories. It is therefore necessary to provide bears in captivity with alternative methods for exercising and for simulating these natural behaviors. It is necessary to have appropriate environmental-enrichment programs in order to meet both their mental and physical needs.

41. A captive bear's genetic expectations are identical to those of a wild bear. Put simply, Ben and Booger are the same bears as bears in the wild. They share the same instinctive needs and drives to perform innate behaviors. These needs and drives cannot simply be turned off because Ben and Booger are confined at a roadside zoo.

42. To safeguard their mental and physical well-being, bears in captivity require large, environmentally complex, natural spaces that allow them to express a wide range of normal movements and behaviors, including species-typical foraging and denning behaviors.

43. Confining bears in an inadequate, sensory-deprived space causes bears to sustain psychological injuries that can manifest in the form of abnormal behavior patterns, including so-called "stereotypic" behavior such as pacing and repetitive licking.

44. Stereotypic behavior is a sign of poor welfare, intense stress, frustration, and overall psychological deterioration.

45. Bears exhibiting stereotypic behaviors are psychologically suffering because of the persistent stress and constant frustration they experience in small, barren environments. *See Ray v. Jambbas Ranch Tours*, 12 CVD 669, Cumberland County, N.C. (Aug. 27, 2012) Preliminary Injunction Order entered by District Court Judge Kimbrell K. Tucker (attached hereto as **Exhibit B**), Findings of Fact ¶ 20 (finding that pacing is "an abnormal behavior common among animals

who are subjected to cruel and inhumane conditions of confinement”); and **Exhibit A**, Findings of Fact ¶ 36 (“Animal scientists agree that inadequate husbandry practices, lack of stimulation, and substandard housing all contribute to the development of stereotypic behavior in captive bears”).

46. “Animal scientists agree that sensory deprivation causes captive bears to suffer.”

Exhibit A, Findings of Fact ¶ 29.

47. Insufficient space can also lead to physical maladies, including decreased muscle mass, painful foot and skeletal issues, and obesity. Bears are prone to suffer from a lack of physical activity when they have nothing to climb on or push around and when they lack opportunities to engage in other types of exercise and physical stimulation.

48. In the wild, bears spend most of their waking hours foraging for vegetation and other food. *Id.* ¶ 48. A bear’s biological urge to forage does not disappear just because food is regularly provided to him in captivity. So-called appetitive behaviors such as food-seeking are independent from the physical need to consume food. Foraging is recognized as a biologically-driven behavior that helps promote the survival of the species.

49. When captive bears cannot express appetitive behaviors due to a lack of space or because they are not provided with enrichment-type feeding, they are frustrated and frequently develop stereotypic behaviors. It has therefore become standard practice in accredited zoos and reputable sanctuaries to provide food for captive bears through enrichment-type feedings; for example, by using puzzle-style feeders or scatter feeds that challenge a bear and satisfy his or her innate drive to forage.

50. Allowing members of the public, including children, to feed captive bears without supervision places bears at an increased risk of contracting zoonotic diseases. *See id.* ¶ 51.

51. Bears engage in natural sheltering behaviors by building day-beds, nests, and dens. Wild bears generally construct complex nests for resting, out of human view and away from human disturbance. In captivity, bears, irrespective of species, must be given the opportunity to express these behaviors by providing them with the necessary materials and opportunity to construct nests in private areas, away from human view.

52. When bears are not provided with sufficient material, privacy, and control to construct nests, their normal behavioral patterns are significantly disrupted. This causes stress and frustration and frequently leads to stereotypic and other abnormal behaviors that are correlated with neurological damage and suffering.

53. Environmental enrichment is a vital part of basic behavior-based bear husbandry. Its purpose is to help create a complex and reasonably suitable environment for bears in captivity, which are essential to a bear's physical and mental well-being.

54. At a minimum, bears in captivity must have opportunities to forage, climb, explore, dig, swim, and seek privacy.

55. In recognition of this fact, North Carolina law prohibits private zoos from holding black bears (the only bear species native to North Carolina) captive unless the bears are "held without caging under conditions simulating a natural habitat, the development of which is in accord with plans and specifications...approved by the Wildlife Resources Commission." N.C. Gen. Stat. §§ 19A-10–19A-11.

56. The Wildlife Resources Commission, in turn, promulgated minimum conditions of confinement for black bears, including requirements that:

- a. the area of confinement must be at least one acre in extent for one or two bears;

- b. at least one-half of the area of confinement must be wooded with living trees, shrubs and other perennial vegetation capable of providing shelter from sun and wind;
- c. the area of confinement must contain a pool not less than four by five feet in size;
- d. provision must be made for a den to which the bear may retire for rest, shelter from the elements, or respite from public observation;
- e. the area of confinement must present an overall appearance of a natural habitat and afford the bears protection from harassment or annoyance; and
- f. provision must be made for food that is adequate to maintain good health.

See 15A N.C. A.C. 10H.0302(b)(5)(B).

57. “[F]ailure to meet minimum standards for bear habitats prescribed by North Carolina law *per se* constitutes a violation of G.S. § 19A-1.” **Exhibit A**, Conclusions of Law, ¶ 3.

58. The basic needs described above are shared by brown and black bears alike. See **Exhibit A**, Findings of Fact ¶ 12 (finding that “[b]rown and black bears share the same basic biological and behavioral needs”).

Ben Is Suffering Because His Basic Needs Are Not Being Met

59. A sign at TAP identifies Ben as a “Black Bear *Ursus americanus*.”

60. Ben is confined by himself in an enclosure measuring less than 2% of an acre, or about .0004% of the minimum space he would occupy in the wild.

61. Ben’s enclosure does not simulate a natural habitat. See Photos of Ben’s enclosure at TAP, at **Exhibits C and D**, attached hereto. See also **Exhibit I** (schematic comparing the size of Ben’s enclosure with the minimum mandated by North Carolina law).

62. The enclosure has no living trees, shrubs, or other perennial vegetation capable of providing shelter from sun and wind.

63. The enclosure provides no protection from ambient temperatures that could cause stress, especially heat stress.

64. The enclosure does not contain a pool for swimming but merely a small concrete trough. It appears that Ben is unable to climb into the trough to wash himself or cool off, due to his obesity and the height of the trough. Ben uses the water in the trough for drinking, but the water is often putrid. *See* Photo of the trough in Ben's enclosure at TAP, at **Exhibit E**, attached hereto.

65. There is no provision for a suitable den to which Ben may retire for rest, shelter from the elements, or respite from public observation.

66. The area of confinement does not afford Ben meaningful protection from harassment or annoyance from visitors.

67. The area of confinement does not afford Ben an opportunity to run, explore, swim, bathe, forage, or engage in other bear-specific behaviors.

68. Moreover, Ben's behavioral repertoire is severely limited by the climate because the usual methods that bears have in the wild for alleviating the consequences of heat are not available to him. Because he is exposed to the sun and heat during the summer months and because he lacks any meaningful opportunity to cool himself, any attempt to engage in normal behavior would cause Ben to overheat too quickly.

69. None of these conditions are consistent with generally accepted bear husbandry practices. The sensory-deprived, harsh, and inappropriate environment in which Ben is held is unquestionably causing him to suffer.

70. Also, for long periods of time in the past, Defendants have neglected painful physical ailments and failed to provide adequate veterinary care and treatment to Ben.

71. In April, 2015, People for the Ethical Treatment of Animals (“PETA”) learned that Ben was visibly sick and suffering. His face was disfigured with tumors and lesions oozing with a putrid discharge (shown in this video https://www.youtube.com/watch?v=qqI_i4k17vk). *See also* Picture of Ben’s face, at **Exhibit F**, attached hereto.

72. In response to PETA’s request, a U.S. Department of Agriculture (“USDA”) inspector went to the site and confirmed that Ben had severe facial lesions and the end of Ben’s nose was eroded and raw. The corneas of both eyes were red and clouded over, affecting Ben’s vision. Crusty plaques covered his face from the nose to the eyes along the top of the muzzle. The inspector concluded that Ben was suffering and losing his vision.

73. Despite the fact that Ben had been visibly suffering from severe facial lesions that could lead to blindness, TAP did not have Ben diagnosed by a qualified specialist, let alone initiate appropriate treatment for his illness. When a USDA inspector returned the following month, TAP still had failed to cure its neglect.

74. Upon information and belief, at least as of December 2016, Ben was still suffering from this infection, and visibly in need of specialized medical attention due to discharge from his eyes and nose.

75. These types of eye issues can cause tremendous pain in bears and can lead to blindness. Yet, as determined by USDA, Defendants let Ben suffer continuously without retaining a qualified veterinarian who has experience with bears to adequately treat this harmful condition.

76. Although presently the acute infection seems to have subsided, Ben was left with white scarring on both corneas and may have become permanently visually impaired as a result of Defendant's gross neglect.

77. Upon information and belief, TAP's attending veterinarian does not have the training, experience, or expertise to properly care for, diagnose, and treat bears, and Defendants have not retained the services of a bear specialist to safeguard Ben's or Booger's physical and psychological well-being.

78. Defendants also failed to make provisions for food adequate to maintain Ben's good health. Ben is visibly obese and shows considerable difficulty (and/or reluctance) engaging in physical movement, presumably due to his obesity and accompanying physical impairment.

79. Notwithstanding Ben's obesity, Defendants encourage visitors to feed Ben peanuts that are sold in TAP's gift shop, without any oversight or control over the amount of peanuts he is fed. Defendants also take no steps to ensure that visitors don't toss unhealthy or harmful foods or other items into Ben's enclosure.

80. Defendants' conduct and omissions, including years or decades of neglect and mistreatment, contravene everything that by animal scientists know about bears' needs.

81. Defendants' conduct and omissions, including years or decades of neglect and mistreatment, contravene state law and cause Ben to suffer, in violation of N.C. Gen. Stat. § 19A-2.

Booger Is Suffering Because His Basic Needs Are Not Being Met

82. A sign at TAP identifies Booger as a "Syrian Bear *Ursus arctos syriacus*."

83. Booger is confined by himself in an enclosure measuring less than 2% of an acre, or about .0004% of the minimum space he would occupy in the wild. *See also* **Exhibit J** (schematic comparing the size of Booger's enclosure with the minimum mandated by North Carolina law).

84. Booger's enclosure does not simulate a natural habitat. *See* Photos of Booger's enclosure at TAP, at **Exhibits G and H**, attached hereto.

85. The enclosure has no living trees, shrubs, or other perennial vegetation capable of providing shelter from sun and wind.

86. The enclosure provides no protection from ambient temperatures that could cause stress, especially heat stress.

87. The enclosure does not contain a pool for swimming, but merely a small concrete trough. The water inside is often putrid.

88. Although there is a small structure for Booger to retreat to, it appears inadequate to protect Booger from the elements.

89. The area of confinement does not does not afford Booger protection from harassment or annoyance from visitors.

90. The area of confinement does not afford Booger a meaningful opportunity to run, explore, swim, wash himself in clean water, forage, or engage in other bear-specific behaviors.

91. Moreover, Booger's behavioral repertoire is severely limited by the climate because the usual methods that bears have in the wild for alleviating the consequences of heat are not available to him. Because he is exposed to the sun and heat during the summer months and because he lacks any meaningful opportunity to cool himself, any attempt to engage in normal behavior would cause Booger to overheat too quickly.

92. None of these conditions are consistent with generally accepted bear husbandry practices. The sensory-deprived, harsh, and inappropriate environment in which Booger is held is unquestionably causing him to suffer.

93. This is corroborated by the fact that Booger shows advanced stereotypic behavior that is typical of a bear in mental distress. He paces in a small area of his cage for substantial periods of time. As previously noted, such pacing behavior is widely recognized as a symptom of a negative welfare state. In lay terms, years of intensive solitary, barren, and mind-numbing confinement have caused Booger to go mad.

94. When Booger is not frantically pacing, he frequently repetitively licks his paws or the bars of his cage. Such types of oral stereotypies are also a commonly reported sign of stress in bears.

95. Defendants also fail to make adequate dietary provisions for Booger by allowing unrestricted and unsupervised public feeding of peanuts.

96. Defendants' conduct and omissions, including years (perhaps decades) of neglect and mistreatment, contravene everything that is known about bears' needs, as recognized by animal scientists and state law and cause Booger to suffer, in violation of N.C. Gen. Stat. § 19A-2.

FIRST CLAIM FOR RELIEF AND REQUEST FOR PERMANENT INJUNCTION
(N.C. Gen. Stat. § 19A-2)

97. The allegations of paragraphs 1 through 96 of this Complaint are hereby realleged and incorporated herein by reference.

98. N.C. Gen. Stat. § 19A-2 provides "a civil remedy for the protection and humane treatment of animals in addition to any criminal remedies that are available."

99. Cruelty and cruel treatment under N.C. Gen. Stat. § 19A-1 refers to "every act, omission, or neglect whereby unjustifiable pain, suffering, or death is caused or permitted."

100. Defendants have engaged in such acts, omission, and/or neglect by, among other things:
- a. failing to provide Ben with adequate space;
 - b. failing to provide Ben with adequate enrichment;
 - c. failing to provide Ben with adequate veterinary care;
 - d. failing to provide Ben with a naturalistic habitat;
 - e. keeping Ben in an enclosure that in no way simulates a natural habitat;
 - f. forcing Ben to live in unsanitary conditions;
 - g. depriving Ben of the opportunities to engage in bear-specific behaviors including foraging, exploring, running, climbing, denning, and swimming;
 - h. failing to provide protection from sun or ambient temperatures that could cause stress to Ben;
 - i. failing to provide Booger with adequate space;
 - j. failing to provide Booger with adequate enrichment;
 - k. failing to provide Booger with adequate veterinary care;
 - l. failing to provide Booger with a naturalistic habitat;
 - m. keeping Booger in an enclosure that in no way simulates a natural habitat;
 - n. forcing Booger to live in unsanitary conditions;
 - o. depriving Booger of the opportunities to engage in bear-specific behaviors including foraging, exploring, digging, running, climbing, denning, and swimming; and
 - p. failing to provide protection from sun or ambient temperatures that could cause stress to Booger.

101. The aforementioned conduct and omissions by Defendants caused, and continue to cause, Ben and Booger unjustifiable pain and suffering, including physical, mental, and/or psychological suffering, in violation of N.C. Gen. Stat. § 19A-1.

102. Confinement and care that fail to meet an animal's basic physiological, behavioral, or psychological needs cause "suffering" as that term is used in N.C. Gen. Stat. § 19A-1(2).

103. Additionally, as District Court Judge Kimbrell K. Tucker pointed out in a closely analogous case, "[t]he requirements of G.S. §§ 19A-10 and 19A-11, as implemented by 15A N.C. A.C. 10H.0302(b)(5)(B), reflect the legislative judgment that non-naturalistic enclosures for captive bears are *per se* cruel." Exhibit A, Findings of Law, ¶ 4 (italics in original).

104. The conditions under which the Bears are held captive constitute illegal cruelty under N.C. Gen. Stat. §§ 19A-1–19A-4 because they cause unjustified suffering by, among other things, denying the Bears the minimum requirements established in N.C. Gen. Stat. § 19A-2.

105. There is a substantial and immediate risk that, unless Defendants are permanently enjoined, Defendants will subject the Bears to further cruelty in violation of N.C. Gen. Stat. § 19A-1.

106. There is a substantial and immediate risk that, unless Defendants are permanently enjoined, Defendants will acquire and subject other bears to cruelty and neglect in violation of N.C. Gen. Stat. § 19A-1. In accordance with N.C. Gen. Stat. § 19A-4(b), there is good cause for the Court to enjoin Defendants from acquiring or possessing any bears in the future.

107. N.C. Gen. Stat. § 19A-4(b) permits a court to "enjoin the defendant from acquiring new animals for a specified period of time or limit the number of animals the defendant may own or possess during a specified period of time."

108. Plaintiffs' remedies at law are inadequate to ensure an end to the Bears' years of suffering. Without this injunctive relief, the Bears will suffer irreparable harm, and any bears acquired by Defendants in the future will similarly suffer repeated neglect and irreparable harm.

109. Plaintiffs have secured permanent placement for the Bears at a reputable sanctuary that stands ready to provide them with rehabilitation, suitable care, and a large habitat that will more closely meet their innate needs for foraging, swimming, climbing, exploring, digging, nesting, denning, and seeking privacy.

WHEREFORE, Plaintiffs respectfully pray and move the Court for the entry of an ORDER:

- A. Granting Plaintiffs' Request for a Permanent Injunction, pursuant to N.C. Gen. Stat. § 19A-4 and N.C. Gen. Stat. § 1A-1, Rule 65.
- B. In accordance with N.C. Gen. Stat. § 19A-4, terminating Defendants' ownership and possessory rights in the Bears and allowing the immediate transfer of the Bears to a reputable sanctuary designated by Plaintiffs.
- C. Enjoining Defendants permanently from ever regaining ownership or possessory rights in the Bears.
- D. Enjoining Defendants permanently from ever gaining ownership or possessory rights in any bears, in light of Defendants' long history of neglect of the Bears.
- E. In accordance with N.C. Gen. Stat. § 19A-4, ordering Defendants to pay reasonable future costs associated with the Bears' food, water, shelter, and care, including necessary veterinary care.

- F. Granting Plaintiffs' costs pursuant to N.C. Gen. Stat. §§ 19A-47 and 44A-4 and ordering that all other costs of this action be taxed against Defendants; and
- G. Granting all other and further relief that the Court deems just and proper.

August 3, 2017

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EXHIBIT A

NORTH CAROLINA
CUMBERLAND COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
12 CVD 669

COLONEL (RETIRED) HOSEA M. RAY, U.S.A.)
and RIKKI HARRISON,)

Plaintiffs,)

v.)

JAMBBAS RANCH TOURS, INC.,)
JAMES MILTON BASS, II,)
ANNA JEAN BASS,)
JAMES MILTON BASS, and)
ANNA BETH BASS-BROCK)

Defendants.)

PERMANENT INJUNCTION BY
CONSENT

FILED
2012 AUG 27
CUMBERLAND COUNTY DISTRICT COURT

This cause was heard before the undersigned Judge presiding at the August 27, 2012, civil session of Cumberland County District Court, on Plaintiffs' Motion, pursuant to G.S. § 19A-4 and G.S. § 1A-1, Rule 65, for a permanent injunction. After reviewing Plaintiffs' Complaint, Plaintiffs' Amended Motion for Summary Judgment and Supporting Brief and Affidavits, and Plaintiffs' Second Amended Motion for Summary Judgment and Supporting Brief and Affidavits, and being informed of the parties' consent to the entry of this injunction, the Court makes the following:

FINDINGS OF FACT

1. Plaintiff Hosea Ray is a natural person over the age of 18 years and is a real party in interest as defined by G.S. § 19A-2.
2. Plaintiff Rikki Harrison is a natural person over the age of 18 years and is a real party in interest as defined by G.S. § 19A-2.

3. Defendant Jambbas Ranch Tours, Inc. is a domestic corporation incorporated and doing business under the laws of North Carolina with a stated purpose of recreation tours. Defendant Jambbas Ranch Tours, Inc. operates a working ranch in Cumberland County, located at 5386 Tabor Church Road, Fayetteville, North Carolina, 28312.

4. Defendant Jambbas Ranch Tours, Inc. is a person for purposes of Chapter 19A. *See* G.S. § 19A-1(3); *see also, id.* § 12-3(6). Until July 30, 2012, Defendant Jambbas Ranch Tours, Inc., was the sole owner of a bear named Ben, and until August 9, 2012, possessed Ben, and is therefore a real party in interest pursuant to G.S. § 19A-2. On July 30, 2012, Defendant Jambbas Ranch Tours, Inc., through its Vice President, Defendant James M. Bass, II, purportedly sold Ben the bear for consideration of \$1.00 to Defendant James M. Bass, II.

5. Defendant James M. Bass, II is the Vice President of Defendant Jambbas Ranch Tours, Inc. and has at all times during the pendency of this action been the manager of Jambbas Ranch. Defendant James M. Bass, II, is the individual with the most direct responsibility for Ben's daily care at all times that Ben has been housed at Jambbas Ranch. As of July 30, 2012, Defendant James M. Bass, II, purportedly became the sole owner of Ben the bear. Defendant James M. Bass, II is therefore a real party in interest pursuant to G.S. § 19A-2.

6. Defendant James M. Bass, Sr. has at all times during the pendency of this action been an owner of Defendant Jambbas Ranch Tours, Inc. and an owner of the land where Jambbas Ranch is situated. Defendant James M. Bass, Sr. has held ownership or

possessory interests in Ben the bear since September 2006. Defendant James M. Bass, Sr. is therefore a real party in interest pursuant to G.S. § 19A-2.

7. Defendant Anna Jean Bass is the President of Defendant Jambbas Ranch Tours, Inc. and has at all times during the pendency of this action had an ownership interest in the land on which Jambbas Ranch is situated. Defendant Anna Jean Bass has held ownership or possessory interests in Ben the bear since September 2006. Defendant Anna Jean Bass is therefore a real party in interest pursuant to G.S. § 19A-2.

8. Defendant Anna Beth Bass Brock is the Secretary and Treasurer of Defendant Jambbas Ranch Tours, Inc. and has held an ownership or possessory interest in Ben the bear since September 2006. Defendant Anna Beth Bass Brock is therefore a real party in interest pursuant to G.S. § 19A-2.

9. Ben the bear has been housed at Jambbas Ranch since September 2006.

10. Each and every Defendant has held ownership or possessory interests in Ben since September 2006.

11. Ben is at least part black bear.

12. Brown and black bears share the same basic biological and behavioral needs.

13. G.S. § 19A-10 imposes restrictions on keeping black bears in captivity.

14. For the entire duration of Defendants' ownership and possessory interests in Ben, Defendants confined Ben in a 12' by 22' concrete and chain link cage at Jambbas Ranch.

15. In the wild, bears occupy a home range up to thousands of square miles.

16. The size of the cage in which Ben was confined at Jambbas Ranch was too small to adequately meet Ben's needs, causing him physical pain and suffering.

17. As has been reported by animal scientists, bears suffer especially from being forced to live in close confinement because of their high intelligence, complex needs, and wide natural range.

18. One of the reasons that bears suffer from living in small spaces is that inhumane confinement prevents them from engaging in species-typical behaviors that are essential to their physical and psychological health.

19. Forcing Ben to live in the cage at Jambbas Ranch is the functional equivalent to forcing a human to live in a small closet.

20. The concrete and chain link cage in which Defendants confined Ben at Jambbas Ranch has never had any living trees, shrubs, or other perennial vegetation.

21. The only substrate in the concrete and chain link cage in which Defendants confined Ben at Jambbas Ranch has been concrete. At no point during Defendants' possession or ownership of Ben did Defendants ever provide Ben with access to mulch, soil, bark, leaves, straw, pebbles, or any other natural substrates.

22. The concrete and chain link cage in which Defendants confined Ben at Jambbas Ranch has never provided Ben with adequate shelter from the elements.

23. The concrete and chain link cage in which Defendants confined Ben at Jambbas Ranch has never had a pool.

24. The concrete and chain link cage in which Defendants confined Ben at Jambbas Ranch has never afforded Ben protection from harassment or annoyance.

25. The concrete and chain link cage in which Defendants have confined Ben at Jambbas Ranch lacks any resemblance or relationship to a bear's natural habitat.

26. By forcing Ben to live in a small barren cage at Jambbas Ranch, Defendants have deprived Ben of the opportunity to run, dig, explore, swim, bathe, climb, hunt, forage, hibernate, or engage in other normal bear behavior.

27. Defendants have never provided Ben with the opportunity to nest or construct day beds.

28. Defendants have never provided Ben with the opportunity to properly groom himself by rubbing his fur against trees or other natural objects. Grooming is important for brown and black bears to maintain healthy skin and coat.

29. Animal scientists agree that sensory deprivation causes captive bears to suffer.

30. For the entire duration of Defendants' ownership and possessory interests in Ben, Defendants forced Ben to drink and bathe in the same water trough.

31. For the entire duration of Defendants' ownership and possessory interests in Ben, Defendants never provided Ben with veterinary care or treatment.

32. Defendant Jambbas Ranch Tours, Inc. has violated the federal Animal Welfare Act (AWA), and was not in compliance with the AWA during any inspection by the United States Department of Agriculture between October 2006 and January 2012.

33. Internationally renowned bear experts, Dr. Heather Bacon and Else Poulsen, have provided credible, sworn testimony in affidavits that Defendants subjected Ben to psychological suffering and physical pain at Jambbas Ranch.

34. While housed at Jambbas Ranch, Ben spent 75% of his waking hours pacing, an abnormal behavior that is common among animals who are subjected to cruel and inhumane conditions of confinement.

35. In addition to stereotypic pacing, Ben exhibited a number of other abnormal behaviors indicative of suffering while housed at Jambbas Ranch, including biting, pawing at, and head-butting the chain link fence around his enclosure, and eating from his feces. Animal scientists recognize these behaviors as consistent with a negative welfare state and signs that a captive bear is suffering.

36. Animal scientists agree that inadequate husbandry practices, lack of stimulation, and substandard housing all contribute to the development of stereotypic behavior in captive bears.

37. Animal scientists agree that captive bears who habitually grip or bite the bars of their cages with their teeth are at increased risk for painful dental pathologies, including exposed pulp and lesions, and canine teeth abrasions.

38. By subjecting Ben to conditions that have resulted in his exhibition of abnormal, stereotypic behaviors, Defendants placed Ben at risk for permanent and irreversible psychological damage.

39. Ben wore his feet down to the pink in various locations on his footpads from being forced to live on hard concrete at Jambbas Ranch. This condition has caused Ben physical pain, and by forcing Ben to live and pace on concrete with no access to natural substrate, Defendants put Ben at further risk for additional painful conditions

including muscle strain, footpad lesions, callus formation, pressure sores, blisters, ulcers, skeletal damage, bruising, thinning footpads, arthritis, and circulatory problems.

40. Ben has been declawed, and while living at Jambbas Ranch, exhibited signs of inflammation in at least one area where a claw was removed. Declawed bears are at increased risk for long-term, painful post-operative conditions including infection, inflammation, and incomplete healing, particularly when—as in Ben’s case—the bear is denied proper foot care or access to natural substrates.

41. The concrete floor of Ben’s enclosure at Jambbas Ranch was frequently wet and soiled with feces. Wet cement flooring sucks the oils out of a bear’s footpads. By forcing Ben to live in an enclosure that frequently has no dry or sanitary place for Ben to sit or lie down, Defendants placed Ben at an increased risk for painful conditions including dry, brittle, cracked, and infected foot pads.

42. Algae is growing throughout the concrete floor of Ben’s enclosure and throughout Ben’s water trough at Jambbas Ranch.

43. Defendants have never had any means or protocol for disinfecting or sanitizing the concrete and chain link cage in which Defendants confined Ben at Jambbas Ranch.

44. The concrete and chain link cage in which Defendants confined Ben at Jambbas Ranch is unsanitary and unsuitable for use as a primary enclosure for any animal.

45. For the entire duration of Defendants’ ownership and possessory interests in Ben, Defendants fed Ben a diet composed primarily of dry dog food, poured once a

day on the same floor where Ben urinated and defecated. Dog food is a nutritionally inadequate diet for bears because the fat and protein content is too high for bears, whose diet consists primarily of plant foods.

46. Animal scientists have found a causal link between a diet primarily comprised of dog food and cancer-related deaths in captive bears.

47. In the wild, bears spend most of their waking hours foraging for vegetation and other food.

48. In the wild, brown bears and black bears eat a diverse diet that includes shoots, branches, berries and other fruits, nuts, grasses, and tubers.

49. An appropriate feeding protocol for captive bears should include a nutritionally balanced diet that replicates the diet that bears would eat in the wild.

50. Improper feeding regiments can cause painful dental disease in captive bears.

51. While Ben was confined at Jambbas Ranch, Defendants encouraged the visiting public to feed Ben white bread, which has no nutritional value for a bear. By allowing members of the public—including minor children—to feed Ben without supervision, Defendants placed Ben at an increased risk for contracting zoonotic diseases.

52. While Ben was confined at Jambbas Ranch, Defendants failed to provide Ben with a nutritionally adequate diet, denied Ben the opportunity to forage, and failed to take any measures to provide for Ben's dental care.

53. Animal scientists agree that poor dental care may lead to chronic pain, tartar, gingivitis, apical abscessation (toothroot abscess), osteomyelitis (infection of the

bones in the face), and bacteriaemia (entry of bacteria into the bloodstream). Bacterial infections may precipitate additional serious and painful conditions including endocarditis (inflammation of heart valves), glomerulonephritis (kidney disease), and uveitis (painful ocular infection).

54. While confined at Jambbas Ranch, Ben's canine teeth became nearly entirely caked in thick tartar.

55. By denying Ben the opportunity to engage in species-typical behavior, Defendants placed Ben at risk for muscle atrophy, decreased cardiovascular health, foot and skeletal problems, dental problems, frustration, boredom, and other adverse physical and psychological effects.

56. Black and brown bears go through a hibernation process and seasonal biochemical changes. The hibernation process is driven by innate biological programming and cannot be turned off in captive bears.

57. Animal scientists agree that maintaining the mental and physical well being of captive bears requires behavior-based husbandry that includes accommodation of a bear's need to hibernate.

58. At all times that Defendants have exercised ownership and possessory interests in Ben, Defendants have denied Ben the opportunity to hibernate.

59. Bears who are denied the opportunity to hibernate in captivity suffer from biochemical disruption and stress as a result.

60. At all times that Defendants have exercised ownership and possessory interests in Ben, Defendants have denied Ben the opportunity to den.

61. A proper den is a place of comfort and security for a bear.
62. Animal scientists agree that black bears and brown bears who are denied the opportunity to den will, over time, act in a manner similar to humans who are suffering from sleep deprivation.
63. Over time, a captive bear's prolonged sleep deprivation can cause serious physical and psychological harm.
64. By denying Ben the opportunity to den, Defendants have placed Ben at increased risk for negative physical and psychological impacts.
65. The design of the concrete and chain link enclosure in which Ben was confined at Jambbas Ranch is fundamentally flawed insofar as it does not allow for animal(s) to be shifted to facilitate safe and thorough cleaning of the enclosure, addition of enrichment items, addition of denning materials, safe and thorough cleaning of the water trough, or other procedures that are necessary to ensure the health and wellbeing of any animal.
66. The concrete and chain-link enclosure in which Ben was confined at Jambbas Ranch is unsuitable for use as a primary enclosure for any animal.
67. Defendants have not offered any evidence to dispute the expert observations, findings, or assessments of Dr. Heather Bacon or Else Poulsen.
68. Defendants have not asked any experts to formulate any opinions in this case.
69. No Defendant or employee of Jambbas Ranch has any expertise or training in bear husbandry.

70. Defendants have willfully disregarded the advice of their veterinarian, Dr. Cindy Ast, DVM, who recommended that Defendants should provide Ben with an enclosure that resembled his natural habitat as closely as possible, that Defendants should have provided Ben with a nutritionally adequate diet, and that Defendants should have provided Ben with access to a substrate other than concrete.

71. Pursuant to G.S. § 19A-3, on August 1, 2012, this court granted a preliminary injunction in favor of Plaintiffs and against Defendant Jambbas Ranch Tours, Inc. and Defendant James M. Bass, II, ordering Defendants to immediately relinquish custody of Ben to Plaintiffs and authorizing Plaintiffs to place Ben in suitable foster care at the Performing Animal Welfare Society (PAWS) in San Andreas, California. The court signed the order on August 6, 2012.

72. On August 9, 2012, Ed Stewart from PAWS arrived at Jambbas Ranch with Dr. Mel Richardson, an exotic animal veterinarian, and Plaintiffs' attorneys Gavin Parsons and Carney Anne Chester to take custody of Ben and transport him to PAWS in accordance with the preliminary injunction. With the assistance of Ms. Chester and Dr. Richardson, Mr. Stewart quickly and safely loaded Ben into his transport cage without the use of tranquilizers or any drugs.

73. After being transported via FedEx Custom Critical trucks and two FedEx airplanes, Ben safely arrived at the PAWS sanctuary at approximately 7:30 p.m. PDT on Friday, August 10, 2012. Ben was calm throughout the trip and was regularly monitored by Dr. Richardson, Mr. Stewart, and Ms. Chester to ensure his comfort and to provide him with sustenance and hydration.

74. Since Friday, August 10, 2012, Ben has been living in a 2-acre naturalistic habitat at PAWS that includes oak trees, dirt, green grass, California brown grass, a dirt hole for burrowing, natural vegetation, a swimming pool, sprinklers, a large hill, and varied topography. Ben's separate adjoining den area is 1,000 square feet—approximately four times the size of the enclosure in which he was formerly confined at Jambbas Ranch. At PAWS, Ben is provided with fresh nesting materials in his den area, including generous supplies of fresh straw and natural foliage.

75. Since arriving at PAWS on August 10, 2012, Ben has not exhibited any abnormal, stereotypic behaviors. All of the behaviors Ben has exhibited at PAWS have been undertaken with a clear sense of purpose, including swimming, foraging, eating, scratching himself on tree trunks, sleeping in his nest or under trees, sniffing, and exploring his vast habitat. Ben is thriving in the large, naturalistic habitat at PAWS and is receiving proper care in the hands of experts who have decades of captive exotic animal husbandry experience.

76. Since arriving at PAWS, Ben has been provided with a nutritious, appropriate diet for his species, including fresh salmon and a variety of fresh fruits.

77. Since arriving at PAWS, Ben has had the opportunity to see other bears for the first time. Seeing other bears engaged in bear behavior provides valuable enrichment to Ben, who was forced to live in near total sensory deprivation at Jambbas Ranch for nearly 6 years.

78. Since arriving at PAWS, Ben has been observed splashing and playing numerous times in his pool. Animal scientists agree that bears who feel threatened or

anxious will not play. Ben's playful behavior is, according to Dr. Richardson, one indication that Ben is thriving and happy at PAWS.

79. Since arriving at PAWS, Ben has been observed and monitored by multiple veterinarians who have decades of captive exotic animals experience.

80. The veterinarians and sanctuary experts who have observed Ben since his arrival at PAWS agree that Ben's behavior shows that the suffering that Ben experienced at Jambbas Ranch has been substantially alleviated at PAWS, where Ben has a vast 2-acre naturalistic habitat, is engaging in a variety of normal bear behaviors for the first time, is provided with behavior-based husbandry that includes a nutritionally adequate diet, has a pool to swim and cool himself in and a separate source of sanitary drinking water, can see other bears, and has access to around the clock veterinary care.

81. Ben's naturalistic habitat at PAWS is approximately 88,120 square feet (2 acres), or three hundred thirty-three (333) times the size of the cage that Defendants forced Ben to live in at Jambbas Ranch.

82. Despite living in a stark, tiny, barren cage at Jambbas Ranch for nearly 6 years, Ben has engaged in normal bear behavior from the moment he entered his habitat at the PAWS sanctuary. Since arriving at PAWS, Ben has been exploring, foraging, swimming and playing in his pool, grooming himself on tree trunks, napping beneath trees at the foot of the hill in his habitat, smelling and eating fresh green grass that grows in his habitat, smelling and eating a variety of nutritionally appropriate meals, and sleeping soundly in his large straw nest. Ben is thriving at PAWS.

83. Despite the fact that it is not uncommon for captive bears who have lived in inhumane confinement to exhibit some residual stereotypic behavior even after they are moved to a more suitable habitat and provided with proper care, Ben has not once been observed pacing, pawing the fence, biting the fence, or engaging in anything but absolutely normal, purpose-driven bear behaviors since arriving at PAWS.

84. Whereas abnormal, stereotypic behavior accounted for at least 75% of Ben's behavior while confined at Jambbas Ranch, Ben has not been observed engaging in any abnormal or stereotypic behaviors since leaving the Jambbas Ranch property.

85. There is a substantial and immediate risk that Defendants will, unless permanently restrained from doing so:

- a. Continue to willfully violate G.S. § 19A-1 by failing to provide Ben with adequate space;
- b. Continue to willfully violate G.S. § 19A-1 by failing to provide Ben with adequate enrichment;
- c. Continue to willfully violate G.S. § 19A-1 by failing to provide Ben with a natural substrate;
- d. Continue to willfully violate G.S. § 19A-1 by failing to provide Ben with veterinary care;
- e. Continue to willfully violate G.S. § 19A-1 by failing to provide Ben with a naturalistic habitat;
- f. Continue to willfully violate G.S. § 19A-1 by forcing Ben to live in unsanitary conditions;

g. Continue to willfully violate G.S. § 19A-1 by depriving Ben of the opportunities to engage in bear-specific behaviors including foraging, exploring, digging, running, climbing, denning, hibernating, and swimming.

86. There is a substantial and immediate risk that, unless Defendants are permanently enjoined, Ben will resume abnormal stereotypic behaviors including pacing and cage biting at Jambbas Ranch.

87. There is a substantial and immediate risk that, unless Defendants are permanently enjoined, Ben will resume other abnormal behaviors, like eating food out of fecal matter at Jambbas Ranch.

88. There is a substantial and immediate risk that, unless Defendants are permanently enjoined, Ben will suffer physically and will be at greater risk for a number of serious medical conditions directly related to his unlawful confinement on unyielding concrete and his inappropriate diet at Jambbas Ranch.

89. There is a substantial and immediate risk that, unless Defendants are permanently enjoined, Defendants will acquire and subject other bears to unlawful treatment, neglect, suffering, and physical pain in willful violation of G.S. § 19A-1.

90. None of the Defendants are classified as a zoo operated by a federal, State, or local governmental agency.

91. None of the Defendants are classified as an educational institution engaged in bona fide research in the natural sciences.

92. None of the Defendants have any knowledge or training in animal husbandry for any species of captive wild or exotic animals.

93. None of Defendants' employees have any knowledge or training in animal husbandry for any species of captive wild or exotic animals.

94. The Performing Animal Welfare Society, accredited by the Global Federation of Animal Sanctuaries, has been providing Ben with a vast naturalistic habitat, expert care, nutritious diet, and rehabilitation that Ben needs since taking possession of Ben on August 10, 2012, and is the most suitable successor owner.

95. Plaintiffs' remedies at law are inadequate to ensure an end to Ben's suffering.

96. Plaintiffs' requested relief is not unduly prejudicial or harmful to Defendants.

97. Defendants have consented to the entry of this Permanent Injunction.

CONCLUSIONS OF LAW

1. Plaintiffs' Request for Permanent Injunction, for the reasons stated in the verified Complaint and Request for Permanent Injunction, Amended Motion for Summary Judgment, and Second Amended Motion for Summary Judgment in this action, should be granted.

2. As discussed in factual detail above, Defendants have violated G.S. § 19A-1 by causing Ben the bear unjustifiable physical and psychological suffering and physical pain.

3. Chapter 19A prohibits the unjustifiable infliction of both “physical pain,” and “suffering,” which encompasses physical, mental, and psychological suffering. The unjustifiable psychological suffering to which Defendants have subjected Ben would be sufficient by itself to constitute unlawful cruelty as defined by G.S. § 19A-1(2).

4. The requirements of G.S. §§ 19A-10 and 19A-11, as implemented by 15A N.C.A.C. 10H.0302(b)(5)(B), reflect the legislative judgment that non-naturalistic enclosures for captive bears are *per se* cruel. Defendants’ failure to meet these minimum standards for captive bear habitats thus constitutes cruelty under G.S. § 19A-1.

5. Confinement and care that fail to meet an animal’s basic physiological, behavioral, or psychological needs cause “suffering” as that term is used in G.S. § 19A-1(2).

6. There is a substantial and immediate risk that, unless Defendants are permanently enjoined, Defendants will subject Ben the bear to further cruelty in violation of G.S. § 19A-1.

7. There is a substantial and immediate risk that, unless Defendants are permanently enjoined, Defendants will acquire and subject other bears to cruelty and neglect in violation of G.S. § 19A-1. In accordance with G.S. § 19A-4(b), Plaintiffs have shown good cause why Defendants should be enjoined from acquiring or possessing any bears.

8. Plaintiffs’ requested relief is not unduly prejudicial or harmful to Defendants.

It is therefore ORDERED, that:

1. Plaintiffs' Request for Permanent Injunction is granted, pursuant to G.S. § 19A-4 and G.S. § 1A-1, Rule 65.
2. Defendants' ownership and possessory rights in Ben the bear are immediately terminated and transferred in accordance with G.S. § 19A-4(b) to the Performing Animal Welfare Society (PAWS) sanctuary as an appropriate successor owner.
3. Defendants are permanently enjoined from ever regaining ownership or possessory rights in Ben the bear.
4. In accordance with G.S. § 19A-4, Defendants are permanently enjoined from acquiring, owning, or possessing any bears irrespective of whether such ownership or possession is temporary or permanent.
5. Defendants are permanently enjoined from seeking any wildlife captivity licenses or endangered species permits from the North Carolina Wildlife Resources Department relating to any new ownership or possession of any bears.
6. Defendants are permanently enjoined from utilizing the concrete and chain link cage at Jambbas Ranch that formerly housed Ben the bear as a primary enclosure for any wild or exotic animals.¹
7. Defendants are permanently enjoined from coming within 50 feet of any property owned by PAWS, Ed Stewart, or Pat Derby.

¹ The phrase "wild or exotic animal" shall be interpreted to include bears, lions, tigers, leopards, panthers, wolves, foxes, elephants, rhinoceroses, lynxes, alligators, crocodiles, apes, raccoons, skunks, all poisonous snakes, monkeys, bats, and any other animals which can normally be found in a wild state, including any hybrid exotic species.

8. Defendants are permanently enjoined from harming, harassing, or otherwise interfering with Ed Stewart, Pat Derby, or any other employee or agent of the PAWS sanctuary.
9. Defendants are permanently enjoined from harming, harassing, or otherwise interfering with Ben or any other animals housed at PAWS' sanctuaries.
10. Relevant law enforcement agencies and officers are specifically authorized to enforce the terms of this order against Defendants.
11. Defendants are permanently enjoined from soliciting funds to build Ben a bigger enclosure at Jambbas Ranch and shall, no later than August 28, 2012, permanently remove solicitations for funds to build Ben a larger enclosure, or any other representations about Ben from the Jambbas Ranch Tours website, www.jambbas.com.
12. In accordance with G.S. § 19A-4, Defendants shall pay \$2,600 (representing the funds raised via website solicitations to build Ben a larger enclosure) towards the costs associated with Ben's food, water, shelter, and care, including necessary veterinary care while at the Performing Animal Welfare Society via a certified check made out to the Performing Animal Welfare Society and tendered to Plaintiffs' attorney of record, Gavin Parsons, at the below address post-marked no later than twenty five days from the entry of this Injunction.

Gavin B. Parsons
Troutman Sanders

Post Office Drawer 1389
Raleigh, North Carolina 27602
Telephone: (919) 835-4107

13. Judge Tucker shall retain exclusive jurisdiction in this matter to hear and rule on contempt or any other issues arising out of this order.
14. Defendants have agreed to waive any rights of appeal.
15. No bond is warranted.

Issued this the 27 day of Aug, 2012, at 11:20, in open court.



Kimbrell R. Tucker
District Court Judge Presiding

CONSENTED TO:

JAMBBAS RANCH TOURS, INC.,

By: JAMES M. BASS II
Vice President

JAMES MILTON BASS, II,

By: James Milton Bass II

ANNA JEAN BASS

By: Anna Jean Bass

JAMES MILTON BASS

By: J. Milton Bass

ANNA BETH BASS-BROCK

By: Anna B. Brock

RIKKI HARRISON

By: Rikki Harrison

COLONEL (RETIRED) HOSEA M. RAY, U.S.A.

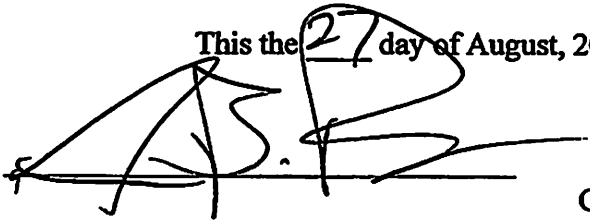
By: Colonel (Retired) Hosea M. Ray, U.S.A.

CERTIFICATE OF SERVICE

The undersigned attorney for Plaintiffs certifies that on this day the foregoing Permanent Injunction by Consent was served upon the parties by depositing a copy thereof in the United States mail, postage prepaid, and addressed as follows:

Philip R. Isley
Blanchard, Miller, Lewis & Isley, P.A.
1117 Hillsborough Street
Raleigh, North Carolina 27603

This the 27 day of August, 2012.

A handwritten signature in black ink, appearing to read 'G. B. Parsons', written over a horizontal line.

Gavin B. Parsons

EXHIBIT B

FILED

NORTH CAROLINA

2012 AUG -6 AM 11: 25

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

CUMBERLAND COUNTY

12 CVD 669

CUMBERLAND CO., C.S.C.

COLONEL (RETIRED) HOSEA M. RAY, U.S.A.)
and RIKKI HARRISON,)

Plaintiffs,)

v.)

JAMBBAS RANCH TOURS, INC.,)
JAMES MILTON BASS, II,)
ANNA JEAN BASS,)
JAMES MILTON BASS, and)
ANNA BETH BASS-BROCK)

Defendants.)

PRELIMINARY INJUNCTION

This cause was heard before the undersigned Judge presiding at the August 1, 2012, civil session of Cumberland County District Court, on Plaintiff's Motion, pursuant to G.S. § 19A-3 and G.S. § 1A-1, Rule 65, for a preliminary injunction. After reviewing Plaintiff's verified Complaint, the Court makes the following:

FINDINGS OF FACT

1. Plaintiff Hosea Ray is a natural person over the age of 18 years and is a real party in interest as defined by G.S. § 19A-2.
2. Plaintiff Rikki Harrison is a natural person over the age of 18 years and is a real party in interest as defined by G.S. § 19A-2.
3. Defendant Jambbas Ranch Tours, Inc. is a domestic corporation incorporated and doing business under the laws of North Carolina with a stated purpose of recreation tours. Defendant Jambbas Ranch Tours, Inc. operates a working ranch in Cumberland County, located at 5386 Tabor Church Road, Fayetteville, North Carolina, 28312.

4. Defendant Jambbas Ranch Tours, Inc. ("Jambbas Ranch") is a person for purposes of Chapter 19A. *See* G.S. § 19A-1(3); *see also, id.* § 12-3(6). Until July 30, 2012, Defendant Jambbas Ranch Tours, Inc. was the sole owner of a bear named Ben, and was therefore a real party in interest pursuant to G.S. § 19A-2. On July 30, 2012, Jambbas Ranch, through its Vice President, Defendant James M. Bass, II, purportedly sold Ben the bear for consideration of \$1.00 to Defendant James M. Bass II.

5. Defendant James M. Bass, II is an officer in Jambbas Ranch and purportedly now as of July 30, 2012, the sole owner of the bear named Ben and is therefore a real party in interest pursuant to G.S. § 19A-2. Defendant James M. Bass, II is the manager of Jambbas Ranch.

6. Ben has been housed at Jambbas Ranch since September 2006.

7. For the entire time that Ben has been housed at Jambbas Ranch, Defendant James M. Bass, II has had possession of Ben, has been Ben's primary caretaker, and has been the individual with primary responsibility for Ben's daily care and welfare.

8. Ben is at least part black bear.

9. For the entire duration of Defendant Jambbas Ranch and James M. Bass, II's ownership and possessory interest in Ben, Defendants have confined Ben in a 12' by 22' concrete and chain link cage enclosure at Jambbas Ranch.

10. The concrete and chain link cage in which Ben has been confined at Jambbas Ranch has never had any living trees, shrubs, or other perennial vegetation.

11. The concrete and chain link cage in which Ben has been confined at Jambbas Ranch has never had a pool.

12. The concrete and chain link cage in which Ben has been confined at Jambbas Ranch has never afforded Ben with protection from harassment or annoyance from humans.

13. The concrete and chain link cage in which Ben has been confined at Jambbas Ranch lacks any resemblance or relationship to a bear's natural habitat.

14. Ben's cage is barren and deprives Ben of the opportunity to run, dig, explore, swim, bathe, climb, hunt, forage, hibernate, or engage in other bear-specific behavior.

15. For the entire duration of Defendant Jambbas Ranch and James M. Bass, II's ownership and possessory interest in Ben, Defendants have forced Ben to drink and bathe in the same water trough.

16. For the entire duration of Defendant Jambbas Ranch and James M. Bass, II's ownership and possessory interest in Ben, Defendants have never provided Ben with licensed veterinary care or treatment.

17. For the entire duration of Defendant Jambbas Ranch and James M. Bass, II's ownership and possessory interest in Ben, Defendants have failed to provide for Ben's most basic veterinary, dietary, and environmental needs and has caused Ben to suffer in violation of G.S. § 19A-2.

18. Defendant James M. Bass, II, through his corporation, Defendant Jambbas Ranch Tours, Inc., has a history of violating the federal Animal Welfare Act (AWA), and was never once found in compliance with the AWA during any inspection by the United States Department of Agriculture between October 2006 and January 2012.

19. Internationally renowned bear experts, Dr. Heather Bacon and Else Poulsen, have provided sworn testimony in affidavits that Ben is subjected to physical pain and suffering at Jambbas Ranch.

20. Ben spends at least 75% of his waking hours pacing, an abnormal behavior that is common among animals who are subjected to cruel and inhumane conditions of confinement.

21. In addition to stereotypic pacing, Ben exhibits a number of other abnormal behaviors indicative of suffering, including biting, pawing at, and head-butting the chain link fence around his enclosure, and eating from his feces. Experts recognize these behaviors as consistent with a negative welfare state.

22. Ben has worn his feet down to the pink in various locations on his footpads from being forced to live on hard concrete at Jambbas Ranch. This condition likely is causing Ben physical pain, and by forcing Ben to live and pace on concrete with no access to natural substrate, Defendant Jambbas Ranch and Defendant James M. Bass, II are putting Ben at further risk for additional painful conditions including muscle strain, footpad lesions, callus formation, pressure sores, blisters, ulcers, and skeletal damage, bruising, and circulatory problems.

23. For the entire duration of Defendant Jambbas Ranch and James M. Bass, II's ownership and possessory interest in Ben, Defendants have fed Ben a diet comprised primarily of dry dog food, poured once a day on the same floor where Ben urinates and defecates. Dog food is a nutritionally inadequate diet for bears

24. Defendant Jambbas Ranch and Defendant James M. Bass, II have not offered any evidence to dispute the expert findings of Dr. Heather Bacon or Else Poulsen.

26. There is a substantial and immediate risk that, unless Defendant Jambbas Ranch and Defendant James M. Bass, II are enjoined, Ben will continue to exhibit abnormal stereotypic behaviors including pacing.

27. There is a substantial and immediate risk that, unless Defendant Jambbas Ranch and Defendant James M. Bass, II are enjoined, Ben will continue to suffer physically and will be at greater risk for a number of serious medical conditions directly related to his inhumane confinement on unyielding concrete and his inappropriate diet.

28. Defendant Jambbas Ranch and Defendant James M. Bass, II are not a zoo operated by a federal, State, or local governmental agency.

29. Defendant Jambbas Ranch and Defendant James M. Bass, II are not an educational institution engaged in bona fide research in the natural sciences.

30. The Performing Animal Welfare Society, ("PAWS") accredited by the Global Federation of Animal Sanctuaries, stands ready to provide Ben with the vast naturalistic habitat, expert care, and rehabilitation he needs at no cost to Defendant Jambbas Ranch or Defendant James M. Bass, II and is the most suitable caretaker for Ben.

31. Plaintiffs' remedies at law are inadequate to ensure an end to Ben's suffering.

32. There is probable cause that Plaintiffs' claims are likely to succeed on the merits.

33. Plaintiffs' requested relief is not unduly prejudicial or harmful to Defendant Jambbas Ranch or Defendant James M. Bass, II.

25. There is a substantial and immediate risk that Defendant Jambbas Ranch or its agents or employees, and Defendant James M. Bass, II will, unless restrained from doing so:

- a. Continue to violate G.S. § 19A-1 by failing to provide Ben with adequate space;
- b. Continue to violate G.S. § 19A-1 by failing to provide Ben with adequate enrichment;
- c. Continue to violate G.S. § 19A-1 by failing to provide Ben with a natural substrate;
- d. Continue to violate G.S. § 19A-1 by failing to provide Ben with licensed veterinary care;
- e. Continue to violate G.S. § 19A-1 by failing to provide Ben with a naturalistic habitat;
- f. Continue to violate G.S. §§ 19A-10 and 19A-11 by possessing and keeping Ben in an enclosure that in no way simulates a natural habitat;
- g. Continue to violate G.S. § 19A-1 by forcing Ben to live in unsanitary conditions;
- h. Continue to violate G.S. § 19A-1 by depriving Ben of the opportunities to engage in bear-specific behaviors including foraging, exploring, digging, running, climbing, denning, hibernating, and swimming.

CONCLUSIONS OF LAW

1. Plaintiff's Request for Preliminary Injunction, for the reasons stated in the verified Complaint, should be granted.

2. Defendant Jambbas Ranch and Defendant James M. Bass, II are causing Ben the bear unjustifiable suffering and physical pain in violation of G.S. § 19A-1.

3. Defendant Jambbas Ranch and Defendant James M. Bass, II's confinement of Ben in a cage that does not simulate a bear's natural habitat further violates G.S. §§ 19A-10, 19A-11 and 15A N.C.A.C. 10H.0302(b)(5)(B). Defendant Jambbas Ranch and Defendant James M. Bass, II's failure to meet minimum standards for captive bear habitats prescribed by North Carolina law *per se* constitutes a violation of G.S. § 19A-1.

4. There is a substantial and immediate risk that, unless the Defendant Jambbas Ranch and Defendant James M. Bass, II are enjoined, Ben the bear will be subjected to further cruelty in Defendant Jambbas Ranch and Defendant James M. Bass, II's possession in violation of GS § 19A-1.

5. Plaintiffs' requested relief is not unduly prejudicial or harmful to Defendant Jambbas Ranch or Defendant James M. Bass, II.

It is therefore ORDERED, that:

1. Plaintiff's Request for Preliminary Injunction pursuant to G.S. § 19A-3 and G.S. § 1A-1, Rule 65, is allowed.
2. Custody and possession of Ben the bear are immediately transferred in accordance with G.S. § 19A-3 to the Plaintiffs, who may transfer Ben to PAWS as the most suitable custodian of Ben pending final disposition of this case.

3. Defendant Jambbas Ranch and Defendant James M. Bass, II are enjoined from moving Ben, attempting to convey Ben, or secreting Ben.
4. Defendant Jambbas Ranch and Defendant James M. Bass, II shall retain temporary custody and care of Ben until the optimal time to transport Ben to the PAWS sanctuary has been ascertained by PAWS and its team of experts and agents, considering weather, climate, travel conditions, and animal health.
5. During the temporary period that Defendant Jambbas Ranch and Defendant James M. Bass, II retain custody and care of Ben pending his transfer to PAWS, Defendant Jambbas Ranch and Defendant James M. Bass, II shall communicate weekly with Ed Stewart or another authorized representative of PAWS to keep sanctuary staff informed about Ben's health and behavior. Mr. Stewart may be contacted at:

Ed Stewart, Performing Animal Welfare Society, P.O. Box 849 Galt,
California 95632, 209-745-0628 office/sanctuary; 209-745-1809 fax.
6. During the temporary period that Defendant Jambbas Ranch and Defendant James M. Bass, II retains custody and care of Ben pending his transfer to PAWS, Defendant Jambbas Ranch and Defendant James M. Bass, II. shall immediately communicate any changes in Ben's health or condition to Ed Stewart or another authorized representative of PAWS.
7. Defendant James M. Bass, II, Defendant, Jambbas Ranch Tours, Inc. and its officers, agents, and employees, shall at all times allow Plaintiffs' counsel and PAWS's representatives and authorized agents unfettered

access to provide Ben the bear with veterinary care, supplemental enrichment, supplemental nutrition, and any other procedures or husbandry practices necessary to evaluate Ben's condition and prepare Ben for transport.

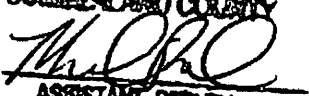
8. Defendant James M. Bass, II, Jambbas Ranch Tours, Inc. its officers, agents, and employees shall fully cooperate and assist with Ben's removal and transfer to the appropriate transport vehicle on the date designated by PAWS and its authorized agents.
9. Separate from the inherent cruelty associated with Ben's confinement at Jambbas Ranch, while Ben is temporarily housed at Jambbas Ranch pending his transfer to PAWS, Defendant James M. Bass, II, Defendant Jambbas Ranch Tours, Inc., its officers, agents, and employees shall not—through acts or omissions—commit any of the following acts against Ben in violation of G.S. § 14-360:
 - a. Defendants shall not wound, injure, torment, kill, or deprive Ben of necessary food or water.
 - b. Defendants shall not cause or procure Ben to be wounded, injured, tormented, killed, or deprived of necessary food or water.
 - c. Defendants shall not mutilate, maim, cruelly beat, disfigure, or poison Ben.
 - d. Defendants shall not cause or procure Ben to be mutilated, maimed, cruelly beaten, disfigured, or poisoned.

10. Ben may not be euthanized without the express written consent of all parties to this action, or by order of this court.
11. Once PAWS has obtained custody of Ben, Plaintiffs' counsel shall keep the Court informed regarding Ben's condition. Plaintiffs' counsel shall continue to inform the Court of Ben's condition during the duration of his stay in PAWS's custody leading up to a hearing on a permanent injunction or trial of this matter.
12. No bond is warranted.

Issued this the 6 day of Aug, 2012, at 11:21 AM, in open court.



Kimbrell K. Tucker
District Court Judge Presiding

A TRUE COPY
CLERK OF SUPERIOR COURT
CURRISLAND COUNTY
BY 
ASSISTANT DEPUTY

CERTIFICATE OF SERVICE

The undersigned attorney for Plaintiffs hereby certifies that on this day the foregoing **PRELIMINARY INJUNCTION**, was served upon the Defendants by facsimile, electronic mail, and first-class mail, postage prepaid and addressed as follows:

Jambbas Ranch Tours, Inc.
c/o Anna Jean Bass, Registered Agent
James Milton Bass, II
Anna Jean Bass
James Milton Bass
Anna Beth Bass-Brock
5386 Tabor Church Road
Fayetteville, North Carolina 28312
jambbas1@gmail.com
(910) 484-4808

This the 6 day of August, 2012.

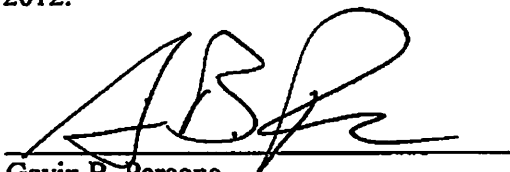

Gavin B. Parsons

EXHIBIT C



EXHIBIT D



IF YOU SEE
ANYONE
ABUSING
OUR ANIMALS
IN ANY WAY
PLEASE CALL
714-392-5904

EXHIBIT E



EXHIBIT F



EXHIBIT G



EXHIBIT H

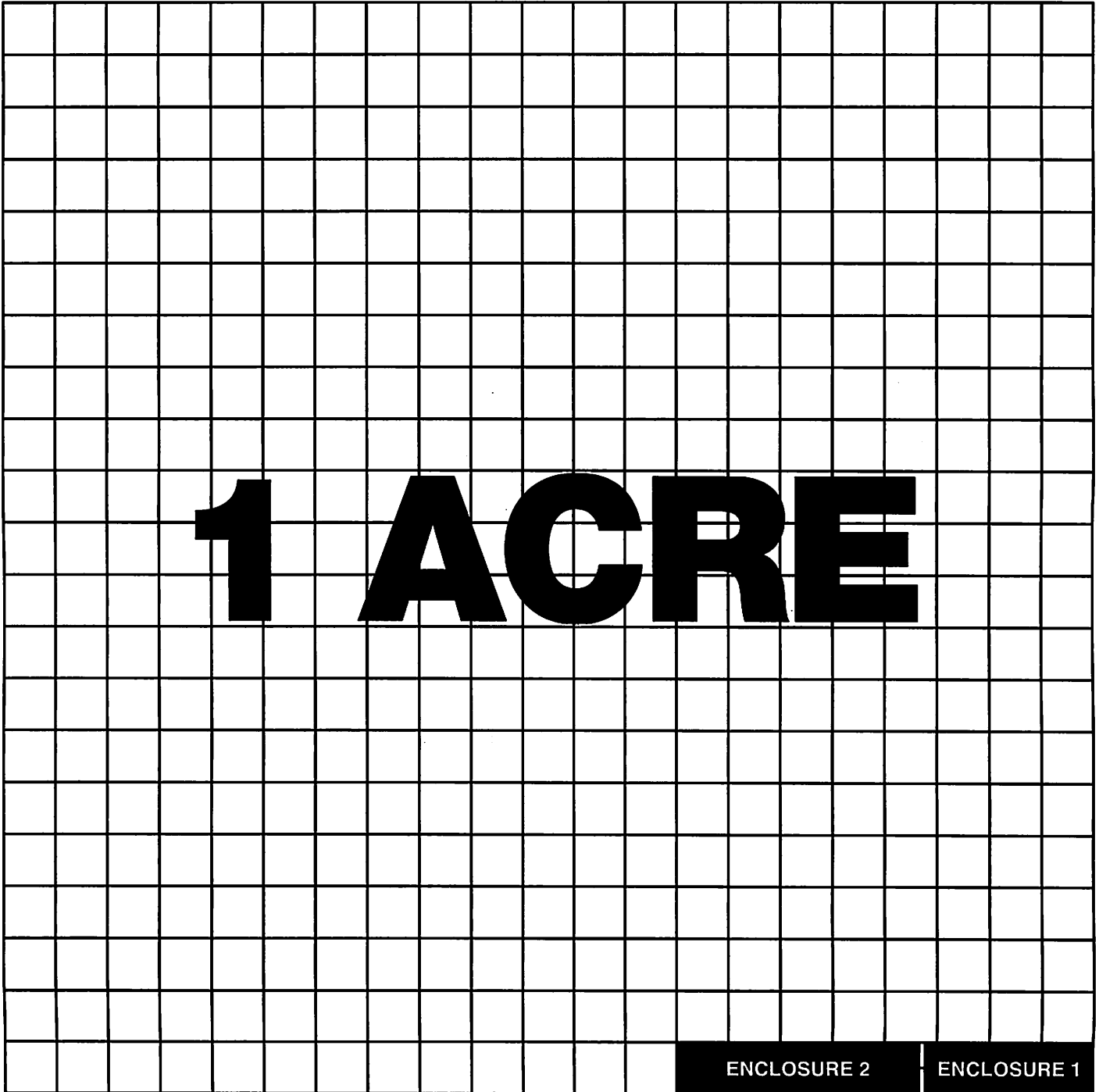


EXHIBIT I

← **Size of Enclosure Mandated by North Carolina Law** →

43,560 square feet
1 acre

1 box = APX 100 square feet



Size of Ben's Enclosure 1: 18 feet x 18 feet
APX 324 square feet/0.007 acres

Size of Ben's Enclosure 2: 18 feet x 26 feet
APX 468 square feet/0.01 acres

Enclosures are connected via a 6-foot tunnel.

EXHIBIT J

← Size of Enclosure Mandated by North Carolina Law →

43,560 square feet
1 acre

1 box = APX 100 square feet



Size of Booger's Enclosure 1: 16 feet x 18 feet
APX 288 square feet/0.006 acres

Size of Booger's Enclosure 2: 16 feet x 18 feet
APX 288 square feet/0.006 acres

Den: size unknown