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UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) AWA Docket No. 07-0109  
)  
NORTHEAST NEBRASKA )  
ZOOLOGICAL SOCIETY, INC., a )  
A Nebraska non-profit domestic )  
corporation, )  
)  
Respondent. ) CONSENT DECISION AND  
ORDER

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondent willfully violated the Act and the regulations issued pursuant to the Act (9 C.F.R. § 1.1 et seq.). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

The respondent admits the jurisdictional allegations in the complaint and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure, and consents and agrees, for the purpose of settling this proceeding, to the entry of this decision.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Respondent Northeast Nebraska Zoological Society, Inc., is a Nebraska non-profit domestic corporation whose agent for service of process is Kip Smith, 4030 Highway 20, Royal, Nebraska 68773.

2. At all times mentioned herein, respondent Northeast Nebraska Zoological Society, Inc., (hereinafter, "respondent"), was operating as an exhibitor as that term is defined in the Act and the regulations, and held Animal Welfare Act license number 47-C-0020, issued to "Northeast Nebraska Zoological Society, Inc."

#### Conclusions

The respondent having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

#### Order

1. Respondent, its agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the regulations and standards issued thereunder, and in particular, shall cease and desist from:
  - (a) failing to establish and maintain a program of adequate veterinary care that includes adequate guidance to personnel involved in the care and use of animals regarding handling, immobilization, and tranquilization;
  - (b) failing to keep surfaces that come in contact with nonhuman primates free of excessive rust that prevents the required cleaning and sanitization;
  - (c) failing to equip housing facilities with disposal facilities and drainage systems that are constructed and operated so that animal wastes and water are rapidly eliminated and animals stay dry;
  - (d) failing to sufficiently ventilate sheltered animal facilities at all times to provide for the health and well-being of nonhuman primates and to minimize odors, drafts,

ammonia levels, and moisture condensation;

- (e) failing to construct and maintain primary enclosures so that they contain nonhuman primates securely and prevent accidental opening of the enclosure, including opening by the animal;
- (f) failing to develop, document, and follow an appropriate plan for environment enhancement adequate to promote the psychological well-being of nonhuman primates that includes species specific provisions for social groups and environmental enrichment;
- (g) failing to employ a sufficient number of employees to provide husbandry practices and care, or handle nonhuman primates, that are trained and supervised by an individual who has the knowledge, background, and experience in proper husbandry and care of nonhuman primates to supervise others;
- (h) failing, during public exhibition, to handle any animal so that there is minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between the animal and the general viewing public so as to assure the safety of the animals and the public;
- (i) failing to construct indoor and outdoor housing facilities so that they were structurally sound and maintained in good repair to protect the animals from injury and contain the animals;
- (j) failing to provide animals kept outdoors with natural or artificial shelter to afford them protection and to prevent their discomfort; and

(k) failing to utilize a sufficient number of adequately-trained employees to maintain the professionally acceptable level of husbandry practices, under the supervisor who has a background in animal care.

2. Respondent is assessed a civil penalty in the amount of \$25,000, which shall be held in abeyance in accordance with the provisions set forth in paragraph 4 of this Order.

3. Respondent's Animal Welfare Act license (number 47-C-0020), is hereby revoked.

4. Respondent agrees that if APHIS documents evidence of respondent engaging, directly or indirectly, in activities that require an Animal Welfare Act license (7 U.S.C. § 2131 et seq; 9 C.F.R. § 1.1 et seq.), either on or off the premises located at 4030 U.S. Highway 20, Royal, Nebraska 68773, which, after notice and opportunity for a hearing results in the finding of a violation, the civil penalty held in abeyance, as described above paragraph 2 of this Order, will become immediately due and payable. Such civil penalty payment shall be in addition to any penalty found to be warranted for such future violations.

