

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWA Docket No. 08-0131
)	
CHRISTINE DOBRATZ, an individual)	
doing business as WOLF HOWL-O)	
EXOTIC PETS, also known as WOLF)	
HOWL-O EXOTIC PETTING ZOO,)	
)	
Respondent)	

Order Denying Motion to Dismiss; Order Granting Request for Extension of Time to Submit Additional Witnesses and Exhibits for Trial

After a telephone conference between the parties on September 9, 2008, I issued an order on September 11, 2008 scheduling this case for hearing in Portland, Oregon beginning March 3, 2009. My order directed Complainant to submit a witness list, summary of witness testimony and exhibits to counsel for Respondents by October 24, 2008, and for Respondents to submit a similar set of documents to counsel for Complainant on December 5, 2008. On November 3, 2008, Respondents moved that the action be dismissed for failure of Complainant to comply with my order. On or about November 25, 2008 Respondent received most of the required submission from Complainant. On December 3, 2008, Complainant filed an opposition to the motion.

While Complainant has offered no reason for the late submission, I decline to dismiss the case because there is no prejudice to Respondents, and because I am granting Respondents' January 28 motion allowing them to file on that date documents listing additional witnesses to testify and documents they intend to introduce into evidence at the

hearing. The purpose of my setting exchange dates is to allow the parties to be apprised of each other's case in time to adequately prepare for the hearing. Here, where counsel for Respondents has received Complainant's witness list and proposed exhibits over three months before the onset of the hearing, dismissal would be a draconian measure, and one not justified under the Rules of Procedure. Any possible prejudice to Respondents is obviated by the substantial amount of time before the hearing remaining after they received Complainant's exchange, and my allowance of their filing a supplemental list of witnesses and documents.

Accordingly, the motion to dismiss is **denied** and the motion for an extension of time to file a list of additional witness and exhibits on January 28, 2009 is **granted**.

MARC R. HILLSON
Chief Administrative Law Judge

January 30, 2009