

**PLAINTIFFS' EXHIBIT 35**

To Plaintiffs' Opposition to Defendant Feld  
Entertainment, Inc.'s Motion for Leave to Amend  
Answers to Assert Additional Defense and Rico  
Counterclaim  
Civ. No. 03-2006 (EGS/JMF)



United States  
Department of  
Agriculture

Animal and  
Plant Health  
Inspection  
Service

DEC - 1 2005

1400 Independence  
Avenue, SW  
Washington, DC  
20250

The Honorable Barack Obama  
United States Senator  
Suite 1520  
607 East Adams Street  
Springfield, Illinois 62701

Dear Senator Obama:

Thank you for your letter of October 6, 2005, to Secretary Johanns on behalf of Ms. Debbie Leahy of People for the Ethical Treatment of Animals (PETA) regarding, among other issues, PETA's August 2004 request for inspection reports for Ringling Bros. and Barnum & Bailey Circus and other entities regulated by the Animal Welfare Act (AWA).

We appreciate this opportunity to address Ms. Leahy's concerns. To begin, we wish to apologize for the time it has taken to respond to PETA's Freedom of Information Act (FOIA) request, FOIA 04-757. Our Agency has been operating under a substantial backlog of FOIA requests. We have been working diligently to revise our policies and procedures in order to reduce the backlog and, accordingly, response times.

All incoming requests are processed in a multitrack system based on, among other things, the amount of work and time involved in processing the request. For example, one track addresses requests that require extensive review, analysis, and redaction of information. Another involves requests that, on cursory review, appear to require only routine analysis and standard redactions. Within each track, requests are processed on a "first-in, first-out" basis. We are pleased to inform you and Ms. Leahy that the request FOIA 04-757 was processed by our Freedom of Information and Privacy Act (FOIPA) staff and was mailed on October 28, 2005. The response contained any information that was releasable under the FOIA.

With regard to Ms. Leahy's specific concerns, the baby elephant who had surgery and was euthanized in Polk City, Florida, was Bertha, not Aree. On September 6, 2005, our officials reviewed documents concerning the surgery and euthanasia and found no issues of noncompliance. Bertha had a congenital digestive system problem that our officials concluded was addressed appropriately. Although PETA has alleged that the area used for surgery was inadequate, our officials found it to be appropriate.



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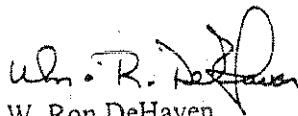
We recognize Ms. Leahy's concerns about new Ringling elephant arrivals in Williston, Florida, allegedly being kept in proximity to elephants positive for tuberculosis (TB). Our officials examined this matter in an inspection on September 7, 2005. They reviewed all records of animal movements in and out of Williston and found that the Ringling elephants are not kept in proximity to TB-positive elephants; the two sets of elephants are housed in separate compounds.

As for the alleged beating of an elephant by a Ringling Bros. trainer, our officials examined Gunther, the elephant thought to have been involved in the alleged incident. In this September 6, 2005, examination, our officials found no evidence of noncompliance, nor did they find Gunther to be lame at that time, though representatives of Feld Entertainment—the parent company of Ringling Bros.—said the elephant had previously been lame. If Ms. Leahy has additional information about this alleged incident, she should provide it to Dr. Betty Goldentyer, the Director of our Animal Care program's Eastern Region office. The address is Animal Care, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Suite 200, 920 Main Campus Drive, Raleigh, North Carolina 27606. The telephone number is (919) 855-7100.

Agency policy allows us to require necropsies under certain circumstances, such as unexplained deaths or deaths resulting from possible AWA violations. However, the death of the elephant Gildah—formerly part of the Feld-produced Siegfried and Roy show at the Mirage in Las Vegas—did not fall into this category, as she was an elderly elephant receiving good veterinary care. Our officials suggested to Feld representatives that a necropsy be conducted to further our knowledge of elephants, but Siegfried and Roy declined. ✓

With regard to the alleged use of expired drugs for TB, Ringling Bros. was cited for this violation during an inspection that took place on September 29, 2005. As Dr. Goldentyer indicated in her previous correspondence with Ms. Leahy, Ms. Leahy may obtain specific AWA inspection reports by submitting a FOIA request. In the meantime, we recognize Ms. Leahy's interest in having AWA inspection reports readily available under the FOIA. Our officials have been working diligently to redact and post frequently requested inspection reports (dating back to January 1, 2002) on the E-FOIA Web site at [www.aphis.usda.gov/ac/efoia.html](http://www.aphis.usda.gov/ac/efoia.html). We have faced a number of challenges posed by incompatible computer systems used for redactions and postings and the labor-intensive nature of the multi-step process. Despite these challenges, we were able to resume postings to our E-FOIA Web site in March 2005, and we continue to process and post additional records. Ms. Leahy may wish to visit the Web site to see the reports that are currently posted. We assure both you and Ms. Leahy that we will continue to process FOIA requests as expeditiously as possible. ✓

Sincerely,

A handwritten signature in black ink, appearing to read "W. Ron DeHaven". The signature is stylized with a large, looped initial "W" and a long, sweeping underline.

W. Ron DeHaven  
Administrator