

September 26, 2019

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

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

Re: Request to Terminate SeaQuest’s Animal Welfare Act License and/or Deny Any Applications to Add Sites to its Existing License

Dear Dr. Gibbens,

I am writing on behalf of PETA to request that the U.S. Department of Agriculture (USDA) terminate SeaQuest Aquarium’s—owned and operated by Vince Covino—Animal Welfare Act (AWA) exhibitor license (number 88-C-0216) because of numerous violations of state and local law and a pending cruelty to animals charge against a SeaQuest manager. Alternatively, PETA requests that the USDA deny any applications to add additional sites to SeaQuest’s existing license.

The USDA may terminate a license for any reason that would require it to deny an initial license. 9 C.F.R. § 2.12. Those reasons include, if the licensee “has been found to have violated any Federal, State, or local laws pertaining to animal cruelty” or “any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of animals.” *Id.* § 2.11(a)(4), (a)(6). When adding additional sites to an existing license, the applicant is required to satisfy the initial licensing requirements, and such application must be denied for the same reasons that the USDA must deny an initial license. *See* 7 U.S.C. § 2133; 9 C.F.R. §§ 2.1, 2.3, 2.11; *see also* *Arbuckle Adventures, LLC*, AWA Docket No. 16-0003, 2018 WL 2289343, at *1 (U.S.D.A. May 2, 2018) (noting that APHIS may add site 002 to the respondent’s AWA license once the respondent “establishes to APHIS during an inspection that it is in compliance with the [AWA]”).

SeaQuest has aquariums at several locations throughout the United States that exhibit AWA regulated species, at least five of which are approved sites on its AWA license. Ex. A (May 7, 2018 USDA Letter approving site number 005). SeaQuest is in the process of expanding and intends to open locations in (1) Fort Lauderdale, Florida; (2) Woodbridge, New Jersey; (3) Lynchburg, Virginia; and (4) Stonecrest, Georgia.

As detailed further in the attached appendix, SeaQuest has racked up numerous citations and fines for violations of state and local laws. For example:

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.)


- In April 2019, the Colorado Department of Parks and Wildlife [suspended](#) SeaQuest Littleton's state zoological parks permit following a series of state law and permit violations. Ex. B.
- In March 2019, Clark County Animal Control cited and fined SeaQuest Las Vegas \$2,000 for possessing unpermitted animals after the company illegally bred two Asian small-clawed otters in violation of its captive wildlife permit. Ex. C.
- In January 2019, a SeaQuest Littleton employee [was charged](#) with cruelty to animals for failing to provide veterinary care to a sloth named Flash who suffered serious burns to his face from a heat lamp. Ex. D. SeaQuest was issued a warning under Colorado's animal cruelty law (CO ST § 18-9-202(1)(a)) and a permit citation for the same incident. *Id.*

For the reasons discussed in the attached appendix and supported by the attached exhibits, the USDA has ample grounds to terminate SeaQuest's AWA license. For these same reasons, the USDA cannot lawfully add any additional sites to SeaQuest's existing license. Indeed, in light of the extensive evidence of SeaQuest's failure to comply with relevant state and local law, adding any new sites to the company's existing license would be arbitrary, capricious, an abuse of discretion, not in accordance with applicable law, and contrary to the purposes of the AWA. 5 U.S.C. § 706(2)(a).

Please exercise your discretion to terminate SeaQuest's license immediately, and ensure that any requests to add additional sites to this existing license are appropriately denied.

Thank you for your attention to this matter.

Very truly yours,



Michelle Sinnott
Counsel, Captive Animal Law Enforcement

[REDACTED]

Attachments

APPENDIX

SeaQuest's first location opened in December 2016 and the company quickly developed a documented history—across multiple jurisdictions—of ignoring and violating state and local laws pertaining to the transportation, ownership, neglect, and welfare of animals. *See* 9 C.F.R. § 2.11(a)(6). Because of this history of illegal conduct, the threshold requirements in 9 C.F.R. § 2.11 serve as an absolute bar to the approval of any additional sites to SeaQuest's existing AWA license. *See* USDA, National Environmental Policy Act Implementing Procedures, 83 Fed. Reg. 24003, 24008 (May 24, 2018) (citing 9 C.F.R. § 2.11 and acknowledging that “[t]he criteria for denial of an initial application are not discretionary”). The USDA may also use these same criteria to terminate SeaQuest's license. 9 C.F.R. § 2.12.

1. A SeaQuest Littleton Manager Has Been Charged with Cruelty to Animals in Colorado, and SeaQuest was Issued a Warning

In January, Colorado's Division of Parks and Wildlife (CPW) issued a summons to SeaQuest Littleton's Reptile, Bird, and Mammal Manager, Ashleigh Belfiore, charging her with one count of cruelty for animals for knowingly depriving Flash, a two-toed sloth, of veterinary care. Ex. D; *see also* 7 U.S.C. § 2139 (“the act, omission, or failure of any person acting for or employed by . . . an exhibitor. . . shall be deemed the act, omission, or failure of such. . . exhibitor”). Flash was burned on two separate occasions by a heat lamp in his enclosure. Ex. D. The first burn—which occurred on or before October 18, 2018—was apparently isolated to his nose, with “some associated swelling.” *Id.* The second burn—which occurred on or before November 8, 2018—was more severe:

[T]he second burn caused swelling of the sloth's entire face including around the eyes, the nose, the mouth and the lips. Multiple raw areas and redness were observed on the face with scabbing, sloughing of the skin, and a couple of the wounds were oozing. Staff stated that the sloth winced when it ate strawberries due to the discomfort from the burn. Remaining foods had to be cut smaller in order for the sloth to eat.

Id. After the second burn, Jefferson County Animal Control received an anonymous call about Flash's injuries. *Id.* When officers asked Ms. Belfiore about treatment, she lied and said that Flash had been seen by the attending veterinarian, who recommended a treatment of coconut oil and Neosporin. *Id.* In fact, the attending veterinarian—who is listed as a witness for the state in Belfiore's cruelty case—was not called about Flash's injuries, did not authorize treatment options, and did not know the full extent of Flash's injuries until speaking with CPW officials almost a month later. *Id.* SeaQuest's General Manager, David Slater, explained that Ms. Belfiore was primarily responsible for contacting the attending veterinarian and that he was “secondary if Belfiore was not there.” *Id.* While Ms. Belfiore was criminally charged with cruelty to animals for this incident, SeaQuest and Mr. Slater were both issued warnings under Colorado's cruelty to animals law, CO ST § 18-9-202(1)(a). *Id.* Ms. Belfiore is scheduled to face trial over these charges at the end of the month. Ex. E.

2. SeaQuest Violated Colorado Wildlife Laws Repeatedly, Resulting in a Two-Year License Suspension

In April, CPW [suspended](#) SeaQuest Littleton’s zoological parks license for two years following a series of state law and permit violations. The hearing officer’s suspension decision—written less than a year after SeaQuest opened—reflected the severity of SeaQuest’s violations: “The best interest of regulated wildlife and public safety is at the center of this suspension decision. SeaQuest has repeatedly ignored, or failed to report violations, that included human injuries and wildlife care issues.” Ex. B, Part II at ¶ 52.

Citations for illegal importation and possession of wildlife:

- In May 2018, before SeaQuest opened, CPW discovered that a SeaQuest manager was keeping illegally imported animals in the basement of her home. Ex. F. CPW cited and fined SeaQuest for unlawful importation and possession of a two-toed sloth, and issued a warning for unlawful importation and possession of two capybaras. *Id.*
- CPW issued another warning in August 2018 after the company again illegally imported animals—this time, a caiman and a wallaby. Ex. G. CPW’s report stated, “The requirement to obtain importation permits has been covered on several occasions with various [SeaQuest] staff. In addition, this requirement has been included in documentation sent by [CPW staff].” *Id.* SeaQuest’s staff was aware of Colorado’s requirements, yet ignored them.
- In August 2018, CPW also issued SeaQuest a warning for the unlawful possession of six wood ducks.¹ *Id.*

Citation for operating without a license:

- On May 21, 2018—following its discovery of an illegal sloth and capybaras at a SeaQuest manager’s home—CPW told SeaQuest that it was prohibited from moving the unlicensed animals to the Littleton facility before their license approval. Ex. F. Ten days later, officials found all three animals illegally located at SeaQuest. *Id.* CPW cited and fined SeaQuest for unlawful possession of a two-toed sloth, and issued a warning for unlawful possession of two capybaras. *Id.*

Citations for failing to report animal injuries, and animal deaths

- In August 2018, CPW issued SeaQuest a warning for failing to report the deaths of 250 trout. Ex. G, at “Warning D726456.”
- CPW also cited SeaQuest in August 2018 for failing to report the death of a kookaburra, who apparently died by “drowning in a water bowl.” Ex. G, at “Citation D726423.”
- In January 2019, CPW cited SeaQuest for failing to report injuries to a sloth named Flash, who was burned by a heat lamp on two different occasions, one of which was so severe that the sloth winced when attempting to eat. Ex. D; *see also* Ex. B at Episode 5. SeaQuest failed to notify a veterinarian about the injury and then lied to officials, saying that they did. Ex. D. This same incident also resulted in SeaQuest Littleton’s Bird,

¹ Although the USDA has not yet developed specific standards for birds, these warm-blooded animals are covered by the plain language of the AWA (*see* 7 U.S.C. § 2132(g); *see also* 9 C.F.R. § 1.1) and AWA regulations, including the general AWA standards set forth in subpart F, 9 C.F.R. §§ 3.125–142.

Reptile, and Mammal Manager (Ashleigh Belfiore) being charged with one count of cruelty to animals. *See supra* at Sec. 1.

Citations for failing to report human injuries:

- CPW records detail at least 41 human injuries caused by interactions with animals. Ex. H. For example, in June 2018, an employee was bitten on the arm by a sloth (*id.* at 3) and in September 2018, a wallaby grabbed a person’s arm and scratched an employee. *Id.* at 24-25.
- SeaQuest repeatedly failed to report human injuries as required by law. CPW issued SeaQuest a warning in August 2018 for five counts of failing to report human injuries and issued a citation a month later for two additional counts. Ex. G at “Warning D726456” (warning for five counts of failure to report); Ex. I (citation no. F120304, Sept. 27, 2018); *see also* Ex. B, Part 1 at ¶¶ 39-40 (citation for two counts of failure to report).

3. SeaQuest Littleton Opened to the Public Without the Appropriate Permit from the Colorado Department of Agriculture, Resulting in a Cease and Desist Order

On July 23, 2018, the Colorado Department of Agriculture (CDA) ordered SeaQuest to cease and desist operations after the company was denied a license but was found to have been operating since May 9 without one. Ex. J. CDA had denied SeaQuest’s request for temporary exemption from state licensing requirements while CDA processed the company’s license application. *Id.* at pp. 3-4. SeaQuest then failed to report the cease and desist order to CPW, as required by the company’s zoological parks license, resulting in another CPW citation and fine. Ex. K.

CDA opened an investigation into SeaQuest after [local news outlets reported](#) that the aquarium gave 80 parakeets to a teenage employee who stored them in his parents’ garage after CDA ordered the company to shut down its interactive aviary (following the cease and desist order). The birds were advertised for free on Facebook and the teenager and his mother handed out parakeets and cages from a vehicle in a Lowe’s parking lot. Ex. L. While CDA “made the decision to hold the facility responsible since they directed the employee to transfer the birds,” the agency determined that denying the facility a license and issuing a cease and desist “was severe enough” to address the issue. Ex. M.

4. SeaQuest Las Vegas’ Illegal Conduct Resulted in a Permit Revocation in Clark County, Nevada

In April 2019, Clark County Animal Control (CCAC) [revoked SeaQuest Las Vegas’ exotic wildlife permit](#) for possessing unpermitted animals, including illegally bred otters. Ex. N. SeaQuest not only ignored permit conditions and local law prohibiting them from breeding the otters, they tried to profit from it. A [hearing officer concluded](#) SeaQuest, “[i]nstead of remedying this violation . . . attempted to capitalize and profit from it...” and “...willfully tried to take advantage of the situation by marketing and attempting to exhibit the baby otters.” Ex. O, p. 3. SeaQuest’s record in Clark County demonstrates a concerning but familiar indifference to authority and legal restrictions intended to protect animals and the public.

Operating without a permit

- CCAC issued a warning letter to SeaQuest in April 2018 for housing regulated animals (otter and coati) without a permit. Ex. P.

Illegal possession and breeding of wildlife

- In March 2019, CCAC cited and fined SeaQuest \$2,000 for possessing unpermitted animals after the company bred two Asian small-clawed otters in violation of its captive wildlife permit. Ex. C.
- Even after CCAC notified SeaQuest of the permit violation, the company staged a Valentine’s Day media event to “introduce” the illegally held otter pups to the public—a brazen plan exemplifying SeaQuest’s pointed disregard for the law. Ex. O.
- SeaQuest also repeatedly ignored permit provisions limiting the animals it was authorized to possess and display. SeaQuest’s permit allowed exhibition and possession of two individually identified otters and three individually identified coatis. Ex. Q. However, when a permitted otter died, SeaQuest simply replaced the deceased otter with a new animal without notifying CCAC; SeaQuest did not have a permit for the new otter, yet exhibited her anyway. Ex. O, ¶ 2. SeaQuest also brought additional unpermitted coati to the Las Vegas facility, bringing the total to seven (four more than were permitted)—again without notifying CCAC. Ex. R at “3/1/19.”

Failure to provide appropriate animal care

- In reviewing the facts surrounding the illegal otter breeding (and upholding CCAC’s citation resulting from the incident) the hearing officer “question[ed] the knowledge and experience of [SeaQuest aquariums] as [the mother otter] was first identified as being pregnant only one week prior to giving birth.” Ex. O, p.3.
- CCAC cited SeaQuest in October 2018 for failure to restrain an animal properly after a capybara—who SeaQuest was transporting in a dog crate in the back of an open-bed truck—escaped and was found in a Target parking lot with multiple injuries. Ex. S.

While CCAC issued SeaQuest a new exotic animal permit, the permit imposes tighter restrictions, including a requirement that SeaQuest microchip permitted animals and that it provide CCAC with all veterinary records related to permitted animals. Ex. T.