

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

REC'D - USDA/OALJ/HCO  
2022 MAR 25 8:30 AM

In re:	)	
	)	
TRI-STATE ZOOLOGICAL PARK of	)	AWA Docket No. <a href="#">22-J-0040</a>
WESTERN MARYLAND, INC., a	)	
Maryland corporation; and ROBERT L.	)	AWA Docket No. <a href="#">22-J-0041</a>
CANDY, an individual,	)	
	)	
	)	ORDER TO SHOW CAUSE WHY
	)	ANIMAL WELFARE LICENSE
	)	51-C-0064 SHOULD NOT BE
Respondents.	)	TERMINATED

Pursuant to the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) (Act or AWA) and the regulations issued thereunder (9 C.F.R. § 1.1 et seq.) (Regulations), the Administrator of the Animal and Plant Health Inspection Service (APHIS) issues this Order to Show Cause<sup>1</sup> why AWA license 51-C-0064 should not be terminated, and alleging as follows:

JURISDICTIONAL ALLEGATIONS

1. Tri-State Zoological Park of Western Maryland, Inc. (“Tri-State”) is a Maryland corporation whose registered agent for service of process is respondent Robert L. Candy (whose mailing address is 12605 Moores Hollow Road, Cumberland, Maryland 21502). At all times mentioned herein, said respondent was operating as an exhibitor, as that term is used in the Act and the Regulations, and held Animal Welfare Act license 51-C- 0064.

2. Robert L. Candy is an individual whose mailing address is 12605 Moores Hollow Road, Cumberland, Maryland 21502. At all times mentioned herein, said respondent was the Chief Executive Officer and registered agent of respondent Tri-State, and operated as an

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<sup>1</sup>7 C.F.R. § 1.132 (“complaint” defined as, *inter alia*, an order to show cause).

exhibitor, as that term is used in the Act and the Regulations, or acted for or was employed by an exhibitor (respondent Tri-State), and his acts, omissions or failures within the scope of his employment or office are, pursuant to section 2139 of the Act (7 U.S.C. § 2139), deemed to be his own acts, omissions, or failures, as well as the acts, omissions, or failures of respondent Tri-State.

### BASIS FOR TERMINATION

3. The AWA is a remedial statute enacted to “insure that animals . . . are provided humane care and treatment.” Section 2.12 of the Regulations, through the bases enumerated in section 2.11, authorizes the Department to terminate any license issued to a person who:

“Has...been found to have violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect or welfare of 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)(7).

4. Respondents have been found to have violated the Endangered Species Act (ESA), a federal law pertaining to the ownership and welfare of animals. *PETA v. Tri-State Zoological Park of W. Maryland, Inc.*, 424 F. Supp. 3d 404 (D. Md. 2019), *aff'd*, 843 F. App'x 493 (4th Cir. 2021), *cert. denied sub nom, Tri State Zoological Park of W. Maryland, Inc. v. PETA*, 141 S. Ct. 2854 (2021). Specifically, the district court found that the respondents, *inter alia*, (1) maintained their animals in “fetid and dystopic conditions” where “filth and feces dominate;” (2) “never provided adequate veterinary care to its lemurs, tigers, and lions;” and (3) abdicated their responsibility to provide animals preventative or palliative care.” *Id.* at 413. The court declared that respondents violated the ESA by unlawfully taking nine federally protected animals, and permanently enjoined the respondents from owning or possessing any endangered or threatened species and terminated their ownership and possessory rights in the

animals at issue. *Id.* at 434.

5. Permitting respondent Tri-State to continue to hold an AWA license would be contrary to the Act's purpose of ensuring humane treatment of animals because respondents have been found to have harmed the animals in their custody. Respondents' actions constitute an abuse of the licensure privileges of the AWA. The Administrator has determined that the renewal or continuation of Tri-State's license would be contrary to the purposes of the Act, and that said license should be terminated.

WHEREFORE, APHIS requests that for the purpose of determining whether Animal Welfare Act license 51-C-0064 should be terminated in accordance with the Act and the Regulations issued under the Act, this Order to Show Cause shall be served upon the respondents, who shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this Order to Show Cause. APHIS requests that unless respondents fail to file an answer within the time allowed therefor, or file an answer admitting all the material allegations of this Order to Show Cause, that this proceeding be decided based upon the written record, or by summary judgment; or, alternatively, following an oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and that such order or orders be issued as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 24<sup>th</sup> day of March 2022

  
Administrator  
Animal and Plant Health Inspection Service

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