

March 20, 2014

Robert M. Gibbens, D.V.M.
 Western Regional Director
 USDA/APHIS/AC

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

Re: Request for Investigation of The Garold Wayne Interactive Zoological Park

Dear Dr. Gibbens:

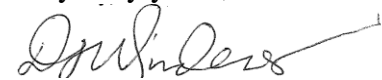
I am writing on behalf of my client, PETA, to request that the USDA investigate the apparently fatal neglect and starvation of three birds at The Garold Wayne Interactive Zoological Park (GW), operated by Joe Schreibvogel (license no. 73-C-0139).

Earlier this month, GW posted photographs on its Facebook page of two blue-and-yellow macaws and a Goffin's cockatoo lying dead inside of filthy cages. As detailed herein, the photographs and their captions strongly suggest that the birds were under the care of and exhibited by Schreibvogel at the time of their deaths. The condition of the cages and the birds indicates that the animals were likely suffering from neglect, trauma, stress, starvation, and dehydration before they died. The cages contain soiled and disintegrated newspapers that are covered with excrement, yet no trace of food is evident. The cockatoo apparently plucked the feathers from his chest before death, a sign of distress or disease. The accumulation of filth and the absence of food or water in the cages suggest that Schreibvogel's staff had abandoned the birds entirely.

These appalling photographs appear to depict numerous violations of the Animal Welfare Act (AWA), including failure to exhibit animals under conditions consistent with their good health and well-being; failure to provide adequate food, water, and sanitation; failure to employ adequately trained and supervised staff; and failure to provide animals with adequate veterinary care.

Given that Schreibvogel is already under multiple investigations by the USDA for failure to meet minimum standards of care—including in relation to mysterious animal deaths—it is critical that the USDA investigate this matter for additional AWA violations. Pursuant to 9 C.F.R. § 2.126, please investigate this matter, inspect all records pertaining to the birds who died, and hold Schreibvogel accountable for any and all AWA violations. Please inform me of the complaint number that the USDA assigns to this correspondence. Thank you for your attention to this important matter.

Very truly yours,



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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.)

APPENDIX

On March 5, 2014, GW posted photographs on its Facebook page of two blue-and-yellow macaws and one Goffin's cockatoo lying dead inside of cages. The cockatoo is missing nearly all the feathers that had been on her breast, and the cages are soiled with debris, excreta, feathers, and filth. The accompanying caption suggests that GW unsuccessfully attempted to press cruelty charges in Garvin, Okla., where GW is located. On the same date, Schreibvogel posted on his personal Facebook page that "the police let [the person] go that starved our birds." Hence, it appears that three birds under Schreibvogel's care were left to starve to death in their own filth.



Photograph of dead blue-and-yellow macaws posted on GW's Facebook page on March 5, 2014



Photograph of dead cockatoo posted on GW's Facebook page on March 5, 2014

The blue-and-yellow macaws and cockatoo depicted in the above photographs appear to have been under the care of Schreibvogel or an employee at the time of their deaths. The condition of the cages suggests that they were severely neglected before they died. The newspapers at the bottom of the cages appear to have been smashed down by decomposing feces, and the bowls in the macaw cage are turned over—likely by the birds in search of food and water. The birds appear not to have had access to food or water at the time of their deaths. Birds are messy eaters, yet there is no trace of food among the decomposing newspapers, suggesting that they likely picked every last bit of food off them in an attempt to stay alive. The cockatoo was apparently very stressed before death, having plucked the feathers from his chest. Visible on the right side of the cockatoo photo are old bird feces gummed onto the bars of the cockatoo cage. Although birds can be poisoned by drinking water that has been infected with *E. coli* or other bacteria, a poisoning accident does not appear to be likely from the state of the cages. The accumulation of filth and the absence of food and water suggest that the cages had not been cleaned for a long time and that GW staff had abandoned the birds.

The condition of the birds suggests that they were suffering from neglect, trauma, stress, starvation, and dehydration at the time of their deaths. Schreibvogel was apparently not exhibiting the birds "under conditions consistent with their good health and well-being," in apparent violation of 9 C.F.R. § 2.131(d)(1). The animals were apparently deprived of food that is "wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health," *id.* § 3.129(a), and "potable water ... provided as often as necessary for the health and comfort of the animal," *id.* § 3.130. The facility also apparently failed to remove excreta from the cages "as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and to reduce odors," in apparent violation of 9 C.F.R. § 3.131.

Schreibvogel was evidently not maintaining a program of adequate veterinary care for the birds under 9 C.F.R. § 2.40. AWA regulation 9 C.F.R. § 2.40(b)(3) requires "[d]aily observation of all animals to assess their health and well-being," as well as that there be "a mechanism of direct and frequent communication" between the facility and the attending veterinarian "so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the ... veterinarian." Had the macaws and cockatoo been observed daily, Schreibvogel ought to have been able to prevent the apparently fatal neglect of the birds by providing them with food, water, sanitation, and veterinary care for disease.

Finally, 9 C.F.R. § 3.132, mandates that licensees utilize "[a] sufficient number of adequately trained employees ... to maintain the professionally acceptable level of husbandry practices set forth in this subpart. Such practices shall be under a supervisor who has a background in animal care." These photographs strongly suggest that GW does not have a sufficient number of trained, adequately supervised employees to handle and care for the animals. Adequately trained and supervised employees would not allow birds to starve to death in filthy, unkempt cages. Moreover, as established by 7 U.S.C. § 2139, any "act, omission, or failure of any person acting for or employed by ... an exhibitor ... within the scope of his employment or office, shall be deemed the act, omission, or failure of such ... exhibitor ... as well as of such person." Hence, even if the USDA determines that an employee's acts or omissions violated the AWA, Schreibvogel is still accountable for the violations under the act.

Although the USDA has not yet developed specific standards for birds, these warm-blooded animals, when used for exhibition, are covered by the plain language of the AWA and the Subpart F regulations as well as the general handling requirements. *See* 7 U.S.C. § 2132(g); 9 C.F.R. § 1.1; 9

C.F.R. Part 3, Subpart F; 9 C.F.R. § 2.131. Moreover, USDA guidance documents specifically authorize the agency to inspect nonregulated animals if "there is potential for a negative effect on the health or well-being of the regulated animal(s)." USDA, *Animal Welfare Inspection Guide* 3-33 (2013). Evidence of severe neglect, animal suffering, and the absence of adequately trained and supervised employees unequivocally demonstrates a potential threat to the health and well-being of the regulated animals at the facility—particularly given its history—and it is therefore appropriate for the USDA to take all appropriate enforcement action.