

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:)	Docket No. 41-0
)	12-0093
VANISHING SPECIES WILDLIFE)	
INC., a Florida corporation,)	
Respondent.)	COMPLAINT

There is reason to believe that the respondent named herein has willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.)(the “Act”), and the regulations and standards issued thereunder (9 C.F.R. § 1.1 et seq.)(the “Regulations” and “Standards”). Therefore, the Administrator of the Animal and Plant Health Inspection Service (“APHIS”) issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. Vanishing Species Wildlife, Inc., is a Florida corporation whose registered agent for service of process is Spiegel & Utrera P.A., 1840 S.W. 22 Street, 4th Floor, Miami, Florida 33145. At all times mentioned herein, said respondent was operating as an exhibitor, as that term is used in the Act and the Regulations, and held Animal Welfare Act license 58-C-0660. That license was terminated by order of the Secretary of Agriculture effective January 8, 2011.¹

2. At all times mentioned herein, respondent operated a “zoo” (as that term is defined in the Regulations), and exhibited approximately 12 to 75 wild and exotic animals at a facility in Davie, Florida. The gravity of the violations herein is great, and include the repeated noncompliance with the regulations and failure to meet the minimum standards for housing, husbandry and handling of animals. Respondent has not shown good faith, having failed to comply with the terms of a

¹In re *Vanishing Species Wildlife, Inc.*, 69 Agric. Dec. ___ (2010).

consent decision and order in *In re Jeffrey Harrod, et al., et al.*, 68 Agric. Dec. ___ (Feb. 4, 2009).

FAILURE TO OBEY ORDER TO CEASE AND DESIST
FROM VIOLATING THE ACT AND THE REGULATIONS

3. On February 4, 2009, Administrative Law Judge Peter M. Davenport issued a consent decision and order requiring respondent and its agents, employees, successors and assigns, to “cease and desist from violating the Act and the regulations and standards issued thereunder.” 68 Agric. Dec. ___ (2009). That order became final and effective in February 2009. In each of the instances alleged herein, respondent has knowingly failed to obey that cease-and-desist order.

ALLEGED VIOLATIONS

4. On June 2, 2009, October 6, 2009, October 19, 2009, March 11, 2010 and July 26, 2010, during normal business hours, respondent failed to provide APHIS officials with access to respondent’s facilities, in willful violation of the Act and the Regulations (7 U.S.C. § 2146(a); 9 C.F.R. § 2.126).

5. On or about August 24 and 25, 2009, and February 4, 2010, respondent failed to make, keep and maintain records of the disposition of animals, as required, in willful violation of the Act and the Regulations (9 C.F.R. § 2.75(b)(1)).

6. From September 2, 2009, through October 19, 2009, respondent failed to promptly notify the APHIS Regional Director by certified mail, or at all, of an additional site where respondent housed animals, within ten days, as required, in willful violation of the Regulations (9 C.F.R. § 2.8).

7. On or about July 12, 2009, respondent failed to handle animals as carefully as possible, and specifically, housed small mammals (such as ferrets and hedgehogs, and the like) in an unventilated enclosure, with a malfunctioning wall air conditioner, resulting in the deaths of all

of the animals housed in the enclosure, in willful violation of the Regulations (9 C.F.R. §§ 2.131(b)(1), (e)).

8. On or about February 4, 2010, respondent failed to have an attending veterinarian provide adequate veterinary care to a tiger (Nicky), and failed to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to control, diagnose, and treat diseases and injuries, in willful violation of the Regulations (9 C.F.R. §§ 2.40 (a), (b)(2)).

9. On or about February 4, 2010, respondent willfully violated the Regulations (9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

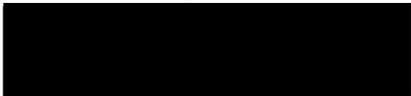
- a. The wooden frame surrounding the water tub in the bear enclosure is in disrepair. 9 C.F.R. § 3.125(a).
- b. The wooden horizontal support beam for the bear enclosure is cracked. 9 C.F.R. § 3.125(a).
- c. The vertical metal support next to the door of the skunk enclosure has exposed jagged edges accessible to the animal contained therein. 9 C.F.R. § 3.125(a).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the regulations issued under the Act, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests that unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of

Practice governing proceedings under the Act; and that such order or orders be issued as are authorized by the Act and warranted under the circumstances, including an order that respondent cease and desist from violating the Act and the regulations and standards issued thereunder, assessing civil penalties against the respondent in accordance with section 19 of the Act (7 U.S.C. § 2149) both for its violations herein and for its knowing failures to obey the cease-and-desist order issued by the Secretary, and revoking Animal Welfare Act license 58-C-0660.

Done at Washington, D.C.
this 30th day of Nov. 2011


Acting Administrator
Animal and Plant Health Inspection Service

COLLEEN A. CARROLL
Attorney for Complainant
Office of the General Counsel
United States Department of Agriculture
Washington, D.C. 20250-1400
Telephone (202) 720-6430
e-mail: colleen.carroll@usda.gov