



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

JUN 11 2009

Ms. Suzanne Roy
Program Director
In Defense of Animals
3010 Kerner Boulevard
San Rafael, California 94901

Dear Ms. Roy:

Thank you for your letter of May 6, 2009, to Secretary Vilsack regarding the welfare of elephants owned and exhibited by Mr. Wilbur Davenport.

We understand your concern for the health and well-being of these elephants. Please know that we share your concern about their welfare, and that we continue to work to enforce the minimum standards of humane animal care and treatment established under the Animal Welfare Act (AWA) as they apply to these animals. As you are aware, we have taken enforcement action against Mr. Davenport in the past and we assure you that we remain committed to enforcing the AWA to the fullest extent that the law allows. The U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) has closely followed the situation with regard to Tina, Queenie, and Jewel for some time, and continues to monitor their health and weight to ensure that their condition is adequate for travel.

With regard to your request that we confiscate these elephants, we wish to make clear that there are specific limitations to USDA's regulatory authority. For example, we do not have the authority to require that animals be retired from exhibition and placed in sanctuaries. Our authority to confiscate animals is limited to those situations in which an animal is suffering and action is not taken, or will not be taken, to alleviate the condition. To date, this has not been the case with Mr. Davenport's animals; therefore, we do not have the legal authority to confiscate them.

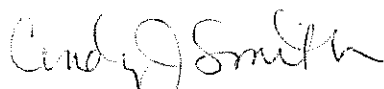
We require elephants to be tested annually for tuberculosis (TB). Tina, Queenie, and Jewel have never tested positive for TB. If an elephant tests positive for TB, APHIS strictly enforces travel and public contact restrictions.

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With regard to your concerns about the elephants' threat to public safety, APHIS has initiated a formal investigation into an incident that occurred when Mr. Davenport's elephants were exhibited by Murat Shrine Circus. Because this is an open case, it would be inappropriate for us to comment further at this time. While investigations often concern complex matters and take significant time to complete, we assure you that they are conducted and reviewed as expeditiously as possible. We will pursue enforcement action as appropriate based on the results of that investigation.

Again, we appreciate your interest in the welfare of these animals. We assure you that APHIS will continue to regularly monitor them and take appropriate action to address any failure to meet the AWA standards.

Sincerely,

A handwritten signature in cursive script that reads "Cindy J. Smith".

Cindy J. Smith
Acting Deputy Under Secretary
Marketing and Regulatory Programs