

**UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE**

2016 SEP -8 AM 11: 37

RECEIVED

In re:)	
)	[AWA]
)	Docket No. 13-0343
WILLIAM BRACKSTON LEE, III,)	Docket No. 14-0021
an individual, doing business as)	
LAUGHING VALLEY RANCH,)	
)	
Respondent.)	

DECISION AND ORDER GRANTING SUMMARY JUDGMENT

Appearances:

Colleen A. Carroll, Esq., with the Office of General Counsel, United States Department of Agriculture, Washington, D.C., for the Complainant, who is the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture (APHIS); and

Jay Wayne Swearingen, Esq. and Jennifer Reba Edwards, Esq., of The Animal Law Center, LLC, 6870 W. 52nd Ave., Suite 203, Arvada, CO, for the Respondent, who is William Brackston Lee, III, an individual, doing business as Laughing Valley Ranch (Respondent Lee).

DECISION SUMMARY

For the reasons discussed more fully herein below, this Decision and Order **GRANTS** the relief requested in the “Order to Show Cause Why Animal Welfare Act License 84-C-0088 Should Not Be Terminated” (“Order to Show Cause”) filed by Complainant, the Administrator of the Animal and Plant Health Inspection Service (APHIS), in Docket 13-0343 on September 10, 2013. This Decision and Order also **GRANTS** the Motion for Summary Judgment filed July 17, 2014 by APHIS in the enforcement proceeding initiated against Respondent in Docket 14-0021 on December 6, 2013.

INTRODUCTION AND PROCEDURAL HISTORY

Docket No. 13-0343 is a disciplinary proceeding instituted pursuant to the Animal Welfare Act, as amended (7 U.S.C. § 2131 *et seq.*) (“Act” or “AWA”), the regulations promulgated thereunder (9 C.F.R. § 1.1 *et seq.*) (“Regulations”), and the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 *et seq.*) (“Rules of Practice”). The Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture (“APHIS” or “USDA”), initiated this action against William B. Lee, III, also known as William Brackston Lee (“Respondent”), by filing with the Hearing Clerk for USDA’s Office of Administrative Law Judges (“Hearing Clerk”; “OALJ”) an Order to Show Cause Why Animal Welfare Act License 84-C-0088 Should Not Be Terminated (“Order to Show Cause”) on September 10, 2013. On October 21, 2013, Respondent filed an answer (“Answer”) through counsel generally denying the Order to Show Cause allegations and requesting an oral hearing.

Following a teleconference with the parties on October 30, 2013, Administrative Law Judge Jill S. Clifton (“Judge Clifton”) filed an order (“Stay Order”) which provides in pertinent part that the termination proceeding would not be consolidated for hearing with the enforcement case which was expected to be filed against the Respondent by APHIS, and in fact *was* filed against the Respondent by APHIS on December 6, 2013; but which also directed each party to file a status report in the termination case by October 30, 2014 and STAYED the proceedings in the termination case through October 30, 2014.

Docket No. 14-0021 is an enforcement proceeding under the AWA and the Regulations initiated on December 6, 2013 with a Complaint filed by APHIS against Respondent alleging numerous violations of the AWA. On January 2, 2014, Respondent filed an Answer through

Counsel in which he admitted some of the jurisdictional allegations of the Complaint, generally denied the remaining substantive allegations of the Complaint, and requested a hearing.

On July 17, 2014, Complainant moved for summary judgment in Docket No. 14-0021 based on section 1.143 (d) of the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.143 (d)), based on all of the pleadings and papers filed of record in this proceeding, including but not limited to the declarations of Robert M. Gibbens, DVM, and Tracy Thompson, DVM, supporting exhibits, and Complainant's statement of undisputed facts and proposed conclusions of law. On July 21, 2014, the Administrator also filed "Declaration of Tracy A. Thompson, D.V.M." On August 4, 2014, Respondent filed an Amended Answer in which he again admitted some of the jurisdictional allegations and generally denied the remaining substantive allegations. On August 19, 2014, Respondent filed a "Response to Motion for Summary Judgment" the text of which reads, in its entirety:

"COMES NOW Jay W. Swearingen of The Animal Law Center, LLC, and respond as follows:

1. The Respondent filed an Answer in this matter following receipt of the Complaint, denying each and every allegation of the complaint that alleged a violation of APHIS rules and or regulations.
2. The Respondent has filed an Amended Answer which denies each and every material allegation of the Complaint that alleged a violation of APHIS rules or regulation.

Wherefore the Respondent requests that Summary Judgment be denied and the matter be set for a hearing."

On August 22, 2014, an order issued allowing Complainant through August 28, 2014 to file a Reply to Respondent's Response to Motion for Summary Judgment.

On August 28, 2014, the Administrator filed “Complainant’s Reply to Response to Motion for Summary Judgment” and on December 8, 2015, Complainant filed a “Request for Ruling on Complainant’s Motion for Summary Judgment.”

DOCKETS 13-0343 AND 14-0021 ARE CONSOLIDATED

Although the status reports were due more than one and a half years ago in the termination proceeding in Docket 13-0343, neither APHIS nor has Respondent filed any additional documents in this matter. Further, the STAY in the termination proceeding expired on October 30, 2014. The termination proceeding in Docket 13-0343 was reassigned to my docket on April 22, 2016 as was the enforcement proceeding in Docket 14-0021. Upon review of the record in both proceedings, it is my determination that the proceedings are inextricably intertwined and that both dockets should be, and the same hereby are, **CONSOLIDATED** for all purposes, including but not limited to, judicial consideration of all evidence of record filed to date in either of the referenced dockets.

SUMMARY OF THE EVIDENCE

Admissions relevant to Docket 13-0343 and Docket 14-0021

Respondent admits that he is an individual who does business as Laughing Valley Ranch and whose business address is P.O. Box 1810, Idaho Springs, Colorado 80452. (Am. Answer ¶ 1). Respondent further admits that he operated as an exhibitor, as that term is defined in the Act and Regulations, and held AWA license number 84-C-0088 at all times relevant to the present matter. (Am. Answer ¶ 2). Additionally, Respondent admits that on March 31, 2013 he pleaded guilty to violating Colorado animal cruelty laws under a two-year deferred judgment in *People v. William Brackston Lee*, Case No. 12M91 (Colo. Combined Cts., Clear Creek Cty.). (Am. Answer ¶ 2).

A. Summary of the Evidence In Docket 13-0343

- CX-1:** Respondent's License Certificate (expiration date 12/20/2013)
Page 1
- Respondent's Application for License Renewal (signed 11/30/2012)
Page 2
- CX-2:** Guilty Plea and Waiver of Rights (03/13/2013)
Pages 1-4
- Attachment "A" – Plea of Guilty and Waiver of Rights (03/30/2013)
(terms of plea agreement)
Page 5
- Stipulation for Deferred Judgment and Sentence (03/13/2013)
Pages 6-9
- Order for Deferred Judgment and Sentence (03/13/2013)
Page 10
- Motion to Dismiss (03/13/2013)
Page 11
- Order to Dismiss (03/20/2013)
Page 12

With its Order to Show Cause, APHIS filed an exhibit (CX-2) containing numerous documents that had been filed in a Colorado criminal proceeding against Respondent. I hereby take official notice of the State criminal proceeding involving the Respondent: *People v. Lee*, Case No. 12M91 (Colorado Combined Courts, Clear Creek County), including: (1) Respondent's Guilty Plea and Waiver of Rights; (2) the terms of Respondent's plea agreement; (3) Stipulation for Deferred Judgment and Sentence; (4) Order for Deferred Judgment and Sentence; (5) Motion to Dismiss; and (6) Order to Dismiss. (*See* 7 C.F.R. § 1.141(h)(6) of the Rules of Practice).

I hereby admit in to the record all of APHIS's exhibits identified herein, above including copies of the documents filed in Respondent's criminal proceeding (Case No. 12M91), which are marked as CX-2. Respondent has submitted no documentary evidence.

B. Summary of the Evidence in Docket 14-0021

- CX-1 Licenses and renewal forms
- CX-2 Official Warning (September 17, 2007)
- CX-3 Inspection report (June 9, 2009)
- CX-4 Inspection report (December 11, 2009)
- CX-5 Inspection report (June 11, 2010) and photographs
- CX-7 Inspection report (October 4, 2010) and photographs
- CX-8 Inspection report (February 28, 2011)
- CX-9 Inspection report (May 28, 2011) and photographs
- CX-10 Inspection report (May 31, 2011) and photographs
- CX-11 Inspection report (June 22, 2011)
- CX-12 Inspect report (June 28, 2011) and photographs
- CX-13 Inspection report (August 9, 2011) and photographs
- CX-14 Inspection report (September 26, 2011) and photographs
- CX-15 Inspection report (January 5, 2012) and photographs
- CX-16 Inspection report (January 12, 2012) and photographs
- CX-17 Inspection report (February 1, 2012) and photographs
- CX-18 Inspection report (April 5, 2012) and photographs
- CX-19 Photographs of sheep (April 7, 2012)
- CX-20 Inspection report (May 10, 2012)
- CX-21 Inspection report (May 17, 2012) and photographs
- CX-22a Inspection report (June 1, 2012) and photographs (excluding page 11)
- CX-22b Inspection report (June 1, 2012)
- CX-23 Inspection report (September 5, 2012)
- CX-24 Inspection report (February 7, 2013) and photographs
- CX-25 Inspection report (May 15, 2013)
- CX-26 Inspection report (July 3, 2013) and photographs

CX-27 Inspection reports (July 11, 2013) and photographs

Declaration of Robert M. Gibbens, D.V.M. (July 17, 2014)

Declaration of Tracy A. Thompson, D.V.M. (July 21, 2014)

I hereby admit into the record all of APHIS's exhibits identified herein above.

Respondent has submitted no documentary evidence.

GENERAL DISCUSSION OF THE AWA

“The purpose of the Animal Welfare Act, as it relates to exhibited animals, is to ensure that the animals are provided humane care and treatment.” *Perry*, 72 Agric. Dec. 635, 637, 2013 WL 8213618, at *2 (U.S.D.A. Sept. 6, 2013) (Decision and Order as to Craig A. Perry and Perry’s Wilderness Ranch & Zoo, Inc.) (citing 7 U.S.C. § 2131). “The Secretary of Agriculture is authorized to promulgate regulations to govern the humane handling, care, treatment, and transportation of animals.” *Id.* (citing 7 U.S.C. §§ 2143(a), 2151). “The Animal Welfare Act requires exhibitors to be licensed and requires the maintenance of records regarding the purchase, sale, transfer, and transportation of regulated animals.” *Id.* (citing 7 U.S.C. §§ 2133-34, 2140). “Exhibitors must also allow inspection of their places of business, facilities, animals, and records by the Secretary of Agriculture.” *Id.* (citing 7 U.S.C. § 2146(a)). “Violations of the Animal Welfare Act or the Regulations by an exhibitor may result in assessment of a civil penalty, issuance of a cease and desist order, and suspension or revocation of the exhibitor’s Animal Welfare Act license.” *Id.* (citing 7 U.S.C. § 2149). “The Regulations include requirements for veterinary care, humane handling, enclosures for transportation, feeding, food storage, disposal of waste, sanitation of enclosures, shade for animals housed outdoors, housing, elimination of excess water, recordkeeping, and inspection of facilities, animals, and records by Animal Plant and Health Inspection Service . . . officials.” *Id.*

The Summary Judgment Standard Applicable to These Proceedings

The Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary under Various Statutes ("Rules of Practice" or "Rules") set forth at 7 C.F.R., Subpart H, apply to the adjudication of this matter. USDA's Judicial Officer has consistently ruled that hearings are futile and summary judgment is appropriate where there is no factual dispute of substance. *Veg-Mix, Inc. v. U.S. Department of Agriculture*, 832 F.2d 601, 607 (D.C. Cir. 1987); *Animals of Montana, Inc.*, No. D-05-0005, 68 Agric. Dec. 92, 104, 2009 WL 624354 (U.S.D.A. Mar. 10, 2009); *Bauck*, No. D-09-0139, 68 Agric. Dec. 853, 858-59, 2009 WL 8382865 (U.S.D.A. Dec. 2, 2009).

The summary judgment standard is clear: Summary judgment is proper when it is shown that there exists "no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law."¹

"Motions for summary judgment are appropriate when -- based on the pleadings, affidavits, and other forms of evidence relevant to the merits -- there is no genuine issue of material fact to be decided, and the movant is entitled to judgment as a matter of law."

A fact is "material" if it is relevant to an element of a claim or a defense, the existence of which may affect the outcome of the suit, and materiality is determined by the substantive law governing a claim or defense.² Inferences must be drawn in the light most favorable to the nonmoving party.³ "The evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor." The non-moving party here is the Respondent.

¹ Fed. R. Civ. P. 56. See *Thomas Massey*, 56 Agric. Dec. 1640 (1997).

² *T W Elec. Serv., Inc. v. Pac. Elec. Contractors Ass'n*, 809 F.2d 626, 630 (9th Cir. 1987) (citing *Matsushita Elec. Indus. Co. Ltd v. Zenith Radio Corp.*, 475 U.S. 574, 89 L. Ed.2d 538, 106 S.Ct. 1348 (1986)).

³ *Id.*

The initial burden in a motion for summary judgment is on the moving party; in this case, the Complainant. The moving party satisfies this initial burden by identifying the evidence that it believes demonstrate[s] the absence of a genuine issue of material fact.

A: Application of the Summary Judgment Standard to Docket 13-0343

It is undisputed that APHIS has the authority to terminate an AWA license where a licensee is found to have violated a law pertaining to the transportation and ownership of animals and “the Administrator determines that issuance of a license would be contrary to the purposes of the Act.” 9 C.F.R. § 2.11(a)(6); *see also Bauck*, 68 Agric. Dec. 853, 860 (U.S.D.A. 2009) (“The Regulations provide that an Animal Welfare Act license may be terminated if an Animal Welfare Act licensee has been found to have violated any state law pertaining to the neglect or welfare of animals.”); *Bradshaw*, 50 Agric. Dec. 499, 507 (U.S.D.A. 1991) (“The power to require and issue licenses under the Animal Welfare Act includes the power to deny a license, to suspend or revoke a license, to disqualify a person from being licensed, and to withdraw a license.”).

In the instant case, APHIS alleges that Respondent was found to have violated Colorado state law regarding the ownership, neglect, and welfare of animals⁴ and, more specifically, that Respondent pled guilty to violating animal cruelty laws in March 2013.⁵ APHIS further asserts that to renew Respondent’s AWA license would be contrary to the Act’s purpose of ensuring humane treatment of animals, as Respondent has been found to have harmed animals in his custody. APHIS also submits that “Respondent’s actions constitute an abuse of the licensure privileges of the AWA” (Order to Show Cause ¶ 4). Based on the foregoing, APHIS seeks to terminate Respondent’s AWA license pursuant to Sections 2.11 and 2.12 of the Regulations.⁶

⁴ *See* *People v. Lee*, No. 12M91 (Colo. Combined Cts., Clear Creek Cty.).

⁵ *See Id.*; Order to Show Cause ¶ 3.

⁶ Section 2.11 authorizes APHIS to deny an initial license application to any person who is found to have “violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of

Although Respondent admits the jurisdictional allegations of the Order to Show Cause,⁷ he has denied all those listed as the grounds for license termination. Respondent denies both that he was found to have violated State of Colorado law pertaining to the ownership of animals and that he pled guilty to violating Colorado animal cruelty laws. Respondent submits that “no conviction or finding has been entered against [him] for animal cruelty” (Answer ¶ 3). The record, however, clearly confirms that Respondent was found to have violated Colorado animal cruelty laws in March 2013. Respondent’s guilty plea, plea agreement, and waiver of rights — each of which Respondent signed himself—establish that Respondent was found to have violated State law pertaining to the ownership of animals in contravention of the AWA.⁸ Further, if a *nolo contendere* plea would have been adequate grounds to terminate Respondent’s license,⁹ a guilty plea certainly suffices. Respondent’s general denials to the contrary are simply insufficient to rebut the evidence of record submitted by APHIS in the above referenced dockets to support termination of the Respondent’s AWA license.

B: Application of the Summary Judgment Standard to Docket 14-0021

In the 14-0021 enforcement proceeding, the Complainant produced: 24 inspection reports, numerous photographs taken by APHIS during inspections (as well as photographs of animals taken following confiscation), declarations of the inspecting Veterinary Medical Officer and the APHIS Regional Director, copies of the respondent's licenses and license

animals, or is otherwise unfit to be licensed and the Administrator determines that the issuance of a license would be contrary to the purposes of the Act.” 9 C.F.R. § 2.11(a)(6). Further, Section 2.12 provides that a “license may be terminated during the license renewal process or at any other time for any reason that an initial license application may be denied pursuant to § 2.11 after a hearing in accordance with the applicable rules of practice.” 9 C.F.R. § 2.12.
⁷ Respondent admits the following: that he is an individual with a mailing address in Colorado; that he is an exhibitor, as that term is defined in the Act and Regulations; and that he holds AWA license number 84-C-0088 (Answer ¶ 1) (Order to Show Cause ¶ 1).

⁸ APHIS requests that Respondent’s AWA license be terminated. Conviction is not a prerequisite to such relief. *See* 9 C.F.R. §§ 2.11(a)(6), 2.12.

⁹ *See* 9 C.F.R. §§ 2.11(a)(4), 2.12.

renewal forms, and the Official Warning issued by APHIS to respondent in 2007.

Complainant also cited admissions in Respondent's answer to the complaint. Based on the evidence of record, I find that the Complainant has carried its initial burden of producing evidence showing an absence of support for the Respondent's defense.

Once the moving party satisfies that initial burden by producing evidence demonstrating the absence of a genuine issue of fact, the burden then shifts to the nonmoving party to defeat summary judgment. It is well-settled that "a party opposing a properly supported motion for summary judgment may not rest upon the mere allegations or denials of his pleading, but must set forth specific facts showing that there is a genuine issue for trial". If the non-moving party does not produce such evidence in response to a motion for summary judgment, summary judgment should be entered, if appropriate.

Here, the Respondent has not produced any evidence to establish a material dispute as to the facts in this case. In his response to Complainant's motion for summary judgment, the Respondent relied exclusively on the general denials in his original answer to the complaint, and in his amended answer to the complaint. Response to Summary Judgment at 1. Respondent's general denials in his answer and amended answer do not establish that there exists a genuine dispute as to any material fact. "A denial in an answer is not sufficient to raise a genuine issue of fact."¹⁰

"As noted above, plaintiffs relied in their motion for summary judgment on the undisputed facts set forth in the pretrial order, as well as other facts borne out by the evidence in the record. We agree with the district court that Lanza, in response to plaintiffs' asserted fact, raised no triable issue of fact as to his liability. Regarding the breach of contract claims, Lanza offered nothing, not even a personal declaration, in response. Rather, he generally relied on the denials in his answer. This, of course, is insufficient."

¹⁰ *MacDraw, Inc. v. CIT Group Equipment Financing, Inc.*, 73 F.3d 1253, 1259 (2d Cir. 1996).

In point of fact, Respondent has produced no documentary evidence to refute the complainant's materials and has failed to set forth a single fact showing a genuine issue for hearing. The facts set forth in Complainant's **statement** of undisputed facts are fully supported by the record and are hereby **ADOPTED**. Those facts -undisputed by Respondent – support the conclusion that the Respondent’s actions constitute violations of the AWA and the Regulations, as alleged in the complaint, as a matter of law.¹¹

A: FINDINGS OF FACT AS TO DOCKET 13-0343

Having carefully considered the pleadings, relevant authorities, and arguments of the parties, the following Findings of Fact are entered:

1. Respondent William Brackston Lee III, also known as William Brackston Lee, is an individual with a mailing address in Colorado (CX-1).
2. At all times material herein, Respondent was an exhibitor, as defined in the Act and Regulations, and held AWA license number 84-C-0088 (CX-1).
3. The gravity of the violations alleged herein is great. Respondent’s actions constitute an abuse of the licensure privileges of the AWA, and his violations frustrate the purposes of the Act (Order to Show Cause ¶ 4).
4. Respondent has been found to have violated State of Colorado law pertaining to the ownership, neglect, and welfare of animals (CX-2).
5. On March 13, 2013, Respondent pled guilty to violating Colorado animal cruelty laws. Respondent’s Guilty Plea and Waiver of Rights reads, in pertinent part:

Pursuant to plea negotiations, the defendant has agreed to plead guilty with a two-year deferred judgment and sentence to the charge of Count One, C.R.S. 18-9-202(1)(a), CRUELTY TO

¹¹ *Farrakhan v. Gregoire*, 590 F.3d 989 1001-02 (9th Cir. 2010), citing *Beard v. Banks*, 548 U.S. 521, 534 (2006).

ANIMALS, as a class one misdemeanor, with dismissal of Count Two, and dismissal of Clear Creek County Case No. 12M170

The elements of the crime of Cruelty to Animals are:

1. That the defendant,
2. In the State of Colorado, County of Clear Creek,
3. Knowingly, recklessly or with criminal negligence,
4. Deprived of necessary sustenance, allowed to be housed in a manner that results in chronic or repeated serious harm, or otherwise mistreated or neglected an animal, or caused or procured it to be done; or, having the charge or custody of an animal, failed to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved.

The penalties for the crime of Cruelty to Animals are 6 to 18 months imprisonment and a fine of \$500 to \$5,000.

(CX-2, Attach. "A" at 1).

B: FINDINGS OF FACT AS TO DOCKET 14-0021

The facts set forth in complainant's statement of undisputed facts filed in this proceeding on July 17, 2014 are fully supported by the record and are hereby ADOPTED as follows:

1. Respondent William Brackston Lee, III, is an individual who does business as Laughing Valley Ranch, and whose mailing address is (b) (6)

(b) (6) Respondent Lee is an exhibitor, as that term is defined in the Act and the Regulations, and holds AWA license number 84-C-0088. Answer at ¶1.

2. Respondent Lee operates a zoo (as that term is defined in the Regulations), an exhibits and has exhibited wild and domestic animals on-site and at off-site locations. Declaration of Robert M. Gibbens, DVM (Gibbens Declaration) at ¶3. In 2009, respondent Lee reported to APHIS that he held 79 animals, in 2010, he reported to APHIS that he held 86

animals, in 2011, he reported to APHIS that he held 78 animals, in 2012, he reported to APHIS that he held 66 animals, and in 2013, he reported to APHIS that he held 39 animals. *Id.*; CX 1.

3. In 2007, APHIS sent an Official Warning to Mr. Lee for noncompliance with the housing, cleaning and general facility Standards of the AWA regulations observed and documented on three inspections (October 3, 2006, August 2, 2007, and September 5, 2007). CX 2; Gibbens Declaration at ¶5. Following the issuance of the Letter of Warning in 2007, Mr. Lee continued to fail to comply with the AWA and its regulations, as documented in the inspection reports, photographs, and supporting materials gathered by Veterinary Medical Officer Dr. Tracy A. Thompson. Gibbens Declaration at ¶ 6; CX 3-27.

4. On March 13, 2013, Mr. Lee pled guilty to violating Colorado animal cruelty laws, with a two-year deferred judgment. *People v. William Brackston Lee*, Case No. 12M91 (Colo. Combined Cts., Clear Creek Cty.). Gibbens Declaration at ¶ 7. Mr. Lee is the respondent in a pending AWA license termination proceeding. *In re Lee*, AWA Docket No. 13-0343 (stay order filed October 30, 2013); Answer at ¶ 2.

5. In the instant enforcement proceeding, APHIS has recommended that the AWA license issued to Mr. Lee (84-C-0088) be revoked. Gibbens Declaration at ¶ 9. APHIS considers the gravity of the violations in this case great, and has determined that Mr. Lee's continual failure to comply with the AWA and its regulations and standards shows that he is either incapable and/or unwilling to meet the regulatory requirements of the AWA, to the detriment of the animals in his custody. *Id.* at ¶10.

6. Dr. Thompson conducted, or attempted to conduct, inspections of Mr. Lee's records, animals, and facilities on the following dates, among others: June 9 and December 11, 2009, June

11, and October 4, 2010, February 28, May 28, May 31, June 22, June 28, August 9, and September 26, 2011, January 5, January 12, February 1, April 15, May 10, May 17, June 1, and September 5, 2012, and February 7, May 15, July 3, and July 11, 2013. Declaration of Tracy A. Thompson. DVM (Thompson Declaration) at ¶3. Dr. Thompson documented her findings and observations in inspection reports, copies of which were provided to the respondent. *Id.* at ¶¶ 7-19, 21-28.

7. On four occasions (February 28, 2011, June 22, 2011, May 10, 2012, and September 5, 2012), Dr. Thompson was unable to conduct an inspection at respondent Lee's facility (Site 002) because neither the licensee nor a responsible person was available. CX 8; CX 11; CX 20; CX 23. Dr. Thompson documented that on February 28, 2011, "[a] responsible adult was not available to accompany inspection at 11:33 AM on 02/28/2011." CX 8, citing 9 C.F.R. § 2.126. Dr. Thompson documented that on September 5, 2012, "[a] responsible adult was not available to accompany inspection at 13:50 PM on 06/22/2011." CX 11, citing 9 C.F.R. § 2.126. Dr. Thompson documented that on May 10, 2012, "[a] responsible adult was not available to accompany inspection at 9:20 AM on 05/10/2012." CX 20, citing 9 C.F.R. § 2.126. Dr. Thompson documented that on September 5, 2012, "[a] responsible adult was not available to accompany inspection at 3:53 PM on 09/05/2012." CX 23, citing 9 C.F.R. § 2.126.

8. On May 15, 2013, Dr. Thompson documented that the respondent refused to permit her to conduct an inspection:

"APHIS officials arrived on the premise to conduct a routine inspection at 9:15 AM MST. The licensee approached the inspectors and stated that he would not let us do an inspection today. The licensee was asked if he was refusing an inspection and he stated that he was today. He claimed that due to legal issues he would not let us do an inspection today but would notify us when he would be able to let us inspect in the future. The inspectors then left the premises at approximately 9:25 AM MST.

Access for inspection is required for the Secretary to be able to enforce the AWA. The licensee shall allow APHIS officials access to conduct inspections. To be corrected immediately." CX 25, citing 9 C.F.R. § 2.126.

9. On July 3, 2013, Dr. Thompson documented that the respondent refused to permit her to inspect certain animals. On that occasion, Dr. Thompson observed during the course of her inspection that respondent Lee housed two dogs used for exhibition in his residence. She documented that the respondent refused to permit inspection of the dogs:

"The licensee is housing the dogs used for exhibition purposes, 1 neutered male husky X named Mikoh ID#9 and 1 neutered male German shepherd cross named Shinab ID#23, in his personal residence. The licensee was asked if he [sic] we could inspect the areas of the residence where the animals are housed and he said that he would not be comfortable with this as he now has a housemate. We asked if he was refusing to allow us to inspect these facilities where regulated animals are housed and he stated that he was today."

CX 26 at 2, citing 9 C.F.R. § 2.126(a).

10. On four occasions (September 26, 2011, January 5, 2012, April 5, 2012, and July 11, 2013), Dr. Thompson was unable to inspect respondent Lee's records. CX 14 at 1; CX 15 at 2; CX 18 at 2; CX 27 at 2.

"The licensee did not have records required under Section 2.75 of the Animal Welfare Act Regulations (AWAR) available for examination by APHIS during this inspection. The exhibitor shall allow APHIS officials to examine records required to be kept by the Act during business hours. To be corrected on subsequent inspections."

CX 14 at 1 (September 26, 2011), citing 9 C.F.R. § 2.126(a)(2).

"The licensee did not have records required under Section 2.75 of the Animal Welfare Act Regulations (AWAR) available for examination by APHIS during this inspection. The exhibitor shall allow APHIS officials to examine records required to be kept by the Act during business hours.

This is a repeat noncompliance previously cited during the inspection performed on 9/29/2011 and which was to be corrected on all subsequent inspections."

CX 15 at 2 (January 5, 2012), citing 9 C.F.R. § 2.126(a)(2).

"The licensee did not have records available for examination by APHIS officials during this inspection including those required under Section 2.75 of the Animal Welfare Act Regulations (AWAR), those requested regarding veterinary visits to the premise, nor any records documenting communication with the attending veterinarian regarding veterinary care for animals identified during the inspection as in need of veterinary care.

The exhibitor shall allow APHIS officials to examine records required to be kept by the Act during business hours.

This is a repeat noncompliance previously cited during the inspection performed on 9/29/2011 and 1/5/2012 and which was to be corrected on all subsequent inspections."

CX 18 at 2 (April 5, 2012), citing 9 C.F.R. § 2.126(a) (2).

"APHIS inspectors again requested to review the records of animals on hand, any veterinary records, including the program of veterinary care that were made for the animals, and any disposition records but the licensee stated that his records were not available for us to inspect. The licensee stated that his records were still not available for us to inspect. The licensee stated that his only copy of the records had been left with an associate follow his personal residence. The licensee was asked if he [sic] we could inspect the areas of the residence where the animals are housed and he said that he would not be comfortable with this as he now has a housemate. We asked if he was refusing to allow us to inspect these facilities where regulated animals are housed and he stated that he was today."

CX. 27 at 2, citing 9 C.F.R. § 2.126(a).

11. On December 11, 2009, June 11, 2010, February 1, 2012, and May 17, 2012, Dr. Thompson reviewed respondent Lee's records, and determined that they were incomplete and/or inaccurate. CX4 at 1; CX 5 at 1-2; CX 17 at 1-2; CX21 at 1-2.

12. On December 11, 2009, Dr. Thompson conducted an inspection at respondent Lee's facility, and she cited him for noncompliance with the record-keeping Regulations:

"The licensee did not have the required record of information for 2 reindeer transported for an exhibition in Longmont, CO.

One copy of the record containing the required information for animals other than dogs and cats shall accompany each shipment.

To be corrected on all future shipments of animals."

CX4 at 1, citing 9 C.F.R. § 2.75(b)(3).

13. On June 11, 2010, Dr. Thompson conducted an inspection at respondent Lee's facility, and she cited him for noncompliance with the record-keeping Regulations:

"No records were made for 2 adult Husky-mix dogs and 1 German Shepherd puppy that had been recently-acquired by the licensee.

The licensee shall make, keep, and maintain records which fully and correctly disclose the required information regarding acquisition of dogs. To be corrected by 6/12/10."

CX 5 at 1, citing 9 C.F.R. § 2.75(a)(l).

"No records were made for 2 lambs, 3 goat kids, and 1 calf that were born on the premise and no records were made for the acquisition of 2 rabbits.

The licensee shall make, keep, and maintain records which fully and correctly disclose the required information regarding the acquisition of animals other than dogs and cats.

This is a repeat noncompliance previously cited during the inspections performed on 9/3/04 and 8/2/07 and which had a correction date of 9/3/04."

CX 5 at 1-2, citing 9 C.F.R. § 2.75(b)(1).

14. On February 1, 2012, Dr. Thompson conducted an inspection at respondent Lee's facility, and she cited him for noncompliance with the record-keeping Regulation:

"The licensee acquired 1 reindeer on 8/10/11 and 4 reindeer on 11/13/11 but no records were available with the name and address of the persons from whom these animals were purchased. Records containing the required information on acquisitions of animals is necessary to ensure that animals are acquired legally and are transported humanely. Records shall be made, kept, and maintained which fully and correctly disclose all of the required information under this Section of the regulations regarding the acquisition and disposition of animals.

To be corrected on all future acquisitions of animals."

CX 17 at 1, citing 9 C.F.R. § 2.75(b)(1)(i).

"The record of animals on hand showed a total of 24 goats but there were only 21 goats observed during this inspection. The licensee claimed that 3 goats had been sold within the last year but no records were made or kept for the disposition of these 3 goats.

Records containing the required information on the acquisition and disposition of animals is necessary to ensure that animals are acquired or disposed of legally and are transported humanely.

Records shall be made, kept, and maintained which fully and correctly disclose all of the required information under this Section of the regulations regarding the acquisition and disposition of animals.

To be corrected on all future acquisitions of animals."

CX 17 at 1-2, citing 9 C.F.R. § 2.75(b)(1)(v).

15. On May 17, 2012, Dr. Thompson conducted an inspection at respondent Lee's facility, and she cited him for noncompliance with the record-keeping Regulations:

"Three dogs acquired by the licensee did not have complete records that included the name and addresses for the individuals from whom they were acquired:

**Duke, ID#24, 2 yr old male Great Pyrenees, acquired 2/11

**Tobey, ID#25, 2 yr old male Pomeranian, acquired 3/11

**Bolt, ID#26, 1 yr old male Chihuahua, acquired 10/11

Records of acquisition of dogs must contain all of the required information to ensure that these animals are acquired legally and to allow for accurate accounting of animals on hand during compliance inspections.

The licensee shall make, keep, and maintain which fully and correctly disclose all of the required information under the AWA.

To be corrected by 5/31/12 and on all subsequent acquisitions of animals."

CX 21 at 1, citing 9 C.F.R. § 2.75(a)(1)(i).¹²

"Three dogs acquired by the licensee did not have complete records that included the driver's license number and State or vehicle license number and State for the individuals not licensed or registered under the Act from whom they were acquired:

**Duke, ID#24, 2 yr old male Great Pyrenees, acquired 2/11

**Tobey, ID#25, 2 yr old male Pomeranian, acquired 3/11

**Bolt, ID#26, 1 yr old male Chihuahua, acquired 10/11

Records of acquisition of dogs must contain all of the required information to ensure that these animals are acquired legally and to allow for accurate accounting of animals on hand during compliance inspections.

The licensee shall make, keep, and maintain which fully and correctly disclose all of the required information under the AWA.

To be corrected by 5/31/12 and on all subsequent acquisitions of animals."

CX 21 at 1-2, citing 9 C.F.R. § 2.75(a)(1)(iii).¹³

"The licensee did not have records containing the name and address of persons to whom animals were sold or given:

**2 Scottish Highland cattle, Amber and Clancy, transferred to pasture in Brighton

**1 llama, Samson, sold 8/16/11

**5 goats (2 nannies, 1 black female pygmy goats, 2 yearling pygmy goats) and 2 sheep (1 black male, 1 Shetland yearling, Diego)

Records are required to be complete and accurate in order to ensure animals are disposed of legally and to allow for accurate accounting of animals on hand during compliance inspections.

The licensee shall make, keep, and maintain which fully and accurately disclose all of the required information under the AWA.

To be corrected by 5/31/12 and on all subsequent disposition records."

CX 21 at 2-3, citing 9 C.F.R. § 2.75(b)(1)(iv).¹⁴

16. On June 11, 2010, Dr. Thompson conducted an inspection at respondent Lee's facility. She observed and took photographs of three animals (two llamas and an adult bull reindeer) with overgrown hooves. CX 5 at 13-15. Dr. Thompson noted on the

¹² Dr. Thompson took a photograph of respondent's record of these dogs. CX 21 at 6.

¹³ See Note 1.

¹⁴ Dr. Thompson took photographs of respondent's records of these animals. CX 21 at 7-11.

photographs that respondent's Veterinarian was scheduled to trim all of the animals' hooves in August. *Id.* On October 4, 2010, Dr. Thompson conducted another inspection at respondent Lee's facility. She cited him for failing to obtain adequate veterinary care for five goats and three cattle by having their hooves trimmed:

"At least 5 goats and 3 cattle have hooves that are overgrown such that the tips are beginning to bend upwards or twist. This can lead to chronic foot problems if not prevented or treated in a timely manner."

CX 7 at 1, citing 9 C.F.R. § 2.40(b)(2).

Dr. Thompson also observed and documented that a dog (Forest) was thin and had bilateral swelling of both upper cheeks, and had not been seen by a veterinarian:

"One dog, Forest, was noted to be in thin body condition and have bilateral swellings on his upper cheeks which the owner had not noticed before this inspection. This dog should be evaluated by a veterinarian as soon as possible to determine the cause of the facial swellings. Daily observation of all animals shall be made to assess their health and well-being."

CX 7 at 1, citing 9 C.F.R. § 2.40(b)(3).

Contemporaneous photographs of the dog and of one of the goats depict the conditions at the time of the inspection. CX 7 at 11 (goat), 12-13 (dog).

17. On May 31, 2011, Dr. Thompson conducted an inspection at respondent Lee's facility. She cited him for failing to obtain adequate veterinary care for three reindeer:

"There are 3 geriatric reindeer (2 cows and 1 steer) which have excessively long hooves which are impacting the animals' ability to walk in a comfortable manner. One of the cows has such excessive growth that the hooves are curling upward and she is walking on her heel bulbs. The 2 cows are also in thin body condition but the attending veterinarian has not been contacted concerning these animals' condition. Reindeer should have their hooves trimmed at a frequency that will allow the animals to have a normal gait and to prevent chronic joint stress due to the abnormal growth and gait.

These 3 animals need to be assessed by a veterinarian and provided with appropriate veterinary care, including hoof trimming by 6/10/11.

This is a repeat noncompliance previously cited during inspections performed on 10/4/10 and 8/2/07 and which had a correction date of 8/9/07."

CX 10 at 1, citing 9 C.F.R. § 2.40(b)(2).

Contemporaneous photographs of the reindeer depict the conditions at the time of the inspection. CX 10 at 2-6.

18. On August 9, 2011, Dr. Thompson conducted an inspection at respondent Lee's facility. She cited him for failing to obtain adequate veterinary care for an alpaca:

"There is one male alpaca with excessively long hooves such that the right rear lateral toe is curling over the top of the nail bed. Llamas should have their hooves trimmed at a frequency that will allow the animals to have a normal gait and to prevent chronic joint stress due to the abnormal growth and gait.

This animals needs to be assessed by a veterinarian and provided with appropriate veterinary care, including hoof trimming by 8/10/11.

This is a repeat noncompliance previously cited during the inspections performed on 5/31/11, 10/4/10 and 8 /2/07 and which had a correction date of 8/9/07."

CX 13 at 1, citing 9 C.F.R. § 2.40(b)(2).

Contemporaneous photographs of the alpaca depict the conditions at the time of the inspection. CX 13 at 17-18.

19. On January 5, 2012, Dr. Thompson conducted an inspection at respondent Lee's facility. She cited him for failing to obtain adequate veterinary care for two reindeer:

"A 14 yr. old female reindeer, 84SPY9578, was lying down in the northeast comer of the enclosure and had shallow, rapid breathing. When an employee entered the enclosure, the other reindeer moved away and ran around the enclosure but this animal did not attempt to get up. The owner took her by the halter and antlers to try to get her to stand up. Upon standing her respiratory rate increased to 90 breaths per minute (bpm) and appeared more shallow than at rest. She stood with her head down and back hunched with all four feet tucked under her body. The carpal joints in her front legs (knees) were abnormally enlarged. Mucous was seen to be streaming from her nose. She did not move for a few minutes and was stiff-legged when she did finally walk to the feed trough. This reindeer needs to be evaluated by a veterinarian as soon as possible to determine if the animal is in pain, experiencing a respiratory disease, or any other veterinary conditions that would cause an elevated respiratory rate, reluctance to stand and move, and a nasal discharge.

A 15yr old reindeer steer, 84SPY9535, was noted to have a hunched back and stiff gait. The animal had recently been used in a temporary exhibit and concerns had been made by the public regarding his condition. The hunched back posture may be an indication of pain and should be evaluated by a veterinarian.

These two animals should be evaluated within the next 24 hours by a veterinarian to assess their condition to determine if veterinary treatment is required. Both animals are geriatric and a plan for monitoring their quality of life should be developed between the owner and the attending veterinarian to minimize pain or distress for these animals.

This is a repeat noncompliance previously cited during the inspections performed on 8/9/2011, 5/28/11, and 6/9/2009 and which was to be corrected by 619109."

CX 15 at 1, citing 9 C.F.R. § 2.40(b)(2).

Contemporaneous photographs of the reindeer depict the conditions at the time of the Inspection.

"15 yr old reindeer steer with hunched posture and stiff gait-animal had been seen by public in mid-December on TRA display and a complaint was filed with the County AC-needs to be seen by a vet ASAP"

CX 15 at 4.

"14 yr old reindeer cow breathing rapidly and with difficulty and appeared unwilling to rise when herdmates moved around her, mucopurulent nasal discharge, swollen joint, stiff gait, hunched posture"

CX 15 at 5-6.

20. On April 5, 2012, Dr. Thompson conducted an inspection at respondent Lee's facility. She cited him for failing to obtain adequate veterinary care for a reindeer, a llama, a dog, two alpacas, and two goats. The Clear Creek County Sheriff's Animal Control Department seized the reindeer and the llama. CX 18 at 1, 6, 22. Regarding the reindeer, Dr. Thompson reported:

"A 14 yr old female reindeer, 84SPY9578, was lying down in the northeast corner of the enclosure and had shallow, rapid breathing. She appeared reluctant to rise when the other animals in the pen moved and, when she rose to her feet, she kept her head down and back hunched with all four feet tucked under her body. The carpal joints in her front legs (knees) were abnormally enlarged. She did not move for over a minute while she kept shifting her weight around on all four feet with her head dropped toward the ground. Her breathing was heavy, audible, and rapid. When she did finally walk, she had a staggering, tentative gait and would pause with her nose almost touching the ground while breathing heavily. She had a thin body condition and the owner stated that he would 'see her stand at the feed trough for hours'. The AV had noted on an examination in January that this animal had teeth that were worn to the gums, which would make it very difficult for her to eat hay

or pelleted feed, which is the diet offered. Following the inspection on 1/5/2012, this animal was supposed to be monitored by the owner, in consultation with the attending veterinarian, with a plan for managing her quality of life but the AV had not seen this animal since her visit to the premise and the owner couldn't recall the date nor produce any record to show when the visit occurred. It was determined that this animal was suffering and required immediate veterinary care."

CX 18 at 1, citing 9 C.F.R. § 2.40(b)(2).

Contemporaneous photographs depict the seizure of this female reindeer by Clear Creek County Sheriff's Animal Control Department. CX 18 at 6, 22. The reindeer was euthanized. CX 18 at 6.

Regarding the llama, Dr. Thompson reported:

"A white female llama, 'Mama', was noted to be extremely underweight. Even through the wool, her hips and backbone appeared to be more prominent than normal and upon palpation under the wool, no muscle was covering her hips, ribs, or backbone. The owner stated that he had noticed she was losing condition and had contacted his attending veterinarian (AV) about 2.5-3 weeks earlier but he could not produce any records or provide a specific date as to when this phone call occurred. He stated the AV said to increase the animal's hay and beet pulp ration and to separate her to feed but the AV never saw nor examined this animal. The owner believed she had lost condition because her approximately one year old cria (offspring) was still trying to nurse. This animal's body condition was considered to be severe and a risk to her well-being."

CX 18 at 1, citing 9 C.F.R. § 2.40(b)(2).

Contemporaneous photographs depict the condition of the llama at the time of the inspection on April 5, 2012. CX 18 at 10-16. Following the seizure of the llama by the Clear Creek County Sheriff's Animal Control Department, she was sheared at a veterinary clinic. CX 19 at 1-2. Photographs taken of the llama on April 7, 2012, show the animal's condition following her being sheared. *Id.*

Regarding the dog, Dr. Thompson reported:

"A 15 yr old Husky dog, Forest ID#03, was noted to be in thin body condition and that his face was asymmetrical. The right side of his cheek appeared to be more prominent than the left side with a firm raised area just below his eye. An examination of his teeth showed no upper teeth on the left side and the upper right premolar or cheek tooth had a thick black coating and the gums appeared reddened and swollen around the tooth.

This could be contributing to the facial swelling and should be evaluated within the next 24 hours by a veterinarian to assess his dental condition with veterinary treatment to be performed by 4/9/2012."

CX 18 at 1-2, citing 9 C.F.R. § 2.40(b)(2).

Contemporaneous photographs depict the condition of the dog at the time of the inspection. CX 18 at 7-9.

Regarding the alpacas and goats, Dr. Thompson reported:

"Two (one beige and one light brown in color) of 5 alpacas were noted to have overgrown hooves such that their toes were splayed or the nails curled outwards. Two goats ('Oscar' and a billy goat) were noted to have extremely overgrown hooves. The billy goat had such long hooves that the medial or inside toe on his left front foot was curling upwards. Hooved animals need to have regular trimming at a frequency that will allow the animals to have a normal gait and to prevent chronic joint stress due to the abnormal growth and abnormal gait. The goats['] hooves should be trimmed by 4/6/2012 and the alpacas should be trimmed by 4/18/2012."

CX 18 at 2, citing 9 C.F.R. § 2.40(b)(2).

Contemporaneous photographs depict the condition of one of the alpacas, CX 18 at 17-18, the billy goat, CX 18 at 19-20, and the male goat (Oscar), CX 18 at 21, at the time of the inspection.

21. On June 1, 2012, Dr. Thompson conducted an inspection at respondent Lee's facility. She cited him for failing to obtain adequate veterinary care for a dog, a goat, reindeer, llamas, and sheep. The Clear Creek County Sheriff's Animal Control Department seized the dog and the goat on June 1, 2012. CX 22a at 1, 3; CX 22b at 1, 3.

Regarding the dog, Dr. Thompson reported:

A Husky/malamute dog, Forest ID#03, was noted to be limping on his right hind limb. The outside (lateral side) of the foot was bruised and appeared swollen and there was an opening in the skin that was reddened and which appeared to have a red-yellow discharge. The licensee claims he noticed this last night but that it didn't appear as swollen and bruised. He had not contacted the attending vet and did not plan to do so as she was scheduled to visit on the following Wednesday (6/6/2012)

afternoon. The dog appeared to be painful when the foot was touched and was having difficulty walking in his enclosure."

CX 22a, at 1-3; CX 22b at 1-3, citing 9 C.F.R. §§ 2.40(b)(2), (b)(3).

Contemporaneous photographs depict the condition of the dog at the time of the inspection. CX 22a at 7-9.

Regarding the goat, Dr. Thompson reported:

"A goat, Oscar, appeared to be losing body condition and was very thin. He was noted to have a severe limp on the right hind limb and was not bearing weight or barely toe-touching on that leg while standing. The licensee stated the animal was injured 4 days prior to the inspection and that he had moved him to this enclosure with 9 other goats from the adjacent enclosure (housing 2 goats, 5 alpacas, and 10 sheep). He had not contacted the attending veterinarian because she was scheduled to come for a visit on 6/6/2012 and he thought that as long the goat could get to food and water he could wait to be examined. The goat was observed struggling to walk up a slight slope in the enclosure where the water receptacles are located. The right hind foot had a small scrape on the lateral side of the foot at the joint between the lower leg and toes (metatarsal joint). The inside (medial aspect) of this foot appeared to be swollen and the goat tried to pull the foot away when an attempt was made to look more closely."

CX 22a at 1-2; CX 22b at 1-2, citing 9 C.F.R. §§ 2.40(b)(2), (b)(3).

Contemporaneous photographs depict the condition of the goat at the time of the inspection. CX 22a at 12-13.

Regarding the reindeer, Dr. Thompson reported:

"A juvenile reindeer, #84SPY9561, was noted to have discharge from its left nostril that was thick and yellow in color. The owner had not noticed this animal's condition. A thick nasal discharge can indicate a respiratory infection and the animal should be evaluated by a veterinarian no later than 6/6/2012 to determine what is the underlying cause and if treatment is needed."

CX 22a at 1-2; CX 22b at 1-2, 9 C.F.R. §§ 2.40(b)(2), (b)(3).

"At least 2 reindeer cows were noted to be in thin body condition. ID's could not be obtained during the inspection. One of the 2 cows had delivered a calf in early April and had some medical issues following the birth but no veterinary observation or care had been provided for this animal since early April. The owner had not thought these animals appeared thin but agreed that after comparing them with the other reindeer they would be considered to be thin."

CX 22a at 2; CX 22b at 2, citing 9 C.F.R. § 2.40(b)(3).

Contemporaneous photographs depict the condition of the reindeer at the time of the inspection.

CX 22a at 10, 29-30.

Regarding the llamas, Dr. Thompson reported:

"At least 2 llamas (one juvenile brown castrated male and one adult female white with black facial markings) were noted to have an asymmetrical appearance to their faces. There appeared to be a swelling on the right side of their faces near the top (maxillary) jaw. The licensee stated that he had not noticed this before it was brought to his attention during the inspection."

CX 22a at 2-3; CX 22b at 2-3, citing 9 C.F.R. § 2.40(b)(3).

Contemporaneous photographs depicts the condition of the llama at the time of the inspection.

CX 22a at 25-28.

Regarding the sheep, Dr. Thompson reported:

"At least 3 Shetland sheep ewes were in thin body condition and the licensee had not noticed this before this inspection. At least 1 of these was still nursing a lamb. It was difficult to catch these animals in order to adequately assess their condition which is why the licensee had not noticed these animals were thin. Numerous animals at this facility have very heavy wool and it is necessary to get a physical assessment of the animals to determine if they are in appropriate condition. Having these animals sheared would also aid in visual and physical assessment of their condition."

CX 22a at 2-3; CX 22b at 2-3, citing 9 C.F.R. § 2.40(b)(3).

Contemporaneous photographs depicts the condition of the sheep at the time of the inspection.

CX 22a at 31-34.

22. On July 3, 2013, Dr. Thompson conducted an inspection at respondent Lee's facility. She cited him for failing to obtain adequate veterinary care for a female reindeer and a female angora goat. CX 26 at 1. Regarding the reindeer, Dr. Thompson reported:

"A female reindeer, right ear tag #11 USDA, was seen limping on her right front leg and holding the leg up when at rest. The licensee was asked if he had noticed the limp and he stated that she is an old cow and believes she suffers from arthritis. The APHIS inspectors asked if he had consulted the attending veterinarian and he

stated he had talked to the AV about this animal but that the AV has not evaluated the animal, there has been no diagnostic evaluation or examination made, and no treatment plan documented for this animal.

Limping and holding a front leg off the ground are indications of an underlying painful condition which needs to be diagnosed by a veterinarian to determine the best methods for treating the condition.

This reindeer shall be examined by a veterinarian by close of business on 7/3/2013 and the licensee shall ensure that a diagnosis of the animal's condition is documented along with a clear plan for treatment, monitoring of the animal for improvement, and follow-up plan by the veterinarian to determine if the treatment is effective and/or the condition is resolved."

CX 26 at 1, citing 9 C.F.R. § 2.40(b)(2).

Regarding the angora goat, Dr. Thompson reported:

"A female angora goat was noted to have a thick layer of wool, some of which was dragging on the ground and was seen to get wrapped around her right rear hoof at one point. The local atmospheric conditions have exceeded 80 deg Fahrenheit and are predicted to climb over the weekend. The goat was seen scratching along the fenceline to loosen the wool from her side and back. Heavily woolled animals should be sheared if unable to shed their wool adequately during extremely warm temperatures."

CX 26 at 1, citing 9 C.F.R. § 2.40(b)(2).

Contemporaneous photographs depicts the condition of the goat at the time of the inspection.

CX 26 at 5-7. Dr. Thompson recommended that the goat "be sheared as soon as possible but not later than 7/6/2013." *Id.*

23. On July 11, 2013, Dr. Thompson conducted another inspection at respondent Lee's facility, and again cited him for failing to obtain adequate veterinary care for the same female reindeer and female angora goat identified during the inspection on July 3, 2013. CX 27 at 1. Regarding the reindeer, Dr. Thompson reported:

"A female reindeer, right ear tag #11, seen limping on her right front leg and holding the leg up when at rest on the previous inspection conducted on 7/3/2013 is unchanged in her condition. This reindeer was to be examined by a veterinarian by the close of business on 7/3/2013 and the licensee was to ensure that a diagnosis of the animal's condition was documented with a clear plan for treatment, monitoring of the animal for improvement, and follow-up plan by the veterinarian to determine if the treatment is effective and/or the condition is resolved. The licensee did take

the reindeer to the AV by the deadline and but there is no documentation of a diagnosis for her condition and no clear treatment plan, including monitoring for improvement or follow-up by the AV to determine if the treatment is effective and/or the condition is resolved.

Limping and holding a front leg off the ground are indications of an underlying painful condition which needs to be diagnosed by a veterinarian to determine the best methods for treating the condition.

This reindeer needs to be seen by close of business on 7/12/2013 by a different veterinarian for a second opinion with a diagnosis of the animal's condition with a clear plan for treatment, monitoring of the animal for improvement, and follow-up plan by the veterinarian to determine if the treatment is effective and/or the condition is resolved."

CX 27 at 1, citing 9 C.F.R. § 2.40(b)(2).

Dr. Thompson took contemporaneous photographs of respondent's veterinarian's notes regarding the reindeer. CX 27 at 6-7.

Regarding the angora goat, Dr. Thompson reported:

"A female angora goat documented during the inspection conducted on 7/3/2013 was to be sheared by 7/6/2013 because she was noted to have a thick layer of wool, some of which was dragging on the ground and was seen to get wrapped around her right rear hoof at one point, and the atmospheric conditions have been above 80 deg F.

Heavily wooled animals should be sheared if unable to shed their wool adequately during extremely warm temperatures.

This animal needs to be sheared by 7/11/2013." CX 27 at 1, citing 9 C.F.R. § 2.40(b)(2).

Contemporaneous photographs depict the condition of the goat at the time of the inspection.

CX 27 at 4-5.

24. On June 9, 2009, Dr. Thompson conducted an inspection at respondent Lee's facility, and cited him for noncompliance with the Standards for dogs:

"The east primary enclosure housing 5 dogs has buried chain link that is now exposed with sharp edges protruding into the enclosure. This poses a risk of injury to these dogs."

CX 3, citing 9 C.F.R. § 3.6(a)(2)(i).

"One Husky dog in the south primary enclosure housing 4 dogs is tethered to prevent him from jumping out of the 6 foot high chain-link enclosure. The enclosure should be

modified so this dog will be unable to escape the enclosure and not need to be tethered."

CX 3, citing 9 C.F.R. § 3.6(c)(4).

25. On June 11, 2010, Dr. Thompson conducted an inspection at respondent Lee's facility, and cited him for noncompliance with the Standards for dogs and other animals.

Regarding the dogs, Dr. Thompson reported:

"A primary enclosure for 2 Husky-mix dogs had not been cleaned for approximately one week and the dogs had not bare ground where they would not come into contact with excreta or food debris. Another primary enclosure housing 4 dogs (2 Husky-mixes, 1 Husky, and 1 German Shepherd) had at least two days' worth of excreta in their enclosure."

CX 5 at 2, citing 9 C.F.R. § 3.11(a).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 5 at 4-5.

Regarding the other animals, Dr. Thompson reported:

"There are broken fence wires with sharp ends protruding into an enclosure housing 1 alpaca, 7 sheep, and 2 goats. The enclosure housing 7 cattle has broken wires protruding from the fence and the feed trough. The llama enclosure housing 10 llamas has bent wire fencing attached inside the cattle panel entrance gate which has sharp ends. There is a risk of injury to the animals in these enclosures from the broken, sharp wires. Additionally, a common cattle panel fencing between the mule/horse enclosure and the llama enclosure was not constructed so as to prevent a newborn llama cria from being killed when it went under the panels and into the adjacent enclosure."

CX 5 at 2, citing 9 C.F.R. § 3.125(a).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 5 at 6-12.

26. On October 4, 2010, Dr. Thompson conducted an inspection at respondent Lee's facility, and cited him for noncompliance with the Standards for dogs and other animals.

Regarding the dogs, Dr. Thompson reported:

"The two water buckets for 4 dogs housed in the southwest kennel were not clean and the water had a green color and debris." CX 7 at 2, citing 9 C.F.R. § 3.10.

A contemporaneous photograph depicts the conditions at the time of the inspection. CX 7 at 4. Regarding the other animals, Dr. Thompson reported:

"The enclosures for 20 goats and 10 sheep had bent and broken wires with many protruding sharp ends that pose a risk of injury to these animals. The enclosures share a common fencing which is not structurally sound to contain the animals. The enclosure for 8 cattle had sharp wires protruding into the enclosure near the feed through which pose a risk of injury to these animals."

CX 7 at 2, citing 9 C.F.R. § 3.125(a).

"The enclosure for 9 reindeer had an excessive amount of flies, especially around the feed troughs such that the flies were crawling around though the feed."

CX 7 at 2, citing 9 C.F.R. § 3.131(d).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 5 at 5-10.

27. On May 28, 2011, Dr. Thompson conducted an inspection at respondent Lee's exhibition in Georgetown, Colorado, and cited him for noncompliance with the Standards for dogs:

"Two dogs (Forest ID#03 and Callie ID#06) used in a petting zoo exhibition at Georgetown Mining Days Festival were housed using a tether as a primary enclosure. Tethering is a prohibited means of primary enclosure for dogs due to the inability for the dog to move freely, to escape the public during public handling, and because of the possible injury to the dog.

Temporary tethering of dogs is prohibited for use as a primary enclosure unless approval is obtained from APHIS."

CX 9 at 1, citing 9 C.F.R. § 3.6(c)(4).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 9 at 3-5.

28. On June 28, 2011, Dr. Thompson conducted an inspection at respondent Lee's facility, and cited him for noncompliance with the Standards:

"The enclosures for 15 goats, 8 sheep, and 5 alpacas had bent and broken wires with many protruding sharp ends that pose a risk of injury to these animals. A newborn llama was found with an open wound on its right side shortly after birth on 6/25/11. It is believed to have been injured either due to puncture from the enclosure fencing or by mules housed in an adjacent enclosure after the animal had slipped under the gate between the two enclosures."

CX 12 at 1, citing 9 C.F.R. § 3.125(a).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 12 at 2-12.

29. On August 9, 2011, Dr. Thompson conducted an inspection at respondent Lee's facility, and cited him for noncompliance with the Standards for dogs and other animals. Regarding the dogs, Dr. Thompson reported:

"Temporary tethering was being used as a primary enclosure for one Husky dog, Forest ID#03, prior to the licensee loading animals and supplies to leave for an exhibition later in the afternoon.

Temporary and permanent tethering of dogs is prohibited."

CX 13 at 1, citing 9 C.F.R. § 3.6(c)(4).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 13 at 4-5. Regarding the other animals, Dr. Thompson reported:

"The enclosures for 15 goats, 9 sheep, and 5 alpacas still had bent and broken wires with many protruding sharp ends that pose a risk of injury to these animals. At least one of the wires had hair stuck on the sharp ends indicating these animals can come into contact with these and pose a risk of injury to these animals.

The fence shared by the enclosure housing 2 cattle and an enclosure of 10 goats and one alpaca was not structurally sound. The support posts were significantly bent and the wire fence was drooping over into the cattle enclosure.

The enclosure for 7 llamas had numerous broken wires and wires securing fence panels to support posts which had sharp ends protruding into the enclosure. At least two wires had wool stuck on the sharp ends indicating these animals can come into contact with these and pose a risk of injury to these animals."

CX 13 at 2, citing 9 C.F.R. § 3.125(a).

"An adult male llama was being housed outdoors with a donkey in an enclosure that did not have adequate shelter from direct sunlight. The animal has a heavy wool coat and has inadequate shade to protect itself from becoming uncomfortable or overheating."

"An adult male llama being housed outdoors with a donkey had no natural or artificial shelter that would provide protection from inclement weather such as the hail and thunderstorms predicted for this area."

CX 13 at 2-3, citing 9 C.F.R. §§ 3.127(a), 3.127(b).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 13 at 6-16.

30. On September 26, 2011, Dr. Thompson conducted an inspection at respondent Lee's facility, and cited him for noncompliance with the Standards for rabbits and other animals. Regarding the rabbits, Dr. Thompson reported:

"The water receptacles for 3 rabbits had a buildup of dirt and a pinkish debris on the inside surfaces and had not been sanitized at least once every two weeks. The licensee was asked about the source of the water and he stated that it came from a tank that collects runoff from the roof of the house adjacent to the rabbit hutches. This is not potable water and may contain debris and other contaminants that might be hazardous to the animals."

CX 14 at 1, citing 9 C.F.R. § 3.55.

Contemporaneous photographs depict the conditions at the time of the inspection. CX 14 at 15-

16. Regarding the other animals, Dr. Thompson reported:

The enclosure for 8 goats, 12 sheep, and 5 alpacas still had bent and broken wires with many protruding sharp ends on two tree stumps adjacent to the fencing that pose a risk of injury to these animals.

The enclosure for 7 llamas had numerous broken and bent wires attached to a support post which had sharp ends protruding into the enclosure which pose a risk of injury to these animals.

A shelter in the enclosure for 3 sheep and 11 goats had a splintered board with a hole on the back side which exposes fiberglass insulation material. This material could be ingested by the animals.

Three shelter structures in the enclosure housing 8 goats, 12 sheep, and 5 alpacas are in disrepair and pose a risk of injury to these animals. One of these is a metal structure that has rusted such that there are holes with sharp edges on the side panels. A second shelter has a wood frame covered in aluminum siding material which has numerous holes and edges that are sharp and protruding out from the sides of the shelter. The third shelter has a wood frame with a thicker metal material covering the sides and that has sharp edges bent back from the frame, posing a risk for injury to the animals."

CX 14 at 2, citing 9 C.F.R. § 3.125(a).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 14 at 3-

14.

31. On January 5, 2012, Dr. Thompson conducted an inspection at respondent

Lee's facility, and cited him for noncompliance with the Standards:

The enclosure for 8 goats, 12 sheep, and 5 alpacas still had broken wires with sharp ends protruding into the enclosure that pose a risk of injury to these animals.

The enclosure for broken and bent wires which had sharp ends protruding into the enclosure which pose a risk of injury to these animals.

The enclosure for 2 sheep and 12 goats had broken wires with sharp ends protruding into the enclosure that pose a risk of injury to these animals.

CX 15 at 2, citing 9 C.F.R. § 3.125(a).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 15 at 7-11.

"The only water source available for 12 sheep, 8 goats, and 5 alpacas was frozen solid and was covered with excreta and soiled bedding. One sheep was seen licking at the edge of the ice, which was visibly contaminated with fecal matter, to drink a scant amount of water that was exposed. An employee was asked to bring fresh water for the animals. One black sheep immediately began to drink from the stream of water flowing from the hose into a clean receptacle brought by the employee. At least 4 other animals came over to drink from the receptacle as it was being filled and were noted to drink continuously for approximately 1 minute. The avid thirst shown by these animals indicated that potable water had not been provided as often as necessary for their health and comfort.

The only water source available for 12 goats and 2 sheep had an excessive amount of algae growth. This water is not considered to be potable and the water receptacle is not being kept clean and sanitary.

Not providing potable water to animals may cause dehydration and poses a risk to their health and well-being."

CX 15 at 2, citing 9 C.F.R. § 3.130.

Contemporaneous photographs depict the conditions at the time of the inspection. CX 15 at 12-20.

32. On January 12, 2012, Dr. Thompson conducted an inspection at respondent

Lee's facility, and cited him for noncompliance with the Standards for dogs and rabbits.

Regarding the dogs, Dr. Thompson reported:

"The east outdoor enclosure housing 2 Great Pyrenees dogs, 1 Border Collie mix dog, and one male llama has exposed ground wire (4"x4" mesh) along the west side of the enclosure. The edge of the wire sits above the level of the ground and the mesh is large enough for the animals' to get their legs caught, posing a risk of injury."

CX 16 at 1, citing 9 C.F.R. § 3.1(a).

Contemporaneous photographs depict the conditions at the time of the inspection. CX16 at 5-6.

"The middle outdoor enclosure for 2 German Shepherd dogs has two shelter structures which do not have a wind or rain break at the entrance to protect the animals from the elements. The ambient temperature during this inspection was 20 deg. F with a steady wind at 15 mph (per NOAA National Weather Service). The dogs do not have adequate shelter to allow them to get out of the elements."

"The three outdoor enclosures housing 7 dogs (west pen = 2 husky/malamute dogs, middle pen = 2 German Shepherds, east pen = 2 Great Pyrenees and 1 Border Collie mix) did not have bedding in any of the shelter structures. The ambient temperature at the time of inspection was 20 deg. F with a steady wind was 15 mph (per NOAA National Weather Service). A snow storm occurred overnight with temperatures reported to be in the single digits with a wind chills as low as -7 deg. F. These animals are not being provided adequate protection from the elements, posing a risk to their health and well-being."

CX 16 at 1, citing 9 C.F.R. §§ 3.4(b)(3), 3.4(b)(4).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 16 at 4, 7-

Regarding the rabbits, Dr. Thompson reported:

"Two rabbits housed outside did not have adequate shelter to protect them from the cold weather. The ambient temperature at the time of the inspection was 20 deg. F with a steady wind of 15 mph (per NOAA National Weather Service). The rabbits had only one nest box which was not large enough for both rabbits to take shelter and no bedding was provided." CX 16 at 2-3, citing 9 C.F.R. § 3.52(c).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 16 at 13-15.

33. On February 1, 2012, Dr. Thompson conducted an inspection at respondent Lee's facility, and cited him for noncompliance with the Standards for dogs and other animals. Regarding the dog, Dr. Thompson reported:

"In the outdoor enclosure (west pen) housing 2 husky/malamute dogs, only one of the two shelter structures had bedding. In the outdoor enclosure (east pen) housing 2 Great Pyrenees and 1 Border Collie mix, one of the four shelter structures did not have bedding. The ambient temperature at the time of inspection (12 noon until 3

PM) was approximately 40 deg. F (per Weather Channel website). These animals are not being provided adequate protection from the elements, posing a risk to their health and well-being."

CX 17 at 2, citing 9 C.F.R. § 3.4(b)(4).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 17 at 5-6.

"The enclosure for 4 goats, 10 sheep, and 5 alpacas had a shelter structure that has one of the support posts with an exposed screw and a strand of barbed wire, securing the post to the shelter, with sharp ends protruding into the enclosure that pose a risk of injury to these animals.

The wire fence on the east side of the enclosure for 15 goats is damaged with the top of the fencing bent down and with broken wires that have sharp ends protruding into the enclosure that pose a risk of injury to these animals."

CX 17 at 2-3, citing 9 C.F.R. § 3.125(a).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 17 at 4, 7-9.

34. On April 5, 2012, Dr. Thompson conducted an inspection at respondent Lee's facility, and cited him for noncompliance with the Standards for dogs and rabbits.

Regarding the dogs, Dr. Thompson reported:

"The middle outdoor enclosure for 2 German Shepherd dogs has one of two shelter structures which does not have a wind or rain break at the entrance to protect the animals from the elements. The second shelter has a rubber mat as a wind/rain break that is torn and is not adequate to protect the dogs from the elements. The dogs do not have adequate shelter to allow them to get out of the elements."

CX 18 at 2-3, citing 9 C.F.R. § 3.4(b)(3).

"In the outdoor enclosure (west pen) housing 2 husky/malamute dogs, only one of the two shelter structures had bedding, and the second structure had only a small amount of straw which was pushed into the back and sides of the shelter. Night time temperatures are still below 50 deg F and a storm on Tuesday (4/3/12) brought accumulating snow to the area. These animals are not being provided adequate protection from the elements, posing a risk to their health and well-being."

CX 18 at 3-4, citing 9 C.F.R. § 3.4(b)(4).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 18 at

31-33. Regarding the other animals, Dr. Thompson reported:

"The enclosure for 4 goats, 8 sheep, and 5 alpacas had a large shelter structure that has aluminum siding on the south wall that has become rusted and has buckled, split, and become bent with sharp edges protruding into the shelter, posing a risk of injury to the animals. Another smaller structure has metal that has bent away from the east side of the structure which has exposed a metal screw and sharp edges of the siding. A third shelter structure had some of the metal siding bent away from the wood frame on the bottom of the southeast side and had wool caught on the sharp edge that is protruding, posing a risk of injury to the animals.

The enclosure for 9 goats is has a wooden shelter with bent metal flashing on the northeast corner of the roof that has sharp ends protruding into the enclosure that pose a risk of injury to the animals. Another wooden shelter structure had a nail head protruding on the southwest corner which had wool caught around it, posing a risk of injury to the animals."

CX 18 at 4, citing 9 C.F.R. § 3.125(a).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 18 at 23-29.

"The only water source available for 8 sheep, 4 goats, and 5 alpacas was brown in color [and] had a layer of dirt in the bottom. The only water source available for 9 goats was green in color due to excessive algal growth and was contaminated with excreta. This water is not considered to be potable and the water receptacle is not being kept clean and sanitary.

Not providing potable water to animals may cause dehydration and poses a risk to their health and well-being."

CX 18 at 4, citing 9 C.F.R. § 3.130.

Contemporaneous photographs depict the conditions at the time of the inspection. CX 18 at 34-35.

"A broken wooden pallet was against the west fence inside the enclosure for 7 llamas. This is not necessary for prescribed husbandry and poses a risk of injury to the animals."

CX 18 at 5, citing 9 C.F.R. § 3.131(c).

A contemporaneous photograph depicts the conditions at the time of the inspection. CX 18 at 30.35. On May 17, 2012, Dr. Thompson conducted an inspection at respondent Lee's facility, and cited him for noncompliance with the Standards for dogs, rabbits, and other animals. Regarding the dogs, Dr. Thompson reported:

"In the outdoor enclosure (west pen) housing 2 husky/malamute dogs (Forest ID#3, a 14 yr old male and Mikoh ID#9, an 11 yr old male) only one of the two shelter structures had bedding, and the second structure had no bedding.

The outdoor enclosure (east) housing 2 Great Pyrenees (Bubba ID #10, a 10 yr. old male, Duke ID#24, a 2 yr old male), an Australian Shepherd (Barkley ID#16, a 9 yr. old male) and a male llama (Valentino), has 4 shelter structures but only 2 have adequate bedding for the 3 dogs.

Night time temperatures are still below 50 deg. F. These animals are not being provided adequate protection from the elements, posing a risk to their health and well-being." CX 21 at 3, citing 9 C.F.R. § 3.4(b)(4).

"The primary enclosure housing one 2 yr old male German Shepherd cross, Shin-Ab ID#23, has broken wires with sharp ends near the bottom of the west and north chained-link fencing which are protruding into the enclosure, posing a risk of injury. The ends of the chained-link fence are exposed on the northwest side which have sharp points and pose a risk of injury. The primary enclosure housing 3 dogs (19 yr old Australian Shepherd, Barkley ID# 16, 1 10 yr old male Great Pyrenees, Bubba ID#10, 12 yr old Great Pyrenees, Duke ID#24) and one male llama, Valentino, has exposed chain-link ground wire on the north west side that has broken wires and sharp points that are protruding, posing a risk of injury to these animals."

CX 21 at 3-4, citing 9 C.F.R. § 3.6(a)(2)(i).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 21 at 12-15, 19-24. Regarding the rabbits, Dr. Thompson reported:

"The outdoor hutch style primary enclosures for 2 Flemish Giant rabbits have an excessive accumulation of excreta, hair, and other debris on mesh floor of the enclosure housing a brown doe and in the drop pans of both enclosures. The licensee does not recall when they were cleaned last but it has been more than one week since the pans or the enclosures were cleaned."

CX 21 at 4, citing 9 C.F.R. § 3.56(a)(3).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 21 at 16-18. Regarding the other animal (llama), Dr. Thompson reported:

The outdoor enclosure housing 1 male llama, Valentino, with 3 dogs has exposed chained-link ground wire on the northwest side that has sharp ends protruding, posing a risk of injury to the animals."

CX 21 at 4, citing 9 C.F.R. § 3.125(a); see photographs at CX 21 at 22-24.

36. On June 1, 2012, Dr. Thompson conducted an inspection at respondent Lee's facility, and cited him for noncompliance with the Standards for dogs and other animals.

Regarding the dogs, Dr. Thompson reported:

"The primary enclosure housing one 2 yr old male German Shepherd cross, Shin-Ab ID#23, has broken wires with sharp ends near the bottom of the west and north chained-link fencing which are protruding into the enclosure, posing a risk of injury. The ends of the chained-link fence are exposed on the northwest side which have sharp points and pose a risk of injury. The primary enclosure housing 3 dogs (1 9 yr old Australian Shepherd, Barkley ID# 16, 1 10 yr old male Great Pyrenees, Bubba ID# 10, 1 2 yr old Great Pyrenees, Duke ID#24) and one male llama, Valentino, still has exposed chain-link ground wire on the north west side that has broken wires and sharp points. Some of the exposed wires had been covered by fill dirt but there were still numerous sharp wires protruding, posing a risk of injury to these animals."

CX 22a at 3, citing 9 C.F.R. § 3.6(a)(2)(i).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 22a at

14-19. Regarding the other animals, Dr. Thompson reported:

The outdoor enclosure housing 1 male llama, Valentino, and 3 dogs still has exposed chained-link ground wire on the north west side that has broken wires and sharp points. Some of the exposed wires had been covered by fill dirt but there were still numerous sharp wires protruding, posing a risk of injury to these animals." The enclosure housing 10 goats had numerous loose and broken boards on the ground adjacent to one of the shelters and along the west fencing which pose a risk of injury to the animals.

CX 22a at 4, citing 9 C.F.R. § 3.125(a).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 22a at

14-20.

"Several animals housed in groups were noted to be in very thin body condition: 1 castrated male goat, Oscar housed with 9 other goats; at least 3 Shetland sheep ewes, at least one of which was nursing a lamb, which are housed with 5 alpacas, 2 goats, and 7 other sheep. The licensee was asked to feed the animals during the inspection. All the animals in the enclosure housing sheep, goats, and alpacas were jockeying for position to get to the hay placed in a feeder and some of the larger, more robust animals were pushing the smaller and thinner animals out of the way to reach the food. The goat, Oscar, was in very thin body condition and had an injury to the right hind leg, putting him at risk for losing further body condition as he would not be able to get to the food nor compete with the 9 other goats adequately to meet his needs."

CX 22a at 4, citing 9 C.F.R. § 3.129(a).

"The food for sheep, goats, alpacas, and reindeer is not being placed so as to minimize contamination.

The licensee is feeding hay on the ground, which is contaminated with fecal matter, at the far southwest end of the outdoor enclosure for 5 alpacas, 2 goats, and 10 sheep. An employee present with the licensee at the time of inspection stated that he was spreading out the feed on the ground in order to make sure all the animals got enough food and weren't fighting to eat.

Two of the feed receptacles containing pelleted feed for 11 reindeer had fecal matter mixed in with the feed. The licensee claims to remove the fecal matter whenever he sees it in the feeders but the remaining feed is already potentially contaminated.

Fecal contamination of animal feed poses a risk to their health as animals can become infected [with] parasites and other organisms." CX 22a at 4, citing 9 C.F.R. § 3.129(b).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 22a at 12-13, 21-24, 31-34.

"An employee arrived to assist the licensee during the inspection. He was asked what type of help he provides to the licensee. He stated that he feeds and waters the animals and told how he would feed the sheep, goats, and alpacas directly on the ground, which is contaminated with fecal material, in order to keep the animals from fighting over the food. He also stated that he had recently sheared one of the sheep, Murphy, and trimmed hooves on a goat and a couple of alpacas. He was asked who trained him to shear and trim hooves and he stated that he watched it done a couple of times and watched a video on trimming hooves. He was asked how often he had performed these tasks and he stated that he had sheared the sheep, Murphy, once before about a year ago and had trimmed hooves maybe two years ago. The employee was observed taking a white plastic jug of fluid to an enclosure housing two horses. When asked what the substance was, he explained that it was bleach. When asked if it was diluted or concentrated, he did not know for sure but thought it was diluted. There was no label indicating what was the substance or the concentration. When the licensee was asked what the employee was preparing to use, he replied that it was a new bottle of bleach. When asked if it was diluted, he said it was not. He was told that the employee thought it was diluted bleach so the licensee said he would let him know right away how to use it properly. The licensee was asked why he had not met the correction deadline for the exposed ground wires in the enclosure housing three dogs (Bubba ID#10, Duke ID#24, Barkley ID#16) an a llama (Valentino) or the enclosure housing 1 dog (Shin-Ab ID#23) and he stated that the employees that were supposed to help him did not come when they were scheduled.

The chronic and severe nature of the noncompliances that have been identified at this facility may in part be due to a lack of appropriate numbers of adequately trained personnel. Trimming of hooves and shearing wool from animals required training and skill to ensure that it is done correctly and to minimize the risk of injury to the animals. Performing husbandry tasks without proper knowledge of the risks of doing these incorrectly may lead to injuries or illness in the animals."

CX 22a at 5-6, citing 9 C.F.R. § 3.132.

37. On February 7, 2013, Dr. Thompson conducted an inspection at respondent Lee's facility, and cited him for noncompliance with the Standards:

"The outdoor enclosure housing 4 alpacas and 6 llamas had broken wires and sharp points along the north and west fencing. Also, the shelter structure for these animals had two gates separating the space which were attached with loose barbed wire

which had sharp points protruding into the enclosure, posing a risk of injury to these animals.

The outdoor enclosure housing 2 reindeer had numerous sharp wires protruding from the fencing, posing a risk of injury to these animals.

CX 24 at 1-2, citing 9 C.F.R. § 3.125(a).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 24 at 3-7, 11- 12, 16-20.

"Respondent housed two sheep in an outdoor enclosure with inadequate shelter from the elements. Three shelters in this enclosure offered inadequate space.

CX 24 at 1-2, citing 9 C.F.R. § 3.127(b).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 24 at 8-10, 13-15.

38. On July 3, 2013, Dr. Thompson conducted an inspection at respondent Lee's facility, and cited him for noncompliance with the Standards:

"The outdoor enclosure housing 3 Scottish highland cattle had broken and unsecured wire fencing and sharp points along the north, east, and west fencing, posing a risk of injury to these animals. The fencing along the west side of the enclosure that also acts as the fencing on the east side of the enclosure housing 2 goats, 3 sheep, and 1 llama, had at least 2 fence posts that are leaning and are not structurally sound."

CX 26 at 2-3, citing 9 C.F.R. § 3.125(a).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 26 at 8-17.

"The outdoor enclosure for 3 Scottish highland cattle did not have adequate natural or artificial shelter to afford them protection from inclement weather. Only one shelter structure was in the enclosure and was too small for all three to be able to enter or make normal postural adjustments."

CX 26 at 3, citing 9 C.F.R. § 3.127(b).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 26 at 18-19.

"The outdoor enclosure housing 6 llamas and 4 alpacas had an excessive accumulation of excreta piled on the north and south side of the enclosure such that is [sic] was piled at the entrances to the only 2 shelter structures in the enclosure.

Numerous flies were accumulating in the fecal piles and swarming around the water trough.

The outdoor enclosure housing 2 goats, 3 sheep, and 1 llama had an excessive accumulation of excreta around the food and water troughs. At least 2 animals had longer wool that appeared contaminated by feces and numerous flies were accumulating on the fecal piles and around the shelter structures, food trough, and water trough."

CX 26 at 4, citing 9 C.F.R. § 3.131(a).

"The outdoor enclosure housing 6 llamas and 4 alpacas had numerous flies accumulating around an excessive amount of excreta piled on the north and south side of the enclosure near the entrances to the 2 shelter structures and were swarming around the water trough.

The outdoor enclosure housing 8 reindeer had numerous flies accumulating around the entrance to one of the 2 shelter structures and were swarming around the water trough. The reindeer were seen to twitch their skin and ears and stomp their feet to shake off that were flying around and landing on them.

The outdoor enclosure housing 2 goats, 3 sheep, and 1 llama had an excessive accumulation of excreta around the food and water troughs. At least 2 animals had longer wool that appeared contaminated by feces and numerous flies were accumulating on the fecal piles and around the shelter structures, food trough, and water trough."

CX 26 at 4, citing 9 C.F.R. § 3.131(d).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 26 at 5-7, 20- 28.

39. On July 11, 2013, Dr. Thompson conducted an inspection at respondent Lee's facility, and cited him for noncompliance with the Standards:

"The outdoor enclosures for 3 Scottish highland cattle did not have adequate natural or artificial shelter to afford them protection from inclement weather. Only one shelter structure as in the enclosure and was too small for all three to be able to enter or make normal postural adjustments."

CX 27 at 2, citing 9 C.F.R. § 3.127(b).

Contemporaneous photographs depict the conditions at the time of the inspection. CX 27 at 8-10.

"The outdoor enclosure housing 6 llamas and 4 alpacas) has not had an excessive accumulation of excreta removed from piled entrances to 2 shelter structures in the enclosure. Numerous flies were accumulating in the fecal piles and swarming around the water trough."

CX 27 at 2-3, citing 9 C.F.R. § 3.131(c).

"The outdoor enclosure housing 6 llamas and 4 alpacas still has numerous flies accumulating around an excessive accumulation of excreta piled on the north and south side of the enclosure near the entrances to the 2 shelter structures and were swarming around the water trough.

The outdoor enclosure housing 8 reindeer still has numerous flies accumulating around the entrance to one of the 2 shelter structures and were swarming around the water trough. The reindeer were seen to twitch their skin and ears and stomp their feet to shake off that were flying around and landing on them."

CX 27 at 3, citing 9 C.F.R. § 3.131(d).

Contemporaneous photographs depict the conditions at the time of the inspection. CX27 at 11-

15.

A: CONCLUSIONS OF LAW AS TO DOCKET 13-0343

1. The Secretary of Agriculture has jurisdiction in this matter.
2. Respondent's request for hearing was timely filed in compliance with 7 C.F.R. § 1.141(a) and 9 § C.F.R. 2.11(b).
3. The material facts involved in this matter are not in dispute, and entry of summary judgment in favor of APHIS is appropriate.
4. Termination of Respondent's AWA license is appropriate and promotes the remedial nature of the AWA.

B: CONCLUSIONS OF LAW AS TO DOCKET 14-0021

The conclusions of law set forth in complainant's proposed conclusions of law filed in this proceeding on July 17, 2014 are fully supported by the record and are hereby ADOPTED as follows:

1. On or about June 9, 2009, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:
 - a. The enclosure housing five dogs had buried chain link fencing that has exposed sharp edges protruding into the enclosure. 9 C.F.R. § 3.6(a)(2)(I).
 - b. One Siberian Husky dog housed in a four-dog enclosure was tethered. 9 C.F.R. § 3.6(c)(4).

2. On or about December 11, 2009, respondent willfully violated the Regulations by failing to have a copy of required records available with respect to two reindeer transported from respondent's home facility to Longmont, Colorado. 9 C.F.R. § 2.75(b)(3).

3. On or about June 11, 2010, respondent willfully violated the Regulations by failing to make and maintain complete and accurate acquisition records with respect to eleven animals (two Siberian Husky mixed-breed dogs, one German Shepherd Dog, two lambs, three goats, one calf, and two rabbits). 9 C.F.R. § 2.75(a)(1)(dogs); 9 C.F.R. § 2.75(b)(1)(other animals).

4. On or about June 11, 2010, respondent willfully violated the Regulations by failing to have an attending veterinarian provide adequate veterinary care to his animals, and failing to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent injury and disease, and specifically, respondent failed to have the llamas' hooves trimmed. 9 C.F.R. §§ 2.40(a), (b)(2).

5. On or about June 11, 2010, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

- a. Excreta and food debris had not been removed from an enclosure housing two Siberian Husky mixed-breed dogs for one week and had not been removed from an enclosure housing four dogs (one Siberian Husky, two Siberian Husky mixed-breed dogs, and one German Shepherd Dogs) for two days. 9 C.F.R. § 3.11(a). Housing facilities for animals were not maintained in good repair to protect animals from injury (9 C.F.R. § 3.125(a)):
 - i. The enclosure housing one alpaca, seven sheep and two goats had broken wires with sharp ends protruding into the enclosure.
 - ii. The enclosure housing seven cattle had broken wires protruding from the water trough and fence.
 - iii. The enclosure housing ten llamas had bent wires with sharp ends attached to the cattle panel entrance gate.

- iv. The cattle panel fencing between the enclosures housing llama and mules/horses was constructed in such a manner that a newborn llama Criá was killed when it went under the panels into the adjacent enclosure housing horses and mules.

6. On or about October 4, 2010, respondent willfully violated the Regulations by failing to have an attending veterinarian provide adequate veterinary care to his animals, and failing to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent injury and disease, and specifically, respondent failed to have the hooves of five goats and three cattle trimmed. 9 C.F.R. §§ 2.40(a), (b)(2).

7. On or about October 4, 2010, respondent willfully violated the Regulations by failing to have an attending veterinarian provide adequate veterinary care to his animals, and failing to establish and maintain programs of adequate veterinary care that included daily observation of all animals to assess their health and well-being, and a mechanism of communication with the attending veterinarian, and specifically, respondent failed to observe that a dog (Forest) was thin and had bilateral swelling of both upper cheeks. 9 C.F.R. §§ 2.40(a), (b)(3).

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

- a. Respondent failed to keep water receptacles for four dogs clean and sanitized, and the two water buckets in the southwest kennel were not clean, and the water contained in them was green. 9 C.F.R. § 3.10.
- b. Housing facilities for thirty-eight animals were not maintained in good repair to protect animals from injury (9 C.F.R. § 3.125(a)):
 - i. The enclosure housing twenty goats and ten sheep had bent and broken wires with sharp ends protruding into the enclosure.
 - ii. The enclosure housing eight cattle had broken wires protruding into the enclosure near the water trough.
- c. Respondent failed to maintain an effective method to control insects, and the enclosure housing nine reindeer had an excessive amount of flies, and the

APHIS inspector observed flies crawling in the animals' feed. 9 C.F.R. § 3.131 (d).

9. On February 28, 2011, June 22, 2011, May 10, 2012, and September 5, 2012, respondent failed to have a responsible person available to accompany APHIS inspectors on an inspection of respondent's facilities and animals, in willful violation of the Regulations. 9 C.F.R. § 2.126.

10. On or about May 28, 2011, at Georgetown, Colorado, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, by tethering two dogs in lieu of housing them in a primary enclosure. 9 C.F.R. § 3.6(c)(4).

11. On or about May 31, 2011, respondent willfully violated the Regulations by failing to have an attending veterinarian provide adequate veterinary care to his animals, and failing to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent injury and disease, and specifically, respondent failed to have the hooves of three reindeer trimmed (and one of the reindeer was unable to walk normally), and failed to obtain veterinary care for two female reindeer that were in thin body condition. 9 C.F.R. §§ 2.40(a), (b)(2).

12. On or about June 28, 2011, respondents willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, by housing twenty-nine animals (fifteen goats, eight sheep, five alpacas, and one llama) in enclosures that were not constructed and maintained in good repair to protect animals from injury in that they had bent and broken wires with sharp ends protruding into the enclosure, and fencing that did not adequately contain these animals, and specifically, a llama born on June 25, 2011 was found with an open wound due to injury apparently sustained either from being punctured by wire or from attack by another animal or animals. 9 C.F.R. § 3.125(a).

13. On or about August 9, 2011, respondent willfully violated the Regulations by failing to have an attending veterinarian provide adequate veterinary care to his animals, and failing to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent injury and disease, and specifically, respondent failed to have the hooves of a male alpaca trimmed. 9 C.F.R. §§ 2.40(a), (b)(2).

14. On or about August 9, 2011, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, by tethering a Siberian Husky (Forest) in lieu of housing the dog in a primary enclosure. 9 C.F.R. § 3.6(c)(4).

15. On or about August 9, 2011, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

- a. Respondent housed forty-nine animals (fifteen goats, nine sheep, six alpacas, two cattle, ten goats, and seven llamas) in enclosures that were not constructed and maintained in good repair to protect animals from injury in that they had bent and broken wires with sharp ends protruding into the enclosure or structurally unsound fencing. 9 C.F.R. § 3.125(a).
- b. Respondent housed an adult male llama outdoors with a donkey in an enclosure that provided inadequate shade to protect the animals from direct sunlight, and inadequate shelter from inclement weather. 9 C.F.R. §§ 3.127(a), 3.127(b).

16. On or about September 26, 2011, January 5, 2012, April 5, 2012, and July 11, 2013, respondent willfully violated the Regulations by failing to have a copy of required records available for inspection. 9 C.F.R. §§ 2.75(b)(3), 2.126(a).

17. On or about September 26, 2011, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

- a. Respondent failed to provide sufficient potable water to three rabbits. 9 C.F.R. § 3.55.

- b. Respondent housed thirty-two animals (eight goats, twelve sheep, five alpacas, and seven llamas) in enclosures that had bent and broken wires with sharp ends protruding into the enclosure. 9 C.F.R. § 3.125(a).
- c. Respondent housed fourteen animals (three sheep and eleven goats) in an enclosure that contained a shelter with a splintered board exposing fiberglass insulation material. 9 C.F.R. § 3.125(a).
- d. Respondent housed twenty-five animals (eight goats, twelve sheep, and five alpacas) in an enclosure that contained shelter structures in disrepair (having rusted side panels with sharp edges, aluminum siding with holes and sharp edges, and a metal material with bent sharp edges). 9 C.F.R. § 3.125(a).

18. On or about January 5, 2012, respondent willfully violated the Regulations by failing to have an attending veterinarian provide adequate veterinary care to his animals, and failing to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent injury and disease. Respondent failed to provide veterinary medical care to two reindeer with visible medical problems, specifically, a male reindeer (84SPY9535) exhibiting a hunched back and stiff gait, and a female reindeer (84SPY9578) that was observed to be lying down and unable to rise without assistance, had shallow, rapid breathing, that increased when she was standing, had a hunched posture, was stiff-legged with swollen carpal joints, and had mucous streaming from her nose. 9 C.F.R. §§ 2.40(a), (b)(2).

19. On or about January 5, 2012, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

- a. Respondent housed twenty-five animals (eight goats, twelve sheep, and five alpacas) in an enclosure that had broken wires with sharp ends protruding into the enclosure. 9 C.F.R. § 3.125(a).
- b. Respondent housed fourteen animals (twelve goats and two sheep) in an enclosure that had broken wires with sharp ends protruding into the enclosure. 9 C.F.R. § 3.125(a).

- c. Respondent housed seven llamas in an enclosure that had bent and broken wires with sharp ends protruding into the enclosure. 9 C.F.R. § 3.125(a).
- d. Respondent failed to provide animals with accessible potable water. The only available water source for twenty-five animals (twelve sheep, eight goats, and five alpacas) was frozen solid and covered with excreta and soiled bedding, and the only available water source for twenty-one other animals (seven reindeer, twelve goats and two sheep) had excessive algae. 9 C.F.R. § 3.130.

20. On or about January 12, 2012, respondent willfully violated the Regulations, 9 C.F.R. § 2.100 (a), by failing to meet the minimum Standards, as follows:

- a. Respondent housed four animals (a llama, a Border Collie mixed-breed dog, and two Great Pyrenees dogs) in an outdoor enclosure with exposed ground wire along one side of the enclosure. 9 C.F.R. § 3.1 (a).
- b. Respondent housed two German Shepherd Dogs in an enclosure with inadequate shelter from the elements. The enclosure's shelter structures lacked a wind and rain break at the entrance. 9 C.F.R. § 3.4(b)(3).
- c. Respondent housed seven dogs (two Great Pyrenees dogs, one Border Collie mixed-breed dog, two German Shepherd Dogs, and two Siberian Husky/Malamute dogs) in three outdoor enclosures with inadequate shelter from the elements. The three enclosures did not contain any bedding in the shelter structures, when the ambient temperature at the time of inspection was 20° Fahrenheit, the wind was 15 m.p.h., and evening forecast was 8° Fahrenheit, with a wind chill forecasted to be as low as -7° Fahrenheit.
- d. Respondent housed two rabbits outside with inadequate shelter from cold weather, and specifically, the rabbits had a single nest box that could not accommodate both rabbits at the same time, and lacked any bedding. 9 C.F.R. § 3.52(c).

21. On or about February 1, 2012, respondent failed to make, keep, and maintain correct and accurate records of the acquisition and disposition of animals, as required, in willful violation of the Regulations, and specifically, respondent had no records available to document the acquisition of one reindeer on August 10, 2011, and four reindeer on November 13, 2011; and respondent's record of animals on hand represented that respondent had twenty-four goats, but only twenty-one goats were present. 9 C.F.R. § 2.75(b)

22. On or about February 1, 2012, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:
- a. Respondent housed five dogs (two Great Pyrenees dogs, one Border Collie mixed-breed dog, and two Siberian Husky/Malamute dogs) in two outdoor enclosures with inadequate shelter from the elements. Two of the shelters in these enclosures lacked bedding, when the ambient temperature at the time of inspection was approximately 40° Fahrenheit. 9 C.F.R. § 3.4(b)(4).
 - b. Respondent housed nineteen animals (four goats, ten sheep, and five alpacas) in an enclosure that had a shelter structure with an exposed screw and barbed wire with sharp ends protruding into the enclosure. 9 C.F.R. § 3.125(a).
 - c. Respondent housed fifteen goats in an enclosure that had a damaged fence, with broken wires with sharp ends protruding into the enclosure. 9 C.F.R. § 3.125(a).

23. On or about April 5, 2012, respondent willfully violated the Regulations by failing to have an attending veterinarian provide adequate veterinary care to his animals, and failing to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent injury and disease, and daily observation of all animals to assess their health and well-being, and a mechanism of communication with the attending veterinarian (9 C.F.R. §§ 2.40(a), (b)(2), (b)(3)):

- a. Respondent failed to provide veterinary medical care to a female reindeer (84SPY9578) that was observed to be lying down and reluctant to rise, and had heavy, rapid breathing, a hunched posture, thin body condition, and a tentative, slow gait. This animal was seized on April 5, 2012, by Clear Creek County Animal Control, and euthanized.
- b. Respondent failed to provide veterinary medical care to a female llama (Mama) that was observed to be extremely underweight. This animal was seized on April 5, 2012, by Clear Creek County Animal Control.
- c. Respondent failed to provide veterinary medical care to a dog (Forest) that was thin and had facial swelling on the right side of his cheek, had a thick, dark brown coating on his upper, right premolar, surrounded by swollen and reddened gums, and had no upper teeth in the left side of his mouth.

- d. Respondent failed to trim the hooves of four animals (two alpacas and two goats).

24. On or about April 5, 2012, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

- a. Respondent housed two German Shepherd Dogs in an enclosure with inadequate shelter from the elements. One of the enclosure's two shelter structures lacked a wind and rain break at the entrance, and the other had an inadequate, broken wind and rain break. 9 C.F.R. § 3.4(b)(3).
- b. Respondent housed two Siberian Husky/Malamute dogs in an outdoor enclosure with inadequate shelter from the elements. One of the two shelters in this enclosure lacked any bedding and the other had a small amount of straw, when the nighttime temperatures were below 50° Fahrenheit. 9 C.F.R. § 3.4(b)(4).
- c. Respondent housed seventeen animals (four goats, eight sheep, and five alpacas) in an enclosure that contained three shelter structures in disrepair (having rusted, bent, split, and buckled siding with sharp edges, bent metal siding exposing a metal screw and sharp edges, and bent metal siding exposing a sharp edge). 9 C.F.R. § 3.125(a).
- d. Respondent housed nine goats in an enclosure that had a wooden shelter structure with bent metal flashing with sharp ends protruding into the enclosure, and an exposed protruding nail head. 9 C.F.R. § 3.125(a).
- e. Respondent failed to provide animals with accessible potable water. The only available water source for seventeen animals (eight sheep, four goats, and five alpacas) was brown and had a layer of dirt in the bottom of the receptacle, and the only available water source for nine other animals (goats) had excessive algae and was contaminated with excreta. 9 C.F.R. § 3.130.
- f. Respondent failed to remove a broken wooden pallet from an enclosure housing seven llamas. 9 C.F.R. § 3.131(c).

25. On or about May 17, 2012, respondent willfully violated the Regulations by failing to make and maintain accurate and complete acquisition records with respect to thirteen animals (one Great Pyrenees dog, one Pomeranian dog, one Chihuahua dog, two Scottish Highland cattle, one llama, five goats, and two sheep). 9 C.F.R. § 2.75(a)(1)(dogs); 9 C.F.R. § 2.75(b)(1)(other animals).

26. On or about May 17, 2012, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

- a. Respondent housed two Siberian Husky/Malamute dogs in an outdoor enclosure with inadequate shelter from the elements. One of the two shelters in this enclosure lacked any bedding, when the nighttime temperatures were below 50° Fahrenheit. 9 C.F.R. § 3.4(b)(4).
- b. Respondent housed three dogs (two Great Pyrenees dogs and one Australian Shepherd dog) and one llama in an outdoor enclosure with inadequate shelter from the elements. Two of the four shelters in this enclosure had inadequate bedding, when the nighttime temperatures were below 50° Fahrenheit. 9 C.F.R. §§ 3.4(b)(4); 3.127(b).
- c. Respondent housed a German Shepherd mixed breed dog in an enclosure that had broken wires with sharp points near the bottom of the fencing. 9 C.F.R. § 3.6(a)(2)(i).
- d. Respondent housed an Australian Shepherd dog, two Great Pyrenees dogs, and a llama in an enclosure that had exposed chain-link ground wire with sharp points protruding into the enclosure. 9 C.F.R. §§ 3.6(a)(2)(i)(dogs), 3.125(a)(llama).
- e. Respondent housed two Flemish Giant rabbits in enclosures that had an excessive accumulation of excreta, hair, and debris. 9 C.F.R. § 3.56(a)(3).

27. On or about June 1, 2012, respondent willfully violated the Regulations by failing to have an attending veterinarian provide adequate veterinary care to his animals, and failing to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent injury and disease, and daily observation of all animals to assess their health and well-being, and a mechanism of communication with the attending veterinarian (9 C.F.R. §§ 2.40(a), (b)(2), (b)(3)):

- a. Respondent failed to provide veterinary medical care to a juvenile reindeer (84SPY9561) that was observed to have thick, yellow discharge from its left nostril.

- b. Respondent failed to provide veterinary medical care to a goat (Oscar) that was thin, limping, and had a swollen area and was non-weight-bearing on his right hind limb. Respondent reported that Oscar had been injured four days earlier, but respondent did not contact his attending veterinarian. This animal was seized on June 1, 2012, by Clear Creek County Animal Control.
- c. Respondent failed to provide veterinary medical care to a Siberian Husky/Alaskan Malamute dog (Forest) that was limping on his left hind limb, had difficulty ambulating, whose foot was painful when touched, bruised and swollen, had an opening in the skin that was reddened and had a red-yellow discharge. This animal was seized on June 1, 2012, by Clear Creek County Animal Control.
- d. Respondent failed to provide veterinary medical care to two female reindeer in visibly thin body condition. One of the reindeer had delivered a calf in early April and had complications thereafter, but had not been seen by a veterinarian.
- e. Respondent failed to provide veterinary medical care to two llamas, both of which had swelling on the right side of their faces near the jaw.
- f. Respondent failed to provide veterinary medical care to at least three Shetland sheep ewes that were in visibly thin body condition.

28. On or about June 1, 2012, respondent willfully violated the Regulations, 9 C.F.R.

§2.100 a), by failing to meet the minimum Standards, as follows:

- a. Respondent housed an Australian Shepherd dog, two Great Pyrenees dogs, and a llama in an enclosure that had exposed chain-link ground wire with sharp points protruding into the enclosure. 9 C.F.R. §§ 3.6(a)(2)(i)(dogs), 3.125(a)(llama).
- b. Respondent housed a German Shepherd mixed breed dog in an enclosure that had broken wires with sharp points near the bottom of the fencing. 9 C.F.R. § 3.6(a)(2)(i).
- c. Respondent housed ten goats in an enclosure that loose and broken boards on the ground. 9 C.F.R. § 3.125(a).
- d. Respondent failed to provide four animals (a goat (Oscar) and at least three Shetland sheep ewes), with food that was of sufficient quantity and nutritive value. 9 C.F.R. § 3.129(a).

- e. Respondent failed to keep food receptacles for thirty-eight animals (eleven reindeer, twelve goats, ten sheep, and five alpacas) clean and sanitary.
- f. Respondent failed to employ a sufficient number of adequately-trained employees. 9 C.F.R. § 3.132.

29. On or about February 7, 2013, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

- a. Respondent housed ten animals (six llamas and four alpacas) in an enclosure that had broken wires and sharp points along the fencing, and a shelter structure with loose barbed wire protruding into the enclosure. 9 C.F.R. § 3.125(a).
- b. Respondent housed two reindeer in an enclosure with sharp wires protruding from the fencing. 9 C.F.R. § 3.125(a).
- c. Respondent housed two sheep in an outdoor enclosure with inadequate shelter from the elements. Three shelters in this enclosure offered inadequate space. 9 C.F.R. § 3.127(b).
- d. Respondent failed to employ a sufficient number of adequately-trained employees. 9 C.F.R. § 3.132.

30. On May 15, 2013, respondent willfully violated the Act and the Regulations by failing to allow APHIS officials access to his facilities, animals, and records to conduct an inspection. 7 U.S.C. § 2146(a); 9 C.F.R. § 2.126.

31. On or about July 3, 2013, respondent willfully violated the Regulations by failing to have an attending veterinarian provide adequate veterinary care to his animals, and failing to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent injury and disease, and daily observation of all animals to assess their health and well-being, and a mechanism of communication with the attending veterinarian (9 C.F.R. §§ 2.40(a), (b)(2), (b)(3)):

- a. Respondent failed to provide veterinary medical care to a female reindeer

(#11) that was observed to be limping on her right front leg, and holding the leg up while at rest, and had not been seen by respondent's attending veterinarian.

Respondent failed to provide veterinary medical care to a heavily woolled female Angora goat that had not been sheared. The goat was observed to have a thick layer of wool, some of which was dragging on the ground and interfering with her ability to walk, and she was scratching along the fence line to loosen the wool from her body.

32. On July 3, 2013, respondent willfully violated the Act and the Regulations by failing to allow APHIS officials access to his facilities (respondent's personal residence), where respondent housed two dogs used for exhibition (a Siberian Husky mixed-breed and a German Shepherd Dog mixed-breed). Respondent refused to permit access for inspection of the two dogs. 7 U.S.C. § 2146(a); 9 C.F.R. § 2.126. On or about July 3, 2013, respondent willfully violated the Regulations, 9 C.F.R. § 2.100 (a), by failing to meet the minimum Standards, as follows:

- a. Respondent housed nine animals (three Scottish Highland cattle, two goats, three sheep and one llama) in enclosures that had structurally unsound fencing that posed a risk of injury to the animals contained therein. 9 C.F.R. § 3.125(a).
- b. Respondent housed three Scottish Highland cattle in an outdoor enclosure with inadequate shelter from the elements. The single shelter in this enclosure offered inadequate space for all three animals. 9 C.F.R. § 3.127(b).
- c. Respondent housed fifteen animals (two goats, three sheep, six llamas, and four alpacas) in two enclosures that had an excessive accumulation of excreta. 9 C.F.R. § 3.131(c).
- d. Respondent failed to maintain an effective method to control insects, and three enclosures housing twenty-four animals (seven llamas, eight reindeer, four alpacas, two goats, and three sheep) had an excessive amount of flies, and the APHIS inspector observed flies swarming around the animals' water troughs. 9 C.F.R. § 3.131(d).
- e. Respondent failed to employ a sufficient number of adequately-trained employees. 9 C.F.R. § 3.132.

34. On or about July 11, 2013, respondent willfully violated the Regulations by failing to have an attending veterinarian provide adequate veterinary care to his animals, and failing to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent injury and disease, and daily observation of all animals to assess their health and well-being, and a mechanism of communication with the attending veterinarian (9 C.F.R. §§2.40(a), (b)(2), (b)(3)):

- a. Respondent failed to provide veterinary medical care to a female reindeer (#11) that was observed to be limping on her right front leg, and holding the leg up while at rest, and had not been seen by respondent's attending veterinarian.
- b. Respondent failed to provide veterinary medical care to a heavily woolled female Angora goat that had not been sheared. The goat was observed to have a thick layer of wool, some of which was dragging on the ground and interfering with her ability to walk, and she was scratching along the fence line to loosen the wool from her body.

35. On or about July 11, 2013, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

- a. Respondent housed three Scottish Highland cattle in an outdoor enclosure with inadequate shelter from the elements. The single shelter in this enclosure offered inadequate space for all three animals. 9 C.F.R. § 3.127(b).
- b. Respondent housed ten animals (six llamas, and four alpacas) in an enclosure that had an excessive accumulation of excreta. 9 C.F.R. § 3.131(c).
- c. Respondent failed to maintain an effective method to control insects, and two enclosures housing eighteen animals (six llamas, eight reindeer, and four alpacas) had an excessive amount of flies, and the APHIS inspector observed flies swarming around the animals' water troughs. 9 C.F.R. § 3.131(d).
- d. Respondent failed to employ a sufficient number of adequately-trained employees. 9 C.F.R. § 3.132.

ORDER

This Decision and Order is based upon consideration of the record evidence; the pleadings, arguments, and explanations of the parties; and controlling law.

The Administrator has shown good cause to grant the relief requested in the “Order to Show Cause Why Animal Welfare Act License 84-C-0088 Should Not Be Terminated” filed against the Respondent on September 10, 2013 in Docket No. 13-0343 and termination of the Respondent’s AWA license is fully supported by the evidence of record. Wherefore, the relief requested therein is **GRANTED** and it is hereby **ORDERED** that Respondent William Brackston Lee, III, doing business as Laughing Valley Ranch, his agents and employees, successors and assigns, directly or indirectly, or through any corporate or other device or person, is hereby ordered to **CEASE AND DESIST** from violating the Act and the Regulations as set forth hereinabove and under Docket No. 13-0343, Respondent’s AWA license number 84-C-0088 is hereby **TERMINATED**, and Respondent is hereby disqualified from reapplying for an Animal Welfare Act license for a period of two (2) years from the effective date of this Decision.

Further, Respondent has committed numerous serious and willful violations of the AWA and the Regulations as established by the findings of fact and conclusions of law set forth hereinabove; accordingly, this Decision and Order also **GRANTS** the Motion for Summary Judgment filed on July 17, 2014 by APHIS in the enforcement proceeding initiated against Respondent in Docket 14-0021 and grants the relief requested therein. Wherefore, it is hereby **ORDERED** that Respondent William Brackston Lee, III, doing business as Laughing Valley Ranch, his agents and employees, successors and assigns, directly or indirectly, or through any corporate or other device or person, is hereby ordered to **CEASE AND DESIST** from violating

the Act and the Regulations as set forth hereinabove and under Docket No. 14-0021,
Respondent's AWA license number 84-C-0088 is hereby **REVOKED**.

This Decision and Order shall be final and effective without further proceedings thirty-five (35) days after service unless an appeal to the Judicial Officer is filed with the Hearing Clerk within thirty (30) days after service, pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145).

Copies of this Decision and Order shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.,
this 8th day of September, 2016



Bobbie J. McCartney ✓
Chief Administrative Law Judge

Hearing Clerk's Office
U.S. Department of Agriculture
South Building, Room 1031
1400 Independence Avenue, SW
Washington, D.C. 20250-9203
Tel: 202-720-4443
Fax: 202-720-9776