

November 29, 2018

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

Via e-mail: robert.m.gibbens@usda.gov; acwest@aphis.usda.gov

Re: Request for Nonrenewal of The Camel Farm's Animal Welfare Act License (License No. 86-C-0102)

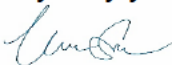
Dear Dr. Gibbens,

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 U.S. Department of Agriculture (USDA) deny the renewal of Animal Welfare Act (AWA) exhibitor license number 86-C-0102, issued to Terrill Al-Saihati, doing business as "The Camel Farm."

The USDA cannot lawfully renew The Camel Farm's license, which is set to expire on December 6, 2018. As part of the renewal process, The Camel Farm must certify that the facility "is in compliance with the regulations and standards" of the AWA. 9 C.F.R. § 2.2(b). Regardless of what The Camel Farm certifies, the USDA is well aware that the facility is "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 by USDA inspection reports and documentation provided by PETA. As detailed in the attached appendix, the USDA cited The Camel Farm for violating the AWA **more than 20 times in just the past year**, many of which were repeat violations, including for problems that have persisted for several years. Recent photographs provided by visitors to The Camel Farm show that several violations persist. In fact, during an inspection the licensee reportedly said "that the facility will never be in compliance [with the AWA]." Ex. 1 (March 8, 2016 USDA Inspection Report).

For the reasons detailed in the attached appendix, if the USDA renews The Camel Farm's license, the animals confined there will continue to suffer in violation of the AWA. When, as here, the record 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 as evidence that the facility complies with AWA standards—a requirement for issuing a license. 7 U.S.C. § 2133; *Perdue*, 872 F.3d at 619. The Camel Farm "is routinely and currently out of compliance with AWA standards," and thus its license cannot lawfully be renewed. *Perdue*, 872 F.3d at 620.

Very truly yours,



Michelle Sinnott
 Counsel, Captive Animal Law Enforcement

PEOPLE FOR
 THE ETHICAL
 TREATMENT
 OF ANIMALS
 FOUNDATION

Washington, D.C.
 1536 16th St. N.W.
 Washington, DC 20036
 202-483-PETA

Los Angeles
 2154 W. Sunset Blvd.
 Los Angeles, CA 90026
 323-644-PETA

Norfolk
 501 Front St.
 Norfolk, VA 23510
 757-622-PETA

Berkeley
 2855 Telegraph Ave.
 Ste. 301
 Berkeley, CA 94705
 510-763-PETA

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.)

Appendix:

The AWA states unequivocally that no AWA license “shall be issued until the dealer or exhibitor shall have *demonstrated* that his facilities comply with” AWA standards.¹ As a federal district court made clear in a case involving the renewal of an exhibitor’s AWA license, “the express language of the statutory mandate. . . requires a demonstration of compliance before such issuance [i.e., granting a renewal license] is proper.”² Renewal applicants’ are required to certify that “to the best of the applicant’s knowledge and belief, he or she is in compliance with the regulations and standards” of the AWA.³ This self-certification requirement is not intended as an “alternative means of ascertaining compliance” with the AWA.⁴ Rather, renewal applicants are also required to make their “animals, premises, facilities, vehicles, equipment, other premises, and records *available* for inspection” for purposes of allowing the USDA to “ascertain the applicant’s compliance” with the AWA.⁵ The USDA cannot rely on an applicant’s self-certification of compliance to meet the demonstration requirement when the agency knows that self-certification is false.⁶ When faced with inspection reports and other evidence identifying violations of the AWA that contradict the applicant’s self-certification of compliance, the USDA cannot lawfully issue a renewal license because the applicant has not demonstrated compliance with the AWA. Nor can the USDA conduct a single, pre-announced inspection of a facility with chronic non-compliance and base its renewal decision on the results of that single inspection alone, especially when the results of that announced inspection is contrary to the weight of the evidence.⁷

The Camel Farm has not demonstrated and cannot demonstrate compliance with the AWA and the regulations promulgated to ensure the humane care of animals. The Camel Farm’s history of chronic noncompliance and its current, ongoing noncompliance are documented extensively in the evidence attached herein and discussed below.

I. Failure to Provide Adequate Veterinary Care

At almost every inspection over the past year, The Camel Farm has been cited for repeat violations for failing to provide adequate—and in some cases any—veterinary care to the

¹ 7 U.S.C. § 2133 (emphasis added).

² See Ex. 2, Order Denying Defendant’s Motion to Dismiss, *Ray, et al. v. Vilsack, et al.*, No. 5:12-CV-212-BO (E.D.N.C. Jan. 18, 2013) [hereinafter “*Ray v. Vilsack MTD*”]; see also *id.* (license renewal “is not a discretionary enforcement action, but rather an agency action carried out according to statutory mandates issued by Congress and subject to judicial review”).

³ 9 C.F.R. § 2.2(b).

⁴ Animal Welfare: Licensing and Records, 60 Fed. Reg. 13893, 13894 (Mar. 15, 1995).

⁵ 9 C.F.R. § 2.3(a) (emphasis added).

⁶ *Animal Legal Defense Fund, Inc. v. Perdue*, 872 F.3d 602, 619-20 (D.C. Cir. 2017).

⁷ See, e.g., Ex. 3, Animal Dealer Regulation: Hearing Before the Comm. On Commerce, 89th Cong. 89-61 (1966) (testimony of Dr. Samuel Peacock) (“Self-regulation . . . is a farce. For example, one of the facilities with which I am a consultant research associate, was inspected by a committee representing this organization. Their appointment was set a week in advance. The animal colony attendant worked overtime for days cleaning up the colony, painting cages, etc. No cats were ordered for the week so that the usual overcrowding would be avoided. When the committee arrived they saw cats each its own cage with food and water. Had they arrived unannounced 1 week later, they would have seen four or five cats in cages designed for one cat, cages with dead cats among the living, neither food nor water in the cages, and a crate for new cats for which there was no room at all. Such a situation is not at all unusual.”).

animals at the facility. Since February, The Camel Farm has been cited seven times for failing to provide adequate veterinary care,⁸ including for:

- An adult sheep who was excessively thin, missing patches of hair, and had overgrown hooves—an ailment that can be extremely painful, cause foot infections, abscesses, and lameness, and, if chronic, can be the basis for the USDA to confiscate the animals. Ex. 4 (Feb. 6, 2018 USDA Inspection Report); Ex. 5 (USDA Confiscation guide) at 9.5.5. She was found languishing in the same condition months later, and was finally euthanized after being seen by a veterinarian. Ex. 6 (April 10, 2018 USDA Inspection Report).
- A male camel named Zo who had a large growth on his chest that had not been evaluated by a veterinary specialist. Ex. 4; Ex. 6; *see also* Ex. 7 (Jan. 12, 2018 PETA Submission). This issue was first identified by the USDA on May 23, 2017. Ex. 8 (USDA Inspection Reports Dec. 2012- Nov 2017) at May, 23, 2017.
- A male tricolor goat who had been non-weight bearing on his right front leg since at least March 9, 2017. Ex. 4; Ex. 8 at March 9, 2017; *see also* Ex. 7. The Camel Farm failed to follow the veterinarian’s recommendations for almost a year, until eventually euthanizing the animal in April 2018. Ex. 9 (Feb. 20, 2018 USDA Inspection Report); Ex. 6.
- Over a dozen animals who had overgrown hooves—a serious recurring problem at The Camel Farm that dates back to at least 2012⁹—including a male ibex with hooves so long “they were curling causing the toes to rotate up and out and the heel to drop.” Ex. 4; Ex. 9; Ex. 6; *see also* Ex. 7.
- An adult female fox named Foxy who had loss of hair over her knuckles and red inflamed skin. Ex. 4; Ex. 9; Ex. 6; Ex. 10 (May 30, 2018 USDA Inspection Report). Even while Foxy’s condition worsened for months, The Camel Farm failed to have her seen by a “veterinarian that has knowledge with this species.” Ex. 10. The problem was first identified by the USDA on May 23, 2017.¹⁰
- An adult male coatimundi named Cody who was non-weight bearing on his right rear leg. Ex. 9; Ex. 6. Despite the Camel Farm admitting that Cody started having “climbing issues 2-3 years ago,” he was not evaluated or treated by a veterinarian. Ex. 9. The Camel Farm was also cited in 2017 for failing to provide access to Cody during an inspection. Ex. 8 at May 23, 2017.
- A two-month old baby sheep who was found during an inspection “having trouble walking and standing.” Ex. 6. After being advised by the USDA inspectors that the sheep should be seen by a veterinarian immediately, the baby was euthanized due to a possible spinal injury. *Id.*
- An adult male ibex hybrid who had a dark red mass above his eye, and his eye was “red, inflamed and bulging out of the eye socket.” Ex. 6.

PETA has also submitted videos and photographs to the USDA documenting several of these same animals in need of veterinary care. Ex. 7 (identifying Zo, the limping tricolor goat, and animals with overgrown hooves); Ex. 11 (June 13, 2018 PETA Submission) (identifying Zo). In

⁸ The USDA has also cited The Camel Farm for failing to have a Program of Veterinary Care available for review at the time of the inspection. Ex. 4.

⁹Ex. 8 at December 21, 2012.

¹⁰ Ex. 8 at May 23, 2017.

addition, PETA submitted photographs of a goat with crusty ocular discharge and possibly an abnormally small eyeball in apparent need of veterinary care. Ex. 7.

The Camel Farm has shown time and time again that it is either not willing or not able to provide adequate veterinary care for the animals. The Camel Farm's repeated citations for failing to provide adequate veterinary care establish that the facility cannot demonstrate compliance with the AWA.

II. Failure to Provide Adequate Shelter

The Camel Farm has consistently failed to provide animals in its care with adequate shelter. Many enclosures at The Camel Farm only have small shade covers, without sides, which do not protect the animals from wind or rain. PETA first submitted photographs to the USDA documenting these inadequate enclosures in November 2017 (Ex. 12, November 9, 2017 PETA Submission), and yet to date nothing has changed. Ex. 13 (October 30, 2018 and November 21, 2018 Photographs). The Camel Farm can receive a significant amount of wind throughout the year, with gusts reaching up to 40 mph, which can stir up sand and debris. Ex. 12. Open enclosures without sides provide no protection against this type of wind event, rendering them inadequate.

In addition, the design of these shade covers limit their effectiveness because the amount of shade available depends entirely on the angle of the sun. At certain times during the day, the shade created by these structures is outside the enclosures and inaccessible by the confined animals. Ex. 13 at Photo 9. The USDA has cited The Camel Farm for and PETA has submitted photographs of occasions where the poor design of the shade covers resulted in animals without adequate shade, for example:

- Two adult camels, Freya and Alexa, did not have adequate shade to protect themselves from direct sunlight because the "majority of the shade provided [by the shade structures] was outside of their enclosure and not benefiting the animals." Ex. 4.
- Several goats were huddled under a tiny strip of shade from the structure in the adjoining pen. Ex. 11 at Photo 5.
- Two deer were seeking shade provided by fence posts because the shade structure only provided shade outside of their pen. Ex. 13 at Photo 5.
- A donkey was forced to stand in the sun because the shade structure only provided shade outside of their enclosures. Ex. 13 at Photo 6.
- Two water buffalo were forced to cram themselves together into a corner to access the limited amount of shade in their enclosure. Ex. 13 at Photo 10.

The shade structures at The Camel Farm do not provide adequate shelter from the sun, wind, and rain, which is a reoccurring problem.¹¹ As photographs taken on October 30, 2018, demonstrate, the same shade covers, without sides, are still being used in many of the enclosures. Ex. 13 at Photos 5-11. While these photographs were taken on a day when temperatures reached 87

¹¹ Ex. 8 at April 27, 2016.

degrees Fahrenheit (Ex. 14, Weather in Yuma, AZ on October 30, 2018), temperatures at The Camel Farm can easily surpass 100 degrees Fahrenheit during the summer months. Ex. 11 (noting temperatures reached 108 degrees in early June). Without providing animals with adequate shelter, The Camel Farm cannot demonstrate compliance with the AWA.

III. Dangerous and Unsanitary Enclosures

The USDA has repeatedly cited The Camel Farm for having rundown enclosures that pose a safety risk to the animals. Since February, the USDA has cited The Camel Farm for enclosures with damaged metal wires, exposed screw tips, broken wooden boards, gaps where animals could escape or get stuck, and rusted metal walls. These conditions have affected dozens of animals, including:

- Twenty-four goats who were confined in two separate enclosures that had gaps between the bottom of the fence and the ground, causing sharp points from the bottom of the fence to face into the enclosure. Ex. 4; Ex. 6 (citing the same issue for an enclosure with eleven goats); Ex. 10 (citing the same issue for an enclosure with seventeen sheep); *see also* Ex. 11 at Photo 8-9.
- Eighteen sheep, two camels, and seven goats who were confined to enclosures with sharp points from the metal fencing. Ex. 4; Ex. 10. There was also “broken wooden boards with jagged, splintering edges” in the sheep enclosure (Ex. 4), and at least one camel was observed “eating the wood board” the animal had access to Ex. 6.
- Two pigs, seven goats, and two coatis who were kept in enclosures with exposed nail heads. Ex. 4.
- Seventeen sheep and eleven goats who were confined to enclosures with rusting structures. Ex. 4; Ex. 6; Ex. 10.
- Nine goats who were confined to an enclosure with a hole “several feet long and approximately 2 feet deep” in the floor. Ex. 4.

Photographs from a visitor to The Camel Farm in June show that many of these conditions continue to exist, including a gap in chain-link fencing, a sharp metal point protruding from the fencing, and plywood fences that have been chewed on by the animals. Ex. 11 at Photos 8, 9, and 10.

In addition, the USDA has cited The Camel Farm because of numerous issues related to sanitation of enclosures. For example, in February, “[a] gopher carcass was observed to be lying in an enclosure housing seven goats.” Ex. 4. During the same inspection, the USDA found baling twine in two separate enclosures, which is a hazard because it could be “consumed by the animals in the enclosure.” *Id.* The USDA has also cited The Camel Farm because of excessive flies (Ex. 6) and for an accumulation of cobwebs in the enclosures and on feeders. Ex. 4; Ex. 10.

The Camel Farm has also had repeat citations associated with standing water in enclosures, which, according to the USDA “can pose a health risk to the animals” from bacteria, parasites, and hoof/foot rot. Ex. 4. In February, the USDA cited The Camel Farm for standing water in enclosures housing a zebu, two sheep, and two water buffalo. Ex. 4. According to the USDA, these animals “were unable to drink from the [water] receptacle without standing on wet

ground.” Ex. 4. A visitor to The Camel Farm documented that as of November 21, there is still standing water in the water buffalo enclosure. Ex. 13 at Photo 3-4. This visitor also photographed algae growth underneath a water bowl, which was likely caused by a leak. Ex. 13 at Photo 2. PETA has also submitted photographs to the USDA documenting standing water in an enclosure with an adult and juvenile camel. Ex. 11.

The Camel Farm has been cited for failing to provide safe and sanitary enclosures over and over again. The Camel Farm cannot demonstrate compliance with the AWA while it continues to have enclosures that expose numerous animals to dangerous conditions that jeopardize their wellbeing, which according to recent photographs continue to exist. *See* Ex. 11; Ex. 13 at Photo 2-4.

IV. Lack of Access to Water

The Camel Farm has been cited twice this year for depriving animals of access to drinking water. On the February 6 inspection, an adult camel, Camela, and her nursing baby, were found to not have access to any drinking water. When the facility was made aware of the lack of drinking water and finally provided Camela and her baby with water, “she was drinking and searching for water sources for approximately eight minutes.” Ex. 4. Two months later the facility was cited again for depriving animals of access to drinking water: this time it was two pot-belly pigs and one goat. Ex. 6. In 2016, The Camel Farm was also cited for failing to provide water to two camels who drank excessively once the USDA inspectors identified the issue. Ex. 8 at November 15, 2016. Recent photographs from a visitor to The Camel Farm document a water bowl with dirty green water, which the visitor observed in multiple enclosures. Ex. 13 at Photo 1. Repeated citations for failing to provide animals with access to clean water demonstrates that The Camel Farm cannot meet even the most basic requirements of the AWA.

V. Failure to Maintain Necessary Records

The Camel Farm was cited twice this year for failing to have the required records for the “animals on hand,” including acquisition and disposition records, a problem that has occurred multiple times in the past.¹² During the February 6th inspection, The Camel Farm was “unable to locate any animal records.” Ex. 4. When the USDA returned two weeks later, The Camel Farm found the records, but they did not accurately reflect the number of animals at the facility. Ex. 9. Accurate up to date records are necessary in order to “track animals being used in regulated activities to ensure their humane care and use.” Ex. 4. By failing to maintain the required records, The Camel Farm has shown that it is unable to meet the basic record keeping requirements of the AWA.

VI. Insufficient Employees to Care for the Animals

In June, a visitor to The Camel Farm informed PETA that only two employees were observed at the facility. Ex. 11. The USDA found only two employees at The Camel Farm during a March 2016 inspection. Ex. 8 at March 8, 2016. In fact, during this 2016 inspection, the licensee told the inspector that “there was no plan or provision in place for an adequate number of employees

¹² Ex. 8 at April 27, 2016, January 14, 2014, and February 27, 2013.

to maintain the professional husbandry standards described in the regulations and standards,” and that the facility “has no plan for when employees call in sick, do not show up, or have days off.” The licensee also stated “that the facility will never be in compliance [with the AWA], as they do not have the funds or resources to increase their staffing levels.” Ex. 1. The USDA’s October 16 inventory lists 99 regulated animals, which doesn’t include the several ducks, geese, ostriches, emus, rhea, and tortoises at the facility also in need of care. Ex. 15. (October 16, 2018 USDA IR). Over the past year alone, the USDA has cited the facility for persistent and ongoing animal health and welfare concerns, which could be the result of the lack of employees to adequately care for the animals. Having only two individuals to care for a diverse group of almost 100 animals is in apparent violation of 9 C.F.R. § 3.132, which requires that “[a] sufficient number of adequately trained employees shall be utilized to maintain the professionally acceptable level of husbandry practices.”

In fact, over the past year, the USDA has cited The Camel Farm for allowing the public to “walk directly up [to] the primary enclosures and feed the animals” with no supervision. Ex. 4. During this inspection, the USDA noted that there was only one employee present and “she was inside the office with a member of the public.” Ex. 4. The Camel Farm has been cited before for only having one attendant present during the inspection, who was unable to supervise public interactions with the animals. Ex. 8 at November 8, 2017.

Some of the critical issues cited by the USDA were not discovered by The Camel Farm and had to be pointed out by inspectors. For example, when Camela and her nursing baby did not have access to drinking water, “[t]he facility representative was unaware when the water was turned off for these animals.” Ex. 4. Also, an ibex developed a “dark red mass above his right eye” that the facility representative claims was not present a week earlier when the animal was seen by the veterinarian. Ex. 6. As a result, the USDA cited The Camel Farm for not providing adequate veterinary care, explaining that “[d]aily observation of all animals is critical to ensuring that conditions that can adversely affect health and well-being are recognized in a timely manner.” Ex. 6.

The Camel Farm accrued over a dozen repeat violations this year alone. This record makes clear that The Camel Farm continues to lack an adequate number of employees to conduct daily observations of the animals and ensure that they receive adequate care. Without an adequate number of employees, The Camel Farm cannot demonstrate compliance with the AWA.

Conclusion

In the past five years, the USDA cited the Camel Farm for violating the AWA more than 90 AWA violations, many of which were repeat or direct violations. In this year alone, The Camel Farm accrued over 20 violations, *nineteen* of which were for recurring issues. The photographs from June, October, and November show that many of these issues continue to persist. Ex. 11; Ex. 13. The Camel Farm continues to use shade structures without sides that are inadequate shelter; continues to have standing water and access to clean water problems; and continues to not have enough employees to care for the animals.

When the record 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. *Animal Legal Defense Fund, Inc. v. Perdue*, 872 F.3d at 610.

Because the USDA cannot rely on the exhibitor's self-certification of compliance, and because the evidence shows the facility routinely fails to comply with AWA standards, the USDA must not renew The Camel Farm's license.