

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

REC'D - USDA/OALJ/HCO
2022 APR 6 8:30 AM

In re:)
)
Robert Sawmiller, an individual,) AWA Docket No. 21-J-0046
d/b/a Wildlife on Wheels,)
)
Respondent.)

DECISION AND ORDER WITHOUT HEARING BY REASON OF DEFAULT

Appearance:

Ciarra A. Toomey, Esq., with the Office of the General Counsel, United States Department of Agriculture, Washington, DC, for the Complainant, the Administrator of the Animal and Plant Health Inspection Service (“APHIS”)

Preliminary Statement

This is a proceeding under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131 *et seq.*) (“AWA”); the regulations promulgated thereunder (9 C.F.R. §§ 1.1 *et seq.*) (“Regulations”); and the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130 through 1.151) (“Rules of Practice”).

The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture (“Complainant”), initiated this proceeding by filing a complaint against Robert Sawmiller, an individual doing business as Wildlife on Wheels (“Respondent”), on July 8, 2021. Complainant alleged that Respondent willfully violated the AWA and Regulations and requested “that such order or orders be issued as are authorized by the Act and warranted under the circumstances, including revocation of AWA license 31-C-0221, and civil penalties as warranted under the circumstances.”¹

¹ Complaint at 21.

Respondent was duly served with a copy of the Complaint and did not file an answer within the twenty-day period as prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136).²

On December 7, 2021, I issued an order directing the parties to show cause (“Show Cause Order”), not later than twenty days after that date, why default should not be entered against Respondent.³

On December 15, 2021, Complainant filed a proposed decision and order (“Proposed Decision”) and motion for adoption of decision and order by reason of default (“Motion for Default”) pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139). Complainant now seeks a cease-and-desist order, an order revoking AWA license 31-C-0221, and an assessment of \$53,600 in civil penalties.⁴

Respondent failed to respond to the Show Cause Order and has not filed any objections to

² United States Postal Service records reflect that the Complaint was sent to Respondent via certified mail but returned to the Hearing Clerk’s Office marked “unclaimed.” In accordance with the Rules of Practice, the Hearing Clerk re-mailed the Complaint to Respondent via ordinary mail on August 20, 2021. 7 C.F.R. § 1.147(c); *see* 7 C.F.R. § 1.132. Respondent had twenty days from the date of service to file a response. 7 C.F.R. § 1.136(a). Weekends and federal holidays shall be included in the count; however, if the due date falls on a Saturday, Sunday, or federal holiday, the last day for timely filing shall be the following work day. 7 C.F.R. § 1.147(h). In this case, Respondent’s answer was due on or before September 9, 2021. Respondent has not filed an answer.

³ The Show Cause Order also directed: “Unless the parties have agreed to a consent decision, Complainant’s response shall be accompanied by: (1) a proposed decision and order and (2) a motion for adoption of that proposed decision and order in accordance with the provisions of 7 C.F.R. § 1.139.” Show Cause Order at 2.

⁴ Motion for Default at 2.

Complainant's Motion for Default or Proposed Decision.⁵

Failure to file a timely answer or failure to deny or otherwise respond to allegations in the Complaint shall be deemed, for purposes of this proceeding, an admission of the allegations in the Complaint, unless the parties have agreed to a consent decision.⁶ Other than a consent decision, the Rules of Practice do not provide for exceptions to the regulatory consequences of an unfiled answer where, as in the present case, no meritorious objections have been filed.⁷

As Respondent failed to answer the Complaint, and upon Complainant's motion for the issuance of a decision without hearing, this Decision and Order is issued without further procedure or hearing pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent Robert Sawmiller is an individual doing business as Wildlife on Wheels, whose mailing address is 16761 County Road 25a, Wapakoneta, OH 45895. At all times mentioned herein, Respondent was an exhibitor, as that term is defined in the Act and the Regulations.

⁵ United States Postal Service records reflect that Complainant's Motion for Default and Proposed Decision were sent to Respondent via certified mail but returned to the Hearing Clerk's Office marked "unclaimed." In accordance with the Rules of Practice, the Hearing Clerk re-mailed the Motion for Default and Proposed Decision to Respondent via ordinary mail on March 4, 2022. 7 C.F.R. § 1.147(c); *see* 7 C.F.R. § 1.132. Respondent had twenty days from the date of service to file objections thereto. 7 C.F.R. § 1.139. Weekends and federal holidays shall be included in the count; however, if the due date falls on a Saturday, Sunday, or federal holiday, the last day for timely filing shall be the following work day. 7 C.F.R. § 1.147(h). In this case, Respondent's objections were due on or before March 24, 2022. Respondent has not filed any objections.

⁶ 7 C.F.R. § 1.136(c).

⁷ *See supra* note 4 and accompanying text.

Respondent has held AWA license 31-C-0221 as an “individual” since 2011. Respondent previously held AWA license 31-C-0083 from 1995 to 2011.

2. On February 26, 2021, the APHIS Administrator suspended AWA license 31-C-0221 for twenty-one days, pursuant to section 2149(a) of the AWA (7 U.S.C. § 2149(a)).
3. At all times material herein, Respondent owned and operated a moderately-sized business transporting wild and exotic animals to event sites for exhibition. Respondent maintains three licensed sites. Site 001 is located at 16761 County Road 25a, Wapakoneta, Ohio 45895. Site 002 is located in Portland, Indiana. APHIS approved Site 002 as an additional site on Respondent’s AWA license on February 21, 2017. Further, Respondent has a travel site, which APHIS uses to conduct inspections when the Respondent is in travel status.
4. The gravity of the violations alleged in the Complaint is great. These violations include, *inter alia*: the repeated failure and/or refusal to provide access to APHIS inspectors for the purpose of conducting inspections to determine compliance with the AWA, Regulations, and standards issued under the AWA (9 C.F.R. Part 3) (“Standards”), and repeated failures to provide adequate housing and shelter; maintain proper required records; provide adequate veterinary care to animals; and handle animals carefully, resulting in harm and death to numerous animals.
5. Respondent has not shown good faith. On January 19, 2011 and January 10, 2012, APHIS issued Respondent official warnings for serious violations identified during inspections that took place from December 2010 to March 2011. Despite having been advised on multiple occasions by APHIS of noncompliance, Respondent continued to fail to comply with the

minimum requirements. Further, Respondent is consistently uncooperative with APHIS officials, employs delay tactics to avoid inspections and interviews, withholds records, and regularly refuses to answer APHIS's questions concerning the care, treatment, location, and ownership of the animals in his possession and subject to the AWA. For instance, during a routine inspection at Site 001 on August 15, 2018, Respondent claimed that two coyotes, an arctic fox, two red foxes, three bobcats, and a wolf hybrid pup located at the facility were his personal pets and exempt from inspection. On a subsequent inspection, APHIS inspectors discovered a disposition record, dated September 30, 2018, showing Respondent sold two bobcats despite previously telling inspectors they were not for regulated activity. Further, on or about December 4, 2019, Respondent transported five brown bears and two cougars from Cricket Hollow Zoo in Iowa to his facility in Ohio (Site 001). On March 4, 2020, during a routine inspection of Site 001, Respondent failed to disclose to APHIS officials that he maintained three of the five brown bears⁸ at his Ohio facility, thus evading inspection of those animals.

6. On March 13, 2020, the Ohio Department of Agriculture cited Respondent for illegal possession of dangerous wild animals without a valid permit or exemption and import violations and seized the three bear cubs hidden at Respondent's facility.

⁸ The two adult brown bears died during transport from Iowa to Ohio.

7. On February 19, 2021, APHIS confiscated seven bears and one cougar, pursuant to section 16(a) of the AWA (7 U.S.C. § 2146(a)) and section 2.129 of the Regulations (9 C.F.R. § 2.129), for Respondent's failure to provide adequate and necessary care to those animals.
8. By letter dated February 26, 2021, pursuant to 7 U.S.C. § 2149, APHIS suspended AWA license 31-C-0221 for twenty-one days. The suspension letter stated:

We are taking this action because we have reason to believe that you have willfully violated, inter alia, sections 2.40(b)(2), 2.75(b), 2.125, 2.126(a)(4), 2.131(b)(1), of the regulations issued under the AWA (9 C.F.R. Part 2)(Regulations), and failed to meet the minimum standards for animals (9 C.F.R. Part 3)(Standards), specifically 9 C.F.R. §§ 3.125(a), 3.125(c), 3.127(b), 3.127(d), 3.128, 3.129, and 3.130...It is a violation of the Regulations to buy, sell, transport, exhibit, or deliver for transportation, any "animal," as that term is defined in the Act and the Regulations, during the period of suspension. 9 C.F.R. § 2.10(c). This prohibition applies to you and to any employee, agent or other person acting on your behalf. Failure to comply with this prohibition may subject you to sanctions authorized by the Act. 7 U.S.C. § 2149.

Conclusions

1. The Secretary of Agriculture has jurisdiction in this matter.
2. On or about the following dates, Respondent Robert Sawmiller, an individual doing business as Wildlife on Wheels, willfully violated the veterinary care regulations (9 C.F.R. §§ 2.40 *et seq.*) as specified below:
 - a. September 6, 2016. Respondent failed to establish and maintain programs of adequate veterinary care that included the availability of appropriate facilities, personnel, equipment, and services, the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and adequate guidance to personnel involved in the care and use of animals, and specifically, Respondent's program of veterinary care

- was outdated, incomplete, and failed to ensure the facility has accurate guidance to provide adequate veterinary care to the animals. 9 C.F.R. §§ 2.40(a), 2.40(b)(2), 2.40(b)(3), 2.40(b)(4).
- b. March 4, 2020. Respondent failed to have an attending veterinarian provide adequate veterinary care to his animals and to establish and maintain programs of adequate veterinary care that included daily observation and communication with Respondent's attending veterinarian, and specifically, inspectors observed a female brown bear chewing on an old metal water receptacle with sharp, jagged edges, which cut her lower lip. 9 C.F.R. §§ 2.40(b)(2), 2.40(b)(3).
- c. March 4, 2020. Respondent failed to have an attending veterinarian provide adequate veterinary care to his animals and to establish and maintain programs of adequate veterinary care that included daily observation and communication with Respondent's attending veterinarian, and specifically, Respondent failed to communicate to the attending veterinarian a cougar whose incessant pacing caused the cougar to repeatedly brush his face against the wire panel of the enclosure, causing him to suffer from two open, reddened, and raw hairless patches on both sides of his face. 9 C.F.R. §§ 2.40(b)(2), 2.40(b)(3).
- d. February 17, 2021. Respondent failed to have an attending veterinarian provide adequate veterinary care to his animals and to establish and maintain programs of adequate veterinary care that included daily observation, and communication with Respondent's attending veterinarian, and specifically, Respondent failed to

communicate to the attending veterinarian concerning a dehydrated cougar with its ribs and vertebrae easily visible and an intermittent shaking each of its paws when ambulatory. 9 C.F.R. §§ 2.40(b)(2), 2.40(b)(3).

3. On or about October 16, 2019 and March 4, 2020, Respondent willfully violated the Regulations (9 C.F.R. § 2.50(c)) by failing to identify dogs as required. 9 C.F.R. § 2.50(c)(2).
4. On or about October 16, 2019, and March 4, 2020, Respondent willfully violated the Regulations by failing to maintain accurate and complete records of the acquisition and disposition of dogs (wolf hybrids), as required. 9 C.F.R. § 2.75(a).
5. On or about March 4, 2020, Respondent willfully violated the Regulations by failing to make, keep, and maintain records or forms that fully and correctly disclosed the acquisition of five bears that were transported and transferred from a facility in Iowa to his facility and the disposition of one coyote, one North American badger, and two bears. 9 C.F.R. § 2.75(b).
6. On or about February 17, 2021, Respondent willfully violated the Regulations by failing to make, keep, and maintain records or forms that fully and correctly disclosed the disposition and acquisition of animals. 9 C.F.R. § 2.75(b).
7. On or about March 9, 2021, Respondent willfully violated the Regulations by failing to make, keep, and maintain records or forms that fully and correctly disclosed the acquisition of one coyote and the disposition of three wolf hybrids, two Labrador retriever puppies, and one fox. 9 C.F.R. § 2.75(b).
8. On or about November 27, 2018, June 26, 2019, February 18, 2020, and February 19, 2020, Respondent willfully violated the Act and the Regulations, 7 U.S.C. § 2146(a), 9 C.F.R. §

2.126(b), by failing to permit APHIS inspectors to conduct an inspection of his records, and/or failing to have a responsible person available to provide APHIS inspectors with access to the facility's records at his Indiana facility (Site 002).

9. On or about February 17, 2021, Respondent failed to provide APHIS officials with access to the buildings and premises where animals are housed, preventing APHIS officials from determining compliance with the Act and Regulations, in willful violation of the Act and the Regulations (7 U.S.C. § 2146(a); 9 C.F.R. § 2.126(a)(4)). Specifically, Respondent refused APHIS entry into the bear cubs' housing facility at Site 002 to evaluate the housing, heating, and feeding of these animals.
10. On or about February 17, 2021, Respondent failed to provide to the APHIS inspectors information concerning the husbandry of the animals at the facility, and specifically, as to the bear cubs, Respondent refused to provide dietary and housing information, as well as an explanation as to why Respondent separated the cubs from each other. Respondent further refused to answer if bedding had been cleaned in any of the animal shelters at the facility since February 2, 2021; refused to answer other husbandry questions about feeding and cleaning; and refused APHIS officials permission to discuss the daily care for the cubs and the adult animals with their caretakers in willful violation of section 2.125 of the Regulations. 9 C.F.R. § 2.125.
11. On or about February 18, 2020, February 19, 2020, and February 16, 2021, Respondent willfully violated the Act and the Regulations, 7 U.S.C. § 2146(a), 9 C.F.R. § 2.126(b), by failing to permit APHIS inspectors to conduct an inspection of his records, and/or failing to

have a responsible person available to provide APHIS inspectors with access to the facility's records at his Ohio facility (Site 001).

12. On August 19, 2019, Respondent willfully violated the Regulations by exhibiting animals at locations (in Michigan, Ohio, and Wisconsin) other than Respondent's facilities, and housing those animals overnight at those locations without having timely submitted a complete and accurate itinerary to APHIS in willful violation of 9 C.F.R. § 2.126(c).
13. On October 16, 2019, Respondent willfully violated the Regulations by failing to timely submit an accurate and complete travel itinerary for an exhibit in Imlay City, MI in willful violation of 9 C.F.R. § 2.126(c).
14. On March 4, 2020, Respondent willfully violated the Regulations by failing to timely submit an accurate and complete travel itinerary for an exhibit in Des Moines, IA in willful violation of 9 C.F.R. § 2.126(c).
15. On or about the following dates, Respondent willfully violated the handling Regulations (9 C.F.R. § 2.131):
 - a. August 8, 2016. Respondent failed to demonstrate adequate experience, knowledge, or training to handle an adult cougar and two adult bears in willful violation of 9 C.F.R. § 2.131(a).
 - b. November 1, 2016. Respondent failed to demonstrate adequate experience knowledge, and training to handle large wild and/or exotic animals in willful violation of 9 C.F.R. § 2.131(a).

- c. March 4, 2020. Respondent failed to handle two bears as carefully as possible in a manner that does not cause trauma, behavioral stress, physical harm, or unnecessary discomfort, and specifically, two brown bears Respondent picked up from a facility in Iowa destined for Ohio died in transport. 9 C.F.R. § 2.131(b).
- d. March 4, 2020. Respondent failed to handle two cougars as carefully as possible in a manner that does not cause trauma, behavioral stress, physical harm, or unnecessary discomfort, and specifically, the cougars were housed in an approximately twelve foot by fifteen foot enclosure situated between an enclosure housing another cougar on one side and two brown bear cubs on the other side, with no visual separation between these animals. One cougar had two open, reddened, raw, hairless patches on either side of its face and was repeatedly pacing the sides of the enclosure with its face brushing up against the welded wire panel enclosure fencing. 9 C.F.R. § 2.131(b).
- e. January 26, 2021. Respondent failed to handle three adult brown bears, two juvenile brown bears, and one adult black bear as carefully as possible in a manner that does not cause trauma, behavioral stress, physical harm, or unnecessary discomfort, and specifically, the three adult brown bears were locked in metal barrels that measured approximately four feet wide by five to six feet long; the two juvenile brown bears were locked in together in a metal barrel that measured approximately four feet wide by five feet long; and the female black bear was locked in a metal barrel that

- measured approximately four feet wide by five to six feet long. Respondent did not provide food or water to these bears. 9 C.F.R. § 2.131(b).
- f. January 29, 2021. Respondent failed to handle three adult brown bears, and one adult black bear and at least two brown bear cubs as carefully as possible in a manner that does not cause trauma, behavioral stress, physical harm, or unnecessary discomfort, and specifically, the three adult brown bears were locked in metal barrels that measured approximately four feet wide by five to six feet long and the female black bear is locked in a metal barrel that measured approximately four feet wide by 5-6 feet long. The female brown bear had cubs locked in the barrel. These bears had no ability to move out of the barrels, no access to food and water and limited ability to self-regulate temperature during winter weather conditions. 9 C.F.R. § 2.131(b).
16. On or about October 16, 2019, Respondent acquired three coatimundis from an unlicensed dealer in willful violation of 9 C.F.R. § 2.132(d).
17. On or about August 8, 2016, Respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, and specifically, Respondent housed a bear, cougar, and black bear in facilities that were not enclosed by a perimeter fence of sufficient height and structural strength to protect the animals from injury, function as a secondary containment system, and prevent the animals from physical contact with persons or other animals outside the fence. 9 C.F.R. § 3.127(d).
18. On or about September 6, 2016, Respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards as follows:

- a. Respondent failed to provide potable water to a female wolf. 9 C.F.R. § 3.130.
 - b. Respondent housed a wolf in a facility that was not enclosed by a perimeter fence of sufficient height and structural strength to protect the wolf from injury, function as a secondary containment system, and prevent the wolf from physical contact with persons or other animals outside the fence. 9 C.F.R. § 3.127(d).
 - c. Respondent failed to keep the wolf's enclosure clean and in good repair, and specifically, the enclosure contained an accumulation of excreta and hair. 9 C.F.R. § 3.131(a).
 - d. Respondent failed to transport a wolf in a primary enclosure constructed in such a manner that the structural strength of the primary enclosure was sufficient to contain the animal and to withstand the normal rigors of transportation. 9 C.F.R. § 3.137(a).
19. On or about November 1, 2016, Respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, as follows:
- a. Respondent housed a brown bear in an enclosure with a water receptacle that was in disrepair, putting the bear at risk of dehydration or death. 9 C.F.R. § 3.125(a).
 - b. Respondent housed a ten-month-old brown bear in an enclosure that did not provide it with adequate shade. 9 C.F.R. § 3.127(a).
 - c. Respondent housed three adult bears (two black bears and one brown bear) in an enclosure that did not provide adequate shelter from the elements for all the animals. 9 C.F.R. § 3.127(b).

- d. Respondent housed three adult bears, one juvenile brown bear, and one cougar in enclosures that did not offer the animals sufficient space to make normal postural and social adjustments. 9 C.F.R. § 3.128.
 - e. Respondent failed to provide food that was wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health. 9 C.F.R. § 3.129(a).
20. On or about August 29, 2018, Respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, and specifically, Respondent housed two incompatible cougars in the same enclosure, resulting in the death of one cougar. 9 C.F.R. § 3.133.
21. On or about March 29, 2019, Respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, and specifically, Respondent failed to transport a black bear in a primary enclosure constructed in such a manner that the structural strength of the primary enclosure was sufficient to contain the animal and to withstand the normal rigors of transportation. 9 C.F.R. § 3.137(a).
22. On or about October 16, 2019, Respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, as follows:
- a. Respondent failed to provide potable water to a fox, coyote, and North American badger. 9 C.F.R. § 3.130.
 - b. Respondent failed to provide potable water to all of his dogs. 9 C.F.R. § 3.130.

- c. Respondent failed to clean and sanitize dog enclosures of excessive feces and old bones as required. 9 C.F.R. § 3.11(a).
- d. Respondent housed a coyote, fox, and North American badgers in facilities that were not enclosed by a perimeter fence of sufficient height and structural strength to protect these animals from injury, function as a secondary containment system, and prevent the animals from physical contact with persons or other animals outside the fence. 9 C.F.R. § 3.127(d).
- e. Respondent housed dogs in enclosures that contained shelters that did not protect the dogs from the elements and lacked adequate bedding to protect the dogs from the cold. 9 C.F.R. § 3.4(b).
- f. Respondent housed dogs in enclosures that were in disrepair, or otherwise failed to meet the minimum Standards. 9 C.F.R. § 3.6(a).
- g. Respondent failed to clean and sanitize food receptacles as required. 9 C.F.R. § 3.9.
- h. Respondent failed to keep the cougars' enclosure clean, and specifically, the enclosure contained an excessive amount of excreta. 9 C.F.R. § 3.131(a).
- i. Respondent housed adult bears in an enclosure with a rusty, elevated food container that was in disrepair, putting the bears at risk for serious injury. 9 C.F.R. § 3.125(a).

23. On or about March 4, 2020, Respondent willfully violated the Regulations, 9 C.F.R. §

2.100(a), by failing to meet the Standards, as follows:

- a. Respondent housed two brown bear cubs in an enclosure that had large holes under its fence, which could cause injury. 9 C.F.R. § 3.125(a).

- b. Respondent failed to provide potable water to a North American badger. 9 C.F.R. § 3.130.
- c. Respondent housed two wolf hybrids in an enclosure that was in disrepair, or otherwise failed to meet the minimum Standards. 9 C.F.R. § 3.6(a).
- d. Respondent housed hybrid dogs in an enclosure that contained a shelter that did not protect the dogs from the elements. 9 C.F.R. § 3.4(b).
- e. Respondent failed to develop, document, and follow an appropriate plan for exercise for dogs, as required. 9 C.F.R. § 3.8.
- f. Respondent failed to clean and sanitize hybrid dog enclosures of excessive feces and old bones as required. 9 C.F.R. § 3.11(a).
- g. Respondent housed a fox in an enclosure with a small shelter box that was in disrepair, leaving sharp edges of sheet metal exposed. 9 C.F.R. § 3.125(a).
- h. Respondent failed to provide a coyote with adequate shelter from the elements. 9 C.F.R. § 3.127(b).
- i. Respondent housed a coyote, fox, and North American badgers in facilities that were not enclosed by a perimeter fence of sufficient height and structural strength to protect the animals from injury, function as a secondary containment system, and prevent the animals from physical contact with persons or other animals outside the fence. 9 C.F.R. § 3.127(d).
- j. Respondent failed to maintain food receptacles clean and sanitary and accessible to all animals in the enclosure. 9 C.F.R. § 3.129(b).

- k. Respondent failed to clean and sanitize food receptacles for three hybrid dogs, as required. 9 C.F.R. § 3.9.
 - l. Respondent failed to provide potable water to two wolf hybrids. 9 C.F.R. § 3.10.
24. On or about January 26, 2021, Respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, as follows:
- a. Respondent housed three adult brown bears in enclosures that did not provide each of the animals with sufficient space to make normal postural and social adjustments with adequate freedom of movement. Specifically, three brown bears were locked in metal barrels that measured approximately four feet wide by five to six feet long. 9 C.F.R. § 3.128.
 - b. Respondent housed two juvenile brown bears in enclosures that did not provide each of the animals with sufficient space to make normal postural and social adjustments with adequate freedom of movement. Specifically, the two juvenile bears were locked in a metal barrel that measured approximately four feet wide by five feet long. 9 C.F.R. § 3.128.
 - c. Respondent housed one adult black bear in an enclosure that did not provide it with sufficient space to make normal postural and social adjustments with adequate freedom of movement. Specifically, the female black bear was locked in a metal barrel that measured approximately four feet wide by five to six feet in length. 9 C.F.R. § 3.128.

- d. Respondent housed a brown bear in an enclosure with jagged and sharp edges around its entry/exit, putting the bear at risk for serious injury. 9 C.F.R. § 3.125(a).
- e. Respondent failed to store the cougars' food supplies in facilities that adequately protects the food from deterioration, molding, or contamination by vermin. 9 C.F.R. § 3.125(c).
- f. Respondent housed three adult brown bears, two juvenile brown bears, and one adult black bear, in locked barrels that lacked adequate shelter from inclement weather. 9 C.F.R. § 3.127(b).
- g. Respondent housed two cougars in enclosures that lacked adequate shelter from inclement weather, specifically once enclosure had excessively wet bedding. 9 C.F.R. § 3.127(b).
- h. Respondent failed to provide food that was wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain the animals in good health. 9 C.F.R. § 3.129(a).
- i. Respondent failed to ensure that the bears and cougars had accessible potable water. 9 C.F.R. § 3.130.

25. On or about January 29, 2021, Respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, as follows:

- a. Respondent housed a black bear in an enclosure that did not provide adequate shelter from the elements. Specifically, the shelter was a metal barrel with a diameter of approximately four feet and a length of approximately five to six feet, which creates

an environment around the bear that is too cold for the current outdoor temperatures.

9 C.F.R. § 3.127(b).

- b. Respondent housed three adult brown bears and three bear cubs in an enclosure that did not provide adequate shelter from the elements. Specifically, the brown bears' shelters consisted of metal barrels with a diameter of approximately four feet and a length of approximately five to six feet, which creates an environment around the bears that is too cold for the current outdoor temperatures. 9 C.F.R. § 3.127(b).
- c. Respondent housed three adult brown bears and three bear cubs in enclosures that did not provide each of the animals with sufficient space to make normal postural and social adjustments with adequate freedom of movement. Specifically, three brown bears were locked in metal barrels that measured approximately four feet wide by five to six feet long. 9 C.F.R. § 3.128.
- d. Respondent housed a black bear in an enclosure that did not provide it with sufficient space to make normal postural and social adjustments with adequate freedom of movement. Specifically, the black bear was locked in a metal barrel that measured approximately four feet wide by five to six feet long. 9 C.F.R. § 3.128.
- e. Respondent failed to provide food that was wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health. 9 C.F.R. § 3.129(a).
- f. Respondent failed to provide potable water to two adult brown bears and two juvenile brown bears. 9 C.F.R. § 3.130.

26. On or about February 1, 2021, Respondent willfully violated the Regulations, 9 C.F.R. §

2.100(a), by failing to meet the Standards, as follows:

- a. Respondent housed two brown bear cubs in an enclosure that had large holes under its fence, which could cause injury. 9 C.F.R. § 3.125(a).
- b. Respondent housed three adult bears (two female brown bears and one male brown bear) in an enclosure that did not provide adequate shelter from the elements for all the animals. Specifically, the bears' shelter consisted of a metal barrel with a diameter of approximately five and a half feet and a length of approximately six feet, which would necessitate these animals lying on top of one another in order for all bears to access the shelter at the same time. 9 C.F.R. § 3.127(b).
- c. Respondent housed two adult black bears in an enclosure that did not provide adequate shelter from the elements for all the animals. Specifically, the shelter was a metal barrel with a diameter of approximately four feet and a length of approximately five to six feet, which would necessitate these animals lying on top of one another in order for all bears to access the shelter at the same time. 9 C.F.R. § 3.127(b).
- d. Respondent housed two juvenile brown bears in an enclosure that did not provide adequate shelter from the elements for all the animals. Specifically, the shelters provided consisted of one metal barrel and one square plastic tank, and only the metal barrel had bedding material. 9 C.F.R. § 3.127(b).

- e. Respondent failed to provide food that was wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health. 9 C.F.R. § 3.129(a).

27. On or about February 2, 2021, Respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, and specifically, Respondent housed seven bears in enclosures that did not provide adequate shelter from the elements for all the animals. 9 C.F.R. § 3.127(b).

28. On or about February 17, 2021, Respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, as follows:

- a. Respondent housed three brown bears in an enclosure that did not provide adequate shelter from the elements for all the animals. Specifically, the metal barrel shelters had a combination of wet and soiled bedding and wet snow-covered blankets, which did not provide appropriate insulation. 9 C.F.R. § 3.127(b).
- b. Respondent housed two black bears in an enclosure that did not provide adequate shelter from the elements for all the animals. Specifically, the metal barrel shelters had almost no bedding in much of the barrel and a large hole is visible in the bottom of the barrel and the male black bear's shelter has no bedding. The combination of wet and soiled bedding and wet snow-covered blankets do not provide appropriate insulation. 9 C.F.R. § 3.127(b).
- c. Respondent housed two juvenile brown bears in an enclosure that did not provide adequate shelter from the elements for all the animals. Specifically, the metal barrel

- and plastic tank shelters had a combination of wet and soiled bedding and wet snow-covered blankets, which did not provide appropriate insulation. 9 C.F.R. § 3.127(b).
- d. Respondent housed an adult cougar in facilities that were not enclosed by a perimeter fence of sufficient height and structural strength to protect the animals from injury, function as a secondary containment system, and prevent the animals from physical contact with persons or other animals outside the fence. 9 C.F.R. § 3.127(d).
 - e. Respondent failed to provide food that was wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health. 9 C.F.R. § 3.129(a).
 - f. Respondent failed to provide potable water to three adult brown bears, two juvenile brown bears, two adult black bears and three adult cougars. 9 C.F.R. § 3.130.
29. On or about February 18, 2021, Respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, as follows:
- a. Respondent housed three brown bears in an enclosure that did not provide adequate shelter from the elements for all the animals. Specifically, the metal barrel shelters had a combination of wet and soiled bedding and wet snow-covered blankets, which did not provide appropriate insulation. 9 C.F.R. § 3.127(b).
 - b. Respondent housed two black bears in an enclosure that did not provide adequate shelter from the elements for all the animals. Specifically, the metal barrel shelters had almost no bedding in much of the barrel and a large hole is visible in the bottom of the barrel and the male black bear's shelter has no bedding. The combination of

wet and soiled bedding and wet snow-covered blankets do not provide appropriate insulation. 9 C.F.R. § 3.127(b).

- c. Respondent housed two juvenile brown bears in an enclosure that did not provide adequate shelter from the elements for all the animals. Specifically, the metal barrel and plastic tank shelters had a combination of wet and soiled bedding and wet snow-covered blankets, which did not provide appropriate insulation. 9 C.F.R. § 3.127(b).
- d. Respondent housed a cougar in an enclosure that did not provide adequate shelter from the elements. Specifically, one plastic tank shelter had fresh bedding placed on top of the old wet soiled bedding, while the second shelter had only wet and soiled bedding. The remainder of the enclosure was covered under several inches of snow. 9 C.F.R. § 3.127(b).

30. On or about March 9, 2021, Respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, and specifically, Respondent failed to provide bear cubs with wholesome food to maintain them in good health, and prepared with consideration for their species, ages, and size. 9 C.F.R. § 3.129(a).

31. On or about April 15, 2021, Respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, as follows:

- a. Respondent failed to maintain a safe and effective program for the control of insects, ectoparasites, and avian and mammalian pests, which affected the health and well-being of two cougars. 9 C.F.R. § 3.131(d).

- b. Respondent failed to provide cougars with wholesome food to maintain them in good health, and prepared with consideration for their species, ages, and size. Specifically, Respondent fed adult cougars chicken leg quarters without adding dietary supplements. 9 C.F.R. § 3.129(a).

ORDER

1. Complainant's Motion for Default is GRANTED.
2. Respondent Robert Sawmiller, his agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the AWA and the Regulations and Standards.
3. AWA license number 31-C-0221 is revoked.
4. Respondent is assessed a civil penalty of \$53,600, which shall be payable to the Treasurer of the United States.

This Decision and Order shall be final and effective without further proceedings thirty-five (35) days after service, unless an appeal to the Judicial Officer is filed with the Hearing Clerk within thirty (30) days after service as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139 and 1.145).

Copies of this Decision and Order shall be served upon the parties and counsel by the Hearing Clerk.

Done at Washington, D.C.,
this 5th day of April 2022

CHANNING
STROTHER Digitally signed by
CHANNING STROTHER
Date: 2022.04.05
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Channing D. Strother
Chief Administrative Law Judge

Hearing Clerk's Office
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