



Animal and Plant  
Health Inspection  
Service

VIA: USPS Certified Mail  
Shipping Event: 1st

February 26, 2018

Marketing and  
Regulatory Programs  
Business Services

University of California, Davis  
One Shields Avenue  
345 Briggs Hall, 3rd Floor  
Davis, CA 95616

Investigative and  
Enforcement Services

Headquarters:  
4700 River Road  
Unit 85  
Riverdale, MD 20737  
Voice 301.851.2948  
Fax 301.734.4328

## SETTLEMENT AGREEMENT

Dear Sir or Madam:

We believe that you violated the Animal Welfare Act (7 U.S.C. § 2131 et seq.) (AWA), as described in the attached Settlement Agreement. Our agency, the Animal and Plant Health Inspection Service (APHIS), is responsible for enforcing the AWA, and other agriculture laws that help prevent the spread of animal and plant pests and diseases, and ensure the welfare of animals.

After providing you with an opportunity for a hearing, we may impose civil penalties of up to \$10,000, or other sanctions, for each alleged violation described in this Settlement Agreement. We are offering you the opportunity to resolve this matter by paying an amount that is much lower than the maximum civil penalty.

*What are the terms of the Settlement Agreement?*

You should review the information in this Settlement Agreement, including the citation and notification of penalty.

If you agree to waive your right to a hearing and pay the penalty, then do the following:

- Pay the amount due, \$5,000, by **March 26, 2018**. You can pay by check, money order, or credit card. For your convenience, we have included additional instructions for making payments.
- If you are unable to pay the full amount due by **March 26, 2018**, you may be eligible for a payment plan. To request a payment plan, you must use the enclosed form to submit a written response to this letter by **March 26, 2018**, that indicates you wish to pay the penalty and waive your right to a hearing. You must also submit a copy of your most recent federal tax return. As part of your response, please include a phone number and an email address so that we may contact you.



*What are my other options?*

If you do not agree with the terms of this Settlement Agreement, submit a written request for a hearing, with your Reference Number, to our office by **March 26, 2018**, at 4700 River Rd., Unit 85, Riverdale, MD, 20737.

*What happens if I fail to respond?*

If we do not receive a payment or hearing request from you by **March 26, 2018**, we will forward this matter to our Office of the General Counsel for litigation.

*What should I do if I need help?*

If you have any questions concerning this letter, contact Kelly Ferrell at (301) 851-2755, or call our main office at (301) 851-2948.

*I am a small business owner and have comments or concerns regarding APHIS's enforcement of animal and plant health laws. Who should I contact?*

APHIS always welcomes comments on how it can better assist small businesses. If you have comments about APHIS's enforcement of animal and plant health laws, please contact me, Steven M. Bennett, the APHIS Small Business Ombudsperson, at (301) 851-2948. If you would prefer to comment to someone outside APHIS, you may contact the Small Business Regulatory Enforcement Ombudsperson at <http://sba.gov/ombudsman>, email [ombudsman@sba.gov](mailto:ombudsman@sba.gov), or toll free at 1-888-REG-FAIR. The Ombudsperson's office receives comments from small businesses and annually evaluates federal agency enforcement activities for their responsiveness to the special needs of small businesses.

Sincerely,

Steven M. Bennett, Director  
Investigative and Enforcement Services



University of California, Davis  
One Shields Avenue  
345 Briggs Hall, 3rd Floor  
Davis, CA 95616

### **CITATION AND NOTIFICATION OF PENALTY**

We believe that you violated the Animal Welfare Act (7 U.S.C. § 2131 et seq.) (AWA), as described below.

#### **Date of Alleged Violation: July 19, 2016**

**9 C.F.R. § 2.31(c)(7)** Institutional Animal Care and Use Committee (IACUC). IACUC functions. With respect to activities involving animals, the IACUC, as an agent of the research facility, shall review and approve, require modifications in (to secure approval), or withhold approval of proposed significant changes regarding the care and use of animals in ongoing activities.

You made significant changes in the care and use of animals in ongoing activities prior to approval from the IACUC. Significant changes were made to protocol 18187 in that rabbits were not being tranquilized with acepromazine prior to anesthetic induction with ketamine. According to rabbit anesthesia records and verbal confirmation by the facility staff, rabbits were not being tranquilized with acepromazine prior to induction and xylazine was added to the ketamine for anesthetic induction.

#### **Date of Violation: July 19, 2016**

**9 C.F.R. § 2.33(b)(2)** Attending veterinarian and adequate veterinary care. Each research facility shall establish and maintain programs of adequate veterinary care that include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and the availability of emergency, weekend, and holiday care.

You failed to provide adequate veterinary care. A rabbit undergoing surgery (Protocol 18187) dies while under anesthesia when a pop up valve was inadvertently left in a closed position.

The penalty for the alleged violation(s) described above is \$5,000.