

Plaintiffs' Exhibit 4

Motion To Compel Inspections
(Civ. No. 03-2006 (EGS/JMF))



Animal and Plant Health Inspection Service
Animal Care

RECEIVED FEB 22 2002

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INSPECTION REPORT

FEB 18 1999

0137

Feld Entertainment Inc.
Ringling Bros/Barnum & Bailey
8607 Westwood Center Drive
Vienna, VA 22182

Site 002
Center For Elephant Conservation
12850 Old Grade Road
Polk City, FL 33868

52-C-0136
2/9-10/99
9:45 AM
Reinspection

NARRATIVE

Current Inventory 27 Asian Elephants

CATEGORY I: Non-compliant item(s) previously identified that have been corrected.

Veterinary Care 2.40

A new Program of Veterinary Care has been completed.

CATEGORY III: Non-compliant item(s) identified this inspection

Records 2.75

The TB test results of Jenny, which recently came from the Red unit on December 1, 1998, are not available for review. All records shall be readily available for review by any APHIS official.

To be corrected by: February 16, 1999

NOTE:

Culture results on Vance indicated a positive TB status, early January 1999. As of this date, no treatment has been instituted. This animal is owned by [bb]

There were large visible lesions on the rear legs of both Doc and Angelica. When questioned as to the cause of these lesions, it was stated by [bb] & Mr. Gary Jacobson that these scars were caused by rope burns, resulting from the separation process from the mothers on January 6, 1999. Angelica's lesion appeared as a pink linear scar, approx 6" long x 1" wide on the right rear leg. The left rear leg also had an scar directly below the cloth leg tie. Both lesions appeared to have been treated with an iodine-based ointment (they were moist). Angelica also had two linear healing scars on the back of the right hind leg. Doc had a pink scar on the right rear mid-leg area.

All these lesions now appear to be healing scars. After removal of the medicated ointment on 2/10, they appeared much less pink.

This issue is of concern, and will be forwarded to Headquarters for review to determine if it is a violation of the AWA (per instructions by Dr. Betty Goldentyer). A formal determination will be made at a later date and forwarded to the facility.

GOVERNMENT EXHIBIT
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Page 1 of 1
APHIS FORM 7070 (MAR 95)

Prepared By: [Signature]
Title: Robert Brandes, D.V.M. Veterinary Medical Officer, USDA, APHIS, Animal Care

Date: 2/10/99

LARIS ID NO. 2002

Copy Received By: [Signature]
Title: [Signature]

Date: 2-10-99

Case note our concern over the continuation of these lesions WAF



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 postpone 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.



52-c-0137

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United States
Department of
Agriculture

Marketing and
Regulatory
Programs

Animal and
Plant Health
Inspection
Service

4700 River Road
Riverdale, MD 20737

May 11, 1999

Ms. Julie Strauss
Feld Entertainment, Inc.
Ringling Brothers and Barnum & Bailey Circus
8607 Westwood Center Dr.
Vienna, VA 22182

Dear Ms. Strauss:

We have completed our review of the lesions observed on two juvenile elephants, Doc and Angelica, during the inspection of the Center for Elephant Conservation in Polk City, Florida, on February 9, 1999 (copy enclosed). Without divulging the identity of the facility, we solicited several elephant experts to review the photographs and history of the situation. After careful consideration of the issue, we find that the handling of these two elephants was not in compliance with the Animal Welfare Act regulations, specifically Section 2.131(a)(1) "Handling of animals" (Title 9, Code of Federal Regulations). We believe there is sufficient evidence to confirm the handling of these animals caused unnecessary trauma, behavioral stress, physical harm and discomfort to these two elephants.

It was the opinion of several of the expert reviewers that there are other methods available to separate juvenile elephants from their mothers that would be less stressful and not cause lesions such as those observed on Doc and Angelica. While the method used may be traditional, it is incumbent on every licensee to review their handling practices to ensure they are compliant with Animal Welfare Act regulations and consistent with currently accepted standards. We appreciate that the management of Feld Entertainment is committed to full compliance with the Animal Welfare Act, and as such, feel certain that you will address this situation to ensure that it does not reoccur.

On a separate matter, we have received Dr. Murray Fowler's report of his evaluation of the lameness observed in another elephant by the name of Lechamee. Based on Dr. Fowler's evaluation, we will consider Lechamee fit for continued travel and performing as explained in his evaluation. We appreciate Ringling's response regarding this concern.



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PL 03947

Ms. Julie Strauss

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If you have any questions regarding this letter or the Animal Welfare Act, please feel free to contact Dr. Elizabeth Goldentyer in our Eastern Regional Office or me.

Sincerely,

W. RON DeHAVEN

W. Ron DeHaven
Deputy Administrator
Animal Care

cc:

K. Vail, OGC, Washington, DC
E. Goldentyer, AC-ER, Raleigh, NC
B. Kohn, AC, Riverdale, MD
J. Rogers, LPA, Riverdale, MD

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