

August 12, 1999
via Federal Express
W. Ron DeHaven, D.V.M.
Acting Deputy Administrator
Animal Care
U.S. Department of Agriculture
Unit 97, 4700 River Road
Riverdale, MD 20737

Dear Dr. DeHaven:

We are writing to file a formal complaint against Nielsen Farms, a USDA registered dealer in Holton, Kansas (USDA #48-B-0164). From April 29, 1999, to June 26, 1999, our investigator was employed as a working hand at Nielsen Farms.

While the enclosed complaint details a variety of alleged violations affecting specific animals depicted in the videotapes, there are violations that impact the entire colony and would represent hundreds of separate violations if applied individually to the numerous animals housed at this facility. Therefore, we would like to list some of the violations affecting the entire population of animals at Nielsen Farms. They are as follows:

§ 2.40 Attending veterinarian and adequate veterinary care

This section of the Act in part, requires dealers to employ an attending veterinarian, or part-time veterinarian who would be required to implement a written program of veterinary care and conduct scheduled visits to the facility; use appropriate methods to prevent, control, diagnose, and treat diseases and injuries; establish a mechanism of direct and frequent communication so that timely and accurate information on problems of health, behavior, and well-being is conveyed to the attending veterinarian; and implement adequate pre-procedural and post-procedural care in accordance with established veterinary medical and nursing practices.

Not once during the two months our investigator was employed by the Nielsens did a veterinarian or consultant visit the farm to review the health and well being of the more than 500 dogs housed at this facility. Furthermore, despite graphic evidence as well as verbal reports of dogs afflicted with severe skin ailments, eye infections, wounds, and stereotypical behavior, the Nielsens either ignored these conditions or provided the animals only cursory attention when these conditions required either aggressive, immediate treatment or a long-term solution to more chronic problems. As a result, many of these animals suffered days, weeks, and even months.

Only occasionally would severely injured breeding dogs or puppies being readied for sale be taken to the veterinarian for treatment. In addition, Nielsen Farm employees told our investigator that a number of dogs reportedly found dead in their cages were simply thrown away without further investigation or concern. The consistent failure on the part of the Nielsens to provide adequate veterinary care as required by the AWA, is documented by a June 9, 1997, APHIS inspection report that states, "Last on site visit by the vet was on 11-14-95."

On May 12, 1999, while our investigator was employed at Nielsen Farms, USDA inspector Robert Bacon inspected the facility. A prime example of his unwillingness or inability to accurately assess the condition of the animals or the facility is best exemplified by his inspection report in which he notes, "4 standard poodles that were recently clipped were scratching on the inspection. Correct by 5-26-99." In reality, the poodles were suffering from mange so severe and prolonged that the dogs are actually missing patches of fur. Needless to say these weren't the only animals he "misdiagnosed" or overlooked.

There is ample evidence that Bacon's failure to ensure the safety and well being of the animals raised and sold at Nielsen Farms is due to more than just shoddy investigative work. Not only is Bill Nielsen a 22 year veteran employee of the USDA, but he was once Bacon's supervisor. Equally disturbing is the fact that Bacon asked for and received at least one date with a Nielsen Farms employee named Julie. We have included evidence of this apparent conflict of interest and ask that Bacon, who has put his social life before the welfare of the animals, be released from his duties as a USDA inspector.

§ 3.1 Housing facilities, general

This section of the Act in part, requires that "Disposal and drainage systems must minimize vermin and pest infestation, insects, odors, and disease hazards," and that "standing puddles of water in animal enclosures must be drained or mopped up so that animals stay dry."

Our investigator found that the troughs in the sundowners, designed to collect and move waste to a central drain, give off an "incredibly rotten smell" due to the fact that hair and feces is simply allowed to collect there. He also documented standing puddles of rainwater that collect in the runs, resulting in both the dogs and pens becoming soaked and muddied.

§ 3.3 Sheltered housing facilities

This section of the Act in part, requires that, "The sheltered part of sheltered housing facilities for dogs and cats must be sufficiently heated and cooled when necessary to protect the dogs and cats from temperature extremes and to provide for their health and well-being." It also requires that "the enclosed or sheltered part of sheltered housing facility must be sufficiently ventilated when dogs or cats are present to provide for their health and well-being, and to minimize odors, drafts, ammonia levels, and moisture condensation."

Despite temperatures in the 90's in early June, our investigator found that many of the sheltered housing facilities have air conditioning systems and fans that are not working, not being used, or are insufficient. As a result, these facilities become hot, stuffy, and odorous and as a result, certain breeds of dog suffer terribly.

§ 3.4 Outdoor housing facilities

This section of the Act in part, requires that dogs and cats must be provided "protection from the direct rays of the sun and the direct effect of wind, rain, or snow."

Our investigator found numerous dogs placed in outdoor housing facilities that failed to protect them from the effect of rain due to disrepair and/or design, and whose only protection from the sun are pieces of carpet or boards placed haphazardly on top of their cages. He also documented dogs placed in temporary holding pens throughout the day without any protection from the sun.

§ 3.6 Primary enclosures

This section of the Act in part, requires enclosures to, "Provide sufficient space to allow each dog and cat to turn about freely, to stand, sit, and lie in a comfortable, normal position, and to walk in a normal manner." According to the Act, the minimum amount of floor space should be calculated as follows: "Find the mathematical square of the sum of the length of dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; then divide the product by 144. The calculation is: $(\text{length of dog in inches} + 6) \times (\text{length of dog in inches} + 6) = \text{required floor space in square inches}$. Required floor space in inches/144 = required floor space in square feet."

It is difficult to imagine a USDA inspector taking the time to actually confirm the adequacy of cage size given the ridiculous calculations set forth in the Act. However, our investigator documented numerous cages that appear to be overcrowded with frenzied and neurotic dogs stepping, spinning, and pacing on top of each other. As a result, there is rarely the opportunity for the animals to "stand, sit, and lie in a comfortable, normal position." In addition, dogs are constantly being moved to cages of varying sizes with no consideration given to the USDA's floor space calculations.

§ 3.8 Exercise for dogs

This section of the Act in part, requires that, "Dealers, exhibitors, and research facilities must develop, document, and follow an appropriate plan to provide dogs with the opportunity for exercise. In addition, the plan must be approved by the attending veterinarian. The plan must include written standard procedures to be followed in providing the opportunity for exercise."

If an exercise plan and/or an attending veterinarian exist, our investigator has never seen them. In addition, he was never asked to provide any of the animals with the opportunity for exercise and witnessed many animals whose only opportunity for "exercise" appeared to be the incessant spinning, circling, and pacing that are the result of their intense confinement.

§ 3.11 Cleaning, sanitization, housekeeping, and pest control

This section of the Act in part, requires that, "excreta and food waste must be 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."

During the course of his employment, our investigator cited numerous instances in which mounds of spoiled food, feces, and pools of urine were allowed to collect under and around cages containing animals, often resulting in a proliferation of flies, maggots, and an

overwhelming stench. These conditions were also noted around cages housing animals with open wounds and skin ailments, thereby compounding the suffering of these animals as well as increasing the likelihood of disease. Our investigator also reported the continual appearance of algae in the animals' water receptacles.

I have enclosed a copy of our complaint as well as videotaped evidence supporting many of the allegations contained in the report. There are 49 separate videotapes each of which have had a label affixed detailing their length and the date on which they were recorded. The videotapes have also been time-coded to assist the USDA in locating the alleged violations as described in the complaint. As you will see, a number of the dogs' ailments have been documented not only on the day in which they were first discovered, but in the following days as well. There are however, instances in which the investigator noted a violation in his log notes, but was unable to obtain corroborating videotaped evidence on that particular day or sometimes at all.

We will send the original Hi8 videotapes if you should need them, and our investigator is of course accessible to the agency during the course of its investigation. We thank you for your time and look forward to the results of your inquiry into this serious matter. If you have any questions I can be reached at (757) 622-7382, extension 344, or by fax at (757) 628-0781.

Sincerely,

Peter Wood

Research Associate