

PLAINTIFFS' EXHIBIT U
To Plaintiffs' Opposition to Defendants' Motion
For Summary Judgment
Civ. No. 03-2006 (EGS/JMF)



United States
Department of
Agriculture

Animal and
Plant Health
Inspection
Service

Animal Care

Eastern Region
2568-A Riva Road
Suite 302
Annapolis, MD 21401-7400

Narrative

On February 9, 1999, Dr. Binkley and myself performed a routine reinspection of Feld Entertainment-Center For Elephant Conservation (52-C-0136) located in Polk City, FL.

There were two baby elephants in the large female night holding barn named "Angelica" & "Doc". These elephants were chained on opposite front-rear legs. One of the front legs was chained with link type chain around the front leg at the ankle area. The other end of this chain was anchored to a metal ring that was embedded into the concrete flooring. The opposite rear leg had a wide piece of cloth material around the area of the knee joint. The ends of this cloth were attached to a rope, which was secured to the metal railing of the enclosure behind the animals. The animals movements were restricted by this method of restraint. There was only some side to side swaying motions.

Visible scars were readily observable. Angelica's lesion appeared as a pink linear scar approximately 6" long x 1" wide. The left rear leg also had a scar directly below the cloth tie. These lesions appeared "greasy" and we were told by Mr. Williams that they were treated with an iodine-based ointment. This elephant also had 2 healing linear scars on the back of the right hind leg. Doc had a pink scar on the right rear mid leg area.

Dr. Binkley immediately upon observation of these scars asked Mr. Jim Williams and Gary Jacobson as to the origin of them, and why these elephants were tied up this way. Both men said that they were caused by rope burns due to the elephant's movements when tied, and that this type of restraint was done routinely during the separation process from their mothers. They indicated that these elephants have to be restraint this way during the separation process. They indicated that this was "industry standard", and a normal way of doing this.

After the walk through portion of the inspection we requested that we take photographs of these animals. Mr. Williams then became antagonistic and defensive. He questioned us as to why we wanted to take pictures. We said we had some concerns about these scars. He said he would have to get Mr. Jacobson to handle these animals, and he was not sure if Mr. Jacobson was still available. He also said he himself would not handle them so that we could take photographs. He also questioned the legality of us taking these photographs. As it was late in the day and the barn was dark, I thought that the only way to take a picture would be with the use of a flash. Mr. Williams said that he was not sure if he would allow a flash picture, as he was unsure of how the elephants would react to the flash.

Because it was late in the day for picture taking, Dr. Binkley decided to postponed the pictures until the following morning, February 10, 1999

When we arrived the next morning we were first met by Mr. Jim Williams, in the parking area, who again became antagonistic & defensive when we asked to take photographs of Angelica & Doc. He also inquired as to Dr. Binkley's expertise in the management of elephants. Shortly afterwards he just walked way.

We then met Drs. Lindsey & West. Dr. Lindsey also questioned our authority to take photos, and to conduct unannounced inspections. We explained the regulations to him. Dr. Lindsey also indicated that this process of separating the babies from their mother was a normal "*industry standard*". He further questioned us as to why we wanted to take these pictures, and asked us of our concerns about these elephants. Dr. Binkley explained that we had some concerns about these scars which were caused by the method of restraining these animals. She also asked Dr. Lindsey if he agreed that they were scars. He did agree to that description of what we observed. He still could not understand our concerns.

He then informed us that the ropes & chains were removed prior to our arrival. These elephants were also moved to another area in the female high holding barn for the pictures. All the ointments were removed, and the animals appeared "cleaned up"

During the exit interview Dr. Lindsey, Jim Williams, & Gary Jacobson again reiterated their views. They appeared surprised about our concerns, and that we were making a big deal about this. Mr. Williams & Jacobson became loud and again indicated that this was alright, and that we did not know anything about separation procedures. Mr. Williams & Jacobson shortly walked away, and Drs. Lindsey & West were the only ones present for the rest of the exit interview.

Dr. Binkley spoke to Dr. Goldentyer by telephone, and expressed our great concerns over this handling issue, and the scars which we observed. Dr. Binkley informed me that she was informed by Dr. Goldentyer that we would cite our concerns only as a notation on the inspection report, and would not cite it as a non compliance until a decision is reached by the Animal Care staff.

Dr. Lindsey was hesitant about signing the inspection report. He asked us if he must sign the report. We said that he did not have to sign the report, but if he did not, we would sent it to him by certified mail. Dr. West confirmed the regulations and accuracy of our statements. Dr. Lindsey then wanted to put a statement on the inspection report, which Dr. Binkley agreed to.

We informed Drs. Lindsey & West that we are going to send the photos that we took to headquarters staff for review, and that they would be notified after that review.

Summary for Case 2:

One month prior to the photographs taken, the two elephants in question were "weaned" from their mothers with the use of ropes to aid the separation. At the time of the photographs the abrasions were still very visible and had not healed completely.