

November 5, 2021

Dr. Robert Gibbens
Director of Animal Welfare Operations
USDA-APHIS-Animal Care

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

Dear. Dr. Gibbens:

I'm writing to follow up on PETA's September 30, 2021, letter requesting that the U.S. Department of Agriculture (USDA) investigate and terminate the Animal Welfare Act (AWA) license of traveling tiger exhibitors Judit and Juergen Nerger (license no. 33-C-0452).

PETA has since obtained a report from the Florida Fish and Wildlife Conservation Commission (FWC) confirming that the Nergers had been unlawfully keeping tigers in travel cages at the facility of another USDA-licensed animal exhibitor in Sarasota, Florida.

As discussed in the attached appendix, the new FWC report indicates that the Nergers are not authorized to possess tigers in Florida, and that the agency arranged for all six of their tigers to be transferred to another facility as a result of their business' failure and inability to properly care for the animals. The Nergers' apparent failure to comply with AWA regulations—including by keeping tigers in small travel cages that do not comply with the AWA, operating in violation of state law, providing false or fraudulent statements or records to a government agency, and failing to notify the USDA of their move from Illinois to Florida—means that they are no longer are eligible for a USDA license.

In light of the new information obtained from the FWC, PETA respectfully reiterates its request that the USDA investigate the Nergers' apparent violations of the AWA and its regulations and initiate license termination proceedings pursuant to 9 C.F.R. § 2.12.

Please inform me of the complaint number assigned to this correspondence. Thank you for your attention to this important matter.

Very truly yours,



Jonathan Morris
Counsel, Captive Animal Law Enforcement

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Appendix

As was detailed in PETA’s September 30 complaint, the Nergers—who were licensed to hold tigers in Richmond, Illinois, at a property formerly owned by the defunct Hawthorn Corporation—had been using Big Cat Habitat and Gulf Coast Sanctuary (Big Cat Habitat) (license no. 58-C-1030) in Sarasota, Florida, as their winter quarters and primary site, possibly beginning as early as 2016. Ex. 1, PETA Complaint; Ex. 2, USDA Itineraries for Nerger’s Tigers. While at Big Cat Habitat, the Nergers used small transport cages as the tigers’ permanent housing, which fails to meet both USDA and FWC minimum space requirements. 9 C.F.R. § 3.128; Ex. 3, FWC Report at 2; Ex. 4, USDA Citation of Adam Burck (Aug. 24, 2021). The Nergers submitted several captive wildlife applications to the FWC between 2018 and 2020 indicating that they maintain the cats in Illinois, concealing from the state agency the fact that the cats were actually being kept in Florida. Ex. 5, Nerger FWC Permit Materials at 3, 5, 9, 12, 13, 17, 26, 27, 29, 33, 36. They similarly failed to notify the USDA of their change in operations and obtain a new license before or after moving the big cats from Illinois to Florida.

The FWC has now determined that the Nergers did not have a valid state license to possess the tigers in Florida and ultimately abandoned the tigers at Big Cat Habitat, which acknowledged that it was also incapable of properly caring for the animals. On September 27, 2021, an FWC officer conducted a routine inspection at Big Cat Habitat. Ex. 3, FWC Report at 2. Clayton Rosaire-Mowrey, who owns and operates Big Cat Habitat with Kay Rosaire-Mowrey, told the FWC officer that “he had a situation involving some tigers that were about to be abandoned.” *Id.* According to the FWC report, the Nergers’ six tigers were kept on Big Cat Habitat’s property and Juergen Nerger told Mowrey “that he intended to leave the country and leave his cats behind. Mr. Nerger had already left and stated that he would come back to better explain his departure.” *Id.* While at Big Cat Habitat, the tigers were kept in travel cages measuring “approximately 7.5’ x 7.5’ in area[.]” which is a violation of FWC regulations, according to the report. *See id.* (including photographs and explaining that “this arrangement does not meet the size requirements for permanent caging”).¹ Using travel cages as permanent housing for big cats also violates AWA regulations. 9 C.F.R. § 3.128; Ex. 4, USDA Citation of Burck (Aug. 24, 2021).

Noting that the Nergers were not authorized to possess tigers in Florida, the FWC arranged for Juergen Nerger to relinquish the tigers to the state. Ex. 3, FWC Report at 3. On September 29, the animals were sent to Tiger Haven, an unlicensed facility in Tennessee, where earlier this year an 18-year-old woman nearly lost her arm during [a tiger attack](#) that occurred when she entered the animal’s cage. *Id.*

AWA regulations also require licensees to provide the USDA with 90 days’ notice and obtain a new license before any change in ownership, location, activities, and number or type of animals. 9 C.F.R. § 2.1(b)(1). And the regulations permit the USDA to terminate a license “at any time for any reason that a license application may be denied pursuant to [9 C.F.R.] § 2.11” *Id.* § 2.12. A license application will not be issued to anyone who, inter alia:

¹ The FWC report noted that, at the time of the inspection, “one of the tigers was in permanent caging provided by Big Cat Habitat.” Ex. 3, FWC Report at 2.

- Fails to demonstrate that their locations and facilities comply with the AWA;
- Is or would be operating in violation of federal, state, or local laws;
- Has made any false or fraudulent statements or provided any false or fraudulent records to the USDA or other government agencies; or
- Is otherwise not in compliance with the AWA or any of its regulations or standards.

Id. §§ 2.3(a), 2.11(a)(1), (2), (6), (7).

The new information obtained by PETA appears to provide several grounds to terminate the Nerger’s AWA license:

- Until the FWC facilitated the six tigers’ transfer, the Nergers had been keeping at least five of the six big cats in travel cages at Big Cat Habitat, which does not comply with the space requirements set forth in 9 C.F.R. § 3.128. *See e.g.*, Ex. 4, USDA Citation of Adam Burck (Aug. 24, 2021). There is no indication that the Nergers currently possess an appropriate facility for tigers or have the capacity to do so. *See* Ex. 3, FWC Report at 3 (indicating that the Nergers “could not continue [their business]” and “that [Nerger] intended to leave the country and leave his cats behind”). The Nergers’ inability to demonstrate that their locations and facilities comply with the AWA provides grounds for the revocation of their license pursuant to 9 C.F.R. §§ 2.12, 2.11(a)(1), and 2.3(a).
- The FWC report makes clear that the Nergers’ out-of-state FWC license expired five days before the agency’s inspection of Big Cat Habitat and that “Mr. Nerger was currently not authorized to possess class 1 animals in Florida due to failure to provide proof of the required bond.” Ex. 3, FWC Report at 2–3. This means that the Nergers’ possession of tigers—class I wildlife under Florida law—violated state law, providing the USDA with grounds to terminate their USDA license under 9 C.F.R. §§ 2.12 and 2.11(d)(6), which allow for termination where a licensee “[i]s or would be operating in violation or circumvention of any Federal, *State*, or local laws” (emphasis added).
- The Nergers submitted several captive wildlife permit applications to the FWC between 2018 and 2020 indicating that they maintained the tigers in Illinois, apparently attempting to conceal the fact that the tigers were actually being housed in Florida. Ex. 5, Nerger FWC Permit Materials at 3, 5, 9, 12, 13, 17, 26, 27, 29, 33, 36. Because the Nergers submitted these false or fraudulent records to the FWC, a government agency, their license appears to also be subject to termination pursuant to 9 C.F.R. §§ 2.12 and 2.11(7), which allow for license termination where a licensee “[h]as made any false or fraudulent statements or provided any false or fraudulent records to the Department *or other government agencies*” (emphasis added).
- In addition to their failure to comply with the AWA’s space requirements, the Nergers also failed to notify the USDA within 90 days’ of and obtain a new license before any change in ownership, location, activities, and number or type of animals. Specifically, itineraries and certificates of veterinary inspections (CVI) obtained by PETA appear to show that the Nergers were using Big Cat Habitat as their winter quarters and primary site for several years—possibly as early as 2016—without notifying the USDA. Ex. 2, USDA Itineraries for Nerger’s Tigers at 1; Ex. 6, Compilation of CVIs for Nerger’s Tigers. This also provides the USDA with grounds to terminate the Nerger’s AWA license, pursuant to 9 C.F.R. §§ 2.12, 2.11(a)(1), and 2.1(b)(1), which allow for termination where a licensee

fails to notify the USDA within “no fewer than 90 days and obtain a new license before any change in the name, address, substantial control or ownership of his business or operation, locations, activities, and number or type of animals” from those that their current AWA license authorizes.

Accordingly, PETA respectfully reiterates its September 30, 2021, request that the USDA investigate and terminate the AWA license of Judit and Juergen Nerger (license no. 33-C-0452).