

April 30, 2018

Robert M. Gibbens, D.V.M.  
Director, Animal Welfare Operations  
USDA-APHIS-Animal Care

Via e-mail: [robert.m.gibbens@usda.gov](mailto:robert.m.gibbens@usda.gov)

Re: Request for Nonrenewal and/or Termination of Jeffrey  
Lowe's Animal Welfare Act License

Dear Dr. Gibbens:

On behalf of People for the Ethical Treatment of Animals (PETA) and its more than 6.5 million members and supporters, I am writing to request that the USDA terminate and/or deny the renewal of the Animal Welfare Act (AWA) exhibitor license issued to Jeffrey (Jeff) Lowe, doing business as "Greater Wynnewood Exotic Animal Park" and "Neon Jungle OKC," and previously licensed as Clubreturns (56-C-0259).

As detailed in the attached appendix, the USDA cannot lawfully renew Lowe's license, which is set to expire on May 4, 2018. As part of the renewal process, Lowe must certify that his facility "is in compliance with the regulations and standards" of the AWA. 9 C.F.R. § 2.2(b). Regardless of what Lowe certifies, the USDA is well aware that Lowe's operations are "grossly and consistently out of compliance with AWA standards," *Animal Legal Defense Fund, Inc. v. Perdue*, 872 F.3d 602, 619 (D.C. Cir. 2017), as evidenced in part by USDA inspection reports and USDA complaints from PETA.

When the record before the agency is replete with evidence documenting that an exhibitor's self-certification of compliance with the AWA is blatantly false, it is arbitrary and capricious for the USDA to rely on that certification for demonstrating that the facility complies with AWA standards—a requirement for issuing a license. *Id.*; see also 7 U.S.C. § 2133. Because the USDA cannot rely on the exhibitor's self-certification of compliance, and because the evidence shows Lowe's operations are "routinely and currently out of compliance with AWA standards," the USDA cannot lawfully issue a renewal. *Perdue*, 872 F.3d at 620.

In addition, the USDA should terminate Lowe's license because Lowe has violated local laws pertaining to the possession and ownership of exotic animals, and because of his apparent circumvention of the revocation of a third-party's AWA license and other AWA regulations. See 9 C.F.R. § 2.11(a)(5), (a)(6), (d) (prohibiting the issuance of AWA licenses to applicants who are "or would be operating in violation or circumvention of any Federal, State, or local laws," to anyone who has pled *nolo contendere* or has been found to violate local laws pertaining to the ownership or welfare of animals, and to anyone "under

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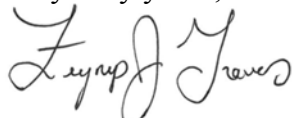
PETA FOUNDATION IS AN  
OPERATING NAME OF FOUNDATION  
TO SUPPORT ANIMAL PROTECTION.

AFFILIATES:

- PETA U.S.
- PETA Asia
- PETA India
- PETA France
- PETA Australia
- PETA Germany
- PETA Netherlands
- PETA Foundation (U.K.)

circumstances that the Administrator determines would circumvent any order . . . revoking . . . a license under the Act”); *see also id.* at § 2.12 (authorizing license termination on these bases). Indeed—as evidenced by complaints from PETA and an investigation by local law enforcement in Las Vegas, NV, that resulted in multiple charges and a conviction related to the unlawful possession of regulated species, including at least two tiger cubs and a solitary lemur—renewal of Lowe’s license would be contrary to the purposes of the AWA and would be arbitrary, capricious, and an abuse of discretion.

Very truly yours,

A handwritten signature in black ink, appearing to read "Zeynep J. Graves". The signature is written in a cursive, flowing style.

Zeynep J. Graves, Counsel  
[ZeynepG@petaf.org](mailto:ZeynepG@petaf.org) | 323-210-2263

Attachment

cc: [acwest@aphis.usda.gov](mailto:acwest@aphis.usda.gov)

## APPENDIX

### I. BACKGROUND

Since at least 2015, Lowe has attempted to establish several exotic animal-related enterprises across the country, operating all of them in blatant violation of local, state, and/or federal laws—posing a serious threat to the health and safety of the animals, and reflecting a complete disregard for the purposes of the AWA. Lowe is also patently unqualified to operate these facilities—and therefore unfit to be licensed—as evidence by his engagement in practices that are unaccepted by legitimate veterinary, wildlife, and conservation experts, including prematurely separating wildlife from their mothers for exhibition purposes, forcing unwilling cubs to interact with the public for profit, and facilitating the transport of neonatal big cat cubs across the country despite USDA policy against such fundamentally inhumane and apparently illegal transports.

Lowe is also the owner and CEO of the Greater Wynnewood Exotic Animal Park (“G.W. Zoo”)—which, as of June 5, 2017, was the subject of at least four open investigations by the USDA for potential violations of federal animal-welfare laws. As demonstrated by the evidence below, renewal of Lowe’s license would be arbitrary, capricious, and an abuse of discretion, and contrary to the purposes of the AWA.

### II. THE USDA SHOULD TERMINATE LOWE’S LICENSE DUE TO VIOLATIONS OF LOCAL LAWS AND APPARENT ATTEMPT TO CIRCUMVENT THE REVOCATION OF KARL MITCHELL’S AWA LICENSE

The USDA should terminate Lowe’s license due to his recent violations of local laws pertaining to the ownership of exotic animals and his apparent attempt to circumvent the revocation of Karl Mitchell’s AWA license. Specifically, AWA regulations provide that:

A license will not be issued to any applicant who: . . . [i]s or would be operating in violation or circumvention of any Federal, State, or local laws; . . . or has pled *nolo contendere* (no contest) or has been found to have violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of animals, or is otherwise unfit to be licensed and the Administrator determines that the issuance of a license would be contrary to the purposes of the Act. . . . No license will be issued under circumstances that the Administrator determines would circumvent any order suspending, revoking, terminating, or denying a license under the Act.

9 C.F.R. § 2.11(a)(5), (a)(6), (d); *see also id.* at § 2.12 (authorizing license termination on these bases).

After announcing his plans to operate an exotic animal petting facility in Las Vegas in July 2017,<sup>1</sup> Lowe reportedly transported tigers into Nevada and harbored them at various locations in Clark and

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<sup>1</sup> Brianna Bailey, *Tiger Petting Zoo at Mall in Oklahoma City Closes Doors*, NEWSOK (Jul. 14, 2017), <http://newsok.com/article/5556214> [Exh. 1].

Nye Counties without the requisite permits.<sup>2</sup> At least one tiger cub was transported to Karl and Kayla Mitchell’s residence in Pahrump, Nye County, Nevada, without the requisite permit. As a result, Nye County cited Lowe for unlawful ownership and possession of an exotic animal, and Kayla Mitchell—who also has a history of violating local and federal exotic animal laws and whose husband’s AWA license has been permanently revoked—for refusing to allow Nye County Animal Control and Sheriff’s office officers to inspect the facility where she harbored the big cat cub.<sup>3</sup>

Without an AWA license, the Mitchells (doing business as “Big Cat Encounters”) are prohibited from buying, selling, or transporting “any animal during the period of . . . revocation.” 9 C.F.R. § 2.10(c). Therefore, by transporting a tiger cub from Oklahoma to the Mitchells—who continue to solicit donations and advertise regulated activity on their website [www.bigcatencounters.org](http://www.bigcatencounters.org), and, as evidenced by recent public reviews on Big Cat Encounters’ Facebook page, apparently continue to conduct AWA-regulated activities—Lowe’s action is an apparent attempt to circumvent the revocation of Karl Mitchell’s AWA license, and therefore provides an additional basis for the permanent termination of Lowe’s license. *See* 9 C.F.R. §§ 2.11(a)(5), (d), 2.12.<sup>4</sup>

Moreover, in a reported attempt to circumvent zoning and permitting laws in Las Vegas and unincorporated parts of Clark County, Lowe announced the operation of a mobile tiger petting operation, “The Jungle Bus,” which advertised tours to a “top secret hideout” from the Las Vegas Strip.<sup>5</sup> Following complaints from PETA, Lowe’s Las Vegas home was raided by local law enforcement at which time at least two tiger cubs and a solitary lemur were confiscated. Since that raid, Lowe has been charged with several related offenses. On November 16, 2017, Lowe was charged with three counts of unlawful possession of wild animals, which led to his arrest on April 4, 2018.<sup>6</sup> After withdrawing his guilty plea and entering a “submit” plea, Lowe received a suspended sentence for one year, was assessed \$2500 in restitution, and a Stay Out of Trouble order.<sup>7</sup> Lowe was also

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<sup>2</sup> *See, e.g.*, Letter from Zeynep Graves, Counsel, PETA Foundation to Sheriff Joe Lombardo, Las Vegas Metro Police Department (Sept. 20, 2017) [Exh. 2]; Letter from Zeynep Graves, Counsel PETA Foundation to Sheriff Sharon Wehrly, Nye County Sheriff’s Office (Sept. 20, 2017) [Exh. 3]; Letter from Zeynep Graves, Counsel PETA Foundation to Chief Alexander Perez, North Las Vegas Police Department (Sept. 29, 2017) [Exh. 4]; Letter from Zeynep Graves, Counsel PETA Foundation to Chief James Andersen, Clark County Animal Control (Oct. 30, 2017) [Exh. 5].

<sup>3</sup> *In re: Karl Mitchell et al.*, AWA Docket No. 01-0016 (Agric. Dec. Jun. 13, 2001) [Exh. 6]; Nye County Sheriff’s Office, Deputy Report, Case No. 17NY-2004 (Jul 13, 2017) [Exh. 7].

<sup>4</sup> *See, e.g.*, Charles Taylor, FACEBOOK (Jan. 13, 2018), <https://www.facebook.com/charles.taylor.144/posts/10156152058957249:0> [Exh. 8]; Limor Finkelman, FACEBOOK (Nov. 2, 2017), [https://www.facebook.com/permalink.php?story\\_fbid=1955911424650856&id=100006960521939&substory\\_index=0](https://www.facebook.com/permalink.php?story_fbid=1955911424650856&id=100006960521939&substory_index=0) [Exh. 9]; Alicia Cook, FACEBOOK (May 17, 2016), <https://www.facebook.com/alicia.cook.921/posts/1019888901382381:0> [Exh. 10].

<sup>5</sup> THE JUNGLE BUS, <http://www.thejunglebus.org> [Exh. 11].

<sup>6</sup> Las Vegas Municipal Court, Case No. C1184662A – Jeffery (*sic*) Lee Lowe (Nov. 16, 2017) [Exh. 12]; Las Vegas Municipal Court, Case No. C1184663A – Jeffery (*sic*) Lee Lowe (Nov. 16, 2017) [Exh. 13]; Las Vegas Municipal Court, Case No. C1184664A – Jeffery (*sic*) Lee Lowe (Nov. 16, 2017) [Exh. 14].

<sup>7</sup> Exhibit 12, Las Vegas Municipal Court, Case No. C1184662A, *supra* note 6; Exhibit 13, Las Vegas Municipal Court, Case No. C1184663A, *supra* note 6; Exhibit 14, Las Vegas Municipal Court, Case No. C1184664A, *supra* note 6.

A “submit” plea, otherwise known as a submittal, is when the defendant submits to the authority of the court on a specific charge and is ordered to stay out of trouble for a fixed period of time, and comply with other court-order requirements,

charged with one count of doing business without a license, to which he pleaded *nolo contendere*.<sup>8</sup> The Las Vegas Municipal Court found him guilty on April 5, 2018, and issued a suspended jail sentence, \$2500 in restitution, and a Stay Out of Trouble order.<sup>9</sup> On April 12, 2018, Dave Bailey from the Las Vegas City Attorney's Office confirmed via telephone that these charges would not be dismissed and that ownership of the confiscated animals was transferred to the City of Las Vegas.

This most recent incident is just one example of Lowe's history of violating laws pertaining to the ownership of exotic animals. In the spring of 2017, Lowe opened Neon Jungle OKC, a storefront in an Oklahoma City mall that charged \$25 for two people to have a six-minute "encounter" with various exotic wildlife, including tiger, bear, and wolf or wolf-dog hybrid cubs and a solitary ring-tailed lemur, without any barriers between the public and the animals. Lowe also reportedly attempted to sell a wolf, or wolf-dog hybrid puppy for \$300, in violation of Oklahoma law.<sup>10</sup> Following an investigation by Oklahoma City Animal Welfare, and a complaint from PETA requesting that the city manager investigate the facility for operating in apparent violation of the Oklahoma City Exotic Wildlife Abatement Ordinance, Lowe shut down the Oklahoma City operation.<sup>11</sup>

Moreover, in 2015, Lowe exhibited tigers and lions at his flea market, ClubReturns, Inc. dba Beaufort Liquidation, in a manner in which members of the public were permitted to approach the primary fencing of the enclosures without taking any precautionary measures to stop visitors from reaching their hands through the fence and making direct contact with these inherently dangerous animals.<sup>12</sup> Indeed, the enclosures were so inadequate that the USDA cited Beaufort Liquidation for failing to comply with the federal Animal Welfare Act's minimum animal-care standards and safety regulations, including for keeping the big cats in an enclosure that was "inadequate to sufficiently contain the enclosed animals at all time."<sup>13</sup> The exhibition of cats at Beaufort Liquidation was not just dangerous, it was also illegal. According to a letter from the Beaufort County Zoning and Development Administrator to Lowe, the public display of big cats was not permitted at his flea market under local zoning laws. By June of 2015, Beaufort County passed an ordinance banning exotic animals from entering the County. Following the ban, Lowe announced his plans to leave South Carolina.

In addition to Lowe's apparent circumvention of AWA regulations and pattern of operating regulated activities in flagrant violation of local laws, Lowe is also unfit to be licensed because of his demonstrated pattern of harassing and intimidating law enforcement agents. For example, when initially investigated by Oklahoma City Animal Welfare, Lowe and his wife were described as "hostile

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such as paying a fine. Unlike in other jurisdictions, a submittal in Las Vegas Municipal Court is akin to a stayed adjudication in that the court also imposes a suspended sentence, and may reduce the charge to a lesser offense instead of dismissing it entirely. *See* PANDULLO LAW, PLEA NEGOTIATIONS, <https://www.pandullolaw.com/criminal-defense/plea-negotiations/>.

<sup>8</sup> Las Vegas Municipal Court, Case No. C1185093A – Jeffery (*sic*) Lee Lowe (Nov. 16, 2017) [Exh. 15].

<sup>9</sup> *Id.*

<sup>10</sup> Oklahoma City Animal Welfare, Activity Card No. A17-005258-1 (Apr. 1, 2017) [Exh. 16].

<sup>11</sup> Exhibit 1, Brianna Bailey, *Tiger Petting Zoo at Mall in Oklahoma City Closed*, *supra* note 1.

<sup>12</sup> *See, e.g.*, Low County District, BSA, FACEBOOK (Mar. 29, 2015); Beaufort Liquidation, FACEBOOK (Mar. 31, 2015) [Exh. 17].

<sup>13</sup> USDA Inspection Report, Clubreturns Inc. (Oct. 19, 2016) [Exh. 18].

and irate, cursing at the [officer] the entire time,” and when informed that the tigers had to be removed from city limits, Lowe cursed at the officer, took several photos of the officer, and “started harassing and following” the officer back to the city vehicle.<sup>14</sup> In another incident, Lowe repeatedly harassed Sergeant Cynthia Leavitt—a Las Vegas Animal Control Supervisor whose department was investigating Lowe’s unlawful exotic animal operations in Las Vegas—by publicizing Sergeant Leavitt’s photograph and home address with accompanying threats and derogatory comments on social media.<sup>15</sup>

### III. RENEWING LOWE’S AWA LICENSE WOULD VIOLATE THE APA

Agency action is unlawful under the Administrative Procedure act (APA) if it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). Agency action is arbitrary and capricious in violation of the APA “if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, [or] offered an explanation for its decision that runs counter to the evidence before the agency.” *Perdue*, 872 F.3d at 611 (quoting *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)) (alteration in original).

As evidenced by the following USDA inspection reports, PETA complaints, and written correspondence from the past year, Lowe is not in compliance with the AWA. Indeed, the following attached exhibits clearly indicate that Lowe’s operations are “routinely and currently out of compliance with AWA standards,” and thus cannot be lawfully issued a renewal. *Perdue*, 872 F.3d at 620.

- March 7, 2018: According to the most recently available USDA inspection report, G.W. Zoo was cited for failing to maintain a big cat enclosure in proper repair. Specifically, the wires at the bottom of the fence had become disengaged leaving an opening where the big cats were able to pass a paw through the caging. The facility was also cited for failing to maintain a wooden shelter in a beaver enclosure, which had become so severely chewed and damaged, that it was deemed a potential source of injury to the animals.<sup>16</sup>
- January 8, 2018: In an e-mail to Brittany Peet, Director of PETA Foundation’s Captive Animal Law Enforcement department, Lowe clearly admitted his intent to circumvent, current circumvention of, and current violation of the AWA, its implementing regulations, and/or local laws. *See, e.g.*, 9 C.F.R. §§ 2.10, 2.11(a)(5), (d), and 2.12. Specifically, after asserting that “[t]here is no scenario that forces [him] to forfeit any of [his] animals [or his] USDA license,” and that he had “learned a lot about distracting, diverting attention, [and] using smoke and mirrors in the last few years,” Lowe implied that revocation of his AWA license would not impact his ability to conduct regulated activities because he has “multiple USDA licenses

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<sup>14</sup> Oklahoma City Animal Welfare, Activity Card No. A17-008355-4 (May 16, 2017) [Exh. 19].

<sup>15</sup> *See, e.g.*, Jeff Lauren Lowe, FACEBOOK (Oct. 17, 2017) [Exh. 20]; Jeff Lauren Lowe, FACEBOOK (Oct. 17, 2017), [https://www.facebook.com/permalink.php?story\\_fbid=1011434519033179&id=100004999216781](https://www.facebook.com/permalink.php?story_fbid=1011434519033179&id=100004999216781) [Exh. 21]; Jeff Lauren Lowe, FACEBOOK (Oct. 17, 2017), [https://www.facebook.com/permalink.php?story\\_fbid=1011435019033129&id=100004999216781](https://www.facebook.com/permalink.php?story_fbid=1011435019033129&id=100004999216781) [Exh. 22].

<sup>16</sup> USDA Inspection Report, [Wynnewood, OK] (Mar. 7, 2018) [Exh. 23].

available,” in apparent violation or circumvention of 9 C.F.R. § 2.1(b), and that he would “simply change the name and open another animal business someplace else. . . .”<sup>17</sup> Lowe further admitted to currently circumventing AWA regulation by claiming that he has been putting “zoo’s inside [Indian] reservations and live displays in their casinos” and that “[t]hat takes the USDA out of the equation entirely.”<sup>18</sup> Lowe also described ways in which he is able to circumvent Las Vegas animal control ordinances and violate AWA regulations, *see, e.g., id.* at § 2.1(a)(2), by hosting exotic animal “playtime” encounters in adjacent jurisdictions, including Indian reservations, stating that “[n]o itinerary is needed, as the USDA doesn’t have authority on reservations, nor do any animal control divisions.”<sup>19</sup>

- October 23, 2017: USDA inspectors cited G.W. Zoo for not having a disposition record for a tiger that was identified on previous inventory.<sup>20</sup>
- October 9, 2017: PETA submitted a complaint that documented G.W. Exotic’s practice of providing the public with species-inappropriate food to feed the facility’s animals, unattended public feeding, and ineffective barriers that allow the public to engage in direct contact with adult apex predators.<sup>21</sup>
- June 14, 2017: PETA submitted a complaint documenting the transfer of neonatal big-cat cubs to exhibitors in Florida, Illinois, Oregon, and Wisconsin on five occasions between January and May 2017; conducting regulated activity under the name Neon Jungle OKC at a mall in Oklahoma City, apparently without prior site approval from the USDA; transporting regulated animals without appropriate carriers; and exhibiting a solitary baby lemur who was separated from his mother and isolated from other members of his species.<sup>22</sup> Since this complaint was submitted, Lowe has publicly stated that he “can travel the entire state [of Oklahoma] with [his] personally owned animals climbing around [his] truck, car, or plane whenever [he] feel[s] like it,” and, in an apparent attempt to circumvent applicable AWA regulations, asserted that the “USDA doesn’t govern [his] wife, who owns the animals.”<sup>23</sup> Indeed, Lowe has continued to transport regulated animals without appropriate carriers on several other occasions,

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<sup>17</sup> E-mail from Jeff Lowe, Owner, G.W. Zoo to Brittany Peet, Director, Captive Animal Law Enforcement, PETA Foundation (Jan. 24, 2018) [Exh. 24].

<sup>18</sup> *Id.* Of course, federal law, including the AWA, applies fully on such reservations, and, indeed, the USDA currently regulates facilities located on tribal land under the AWA.

<sup>19</sup> *Id.*

<sup>20</sup> USDA Inspection Report, [Wynnewood, OK] (Oct. 23, 2017) [Exh. 25].

<sup>21</sup> Letter from Zeynep Graves, Counsel, PETA Foundation to Robert Gibbens, Director, Animal Welfare Operations, USDA (Oct. 9, 2017) [Exh. 26].

<sup>22</sup> Letter from Brittany Peet, Director, Captive Animal Law Enforcement, PETA Foundation to Robert Gibbens Director, Animal Welfare Operations, USDA and Elizabeth Goldentyer, Director, Animal Welfare Operations, USDA (June. 14, 2017) [Exh. 27].

<sup>23</sup> Jeff N Lauren Lowe, FACEBOOK (June 21, 2017) [https://www.facebook.com/permalink.php?story\\_fbid=926045837572048&id=100004999216781](https://www.facebook.com/permalink.php?story_fbid=926045837572048&id=100004999216781) [Exh. 28];

demonstrating a pattern of his complete disregard for the safety of the animals and applicable AWA regulations.<sup>24</sup>

- May 30, 2017: USDA inspectors cited G.W. Zoo for a tiger escape that occurred on May 15, 2017. A female tiger escaped from an exercise enclosure and was discovered loose on the premises during the evening. She was shot and killed to prevent her from escaping the facility.<sup>25</sup>

Lowe's current and routine noncompliance with the AWA and its implementing regulations, and his expressed intent to circumvent, and current circumvention of, applicable local and federal laws, demonstrates his complete disregard for the AWA and his unfitness to be licensed. Indeed, renewal of Lowe's license would be arbitrary, capricious, an abuse of discretion, and contrary to the purposes of the AWA.

#### **IV. CONCLUSION**

Because the USDA cannot rely on Lowe's self-certification of compliance, and because the evidence shows that Lowe routinely fails to comply with AWA standards and has violated the law in every jurisdiction in which he has operated, the USDA must not renew Jeffrey Lowe's license.

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<sup>24</sup> See, e.g., Jeff N Lauren Lowe, FACEBOOK (Nov. 23, 2017), [Exh. 29]; Jeff N Lauren Lowe, FACEBOOK (Oct. 2, 2017), <https://www.facebook.com/photo.php?fbid=1002115049965126&set=a.355977727912198.1073741830.100004999216781&type=3> [Exh. 30]; Nye County Sheriff's Office, Case No. 17NY-2004 photos [Exh. 31].

<sup>25</sup> USDA Inspection Report, [Wynnewood, OK] (May 30, 2017) [Exh. 32].