

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

People for the Ethical Treatment of Animals, Inc.;
Matthew Howard; and Lexie Jordan,

Plaintiffs,

v.

Waccatee Zoological Farm; Kathleen Futrell (in
her individual capacity and as the personal
representative of the Estate of Archie Futrell);
Jeff Futrell; Dakota Futrell Stienecker; and Austin
Futrell,

Defendants.

Civil Action No.

Complaint for Injunctive and Other Relief

People for the Ethical Treatment of Animals, Inc. (“PETA”), Matthew Howard, and Lexie Jordan (collectively, “Plaintiffs”) bring suit against Waccatee Zoological Farm (“Waccatee Zoo” or “Waccatee”), Kathleen Futrell, Jeff Futrell, the Estate of Archie Futrell, Dakota Futrell Stienecker, and Austin Futrell (collectively, “Defendants”) under Section 11(g)(1)(A) of the Endangered Species Act (“ESA”) (*see* 16 U.S.C. §§ 1531–44), and South Carolina public nuisance law.

I. Introduction

1. Defendants together are responsible for the operation of one of the worst roadside zoos in America. Defendants confine and exhibit over 460 animals of various species. The conditions at Defendants’ facility deprive these animals of necessities—including adequate veterinary care, shelter, food, and water—they require to live without needless suffering.

2. The conditions at Defendants' facility are so harmful to some of the animals there that the government recently took administrative action against Defendants. On February 28, 2022, the United States Department of Agriculture ("USDA") fined Defendant Kathleen Futrell (dba Waccatee Zoological Farm) \$7,800 in response to numerous alleged regulatory violations documented by USDA inspectors throughout 2020 and 2021 concerning the conditions of some of the animals or animal enclosures at Waccatee Zoo. *See* Ex. 1.

3. On a regular basis, PETA has received shocking and detailed complaints from members of the public who have visited Waccatee Zoo in person. These complainants have called for an end to the animal suffering seen and heard at Waccatee. Altogether, PETA has received over 150 complaints from the public about Waccatee. Many express shock and disbelief that Defendants are still permitted to operate.

4. Years of eyewitness accounts from government inspectors, patrons, and other visitors describe the deplorable conditions caused by Defendants' actions and omissions. Day after day, animals at Waccatee sway and pace back and forth—unnatural behaviors that signify the animals' needs are not being met. Many animals experience negative stress due to small, insufficiently enriched spaces that provide little to do, offer inadequate opportunities to socialize, and are affirmatively dangerous. Negative stress that is acute and chronic can suppress a body's immune responses and increase susceptibility to pathogens, exposing animals to further exertion and negative stress and amplifying the risk of illness, infection, or even death.

5. One tiger, Lila, died in 2021 or late 2020 after losing nearly all her fur. Lila became so emaciated that much of her skeleton—including her vertebrae, scapula, shoulder, hip, and other joints—was visible through her skin. *See* Exs. 2 and 3.

6. Like Lila, many other animals at Waccatee have experienced severe hair loss and emaciation. Numerous animals struggle to walk, both because their bones and muscles have wasted away from malnutrition and, in many instances, because Defendants have allowed their hooves to become strikingly overgrown. Isolated, frustrated, and bored animals exhibit alarming and repetitive behavior, indicating that they are experiencing psychological distress.

7. Some examples—among the small subset of deficiencies fully captured in photographs or video—are shown below, as well as in the attached **Exhibits 2-7**:



Exhibit 2: Front view of Lila the tiger with hair loss and curved spine. December 17, 2020.



Exhibit 3: Side view of Lila the tiger with hair loss and curved spine. December 17, 2020.

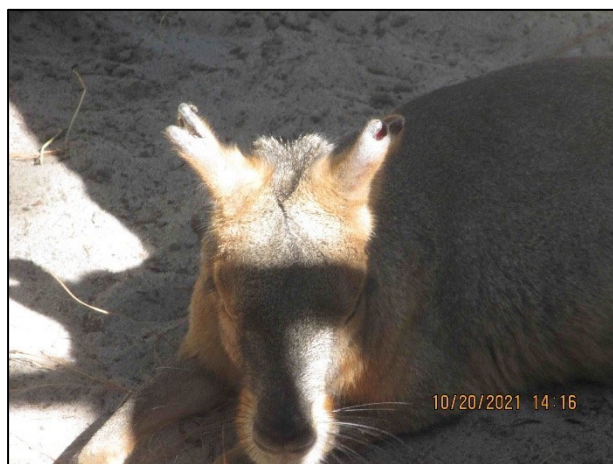


Exhibit 4: Patagonian cavy with crusted ulcerative lesions on ears. October 20, 2021. Photo by USDA.

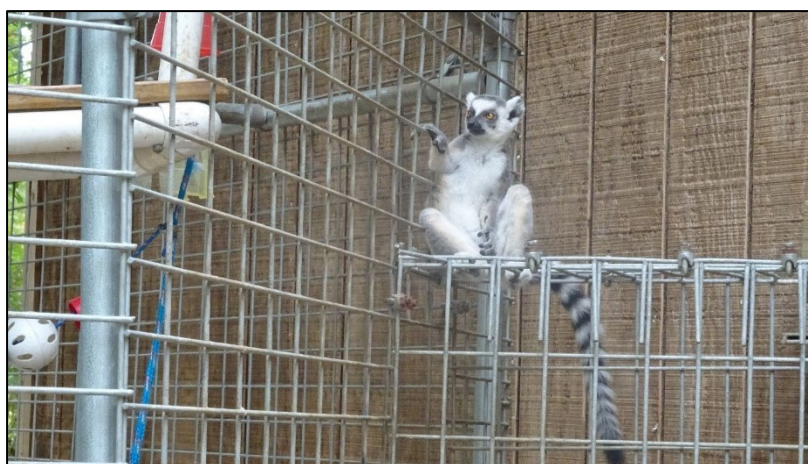


Exhibit 5: A lemur pup outside of enclosure. June 5, 2019.



Exhibit 6: Sha-Sha the pig-tailed macaque with eye issue. June 29, 2021.



Exhibit 7: A donkey with open, ulcerated wounds on leg. June 5, 2019.

8. Defendants’ conduct wounds, harms, harasses, and, on information and belief, kills protected animals (collectively the “Listed Species”). The Listed Species include tigers, lions, ring-tailed lemurs, parrots (Salmon-crested cockatoo, Scarlet macaw, White cockatoo, and Yellow-Crested cockatoo), and a scimitar-horned oryx. This violates the ESA’s “take” prohibition.

9. Specifically, Defendants cause Listed Species psychological harm and distress amounting to injury; inflict physical injury on them; and significantly disrupt their normal behaviors in a manner that puts their physical and psychological well-being at risk of likely further injury. On information and belief, Defendants’ conduct also caused the death of tigers at their facility. Additionally, Defendants possess taken members of Listed Species in violation of the ESA and, on information and belief, sell taken ring-tailed lemur individuals and lion parts in violation of the ESA.

10. Defendants’ abuse is not limited to ESA-protected animals. Plaintiffs also bring suit against Defendants for violation of South Carolina public nuisance law through, in significant part, deficient care amounting to inhumane cruelty of all animals in their possession.

II. Jurisdiction and Venue

11. The Court has personal jurisdiction over Ms. Kathleen Futrell and Mr. Jeff Futrell because they reside in the District of South Carolina and conduct their business within this District. The Court has personal jurisdiction over Mr. Austin Futrell and Ms. Dakota Futrell Stienecker because they reside in the District of South Carolina. On information and belief, the personal representative of Archie Futrell's estate also resides in South Carolina. This Court also has personal jurisdiction over Waccatee Zoological Farm.

12. This Court has subject matter jurisdiction of ESA claims under the citizen suit provision of the ESA, 16 U.S.C. § 1540(g), and has federal question jurisdiction under 28 U.S.C. § 1331.

13. Plaintiffs provided notice regarding the violations alleged in this Complaint and their intent to file suit ("Notice of Intent"). It is attached as **Exhibit 8**. Plaintiffs sent this Notice of Intent to Defendants, the Secretary of the Interior, and the Director of the U.S. Fish and Wildlife Service ("FWS") on December 22, 2021. Plaintiffs served their Notice of Intent more than sixty days prior to the filing of this action. 16 U.S.C. § 1540(g)(2)(A)(i).

14. Defendants have not remedied the violations set out in the sixty-day Notice of Intent.

15. The Secretary of the Interior has not commenced an action against Defendants to impose a penalty under the ESA or its implementing regulations. The United States has not commenced a criminal prosecution against Defendants to redress ESA-related violations. 16 U.S.C. § 1540(g)(2)(A)(ii)–(iii).

16. Venue is proper in the District of South Carolina because the alleged ESA violations have occurred, and continue to occur, within this judicial district. 16 U.S.C.

§ 1540(g)(3)(A).

17. This Court has supplemental jurisdiction over the South Carolina state law claims under 28 U.S.C. § 1367(a). This Court has original jurisdiction under 16 U.S.C. § 1540(g), and 28 U.S.C. § 1331. The state law claims are so related to the underlying federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

18. Venue for public nuisance claims is appropriate in this judicial district under 28 U.S.C. § 1391. All defendants are residents of the State of South Carolina and the public nuisance alleged in this Complaint occurred, and continues to occur, on premises located in this judicial district.

19. Assignment to the Florence Division is proper because natural defendants reside in the Florence Division. A substantial part of the events or omissions giving rise to claims occurs in the same division. L. Civ. R. 3.0(A)(1)(D.S.C.).

III. Parties

20. PETA is a Virginia non-stock corporation and animal protection charity under Section 501(c)(3) of the Internal Revenue Code. Its headquarters are located in Norfolk, Virginia.

21. Matthew Howard is a resident of Horry County, South Carolina who derives personal, recreational, educational, and aesthetic benefits from being in the presence of animals and observing animals in humane settings. Mr. Howard visited Waccatee Zoo several times from childhood through adulthood, where he observed and developed aesthetic and emotional connections to many of the animals including, but not limited to, primates, felids, and reptiles he recognizes by name. Due to the mistreatment and suffering that he witnessed, he has suffered concrete injury to his personal, aesthetic, recreational, and educational interests in observing

these animals in humane settings. He also suffered economic injury associated with Defendants' entrance fee. Because of his appreciation, attachment to, and concern for these animals, he wishes to see the mistreatment of these animals stopped, including via transfer to humane settings where he intends to return to visit them.

22. Lexie Jordan is a resident of Horry County, South Carolina who derives personal, recreational, educational, and aesthetic benefits from being in the presence of animals and observing animals in humane settings. Ms. Jordan visited Waccatee Zoo at least five times, where she observed and developed aesthetic and emotional connections to many of the animals, including but not limited to felids she recognizes by name. Due to the mistreatment and suffering that she witnessed, she has suffered concrete injury to her personal, aesthetic, recreational, and educational interests in observing these animals in humane settings. She also suffered economic injury associated with Defendants' entrance fee. Because of her appreciation, attachment to, and concern for these animals, she wishes to see the mistreatment of these animals stopped, including via transfer to humane settings where she intends to return to visit them.

23. Defendant Waccatee Zoo is located at 8500 Enterprise Road, Myrtle Beach, SC 29588. It was established in 1988 and operates under a C-Class USDA exhibitor license (56-C-0230).

24. Defendant Kathleen Futrell is a resident of Horry County, South Carolina. Ms. Futrell acts on behalf of Waccatee Zoo by, among other things, overseeing day-to-day operations, managing animal care, and participating in USDA inspections.

25. Ms. Kathleen Futrell is the personal representative of the Estate of Archie Futrell. Archie Futrell co-owned and operated Waccatee with his wife Ms. Kathleen Futrell until his death on April 8, 2011.

26. Defendant Jeff Futrell is a resident of Horry County, South Carolina. Mr. Futrell acts on behalf of Waccatee Zoo by, among other things, overseeing day-to-day operations, managing animal care, and participating in USDA inspections. He is the agent for Ms. Futrell's General Durable Power of Attorney. Mr. Jeff Futrell is Kathleen Futrell's son.

27. Defendant Austin Futrell is a resident of Horry County, South Carolina. He is an alternative co-agent for Ms. Futrell's General Durable Power of Attorney. Mr. Austin Futrell is Kathleen Futrell's grandson and Mr. Jeff Futrell's son.

28. On information and belief, Mr. Futrell acts on behalf of Waccatee Zoo by, among other things, being involved in day-to-day operations and animal care. Mr. Futrell is sufficiently involved in animal care that, in October 2015, he was—as reported by Mr. Futrell's colleagues with the South Carolina Division of the Sons of Confederate Veterans—"attacked and hooked in the leg" by a buffalo, sustaining "serious damage."

29. Defendant Dakota Futrell Stienecker is a resident of Horry County, South Carolina. She is an alternative co-agent for Ms. Futrell's General Durable Power of Attorney. Ms. Stienecker is Kathleen Futrell's granddaughter and Mr. Jeff Futrell's daughter.

IV. Statutory Background

A. Endangered Species Act

30. Wildlife subject to the ESA include any listed member of the animal kingdom, including any mammal or part, product, or the dead body or parts of mammals. 16 U.S.C. § 1532(8).

31. The ESA prohibits the "take" of any endangered or threatened species, unless otherwise permitted by a Section 4(d) special rule, within the United States. *Id.* at § 1538(a)(1)(B), (G); 50 C.F.R. §§ 17.21, 17.31(a).

32. “Take” includes “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” 16 U.S.C. § 1532(19).

33. “Wound” is defined as inflicting a physical injury, including in a manner that pierces or lacerates skin. *See Graham v. San Antonio Zoological Soc’y*, 261 F. Supp. 3d 711, 741 n.15 (W.D. Tex. 2017) (citation omitted). *See also* Findings of Fact and Conclusions of Law, *PETA v. Lowe*, Case No. 5:21-cv-00671-F (Feb. 25, 2022), ECF No. 483 at 11; *PETA v. Wildlife in Need & Wildlife in Deed, Inc.*, No. 4:17-cv-00186-RLY-DML, 2018 WL 828461, at *6 (S.D. Ind. Feb. 12, 2018).

34. “Harm” is defined by regulation as an act which “kills or injures” an endangered or threatened animal. 50 C.F.R. § 17.3.

35. “Harass” is defined by regulation to include an “intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering.”¹ *Id.*

36. Under the ESA, it is also unlawful for a person to “possess, sell, deliver, carry, transport, or ship, by any means whatsoever” any ESA-protected species that has been taken in violation of the Act. 16 U.S.C. § 1538(a)(1)(D). *See also* 50 C.F.R. §§ 17.21(d), 17.31, 17.40(r).

37. Likewise, it is unlawful to “deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity,” or “sell or offer for sale in interstate or foreign commerce” any listed species. 16 U.S.C. §

¹ The exemption articulated in the definition of “harass” is not applicable to the instant case, as Defendants’ conduct is likely to result (and, as alleged, frequently has resulted) in injury, does not constitute generally accepted animal husbandry, and does not meet or exceed the minimum standards for facilities and care under the Animal Welfare Act.

1538(a)(1)(E)-(G); 50 C.F.R. §§ 17.21(e), (f), 17.31, 17.40(r).

38. Ring-tailed lemurs, scimitar-horned oryxes, tigers, and yellow-crested cockatoos are listed as endangered under the ESA. 50 C.F.R. § 17.11(h).

39. Salmon-crested cockatoos, also known as Moluccan cockatoos, and white cockatoos are listed as threatened under the ESA. 50 C.F.R. § 17.11(h).

40. Lions are listed as either endangered or threatened depending on their subspecies. *Panthera leo leo* is listed as endangered while *Panthera leo melanochaita* is listed as threatened. 50 C.F.R. § 17.11(h). The ESA prohibits takes of each subspecies. *Id.*

41. One subspecies of scarlet macaw (*cyanopterus*) is endangered and another subspecies (*macao*) is threatened. 50 C.F.R. § 17.11(h). Hybrids of the subspecies are listed as threatened. *Id.*

42. The ESA authorizes the Secretary of the Interior to issue a permit for any act that is otherwise prohibited by 16 U.S.C. § 1538, but only if such act is “for scientific purposes or to enhance the propagation or survival of the affected species” and other strict requirements are met. 16 U.S.C. §§ 1539(a)(1)(A), (c), (d).

43. The ESA allows citizens to bring suit to enjoin “any person . . . who is alleged to be in violation” of the “take” provisions of the statute or of a regulation promulgated under the statute. *Id.* § 1540(g)(1)(A).

B. South Carolina Public Nuisance, State Anti-Cruelty Law, and Federal Animal Welfare Act

44. Under South Carolina statute, “[a] person who erects, establishes, continues, maintains, uses, owns, occupies, leases, or releases any building or other place used for the purposes of lewdness, assignation, prostitution, repeated acts of unlawful possession or sale of controlled substances, or continuous breach of the peace in this State is guilty of a nuisance.”

S.C. CODE ANN. § 15-43-10(A). “[C]ontinuous breach of the peace” includes “pattern[s] of repeated acts or conduct which... directly [disturb] the public peace.” S.C. CODE ANN. § 15-43-10(B).

45. South Carolina allows private enforcement of its statutory nuisance law. Under the statute, “[w]henver a nuisance is kept, maintained or exists... any citizen of the State may maintain an action in equity in the name of the State... to enjoin perpetually such nuisance, the person conducting or maintaining the nuisance and the owner or agent of the building or ground upon which the nuisance exists.” S.C. CODE ANN. § 15-43-20.

46. Further, a business can become a nuisance by the manner in which it is conducted.

47. Under South Carolina common law, a public nuisance exists where acts or conditions subvert public order, decency, or morals. Further, if a party maintains a place where laws are publicly, repeatedly, persistently, and intentionally violated, then such place is a common or public nuisance.

48. In the State of South Carolina, it is unlawful to knowingly or intentionally “[ill-treat] an animal,” “[deprive] an animal of necessary sustenance or shelter,” or “[inflict] unnecessary pain or suffering upon an animal, or by omission or commission knowingly or intentionally [cause the] acts to be done.” S.C. CODE ANN. § 47-1-40(A). *See also* S.C. CODE ANN. § 47-1-40(B) (prohibiting the infliction of “excessive or repeated unnecessary pain or suffering upon an animal” by acts or omissions).

49. The Animal Welfare Act (“AWA”), 7 U.S.C. §§ 2131-2159, and its implementing regulations establish bare minimum federal protections for certain categories of animals in captivity that include provisions for veterinary care, adequate shelter, and sanitation.

V. Factual Allegations

50. Waccatee Zoo is an unaccredited roadside zoo in Myrtle Beach, South Carolina.

51. At Waccatee, Defendants confine and exhibit over 460 animals, including mammals, birds, and reptiles, and charge the public entrance fees to view and interact with the animals.

52. Animals at Waccatee Zoo are frequently denied the most basic necessities, including wholesome food, potable water, adequate veterinary care, and daily care by staff experienced in generally accepted animal husbandry practices.

53. The enclosures confining animals at Waccatee Zoo are inadequate and unsanitary, chronically littered with animal and food waste, void of proper environmental enrichment, and often in disrepair.

54. On information and belief, Defendants do not possess a permit from the Secretary of the Interior to “take” Listed Species under 16 U.S.C. § 1539(a)(1)(A).

55. Since 1992, the USDA has cited Waccatee Zoo for more than 100 violations of AWA requirements. USDA inspection reports, including as referenced or described above and below, detail Defendants’ ongoing disregard for the welfare of its animals and demonstrated inability to provide proper care for them. These USDA inspection reports do not even capture *all* violations of the AWA and, in fact, wholly omit several species of animals at Waccatee that the AWA does not regulate.

56. The USDA fined Waccatee \$7,800 on February 28, 2022 in response to six alleged AWA violations concerning the conditions of the animals or the animal enclosures documented throughout 2020 and 2021. *See* Ex. 1. Specifically, the USDA fined Waccatee in response to the following conditions:

- a. two llamas and one zebu with significantly overgrown hooves, indicating a failure by Waccatee to provide the animals with adequate veterinary care (observed during the March 5, 2020 Inspection);
- b. a Dall ram with significantly overgrown dewclaws and hooves, thick layers of crusting above each hoof, and ulcerative lesions with fresh blood on all four limbs, indicating again a prolonged failure by Waccatee to provide the animals with adequate veterinary care (observed during the Oct. 22, 2020 Inspection);
- c. murky, green water in the dromedary camel's drinking water receptacle thus leaving the camel without access to potable water (observed during the Oct. 22, 2020 Inspection);
- d. llamas at Waccatee with significantly overgrown hooves and toenails that were overgrown and deviating to the side, indicating continued failure by Waccatee to provide adequate veterinary care (observed during the Jan. 26, 2021 Inspection);
- e. two Aoudad sheep limping, indicating Waccatee is improperly denying veterinary care to the animals (observed during the May 5, 2021 Inspection); and
- f. cloudy, brown water with clumps of brown and green plantlike material, as well as brown sludge, in the drinking water receptacles in the Aoudad sheep and fallow deer enclosures (observed during the May 5, 2021 Inspection). *Id.*

57. Photographs and videos by Waccatee visitors also show AWA violations and takes of ESA-protected species, in addition to similar deficiencies with respect to other species.

58. The instances described below include examples of how Defendants take Listed Species by failing to provide them with adequate veterinary care; failing to provide them with adequate, appropriate nutrition; housing them in small, insecure, and generally inappropriate and unsafe enclosures; failing to maintain them in sanitary conditions; failing to provide them with adequate environmental enrichment; and housing them in inappropriate social groupings.

A. Defendants take Listed Species in violation of the ESA.

i. Defendants wounded, harmed, harassed, and, on information and belief, killed tigers by denying them adequate veterinary care.

59. Routine veterinary care is essential to timely diagnose and treat disease, injury, or negative stress in tigers.

60. Tigers exhibited in captive facilities should be maintained with a moderate body condition score (3 on a 5 point scale) due to increased health risks and reduced longevity associated with more extreme body conditions.

61. On information and belief, Waccatee did not provide sufficient veterinary care to Lila or Akshara. Both tigers exhibited chronic abnormal repetitive behaviors indicative of severe psychological distress.

62. The cats suffered repeated injuries and illnesses requiring appropriate veterinary treatment that, on information and belief, Defendants did not provide.

63. Lila suffered progressive hair loss and skin issues that persisted for at least a year prior to her death. *See* Exs. 2 and 3. Before her death, Lila was emaciated, having a likely body condition score of 1 on a 5-point scale, itself indicative of a failure to address near-death conditions.

64. Defendants failed to provide Lila and Akshara with adequate and appropriate veterinary care as evidenced by abnormal repetitive behavior, Lila's physical deterioration, and

failure to adequately treat other conditions. Failure to provide timely and appropriate veterinary care harmed, harassed, and, on information and belief, contributed to their deaths.

ii. Defendants wounded, harmed, harassed, and, on information and belief, killed tigers by denying them adequate nutrition.

65. Basic tenets of animal care mandate that captive animals be provided with adequate and appropriate diets and potable water. The AWA requires, at a minimum, that food “be 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). Diets provided to tigers “shall be prepared with consideration for the age, species, condition size, and type of the animal” as well. *Id.* According to established industry guidelines, feeding tigers diets that contain high percentages of poultry products or muscle meat is problematic because they may be nutritionally unbalanced. Clean drinking water should always be available to tigers, in containers that are cleaned and disinfected daily.

66. On information and belief, Defendants did not provide sufficient nutrition to tigers. For example, the USDA specifically cited Waccatee for failing to provide felids with a veterinarian-approved diet, or even a sufficient written feeding plan. *See* Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 9, 2017), p. 4.

67. On information and belief, Waccatee fed Lila and Akshara an unbalanced, insufficient diet. In addition to being high in poultry products, the diet these tigers received was insufficient to prevent deadly muscle wasting and emaciation. As explained earlier in this Complaint, exhibited tigers should be maintained with a moderate body condition score (3 on a 5 point scale) due to increased health risks and reduced longevity associated with more extreme body conditions. Before her death, Lila’s vertebrae, scapula, shoulder, hip, and other joints were visible.

68. Defendants, on information and belief, also failed to provide tigers with continuous access to clean drinking water. Visitors to Waccatee have observed empty and unsanitary water vessels in tiger enclosures.

69. Defendants failed to provide tigers with adequate nutrition and water. This failure both injured the tigers and created a likelihood of further injury by interfering with their normal feeding behaviors, and thus wounded, harmed, harassed, and, on information and belief, contributed to the deaths of Lila and Akshara in violation of the ESA.

iii. Defendants wounded, harmed, and harassed, and, on information and belief, killed tigers by denying them appropriate housing.

70. Tigers require large, environmentally rich, natural spaces that allow them to express a wide range of behaviors. Captive environments that do not provide the environmental enrichment necessary to promote the expression of a full range of species-typical behaviors have a detrimental effect on the animals' physical and psychological well-being.

71. On information and belief, tiger enclosures at Waccatee Zoo were 30 feet long, 20 feet wide, and 10 feet high with limited access to a pool. The pool was in an enclosed, common area and shared with black bears, and not generally available to Lila and Akshara. The pool's chronic low levels and poor water quality also reduced the tigers' opportunities to swim.

72. The enclosures were too small to meet the needs of tigers in order for them to engage in species-typical behaviors such as roaming, seeking refuge, and swimming.

73. Poor housing also exposed Lila and Akshara to a likelihood of bodily injury. On information and belief, the rear portion of the enclosures appeared to only provide protection from three sides, leaving the front exposed to inclement weather and other environmental conditions. Defendants did not provide misting units, fans, or other means of thermoregulation for the tigers. Lila was left particularly vulnerable by inadequate shelter when she lost a majority

of her fur as her ability to maintain body heat was reduced. The enclosures also exposed Lila and Akshara to risk of disease and physical injury from humans, including members of the public, or other animals.

74. Defendants failed to maintain enclosures in good condition, leaving wood and wires exposed. Those exposed wires and sharp wood created a likelihood of injury to Akshara and Lila by actually injuring them and by interfering with normal behavioral patterns in manner likely to cause further injury.

75. Defendants wounded, harmed, harassed, and, on information and belief, contributed to the deaths of tigers through poor housing.

iv. Defendants wounded, harmed, harassed, and, on information and belief, killed tigers by denying them sanitary space.

76. Natural substrates, such as those within Waccatee Zoo's tiger enclosures, and other surfaces should be spot-cleaned daily. Pools for tiger use should be designed for maintaining high water quality and for ease of cleaning and sanitizing, as tigers tend to defecate in water. Under generally accepted husbandry practices, all water provided to the animals must be potable, and changed as appropriate to remain fresh and uncontaminated.

77. On information and belief, Defendants failed to remove feces and food wastes in a timely manner.

78. On information and belief, Defendants failed to properly clean substrates within tiger enclosures. The failure to clean the surfaces created risks of injurious odors and contamination with microbes, exposing Lila and Akshara to potential pathogens.

79. Defendants failed to eliminate stagnant, muddy water that accumulated in tiger enclosure space. *See* 9 C.F.R. § 3.52(e) (Requiring "a suitable method... to rapidly eliminate excess water" in outdoor enclosures for big cats such as tigers). This standing water exposed

tigers to additional health risks including exposure to potential pathogens.

80. The tigers' enclosure pool routinely contained stagnant, filthy water. The pool's condition exposed the animals to potentially contaminated water and risk of injury to tigers.

81. Defendants' failure to provide Lila and Akshara with a sanitary environment wounded, harmed, and harassed them and, on information and belief, contributed to their deaths.

v. Defendants harmed, harassed, and, on information and belief, killed tigers by denying them adequate environmental enrichment.

82. Insufficient enrichment deprives tigers of the ability to engage in species-typical behaviors, which causes negative stress and likewise deprives them of the ability to exercise, which risks physical harm. To address this, appropriate programs of environmental enrichment are necessary to prevent injurious behaviors, such as self-mutilation, and abnormal repetitive behaviors, such as pacing, indicative of severe psychological distress.

83. To meet the physical and psychological needs of tigers, exhibits should include enrichment elements such as relatively large, complex outdoor space; natural vegetation; and trees or other natural substrate objects to allow nail grooming. Enrichment plans should include natural and complex enclosures and environmental enrichment including whole-carcass feeding, novel toys/objects, scratch logs, introduction of new smells, pools, and adequate spaces to run, and places to retreat from view. Further, enrichment should be rotated on a consistent and routine basis to retain the tigers' interest and to better reflect the varied experiences they would have in natural settings.

84. Defendants failed to provide appropriate enrichment for Lila and Akshara. The tiger enclosures lacked complexity, natural vegetation, and natural substrates for nail grooming. Denying tigers an appropriate, natural, and complex enclosure frustrated their natural instincts. Defendants did not provide Lila and Akshara opportunities to swim, stalk, and engage in other

natural behaviors. The pool provided for tigers, which was shared with the adjacent bear enclosure, was woefully inadequate, as the water was consistently at a low level and unsanitary.

85. The reduced opportunities to swim, stalk, and engage in other natural behaviors due to inadequate enrichment also reduced Lila and Akshara's abilities to maintain moderate body conditions. Poor body condition increases health risks and reduces longevity.

86. The minimal enrichment items provided were not functional for big cats and were consistently dirty. The condition of this limited enrichment suggests that it was frequently unused or not rotated to ensure novelty. Visitors to Waccatee observed Lila pacing back and forth up to the end of her life. Repetitive pacing is consistent with psychological distress that is likely caused by a lack of space, environmental complexity, and sensory stimulation.

87. By depriving the tigers of an environment in which they could express natural behaviors, Defendants disrupted their normal behavioral patterns such that it created a likelihood of injury and, on information and belief, caused psychological and ultimately physical injury while also contributing to the tigers' deaths.

vi. Defendants wounded, harmed, harassed, and, on information and belief, killed tigers by denying them appropriate social groupings.

88. Tigers are generally solitary animals. Accordingly, except under very specific conditions where animals have a high degree of autonomy, group housing of adult tigers is contrary to generally accepted animal husbandry practices.

89. On information and belief, Waccatee Zoo harmed tigers by placing them in improper social settings. For example, during an inspection on May 24, 2016, USDA noted that Waccatee had housed Lila and Akshara together for 11 years. USDA advised that "measures need to be taken to protect the female from excessive male roughness and from injuries" after learning that Akshara attacked Lila in a failed breeding attempt. The failed breeding attempt

resulted in a two-inch wound on Lila's body.

90. Defendants also placed the tiger and lion enclosures side-by-side without sufficient visual barriers. Placing tigers and lions in close proximity without appropriate modifications induced negative stress among the animals.

91. Placing Lila and Akshara in improper social contexts led to physical injury and added additional negative stress to their lives. By depriving tigers of appropriate social groups, Waccatee's actions harmed and harassed tigers, as well as, on information and belief, contributed to their deaths.

vii. Defendants wound, harm, and harass lions by denying them adequate veterinary care.

92. Facilities housing lions should provide regular and adequate veterinary care. Generally accepted husbandry practices call for veterinary care to be available at all times in order to address signs of negative stress, disease, or injury in a prompt fashion.

93. Princess and Simba have experienced documented wounds and physical problems. The USDA cited Waccatee for Simba's incoordination, and noted that such an issue can be an indicator of poor health, including potentially fatal nutritional deficiencies such as metabolic bone disease. Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 9, 2017), p. 1. Specific observations from USDA inspectors included that Simba's hocks are abnormally dropped, that there is a swinging out of his legs as he moves, and that there is a swaying to his rear gait.

94. Zoo visitors have also reported fur loss and wound issues on Simba's face and wounds on Princess's face.

95. Simba and Princess have been observed pacing listlessly in their enclosures, demonstrating a failure to meet psychological veterinary needs.

96. Defendants' failure to provide adequate veterinary care creates the likelihood of injury and actually injures both Princess and Simba.

viii. Defendants wound, harm, and harass lions by denying them adequately implemented nutrition protocols.

97. Lion caretakers must be trained to meet the dietary needs of lions. AWA regulation requires, at a minimum, that food given to lions "be 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). Diets should "be prepared with consideration for the age, species, condition, size, and type of the animal." *Id.* According to generally accepted husbandry practices, feeding lions diets that contain high percentages of poultry products or muscle meat is of concern because such diets may be nutritionally unbalanced. At all times, potable water should also be available to lions in containers that are cleaned and disinfected daily. *See* 9 C.F.R. § 3.130 (explaining that under the AWA "[f]requency of watering shall consider age, species, condition, size, and type of the animal.")

98. On information and belief, Defendants deny lions an appropriate diet and consistent access to clean potable water. USDA has cited Waccatee Zoo for failing to provide felids in its care with a veterinarian-approved diet, or even a sufficient written feeding plan. Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 9, 2017), p. 4.

99. Defendants' failure to provide lions adequate nutrition wounds, harms, and harasses them because poor nutrition creates the likelihood of injury and is actually deleterious to the animals' physical and psychological health.

ix. *Defendants wound, harm, and harass lions by denying them safe and appropriate housing.*

100. Lions need adequate space to engage in species-typical behaviors such as concealing themselves from humans, foraging, stalking, roaming, running, and playing. Enclosures should be in good repair to prevent injuries to animals.

101. On information and belief, the two lion enclosures at Waccatee Zoo are 20 feet long, 25 feet wide, and 12 feet tall each. This space is inadequate for lions due to its size, lack of complexity, and dangerousness.

102. Poor housing also exposes lions to a likelihood of bodily injury. Defendants routinely fail to repair damaged lion enclosure spaces. Exposed wires and rough material expose lions to a likely risk of harm via physical injury. These spaces also expose lions to risk of disease and physical injury from humans, including members of the public, or other animals.

103. Defendants' failure to keep Princess and Simba in adequate and safe enclosures wounds and harms them by direct injury and harasses them by exposing them to a likelihood of physical and psychological injury, including by impairing normal sheltering patterns.

x. *Defendants wound, harm, and harass lions by keeping them in unsanitary conditions.*

104. Generally accepted animal husbandry practices call for natural substrates and other surfaces within lion enclosures to be spot-cleaned daily. *See, e.g.*, 9 C.F.R. §§ 3.125(d), 3.131. Hard surface enclosures for lions should be cleaned daily, and cleaned with detergent and disinfectant on a regularly scheduled basis.

105. Concerning drainage, the AWA requires, at a minimum, that "a suitable method shall be provided to rapidly eliminate excess water" in outdoor enclosures for big cats such as lions. 9 C.F.R. § 3.52(e).

106. Defendants harm and harass lions through unsanitary enclosures. On information and belief, Defendants do not clean or sanitize the lion enclosures in accordance with generally accepted husbandry practices. Zoo staff allow food and feces, and thus injurious odors, to remain in enclosures. Failure to clean surfaces creates risks of injurious odors and contamination with microbes, exposing Simba and Princess to potential pathogens.

107. Water drainage issues within enclosures harm and harass lions by creating unsanitary, muddy floors. This standing water exposes Simba and Princess to additional health risks including exposure to potential pathogens.

108. By confining lions in unsanitary conditions that continually put their health and welfare at risk, Defendants harm and harass Princess and Simba by causing physical and psychological injury, and interfering with normal behavioral patterns that create a likelihood of physical and psychological injury.

xi. Defendants wound, harm, and harass lions by denying them adequate enrichment.

109. A lion's natural habitat includes open woodlands, thick brush, and tall grassy areas. In captive settings, generally accepted husbandry practices require that lions be allowed to retreat from conspecifics through the use of visual barriers, such as rock outcroppings, hills, and foliage, without limiting the animal's access to food, water, heat, or shade. Enclosures should also provide various substrates, surfaces to mark, deadfall for scratching, and other components that will change their pathways and create complex behavioral opportunities.

110. Enrichment plans for lions should include natural and complex enclosures and environmental enrichment including whole-carass feeding, novel toys/objects, scratch logs, introduction of new smells, pools, and adequate spaces to run, and places to retreat from view.

Further, enrichment should be rotated on a consistent and routine basis to retain interest and to better reflect the varied experiences lions would have in natural settings.

111. Defendants fail to provide any appropriate enrichment necessary for lions to forage, play, and engage in other species appropriate behavior. Moreover, Defendants confine lions to barren enclosures, which are wholly unable to meet their complex physical, psychological, or social needs. The lion enclosures at Waccatee Zoo present a stark contrast to a lion's natural environment, and are void of adequate enrichment. The lack of visual barriers deny Simba and Princess visual privacy from the public and the ability to engage in instinctual and species-specific behaviors such as stalking and hiding. The failure to provide captive lions sufficient retreat space to escape the gaze of visitors violates generally accepted husbandry standards and is a significant potential source of negative stress—which, on its own, can cause a multitude of physical and psychological injuries. Further, by depriving Princess and Simba of the ability to express natural hunting behaviors such as stalking and predation, Defendants harass them by creating a likelihood of injury to them by annoying them to such an extent as to significantly disrupt normal feeding behavioral patterns.

112. Simba and Princess are housed in small enclosures with mud floors that lack complexity and provide only minor—and wholly inadequate—enrichment. Princess is, on information and belief, provided with a bowling ball as a source of enrichment. Simba is provided with a tire. Tires, without modification, and bowling balls are not species-appropriate enrichment because they do not promote the daily expression of a range of natural behaviors, including, for example, predatory and investigatory behaviors, and bowling balls are universally recognized as harmful because they may lead to injuries such as broken teeth. Tires also create a risk of perforation of the digestive tract if ingested.

113. As a likely result of the deficiencies in their environments, visitors to Waccatee often see Simba and Princess pacing back and forth within their enclosures.

114. Defendants' ongoing failure to provide lions with environmental complexity denies them the ability to engage in normal behaviors, which harms the lions by direct psychological injury and creates the likelihood of physical injury.

xii. Defendants wound, harm, and harass lions by denying them appropriate social groupings.

115. Lions are typically found in large social groups called prides. For African lions, a typical pride structure includes five to nine related adult females and their offspring plus two to six males who are unrelated to the females but frequently related to each other.

116. Unlike their counterparts in the wild, Princess and Simba are housed alone without species-appropriate social groupings. This isolation is particularly detrimental for lions given their highly social nature. This isolation is likely a further source of the ongoing, repetitive pacing described above indicating severe psychological distress.

117. Failing to provide Princess and Simba proper social groups wounds, harms, and harasses them because the failures create the likelihood of injury and causes physical and psychological injuries the lions.

xiii. On information and belief, Waccatee wounds, harms, and harasses lemurs by denying them adequate veterinary care.

118. On information and belief, Waccatee fails to provide lemurs sufficient veterinary care. Some lemurs are overweight or possess abnormal masses on their chest and belly areas which may be indicative of a lack of veterinary care, as well as poor nutrition. Untreated conditions injure lemurs and interfere with normal behavioral patterns in a way that can lead to further injury.

119. Lack of veterinary care harasses and harms lemurs both by causing them actual injury and by creating a likelihood of further injury from untreated health and welfare issues that impair their normal behavioral patterns.

xiv. Defendants wound, harm, and harass lemurs by failing to follow species-specific nutrition protocols.

120. According to generally accepted husbandry practices, lemurs should be provided with fresh browse daily to promote natural feeding behaviors.

121. On information and belief, Waccatee does not provide lemurs an adequate diet. Staff leave food that is covered in flies within enclosures. Defendants also, on information and belief, allow the public to feed animals improper food with minimal staff presence to observe visitor behavior.

122. Further indicating improper diets, one or more ring-tailed lemurs at Waccatee have been observed to be noticeably overweight.

123. Denying lemurs a species-appropriate diet creates a likelihood of injury by significantly disrupting normal feeding behaviors. The lack of adequate nutrition, on information and belief, also causes physical and psychological injury.

xv. Defendants wound, harm, and harass ring-tailed lemurs by denying them safe and appropriate housing.

124. Ring-tailed lemurs require specific ambient temperatures in their environment. Generally accepted animal husbandry practices for lemurs require captive lemurs to be housed exclusively indoors when temperatures fall below approximately 48°F (8.9°C).

125. On information and belief, Defendants fail to confine ring-tailed lemurs in an adequately temperature-controlled environment when outdoor temperatures fall below safe levels. Failure to protect the lemurs from inclement weather wounds, harms, and harasses them

under the ESA in that it causes injury, including injury resulting from exposure to frost and cold temperatures. It also is likely to cause injury to them by annoying them to such an extent as to significantly disrupt their ability to engage in normal behavioral patterns, in part because they must divert their focus and energy to try to maintain appropriate body temperatures.

126. Defendants do not heat lemur spaces safely. For example, Defendants use an unsafe and inadequate space heater to warm the lemur enclosure in the antique barn. The heater is dangerously stacked on top of boxes and crates outside of the enclosure space, which is a fire hazard and is insufficient to heat the entire enclosure. On information and belief, the placement of the heater also creates an unsafe hot spot on the metal fencing of the enclosure. This hot spot creates the likelihood of injury to lemurs.

127. Defendants also leave exposed wiring in and around lemur enclosure space. Exposed wire is harmful to ring-tailed lemurs because they can injure themselves on the exposed wiring. Likewise, Defendants, as discussed below, create another injury risk to lemurs by keeping poison rodent traps in the enclosure.

128. Defendants' enclosures are insufficient to secure the animals, making lemurs vulnerable to public contact. *See* Ex. 5. The USDA noted this problem as early as November 12, 2003. *See* Inspection Report, APHIS, Archie Futrell and Waccatee Zoo, 56-C-0029 (U.S.D.A. Nov. 12, 2003), p. 1. The agency similarly noted in 2008 that the lemurs held in the barn enclosure "do not have a complete public barrier." Inspection Report, APHIS, Archie Futrell, 56-C-0029 (U.S.D.A. Jun. 18, 2008), p. 2. Nevertheless, juvenile lemurs continue to be observed outside of their enclosures. Public contact exposes lemurs to disease and physical injury by humans or other animals.

129. Defendants' failure to provide lemurs safe housing wounds, harms, and harasses them by interfering with their normal behavioral patterns in a manner likely to cause further injury and by actually injuring lemurs.

xvi. Defendants wound, harm, and harass lemurs by failing to provide a sanitary environment for them.

130. Unsanitary conditions in, near, and surrounding a lemur's enclosure "interfere with the lemurs' olfactory senses, to which they are highly attuned." *Kuehl v. Sellner*, 161 F. Supp. 3d 678, 703 (N.D. Iowa 2016).

131. The USDA documented poor sanitary conditions for lemurs at Waccatee as early as November 2003. Inspection Report, APHIS, Archie Futrell and Waccatee Zoo, 56-C-0029 (U.S.D.A. Nov. 12, 2003), p. 2. *See also* Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 2, 2012).

132. Because Defendants fail to keep enclosures in clean and sanitary conditions, lemurs are left with dirty boards to walk on. As alleged above, food left for the lemurs is frequently covered in insects. Failure to clean surfaces creates risks of injurious odors and contamination with microbes, exposing lemurs to potential pathogens.

133. Defendants have and continue to allow dirt, dust, cobwebs, and mold to accumulate in the lemur enclosures located in the antique barn. There are also wasp nests in the barn near the lemur enclosure and holes in the ceiling in the barn enclosure. Holes in the roof of the lemur barn enclosure encourage mold, mildew, and exposure to the elements. Failure to clean surfaces creates risks of injurious odors and contamination with microbes, exposing lemurs to potential pathogens. The presence of wasp nests and holes in the enclosure amplify the risk of harm to lemurs.

134. As recently as January 2022, the USDA cited Defendants for failing to clean and sanitize enclosures housing ring-tailed lemurs and tufted capuchins, thus enabling bugs, insects, and pests to thrive. *See* Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Jan. 12, 2022), p. 1.

135. On information and belief, Defendants fail to regularly remove old food and feces from the lemur enclosures. The facility also allows dried urine to remain in enclosures. Failing to remove old food and feces creates risks of injurious odors and contamination with microbes, exposing lemurs to potential pathogens.

136. These unsanitary conditions induce negative stress to the lemurs because they require clean environments to exhibit normal behaviors.

137. On February 6, 2017, the USDA cited Waccatee for mice feces found in multiple areas with a live mouse seen on a shelf containing feed bags. Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Feb. 6, 2017). The inspection report mentioned that rodent holes were seen around several enclosures. *Id.* Mice can transmit diseases to lemurs. On information and belief, pest control issues at Waccatee continue to persist. Defendants also keep poison traps in lemur enclosures, thus putting lemurs at risk of poisoning.

138. By confining ring-tailed lemurs in unsanitary conditions that continually put their health and welfare at risk, Defendants harm and harass ring-tailed lemurs by causing physical and psychological injury, and interfering with normal behavioral patterns that create a likelihood of physical and psychological injury.

xvii. Defendants wound, harm, and harass lemurs through inadequate environmental enrichment.

139. Captive ring-tailed lemurs must be provided with extensive, varied and well-

planned environmental enrichment (i.e. the opportunity to engage in species-typical behavior).

140. In recognition of the unique social, psychological, and physical needs of primates, regulations issued by the USDA, which set the “minimum requirements” for both endangered and non-endangered captive animals used in exhibitions under the AWA, expressly require animal exhibitors to “develop, document, and follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of nonhuman primates,” that is “in accordance with the currently accepted professional standards as cited in appropriate professional journals or reference guides, and as directed by the attending veterinarian.” 9 C.F.R. § 3.81. These mandatory enhancement plans must address the social needs of nonhuman primates and provide an environment that allows them to express a “full range” of species-typical behaviors. USDA, Animal & Plant Health Inspection Serv., *Final Report on Env’t Enhancement to Promote the Psychological Well-Being of Nonhuman Primates* § II.E (1999); *see also* 9 C.F.R. § 3.81.

141. Defendants do not provide adequate enrichment for lemurs. On information and belief, Defendants harm and harass ring-tailed lemurs by depriving them of enrichment. Lack of enrichment injures lemurs and interferes with their normal behaviors in a way that leads to the likelihood of further injury.

142. In at least two lemur enclosures, Defendants confine the lemurs in sparse conditions with plastic toys, which, on information and belief, are not changed regularly. Such barren conditions are harmful to lemur physical and psychological health, and cause or are likely to cause injury, including multiple acute and chronic psychological and physiological injuries resulting from their inability to express a full range of natural behaviors such as species-typical roaming, foraging, play, and deriving intellectual stimulation from a varied habitat.

Deprivation of species-appropriate environmental enrichment also causes a likelihood of injury by driving aberrant behaviors, including, for example, social withdrawal, displaced aggression, and changes in motivation and learning.

143. The condition of the limited enrichment items suggests that these items are frequently unused and not rotated to ensure novelty. Further corroborating this inference are USDA citations regarding lack of enrichment for lemurs dating back more than two decades:

- a. Failing to provide enough manipulable objects to non-human primates.

Inspection Report, APHIS, Archie Futrell and Waccatee Zoo, 56-C-0029

(U.S.D.A. Nov. 12, 2003), p. 1;

- b. Failing to provide foraging devices and methods to promote foraging for food.

Id.; and

- c. Vague and incomplete environmental enhancement plan for primates.

Inspection Report, APHIS, Archie Futrell and Waccatee Zoo, 56-C-0029

(U.S.D.A. Sept. 25, 2001), p. 1.

144. Defendants' poorly enriched environments deny lemurs the ability to express normal behaviors. Defendants' actions interrupt lemur behaviors in a manner that both actually injures them and creates the likelihood of physical and psychological injury.

xviii. Defendants harm and harass lemurs through mixed-species exhibits.

145. Defendants harm lemurs by housing them with members of incompatible species. Waccatee houses at least one intercontinental primate with lemurs. Housing ring-tailed lemurs and other primate species together can cause distress to both species as they have different social patterns. Primates from other continents than lemurs can also expose lemurs to the deadly Herpes-B virus and other infectious diseases.

146. In June 2021, chickens were also documented in the lemur enclosure on two dates. The lemurs' proximity to these chickens exposes them to disease hazards and additional negative stress.

147. Defendants' co-housing of members of incompatible species interrupts lemur behaviors in a manner that creates the likelihood of physical and psychological injury to them. The presence of incompatible peers also injures the lemurs psychologically and, ultimately, physically.

xix. Defendants harm and harass parrots by denying them adequate veterinary care.

148. Delilah the scarlet macaw has both an overgrown beak and nails, which are in need of—but, on information and belief, have not received—veterinary attention.

149. Parrots at Waccatee Zoo suffer from feather damage. On information and belief, damage to the birds' feathers is indicative of disease or self-mutilation.

150. Lack of adequate veterinary care harms and harasses parrots by injuring the animals and interfering with their normal behavior in a manner that increases the likelihood of additional physical and psychological injury.

xx. Defendants wound, harm, and harass parrots by denying them adequate nutrition.

151. On information and belief, Defendants harm parrots by failing to provide adequate, species-specific nutrition and access to potable water. Parrots at Waccatee Zoo are left without fresh food and water, and left with food that is covered in flies.

152. By failing to provide ESA-protected parrots with an adequate and appropriate diet, as well as fresh water, Defendants create a likelihood of injury by significantly disrupting

normal behavioral patterns. The lack of adequate nutrition, on information and belief, also causes physical and psychological injury.

xxi. Defendants wound, harm, and harass parrots by denying them safe and appropriate housing.

153. Defendants keep ESA-listed parrots in cages that are too small. These small cages prevent birds from being able to fly and from exhibiting normal behavioral patterns in a manner likely to cause injury. Depriving birds of the ability to fly is a source of negative stress and causes poor welfare.

154. Defendants hold parrots in small, cramped cages that prevent them from fully opening their wings.

155. The parrots are also exposed to continuous artificial light, placed in sight of predators, and forced to be near unpredictable noise from gift shop traffic.

156. Confining parrots in poor housing that does not allow animals to express normal behavior patterns creates a likelihood of psychological and physical injury to the animals and, on information and belief, actually injures the animals.

xxii. Defendants wound, harm, and harass parrots by denying them sanitary conditions.

157. Parrot and other bird cages are consistently unclean. Defendants leave soiled newspapers at the bottom of bird enclosures, allowing accumulation of feces and food waste. Defendants' failure to keep enclosures clean creates risks of injurious odors and contamination with microbes, exposing birds to potential pathogens.

158. The few enrichment materials are often soiled. The perches in the parrot cages are often dirty. Dirty, soiled enrichment materials expose birds to potential pathogens by creating risks of injurious odors and contamination with harmful microorganisms. Defendants' failure to

remove food waste, allowing flies to consume food in parrot enclosures, also creates a sanitation hazard by creating risks of injurious odors and contamination with microbes, exposing birds to potential pathogens.

159. Defendants' failure to maintain sanitary cages wounds, harms, and harasses birds by causing actual injury, and interfering with normal behavioral patterns in a way that is likely to cause physical and psychological injury and by exposing them to increased risk of pathogens, amplifying the risk of illness, infection, or even death.

xxiii. Defendants wound, harm, and harass parrots by denying them adequate environmental enrichment.

160. Defendants, on information and belief, hold several parrots (including a white cockatoo, a yellow-crested cockatoo, a salmon-crested cockatoo named Cream, and a scarlet macaw named Delilah) in its gift shop within small cages.

161. On information and belief, the parrot cages have little enrichment, most of it static and inappropriate. Enclosures are often littered with refuse items, such as dirty towels, soda bottles, and old paper boxes.

162. Delilah's cage only has a hanging piece of wood, a couple of hanging chains, a rope, and a plastic bottle. These materials offer little stimulation and the plastic bottles and chains pose a safety hazard.

163. Defendants do not provide visual barriers for parrots to retreat from stressors or to hide from view from other birds or people. There is no space to distance themselves or seek quiet refuge from environmental stressors.

164. Defendants do not provide diverse perches, which puts parrots at risk of bumblefoot. Two of the parrots only have one perch. None of the parrots at Waccatee have

access to water baths or dust baths.

165. By failing to provide enrichment, Defendants injure the birds psychologically and impair essential behavioral patterns in a manner that creates a likelihood of physical and psychological injury.

xxiv. Defendants harm and harass parrots by denying them adequate social groupings.

166. Macaws and cockatoos are social animals. In the wild, they live in large flocks.

167. Defendants wound, harm, and harass Delilah, Cream, and the other ESA-listed cockatoos by housing them alone. Housing social species in isolation without direct access to compatible members of their own species is a source of chronic negative stress and frustration, and is a serious welfare concern for the parrots.

168. By failing to provide appropriate social groupings, Defendants directly injure parrots psychologically and harass parrots by impairing essential behavioral patterns in a way that creates a risk of injury.

xxv. Defendants harm and harass a scimitar-horned oryx by denying adequate veterinary care.

169. Defendants chronically neglect hoof care for ungulates throughout the facility. *See* Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Jan. 26, 2021), p. 1; Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Oct. 22, 2020), p. 1; Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Mar. 5, 2020), p. 1; Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 9, 2017), p. 1; Inspection Report, APHIS, Archie Futrell, 56-C-0029 (U.S.D.A. Aug. 18, 2010), p. 1. On information and belief, their failure to provide hoof care extends to the oryx.

170. The oryx at Waccatee has also paced in the enclosure in an abnormal, repetitive fashion indicative of severe psychological distress.

171. On information and belief, Defendants deny adequate veterinary care to a scimitar-horned oryx as indicated by the deficiencies described above. Defendants' failure to address hoof and psychological conditions injure the animal and interfere with normal activities in a way that can lead to injury.

xxvi. *Defendants wound, harm, and harass a scimitar-horned oryx through inadequate nutrition.*

172. On information and belief, Defendants fail to provide the oryx with adequate nutrition. Lack of adequate nutrition can cause or contribute to physical, mental, and immune health problems.

173. This denial harms the animal's physical and psychological health in violation of the ESA. Lack of adequate nutrition harasses the animal by significantly disrupting normal behavioral patterns in a manner that creates a likelihood of injury.

xxvii. *Defendants wound, harm, and harass a scimitar-horned oryx through inappropriate enclosure space.*

174. Defendants, on information and belief, fail to provide the scimitar-horned oryx adequate enclosure space. The oryx resides in an open field with no apparent shelter. This means the oryx's behavioral patterns are interrupted by extreme weather. There is also a lack of appropriate substrate, which threatens hoof health.

175. Defendants significantly disrupt the animal's normal behavioral patterns by confining the oryx in an inadequate enclosure in a manner likely to cause, and that, on information and belief, actually causes, further physical and psychological injury.

xxviii. Defendants wound, harm, and harass a scimitar-horned oryx through lack of sanitation.

176. Defendants' chronic lack of cleanliness throughout the facility and, on information and belief, within the oryx enclosure, harms and harasses the animal.

177. Poor sanitation across the grounds and in or near the oryx enclosure creates harassing odors as well as a likelihood of disease transmission. Water drainage issues within enclosures, on information and belief, harm and harass the scimitar-horned oryx.

178. Defendants harass the scimitar-horned oryx by exposing the animal to muddy areas and standing water, thus creating the likelihood of injury or sickness and, on information and belief, actually causing injury and sickness.

xxix. Defendants, on information and belief, wound, harm, and harass an oryx by failing to provide environmental enrichment.

179. On information and belief, Defendants do not provide enrichment for the scimitar-horned oryx. Defendants keep the oryx in an enclosure, alone, with minimal enrichment. Lack of enrichment harms the oryx psychologically and harasses the oryx by interfering with normal behavioral patterns in a way that creates the likelihood of injury.

xxx. Defendants harm and harass an oryx by housing the animal without conspecific companionship.

180. Generally accepted husbandry practices call for oryxes held in captivity to be housed in harem groups (one male, several females), multi-male groups (several males, several females), bachelor groups (several males), or all-female groups (if necessary). These same generally accepted practices do not recommend housing oryxes singularly.

181. Defendants harm and harass a scimitar-horned oryx by housing the animal alone. On information and belief, this social isolation contributes to conditions including the abnormal

repetitive pacing described above, which indicates that this animal is likely experiencing negative stress by living away from other scimitar-horned oryxes.

182. By depriving the scimitar-horned oryx social interaction fundamental to psychological and ultimately physical well-being, Defendants create a likelihood of, and on information and belief have caused, physical and psychological injury.

B. Defendants sell taken Listed Species and taken animal parts in violation of the ESA.

183. On information and belief, Defendants sell lion parts and lemur pups in violation of the ESA.

184. Defendants have sold or attempted to sell lion hair in their gift shop. On information and belief, the lion hair came from lions that were, as detailed above, taken in violation of the ESA.

185. On information and belief, Waccatee sells ESA-protected ring-tailed lemurs who, as detailed above, were taken in violation of the ESA. Comparing USDA's reports on Waccatee's lemur inventory with photo evidence of lemur pups at Waccatee suggests that lemur pups are disappearing before USDA officials can include the pups in the lemur population.

186. Defendants' sales of lion hair and lemur pups violate the ESA.

C. Waccatee Zoo is a public nuisance.

187. By engaging in unlawful and immoral activity, Waccatee works hurt, inconvenience, and damage on Plaintiffs, the Myrtle Beach community, and the general public, which interferes with the enjoyment of life and property and harms the community reputation and local economy.

188. Waccatee Zoo is a public nuisance, including a per se public nuisance, because it engages in *malum in se* mistreatment of animals, as described in this Complaint.

189. Defendants continuously breach the peace and subvert public decency and morals through their mistreatment animals and operation of Waccatee Zoo.

190. Waccatee is also a public nuisance by virtue of how it operates, which through its unlawful and unethical activities.

191. Waccatee is open to the public and is located and operated in a manner where members of the public are likely to come within range of its influence and the inevitable and undoubted harm it causes to the local community and its economy and reputation.

192. In addition to the harm shared by the public, Plaintiffs have suffered special injury as a result of Waccatee being and operating as a public nuisance, as described further in this Complaint.

i. Defendants' failure to provide animals with adequate veterinary care is a public nuisance.

193. USDA inspection reports detail Defendants' pattern of disregarding animal welfare and demonstrated failure to provide proper care for animals. These violations concern issues of serious neglect, including, for example, failure to provide adequate veterinary care. For example, as recently as 2021, the USDA cited Waccatee Zoo for:

- a. An aoudad sheep's forelimb lameness that impaired the animal's ability to move within the enclosure. *See* Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 5, 2021), p. 1; Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Oct. 20, 2021), p. 1;
- b. Overgrown llama hooves with toenails "strikingly overgrown, deviating to the side." Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Jan. 26, 2021), p. 1; and

- c. Ulcerative lesions with crusting on the distal ear tips of two Patagonian caviés. *See* Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Oct. 20, 2021), p. 1. *See also* Ex. 4.

194. The above deficiencies reflect not only specific incidents of neglect, but also routine failures of behavioral, medical, or other welfare monitoring that, on information and belief, cause all animals at Waccatee to suffer from preventable injuries and illnesses. For example, USDA inspectors have regularly noted Defendants' failure to notice conditions or confirm that daily observation of animals had occurred. On information and belief, these and similar conditions also cause all of the animals at Waccatee to experience prolonged negative stress.

195. Defendants have a practice of depriving animals of timely and appropriate veterinary care. In addition to the examples discussed above, Defendants neglected to seek veterinary assistance for the leopards Liza and Eolis even after USDA inspectors observed one of these leopards bleeding, with "both ear pinnae completely swollen," and, "when she shakes her head, fluid sounds can be heard." Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Feb. 18, 2014).

196. Defendants' illegal conduct with respect to non-Listed Species is further evidenced by:

- a. A Dall ram with "significantly overgrown dewclaws with profound amounts of crusting and ulcerative lesions encompassing all four distal limbs," in addition to many other instances of overgrown hooves contributing to a likelihood of pain, discomfort, lameness, and long-term malformations. *See, e.g.*, Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Jan.

27, 2021), p. 1; Inspection Report, APHIS, Kathleen Futrell, 56-C-0230

(U.S.D.A. Oct. 22, 2020), p. 1; Inspection Report, APHIS, Kathleen Futrell,

56-C-0230 (U.S.D.A. Mar. 5, 2020), p. 1;

- b. Red fox with a gumball-sized growth on the left forelimb. *See id.*;
- c. A cynomolgus macaque with bare skin indicative of past frost bite. *See* Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Mar. 28, 2018), pp. 1-2;
- d. Abnormal repetitive behaviors of two black bears. *See* Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Mar. 28, 2018), p. 1;
- e. Abnormal repetitive behaviors of hamadryas baboons and other primates. *See, e.g.,* Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 9, 2017), p. 2;
- f. Persistent eye issues suffering by Sha-Sha, a pig-tailed macaque. *See* Ex. 6;
- g. A sulcata tortoise with a deformed and splitting shell;
- h. Loss of hair or feathers on multiple animals (including a squirrel monkey, ostrich, capuchin, and cow);
- i. Wounds on various animals (including the back of a bison, face of a deer, and on the leg of a donkey). *See* Ex. 7; and
- j. Limping birds, including a golden pheasant and turkey.

197. By depriving animals of necessary veterinary care, Defendants maintain a place where the South Carolina anti-cruelty statute is publicly, repeatedly, persistently, and intentionally violated; continuously breach the peace; and subvert public order, decency, and morals, thereby creating a public nuisance.

ii. Defendants' failure to provide animals with adequate nutrition and water is a public nuisance.

198. In addition to the examples discussed above, Defendants' illegal conduct with respect to non-Listed Species is evidenced by Defendants' chronic failure to provide animals in their care with adequate food and water, or even sufficient written plans for doing so. *See* Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 5, 2021), p. 2; Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Oct. 22, 2020), p. 2; Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 9, 2017), p. 4.

199. Waccatee Zoo also provides generic food pellets to visitors upon entry and through coin-operated vending machines. These food pellets do not provide species-specific nutrition to animals. On information and belief, visitors offer food to animals throughout the facility. As mentioned in a January 2022 USDA inspection report, Defendants allow aged and deteriorating food to remain in the coin-operated vending machines, which can lead to food contamination, digestive issues and other health problems. *See* Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Jan. 12, 2022), p. 1. Public feeding also causes the abnormal repetitive behavior of begging.

200. Likewise, visitors continue to observe animals at Waccatee Zoo without potable water and left without appropriate food. For example, Defendants failed to provide clean, potable water to chickens, goats, and a pig.

201. Defendants fail to provide animals adequate nutrition as evidenced by animals with weight problems including an overweight cougar and an underweight Patagonian cavy.

202. On information and belief, there are no formal protocols in place to ensure that Waccatee workers perform their assigned duties or to ensure that animals routinely receive fresh water. By depriving animals of adequate nutrition and water, Defendants maintain a place where

the South Carolina anti-cruelty statute is publicly, repeatedly, persistently, and intentionally violated; continuously breach the peace; and subvert public order, decency, and morals, thereby creating a public nuisance.

iii. Defendants' failure to provide animals with adequate shelter is a public nuisance.

203. Despite state and federal requirements, Defendants confine animals in inadequate and unsafe housing. For example, in addition to the examples discussed above, Defendants' illegal conduct with respect to non-Listed Species is evidenced by USDA citations of Waccatee for inadequate enclosure space for animals including primates, cougars, bears, and various hoofstock. For example, a capuchin escaped in full view of USDA inspectors during one recent inspection. Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 5, 2021), p. 1. During another inspection, USDA inspectors observed loose and broken fencing along the zebra primary enclosure "that allowed the fence to sway back and forth, approximately 35 degrees" and posed a risk of injury to zebras. Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Oct. 20, 2021), p. 2.

204. Defendants have denied numerous other animals adequate space in their enclosures, including birds and snakes.

205. Not only are animals denied adequate space and security, but they are also denied adequate shelter from the elements. For example, in March 2020, the USDA cited Waccatee for soiled and muddy shelters for the peccaries and zebu. *See* Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Mar. 5, 2020), p. 1. *See also* Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Dec. 28, 2017), p. 1 (citing Waccatee for failing to provide adequate shelter for multiple animals, including foxes, cougars, a raccoon, a porcupine, a serval, a potbelly pig, a capybara, peccaries, goats, sheep, and cows).

206. Defendants do not heat reptile spaces safely. For example, Defendants use unsafe and inadequate space heaters in the alligator and iguana enclosures. They also use open wiring in the iguana enclosure.

207. The deficiencies of the enclosures are exacerbated by the fact that several of them are also in disrepair. Defendants fail to fix leaking roofs, thus denying animals adequate protection from rain. For example, in May 2017, the USDA cited Waccatee for failing to repair and replace animal enclosures. *See* Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 9, 2017), p. 2.

208. By depriving animals of necessary shelter, Defendants maintain a place where the South Carolina anti-cruelty statute is publicly, repeatedly, persistently, and intentionally violated; continuously breach the peace; and subvert public order, decency, and morals, thereby creating a public nuisance.

iv. Defendants' failure to provide animals proper sanitation is a public nuisance.

209. Defendants chronically fail to keep Waccatee Zoo clean. In addition to the examples discussed above, Defendants' illegal conduct with respect to non-Listed Species is evidenced by USDA citations of Waccatee for poor sanitation. *See* Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 5, 2021), p. 1; Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Oct. 22, 2020), p. 2; Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Jun. 26, 2019), p. 1.

210. Defendants' failure to routinely clean animal enclosures and the facility has created many problems, including the following:

- a. Feces accumulation in animal enclosures;
- b. Mud and standing water in animal enclosures;

- c. Mice and fly infestations;
- d. Mold and mildew in and on enclosures; and
- e. Accumulation of waste, debris, and standing water in areas used by Waccatee visitors.

211. On information and belief, there are no formal protocols in place to ensure that Waccatee workers perform their assigned duties or to ensure that all of the animal enclosures are routinely cleaned.

212. By depriving animals of sanitation, Defendants maintain a place where the South Carolina anti-cruelty statute is publicly, repeatedly, persistently, and intentionally violated; continuously breach the peace; and subvert public order, decency, and morals, thereby creating a public nuisance.

v. Defendants' failure to provide environmental enrichment and appropriate social groupings is a public nuisance.

213. Lack of enrichment and proper social groupings has led animals at Waccatee Zoo to engage in abnormal repetitive behavior. For example, in addition to the examples discussed above in paragraph 196, Defendants' illegal conduct with respect to non-Listed Species is evidenced by abnormal repetitive pacing in a manner indicative of severe psychological distress by black bears, a cougar, and other animals.

214. A baboon named Lil Trix has also exhibited abnormal repetitive behavior through erratic head swaying, self-injurious behavior, and pacing in cramped enclosure space. Another baboon named Jocko has paced in an enclosure space. A capuchin has engaged in self-biting, self-clutching, drooling, and shaking. Such behavior is indicative of physiological distress and insufficient enrichment.

215. The USDA has noted various failures to provide the proper enrichment and social groupings for animals confined at Waccatee. *See* Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Mar. 28, 2018), pp 1 (insufficient bear habitat); Inspection Report, APHIS, Archie Futrell and Kathleen Futrell, 56-C-0029 (U.S.D.A. Jun. 14, 2010) (housing primates such as Sha-Sha alone without written exemptions); Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Mar. 28, 2018), p. 2 (inadequate environmental enhancement for primates).

216. By depriving animals of appropriate enrichment and companionship, Defendants maintain a place where the South Carolina anti-cruelty statute is publicly, repeatedly, persistently, and intentionally violated; continuously breach the peace; and subvert public order, decency, and morals, thereby creating a public nuisance.

vi. Defendants' failure to abide by state and local laws is a public nuisance.

217. As described in preceding paragraphs of this complaint, Defendants knowingly ill-treat, deny sustenance or shelter, and inflict unnecessary pain or suffering on animals. Such conduct violates South Carolina's anti-cruelty law.

218. Failure to abide by South Carolina's anti-cruelty law breaches the peace and demonstrates a subversion of public order, decency, and morals.

219. Likewise, Defendants are not in compliance with the terms of their South Carolina Department of Natural Resources ("SCDNR") permit for black bears Spook and Care Bear.

220. Waccatee's permit to keep black bears requires Defendants to provide humane housing conditions, opportunities for a normal range of behaviors, clean water and enclosures, appropriate food, adequate veterinary care, and general compliance with federal and state law.

As described in preceding paragraphs of this complaint, Defendants violate the black bear permit through their ill-treatment of Spook and Care Bear.

221. Failure to abide by SCDNR permits breaches the peace and demonstrates a subversion of public order, decency, and morals.

222. Defendants also violate South Carolina's law prohibiting possession of big cats. South Carolina state law prohibits possession of big cats. *See* S.C. CODE ANN. § 47-2-30(A). Defendants are not protected by that law's grandfather clause, because Waccatee Zoo was not in compliance with the AWA when the law went into effect.

223. Failure to abide by state law prohibiting big cat possession breaches the peace and demonstrates a subversion of public order, decency, and morals.

224. In addition to unsafe conditions including failures of fire safety discussed above, Defendants also failed a Horry County code fire inspection on or about November 9, 2021 due to, among other violations, a lack of conduit or MC cable for the pond picnic area and the exterior electrical components of the concession stand.

225. Failure to abide by the state fire code breaches the peace and demonstrates a subversion of public order.

vii. Defendants' breach of the peace and subversion of public order, decency, and morals harms the economy and reputation of the local community.

226. Studies show that consumers today are highly influenced by online reviews when making travel-related decisions, including choice of destination. One study conducted by the International University of Applied Sciences (IUBH) and the travel company TUI Group, for example, found that 83% of travelers say that online reviews play an "important" or "very

important” role in making travel-related decisions and bookings.²

227. Reviews of Waccatee Zoo on the most widely used online review sites, including Google, Yelp, TripAdvisor, and Expedia, are frequently (and historically) negative, and almost every bad review expresses anger, shock, or sadness over the zoo’s treatment of its animals. *See* Ex. 9 (screenshot example of most recent negative reviews of the zoo on popular review platforms). Past and recent reviews regularly describe and upload pictures of the abuses and awful conditions at the zoo. Many reviewers call on others to boycott the zoo and authorities to shut it down.³ And many of these reviews are left by “Local Guides” or other online users recognized for the regularity and reliability of their reviews. As one Google “Local Guide” who has posted 33 verified online reviews recently summarized: “The living conditions of these animals are horrendous [and they] need to be seized and relocated to a legit zoo. . . .” *Id.* at 2.⁴ Waccatee is identified on TripAdvisor and other travel websites as something in Myrtle Beach that tourists should consider visiting with their families, encouraging prospective tourists to research and read online reviews of the zoo.⁵ Those reviews explain to them that Waccatee is “the saddest place in Myrtle Beach” and they should “[f]ind a zoo to visit in another area of the

²*The Use and Impact of Online Travel Reviews – and How to Handle Negative Ones*, Union (Mar. 22, 2022, 10:00 AM), <https://union.co/articles/importance-of-reviews-for-travel-and-tourism-brands> (reporting other studies making similar findings, including a Harvard Business Review report that for every one-star increase that a business gets on Yelp, it sees a 5%-9% increase in revenue).

³ *See* Ex. 9 at 3 (“The best thing that can happen to this place is to find a decent home for the poor animals and burn the place to the ground. . . Myrtle Beach, County and State officials PLEASE CLOSE THIS PLACE DOWN. [It] give[s] our country’s fine zoo’s [sic] a bad name.”).

⁴ Google Reviews lists ten terms that reviewers “often mention” in Waccatee reviews, including “animal abuse,” “sad,” “depressed,” and “cages.” *Id.* at 1.

⁵ *See* TripAdvisor.com (Mar. 22, 2022, 11:14 AM), https://www.tripadvisor.com/Attractions-g54359-Activities-Myrtle_Beach_South_Carolina.html (including Waccatee Zoo on its list of “Things to Do in Myrtle Beach,” available at; USA Today 10Best (same).

state or another state entirely. . . .” *Id.* at 8, 5.

228. Change.org maintains an online community Facebook page called “Close Waccatee Zoo” with over 3,000 followers dedicated to bringing an end to the zoo’s abuses.⁶ The local Myrtle Beach online news also covers the zoo’s practices and complaints made against it, furthering the online reputational damage to the community and dissuading prospective tourists from visiting the area.

229. As noted in the complaint’s introduction, PETA has received over 150 complaints from the public about Waccatee. One Virginia-based tourist reported to PETA that the conditions at Waccatee during her June 2021 visit were “deplorable.” After her July 2021 visit, a visitor from Myrtle Beach told PETA that “[m]y daughter and I left [Waccatee Zoo] crying for these poor creatures. It was by far the absolute [worst] thing I have ever encountered. I do not understand how they are still operational.” *See also* Ex. 9 at 2 (“I wish I had read the reviews before going. I’m shocked that this place has been allowed to remain open! . . . I’m contacting PETA to see if there is anything they can do.”). The growing recognition by the public in online reviews and social media that Waccatee Zoo is a nuisance that continuously violates law and morality by abusing and mistreating animals, and the online movement to discourage visitors and criticize authorities for failing to act, negatively affect the reputation of the Myrtle Beach community and harm the local tourist industry and economy.

D. Defendants lack the funds to provide adequate care to animals.

230. On information and belief, Waccatee’s dilapidated facilities and poor animal husbandry reflect a lack of funds to correct the deficiencies described in this complaint

⁶ *Close Waccatee Zoo*, Facebook (Mar. 22, 2022, 11:13 AM), <https://www.facebook.com/CloseWaccateeZoo>.

amounting to “takes” under the ESA and illegal conduct under South Carolina public nuisance law. Likewise, on information and belief, this lack of funds has caused, and is continuing to case, such deficiencies.

231. Defendants are, on information and belief, financially unable to hire trained and experienced employees to care for the animals; instead, they rely, in large part, on untrained and inexperienced persons to care for the animals. Visitors to Waccatee report that the premises lack an adequate number of appropriately trained staff to care for animals and ensure safety. On information and belief, this causes and creates a likelihood of injury, including but not limited to disease and physical injury, from humans, including members of the public, or other animals. Defendants are also unable to finance regular farrier and veterinary care necessary for the health and maintenance of animals at Waccatee.

232. Defendants are, on information and belief, financially unable to purchase adequate and appropriate nutrition for animals at the facility.

233. Defendants are, on information and belief, financially unable to provide adequate and clean enclosures, sufficient enrichment, and necessary veterinary care to the animals.

E. Defendants’ misconduct is part of a pattern and practice that has been ongoing for many years.

234. Defendants have a long history of mistreating all animals under their care, including with respect to animals who died at Waccatee prior to the period discussed above. These include the mistreatment of other animals protected by the Endangered Species Act, including a chimpanzee named Chico and two leopards named Liza and Eolis.⁷

⁷ Chimpanzees are listed as endangered under the ESA. *See* 50 C.F.R. § 17.11(h). Leopards are listed as endangered, except in particular geographic locales where they are listed as threatened. *See id.*

235. Chico lived at Waccatee Zoo until his death on November 3, 2015. Defendants failed to meet minimum standards of care for Chico as evidenced by USDA citations. *See* Inspection Report, APHIS, Archie Futrell and Kathleen Futrell, 56-C-0029 (U.S.D.A. Jun. 14, 2010). Prior to Chico's death, PETA had repeatedly offered to facilitate his placement at accredited chimpanzee sanctuaries, at no cost to the Futrell family, and to cover all related expenses during Chico's life.

236. Defendants failed to provide sufficient care to two leopards named Liza and Eolis. *See, e.g.*, Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Feb. 18, 2014). On information and belief, Defendants' failure to properly care for Liza and Eolis contributed to their deaths.

237. This history, along with the other incidents and examples described above, demonstrates that Defendants are either unable or unwilling to provide the animals in their possession with the care those animals require.

VI. Defendants' mistreatment and neglect of captive animals causes Plaintiffs Lexie Jordan and Matt Howard distress, anguish, and injury.

238. Ms. Jordan and Mr. Howard derive personal, recreational, educational, and aesthetic benefits from being in the presence of animals and observing animals in humane settings.

239. Ms. Jordan and Mr. Howard reside in Waccatee Zoo's market area.

240. Mr. Howard has visited Waccatee on several occasions, including but not limited to school trips to Waccatee he was taken on as a child. Over the years, he developed affinities toward animals including but not limited to Chico (before he passed away), Lila (before she passed away), Princess, Simba, Jerry (a milksnake), and Handsome (a baboon) at Waccatee. He has witnessed the deplorable conditions to which Defendants subject animals.

241. The conditions at Waccatee have also caused Mr. Howard to suffer injury to his personal property in the form of the loss of money he paid out of his own funds to gain admission to Waccatee.

242. Ms. Jordan has visited Waccatee at least five times. She developed affinities toward animals including but not limited to Lila (before she passed away), Simba, Princess, and all animals at the facility. Waccatee's treatment of animals has been emotionally taxing on Ms. Jordan. She has devoted significant effort trying to improve the animals' situation. Ms. Jordan has participated in advocacy efforts, including protests and social media campaigns, to inform and educate the public about the mistreatment of animals occurring at Waccatee Zoo.

243. The conditions at Waccatee have also caused Ms. Jordan to suffer injury to her personal property in the form of the loss of money she paid out of her own funds to gain admission to Waccatee.

244. Mr. Howard and Ms. Jordan each suffered a special injury due to their respective purchases of admission tickets to Waccatee because, as alleged herein, Waccatee is a public nuisance.

245. Mr. Howard and Ms. Jordan also suffer special injuries due to Waccatee Zoo's reputational impacts on the community. They experienced particularly severe distress and anguish as a result of their visits to Defendants' property, which upset them too much to return to visit the animals in their current conditions as frequently as they would have otherwise.

246. As individuals who visited animals confined at Waccatee Zoo, formed specific emotional attachments to them, and made efforts on behalf of animals to improve their conditions, Ms. Jordan and Mr. Howard have suffered significant and particularized injuries, different in kind and degree than those suffered by the general public because of Defendants'

unreasonable and unlawful conduct.

247. Defendants have injured and continue to injure Mr. Howard and Ms. Jordan's personal, aesthetic, recreational, and educational interests by depriving them of a right to personally observe animals living in humane settings and inflicted economic injury to Mr. Howard and Ms. Jordan via Waccatee's entrance fee.

248. Because Mr. Howard and Ms. Jordan appreciate, are attached to, and are concerned about animal welfare, they wish to see animals currently confined by Defendants in humane settings and avoid seeing them in inhumane settings.

249. If animals were no longer mistreated and were given humane settings at Waccatee Zoo, or were transferred to an appropriate sanctuary or other reputable facility where they were no longer mistreated and where they lived in humane settings, Mr. Howard and Ms. Jordan would return to visit the animals.

VII. Defendants' actions have perceptibly impaired PETA's mission, forced PETA to divert resources, and caused special injury.

A. PETA's Mission and Programs

250. PETA is dedicated to protecting animals, including animals used in entertainment, from abuse, neglect, and cruelty. PETA's mission reads, in part, "Animals are not ours to . . . use for entertainment."

251. To achieve its objectives of ending the abuse and neglect of animals used for entertainment, PETA pursues several programs, including public education, cruelty investigation, research, animal rescue, legislation, special events, celebrity involvement, and protest campaigns. PETA brings this suit on its own behalf to protect its programs, which have been perceptibly impaired by Waccatee Zoo's actions.

252. Absent exceptional circumstances, PETA devotes its charitable resources to educating and persuading the public to voluntarily refrain from participating in otherwise legal conduct that nevertheless harms animals (such as eating meat or wearing leather), and to documenting technically legal but troubling treatment of animals, in order to, among other goals, push for revisions to existing regulations and laws for the benefit of the animals.

253. PETA does not, absent exceptional circumstances, devote its charitable resources to educating and persuading the public to refrain from illegal conduct, because the law itself already prohibits such conduct, incentivizes the public to refrain from such conduct, and provides mechanisms for public authorities to investigate and prosecute such conduct.

254. But when PETA is presented with evidence of illegal, severe mistreatment of animals, PETA's mission requires it to divert its charitable resources from its normal programs targeting legal conduct, to efforts sufficient to end the illegal conduct at issue as well as counteract any public misimpressions created by the illegal conduct.

B. Impairment of PETA's Mission and Diversion of Its Resources

255. Defendants, both by operating in the manner described above and via explicit marketing, falsely present themselves as a lawfully run establishment. Defendants purchase advertising claiming that Waccatee is "100% compliant with rules and regulations," which appears in publicly circulated tourist literature. Defendants also place ads on tourist websites and brochures at in-person visitor centers and public establishments. By falsely presenting themselves as a lawfully run establishment without remedy under the ESA or state law, Defendants create the incorrect public impression that Defendants' practices are humane and lawful and that Defendants can lawfully abuse, neglect, and mistreat animals.

256. Defendants' very public misconduct also impairs PETA's mission because it

increases the quantity of animals being mistreated (thus requiring PETA to address *more* instances of mistreatment without any increase in resources to do so). Furthermore, Defendants' misconduct makes it more difficult to persuade members of the public that mistreatment of animals is unacceptable (thus making it harder for PETA to successfully address *any* particular instance of mistreatment).

257. As a result, PETA has been forced to divert significant resources in order to counteract both the direct harm to the animals and the public impression that Waccatee Zoo's practices are consistent with the ESA, state law, and regard for animal welfare. Among other activities, in order to counteract Waccatee's mistreatment of animals and the public misimpression that mistreatment creates, PETA has been and continues to be forced to:

- a. Submit complaints about Waccatee Zoo to government agencies;
- b. Create blog posts about Waccatee;
- c. Conduct a letter-writing campaign to key stakeholders;
- d. Purchase digital, print, radio, and TV ads to counteract Defendants' false messaging;
- e. Review and respond to complaints from the public about Waccatee Zoo, including over 150 complaints from members of the public regarding the conditions and treatment of animals at Waccatee Zoo from 2000 to the present day;
- f. Contact Horry County Animal Control for welfare check requests;
- g. Contact the South Carolina Law Enforcement Division to request investigations;

- h. Compile and publish information on PETA's website about Waccatee Zoo's history of animal-welfare violations; and
- i. Distribute press releases about Waccatee Zoo's AWA violations.

258. In order to compile accurate information about Waccatee Zoo to share with the public and its members, as well as to counteract the public impression that Waccatee Zoo's practices are consistent with state law, the ESA, animal welfare, peace, public order, decency, and morals, PETA has been and continues to be forced to divert resources it would not otherwise expend in such a manner to:

- a. Monitor news and relevant articles about Waccatee Zoo;
- b. Track and gather Waccatee Zoo's USDA inspection reports;
- c. Arrange for experts, staff, and PETA members and supporters to visit Waccatee Zoo;
- d. Review video and photographic documentation of problems at Waccatee Zoo;
- e. Monitor social media pages and websites with information about Waccatee Zoo; and
- f. Submit public records requests related to the facility and review and analyze numerous responsive documents.

259. PETA has also been and continues to be forced to undertake all of the actions listed in the preceding two paragraphs, and is therefore compelled to divert resources, to address the Defendants' unlawful mistreatment of the animals who are the subject of this action.

260. PETA's ongoing need to expend extensive resources to investigate and counteract Defendants' unlawful treatment of animals has perceptibly impaired PETA's ability to advance its mission. Specifically, the expenses incurred by identifying and counteracting Defendants'

illegal activity has forced PETA to divert extensive resources away from campaigns against other non-accredited roadside zoos and traveling animal shows with egregious records of animal neglect and abuse, and from funding animal rescues, among other efforts.

261. If PETA prevails in this action, Defendants will no longer be able to maintain the animals at issue in conditions that are inconsistent with state law, the ESA, and animal welfare, and PETA will no longer have to divert resources to counteract the impairment of its mission via the incorrect public impressions caused by Defendants' unlawful acts, or the unlawful acts themselves.

262. PETA's additional efforts and the resulting expenditures would not be necessary but for Defendants' taking of federally protected animals and unlawful public nuisance.

263. PETA's diversion of significant resources in order to counteract both direct harm to the animals and the public impression that Waccatee Zoo's practices are consistent with the ESA, state law, and regard for animal welfare is a special injury, differing from that suffered by the general public.

VIII. Claims for Relief

Count I—Unlawful “Take” of ESA-Protected Species

264. Plaintiffs incorporate by reference all allegations of the Complaint.

265. The ESA, 16 U.S.C. § 1538(a)(1)(B), (G) and its implementing regulations, 50 C.F.R. §§ 17.21, 17.31(a), prohibit the “take” of “any [listed] species” not otherwise provided for by a Section 4(d) special rule, within the United States without a permit.

266. Defendants have violated and continue to violate the ESA and its implementing regulations by taking Listed Species within the meaning of the ESA, without a permit, at Waccatee Zoo.

267. This Court has the authority to issue an injunction prohibiting and preventing Defendants from committing further violations of the ESA and ordering them to relinquish possession of lions, ring-tailed lemurs, parrots, and a scimitar-horned oryx to appropriate reputable facilities. 16 U.S.C. § 1540(g)(1)(a).

Count II—Unlawful Possession of Protected Species

268. Plaintiffs incorporate by reference all allegations of the Complaint.

269. The ESA, 16 U.S.C. § 1538(a)(1)(D), (G) and implementing regulations, 50 C.F.R. §§ 17.21(d), 17.31(a), prohibit the possession, by any means whatsoever, of any species taken in violation of the ESA.

270. Defendants have violated and continue to violate the ESA and its implementing regulations by possessing and continuing to possess unlawfully taken species, including lions, ring-tailed lemurs, parrots, and a scimitar-horned oryx, within the meaning of 16 U.S.C. § 1538(a)(1)(D) and (G).

271. This Court has the authority to issue an injunction prohibiting and preventing Defendants from continuing to possess lions, ring-tailed lemurs, parrots, and a scimitar-horned oryx in violation of 16 U.S.C. § 1538(a)(1)(D) and (G) and 50 C.F.R. §§ 17.21(d), 17.31(a), 17.40(r), and ordering them to relinquish possession of these animals to appropriate reputable facilities. 16 U.S.C. § 1540(g)(1)(A).

Count III—Unlawful Sale of Taken Species

272. Plaintiffs incorporate by reference all allegations of the Complaint.

273. Defendants have violated and continue to violate the ESA and its implementing regulations by selling unlawfully taken species, including ring-tailed lemur pups and lion parts.

274. This Court has the authority to issue an injunction prohibiting and preventing Defendants from continuing to sell ring-tailed lemur pups and lion parts in violation of 16 U.S.C. §§ 1538(a)(1)(D) and (F).

Count IV—Public Nuisance

275. Plaintiffs incorporate by reference all allegations of the Complaint.

276. Waccatee Zoo is a public nuisance, including a per se public nuisance, that works hurt, inconvenience, and damage on Plaintiffs and the public by committing *malum in se* abuses against animals.

277. Waccatee Zoo is a public nuisance because it is operated in such a way that it hurts, inconveniences, and damages Plaintiffs and the public by continuously breaching the peace and subverting public order, standards of decency, and morals.

278. Waccatee Zoo is a public nuisance because its operation violates state and federal law as well as federal law and regulation.

279. Waccatee is open to the public and operated in a location and manner that is likely to and does impact and influence the public.

280. As a direct and proximate result of Defendants' creation of a public nuisance, the local community and general public have been and continue to be harmed.

281. As a direct and proximate result of Defendants' creation of a public nuisance, Plaintiffs have suffered harm different in kind and degree than that suffered by members of the public.

282. Mr. Howard and Ms. Jordan have particular emotional attachments to confined animals at Waccatee and incurred injuries including but not limited to economic injury

associated with Waccatee's entrance fee and aesthetic, recreational, educational, and personal harm to their interests in seeing animals in humane, safe, and psychologically enriching settings.

283. PETA has incurred economic damages including but not limited to the use of its resources to investigate and counteract Defendants' unlawful conduct and to counteract the incorrect public impression caused by Defendants' unlawful acts.

284. If unabated, Defendants' conduct will inevitably and undoubtedly continue to threaten the rights of Plaintiffs and the general public. Equitable relief, including transfer of the animals to a bona fide sanctuary or otherwise appropriate zoological facilities and an injunction prohibiting Defendants from obtaining other animals, would redress ongoing harms to Plaintiffs by Defendants' conduct at Waccatee Zoo.

Relief Requested

Plaintiffs respectfully request that this Court:

A. Declare that Defendants violated the ESA by illegally taking Listed Species. 16 U.S.C. § 1538(a)(1)(B); 50 C.F.R. §§ 17.21(c), 17.31(a), 17.40(r);

B. Declare that Defendants have violated and continue to violate the ESA by possessing lions, ring-tailed lemurs, parrots, and a scimitar-horned oryx who have been illegally taken, 16 U.S.C. § 1538(a)(1)(D), (G); 50 C.F.R. §§ 17.21(d), 17.31(a), 17.40(r);

C. Enjoin Defendants from continuing to violate the ESA and its implementing regulations with respect to lions, ring-tailed lemurs, parrots, and a scimitar-horned oryx, including the prohibitions on taking a listed species and possessing a listed species that has been unlawfully taken;

D. Enjoin Defendants from owning or possessing endangered or threatened species in the future;

E. Declare that Defendants have violated and continue to violate the ESA by selling ESA-protected animals and animal parts that have been illegally taken, 16 U.S.C.

§ 1538(a)(1)(D);

F. Declare that Defendants' operation of Waccatee is a public nuisance under South Carolina law;

G. Enjoin Defendants from continuing to violate the ESA and its implementing regulations through unlawful sales or potential sales of ESA-protected animals and animal parts;

H. Enjoin Defendants from:

- a. maintaining a public nuisance, namely by confining animals in inhumane and unsafe conditions;
- b. obtaining or exhibiting other animals; and
- c. holding Waccatee out as a reputable zoo.

I. Enter a permanent injunction against Defendants that terminates all Defendants' ownership and possessory rights with respect to the animals confined at Waccatee or Defendants' real property;

J. Order the animals transferred to reputable facilities or sanctuaries that the Court determines are the most appropriate placement for the forfeited animals, consistent with the animals' best interests;

K. Award PETA reasonable attorneys' fees and litigation costs for this action, 16 U.S.C. § 1540(g)(4); and

L. Grant PETA such other and further relief as the Court deems just and proper, including as necessary to prevent future harm to protected animals as intended by Congress.

Dated: April 26, 2022

/s/ Stacie C. Knight

Stacie C. Knight

S.C. Bar No. 77968 and D.C. No. 10411

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**Pro hac vice applications to be submitted*

*Counsel for Plaintiffs PETA, Matthew Howard
and Lexie Jordan*

Exhibit 1



Kathleen Futrell
dba Waccatee Zoological Farm
8500 Enterprise Road
Myrtle Beach, SC 29588

CITATION AND NOTIFICATION OF PENALTY

We believe that you violated the Animal Welfare Act (7 U.S.C. § 2131 et seq.) (AWA), as described below.

Date of Alleged Violation: March 5, 2020

9 C.F.R. § 2.40(b)(2) Attending veterinarian and adequate veterinary care. Each dealer or exhibitor shall establish and maintain programs of adequate veterinary care that include:

(2) The use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and the availability of emergency, weekend, and holiday care;

You failed to provide adequate veterinary care for two llamas at your facility. APHIS officials observed one adult female zebu and two adult llamas with significantly overgrown hooves.

Date of Alleged Violation: October 22, 2020

9 C.F.R. § 2.40(b)(2) Attending veterinarian and adequate veterinary care. Each dealer or exhibitor shall establish and maintain programs of adequate veterinary care that include:

(2) The use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and the availability of emergency, weekend, and holiday care;

You failed to seek and provide adequate veterinary care for one adult Dall ram at your facility. APHIS officials observed the animal with significantly overgrown dewclaws and hooves, thick layers of crusting above each hoof, and ulcerative lesions with fresh blood on all four limbs. The condition of the animal suggested that the ailments were had been ongoing and was overlooked.

Date of Alleged Violation: October 22, 2020

9 C.F.R. § 3.130 Watering.

If potable water is not accessible to the animals at all times, it must be provided as often as necessary for the health and comfort of the animal. Frequency of



United States Department of Agriculture

watering shall consider age, species, condition, size, and type of the animal. All water receptacles shall be kept clean and sanitary.

You failed to keep the water receptacle clean and sanitary in the dromedary camel enclosure. APHIS officials observed a water receptacle that contained murky, green water. APHIS officials could not visualize the bottom of the receptacle and the camels had no access to potable water.

Date of Alleged Violation: January 26, 2021

9 C.F.R. § 2.40(b)(2) Attending veterinarian and adequate veterinary care
Each dealer or exhibitor shall establish and maintain programs of adequate veterinary care that include:

(2) The use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and the availability of emergency, weekend, and holiday care;

You failed to provide adequate veterinary care for two llamas at your facility. APHIS officials observed the animals with significantly overgrown hooves with toenails that were overgrown and deviating to the side.

Date of Alleged Violation: May 5, 2021

9 C.F.R. § 2.40(b)(2) Attending veterinarian and adequate veterinary care
Each dealer or exhibitor shall establish and maintain programs of adequate veterinary care that include:

(2) The use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and the availability of emergency, weekend, and holiday care;

You failed to seek and provide adequate veterinary care for two Aoudads at your facility. APHIS officials female observed one female Aoudad with profound right-forelimb lameness that was minimally weightbearing. A second adult Aoudad was seen limping on it's left forelimb.

Date of Alleged Violation: May 5, 2021

9 C.F.R. § 3.130 Watering.

If potable water is not accessible to the animals at all times, it must be provided as often as necessary for the health and comfort of the animal. Frequency of watering shall consider age, species, condition, size, and type of the animal. All water receptacles shall be kept clean and sanitary.

You failed to keep water receptacles in the Aoudad sheep and fallow deep enclosure clean and sanitary. APHIS officials observed a water receptacle that contained cloudy, brown water with clumps of brown



United States Department of Agriculture

and green plantlike material. When drained the receptacle had brown sludge at the bottom. The animals had no access to potable water.

The penalty for the alleged violation(s) described above is \$7,800.

Exhibit 2



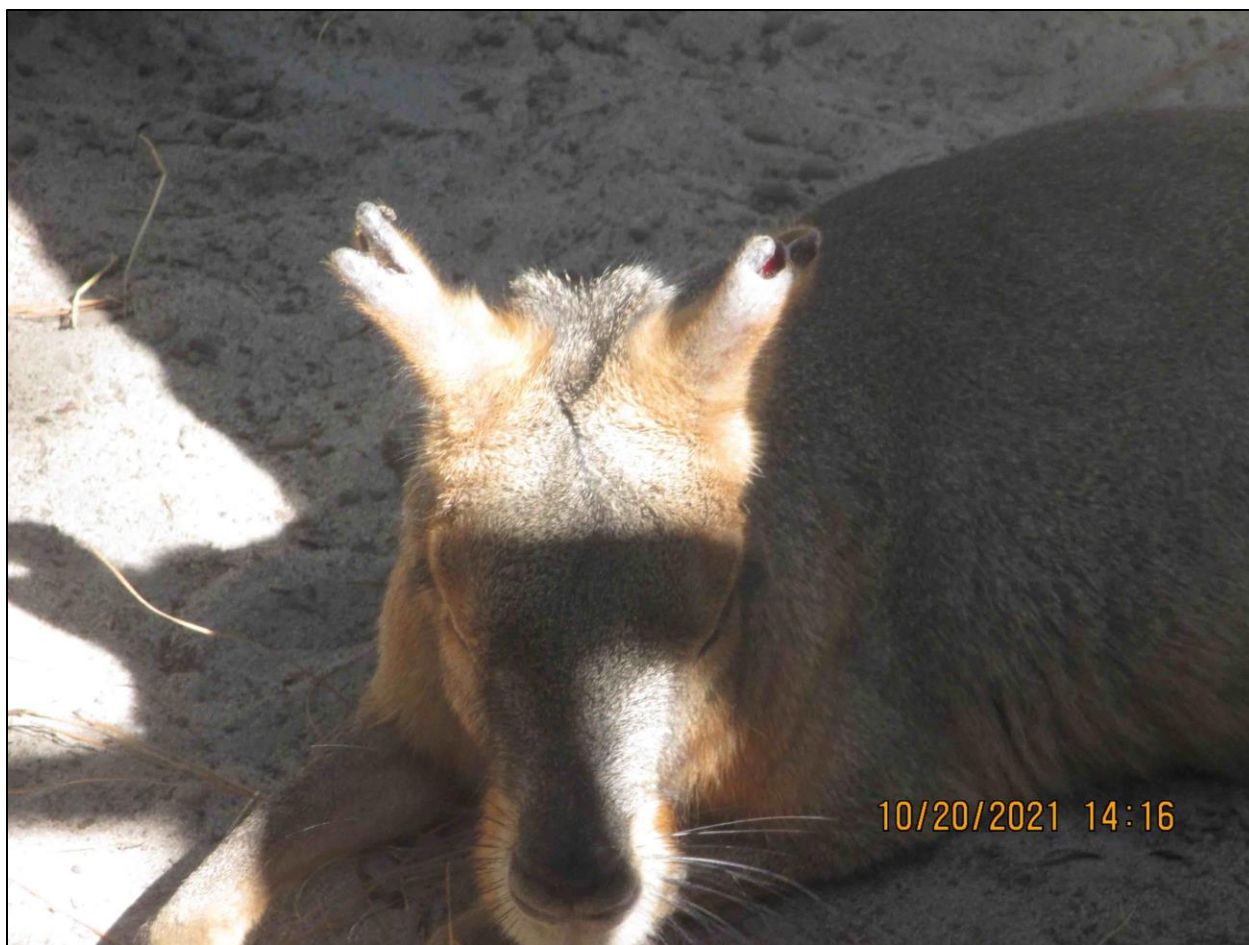
Exhibit 2: Front view of Lila the tiger with hair loss and curved spine. December 17, 2020.

Exhibit 3



Exhibit 3: Side view of Lila the tiger with hair loss and curved spine. December 17, 2020.

Exhibit 4



*Exhibit 4: Patagonian cavy with crusted ulcerative lesions on ears. October 20, 2021.
Photo by the USDA.*

Exhibit 5

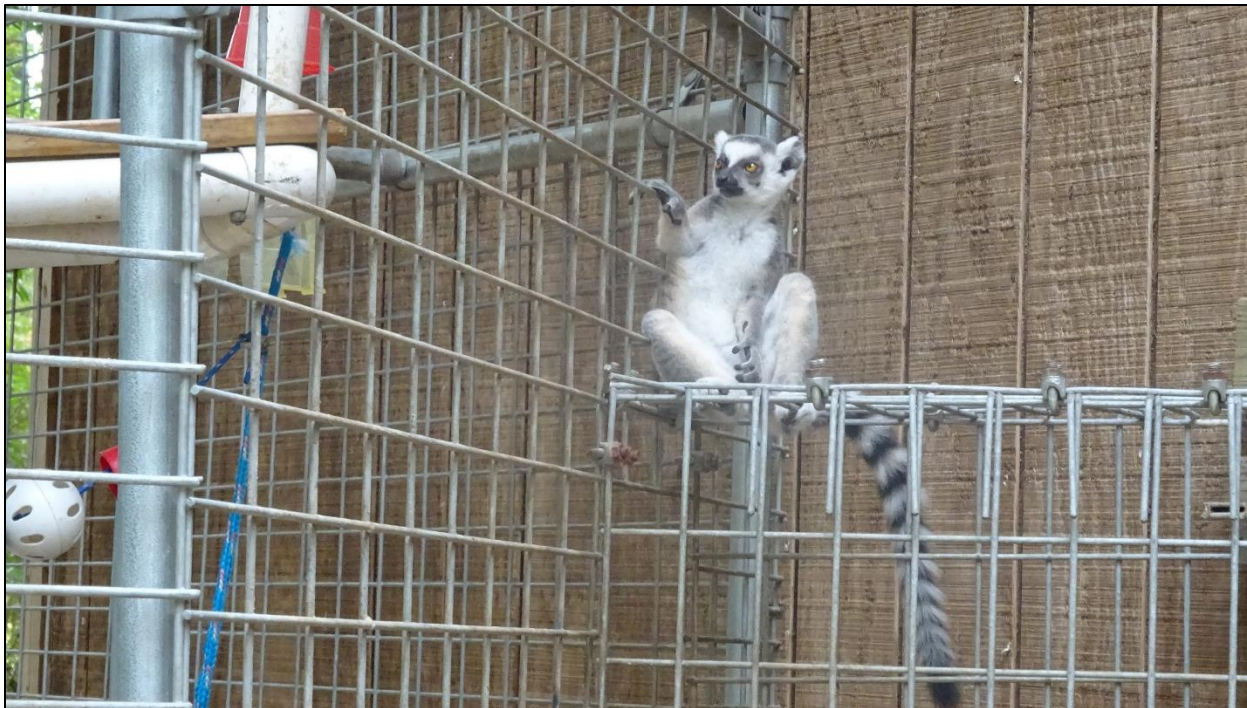


Exhibit 5: A lemur pup outside of enclosure. June 5, 2019.

Exhibit 6



Exhibit 6: Sha-Sha the pig-tailed macaque with eye issue. June 29, 2021.

Exhibit 7



Exhibit 7: A donkey with open, ulcerated wounds on leg. June 5, 2019.

Exhibit 8



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Partner
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December 22, 2021

Certified Mail - Return Receipt Requested

Kathleen Futrell
Jeff Futrell
Estate of Archie B. Futrell
Waccatee Zoological Farm
8500 Enterprise Road
Myrtle Beach, SC 29588

Austin Futrell



Dakota Futrell Stienecker



Re: Notice of Intent to File Citizen Suit under the Endangered Species Act for Violations at Waccatee Zoological Farm

Dear Futrell Family:

People for the Ethical Treatment of Animals, Inc. (“PETA”), Matthew Howard, and Lexie Jordan intend to commence a lawsuit against Waccatee Zoo, Kathleen Futrell, Jeff Futrell, Austin Futrell, Dakota Futrell Stienecker, and the Estate of Archie Broughton Futrell (collectively “Waccatee Zoo” or “Waccatee”) for violating the Endangered Species Act (“ESA”). This suit will be brought in the United States District Court for the District of South Carolina for chronic and ongoing violations of the ESA and its implementing regulations.¹

Kathleen and Jeff Futrell, with the assistance of staff or volunteers, operate Waccatee Zoo. Archie Futrell also operated the facility until his death in 2011. Waccatee’s physical location is 8500 Enterprise Road in Myrtle Beach, South Carolina. PETA, Mr. Howard, and Ms. Jordan intend to file suit under the ESA in response to the “take”² of the following ESA-protected animals (collectively the “Listed Species”), for which allegations are described in more detail in the corresponding numbered sections below:

- I. Tigers (Lila and Akshara)
- II. Chimpanzee (Chico)
- III. Leopards (Liza and Eolis)

¹ See Endangered Species Act, 16 U.S.C. §§ 1531-1544; 50 C.F.R. § 17.21.

² The ESA defines “take” as: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or to attempt to engage in any such conduct. See 16 U.S.C. § 1532(19).

- IV. Lions (Princess and Simba)
- V. Ring-tailed lemurs
- VI. Parrots: Salmon-crested cockatoo (Cream), Scarlet macaw (Delilah), White cockatoo, and Yellow-Crested cockatoo
- VII. Scimitar-horned oryx

Waccatee takes the Listed Species by (1) failing to provide them with adequate veterinary care, (2) failing to provide them with adequate, appropriate nutrition, (3) housing them in small, insecure, and generally inappropriate and unsafe enclosures, (4) failing to maintain them in sanitary conditions, (5) failing to provide them with adequate environmental enrichment, and (6) housing them in inappropriate social groupings. Altogether, these acts harass, harm, and—at times—kill Listed Species.

Further, on information and belief, Waccatee traffics taken animals and animal parts in violation of the ESA. Waccatee is also unable to financially provide for Listed Species in a manner compliant with the ESA, other applicable laws, and generally accepted husbandry practices.

If Waccatee wishes to avoid litigation, it should immediately contact undersigned counsel within sixty days to make arrangements for the transfer of animals housed at Waccatee to reputable facilities.³ In this regard, PETA will secure, arrange, and pay for the placement, transport, and veterinary care necessary for these animals' relocation to appropriate facilities, where they may express species-typical behaviors in safe, sanitary, and enriching environments.

Endangered Species Act

Take

The ESA prohibits the “take” of endangered and most threatened species within the United States.⁴ Congress conceived of take “in the broadest possible manner to include every conceivable way in which a person can take or attempt to take any fish or wildlife.”⁵ Take means “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.”⁶ Regulation defines “harm” as “an act which actually kills or injures wildlife,” including “by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.”⁷ “Harass” is “an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying them to such an extent as to significantly disrupt normal behavioral patterns

³ Plaintiffs anticipate bringing claims with respect to all animals at Waccatee, including animals not protected by ESA.

⁴ 16 U.S.C. § 1538(a)(1)(B); 50 C.F.R. § 17.21, 17.31.

⁵ *Babbitt v. Sweet Home Chapter of Cmty. for a Great Or.*, 515 U.S. 687, 704-05 (1995) (citing S. Rep. No. 93-307, at 7 (1973) (internal quotations omitted). *See also* H.R. Rep. No. 93-412, at 15 (1973) (“the broadest possible terms” were used to define restrictions on takings and to include “harassment, whether intentional or not”).

⁶ 16 U.S.C. § 1532(19).

⁷ 50 C.F.R. § 17.3.

which include, but are not limited to, breeding, feeding, or sheltering.”⁸ The ESA applies equally to endangered and threatened species living in captivity.⁹

Trafficking of Endangered and Threatened Species

Under the ESA, it is also unlawful for a person to “possess, sell, deliver, carry, transport, or ship, by any means whatsoever” any species that has been taken in violation of the Act.¹⁰ Likewise, it is unlawful to “deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity,” or “sell or offer for sale in interstate or foreign commerce” any listed species.¹¹

Wildlife subject to the ESA include any member of the animal kingdom listed by the U.S. Fish and Wildlife Service as “endangered” or “threatened,” including any mammal or part, product, or the dead body or parts of mammals.¹² Courts have acknowledged that animal parts are regulated under the ESA.¹³

Listed Species

Waccatee has kept and continues to keep animals that, depending on sub-species classification, are either threatened or endangered. Chimpanzees, ring-tailed lemurs, scimitar-horned oryxes, tigers, and yellow-crested cockatoos are listed as endangered under the ESA.¹⁴ Salmon-crested cockatoos, also known as Moluccan cockatoos, and white cockatoos are threatened.¹⁵

Lions are listed as either endangered or threatened depending on their subspecies. *Panthera leo leo* is listed as endangered while *Panthera leo melanochaita* is listed as threatened.¹⁶ The ESA prohibits takes of each subspecies.¹⁷ One subspecies of scarlet macaw (*Cyanopterus sp*) is endangered and another subspecies (*Macao sp*) is

⁸ *Id.* (mentioning, for captive wildlife, that “harass” excludes animal husbandry practices that are (1) generally accepted, (2) Animal Welfare Act compliant, and (3) not likely to result in injury).

⁹ *See, e.g.*, 80 Fed. Reg. 7380, 7385 (Feb. 10, 2015) (explaining that “the ESA does not allow for captive held animals to be assigned separate legal status from their wild counterparts on the basis of their captive status”).

¹⁰ 16 U.S.C. § 1538(a)(1)(D). *See also* 50 C.F.R. § 17.21(d), 17.31, 17.40(r).

¹¹ *Id.* at § 1538(a)(1)(E)-(G); 50 C.F.R. § 17.21(e), (f), 17.31, 17.40(r).

¹² 16 U.S.C. § 1532(8).

¹³ *See United States v. Hess*, 829 F.3d 700, 703 (8th Cir. 2016) (where defendant had been convicted under the Lacey Act for “knowingly engaging in conduct involving the sale and purchase of [black rhino horns] with a market value exceeding \$350 that was transported and sold in violation of the Endangered Species Act”); *United States v. Hill*, 896 F. Supp. 1057 (D. Colo. 1995) (United States District Court for the District of Colorado held that the ESA and Lacey Act, which restricted defendant’s sale of parts of protected rhinos, tigers, eagles, and leopards; did not constitute an unconstitutional taking).

¹⁴ 50 C.F.R. § 17.11(h).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*, 17.40(r).

threatened.¹⁸ Hybrids of the subspecies are listed as threatened.¹⁹ Leopards are listed as endangered, except in particular geographic locales where they are listed as threatened.²⁰

I. Waccatee has taken tigers in violation of the ESA.

Waccatee Zoo's chronic failure to provide Lila and Akshara with proper veterinary care, nutrition, housing and caging, sanitation, and environmental enrichment injured them, interrupted normal behavioral patterns, and created a likelihood of injury. As such, Waccatee Zoo has taken Lila and Akshara by harming, harassing, and, on information and belief, contributing to their deaths in violation of the ESA.

A. Waccatee harmed, harassed, and, on information and belief, killed tigers by denying them adequate veterinary care.

Waccatee failed to provide Lila and Akshara with adequate and appropriate veterinary care. Lack of veterinary care harassed and harmed tigers both by causing them actual injury and by creating a likelihood of further injury from untreated health and welfare issues that impaired their normal behavioral patterns. On information and belief, failure to provide timely and appropriate veterinary care also contributed to their deaths.

Routine veterinary care is essential to timely diagnose and treat disease, injury, or negative stress in tigers.²¹ Tigers should have regular check-ups, preventative care, and access to emergency veterinary services as needed.²² Further, generally accepted husbandry practices call for animals to be kept in adequate bodily condition. Generally accepted standards of animal husbandry recommend, for example, that tigers exhibited in captive facilities be maintained with a moderate body condition score (3 on a 5 point scale) due to increased health risks and reduced longevity associated with more extreme body conditions.²³

Waccatee housed at least two tigers in the past, Lila and Akshara. Lila died sometime after December 20, 2020. Akshara was last seen before 2018. On information and belief, Waccatee did not provide sufficient veterinary care to Lila or Akshara. Both tigers exhibited chronic abnormal repetitive behaviors indicative of psychological distress. The cats also suffered repeated injuries and illnesses requiring appropriate veterinary treatment that, on information and belief, they did not receive. Lila suffered progressive hair loss and skin issues that persisted for at least a year prior to her death. Before her death, Lila was emaciated and suffering from extensive hair loss. The visibility of Lila's bones, including her vertebrae, scapula, shoulder, hip and other joints,

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ AZA Tiger Species Survival Plan (2016). Tiger Care Manual. Association of Zoos and Aquariums, Silver Spring, MD. pp 39.

²² *Id.*

²³ *See Id.* at 36-37.

was of serious concern and likely put her body condition at a 1 on the Association of Zoos and Aquariums (“AZA”) 5 point scale.²⁴

Lack of appropriate veterinary care constitutes harm and harassment under the ESA. Lila and, on information and belief, Akshara suffered actual physical and psychological injuries due to lack of adequate veterinary care. The lack of veterinary care also created a likelihood of further injury from untreated health and welfare issues that impaired normal behavioral patterns. Ultimately, both tigers died in the care of Waccatee as they suffered in a manner constituting take under the ESA.

B. Waccatee harmed, harassed, and, on information and belief, killed tigers by denying them adequate nutrition.

Waccatee Zoo failed to provide tigers with proper nutrition. This failure harmed, harassed, and, on information and belief, contributed to the deaths of Lila and Akshara in violation of the ESA.

The Animal Welfare Act (“AWA”) requires that food “be wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health.”²⁵ Diets provided to tigers “shall be prepared with consideration for the age, species, condition, size, and type of the animal” as well.²⁶ According to husbandry guidelines, feeding tigers diets that contain high percentages of poultry products is problematic because the diets may be nutritionally unbalanced.²⁷ Clean, potable drinking water should always be available to tigers, in containers that are “cleaned and disinfected daily.”²⁸

Waccatee has denied felids an adequate diet and potable water, thus injuring them. The United States Department of Agriculture (“USDA”) has specifically cited Waccatee for failing to provide felids with a veterinarian-approved diet. During an inspection, a USDA official noted that Waccatee lacked a “written feeding plan with specific composition and amounts of food items or supplementation” for felids.²⁹ On information and belief, Waccatee fed Lila and Akshara an unbalanced diet high in poultry products. As with the other Listed Species, Lila and Akshara’s diet was also compromised by the processed food Waccatee provides to guests. On information and belief, Waccatee failed to adequately watch visitors in order to prevent visitors from offering processed food to tigers. The processed food would not be appropriate species-specific nutrition for Lila and Akshara. Waccatee Zoo also, on information and belief, failed to provide tigers with constant access to clean drinking water. Visitors noted empty and unsanitary water vessels in the tiger enclosures. Lack of adequate nutrition caused physical as well as psychological harm. As explained in Parts I.A. and I.E. of this notice letter, tigers suffered psychological distress at Waccatee as evidenced by abnormal

²⁴ *Id.* at 56.

²⁵ 9 C.F.R. § 3.129(a).

²⁶ *Id.*

²⁷ Standards for Felid Sanctuaries (2019). Global Federation of Animal Sanctuaries, Phoenix, AZ. pp 15.

²⁸ AZA Tiger Species Survival Plan (2016). Tiger Care Manual. Association of Zoos and Aquariums, Silver Spring, MD. pp 32. *See also* 9 C.F.R. § 3.130.

²⁹ Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 9, 2017), pp 4.

repetitive behaviors. Lack of adequate nutrition can cause or contribute to abnormal repetitive behaviors.

Tigers require balanced nutrition for good health. Waccatee harmed and harassed Lila and Akshara by failing to provide appropriate nutrition. On information and belief, Waccatee also contributed to their deaths by failing to implement adequate nutritional protocols.

C. Waccatee Zoo harmed and harassed, and, on information and belief, killed tigers by denying them appropriate housing.

Waccatee did not provide safe and adequate housing for Akshara and Lila. Unsafe and inappropriate housing harmed and harassed the tigers because those conditions caused physical and psychological injury and interfered with their normal behavioral patterns in a manner likely to cause other injuries.

Generally accepted husbandry practices call for a minimum of 1,200 square feet of space for outdoor solitary tiger enclosures.³⁰ Waccatee Zoo failed to house tigers in a safe and appropriate manner. On information and belief, the tiger enclosures were 30 feet long, 20 feet wide, and 10 feet high with access to a pool that was intermittently shared with the black bears. This small area was not sufficient to meet the needs of tigers in order for them to engage in species-typical behaviors such as roaming, seeking refuge, and swimming. The back half of the enclosures appeared to only provide protection from three sides, leaving the front exposed to inclement weather and other environmental conditions. Extreme weather conditions in poor housing, on information and belief, exposed Lila and Akshara to risks of bodily injury. Waccatee did not provide misting systems, fans, or other means of thermoregulation for the tigers. Lila was left particularly vulnerable by inadequate shelter when she lost a majority of her fur as her ability to maintain body heat was reduced. Further, Waccatee failed to maintain enclosures in good condition, leaving wood and wires exposed. Those exposed wires and sharp wood created a likelihood of injury to Akshara and Lila both directly and by interfering with normal behavioral patterns.

Waccatee harassed, harmed, and, on information and belief, contributed to the deaths of tigers through poor housing. Failure to provide endangered animals with adequate and safe enclosures denied them the ability to engage in normal behaviors and created a likelihood of physical and psychological injury to them—contributing, on information and belief, to their deaths.

D. Waccatee Zoo harmed, harassed, and, on information and belief, killed tigers by denying them sanitary space.

Waccatee confined Lila and Akshara in unsanitary conditions. These conditions constituted harm and harassment under the ESA because they caused physical and psychological injury and interfered with their ability to engage in normal behavior in a manner that creates the likelihood of further injury or illness.

³⁰ Standards for Felid Sanctuaries (2019). Global Federation of Animal Sanctuaries, Phoenix, AZ. pp 2.

Tigers require sanitary living spaces. The AZA standards direct that natural substrates, such as those within Waccatee Zoo's tiger enclosures, should be spot-cleaned daily.³¹ The possible contamination of natural substrates over time can expose tigers "to potentially dangerous concentrations of pathogens," and therefore requires that contaminated substrates be removed periodically.³² Pools for tiger use "should be designed for maintaining high water quality . . . and for ease of cleaning and sanitizing, as tigers tend to defecate in water."³³ Under generally accepted husbandry guidelines, "all water provided to the animals must be potable, and changed as appropriate to remain fresh and uncontaminated."³⁴

Waccatee held tigers in unsanitary spaces. On information and belief, Waccatee Zoo failed to remove feces and food wastes in a timely manner. Failure to properly clean the substrate created risks of injurious odors and contamination with micro-organisms and parasites, exposing Lila and Akshara to potential pathogens.

Poor water quality and standing water issues, on information and belief, also harassed tigers. At Waccatee, the tigers shared a pool space with the adjacently housed captive bears.³⁵ This small pool almost always contained stagnant, filthy water. The pool's condition exposed the animals to potentially contaminated water and risk of injury to tigers. Standing water, apparently caused by improper drainage, also persisted in the tiger enclosures. This standing water was stagnant and exposed animals to additional health risks.

Waccatee's failure to provide Lila and Akshara with a sanitary environment harmed and harassed them. On information and belief, the failure also contributed to their deaths. Waccatee Zoo's failure to keep the tigers' enclosures clean, and sanitized caused physical and psychological injury and interfered with their normal behaviors in a manner that created likelihood of further injury and, on information and belief, contributed to their deaths.

E. Waccatee harmed, harassed, and, on information and belief, killed tigers by denying them adequate environmental enrichment and social grouping.

Waccatee failed to provide tigers with species-specific enrichment. By depriving Lila and Akshara of an environment in which they could express natural behaviors, Waccatee disrupted their normal behavioral patterns such that it created a likelihood of injury and, on information and belief, caused psychological and ultimately physical injury while also contributing to the tigers' deaths.

Captive tigers may develop physical and psychological injuries when confined to cramped enclosures that deny them the ability to engage in the normal tiger behaviors of roaming or stalking. Man-made environments that do not provide adequate enrichment have

³¹ AZA Tiger Species Survival Plan (2016). Tiger Care Manual. Association of Zoos and Aquariums, Silver Spring, MD. pp 13.

³² *Id.*

³³ *Id.* at 10.

³⁴ *Id.*

³⁵ On information and belief, the bears and tigers did not occupy the shared pool area at the same time.

a detrimental effect on physical and psychological well-being. Insufficient enrichment deprives tigers of the ability to engage in species-typical behaviors, which causes negative stress. To address this, appropriate programs of environmental enrichment are necessary to deter harmful behaviors such as self-mutilation and abnormal repetitive behaviors such as pacing.

To meet the physical and psychological needs of tigers, exhibits should include the following elements:

- Relatively large, complex outdoor space;
- Water pools, moats, and/or running streams;
- Natural vegetation; and
- Trees or other natural substrate objects to allow nail grooming.³⁶

Waccatee failed to provide appropriate enrichment for Lila and Akshara. The tiger enclosures lacked complexity, natural vegetation, and natural substrates for nail grooming. Waccatee's enclosure was not equipped to provide Lila and Akshara opportunities to swim, stalk, run, and engage in other natural behaviors. The provided pool, which was shared with the adjacent bear enclosure, was woefully inadequate. It failed to provide Lila and Akshara with constant access to a water feature for thermoregulation and to engage in natural behaviors. The water was consistently at a low level and unsanitary. The minimal enrichment available to the tigers was not functional for big cats and was consistently dirty. The condition of this limited enrichment suggests that it was unused or not rotated to ensure novelty. Lila was consistently documented pacing back and forth within her cage even up to the end of her life. This behavior is consistent with psychological distress that is likely caused by a lack of space, not enough environmental complexity, and insufficient sensory stimulation.

Tigers are generally solitary animals and, in the wild, typically leave their mother's side at age two or three to find their own territory. As such—absent very specific conditions where animals have a high degree of autonomy—group housing of adult tigers is contrary to generally accepted animal husbandry practices. On information and belief, Waccatee Zoo harmed tigers by placing them in improper social settings. During an inspection on May 24, 2016, USDA noted that Waccatee had housed Lila and Akshara together for 11 years.³⁷ USDA advised that “measures need to be taken to protect the female from excessive male roughness and from injuries” after learning that Akshara attacked Lila in a failed breeding attempt.³⁸ Placing Lila and Akshara in improper social contexts led to physical injury and added additional negative stress to their lives.

Negative stress that is chronic and acute can suppress a body's immune responses and increase susceptibility to pathogens, exposing tigers to further exertion and negative stress and amplifying the risk of illness, infection, or even death. By depriving endangered tigers of an environment in which they could express natural behaviors, as

³⁶ AZA Tiger Species Survival Plan (2016). Tiger Care Manual. Association of Zoos and Aquariums, Silver Spring, MD. pp 11.

³⁷ See Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 24, 2016), pp 1.

³⁸ *Id.*

well as psychological stimulation fundamental to their physical, social, and psychological well-being, Waccatee's actions harmed and harassed tigers, as well as, on information and belief, contributed to tiger deaths.

II. Waccatee took a chimpanzee in violation of the ESA.

Waccatee harmed, harassed, and potentially killed Chico by depriving him of veterinary care, nutrition, sanitation, adequate enrichment, and social groups. Waccatee Zoo deprived Chico of the ability to engage in normal behavioral patterns in a manner that created the likelihood of injury, caused him to suffer injury, and, on information and belief, contributed to his death. Accordingly, Waccatee Zoo took a chimpanzee in violation of the ESA.

A. Waccatee harmed, harassed, and, on information and belief, killed a chimpanzee by denying him adequate veterinary care.

On information and belief, Waccatee Zoo failed to provide Chico with appropriate veterinary care. Lack of veterinary care harassed and harmed Chico both by causing him actual injury and by creating a likelihood of further injury from untreated health and welfare issues that impaired his normal behavioral patterns. On information and belief, Waccatee's lack of adequate care contributed to Chico's early death.

Facilities housing captive chimpanzees should provide regular, veterinary checkups and emergency services as needed.³⁹ Cardiovascular disease is a well-recognized concern for captive male chimpanzees, and appropriate veterinary care includes screening for cardiovascular issues. Generally accepted husbandry standards call for veterinary coverage to be available at all times so signs of negative stress can be addressed promptly.⁴⁰ This is significant, in part, because negative stress that is acute and chronic can suppress a body's immune responses and increase susceptibility to pathogens, exposing a chimpanzee to further exertion and negative stress and amplifying the risk of illness, infection, or even death. Chimpanzees engaging in abnormal repetitive behaviors may be suffering from physical or psychological health problems and must be evaluated by a qualified veterinarian.

Visitors documented Chico exhibiting repetitive head-swaying, indicative of negative stress and psychological impairment. On information and belief, Waccatee did not provide adequate veterinary care to Chico in order to address his physical and psychological well-being. On information and belief, these omissions contributed to Chico's death.

Waccatee's failure to provide adequate veterinary care harmed and harassed Chico. This lack of care injured his physical and psychological health and, interfered with his normal behavioral patterns in a manner that created a likelihood of injury. On

³⁹ AZA Ape TAG 2010. Chimpanzee (*Pan troglodytes*) Care Manual. Association of Zoos and Aquariums, Silver Spring, MD. pp 34.

⁴⁰ *Id.*

information and belief, failure to provide veterinary care contributed to his death in violation of the ESA.

B. Waccatee harmed, harassed, and, on information and belief, potentially killed a chimpanzee by denying him appropriate nutrition.

On information and belief, Waccatee denied Chico adequate nutrition. This denial harmed his physical and psychological health in violation of the ESA. The lack of adequate nutrition created a likelihood of injury by significantly disrupting Chico's normal behavioral patterns. On information and belief, the lack of proper nutrition also contributed to his death.

In the wild, chimpanzees rely on fruit for their diet, but also eat leaves, pith, seeds, flowers, insects, and meat.⁴¹ Under generally accepted husbandry standards, facilities housing chimpanzees should work to provide food types that resemble the diet of wild chimpanzees as much as possible.⁴² Facilities should feed chimpanzees a balanced diet of fruits, vegetables, and dry food.⁴³

Waccatee visitors reported that Chico was fed items inappropriate for chimpanzees, such as canned soda. Waccatee also provided processed food to guests upon entry to the facility. These guests had the opportunity to feed animals without oversight. As explained in Parts II.A. and II.E. of this notice letter, Chico suffered psychological distress at Waccatee as evidenced by abnormal repetitive behaviors. Lack of adequate nutrition can cause or contribute to abnormal repetitive behaviors.

Proper nutritional protocols and their implementation are fundamental to the physical and psychological well-being of captive animals. Failing to provide proper nutrition harmed Chico by damaging his physical health. The lack of adequate nutrition harassed Chico by creating a likelihood of injury by significantly disrupting normal behavioral patterns. Poor nutrition, on information and belief, potentially contributed to Chico's death.

C. Waccatee Zoo harassed, harmed, and, on information and belief, killed Chico by denying him safe and appropriate housing.

Waccatee did not provide safe and adequate housing for Chico. Unsafe and inappropriate housing harmed Chico by causing direct injury. The conditions harassed him because they interfered with his normal behavioral patterns and created the likelihood of injury. On information and belief, Waccatee's lack of adequate care contributed to Chico's death.

Generally accepted husbandry practices detail design and size requirements for chimpanzee enclosures.⁴⁴ On information and belief, Waccatee Zoo kept Chico in unsafe and inappropriate housing. Chronic uncleanness, reliance on the outdoor enclosure

⁴¹ AZA Ape TAG 2010. Chimpanzee (*Pan troglodytes*) Care Manual. Association of Zoos and Aquariums, Silver Spring, MD. pp 29.

⁴² *Id.* at 29.

⁴³ *Id.* at 30.

⁴⁴ *See Id.* at pp 15-20.

tower, and exposure to members of the public created unsafe and inappropriate housing that interfered with his normal behavioral patterns. On information and belief, this interference both created a likelihood of injury to Chico and actually injured Chico.

Waccatee Zoo's failure to keep Chico in adequate and safe enclosure space harmed him directly and harassed him by impairing normal behavioral patterns which created a likelihood of physical and psychological injury. On information and belief, these conditions also contributed to his death.

D. Waccatee Zoo harmed, harassed, and, on information and belief, potentially killed a chimpanzee by denying him a sanitary enclosure.

Waccatee did not provide Chico sanitary housing. Chico's unsanitary enclosure harmed and harassed him by subjecting him to, and impeding his ability to engage in normal behaviors in his environment without being subjected to unnecessary sanitation-related health risks.

In accordance with generally accepted husbandry standards, outdoor chimpanzee enclosures with dirt substrate should be spot-cleaned on a regular basis.⁴⁵ Porous materials should be steam cleaned or replaced frequently.⁴⁶ Regular and effective cleaning practices reduce the presence of pathogens and help chimpanzees avoid contact with feces and food waste.⁴⁷

On information and belief, Waccatee allowed waste material to accumulate in Chico's enclosure in a manner inconsistent with generally accepted husbandry practices. Waccatee has a chronic, facility-wide problem with keeping facilities sanitary for animals. For example, the USDA noted that Waccatee left the enclosure area near Chico in an unkempt manner with accumulated trash and facility supplies.⁴⁸ The accumulation of material near his enclosure also posed a safety risk. Visitors have observed and continue to observe the buildup of waste material within and near enclosures housing animals. Excessive materials present physical safety hazards and places for mice, rats, and other animals who can pose risks to captive wildlife to reside.

Waccatee Zoo harassed Chico in violation of the ESA through its failure to provide adequate sanitation. The unsanitary conditions exposed Chico to pathogens and created a risk of further injury by rendering it impossible to engage in normal behavioral patterns in his enclosure without risking further exposure to those pathogens, and potentially contributed to Chico's death.

⁴⁵ *Id.* at 16.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ See Inspection Report, APHIS, Archie Futrell and Waccatee Zoo, 56-C-0029 (U.S.D.A. Jan. 24, 2002).

E. Waccatee harassed, harmed, and, on information and belief, potentially killed a chimpanzee by housing him alone in an inadequate environment.

Waccatee housed Chico alone in a barren enclosure until his death on November 3, 2015. The isolated and bare environment harmed and harassed Chico by psychologically injuring him and interfering with his normal behavioral patterns in a way that created a likelihood of physical and psychological injury. On information and belief, these deficiencies potentially contributed to Chico's death.

Adequate enclosure space for chimpanzees must be useable and species appropriate, which can be accomplished via caging materials and useable vertical space, furnishings, and substrates. Environmental enhancement should include opportunities to express species-typical behaviors, such as foraging, nest-building, climbing, brachiating, play, and tool use.

For chimpanzees, exhibitors must have environmental enhancement plans with specific provisions that "address the social needs of nonhuman primates of species known to exist in social groups in nature."⁴⁹ These "provisions must be in accordance with currently accepted professional standards, as cited in appropriate professional journals or reference guides, and as directed by the attending veterinarian."⁵⁰ The AZA recommends that enrichment plans provide for varied husbandry routines, various manipulable objects, novelty, and sensory enrichment.⁵¹ Abnormal repetitive behaviors—repetitive, pointless movements that often indicate negative stress, psychosis, and poor welfare—are common among chimpanzees confined under inadequate conditions, particularly those held in solitary confinement. Likewise, denying animals the opportunity to engage in species-typical behavior, such as climbing, foraging, social grooming, and play, is a significant source of negative stress.

According to the world's leading experts, long-term solitary confinement is extremely distressing for chimpanzees, and those who are housed alone for long periods of time typically exhibit symptoms of depression, anxiety, and other psychological disturbances. In natural conditions, chimpanzees have dynamic associations within stable social units.⁵² Social units range from 20 to over 100 members that share a common area.⁵³ In nature, chimpanzees live in groups and interact with members of their community in complex ways. They lead active, stimulating lives and form deep and lasting social bonds, which are critical to their long-term health and psychological well-being.⁵⁴ Male chimpanzees remain with their natal families for their entire lives and form

⁴⁹ 9 C.F.R. § 3.81(a). *See also* 9 C.F.R. § 3.81(c)(4) (Requiring special attention for "[i]ndividually housed nonhuman primates that are unable to see and hear nonhuman primates of their own or compatible species.")

⁵⁰ *Id.*

⁵¹ AZA Ape TAG 2010. Chimpanzee (*Pan troglodytes*) Care Manual. Association of Zoos and Aquariums, Silver Spring, MD. pp 56-57.

⁵² *Id.* at 25.

⁵³ *Id.*

⁵⁴ *See Id.*

close social bonds with other males in order to hunt cooperatively, establish social order, protect their mates, and maintain territorial boundaries.

Even though Chico was a member of a highly social species, Waccatee Zoo held him in complete isolation during his many years of confinement at Waccatee. The USDA cited Waccatee for housing Chico alone without a written exemption from an attending veterinarian.⁵⁵ The USDA explained that Waccatee failed to state if any social housing with the same or compatible species was attempted.⁵⁶ Chico was left alone in an enclosure up until the end of his life.⁵⁷

Before his death, Chico engaged in abnormal repetitive behaviors indicative of negative stress. He exhibited repetitive head-swaying, which is consistent with psychological distress likely caused by a lack of appropriate conspecific companionship, space, environmental complexity, and sensory stimulation. His environment consisted mainly of a metal tower with a concrete floor, and on information and belief, little or no other enrichment.

Negative stress that is acute and chronic can suppress a body's immune responses and increase susceptibility to pathogens, exposing a chimpanzee to further exertion and negative stress and amplifying the risk of illness, infection, or even death. By failing to provide Chico with an enriched environment in which he could express natural behavioral patterns, as well as a social group fundamental to his social and psychological well-being, Waccatee Zoo took Chico in violation of the ESA. Waccatee Zoo's actions injured Chico psychologically and interfered with his behavioral patterns in such a way that created a likelihood of physical and psychological injury to Chico, as well as, on information and belief, potentially contributing to his death.

III. Waccatee took leopards in violation of the ESA.

On information and belief, Waccatee Zoo's chronic failure to provide two leopards, Liza and Eolis, with veterinary care, nutrition, and proper enrichment injured leopards and deprived them of the ability to engage in normal behavioral patterns in a way that was likely to produce further injury. Thus, Waccatee Zoo took Liza and Eolis by harming and harassing them in violation of the ESA. Waccatee's acts and omissions also, on information and belief, violated the ESA by contributing to the deaths of ESA-listed leopards.

A. Waccatee harmed, harassed, and, on information and belief, killed leopards by denying Liza and Eolis adequate veterinary care.

Waccatee failed to provide Liza and Eolis adequate veterinary care. Lack of veterinary care harassed and harmed leopards both by causing them actual injury and by creating a likelihood of further injury from untreated health and welfare issues that

⁵⁵ Inspection Report, APHIS, Archie Futrell and Kathleen Futrell, 56-C-0029 (U.S.D.A. Jun. 14, 2010).

⁵⁶ *Id.*

⁵⁷ Prior to his death, PETA had repeatedly offered to facilitate Chico's placement at accredited chimpanzee sanctuaries, at no cost to the Futrells, and to cover all related expenses during Chico's life.

impaired their normal behavioral patterns. On information and belief, the failure to provide adequate veterinary care contributed to the leopards' deaths.

One or both of the now-deceased leopards suffered veterinary issues with their face, eye, and ear. Visitors noted the prominent, swollen nature of at least one of the leopards' faces and eyes. The USDA noted veterinary care issues with one of the leopards, citing Waccatee for neglecting to seek additional veterinary assistance after an ear condition persisted for several weeks.⁵⁸ An inspector from the USDA noted that "the leopard has both ear pinnae completely swollen and when she shakes her head, fluid sounds can be heard."⁵⁹ The inspector also saw the leopard "rubbing her ears on the cages and has rubbed a slightly bloodyly [sic] raw area under the left ear."⁶⁰ The inspector mentioned that "the veterinarian should have been called out to see this animal" because existing treatment was ineffective.⁶¹ Persistent, untreated injuries can weaken animals and shorten their lifespans. At least one leopard at Waccatee exhibited abnormal repetitive pacing behavior, which is indicative of distress, including psychological harm.

Waccatee did not provide Liza and Eolis adequate veterinary care. The roadside zoo's omissions exacerbated existing conditions—specifically the ear condition the USDA documented. The failure to provide veterinary care also interrupted the leopards' behavioral patterns in a manner that created a likelihood of injury. These omissions, on information and belief, also contributed to Liza and Eolis' deaths.

B. Waccatee harmed harassed, and, on information and belief, killed leopards by denying them adequate nutrition.

On information and belief, Waccatee did not provide Liza and Eolis adequate nutrition. Failing to provide leopards proper nutrition injured the cats by exacerbating existing injuries. The lack of adequate nutrition created a likelihood of injury by significantly disrupting normal behavioral patterns. On information and belief, the failure to provide Liza and Eolis adequate nutrition also contributed to their deaths.

Liza and Eolis suffered from bodily injuries that indicate, on information and belief, poor nutrition. Lack of adequate nutrition impairs animals' abilities to heal from physical injuries. Visitors have documented injuries on the face of one or both leopards. The USDA cited Waccatee for not providing adequate nutrition to felids in its care.⁶² Lack of adequate nutrition harmed the animals, because poor nutrition impairs physical health in big cats. Waccatee Zoo visitors had the opportunity, on information and belief, to offer Liza and Eolis processed food pellets not suited to leopard consumption. Lack of adequate nutrition caused physical and psychological harm. As explained in Parts III.A. and III.E. of this notice letter, leopards suffered psychological distress at Waccatee as evidenced by abnormal repetitive behaviors. Lack of adequate nutrition can cause or contribute to abnormal repetitive behaviors.

⁵⁸ Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Feb. 18, 2014).

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 9, 2017), pp 4.

Proper nutrition is fundamental to the physical and psychological well-being of leopards. By failing to provide these leopards with an adequate and appropriate diet, Waccatee Zoo took Liza and Eolis by harming and harassing them in violation of the ESA. Waccatee is also responsible, on information and belief, for the leopards' deaths by failing to provide adequate nutrition.

C. Waccatee Zoo harmed, harassed, and, on information and belief, killed leopards by denying them safe and appropriate housing.

Waccatee did not provide safe and adequate housing for Liza and Eolis. Unsafe and inappropriate housing harmed the animals through direct injury and harassed leopards because those conditions interfered with behavioral patterns in a manner that created a likelihood of injury to the animals. On information and belief, the conditions also contributed to the deaths of the leopards.

Felids require living conditions that are "species appropriate and replicate, in as much as possible, the felids' wild habitat with a balance between hygiene and the species' physiological and psychological needs."⁶³ On information and belief, Waccatee Zoo kept Liza and Eolis in unsafe and inappropriate housing. Waccatee failed to provide the necessary space for the cats to engage in species-typical behaviors including concealing themselves from humans, foraging, stalking, roaming, running, and playing. The shelter is also inadequate because Waccatee routinely fails to repair damaged or inadequate enclosure spaces, including deficiencies likely to undermine insulation or temperature control. Exposed wires and rough material exposed leopards to a likely risk of harm in the form of physical injury.

Waccatee Zoo's failure to keep Liza and Eolis in adequate and safe enclosures harassed them by impairing normal behavioral patterns which created a likelihood of physical and psychological injury and, on information and belief, harmed Liza and Eolis by causing actual injury. On information and belief, these conditions also contributed to their deaths.

D. Waccatee Zoo harmed, harassed, and, on information and belief, killed leopards by failing to provide a sanitary environment for them.

On information and belief, Waccatee did not provide sanitary enclosure space for leopards. Lack of sanitation harasses leopards by interfering with their normal behavioral patterns in a way that created a likelihood of injury. On information and belief, the conditions also contributed to the deaths of Eolis and Liza.

Sanitation in captive animal settings is important to ensure the well-being of animals. Unsanitary conditions create a risk of disease transmission and violate minimum standards of generally accepted husbandry practice.⁶⁴ Waccatee's chronic uncleanness throughout the facility and, on information and belief, within Liza and Eolis' enclosure,

⁶³ Standards for Felid Sanctuaries (2019). Global Federation of Animal Sanctuaries, Phoenix, AZ. pp 1.

⁶⁴ See 9 C.F.R. § 3.131.

harassed the animals. Poor sanitation across the facility and in or near the leopard enclosure created harassing odors as well as a likelihood of disease transmission.

Waccatee's failure to keep the leopard enclosure clean put the leopards' health and welfare at risk. Waccatee Zoo harassed Liza and Eolis by exposing them to dirty conditions thus creating a likelihood of injury or sickness and, on information and belief, harmed Liza and Eolis by causing actual injury. On information and belief, these conditions also contributed to their deaths.

E. Waccatee harmed, harassed, and, on information and belief, killed leopards by denying them adequate environmental enrichment and social grouping.

Waccatee Zoo provided insufficient environmental enrichment for leopards. Failing to provide Liza and Eolis proper enrichment harmed and harassed them, because the lack of enrichment injured leopards psychologically and interfered with their normal behavioral patterns in a way that created the likelihood of injury to both leopards.

Common habitats for leopards include tropical forests, grassland plains, deserts, and alpine areas. Well-designed enrichment is essential for captive leopards. Research involving captive leopards suggests that structural features, such as logs and trees, increase active behavior. Repetitive pacing by leopards in barren enclosure spaces can be due to sensory deprivation from the lack of space and complexity.

On information and belief, Waccatee kept Liza and Eolis in enclosures devoid of enrichment. No trees were in the enclosure and structural features, such as climbing furniture, were absent. Overall, the enclosure lacked the complexity needed to allow species-typical behaviors. Failing to provide Liza and Eolis proper enrichment harmed them by interfering with their normal behavioral patterns including climbing and jumping. At least one leopard also paced in the enclosure. Leopards are also generally considered to be a solitary species and are not suited for group housing. On information and belief, Waccatee housed Eolis and Liza together in a manner inconsistent with leopard behavior. Such an arrangement harmed the animals and interfered with their behavioral patterns in a manner likely to produce injury.

Negative stress that is acute and chronic can suppress a body's immune responses and increase susceptibility to pathogens, exposing leopards to further exertion and negative stress and amplifying the risk of illness, infection, or even death. By injuring the leopards psychologically, depriving leopards of an environment in which they could express natural behaviors, as well as psychological stimulation fundamental to their physical and psychological well-being, Waccatee's conduct harmed and harassed Liza and Eolis and, on information and belief, contributed to their deaths.

IV. Waccatee Zoo takes lions in violation of the ESA.

Keeping Princess and Simba without proper veterinary care, food, shelter, sanitation, environmental enrichment, or social groups, Waccatee Zoo causes these lions to suffer injury and deprives them of the ability to engage in normal behavioral patterns

in a way that is likely to cause further injury. Accordingly, Waccatee Zoo takes lions by harming and harassing them in violation of the ESA.

A. Waccatee harasses and harms lions by denying them adequate veterinary care.

Waccatee fails to provide Princess and Simba adequate veterinary care. Lack of veterinary care harasses and harms lions both by causing them actual injury and by creating a likelihood of further injury from untreated health and welfare issues that impaired their normal behavioral patterns.

Facilities housing lions should provide veterinary care in order to prevent and manage disease, disorders, and injury and provide treatment in hospital settings when necessary.⁶⁵ Generally accepted husbandry standards call for veterinary care to be available at all times in order to address signs of negative stress, disease, or injury in a prompt fashion.⁶⁶

Princess and Simba have experienced documented wounds and physical problems. The USDA cited Waccatee for Simba's incoordination, and noted that such an issue can be an indicator of poor health, including nutritional deficiencies such as metabolic bone disease.⁶⁷ The USDA inspection report explained that Simba's hocks are abnormally dropped, there is a swinging out of his legs as he moves, and there is a swaying to his rear gait.⁶⁸ Waccatee visitors have also reported loss of fur and wound issues on Simba's face, and wounds on Princess' face. On information and belief, Waccatee allows these problems to persist without appropriate veterinary attention.

These conditions are signs of inadequate veterinary care. Waccatee's failure to provide adequate veterinary care creates the likelihood of injury and actually injures both Princess and Simba.

B. Waccatee harasses and harms lions by denying them adequately implemented nutrition protocols.

On information and belief, Waccatee does not provide Princess and Simba adequate nutrition. Failing to provide lions proper nutrition harasses and harms them because poor nutrition creates the likelihood of injury and is actually deleterious to the animals' physical and psychological health.

Lion caretakers should be trained to meet the dietary needs of lions.⁶⁹ AWA regulation requires that food given to lions "be wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in

⁶⁵ AZA Lion Species Survival Plan (2012). Lion Care Manual. Association of Zoos and Aquariums, Silver Spring, MD. pp 69.

⁶⁶ *Id.* at 60.

⁶⁷ Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 9, 2017), pp 1.

⁶⁸ *Id.*

⁶⁹ AZA Lion Species Survival Plan (2012). Lion Care Manual. Association of Zoos and Aquariums, Silver Spring, MD. pp 69.

good health.”⁷⁰ Diets should “be prepared with consideration for the age, species, condition, size, and type of the animal.”⁷¹ According to husbandry guidelines, feeding lions diets that contain high percentages of poultry products is of concern because such diets may be nutritionally unbalanced.⁷² At all times, potable water should also be available to lions in containers that are “cleaned and disinfected daily.”⁷³

On information and belief, Waccatee denies lions an appropriate diet and consistent access to clean potable water. Waccatee staff are untrained and unable to provide for the dietary needs of lions. USDA has cited Waccatee Zoo for failing to provide felids in its care with a veterinarian-approved diet. During an inspection, a USDA official noted that felids at Waccatee were fed assorted chicken parts, grocery meat, and Oasis supplementation.⁷⁴ On information and belief, this poorly balanced diet injures Princess and Simba. The official noted that the facility lacked a “written feeding plan with specific composition and amounts of food items or supplementation” for felids.⁷⁵ USDA further noted that Simba exhibited hind limb weakness and incoordination that could be caused by malnutrition.⁷⁶ On information and belief, Waccatee chronically neglects to provide Simba and Princess with clean drinking water. Lack of adequate nutrition causes physical and psychological harm. As explained in Parts IV.A. and IV.E. of this notice letter, lions suffer psychological distress at Waccatee as evidenced by abnormal repetitive behaviors. Lack of adequate nutrition can cause or contribute to abnormal repetitive behaviors.

Waccatee also provides processed food to guests upon entry to the facility. Guests have the opportunity to feed animals without consistent oversight. On information and belief, Listed Species, including lions, can be fed processed food by guests. The processed food provided by Waccatee does not provide species-specific nutrition to lions and impairs their feeding patterns.

Proper nutrition and access to water are fundamental to the physical and psychological well-being of any captive animal. By failing to provide lions with an adequate and appropriate diet, as well as fresh water, Waccatee Zoo takes Simba and Princess by harassing and harming them in violation of the ESA.

C. Waccatee Zoo harms and harasses lions by denying them safe and appropriate shelter.

Waccatee does not provide safe and adequate housing for Princess and Simba. Unsafe and inappropriate housing harms and harasses lions because those conditions

⁷⁰ 9 C.F.R. § 3.129(a).

⁷¹ *Id.*

⁷² Standards for Felid Sanctuaries (2019). Global Federation of Animal Sanctuaries, Phoenix, AZ. pp 15.

⁷³ *Id.* at 13. *See also* 9 C.F.R. § 3.130 (explaining that under the AWA “[f]requency of watering shall consider age, species, condition, size, and type of the animal.”)

⁷⁴ Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 9, 2017), pp 4.

⁷⁵ *Id.*

⁷⁶ *Id.*

impair normal behavioral patterns of lions and is likely to cause other injuries to the animals.

On information and belief, the two lion enclosures at Waccatee Zoo are 20 feet long, 25 feet wide, and 12 feet tall each. As members of an apex predator species, lions need more space than what Waccatee provides in order to engage in species-typical behaviors including concealing themselves from humans, foraging, stalking, roaming, running, and playing. The shelter is also inadequate because Waccatee routinely fails to repair damaged or inadequate enclosure spaces, including deficiencies likely to undermine insulation or temperature control. Exposed wires and rough material expose lions to a likely risk of harm in the form of physical injury.

Waccatee Zoo's failure to keep Princess and Simba in adequate and safe enclosures harms them directly and harasses them by impairing normal sheltering patterns which creates a likelihood of physical and psychological injury.

D. Waccatee Zoo harms and harasses lions by keeping them in unsanitary conditions.

Waccatee fails to maintain clean enclosure spaces for Princess and Simba. Unsanitary enclosures harm and harass lions, because the conditions interfere with normal behavioral patterns in a manner that creates a likelihood of and causes physical and psychological injury to the lions.

Proper sanitation decreases the likelihood of disease transmission and is a minimum standard of generally accepted husbandry. Possible contamination of natural substrates over time can expose big cats "to potentially dangerous concentrations of pathogens," and proper sanitation practices therefore require that contaminated substrates be removed periodically.⁷⁷ Animal care standards also indicate that natural substrates within lion enclosures be spot-cleaned daily.⁷⁸ Hard surface enclosures for lions "should be cleaned daily, and cleaned with detergent and disinfectant on a regularly scheduled basis."⁷⁹ Concerning drainage, the AWA requires that "a suitable method shall be provided to rapidly eliminate excess water" in outdoor enclosures for big cats like lions.⁸⁰

Waccatee harms and harasses lions through unsanitary enclosures. On information and belief, Waccatee does not clean or sanitize the lion enclosures in accordance with generally accepted husbandry standards. Waccatee staff allow food and feces, and thus injurious odors, to remain in enclosures. Water drainage issues within enclosures harms and harasses lions as well. Waccatee Zoo has chronic problems with standing water throughout the facility. Water accumulates within both lion enclosures creating unsanitary, muddy floors. Simba and Princess are left to wallow in muddy conditions due to drainage issues.

⁷⁷ AZA Lion Species Survival Plan (2012). Lion Care Manual. Association of Zoos and Aquariums, Silver Spring, MD. pp 15.

⁷⁸ *Id.* See also 9 C.F.R. § 3.125(d), 3.131.

⁷⁹ AZA Lion Species Survival Plan (2012). Lion Care Manual. Association of Zoos and Aquariums, Silver Spring, MD. pp 15.

⁸⁰ 9 C.F.R. § 3.52(e).

By confining lions in unsanitary conditions that continually put their health and welfare at risk, Waccatee Zoo harms and harasses Princess and Simba by causing, and interfering with normal behavioral patterns that create a likelihood of physical and psychological injury. Waccatee Zoo's ongoing failure to provide them with a sanitary environment constitutes a prohibited take in violation of the ESA.

E. Waccatee harasses and harms lions by denying them adequate enrichment and social grouping.

Waccatee Zoo does not provide sufficient enrichment and socialization for lions. Failing to provide Princess and Simba proper enrichment and social groups harasses and harms them because the failures create the likelihood of injury and actually injures the lions.

A lion's natural habitat includes open woodlands, thick bush, and tall grassy areas.⁸¹ An ideal habitat provides sufficient cover for hunting and denning. In captivity, lions "should [be allowed]... to retreat from conspecifics through the use of visual barriers, such as rock outcroppings, hills, and foliage, without limiting the animal's access to food, water, heat, or shade."⁸² Non-captive lions mainly hunt at night, covering distances ranging from one to eight miles, depending on the availability of food.⁸³ By contrast, it is established that lions restricted to small, unstimulating environments have less resting time and increased frequency of pacing and other manifestations of physiological and psychological injury. Access to multiple areas that provide hiding places nurtures the psychological and physical welfare of cats.

Waccatee fails to provide any appropriate enrichment necessary for lions that need to forage, play, and engage in other species appropriate behavior. Simba and Princess are housed in small enclosures with mud floors that lack complexity and provide only minor—and wholly inadequate—enrichment. Waccatee Zoo's ongoing failure to provide lions with environmental complexity denies them the ability to engage in normal behaviors such as adequate hiding, running and walking, playing, exploring, marking, and resting. In addition to this, the present enrichment is not functional for lions and is consistently dirty.⁸⁴ Princess is, on information and belief, provided with a bowling ball as a source of enrichment. Simba is provided with a tire. Tires and bowling balls are inadequate and dangerous enrichment, with bowling balls providing a risk of broken teeth and tires a risk of perforation of the digestive tract if ingested. These enrichments are also static and lack novelty. Enrichment is only meaningful when novel, so the same item within the enclosure over an extensive period of time has lost enrichment value.

As a likely result of the deficiencies in their environments, Simba and Princess are repeatedly seen pacing back and forth within their enclosures. This abnormal repetitive behavior is consistent with psychological distress that is likely caused by a lack of space and

⁸¹ AZA Lion Species Survival Plan (2012). Lion Care Manual. Association of Zoos and Aquariums, Silver Spring, MD. p. 11.

⁸² *Id.* at 18.

⁸³ *Id.*

⁸⁴ See also Section IV.D (addressing sanitation issues).

environmental complexity, and insufficient stimulation. Limited enrichment inhibits Simba's and Princess' behavioral repertoires and is inadequate to provide for their physiological and psychological well-being.

Waccatee denies Princess and Simba a proper social group. Lions are typically found in large social groups called prides. For African lions, a typical pride structure includes five to nine related adult females and their offspring plus two to six males who are unrelated to the females but frequently related to each other. Female lions are highly social—often developing preferred groupings between close relatives such as mother/daughter or siblings.⁸⁵ Female lions typically stay in their natal prides their entire lives.⁸⁶ Unlike her counterparts in the wild, Princess is housed alone and thus denied the companionship of a pride. This isolation is particularly detrimental for female lions given their highly social nature. Simba is also housed alone without the social structure characteristic of lions.

By depriving threatened and/or endangered animals of an environment in which they can express natural behaviors, as well as psychological stimulation fundamental to their physical, social, and psychological well-being, Waccatee's actions constitute a take in violation of the ESA. Waccatee Zoo continues to deny lions an environment in which they can express behaviors that these animals exhibit in nature, including appropriate species-typical social interaction. Waccatee Zoo's actions constitute a take in violation of the ESA.

V. Waccatee takes ring-tailed lemurs in violation of the ESA.

Waccatee Zoo confines endangered ring-tailed lemurs in conditions that harm and harass the animals. The conditions cause injury and interfere with essential behavioral patterns, which place the lemurs at risk for further injury in violation of the ESA. Waccatee fails to provide adequate shelter, adequate nutrition, sanitary environments for the lemurs, adequate enrichment, and houses lemurs with members of incompatible species.

A. On information and belief, Waccatee harms and harasses lemurs by denying them adequate veterinary care.

On information and belief, Waccatee Zoo denies adequate veterinary care to lemurs. Lack of veterinary care harasses and harms lemurs both by causing them actual injury and by creating a likelihood of further injury from untreated health and welfare issues that impaired their normal behavioral patterns.

Generally accepted animal husbandry practices call for veterinary coverage to be available to animals every day, at all times, so “that indications of disease, injury, or

⁸⁵ AZA Lion Species Survival Plan (2012). Lion Care Manual. Association of Zoos and Aquariums, Silver Spring, MD. pp 34.

⁸⁶ *Id.* at 12.

stress may be dealt with promptly.”⁸⁷ Untreated issues can harm lemurs directly and interfere with their normal behavioral patterns. On information and belief, Waccatee fails to provide lemurs sufficient veterinary care.

Waccatee’s failure to provide adequate veterinary care for lemurs harms and harasses them in violation of the ESA. Untreated conditions injure lemurs and interfere with normal activities in a way that can lead to further injury.

B. Waccatee Zoo harms and harasses lemurs by failing to follow species-specific nutrition protocols.

On information and belief, Waccatee does not follow appropriate nutrition protocols for ring-tailed lemurs. Without adequate nutrition, Waccatee maintains conditions that actually injure lemurs and harasses lemurs by significantly disrupting normal behavioral patterns in a manner that creates a likelihood of injury.

According to industry guidelines, lemurs should be provided with fresh browse (vegetation, such as twigs and young shoots) daily “to promote natural feeding behaviors.”⁸⁸ On information and belief, Waccatee does not provide adequate browse to lemurs every day. Staff leave food that is covered in flies within enclosures. Some lemurs are overweight or possess abnormal masses on their chest or belly area which may be indicative of nutritional issues. Waccatee also, on information and belief, allows the public to feed animals food provided by the facility with minimal staff presence to observe visitor behavior. Without adequate oversight, animals can be offered improper foods in a manner contrary to standard husbandry practices for lemurs. Lack of adequate nutrition causes physical and psychological harm. On information and belief, lemurs suffer psychological distress at Waccatee, in part, due to lack of adequate nutrition.

Waccatee fails to follow proper nutritional protocols to the detriment of lemurs. Denying lemurs a species appropriate diet creates a likelihood of injury by significantly disrupting normal feeding behaviors. The lack of proper nutrition, on information and belief, harms lemurs by causing physical and psychological injury as well.

C. Waccatee Zoo harms and harasses ring-tailed lemurs by denying them safe and appropriate housing.

Waccatee exposes lemurs to dangerous and inappropriate conditions within their enclosures. Unsafe and inappropriate enclosures harm and harass lemurs by injuring them and interfering with their normal behavioral patterns in a manner likely to cause further injury to animals.

Ring-tailed lemurs require specific ambient temperatures in their environment. The average temperature in southwestern Madagascar is about 86°F (30°C) during the

⁸⁷ AZA Accreditation Standard 2.1.2. 2022. The Accreditation Standards & Related Policies. Association of Zoos and Aquariums, Silver Spring, MD, <https://assets.speakcdn.com/assets/2332/aza-accreditation-standards.pdf>.

⁸⁸ See Standards for Prosimian Sanctuaries (2019). Global Federation of Animal Sanctuaries, Phoenix, AZ. pp 21.

summer and 75.2°F (24°C) during the winter. In the eastern portion of ring-tailed lemurs' range, temperatures can range between 19.4 to 78.8°F (-7° to 26°C). Animal husbandry guides for the Eulemur provide that captive Eulemurs should be housed exclusively indoors when temperatures fall below 48°F (8.9°C).⁸⁹ While Eulemurs and ring-tailed lemurs are not the same species, temperature variations and tolerance are similar across most lemur species.

Waccatee uses an unsafe and inadequate heat source for the lemur enclosure in the antique barn. A space heater is balanced on top of boxes and crates outside of the enclosure space, which is a fire hazard and is insufficient to heat the entire enclosure. The space heater's placement is in violation of the International Fire Code (IFC) § 603.09 (version 2021).⁹⁰ Further, on information and belief, the placement of the heater creates an unsafe hot spot on the metal fencing of the enclosure. This hot spot creates the likelihood of injury to lemurs. Waccatee Zoo has also used heat lamps in the lemur areas that contain combustible material in violation of IFC § 305.1 (version 2021). Further, Waccatee Zoo leaves exposed mesh wiring in and around lemur enclosure space. Exposed wire is harmful to ring-tailed lemurs, because they can injure themselves on the exposed wiring.

Waccatee's enclosures are insufficient to secure the animals, making lemurs vulnerable to public contact. Public contact exposes lemurs to disease and physical harm by humans or other animals that may pose a risk of injury to the lemurs. USDA noted this problem as far back as November 12, 2003 noting that "[a] juvenile ring lemur is going in and out through the wire panels of the colony's outdoor enclosure... [t]he enclosure needs to be made more secure with smaller openings to contain all the animals."⁹¹ USDA noted in 2008 that the lemurs held in the barn enclosure "do not have a complete public barrier."⁹² The inspector noted that "[i]t is still possible for adult members of the public to reach above these barrier fences and put their fingers into the lemur cage."⁹³ Juvenile lemurs continue to be observed outside of their enclosures. In June 2021, chickens were also documented in the lemur enclosure on two dates. The lemurs' exposure to these chickens exposes them to disease hazards, specifically the potential for salmonella.

Confining lemurs in inadequate enclosures causes the lemurs physical and psychological injuries, and significantly disrupts the animal's normal behavioral patterns in a manner likely to cause further injury in violation of the ESA.

⁸⁹ AZA Prosimian Taxon Advisory Group 2013. Eulemur Care Manual. Association of Zoos and Aquariums, Silver Spring, MD. pp 9.

⁹⁰ As of November 16, 2021, Waccatee has failed to resolve various fire code violations as evidence by its failure to pass a Horry County Code Enforcement fire code inspection.

⁹¹ Inspection Report, APHIS, Archie Futrell and Waccatee Zoo, 56-C-0029 (U.S.D.A. Nov. 12, 2003), pp 1.

⁹² Inspection Report, APHIS, Archie Futrell, 56-C-0029 (U.S.D.A. Jun. 18, 2008), pp 2.

⁹³ *Id.*

D. Waccatee Zoo harasses and harms lemurs by failing to provide a sanitary environment for them.

Waccatee denies ring-tailed lemurs sanitary enclosures. Lack of sanitation harasses lemurs by interfering with their normal behavioral patterns in such a manner that creates likelihood of injury and harms them.

Captive lemurs require clean environments. Lemurs have different ways of communicating with one another and olfactory (smell-oriented) communication is one of the most important. Lemurs produce unique scents for communication. Unsanitary conditions in, near, and surrounding a lemur's enclosure "interfere[s] with the lemurs' olfactory senses, to which they are highly attuned."⁹⁴ Lemurs living in an unsanitary environment is similar "to humans being in a room where there is constantly white noise being amplified."⁹⁵

Waccatee has and continues to allow dirt, dust, cobwebs, and mold to accumulate in the lemur enclosures located in its antique barn. There are also wasp nests in the barn near the lemur enclosure and holes in the ceiling in the barn enclosure. The USDA documented Waccatee's failure to maintain sanitary conditions for lemurs as early as November 2003.⁹⁶ In 2012, the USDA also noted the poor condition of a lemur enclosure: "[a] shift board in the lemur tower housing 15 lemurs is excessively worn and can no longer be sanitized."⁹⁷ On information and belief, Waccatee fails to regularly remove old food and feces from the lemur enclosures. The facility also allows dried urine to remain in enclosures. The facilities' overall lack of maintenance threatens lemurs as well, because the poor state of the entire facility impacts conditions near and surrounding lemur enclosures. These unsanitary conditions induce negative stress to the lemurs because they require clean environments to exhibit normal behaviors.

The presence of mice at Waccatee and lack of appropriate or safe control measures is also unsafe for ring-tailed lemurs. On February 6, 2017, the USDA cited Waccatee for mice feces found in multiple areas with a live mouse seen on a shelf containing feed bags.⁹⁸ The inspection report mentioned that rodent holes were seen around several enclosures.⁹⁹ The USDA noted that "[r]odent control measures need to be established and maintained in order to decrease the likelihood of disease transmission from wild rodents."¹⁰⁰ The mice issue at Waccatee has continued to persist, and mice droppings are frequently seen within the enclosures. Waccatee keeps poison traps in lemur enclosures, thus putting lemurs at risk of physiological injury and death if they make direct contact with the traps.

⁹⁴ *Sellner*, 161 F. Supp.3d at 703 (noting that feces and cobwebs interfered with lemurs' sense of smell) (internal quotations omitted).

⁹⁵ *Id.* (internal quotations omitted).

⁹⁶ Inspection Report, APHIS, Archie Futrell and Waccatee Zoo, 56-C-0029 (U.S.D.A. Nov. 12, 2003), pp 2. (noting that "[t]he indoor wooden shelter building for the two [male] lemurs has an excess accumulation of spiderwebs and mud dauber nests on the ceiling and upper walls.").

⁹⁷ Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. May 2, 2012).

⁹⁸ Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Feb. 6, 2017).

⁹⁹ *Id.*

¹⁰⁰ *Id.*

Waccatee's ongoing failure to provide lemurs with a non-injurious and sanitary environment constitutes a prohibited take in violation of the ESA. Waccatee Zoo actually injures the lemurs and interrupts their behavioral patterns in a manner that creates a likelihood of additional physical and psychological injury.

E. Waccatee Zoo harms and harasses lemurs through inadequate environmental enrichment and mixed-species exhibits.

Waccatee harms and harasses ring-tailed lemurs by depriving them of enrichment and proper peer groups. Lack of enrichment and mixed-species housing injure lemurs and interfere with their normal behaviors in a way that leads to the likelihood of further injury.

On the brink of extinction, wild ring-tailed lemurs are only found in the southwest portion of Madagascar. The territories of wild ring-tailed lemurs range from fourteen to fifty-six acres in size. Traveling in groups of eight to twenty individuals, they roam about their range each day foraging for food.¹⁰¹ Lemurs spend over one-third of their time on the ground, but they are known to spend time in all layers of their natural habitats. Ring-tailed lemurs are social animals with advanced cognitive abilities.

Waccatee does not provide adequate enrichment for lemurs. On information and belief, this lack of enrichment interferes with normal behavioral patterns such as roaming, species-typical exploration, play, and foraging. Lemurs at Waccatee live with little to no enrichment and the few items provided are not cleaned frequently. The condition of these limited enrichment items suggests that these items are unused and not rotated to ensure novelty. Regarding lemurs, the USDA has cited Waccatee for:

- Failing to provide enough manipulable objects to non-human primates.¹⁰²
- Failing to provide foraging devices and methods to promote foraging for food.¹⁰³
- Vague and incomplete environmental enhancement plan for primates.¹⁰⁴

Waccatee Zoo harms lemurs by housing them with members of incompatible species. Research has demonstrated that mixed-species exhibits can be traumatic for animals. Waccatee houses a macaque with lemurs. Housing ring-tailed lemurs and macaques together can cause distress to both species as they have different social patterns. Further, macaques can expose lemurs to the deadly Herpes-B virus and other infectious diseases.

¹⁰¹ See *Kuehl v. Sellner*, 161 F. Supp.3d 678 (N.D. Iowa 2016) (finding zoo's treatment of lemurs constituted unlawful take in violation of the ESA). See also C.B. Mowry & J.L. Campbell, Nutrition, in Ring-tailed Lemur (*Lemur catta*) Husbandry Manual 2 (American Ass'n of Zoos & Aquariums, 2001).

¹⁰² Inspection Report, APHIS, Archie Futrell and Waccatee Zoo, 56-C-0029 (U.S.D.A. Nov. 12, 2003), pp 1.

¹⁰³ *Id.*

¹⁰⁴ Inspection Report, APHIS, Archie Futrell and Waccatee Zoo, 56-C-0029 (U.S.D.A. Sept. 25, 2001), pp 1.

Negative stress that is acute and chronic can suppress a body's immune responses and increase susceptibility to pathogens, exposing lemurs to further exertion and negative stress and amplifying the risk of illness, infection, or even death. Waccatee's environments and placement of members of incompatible species deny lemurs the ability to express normal behaviors such as roaming, deriving intellectual stimulation from a varied habitat, or expressing a full range of natural behaviors such as species-typical exploration, play, and foraging, as well as social interaction and adjustments. Waccatee's actions interrupt lemur behaviors in a manner that creates the likelihood of physical and psychological injury to them. The presence of incompatible peers also injures the lemurs psychologically and, ultimately, physically.

VI. Waccatee takes parrots in violation of the ESA.

Waccatee Zoo houses ESA-listed parrots, in conditions that harm and harass animals. Waccatee fails to meet their medical needs, denies them proper nutrition, confines them in inadequate and unsanitary housing, does not provide parrots an enriched enclosure, and houses parrots alone. These circumstances injure parrots and interfere with essential behavioral patterns in a manner that results in risk of injury.

A. Waccatee harms and harasses parrots by denying them adequate veterinary care.

Waccatee denies ESA-listed parrots adequate veterinary care. Lack of veterinary care harasses and harms parrots both by causing them actual injury and by creating a likelihood of further injury from untreated health and welfare issues that impaired their normal behavioral patterns.

Facilities should provide veterinary care to captive birds from professionals trained or experienced in avian medicine.¹⁰⁵ Parrots have nails and beaks made of living tissue that continues to grow with the bird. Due to the nail growth, birds need regular nail trims. Nail trimming requires experience and specific tools. Beak trims also require trained and experienced professionals to be done safely. Overgrown nails make it harder for birds to perch properly while overgrown beaks interfere with normal feeding behavior in a manner that creates a likelihood of physical and psychological injury.

Captive parrots held in solitary confinement and in conditions that fail to meet generally accepted standards are prone to abnormal repetitive behaviors such as feather picking and auto-mutilation, as well as screaming, biting, and display of phobias. Feather loss can be caused by feather damaging behavior ("FDB"). Parrots with FDB chew, bite or pluck their own feathers with their beaks, which damages feathers and skin.

Birds at Waccatee suffer from a lack of adequate veterinary care. Delilah, the ESA-protected scarlet macaw at Waccatee, has both an overgrown beak and nails, which are in need of veterinary attention. Parrots at Waccatee Zoo also suffer from feather damage. On information and belief, damage to the birds' feathers is indicative of disease

¹⁰⁵ Association of Zoos and Aquariums, "AZA Comments on Establishing AWA Standards for Birds," APHIS-2020-0068, 8025 (Oct. 28, 2020), <https://www.regulations.gov/comment/APHIS-2020-0068-8025>.

or self-mutilation. The lack of care for these birds' claws and feathers demonstrates uncorrected medical problems and compromised welfare.

The physical and behavioral conditions of birds at Waccatee are signs that Waccatee harms and harasses parrots by failing to provide adequate veterinary care. This lack of care injures the animals and interferes with their normal behavior in a manner that increases the likelihood of additional physical and psychological injury.

B. Waccatee harms and harasses parrots by denying them adequate nutrition.

On information and belief, Waccatee does not provide parrots with adequate food and water. Failing to provide adequate nutrition harms birds because the omission injures the birds physically and psychologically. The omission harasses parrots by significantly disrupting normal feeding behaviors in a manner that creates a likelihood of injury.

Nutrition is a fundamental element of preventive avian care. Poor feather quality, feather picking, self-mutilation, and other physical conditions can be signs of malnutrition. AZA best practices also establish that "fresh potable water should be made available daily for birds to consume."¹⁰⁶ Parrots at Waccatee Zoo are left without fresh food and water, and left with food that is covered in flies. Lack of adequate nutrition causes physical and psychological harm. As explained in Part VI.A. of this notice letter, birds suffer psychological distress at Waccatee as evidenced by feather damaging behavior. Lack of adequate nutrition can cause or contribute to psychological distress.

On information and belief, Waccatee harasses and harms parrots by failing to provide proper nutrition and access to potable water. The lack of adequate nutrition injures birds by weakening their physical and psychological health. The lack of adequate nutrition harasses parrots by creating a likelihood of injury by significantly disrupting normal behavioral patterns.

C. Waccatee Zoo harasses and harms parrots by denying them safe and appropriate housing.

Waccatee places ESA-listed birds in unsafe, inappropriate housing. The housing harasses them by interfering with normal behavioral patterns in a manner that is likely to cause injury. The housing harms birds by, among other injuries, significantly altering flight and sheltering behavior patterns.

Enclosure size is important in parrot care. The AZA recommends that "small active perching bird species should have sufficient space and space complexity to allow for relatively normal flight/movement behavior."¹⁰⁷ Flight is a fundamental need for parrots' physical, behavioral, and psychological health and well-being. Depriving birds of the ability to fly is a source of negative stress and causes poor welfare. Insufficient space may "be indicated by evidence of malnutrition, poor condition, debility, stress, or

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

abnormal behavior patterns.”¹⁰⁸ Due to instinct, parrots remain on guard for potential predators. They are sensitive to changes in stimuli and require barriers to bright light. Bright light and other perceived stressors negatively impacts parrot welfare.

Waccatee keeps ESA-listed parrots in cages that are too small for the birds. These small cages prevent the birds from being able to fly and from exhibiting normal behavioral patterns. The birds at Waccatee are confined to cages so small that they have difficulty fully extending their wings without sustaining feather damage. The birds are also exposed to continuous artificial light, placed in sight of predators, and forced to be near unpredictable noise from gift shop traffic.

Waccatee harasses and harms parrots. Confining parrots in poor housing that does not allow animals to express normal behavior patterns creates a likelihood of psychological and physical injury to the animals and, on information and belief, actually injures the animals.

D. Waccatee Zoo harms and harasses parrots by denying them sanitary conditions.

Waccatee keeps ESA-protected parrots in unsanitary cages. Unsanitary cages harm and harass the birds by injuring them and by interfering with normal behavioral patterns in a way that is likely to cause physical and psychological injury.

Generally accepted husbandry practices prescribe that surfaces in contact with captive birds should be readily cleaned or replaced when excessively soiled.¹⁰⁹ Failure to maintain sanitary conditions creates the risk of disease transmission among birds. Bird keepers should remove excreta from primary enclosures “as often as necessary to prevent contamination of the birds contained therein and to minimize disease hazards and to reduce odors.”¹¹⁰ Enclosures with absorbent bedding “must be spot cleaned with sufficient frequency to ensure all birds the freedom to avoid contact with excreta, or as often as necessary to reduce disease hazards, insects, pests, and odors.”¹¹¹ Staff should regularly clean perches, bars, cage bottoms, sides, perching, ropes, and other enclosure objects.¹¹² The AZA recommends that food and water containers “must be kept clean and sanitary, including preventing the accumulation of biofilm.”¹¹³ All water receptacles should be kept clean and sanitary.¹¹⁴ The AZA prescribes that buildings and grounds be kept clean to protect the overall welfare of birds.¹¹⁵

Waccatee does not provide clean and sanitized homes for ESA-listed parrots. Parrot and other bird cages are consistently unclean with accumulation of feces and food waste. The little enrichment materials that exist in the cages are soiled. The perches in the

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

parrot cages are dirty. These conditions demonstrate a prolonged neglect of basic cleaning.

Dirty enclosures interrupt normal behavioral patterns in a manner that creates a likelihood of physical and psychological injury. Waccatee's ongoing failure to provide Cream, Delilah, and the other parrots with a sanitary environment, including non-soiled enrichment items and enclosures and lack of injurious odors, harms and harasses them by exposing them to increased risk of pathogens, amplifying the risk of illness, infection, or even death.

E. Waccatee harms and harasses parrots by denying them adequate environmental enrichment and social grouping.

Waccatee Zoo denies parrots adequate enrichment and socialization. Withholding enrichment and companionship harms parrots, because the loss injures the birds psychologically and physically. A lack of enrichment and appropriate social grouping also harasses parrots by impairing essential behavioral patterns in a way that creates a risk of injury.

Enrichment is essential to mitigate stress and boredom in captive parrots. Wild scarlet macaws and cockatoos live in tropical rainforests or deciduous forests where they spend their time in the tree canopy. These activities include flying for miles daily, climbing vegetation, foraging on plant life, socializing with individuals of their own species, and sleeping in trees. Features in captive settings can increase environmental complexity for captive animals, which facilitates normal behaviors and other aspects of biological functioning that ensures physical and psychological health. Parrots are prey species and, therefore, adapted to remain vigilant for potential predators. Visual barriers are a basic requirement to provide captive birds with a sense of security and the option to retreat or hide from other birds, from people, or other perceived stressors. Foraging opportunities are necessary to the welfare of captive parrots as they reduce fear response in them. Parrots are curious and intelligent and have an innate need to play. Perches for captive parrots should have an irregular surface in order to reduce the likelihood of causing bumblefoot (pododermatitis).¹¹⁶ Bumblefoot is a bacterial infection and inflammatory reaction on the feet of birds. Dust and water bathing are also important behaviors for birds to maintain feather health.

Waccatee fails to provide ESA-listed parrots with adequate environmental enrichment, which harasses and harms the parrots. Waccatee holds several parrots in its gift shop within small cages. They are housed in these cages alone and are not provided any larger enclosure spaces to explore. The parrot cages have little enrichment, most of it static and inappropriate. Enclosures feature refuse items, such as dirty towels, soda bottles, and old paper boxes. Delilah's cage only has a hanging piece of wood, a couple of hanging chains, a rope, and a plastic bottle. These materials offer little stimulation and the plastic bottles and chains pose a safety hazard. The lack of complexity reduces foraging opportunities that parrots need for good health. The facility does not provide visual barriers for the parrots to retreat from stressors or to hide from view from other

¹¹⁶ *Id.*

birds or people. There is no space to distance themselves or seek quiet refuge from environmental stressors. Their perches also lack variety, which puts them at risk of bumblefoot (a bacterial infection and inflammatory reaction that occurs on the feet of birds, rodents, and rabbits; it is known scientifically as “ulcerative pododermatitis”). The perch’s short length also provides minimal opportunities to perch or roost in a manner that is comfortable and healthy for their bodies. Two of the birds only have one perch. None of the parrots at Waccatee have access to water baths or dust baths.

Further, based on documented research, the lack of enrichment creates a likelihood of psychological and ultimately physical injury to the parrots at Waccatee, which is exacerbated by their solitary confinement. A lack of environmental enrichment is especially harmful to birds housed alone.¹¹⁷

Solitary parrots in inadequate enclosures are often bored and lonely. Due to their high intelligence, macaws and cockatoos are particularly susceptible to boredom and frustration and require planned and varied forms of enrichment that provide opportunities to manipulate objects, problem-solve, and to exercise choice and control over their time and environments.

Delilah, Cream, and the other ESA-listed cockatoos are kept in cages alone. Macaws and cockatoos are social animals that live in large flocks in the wild. Flocks provide security, opportunities for positive engagement, and social bonding. On information and belief, the parrots of Waccatee are distressed and frustrated, because they are denied socialization. Housing social species in isolation without direct access to compatible members of their own species is another source of chronic negative stress, frustration, and is a serious welfare concern for the parrots.

Negative stress that is acute and chronic can suppress a body’s immune responses and increase susceptibility to pathogens, exposing parrots to further exertion and negative stress and amplifying the risk of illness, infection, or even death. By depriving listed birds of an environment in which they can express natural behaviors and companionship, as well as psychological stimulation fundamental to their physical, social, and psychological well-being, Waccatee’s actions constitute a take in violation of the ESA. Waccatee Zoo injures the birds psychologically and impairs essential behavioral patterns in a manner that creates a likelihood of physical and psychological injury.

VII. Waccatee takes a scimitar-horned oryx in violation of the ESA.

Waccatee Zoo denies a scimitar-horned oryx (a type of large African antelope) adequate veterinary care, appropriate enclosure space, sanitation, and a proper social group. These failures harm and harass the oryx by injuring the animal and interfering with normal behaviors in a manner that is likely to cause injury.¹¹⁸

¹¹⁷ *Id.*

¹¹⁸ On information and belief, the scimitar-horned oryx at Waccatee is not subject to an exemption codified at 50 C.F.R. § 17.21(h).

A. Waccatee harms and harasses a scimitar-horned oryx by denying adequate veterinary care.

On information and belief, Waccatee Zoo denies adequate veterinary care to a scimitar-horned oryx. Lack of veterinary care harasses and harms the oryx both by causing the animal actual injury and by creating a likelihood of further injury from untreated health and welfare issues that impaired normal behavioral patterns.

Overgrown or cracked hooves are signs of ill health in scimitar-horned oryxes.¹¹⁹ Hoof problems also impair an animal's locomotion and interferes with normal behaviors. Untreated, overgrown hooves can also lead to foot infections, lameness, deep cracks, and other painful conditions. Trained farriers can maintain oryx hooves in appropriate condition, and experienced veterinarians can treat hoof related-issues. On information and belief, Waccatee fails to provide the oryx adequate veterinary care for hooves, and chronically neglects hoof care for other ungulates throughout the facility, including, on information and belief, the scimitar-horned oryx.¹²⁰ Overgrown hooves impede the animal's ability to walk and can be painful. The oryx at Waccatee has also paced back and forth in its enclosure in an abnormal, repetitive fashion.

Hoof care is essential for oryx health. Waccatee's failure to provide adequate veterinary care for the oryx harms and harasses the animal in violation of the ESA. These hoof and psychological conditions injure the animal and interfere with normal activities in a way that can lead to injury.

B. On information and belief, Waccatee harms and harasses the oryx by denying the animal adequate nutrition.

On information and belief, Waccatee denies the scimitar-horned oryx adequate nutrition. This denial harms the animal's physical and psychological health in violation of the ESA. Lack of adequate nutrition harasses the animal by significantly disrupting normal behavioral patterns in a manner that creates a likelihood of injury.

Under generally accepted husbandry practices, facilities housing oryxes should provide a specific diet.¹²¹ Facilities also should provide "[f]resh, clean water" to scimitar-horned oryxes "at all times."¹²² On information and belief, Waccatee fails to provide the oryx with adequate nutrition. Lack of adequate nutrition causes physical and psychological harm. As explained in Parts VII.A. and VII.E. of this notice letter, the oryx suffers psychological distress at Waccatee as evidenced by abnormal repetitive pacing.

¹¹⁹ Tania Gilbert and Tim Woodfine, eds., "The Biology, Husbandry and Conservation of Scimitar-horned Oryx (*Oryx dammah*)," Marwell Preservation Trust, 2004. pp 46.

¹²⁰ See Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Jan. 26, 2021), pp 1; Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Oct. 22, 2020), pp 1; Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Mar. 5, 2020), pp 1; Inspection Report, APHIS, Archie Futrell, 56-C-0230 (U.S.D.A. May 9, 2017), pp 1; Inspection Report, APHIS, Archie Futrell, 56-C-0029 (U.S.D.A. Aug. 18, 2010), pp 1.

¹²¹ See Tania Gilbert and Tim Woodfine, eds., "The Biology, Husbandry and Conservation of Scimitar-horned Oryx (*Oryx dammah*)," Marwell Preservation Trust, 2004. pp 31.

¹²² *Id.*

Lack of adequate nutrition can cause or contribute to abnormal repetitive behaviors such as pacing.

Proper nutritional protocols and their implementation are fundamental to the physical and psychological well-being of captive animals. Failing to provide proper nutrition to the oryx harms and harasses the animal.

C. Waccatee Zoo harms and harasses a scimitar-horned oryx through inappropriate enclosure space.

On information and belief, Waccatee houses a scimitar-horned oryx in an unsafe and inappropriate enclosure. The enclosure harms and harasses the oryx because it injures the animal and disrupts the normal behavioral patterns in a manner that creates a likelihood of physical and psychological injury.

According to generally accepted husbandry practices, scimitar-horned oryxes require shelter from adverse weather.¹²³ The animals also require suitable substrates for hoof health. Suitable substrates include hardstands composed of compacted gravel or sand.¹²⁴ Without these features, oryxes feel overheated or cold in response to extreme weather. Their hooves also become overgrown, because hard surfaces ensure that hooves are well-maintained. Poor hoof quality is painful and impedes an oryx's ability to walk.

Waccatee Zoo, on information and belief, fails to provide the scimitar-horned oryx adequate enclosure space. The oryx resides in an open field with no apparent shelter. This means the oryx's behavioral patterns are interrupted by extreme weather. There is also a lack of hardstand, which threatens hoof health.

By confining an oryx in an unsafe enclosure that does not allow the animal to express natural behaviors, Waccatee significantly disrupts the animal's normal behavioral patterns in a manner likely to cause, and that, on information and belief, actually causes, further physical and psychological injury.

D. Waccatee Zoo harms and harasses a scimitar-horned oryx through lack of sanitation.

On information and belief, Waccatee does not provide sanitary enclosure space for the scimitar-horned oryx confined there. Lack of sanitation directly harms the oryx and harasses the oryx by interfering with normal behavioral patterns in a way that creates the likelihood of injury.

Sanitation in captive animal settings is important to ensure the well-being of animals. Unsanitary conditions create a risk of disease transmission and violate minimum standards of generally accepted husbandry practice.¹²⁵ Managing stormwater is a part of effective sanitation. Under the AWA, "a suitable method shall be provided to rapidly eliminate excess water" in outdoor enclosures for hooved animals.¹²⁶ For oryxes in

¹²³ *Id.* at pp 33.

¹²⁴ *Id.* at 34.

¹²⁵ *See* 9 C.F.R. § 3.131.

¹²⁶ *Id.* at § 3.127(c).

particular, “problems can occur if animals stand in wet or muddy areas for long periods.”¹²⁷

Waccatee’s chronic cleanliness problems throughout the facility and, on information and belief, within the oryx enclosure, harass the animal. The poor sanitation across the grounds and in or near the oryx enclosure creates harassing odors as well as a likelihood of disease transmission. Water drainage issues within enclosures, on information and belief, also harass the scimitar-horned oryx. Waccatee has chronic problems with standing water throughout the facility and in enclosures. Water accumulates outside and inside of animal enclosures creating unsanitary conditions that create the likelihood of disease transmission.

Waccatee Zoo’s failure to keep the oryx enclosure clean puts the animal’s health and welfare at risk. Waccatee Zoo harasses the scimitar-horned oryx by exposing the animal to muddy areas and standing water thus creating the likelihood of injury or sickness and, on information and belief, actually causing injury and sickness.

E. Waccatee Zoo harms and harasses an oryx by housing the animal in isolation without proper enrichment.

Waccatee Zoo denies the scimitar-horned oryx an appropriate social group. Failing to provide the scimitar-horned oryx socialization harms and harasses the animal because isolation causes psychological and ultimately physical injury and interferes with normal behavioral patterns in a manner that creates likelihood of injury.

Scimitar-horned oryxes historically resided in the northern edge of the Sahara and a semi-arid zone of the Sahara. Before they became extinct in the wild, scimitar-horned oryx herds ranged between 10-30 individuals.¹²⁸ Oryxes are social in nature and individuals were unlikely to have spent much, if any, time away from the herd.¹²⁹ A scimitar-horned oryx housed alone for an extended period of time “may not become socially competent and could develop aberrant or stereotypic [behavior].”¹³⁰ Husbandry guidelines recommend that oryxes in captivity be housed in harem groups (one male, several females), multi-male groups (several males, several females), bachelor groups (several males), or all female groups (if necessary).¹³¹ Housing single animals should be avoided.¹³² Furthermore, oryxes have enrichment needs that facilities must address in captive settings.

One scimitar-horned oryx lives at Waccatee Zoo. The oryx has no conspecific herd and lives in a space with little to no enrichment. Such arrangement injures the well-being of the animal. The oryx has been documented engaging in abnormal pacing

¹²⁷ Tania Gilbert and Tim Woodfine, eds., “The Biology, Husbandry and Conservation of Scimitar-horned Oryx (*Oryx dammah*),” Marwell Preservation Trust, 2004. pp 34.

¹²⁸ Tania Gilbert and Tim Woodfine, eds., “The Biology, Husbandry and Conservation of Scimitar-horned Oryx (*Oryx dammah*),” Marwell Preservation Trust, 2004. pp 4.

¹²⁹ *Id.* at 24.

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

behavior, indicating that this animal is likely experiencing negative stress by living away from other scimitar-horned oryxes. Residing alone also interrupts the animal's normal behavioral patterns, and that interruption creates a likelihood of injury. Waccatee can only cure this harm by allowing the oryx to be transferred to another facility with other oryxes.

Negative stress that is acute and chronic can suppress a body's immune responses and increase susceptibility to pathogens, exposing an oryx to further exertion and negative stress and amplifying the risk of illness, infection, or even death. By depriving the scimitar-horned oryx social interaction fundamental to psychological and ultimately physical well-being, Waccatee Zoo's actions create a likelihood of, and on information and belief has caused, physical and psychological injury.

VIII. Waccatee sells taken Listed Species.

Waccatee violates the ESA by selling taken endangered and threatened animals. On information and belief, Waccatee sells lion parts and lemurs in violation of 16 U.S.C. § 1538(d), (e) and (f). Lion hair falls under the definition of wildlife under the Act and is thus subject to the ESA. Waccatee has sold or attempted to sell lion hair in its gift shop. On information and belief, the lion hair came from lions that were, as detailed above, taken in violation of the ESA. On information and belief, Waccatee sells ESA-protected ring-tailed lemurs who, as detailed above, were taken in violation of the ESA. Comparing USDA's reports on Waccatee's lemur inventory with photo evidence of lemur pups at Waccatee, suggests that lemurs are disappearing before USDA officials can include the animals in the lemur population. Waccatee's sales of lion hair and lemur pups violate the ESA.

IX. Waccatee lacks the funds to provide adequate care to Listed Species.

On information and belief, Waccatee's dilapidated and inadequate facilities and husbandry reflect a lack of funds to correct the above deficiencies—including, but not limited to, providing adequate nutrition, veterinary care, staffing, and facilities for Listed Species. Visitors to Waccatee report that the premises lack an adequate number of appropriately trained staff to care for animals and ensure safety. Lack of staff is documented in the October 2021 USDA inspection report where USDA notes that “[w]hile observing at least 12 separate groups of patrons moving throughout the zoo during a full day of inspection, neither inspector could locate any readily identifiable attendants present during public interactions with the animals... [t]he lack of attendants present during times of public contact increases the risk of injury to patrons and/or animals.”¹³³

¹³³ Inspection Report, APHIS, Kathleen Futrell, 56-C-0230 (U.S.D.A. Oct. 20, 2021), pp 2.

Conclusion

Please be advised that the conditions described in this notice of intent to sue violate the ESA's prohibition on the take of protected species and its prohibition on the sale of taken species.

During the sixty-day notice period, PETA, Mr. Howard, and Ms. Jordan are willing to discuss a mutually agreeable remedy. Specifically, PETA is willing to bear all costs associated with relocating the surviving threatened and endangered animals at Waccatee, as well as all other animals at the facility, to reputable facilities. If Waccatee wishes to pursue this remedy in the absence of litigation, please contact me by phone at (202) 282-5000 or by e-mail at jbrightbill@winston.com in order to facilitate placement.

If settlement is not possible, PETA, Mr. Howard, and Ms. Jordan will seek injunctive relief in the United States District Court for the District of South Carolina to enforce the ESA. They will also ask the Court to award costs and fees, including attorneys' fees.

Sincerely,



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Secretary of the Interior
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Martha Williams
Principal Deputy Director
U.S. Fish & Wildlife Service
1849 C Street NW
Rm 3331
Washington, DC 20240

Exhibit 9

Exhibit 9: *Recent Online Reviews of Waccatee Zoo*

GOOGLE REVIEWS

Waccatee Zoological Farm

8500 Enterprise Rd, Myrtle Beach, SC

3.4 ★★★★★ 1,477 reviews ?

People often mention


All
cages 171
feed 105
sad 83
tiger 65
depressed 51
peacocks 37
habitats 36

animal abuse 17
exotic animals 14
animal sanctuary 9

Sort by

Most relevant
Newest
Highest
Lowest


Sampling of most recent 1/5 star ratings



Katee Mullins
2 reviews

★★★★★ a week ago **NEW**


I went today, and I can agree with the previous reviews of the place being rundown, trashy, low variety, and having unhappy animals. The only perks are that it is \$15 to get in, the staff is very friendly, and kids can feed the goats. A lot of the animals listed on the map weren't actually there. The enclosures for the cats are way too small - it's inhumane how these animals have no roaming space and look trapped, rather than housed in a caring environment. All of the animals are in fences in small spaces, rather than an actual habitat similar to how they should live in the wild; like you see in other zoos. The enclosures are very dirty and unkempt. It makes me think of those animals rescue shows on TV with how poorly their "homes" are. There are random enclosures with no animals in them that have a variety of garbage. Example: There's an enclosure on the map that says it has deer and cows in it; when in fact, there are no deer or cows...there's blue barrels, old rundown farm equipment, other random objects, and trash. I left out of there feeling very sad, wishing they would donate their animals to other larger zoos to provide them a better home. There's no way it's legal for them to still be open.



Tonia Yates
Local Guide · 134 reviews · 626 photos

★★★★★ a month ago







Animals looked miserable and the place looked run down. One of the monkeys had an eye infection and a peacock had a broke foot.



Sadie Owens
2 reviews

★★★★★ a month ago

I wish I would have read reviews. Cages were so small, all the animals seemed starved. Enclosures were no bigger then a small livingroom. Black bears loosing hair. Worse experience ever. Would not recommend.

	<p>Richard Costa 20 reviews</p> <p>★★★★★ 2 months ago</p> <p>If you care about animals, don't visit this "zoo." Describing this place as a hidden gem is as far from the truth you can get. Those who rate it anything above a "1" have not visited a zoo that truly cares for its animals. Nothing short of a disgrace. I pity the animals that reside here.</p>
	<p>Heidi Spano 6 reviews · 3 photos</p> <p>★★★★★ 2 months ago</p> <p>I would like to share that this is one of the most horrible places I have ever visited. Animals are neglected and kept in such small enclosures even though there's space to make them more comfortable. I have attempted to help with getting them shut down. And I will again</p>
	<p>Jonathan Lopes Local Guide · 33 reviews · 4 photos</p> <p>★★★★★ 2 months ago</p> <p>The living conditions of these animals are horrendous. The zoo itself looks like it has been left Unmaintained for years and is rotting away. These animals need to be seized and relocated to a legit zoo. The parrots in the main entrance look as if they have been in the same tiny cage for years without being let out to roam</p>
	<p>J PJ 16 reviews · 23 photos</p> <p>★★★★★ 2 months ago</p> <p>Me and my mom went. Never again. Place is run down. Many animals are clearly unhappy. Bear in a bedroom sized enclosure that's concrete only, no enrichment. Three big cats in a living room sized space. Worst was this poor monkey that was missing fur, angrily biting himself and rocking back and forth. No local I know ever visits here or in our case, twice.</p>
	<p>Lisa Christy 6 reviews</p> <p>★★★★★ 3 months ago</p> <p>Without looking into this zoo before, my husband and I thought ging to the local zoo would be fun after recently moving to the area. Horrible living conditions for ALL the animals. So upsetting, will not be returning and will be looking into anything I can support the help and health of these innocent animals.</p>
	<p>Dawn S Local Guide · 84 reviews · 167 photos</p> <p>★★★★★ 8 months ago</p> <p>I would give no stars if I could! I wish I had read reviews before going. I'm shocked that this place has been allowed to remain open! Absolutely disgusted over the state of these poor animals. Not only are the enclosures dirty, tiny and rundown, they're also lacking anything to engage the animals. No trees for the monkeys, some of them are in sheds indoors, the bears have either muddy water, concrete or about a 6 foot cage of mud to live in, the lions have a small concrete rundown cage with no way to see the sun. The animals look so unhappy. I'm contacting PETA to see if there is anything they can do. I'm including pics of the grounds, enclosures and animals.</p>

TRIPADVISOR



Waccatee Zoo

●●●●○ 648 • #54 of 80 things to do in Myrtle Beach • Zoos

Sampling of most recent 1/5 star ratings



efreeman1016

Farmingdale, NY • 54 contributions

👍 0 ⋮



DO NOT SUPPORT

Apr 2022 • Family

DO NOT SUPPORT THIS PLACE. Animals kept in poor conditions. You can see animals are in a depressed state. Filthy inclosures. This place has been fined for multiple violations including lack of vet care and dirty water. Animals need to be relocated to better places (which PETA offered) and shut down.



SCTYA

New Freedom, PA • 30 contributions

👍 0 ⋮



Run down, unhappy animals. The locals never go there.

Jan 2022 • Friends

Large animals are in small cramped enclosures and are visibly unhappy. A poor monkey was rocking himself, missing fur...



Traveling couple

Fort Mill, SC • 143 contributions

👍 0 ⋮



Waste of time & money

Dec 2021

The best thing that can happen to this place is to find a decent home for the poor animals and burn the place to the ground. Our family left this so called "zoo" depressed. Buildings were unkept and the odors made us sick.

To Myrtle Beach, County and State officials PLEASE CLOSE THIS PLACE DOWN. This palace give our country's fine zoo's a bad name.

To MI would give it a -Star if I could

<div data-bbox="224 205 284 262"></div> <div data-bbox="289 205 418 262"> Tillium 1 contribution </div> <div data-bbox="1339 216 1430 252"> 1 </div> <div data-bbox="224 296 370 331"> </div> <div data-bbox="224 338 360 367"> Utter waste </div> <div data-bbox="224 380 430 409"> Dec 2021 • Family </div> <div data-bbox="224 424 1412 493"> <p>Terrible conditions for people and animals. Outside of that, half the exhibits are goats so there is no reason to go even if you don't care about animal welfare. Waste of time and money.</p> </div>	<div data-bbox="224 514 284 571"></div> <div data-bbox="289 514 418 571"> Maureen H 3 contributions </div> <div data-bbox="1304 525 1396 560"> 4 </div> <div data-bbox="224 600 370 636"> </div> <div data-bbox="224 642 662 672"> Saddest thing I've seen in a long time!! </div> <div data-bbox="224 684 328 714"> Sep 2021 </div> <div data-bbox="224 728 1421 1003"> <p>Was here in Sept 2021 and left feeling very sad. This place needs to be shut down. Most of the animals didn't even have water in their pens. I read some recent reviews about a bear losing his hair. He's probably dead because I sure never saw a bear there. Witnessed a monkey pacing and seemed very agitated/stressed out, saw another one with something obviously wrong with his eyes. He could barely open them. None of the peacocks had any tail feathers, probably because they were selling them for \$1 in their ramshackle entrance building. I guess they're plucking them and selling them. This place was horrible! Did some online research after visiting and cannot believe how long this place has been on the radar and yet nothing can be done to help these poor animals. Sad!!</p> </div>	<div data-bbox="224 1018 284 1075"></div> <div data-bbox="289 1018 418 1075"> Lauren G 1 contribution </div> <div data-bbox="1333 1029 1425 1064"> 3 </div> <div data-bbox="224 1108 370 1144"> </div> <div data-bbox="224 1150 349 1180"> DONT GO </div> <div data-bbox="224 1192 332 1222"> Oct 2021 </div> <div data-bbox="224 1236 1404 1306"> <p>I don't even have words for how HORRIBLE this place was. this might be somewhere cheap you can take your kids but you really shouldn't. do not support this place</p> </div>	<div data-bbox="224 1323 284 1379"></div> <div data-bbox="289 1323 418 1379"> Karleigh B 1 contribution </div> <div data-bbox="1300 1333 1393 1369"> 3 </div> <div data-bbox="224 1409 370 1444"> </div> <div data-bbox="224 1451 324 1480"> very sad </div> <div data-bbox="224 1493 422 1522"> Aug 2021 • Family </div> <div data-bbox="224 1537 1412 1638"> <p>this place was horrible and super sad the bear was losing hair and the monkeys were crying. they have aggressive goats in with the babies and they were ramming into the babies if you fed them. it was horrible will never visit or give them money again because it's clearly not going to the right place</p> </div>
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<div data-bbox="227 197 284 252"></div> <div data-bbox="287 197 602 224">bonnie10941@yahoo.com</div> <div data-bbox="287 228 417 252">1 contribution</div> <div data-bbox="1295 212 1396 241"> 4 </div> <div data-bbox="227 287 370 319"></div> <div data-bbox="222 325 545 354">WITNESSED ANIMAL ABUSE</div> <div data-bbox="222 367 336 396">Aug 2021</div> <div data-bbox="222 409 1412 858"> <p>This zoo experience would be improved by being CLOSED down!! The most horrible "zoo" we have ever seen. The (caged) animals (as few animals as there were) were stressed, walking around in circles. We did not see food or drink for any of them and their cages were very small. The entire zoo is literally in the woods, dark, smelly and the entire area was not appealing whatsoever. The admission was \$15 per person, so not worth it! We stayed for a little over an hour and needed to leave. It was beyond sad seeing how these poor animals were treated. A field of various deer and one buffalo in the field by the entrance way had the most room to roam; all other animals on the premises not so lucky. An old, musty smelling dark building contained antique cars, as well as other antiques and a few caged animals which were totally out of place. This zoo may have had a "hay day" but no longer. I could write a book on what my husband and I felt about this place. I do NOT recommend wasting your hard earned money for you and your family to be as disappointed as we were. Also, some signs spoke of certain animals in certain areas. They were nowhere to be found....Find a zoo to visit in another area of the state or another state entirely... You'll be glad you did.</p> </div>	<div data-bbox="222 871 279 926"></div> <div data-bbox="282 871 368 900">Riley A</div> <div data-bbox="282 903 414 926">1 contribution</div> <div data-bbox="1295 886 1396 915"> 5 </div> <div data-bbox="222 961 365 993"></div> <div data-bbox="215 1001 394 1031">horrible abuse</div> <div data-bbox="215 1043 412 1073">Jul 2021 • Family</div> <div data-bbox="215 1087 1421 1152"> <p>this is so gross. everything is just random animals in concrete , they have mange , and they are starved. it's sickening .</p> </div>
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YELP!



Waccatee Zoological Farm



103 reviews

Sampling of most recent 1/5 star ratings

**Liza G.**

Fort Lee, NJ

🗣️ 33 ⭐ 45



3/30/2022

Must be one of the worst zoos in the country. The conditions are horrible; the animals look unwell and depressed; and clearly there's only the most bottom of the barrel attention paid to the poor creatures' care. Zoos like this need to be shut down, the sooner the better.

**Mariah O.**

North Myrtle Beach, SC

🗣️ 0 ⭐ 5



12/30/2021

the outside of this place was sketchy to begin with but when we went inside it broke my heart. animals deserve so much care and love but here you can tell they are neglected. these animals are suffering and need your help, this is the worst roadside zoo and the animals deserve to be treated so much better, do not go here.

**Matthew S.**

Liverpool, NY

🗣️ 0 ⭐ 3



6/18/2021

I love animals. The people here do not. AT ALL. They are all zombies just earning a paycheck, and have no care or sympathy for these poor animals that have no room or toys to play. They look malnourished and depressed and when you leave here you will feel the same way. Places like this make me feel embarrassed to share the same air with these heartless people.

**Lux A.**

Tampa, FL

📷 0 ⭐ 10 📖 4

3/3/2021

📷 1 photo

i cannot believe such an establishment is open in this day and age. it's a disgusting, awful place proving that humans will always put profit before life.

the animals are kept in awful, small and incredibly dirty pens, and the medical care needed for such exotics aren't available either. Waccatee would rather leave animals, like Lila the Tiger, to die after years of suffering. Please look up this 'farm' before visiting and decide if you want to contribute to such horror.

**Alicia B.**

Lombard, IL

📷 138 ⭐ 267 📖 4

3/3/2021

They neglect their animals resulting in the death of innocent lives. Do not visit and support this disgusting place

**Bri D.**

Forest, VA

📷 0 ⭐ 2

8/26/2020

Shut this place down!! These animals do not deserve to be treated like this. You have lions in tiny cages separated by a tiny fence. Every animal is constantly pacing back and forth because they have no room to do anything else. This place is ran down and needs to be completely shut down for good. They claim they care about their animals but I didn't see not one happy animal there. Not even the raccoon. The donkey was so thirsty on a 90 degree day he brought us his water pale and begged us for water, something we couldn't give him. Every animal was fighting for food & the tigger... don't even get me started on how they're treated Lila. Send her to a place she can be taken care of, she's so sick and they're not doing anything about it. Their bears are losing fur in their coat to where you can see their skin and the cougar is in a tiny cage pacing back and forth because that's all he can do. The llama is alone, they're a pack animal. He was so lonely and kept coming up to me because he wanted attention and food. The monkeys are in such a tiny enclosure it breaks my heart. This place is so horrible we couldn't go through the whole zoo because it was too depressing to watch the animals beg for food once we ran out of 2 bags in less than 10 minutes. They need to lose all their animals. This is straight animal abuse. Videos have been sent to Animal Wildlife and PETA who both have been in touch with me since.

**Elisa H.**

Pine Valley, CA

👤 2 ⭐ 105

 8/13/2020

February 2020 -- someone who cares about the horrible condition of the big cats and other animals, including 2 bears, at Waccatee Zoo visited this hellhole on February 10th and took these photos of this almost hairless and obviously suffering old tiger at the zoo.

**Kay Z.**

Cloverdale, CA

👤 0 ⭐ 14

 8/6/2020

NOT RECOMMENDED.

This roadside zoo has been reported to the USDA numerous times for violations of animal abuse and neglect, and should be closed down. The animals are in a terrible state, many suffering from mange, malnutrition & denied proper veterinary care. THIS IS NOT AN UPLIFTING PLACE TO BRING YOUR CHILDREN.

**Laura B.**

Los Angeles, CA

👤 13 ⭐ 21 📷 83

 7/31/2020

This is the saddest place in Myrtle Beach. These animals are in desperate need of help. I left this zoo with tears in my eyes and anger in my heart. The only time I will be back is to protest. I pray that this place gets closed down.