

November 2, 2009

Dr. Robert Gibbens, Regional Director  
USDA-APHIS  
2150 Centre Ave., Bldg. B  
Mail Stop #3W11  
Fort Collins, CO 80526

Dear Dr. Gibbens:

Please consider this a formal complaint concerning the San Antonio Zoo, Lic. No 74-C-0494. In Defense of Animals (IDA) requests an immediate investigation by APHIS into the zoo's elephant program and plans, which we believe violate the Animal Welfare Act. Further we believe that the USDA should prohibit the San Antonio Zoo from accepting any additional Asian elephants due to the fact that it is presently not in compliance with the Animal Welfare Act, and that it does not intend to provide permanent housing for this species but instead intends to complete a new exhibit for African elephants in the near future.

This complaint is prompted by our receipt last week of a [report by Zimbabwe Conservation Task Force](#) on the San Antonio Zoo, which raises many questions about the zoo's compliance with the Animal Welfare Act and accompanying regulations.

**I. San Antonio Zoo's elephant program plans violate safe handling regulations.**

Lucky, an Asian elephant, is the zoo's sole surviving elephant. She has lived without the company of another Asian elephant since 2004 and completely alone since the death of Alport, an African elephant, in November 2007. The zoo has resisted calls to send Lucky to a sanctuary, and has kept her in a cramped and outdated zoo exhibit which is inadequate to meet the needs of elephants. Instead of moving Lucky to an appropriate facility, the San Antonio Zoo plans to acquire another elephant to live with Lucky in that woefully inadequate zoo exhibit until it builds a new elephant exhibit. Since that exhibit will house African elephants, Lucky and her new companion will then be shipped out to destination unknown.

This plan was revealed in July 2008 by Zoo Director Steve McCusker, who was quoted in a [San Antonio Current article](#):

*“The plan is to get one or more Asian elephants, which is not as easy as it sounds,” McCusker says. “Then, when the time is right, move those animals out so we can get in there and do some total Phase 3 construction. When that’s completed, we’ll bring elephants back, but they’ll be Africans.”*

This plan is unacceptable from an elephant welfare perspective, and its implementation would, according to a landmark study published in the prestigious peer-reviewed journal *Science*, put the very lives of these elephants at risk:

In "[Compromised Survivorship in Zoo Elephants](#)," *Science* (December 2008), Clubb *et al.* found premature mortality in elephants born in zoos compared with elephants living in protected wild or semi-wild situations in range countries. Among the contributing factors: **"Inter-zoo transfers," which "reduced Asian survivorship, an effect which lasted 4 years post transfer."** Transfer of elephants from one facility to another causes stress, which can be a factor in early mortality rates.

Such an "Inter-zoo transfer" is exactly what Director McCusker plans for Lucky and any unfortunate Asian elephant the Zoo might obtain. This would constitute not only a clear violation of the Animal Welfare Act but also a shocking abrogation of the Zoo's responsibility to ensure the health, well-being and very survival of two members of a highly endangered species.

Director McCusker's plan also deliberately ignores peer-reviewed scientific evidence regarding mortality in zoos – and the increased risk of mortality caused by inter-zoo transfers which lasts 4 years – that the zoo industry attempted to refute in a rebuttal that was rejected outright by *Science*.

This plan would also appear to violate the following AWA regulations:

Sec. 2.131 Handling of animals (b)(1) Handling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort.

and (d)(1) Animals shall be exhibited only for periods of time and under conditions consistent with their good health and well-being.

.While there are clearly circumstances in which the potential for stress, when weighed against other factors, such as the ongoing stress of being a lone member of a social species, would not preclude a transfer, it is incomprehensible that the zoo would bring in another elephant to San Antonio *temporarily* with the plan of transferring her to another facility shortly thereafter, given the unconscionable amount of stress multiple moves would cause.

Given the zoo's long term plans to house only African elephants, the institution should be prohibited from acquiring any additional Asian elephants, and it should immediately relocate Lucky to a more appropriate facility that can offer her companionship with other elephants and a permanent home.

## **II. Zoo has violated AWA by keeping Lucky alone**

According to the Zimbabwe Conservation Task Force report, Lucky has been observed to regularly engage in stereotypic behaviors, which are indicative of stress. It has been noted that these behaviors have increased in the past several months and they have been observed to occur in circumstances that would appear to preclude the Zoo's explanation that this is anticipatory behavior. It has also been observed that Lucky is nonresponsive to outside stimuli while engaging in the stereotypic behaviors, which is a fairly recent development and very possibly a worsening of the condition.

This would constitute violations of the following AWA regulations:

Sec. 2.131 Handling of animals (b)(1) Handling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort.

and (d)(1) Animals shall be exhibited only for periods of time and under conditions consistent with their good health and well-being.

Although it is impossible, in the absence of available records (and the Zoo consistently refuses to release its records to the public) to speculate as to the specific cause of Lucky's stress, we would argue that the existence of the symptom of stereotypic behavior is a clear indication that she is not being handled "in a manner that does not cause...behavioral stress" or "under conditions consistent with (her) good health and well-being."

A possible contributing factor to this stress exhibited by Lucky is the fact that she has not been with another conspecific elephant since May of 2004 and not with another elephant at all for two years. Given what is known about elephants' social needs, this fact alone should be considered a violation of the Animal Welfare Act.

The Zoo director has said that Lucky "does not like" other elephants. He has also stated that he intends to obtain another elephant to keep Lucky company, as discussed above. The only way to avoid further ongoing noncompliance on this would be for Lucky to be transferred immediately to a facility with other elephants.

### **III. Exhibit Deficiencies and violations:**

The Zimbabwe Conservation Task Force, which has extensively monitored the San Antonio Zoo elephant exhibit, has observed numerous AWA violations, including:

#### **A. Public throwing food:**

On more than one occasion, members of the public have been observed throwing food and/or garbage into the elephant enclosure. This would be a violation of numerous sections of 9CFR Sec.1.1 *et seq.*, specifically:

Sec. 2.131(c)(1) Handling, requiring that the animal must be handled so there is minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between the animal and the general viewing public so as to assure the safety of animals and the public.

and (4) If public feeding of animals is allowed, the food must be provided by the animal facility and shall be appropriate to the type of animal and its nutritional needs and diet.

and Sec. 3.129 Feeding. (a) The food shall be wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health. The diet shall be prepared with consideration for the age, species, condition, size, and type of the animal.

B. Contaminated water:

Both drinking and swimming water are consistently observed to be filthy and contaminated with algae and various particulates (including the aforementioned food/garbage). This violates:

Sec. 3.130 Watering. If potable water is not accessible to the animals at all times, it must be provided as often as necessary for the health and comfort of the animal. ... All water receptacles shall be kept clean and sanitary.

and Sec. 3.131 Sanitation. (c) Housekeeping. Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart.

C. No shade available:

There is virtually no shade in a climate that frequently reaches extremes of heat and strong sunlight.

This is a clear violation of:

Sec. 2.131 Handling of animals. (b)(1) Handling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort.

and (e) When climatic conditions present a threat to an animal's health or well-being, appropriate measures must be taken to alleviate the impact of those conditions. An animal may never be subjected to any combination of temperature, humidity, and time that is detrimental to the animal's health or well-being, taking into consideration such factors as the animal's age, species, breed, overall health status, and acclimation.

and Sec. 3.127 Facilities, outdoor. (a) Shelter from sunlight. When sunlight is likely to cause overheating or discomfort of the animals, sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight.

**IV. Veterinary Care**

According to the Zimbabwe Conservation Task Force, Lucky's feet often are observed to display tenderness, redness, swelling, and cracks. She has on several occasions in the past year been observed to have unexplained wounds, on a foot or behind an ear, and a lump

on her leg. This would appear to be in violation of:

Sec. 2.40 Attending veterinarian and adequate veterinary care (dealers and exhibitors). (b) Each dealer or exhibitor shall establish and maintain programs of adequate veterinary care that include: ... (2) The use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and the availability of emergency, weekend, and holiday care.

## **V. Conclusion**

The San Antonio Zoo continues to house a lone Asian elephant in a grossly substandard and outdated exhibit that fails to meet the needs of elephants. The Zoo intends in the future to discontinue the display of Asian elephants and to construct a new exhibit to house African elephants.

Based on the deficiencies and violations detailed in this complaint, and due to the ongoing stress experienced by Lucky, as the zoo's sole elephant, IDA requests that the USDA initiate a prompt and thorough investigation of this facility. Further, we request that the USDA prohibit the San Antonio Zoo from acquiring any additional Asian elephants and that the agency do everything in its power to encourage the facility to transfer Lucky to a sanctuary, where she could enjoy a vastly improved environment, the company of others of her kind and the security of a permanent and high-quality home.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Suzanne Roy".

Suzanne Roy

Program Director

919-697-9389

Cc: Dr. Denise Sofranko, USDA APHIS/Animal Care Elephant Specialist