

February 1, 2022

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

Via e-mail

Dear Dr. Gibbens:

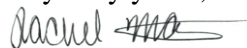
I'm writing on behalf of PETA to request that the U.S. Department of Agriculture (USDA) take enforcement action against Carson & Barnes Circus (license no. 73-C-0001) and related unlicensed exhibitors Miller Equipment Company ("Miller"), Oklahoma Awesome Adventures, and Endangered Ark Foundation ("Endangered Ark") for peddling dangerous elephant encounters that appear to violate the Animal Welfare Act (AWA).

According to [court records](#) obtained by PETA, on March 28, 2021, a woman visiting Endangered Ark with her family was "attacked without provocation by an adult elephant" while participating in an "elephant experience" booked through Oklahoma Awesome Adventures.¹ The guest sustained unspecified "serious and life-threatening injuries" and was disabled and disfigured.²

Endangered Ark is a non-profit that leases the elephants from Miller and exhibits them under Carson & Barnes' USDA license.³ It misleadingly [claims](#) to be an elephant "retirement ranch" and to have no connection to the circus, even though elephants are frequently removed from Endangered Ark to go on circus tours. A single family apparently controls all of these companies, and each is an "exhibitor" under the AWA that bears responsibility for facilitating dangerous public contact.

As detailed in the attached appendix, despite this attack and a [history of public safety problems](#), these companies continue to sell encounters that encourage the unsuspecting public to have perilously close contact with elephants. This conduct is prohibited by 9 C.F.R. § 2.131(c)(1), which requires exhibitors to protect public safety by maintaining "sufficient distance and/or barriers" between animals and the public. **These companies are not above the law, and it is long past time for the USDA to hold them accountable for putting guests and animals at risk.**

Very truly yours,



Rachel Mathews, Esq.
Director of Captive Animal Law Enforcement

CC: Sheila Novak, Assistant General Counsel, USDA

¹ Ex. 1, Am. Pet. ¶¶ 2-3, *Garber v. Endangered Ark Found. et al.*, No. CJ-2021-2705 (D. Okla. Cnty. Nov. 23, 2021), <https://www.peta.org/wp-content/uploads/2022/01/ex-1-amended-petition-garber-v-endangered-ark-et-al-no-cj-2021-2705-d-okla-cnty-nov-23-2021.pdf>.

² *Id.* ¶ 19.

³ Ex. 2, Answer of Defs. Endangered Ark et al. ¶¶ 12-13, *Garber*, No. CJ-2021-2705; Ex. 3, Answer of Defs. Miller et al. ¶¶ 13-14, *Garber*, No. CJ-2021-2705.

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Appendix

I. Carson & Barnes has a history of elephant attacks and escapes.

[Human interactions with captive elephants](#) in North America have resulted in dozens of deaths and catastrophic injuries, causing broken bones, crushed pelvises, punctured lungs, de-gloving wounds, and brain injuries. The AWA's implementing regulations expressly deem elephants to be "dangerous animals,"⁴ and the USDA's own *Animal Care Inspection Guide*, a manual for federal employees, warns inspectors: "you are putting yourself at risk when you go near an elephant, even if the handler appears to be exceptionally competent."⁵ This manual instructs federal inspectors to never enter an enclosure with an elephant, stay at least eight feet away from the animal's head and trunk, and "always have an escape route planned," because "[a]ll elephants have the potential to be dangerous."⁶ Similarly, the Occupational Safety and Health Administration (OSHA) has found that free contact management—where there is no barrier to protect humans and elephants from one another—is "likely to cause death or serious physical harm to employees" in violation of federal worker safety law.⁷

Carson & Barnes, Miller, and Endangered Ark are all keenly aware that elephants are capable of killing and maiming humans. In 2012, Endangered Ark leased elephants Rosie and Opal to a facility in Maine operated by Dr. Jim Laurita. In 2014, Rosie crushed Laurita to death. An OSHA investigation revealed that she knocked him down and stomped on him when he entered the barn to feed the elephants one morning.⁸ Following the incident, OSHA issued a [hazard alert](#) "noting the hazards of having individuals routinely enter the elephant enclosure without protection against crushing injuries caused by elephants and recommending that protected contact, consistent with industry standards, be used when employees work with elephants."⁹ Rosie is now at Endangered Ark and is still managed in free contact. Endangered Ark has even used her for [public contact](#) encounters since Dr. Laurita's death.¹⁰

In addition to Dr. Laurita's death, Carson & Barnes has a long history of dangerous incidents and elephant escapes. Consider the following:

- In 2017, the USDA cited the circus after the elephant Kelly escaped from a barn unnoticed and wandered through residential streets in Wisconsin.¹¹
- In 2016, the circus entered a consent decision with the USDA agreeing to cease and desist from violating the AWA and to pay a \$16,000 fine after handlers lost control of elephants Kelly, Viola, and Isa, who escaped from a circus performance and ran amok for nearly an hour, injuring themselves and damaging cars in the parking lot.¹² The agreement also settled an alleged violation stemming from an

⁴ See 9 C.F.R. §§ 2.131(d)(3), 3.127(d).

⁵ USDA, *Animal Care Inspection Guide* 3-11 (2021), https://www.aphis.usda.gov/animal_welfare/downloads/Animal-Care-Inspection-Guide.pdf.

⁶ *Id.* at 3-10 - 3-11.

⁷ See, e.g., OSHA Citation and Notification of Penalty, Fort Worth Zoo (Mar. 11, 2016), https://www.peta.org/wp-content/uploads/2021/06/OSHA_Citation-Penalty_Ft-Worth-Zoo.pdf.

⁸ OSHA Memorandum, Narrative for Hope Elephants (Dec. 1, 2014), <https://www.peta.org/wp-content/uploads/2022/01/2014-12-01-osha-inspector-narrative-hope-elephants-attack.pdf>.

⁹ U.S. Dep't of Labor, OSHA Regional News Brief – Region 1, OSHA issues hazard alert letter to Hope Elephants following death (Mar. 13, 2015), <https://www.osha.gov/news/newsreleases/region1/03132015>.

¹⁰ See, e.g., Janice Lee, Facebook (Nov. 23, 2017),

<https://www.facebook.com/EndangeredArkFoundation/posts/864521710376174> (depicting a member of the public embracing Rosie's trunk and feeding her a banana at Endangered Ark).

¹¹ USDA, *Inspection Report, Carson & Barnes Circus* (July 6, 2016).

¹² Consent Decision and Order, *In re: Carson & Barnes Circus*, AWA Docket No. 15-0103 (USDA May 25, 2016), <https://oalj.oha.usda.gov/sites/default/files/CD%20-%20Carson%20and%20Barnes%20Circus%20->

incident where circus handlers led elephants through a public area with no distance or barriers between the animals and the public, allowing a child to be in "direct proximity" of the elephants.

- In 2014, an animal protection organization released [backstage footage](#) showing handlers losing control of three elephants at a circus venue as one of the animals charged at another and crashed through equipment on stage.
- In 2012, the circus agreed to pay a \$3,714 penalty to settle 10 federal violations, including several for endangering the public by failing to use adequate barriers and supervision.¹³ One of the underlying violations alleged that handlers were bathing elephants with no physical barrier or sufficient distance to protect the public. Officials observed a member of the public "grab an elephant's trunk over a barrier while the elephant handler had his back to the public area."¹⁴ Another violation related to [an escape](#) by elephant Viola.¹⁵
- In 2004, the USDA entered into a stipulation with Carson & Barnes to resolve "an apparent violation of the handling [r]egulations that resulted in injuries to two elephants."¹⁶

II. At Endangered Ark, elephant encounters put the public at risk.

As previously discussed, in March 2021, a guest participating in an "elephant experience" at Endangered Ark was "violently attacked" by an elephant and sustained "life-altering injuries."¹⁷ The encounter was booked through Oklahoma Awesome Adventures. There is no evidence that Endangered Ark, Oklahoma Awesome Adventures, Miller, or Carson & Barnes have taken any steps to prevent further injuries to guests by ending such animal encounters and using barriers and distance to protect the public, as required by 9 C.F.R. § 2.131(c)(1).

According to Oklahoma Awesome Adventures' website, cabin rentals include "breakfast with the elephants," a stunt where an elephant supplied by Endangered Ark and directed by a bullhook-wielding handler delivers a basket of food to the cabins. Guests then feed to the animal while standing on the porch.¹⁸ Photos posted on the business's website and social media show that the elephants are unrestrained during these encounters, and only the porch's low wooden railing separates them from guests.¹⁹ Guests are at eye-level with the elephants, and are able to handle their heads and trunks.²⁰

Oklahoma Awesome Adventures also sells "elephant expeditions," day-long tours of Endangered Ark that allow guests to have a "unique up-close and hands-on experience" with elephants, including opportunities to touch, groom, bathe, and hand feed them.²¹ During these encounters, members of the public are invited

[%20052516_Redacted.pdf](#); Complaint, *In re: Carson & Barnes Circus*, AWA Docket No. 15-0103 (Apr. 28, 2015), https://www.peta.org/wp-content/uploads/2021/06/2015-04-28_USDAAWAComp.pdf; *Elephants damage cars after escaping Shrine Circus*, KSDK (Mar. 23, 2014), <https://www.ksdk.com/article/news/elephants-damage-cars-after-escaping-shrine-circus/282193798>.

¹³ Settlement Agreement, Citation and Notification of Penalty, Carson & Barnes Circus, No. OK10026-AC (July 26, 2012), <https://www.peta.org/wp-content/uploads/2022/01/2012-07-26-usda-settlement-agreement-carson-and-barnes-ok10026.pdf>.

¹⁴ *Id.* at 2.

¹⁵ *Id.* at 1.

¹⁶ Complaint at 2, *In re: Carson & Barnes Circus*, AWA Docket No. 15-0103 (Apr. 28, 2015).

¹⁷ Ex. 4, Pl.'s Reply to Defs.' Obj. to Pl.'s Appl. for Leave to File Am. Pet. at 1-2, *Garber*, No. CJ-2021-2705.

¹⁸ Ex. 5, *Cabin Rentals w/ an Unforgettable Twist!*, Okla. Awesome Adventures,

<https://www.oklahomaawesomeadventures.com/cabin-getaways> (last visited Jan. 31, 2022).

¹⁹ Ex. 6, Photo sheet, Social Media Posts Documenting Public Contact at Endangered Ark, at 21-22, 34-35.

²⁰ *Id.*

²¹ Ex. 7, *Elephant Expeditions*, Okla. Awesome Adventures, <https://www.oklahomaawesomeadventures.com/elephant-expeditions> (last visited Jan. 31, 2022).

have close contact with the elephants' trunks, heads, feet, and bodies.²² Often, there is no barrier between guests and elephants; at other times, a barrier separates elephants and guests, but allows such close contact that the elephants are able to wrap their trunks around the guests.

These dangerous interactions are the primary form of exhibition at Endangered Ark. A survey of photos and videos posted on social media reveals dozens of instances of adults, children, and toddlers having direct contact with elephants without sufficient distance or barriers to assure their safety. Consider the following examples:

Date Posted	Interaction Depicted	Source
12/18/12	Two children and an adult fondle Lisa's trunk while standing on either side of her head. There is no barrier between Lisa and the guests. In another photo, Becky reaches across a barrier to touch a young girl with her trunk. https://www.instagram.com/p/CXplmM1Nsw5/	Instagram Ex. 6, p.1
12/18/21	Three young girls and two adults feed two elephants, Becky and Traci. The elephants are behind a low barrier, but the girls stand just a few feet from the elephants' trunks. Becky repeatedly touches the torso of the girl in the aquamarine coat. In another photo, a family of four poses with Santa Claus several feet away from Lisa, who is unrestrained. There is no barrier between Lisa and the family. https://www.instagram.com/p/CXpSZ87pKNX/ https://www.instagram.com/p/CXo0kKLpSTY/	Instagram Ex. 6, pp. 2-3
12/18/21	A young boy stands next to Lisa's head and rests his hand on her face. There is no barrier between the child and the elephant, who is not otherwise restrained. https://www.instagram.com/p/CXpk88qNphN/	Instagram Ex. 6, p. 4
12/18/21	A woman takes a selfie with an elephant who stands behind her and appears to reach towards the camera. The elephant's trunk brushes against the woman's head. https://www.instagram.com/p/CXo8ksYFA6k/	Instagram Ex. 6, p. 5
12/4/21	In a video and photos, a woman stands next to Lisa's head and strokes her face and trunk. There is no barrier between her and the elephant. In another photo, she stands within inches of Becky's head and strokes her face. Becky is behind a low barrier. https://www.instagram.com/p/CXE93N_vfX-/	Instagram Ex. 6, p. 6-7
11/13/21	Three people pose for a photo while two elephants stand behind them. The elephants wrap their trunks around the guests—one elephant's trunk curls around a woman's head. https://www.instagram.com/p/CWO2-O9PLIf/	Instagram Ex. 6, p. 8

²² Ex. 6, Photo sheet.

11/8/21	Delrita stands in an enclosure and reaches her trunk across a low fence to touch a toddler who stands just outside the enclosure for a photo. https://www.instagram.com/p/CWBVTuFJ-Be/	Instagram Ex. 6, pp. 9-10
10/27/21	A woman posts photos of the various elephant encounters she booked through Oklahoma Awesome Adventures. In several photos she leans against an elephant's trunk for a selfie. In another, she leans against an elephant's front leg and wraps her arm around the animal's trunk. She is also pictured feeding, bathing, and grooming elephants. In most photos, there is no barrier between the woman and the elephants. https://www.facebook.com/oklahomaawesomeadventures/posts/4565853630151152	Facebook Ex. 6, pp. 11-16
10/20/21	A couple holding a pair of toddlers poses in front of an enclosure holding two elephants. Delrita's head hangs outside of the enclosure alongside the couple. In other photos, the man pets Delrita's face. https://www.instagram.com/p/CVQfDv9FYPE/	Instagram Ex. 6, p. 17
10/16/21	Two women stand in front of an elephant enclosure. One elephant wraps her trunk across one woman's neck and shoulder. The other woman reaches out to touch the second elephant. http://www.instagram.com/p/CVGw1BTL5TD/	Instagram Ex. 6, p. 18
8/11/21	Two women pose for a photo between the heads of two elephants. One elephant wraps her trunk across the women's midsections. https://www.instagram.com/p/CSc2hzxLft1/	Instagram Ex. 6, p. 19
8/6/21	Isla is lying down on her sternum. A woman sits on her front limb, leaning against her head and trunk. https://www.instagram.com/p/CSPHM83HBRe/	Instagram Ex. 6, p. 20
7/26/21	A family of four poses for a photo in front of Delrita outside of a rental cabin. Delrita isn't restrained, and there is no barrier present. In another photo, the family feeds Delrita from the porch of the cabin. https://www.instagram.com/p/CQm-QNkhYWX/	Instagram Ex. 6, pp. 21-22
5/30/21	A video shows multiple instances of public contact. In one interaction, two elephants reach over a barrier, while guests pet and feed them, standing only a foot or so away from the animals' heads. In another, a toddler stands on a tub placed next to an elephant and scrubs the animal with a brush. There is no barrier present. A woman stands next to the elephant's right front leg to brush it, also with no barrier. During the interaction, the elephant (apparently Delrita) rocks back and forth in apparent distress. https://www.tiktok.com/@mursezach/video/6968103618327219461	Tiktok
5/18/21	In photos of Oklahoma Awesome Adventures' "Junior Elephant Ambassador Summer Camp," eight boys and two adults pose for a photo with two elephants. There is no barrier between the boys and the	Facebook Ex. 6, pp. 23-25

	<p>elephants, who are also unrestrained. In other photos, a boy pets an elephant's face and a girl sits on an elephant's front leg.</p> <p>https://www.facebook.com/oklahomaawesomeadventures/posts/4077515878984932</p>	
4/24/21	<p>A woman poses for a photo in front of two elephants. One of the elephants wraps her trunk around the woman's waist.</p> <p>https://www.instagram.com/p/COEUoHTDpwJ/</p>	<p>Instagram Ex. 6, p. 26</p>
4/10/21	<p>A video shows two elephants leaning across a low barrier. A woman stands between the elephants' heads, facing away from them and towards the camera. The elephants wrap their trunks around her to grab bananas that she holds in her hands. Photos also show the woman and her fiancé posing next to Delrita with no barrier.</p> <p>https://www.instagram.com/p/CNgD-L5nq9T/</p>	<p>Instagram Ex. 6, pp. 27-29</p>
4/6/21	<p>A family of five poses for a photo with an elephant on the porch of a rental cabin.</p> <p>https://www.instagram.com/p/CNU-YwGJEuK/</p>	<p>Instagram Ex. 6, p. 30</p>
3/26/21	<p>A video shows Delrita standing in front of Oklahoma Awesome Adventures guest cabin and reaching over a porch railing while a guest feeds her.</p> <p>https://www.tiktok.com/@.whitley_/video/6943963646078749958</p>	<p>Tiktok</p>
3/17/21	<p>A couple stands at an elephant's shoulder to pose for a photo. One person reaches out to touch the elephant's chin. There is no barrier between the elephant and the couple.</p> <p>https://www.instagram.com/p/CMiF1e1BbNS/</p>	<p>Instagram Ex. 6, p. 31</p>
3/8/21	<p>On a photo posted by Endangered Ark, two little girls pose for a photograph holding Easter baskets in front of an elephant. The elephant wraps her trunk around one of the girls to investigate the basket.</p> <p>https://www.facebook.com/EndangeredArkFoundation/photos/1886015954893406</p>	<p>Facebook Ex. 6, p. 32</p>
9/30/20	<p>A pregnant woman and her partner pose for a photo while standing by Isla's shoulder. There is no barrier between the elephant and the couple.</p> <p>https://www.instagram.com/p/CFxvOOxnnHI/</p>	<p>Instagram Ex. 6, p. 33</p>
10/13/19	<p>A series of photos shows an elephant breakfast encounter with Delrita.</p> <p>https://www.facebook.com/oklahomaawesomeadventures/posts/2531732466896622</p>	<p>Facebook Ex. 6, pp. 34-35</p>
12/28/20	<p>In a video, a child and a woman holding a toddler stand in front of Delrita's trunk with no barrier. The woman and children pets the elephant's trunk. When the animal reaches out to touch the child and toddler, both pull away nervously.</p>	<p>Instagram</p>

	https://www.instagram.com/p/CJXdiMzg1cj/	
6/6/19	In a video, a man stands directly in front of Kelly's head, which is hanging over a low barrier. He rubs her face and feeds her. A woman feeds and pats the head and trunk of another elephant, whose head extends across the same barrier. A handler standing in the enclosure with the elephants has his back turned during the interaction.	Instagram
	https://www.instagram.com/p/ByXtRGDleYY/	

III. Elephant encounters at Endangered Ark appear to violate the AWA.

The AWA's implementing regulations state: "During public exhibition, any animal must be handled so there is minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between the animal and the general viewing public so as to assure the safety of animals and the public." 9 C.F.R. § 2.131(c)(1). There is no legally grounded exemption to this regulation.

A noncompliance is considered "critical" if it "result[s] in an injury requiring immediate medical attention or death to a human."²³ Likewise, it is also a critical noncompliance to

[handle] an animal in a manner that results in an animal attack or physical contact between an animal and a member of the public, depending on the circumstances, such as where . . . the circumstances or practices that caused the incident posed a high risk to the animal and/or the human and could have led to serious injury or death to the animal and/or the human.²⁴

A member of the public was disabled and disfigured and sustained life-threatening injuries while participating in an "elephant experience" at Endangered Ark. This incident appears to be the result of *critical* violations of 9 C.F.R. § 2.131(c)(1).

Moreover, *all* of the elephant experiences at Endangered Ark appear to violate 9 C.F.R. § 2.131(c)(1). As the table above demonstrates, in some interactions, there is *no* barrier and *no* distance between elephants and members of the public. In others, there is *no* distance between the elephants and members of the public because the barrier used is ineffective—the elephants are able to fully extend their heads and trunks into the public area, and guests are allowed to approach the barrier and fondle the elephants' faces and trunks. The fact that a casual search of social media shows multiple instances of elephants wrapping their trunks around guests is particularly troubling, as an elephant's powerful and dexterous trunk is perhaps her most dangerous appendage. An elephant can easily grasp, strike, crush, and throw a person using only her trunk.

The USDA may terminate an exhibitor's license if they are "not in compliance with the Act or any of the regulations or standards." 9 C.F.R. §§ 2.12, 2.11(a)(2). Any exhibitor who violates the AWA or its implementing regulations may be assessed a civil penalty, and faces license suspension or termination. 7 U.S.C. § 2149(b), (a). Knowing failure to obey a cease and desist order is also grounds for a financial penalty. *Id.* § 2149(b).

The dangers of close contact with elephants are well established, and Carson & Barnes has paid *multiple* federal penalties arising from improper handling of these animals. Even so, Endangered Ark and its partner

²³ USDA, Animal Care Inspection Guide 2-10 (2021), https://www.aphis.usda.gov/animal_welfare/downloads/Animal-Care-Inspection-Guide.pdf.

²⁴ *Id.* at 2-10 – 2-11.

companies encourage the unwitting public to put themselves and their families in harm's way by touching, feeding, bathing, and posing for selfies with elephants. Even after a member of the public was catastrophically injured during one such encounter, there's no evidence that the facility has made any changes to protect public safety. These serious, repeated, and chronic problems warrant swift, meaningful, enforcement action before anyone else gets hurt.

IV. The USDA must pursue action against each company involved.

In the words of the woman injured at Endangered Ark last year, Oklahoma Awesome Adventures, Miller, Endangered Ark, and Carson & Barnes are "engaged in a joint enterprise designed to financially profit from the abnormally dangerous interaction of wild exotic animals and human beings."²⁵ These are separate commercial enterprises, even though their business dealings are thoroughly intertwined. Specifically:

- Miller, a Delaware corporation, leases all elephants to Endangered Ark, an Oklahoma non-profit corporation.²⁶
- Oklahoma Awesome Adventures is an "unregistered commercial entity" that operates cabin rentals and elephant-based exhibitions on property owned by Miller and Endangered Ark.²⁷
- Endangered Ark promotes Oklahoma Awesome Adventures' business activities on its website.²⁸
- Miller, Oklahoma Awesome Adventures, and Endangered Ark do not hold USDA licenses.
- Only Carson & Barnes, an Oklahoma for-profit corporation, holds a license to exhibit elephants. At the time of the attack, it was "under suspension by the Oklahoma Tax Commission."²⁹
- The elephants exhibited by these businesses are held on property owned by Endangered Ark; the animal encounters are conducted on parcels owned Miller and Endangered Ark. Carson & Barnes does not appear to own any land used for exhibition or housing of elephants.³⁰
- The boards of directors for Miller, Oklahoma Awesome Adventures, and Carson & Barnes are "all comprised of the same individuals holding the same positions"—Geary Byrd, president; Barbara Byrd, vice president; Traci Byrd Cavallini, secretary, and Kristin Byrd Parra, treasurer.³¹ These individuals also control Endangered Ark, according the latest available tax filings.³²

Each of these businesses is an "exhibitor" within the meaning of the AWA.³³ USDA regulations state that no person shall operate as an exhibitor without a valid license, and because licenses are issued to "specific persons," a new one "must be obtained upon change of ownership, location, activities, or animals."³⁴ "Person" means "any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity."³⁵ Evidently, the USDA has never required Endangered Ark, Miller, or

²⁵ Ex. 1, Am. Pet. ¶ 16.

²⁶ *Id.* ¶¶ 1, 4; Ex. 2, Answer of Defs. Endangered Ark et al. ¶¶ 12-13; Ex. 3, Answer of Defs. Miller et al. ¶¶ 13-14.

²⁷ Ex. 1, Am. Pet. ¶¶ 1, 12; Ex. 4, Pl.'s Reply to Defs.' Obj, to Pl.'s Appl. for Leave to File Am. Pet. at 2 n.1.

²⁸ Ex. 8, Awesome Adventures, Endangered Ark Found., <https://www.endangeredarkfoundation.org/awesome-adventures> (last visited Jan. 28, 2022).

²⁹ Ex. 1, Am. Pet. ¶ 18.

³⁰ Endangered Ark Foundation holds and exhibits elephants at 2657 E 2070 Rd, Hugo, OK 74743. Oklahoma Awesome Adventures is located on an adjoining parcel to the west, 2647 East 2070 Rd, owned by Miller. Miller also owns an adjoining parcel to the east of Endangered Ark. Information accessed at <http://www.regrid.com>.

³¹ Ex. 4, Pl.'s Reply to Defs.' Obj, to Pl.'s Appl. for Leave to File Am. Pet. at 2.

³² IRS Form 990, Endangered Ark Found. 7 (Aug. 24, 2020),

[https://projects.propublica.org/nonprofits/display_990/731421238/08_2021_prefixes_58-](https://projects.propublica.org/nonprofits/display_990/731421238/08_2021_prefixes_58-74%2F731421238_201912_990_2021080918689556)

[74%2F731421238_201912_990_2021080918689556](https://projects.propublica.org/nonprofits/display_990/731421238_201912_990_2021080918689556) (listing corporate officers as Alfrieda Wilkins, president; Traci Byrd Cavallini, secretary; Kristin Byrd Parra, treasurer; Barbara Byrd, director; Geary Byrd, director).

³³ See 7 U.S.C. § 2132(h) and 9 C.F.R. § 1.1 (defining "exhibitor").

³⁴ 9 C.F.R. § 2.1(a)(1), (b)(1).

³⁵ *Id.* § 1.1.

Oklahoma Awesome Adventures—all separate "persons"—to obtain AWA licenses for the activities they conduct.

Each of these companies bears responsibility for the injury to a guest on March 28, 2021, and each bears responsibility for the ongoing use of elephants in public contact encounters. Any citations or enforcement action for AWA violations stemming from the exhibition of elephants by Endangered Ark, Oklahoma Awesome Adventures, and Miller must be brought against those companies directly, in addition to Carson & Barnes.³⁶

V. **Elephant encounters underscore serious problems raised in federal audits.**

There is no evidence that anyone reported the March 2021 elephant attack to the USDA, meaning nearly a year has passed without any investigation. The USDA is only now learning of the incident because PETA located records from a personal injury lawsuit.

The failure to report this grisly incident underscores a longstanding problem in AWA enforcement raised most recently in an [audit](#) published by the USDA's Office of Inspector General just weeks before the attack occurred. In 2010, the USDA agreed to implement regulations and guidance to require exhibitors to report attacks and escapes of dangerous animals, and to establish additional public barrier requirements. It developed a work plan and completed an economic analysis in January 2014, but inexplicably took no action for the next five years.³⁷ In March 2019, senior officials *canceled* the regulations via a single email "without any support or analysis regarding the continued need of the regulatory change."³⁸

In the dozen years since the USDA committed to enhancing public barrier requirements, numerous members of the public have been bitten, scratched, mauled, and crushed in [interactions](#) with elephants, big cats, bears, primates and other dangerous animals exhibited by licensed exhibitors. Of course, the animals often pay a price for protecting themselves—many are killed or beaten.

Although 9 C.F.R. § 2.131(c)(1) plainly requires exhibitors to use barriers and distance to protect animals and guests from one another, enforcement has plainly fallen short. Had the USDA committed to enforcing the plain language of its regulations or followed through on its plan to enhance its rules, it's possible that last year's attack could have been prevented, or at least would have been reported to the USDA by the licensee and investigated in a timely manner. For the safety of the animals and the public, it is imperative that the USDA return to this effort.

³⁶ See Consent Decision and Order, *In re: Hanneford Circus, Inc.*, AWA Docket No. 15-0106 (USDA Nov. 30, 2016), https://oalj.oha.usda.gov/sites/default/files/CD%20-%20Nov%2030%20-%2015-0106_Redacted.pdf (assessing a penalty against Hanneford Circus, Inc., and concluding that the company, which did not hold an AWA license, was an "exhibitor" under the AWA because it hired Carson & Barnes to exhibit elephants at a circus).

³⁷ USDA OIG, Audit no. 33601-0003-23, *Follow-Up to Animal and Plant Health Inspection Service's Controls Over Licensing of Animal Exhibitors* 5 (Mar. 12, 2021), https://www.usda.gov/sites/default/files/audit-reports/33601-0003-23_final_distribution.pdf.

³⁸ *Id.*