

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE)
PREVENTION OF CRUELTY TO)
ANIMALS, <i>et al.</i> ,)
)
Plaintiffs,)
)
v.)
)
RINGLING BROS. AND BARNUM &)
BAILEY CIRCUS, <i>et al.</i> ,)
)
Defendant.)
_____)

Case No. 1:03-cv-02006 (EGS/JMF)

DX 25

EXHIBIT 25

TO

REPLY IN SUPPORT OF DEFENDANT’S MOTION

FOR SUMMARY JUDGMENT



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240



Mr. Jerome S. Sowalsky
Feld Entertainment, Inc.
8607 Westwood Center Drive
Vienna, Virginia 22182

SEP 25 2006

Dear Mr. Sowalsky,

Thank you for your August 21, 2006 letter requesting clarification of the regulations pertaining to the captive management of the Asian elephant (*Elephas maximus*), a species listed as endangered under the U.S. Endangered Species Act.

The governing regulations for captive Asian elephants include the Captive-bred Wildlife Regulations at 50 CFR 17.21 (g), and the definitions of "enhance the propagation or survival" when used in reference to wildlife in captivity and "harass", found at 50 CFR 17.3. These definitions qualify exceptions to the take provisions of the Act at 50 CFR 17.21(c). For the purposes of these regulations the term "harass" in the definition of "take" when applied to captive wildlife does not include, among other things, generally-accepted animal husbandry practices that meet or exceed the minimum standards for facilities and care under the Animal Welfare Act.

The Captive-bred Wildlife Regulations recognize management differences between animals in the wild and those in a captive environment and provide for certain exemptions from the prohibitions of the Act. These exemptions apply only to registrants whose activities the U.S. Fish and Wildlife Service has determined meet the requirements of this section. As described in the preceding paragraph, Fish and Wildlife Service regulations define "harass," as applied to captive wildlife, to exclude generally-accepted normal husbandry practices that meet or exceed Animal Welfare Act standards. Each applicant for a Captive-Bred Wildlife registration must provide a copy of the there license or registration under the animal welfare regulations of the U.S. Department of Agriculture. In addition, each Captive-bred Wildlife registrant is authorized to deliver, receive, carry, transport or ship in interstate commerce for the purpose of enhancement of propagation or survival.

Our records indicate that Feld Entertainment Inc. (dba Ringling Bros. and Barnum and Bailey) has been an approved registrant for Asian elephants under the Captive-bred Wildlife Regulations since November 29, 1987, that was most recently renewed on February 14, 2006. The regulations require periodic renewal of registrations, annual reports, the maintenance of written records of activities conducted under the registration, and allow for reasonable access to Fish and Wildlife Service agents for inspection purposes. We have no information in our files that would

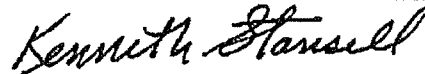
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IN AMERICA 

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prompt us to review Feld Entertainment Inc.'s eligibility for holding a Captive-Bred Wildlife registration for captive Asian elephants.

Please contact me if you have further questions or if we can provide any additional information.

Sincerely,



Kenneth Stansell
Acting Deputy Director