

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:)
)
)
 Summer Wind Farm Sanctuary,)
 a Michigan Corporation,) Docket No. 16-0036
)
 Respondent) Complaint

There is reason to believe that the respondent named herein violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) ("Act"), and the regulations and standards (9 C.F.R. § 1.1 et seq.) ("Regulations"). Therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS") pursuant to the rules of practice applicable to this proceeding (7 C.F.R. §§ 1.130-.151) ("Rules of Practice") issues this complaint alleging the following:

I

A. The Respondent Summer Wind Farm Sanctuary is a corporation organized under the laws of the State of Michigan, with its principal place of business located at 6490 Mowerson Road, Brown City, Michigan 48416.

B. The registered agent for service of process on the Respondent is Charles A. Vanneste. Mr. Vanneste's address address is 6490 Mowerson Road, Brown City, Michigan 48416.

II

A. The respondent, at all times material herein was operating as an exhibitor as defined in the Act and the regulations.

B. When the respondent became licensed and annually thereafter, it received copies of the Act and the regulations and standards issued thereunder and agreed in writing to comply with them.

III

On November 6, 2012 APHIS attempted to inspect respondent's premises but was denied access by the respondent in willful violation of 9 C.F.R. § 2.126.

IV

On January 15, 2013 APHIS attempted to inspect respondent's premises but was denied access by the respondent in willful violation of 9 C.F.R. § 2.126.

V

On February 4, 2013, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Supplies of food and bedding were not stored in the facility with adequate protection against deterioration,

molding, or contamination by vermin and refrigeration for supplies of perishable food (9 C.F.R 3.125(c)); and

2. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned was not provided for all animals kept outdoors to protect the animals and to prevent discomfort to such animals (9 C.F.R. § 3.127(b)).

VI

On March 11, 2013 APHIS attempted to inspect respondent's premises but was denied access by the respondent in willful violation of 9 C.F.R. § 2.126.

VII

On April 11, 2013, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified since supplies of food and bedding were not stored in the facility with adequate protection against deterioration, molding, or contamination by vermin and refrigeration for supplies of perishable food (9 C.F.R 3.125(c)).

VIII

On June 25, 2013 APHIS attempted to inspect respondent's premises but was denied access by the respondent in willful violation of 9 C.F.R. § 2.126.

IX

A. On August 5, 2013, APHIS inspected respondent's premises and found that the respondent failed to establish and maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b)(2) of the regulations (9 C.F.R. § 2.40(b)(2)).

B. On August 5, 2013, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Supplies of food and bedding were not stored in the facility with adequate protection against deterioration, molding, or contamination by vermin and refrigeration for supplies of perishable food (9 C.F.R. § 3.125(c));

2. Potable water was not accessible to the animals at all times and it was not provided as often as necessary for the health and comfort of the animals (9 C.F.R. § 3.130);

3. Excreta was not removed from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and to reduce odors (9 C.F.R. § 3.131(a));

4. The outdoor housing facilities for animals were not structurally sound and maintained in good repair to protect the

animals from injury and to contain the animals (9 C.F.R. § 3.125(a)).

X

From August 5, 2013 through January 29, 2014, APHIS inspected respondent's premises and found that the respondent failed to establish and maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b)(2) of the regulations (9 C.F.R. § 2.40(b)(2)).

XI

On January 9, 2014, APHIS inspected respondent's facility and found the following willful violation of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards because potable water was not continually available to cats and potable water was not offered as often as necessary to ensure their health and well-being (9 C.F.R. § 3.10).

XII

On January 29, 2014, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards because natural or artificial shelter appropriate to the local climatic conditions for the species concerned was not provided for all animals kept outdoors to protect the animals and to prevent discomfort to such animals (9 C.F.R. § 3.127(b)).

XIII

A. On March 4, 2014, APHIS inspected respondent's premises and found that the respondent failed to establish and maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b) of the regulations (9 C.F.R. § 2.40(b)).

B. On March 4, 2014, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Potable water was not provided in sufficient quantity to every nonhuman primate housed at the facility (9 C.F.R. § 3.83);

2. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned was not provided for all animals kept outdoors to protect the animals and to prevent discomfort to such animals (9 C.F.R. § 3.127(b));

3. The food provided to animals was not wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health (9 C.F.R. § 3.129(a));

4. Potable water was not accessible to the animals at all times and it was not provided as often as necessary for the health and comfort of the animals (9 C.F.R. § 3.130);

5. A sufficient number of adequately trained employees under a supervisor who has a background in animal care was not utilized to maintain the professionally acceptable level of husbandry practices set forth in the regulations (9 C.F.R. § 3.132);

6. The Respondent failed to have a perimeter fence that was constructed so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it or under it and having contact with the animals in the facility (9 C.F.R. § 3.127(d)); and

7. Animals housed in the same primary enclosure were not compatible and animals were housed near animals that interfered with their health or caused them discomfort (9 C.F.R. § 3.133).

XIV

On March 5, 2014, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned was not provided

for all animals kept outdoors to protect the animals and to prevent discomfort to such animals (9 C.F.R. § 3.127(b)); and

2. Potable water was not accessible to the animals at all times and it was not provided as often as necessary for the health and comfort of the animals (9 C.F.R. § 3.130).

XV

A. On March 18, 2014, APHIS inspected respondent's premises and found that the respondent failed to establish and maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b) of the regulations (9 C.F.R. § 2.40(b)).

B. On March 18, 2014, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards since potable water was not accessible to the animals at all times and it was not provided as often as necessary for the health and comfort of the animals (9 C.F.R. § 3.130).

XVI

On May 8, 2014, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The Respondent failed to have a perimeter fence that was constructed so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it or under it and having contact with the animals in the facility (9 C.F.R. § 3.127(d));

2. Potable water was not accessible to the animals at all times and it was not provided as often as necessary for the health and comfort of the animals (9 C.F.R. § 3.130);

3. Excreta was not removed from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and to reduce odors (9 C.F.R. § 3.131(a)); and

4. A sufficient number of adequately trained employees under a supervisor who has a background in animal care was not utilized to maintain the professionally acceptable level of husbandry practices set forth in the regulations (9 C.F.R. § 3.132).

XVII

A. On July 1, 2014, APHIS inspected respondent's premises and found that the respondent failed to establish and maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b) of the regulations (9 C.F.R. § 2.40(b)).

B. On July 1, 2014, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The Respondent failed to have a perimeter fence that was constructed so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it or under it and having contact with the animals in the facility (9 C.F.R. § 3.127(d));

2. The food provided to animals was not wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health (9 C.F.R. § 3.129(a));

3. Excreta was not removed from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and to reduce odors (9 C.F.R. § 3.131(a)); and

4. A sufficient number of adequately trained employees under a supervisor who has a background in animal care was not utilized to maintain the professionally acceptable level of husbandry practices set forth in the regulations (9 C.F.R. § 3.132).

XVIII

A. On August 13, 2014, APHIS inspected respondent's premises and found that the respondent failed to establish and maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b) of the regulations (9 C.F.R. § 2.40(b)).

B. On August 13, 2014, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The outdoor housing facilities for animals was not structurally sound and maintained in good repair to protect the animals from injury and to contain the animals (9 C.F.R. § 3.125(a)); and

2. A sufficient number of adequately trained employees under a supervisor who has a background in animal care was not utilized to maintain the professionally acceptable level of husbandry practices set forth in the regulations (9 C.F.R. § 3.132).

XIX

A. On September 9, 2014, APHIS inspected respondent's premises and found the respondent failed to have a written

program of veterinary care that covered all of the animals at the facility in willful violation of section 2.40(a)(1).

B. On September 9, 2014, APHIS inspected respondent's premises and found that the respondent failed to establish and maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b) of the regulations (9 C.F.R. § 2.40(b)).

C. On September 9, 2014, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Supplies of food and bedding were not stored in the facility with adequate protection against deterioration, molding, or contamination by vermin and refrigeration for supplies of perishable food (9 C.F.R. § 3.125(c));
2. Food receptacles were not kept clean and sanitary at all times (9 C.F.R. § 3.129(b));
3. Potable water was not accessible to the animals at all times and it was not provided as often as necessary for the health and comfort of the animals (9 C.F.R. § 3.130);
4. Excreta was not removed from primary enclosures as often as necessary to prevent contamination of the animals

contained therein and to minimize disease hazards and to reduce odors (9 C.F.R. § 3.131(a));

5. A sufficient number of adequately trained employees under a supervisor who has a background in animal care was not utilized to maintain the professionally acceptable level of husbandry practices set forth in the regulations (9 C.F.R. § 3.132).

XX

A. On October 2, 2014, APHIS inspected respondent's premises and found the respondent failed to have a written program of veterinary care that covered all of the animals at the facility in willful violation of section 2.40(a)(1).

B. On October 2, 2014, APHIS inspected respondent's premises and found that the respondent failed to establish and maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b) of the regulations (9 C.F.R. § 2.40(b)).

C. On October 2, 2014, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Potable water was not accessible to the animals at all times and it was not provided as often as necessary for the health and comfort of the animals (9 C.F.R. § 3.130); and

2. A sufficient number of adequately trained employees under a supervisor who has a background in animal care was not utilized to maintain the professionally acceptable level of husbandry practices set forth in the regulations (9 C.F.R. § 3.132).

XXI

A. On November 4, 2014, APHIS inspected respondent's premises and found the respondent failed to have a written program of veterinary care that covered all of the animals at the facility in willful violation of section 2.40(a)(1).

B. On November 4, 2014, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Potable water was not accessible to the animals at all times and it was not provided as often as necessary for the health and comfort of the animal (9 C.F.R. § 3.130);

2. A sufficient number of adequately trained employees under a supervisor who has a background in animal care was not utilized to maintain the professionally acceptable level of

husbandry practices set forth in the regulations (9 C.F.R. § 3.132); and

3. The Respondent failed to have a perimeter fence that was constructed so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it or under it and having contact with the animals in the facility (9 C.F.R. § 3.127(d)).

XXII

A. On December 16, 2014, APHIS inspected respondent's premises and found that the respondent failed to establish and maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b) of the regulations (9 C.F.R. § 2.40(b)).

B. On December 16, 2014, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Food receptacles were not kept clean and sanitary at all times (9 C.F.R. § 3.129(b)); and

2. A sufficient number of adequately trained employees under a supervisor who has a background in animal care was not utilized to maintain the professionally acceptable level of

husbandry practices set forth in the regulations (9 C.F.R. § 3.132).

XXIII

A. On February 10, 2015, APHIS inspected respondent's premises and found that the respondent failed to establish and maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b) of the regulations (9 C.F.R. § 2.40(b)).

B. On February 10, 2015, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned was not provided for all animals kept outdoors to protect the animals and to prevent discomfort to such animals (9 C.F.R. § 3.127(b)); and

2. A sufficient number of adequately trained employees under a supervisor who has a background in animal care was not utilized to maintain the professionally acceptable level of husbandry practices set forth in the regulations (9 C.F.R. § 3.132).

XXIV

On February 12, 2015, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards and found that natural or artificial shelter appropriate to the local climatic conditions for the species concerned was not provided for all animals kept outdoors to protect the animals and to prevent discomfort to such animals (9 C.F.R. § 3.127(b)).

XXV

A. On March 24, 2015, APHIS inspected respondent's premises and found that the respondent failed to establish and maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b) of the regulations (9 C.F.R. § 2.40(b)).

B. On March 24, 2015, APHIS inspected respondent's facility and found the following willful violation of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards because the respondent failed to have a sufficient number of adequately trained employees under a supervisor who has a background in animal care to maintain the professionally acceptable level of husbandry practices set forth in the regulations (9 C.F.R. § 3.132).

XXVI

A. On May 5, 2015, APHIS inspected respondent's premises and found that the respondent failed to establish and maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b) of the regulations (9 C.F.R. § 2.40(b)).

B. On May 5, 2015, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards and found the respondent failed to have a sufficient number of adequately trained employees under a supervisor who has a background in animal care to maintain the professionally acceptable level of husbandry practices set forth in the regulations (9 C.F.R. § 3.132).

XXVII

On June 30, 2015 APHIS attempted to inspect respondent's premises but was denied access by the respondent in willful violation of 9 C.F.R. § 2.126.

XXVIII

On July 22, 2015, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Excreta and food waste was not removed from primary enclosures daily, and from under primary enclosures as often as necessary to prevent an excessive accumulation of feces and food waste, to prevent soiling of the dogs or cats contained in the primary enclosures, and to reduce disease hazards, insects, pests and odors (9 C.F.R. § 3.11);

2. Potable water was not provided in sufficient quantity to every nonhuman primate housed at the facility (9 C.F.R. § 3.83);

3. The outdoor housing facilities for animals were not structurally sound and maintained in good repair to protect the animals from injury and to contain the animals (9 C.F.R. § 3.125(a));

4. Supplies of food and bedding were not stored in the facility with adequate protection against deterioration, molding, or contamination by vermin and refrigeration for supplies of perishable food (9 C.F.R. § 3.125(c));

5. Provision were not made for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris (9 C.F.R. § 3.125(d));

6. The food provided to animals was not wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health (9 C.F.R. § 3.129(a));

7. Potable water was not accessible to the animals at all times and it was not provided as often as necessary for the health and comfort of the animals (9 C.F.R. § 3.130);

8. Excreta was not removed from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and to reduce odors (9 C.F.R. § 3.131(a));

9. Premises (buildings and grounds) were not kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in the regulations and standards (9 C.F.R. § 3.131(c));

10. A safe and effective program for the control of insects, ectoparasites, and avian and mammalian pests was not established and maintained (9 C.F.R. § 3.131(d)); and

11. A sufficient number of adequately trained employees under a supervisor who has a background in animal care was not utilized to maintain the professionally acceptable level of husbandry practices set forth in the regulations (9 C.F.R. § 3.132).

XXIX

A. On October 6, 2015, APHIS inspected respondent's premises and found that the respondent failed to establish and maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine,

in willful violation of section 2.40(b)(2) of the regulations (9 C.F.R. § 2.40(b)(2)).

B. On October 6, 2015, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Hard surfaces with which nonhuman primates come in contact were not spot-cleaned daily and sanitized in accordance with the regulations and standards (9 C.F.R. § 3.75(c)(3));

2. Potable water was not provided in sufficient quantity to every nonhuman primate housed at the facility (9 C.F.R. § 3.83);

3. Supplies of food and bedding were not stored in the facility with adequate protection against deterioration, molding, or contamination by vermin and refrigeration (9 C.F.R. § 3.125(c));

4. Provisions were not made for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris (9 C.F.R. § 3.125(d));

5. A suitable method was not provided to rapidly eliminate excess water (9 C.F.R. § 3.127 (c));

6. Food receptacles were not kept clean and sanitary at all times (9 C.F.R. § 3.129(b));

7. Potable water was not accessible to the animals at all times and it was not provided as often as necessary for the health and comfort of the animals (9 C.F.R. § 3.130);

8. Excreta was not removed from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and to reduce odors (9 C.F.R. § 3.131(a));

9. Premises (buildings and grounds) were not kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in the regulations and standards (9 C.F.R. § 3.131(c));

10. A safe and effective program for the control of insects, ectoparasites, and avian and mammalian pests was not established and maintained (9 C.F.R. § 3.131(d)); and

11. A sufficient number of adequately trained employees under a supervisor who has a background in animal care was not utilized to maintain the professionally acceptable level of husbandry practices set forth in the regulations (9 C.F.R. § 3.132).

By reason of the facts alleged in the above listed paragraphs of this complaint, there is reason to believe that the Respondent violated the Act and the specified regulations promulgated thereunder.

WHEREFORE, this complaint shall be served upon the Respondent for the purpose of determining whether the Respondent has willfully violated the Act and the regulations and the standards. In accordance with the rules of practice, the Respondent shall have twenty (20) days after service of this complaint in which to file an Answer with the Hearing Clerk, Room 1031- South Building, United States Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC 20250-9200. The failure to file an answer within the prescribed time shall constitute an admission of the allegations in the complaint. The failure to deny or otherwise respond to an allegation in the complaint shall constitute an admission of that allegation. The failure to file an answer, or the admission by the answer of all the material allegations of fact contained in the complaint, shall constitute a waiver of hearing.

The Animal and Plant Health Inspection Service requests:

1. That unless the Respondent fails to file an answer within the prescribed time, files an answer admitting all the material allegations of this complaint, or enters into a consent decision, this proceeding be set for oral hearing in accordance with the rules of practice; and

2. That such order or orders be issued as are authorized by the Act and warranted under the circumstances including an order:

(a) Requiring the respondent to cease and desist from violating the Act and the regulations and standards issued thereunder;

(b) Assessing civil penalties against the respondent in accordance with section 19 of the Act (7 U.S.C. § 2149); and

(c) Suspending or revoking the respondent's license under the Act.

Done at Washington, D.C.
this 6th day of Jan 2016

Kevin Shea

Kevin Shea

Administrator

Animal and Plant Health Inspection
Service

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