Obtained by Rise for Animals. Uploaded 07/04/2020

USDA
RECEIVED
MAR 09 2015
OALJ / HCO
WASH. DC

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	Docket No. 15-0086
	)	
THE UNIVERSITY OF LOUISIANA AT LAFAYETTE, a public educational institution doing business as NEW IBERIA RESEARCH CENTER,	)	
	)	
Respondent.	)	COMPLAINT

There is reason to believe that the respondent named herein has violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.)(AWA or Act), and the regulations and standards issued thereunder (9 C.F.R. § 1.1 et seq.)(Regulations and Standards). Therefore, the Administrator of the Animal and Plant Health Inspection Service (APHIS) issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. The University of Louisiana at Lafayette (ULL) is a public educational institution located in Lafayette, Louisiana. ULL is part of the University of Louisiana system, and is governed by the Board of Supervisors of the University of Louisiana system. At all relevant times, ULL operated New Iberia Research Center (NIRC), a research facility, as that term is defined in the Act and the Regulations, and was and is registered as a research facility under the Act. ULL holds AWA registration number 72-R-0007. ULL's agent for service of process is Joy Henriott, 1201 North Third Street, Suite 7-300, Baton Rouge, Louisiana 70802.

ALLEGATIONS REGARDING THE SIZE OF ULL'S BUSINESS, GRAVITY OF THE ALLEGED VIOLATIONS, GOOD FAITH AND COMPLIANCE HISTORY

2. ULL has approximately 16,000 students and 1,200 faculty and staff. ULL's 2013 endowment was approximately $123,000,000. In 2012, ULL reported to APHIS that it used or controlled 1,663 animals, and in 2014, ULL reported to APHIS that it used or controlled 1,781

Obtained by Rise for Animals. Uploaded 07/04/2020

animals. The alleged violations herein involve, *inter alia*, the death of a nonhuman primate, the injury (a fractured arm) to another nonhuman primate, and the escape of five other nonhuman primates. ULL attributed both the fracture and the escape to the nonhuman primates. On the CIRN website (http://nirc.louisiana.edu/about/admin.html), ULL states "Below is a list of the most current USDA inspection reports...," but none of the inspection reports documenting the violations alleged herein is posted on that website. ULL has entered into three stipulated settlements with APHIS. In February 2007, ULL paid a $2,062 civil penalty to resolve violations alleging mishandling and secure containment of nonhuman primates; specifically 55 rhesus macaques that escaped their unlocked primary enclosure. In May 2010, ULL paid a $18,000 civil penalty to resolve six alleged violations of the Regulations governing Institutional Animal Care and Use Committees and the handling of nonhuman primates, and compliance with the Standards for nonhuman primates with respect to shelter from the elements and the provision of environmental enhancement. In March 2013, ULL paid a $38,571 civil penalty to resolve violations alleging failure to provide adequate veterinary care and to securely contain nonhuman primates, resulting in the deaths of three rhesus macaques, and the injury of a chimpanzee.

ALLEGED VIOLATIONS

3. On or about September 13, 2012, respondent violated the Regulations (9 C.F.R. § 2.38(k)), by failing to meet the minimum facilities Standards for nonhuman primates (9 C.F.R. § 3.75(c)(3)), and specifically, respondent failed to clean perches in enclosures housing African Green Monkeys sufficiently to remove accumulated dirt and debris.

4. On or about January 21, 2013, respondent violated the Regulations (9 C.F.R. § 2.38(k)), by failing to meet the minimum facilities Standards for nonhuman primates (9 C.F.R. §§

Obtained by Rise for Animals. Uploaded 07/04/2020

3.75(a), 3.80(a)(2)(iii)), by failing to design and construct housing facilities for nonhuman primates so that they contain the animals securely, and prevent the opening of the enclosures by the nonhuman primate or primates therein, and specifically, respondent housed nonhuman primates in enclosures secured by "latch clips," whereupon five capuchin monkeys removed the clip from their enclosure door and left their enclosure.

5. On or about March 28, 2013, respondent violated the Regulations (9 C.F.R. §§ 2.38(f)(1), 2.32), by failing to handle nonhuman primates as carefully as possible in a manner that does not cause trauma, behavioral stress, physical harm, or unnecessary discomfort, and failing to ensure that all personnel involved in animal care are qualified in proper handling and care, and specifically, respondent's personnel attempted to move an adult female rhesus macaque housed with her infant, by operation of a squeeze restraint mechanism, whereupon the adult macaque resisted by holding her right arm against the cage and curling her body over her infant's, obstructing her limbs from view; nevertheless, respondent's personnel continued to operate the squeeze mechanism, which entrapped the macaque's arm between the side of the cage and the squeeze mechanism.

6. On or about March 28 until April 2, 2013, respondent violated the Regulations (9 C.F.R. § 2.33(a), (b)(2)), by failing to have its attending veterinarian provide adequate veterinary care to its animals, and to establish and maintain a program of adequate veterinary care that included the use of appropriate methods to diagnose injuries, and specifically, following the entrapment of an adult rhesus macaque's arm between a squeeze restraint mechanism and the side of the animal's enclosure, respondent did not physically examine the macaque to determine whether she had sustained any injury (which she had), and, despite observing that the macaque was not using her arm, did not take any steps to determine whether her arm was fractured for five days. On April 2, 2013,

Obtained by Rise for Animals. Uploaded 07/04/2020

respondent took x-rays of the macaque's arm, which revealed that she had in fact sustained a fracture.

7. On or about July 1 or 2, 2013, respondent violated the Regulations (9 C.F.R. §§ 2.38(f)(1), 2.38(k)), by failing to meet the minimum facilities Standards for nonhuman primates (9 C.F.R. §§ 3.75(a), 3.80(a)(2)(ii)), by failing to design and construct housing facilities for nonhuman primates so that they protect the animals therein from injury, and by failing to handle nonhuman primates as carefully as possible in a manner that does not cause trauma, behavioral stress, physical harm, or unnecessary discomfort, and specifically, respondent failed to adequately observe the macaque to ensure that she was safe in her enclosure, and housed a female rhesus macaque in an enclosure that was constructed in a manner that entrapped the macaque's left hand between the cage bar and the frame of a "shuttle box" in the enclosure, whereupon two of the macaque's fingers were fractured, the macaque was unable to free her hand and sustained lacerations, and the macaque died of a cerebral hemorrhage, which was determined to have likely resulted from the fractures, lacerations, and hematomas that she suffered.

8. On or about June 10, 2014, respondent's Institutional Animal Care and Use Committee approved proposed activities using animals (Protocol #2013-8707-069) that did not include written assurance by the principal investigator that the activities did not unnecessarily duplicate previous experiments, in violation of the Regulations (9 C.F.R. § 2.31(d)(1)(iii)).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact violated the Act and the regulations issued under the Act, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of

Obtained by Rise for Animals. Uploaded 07/04/2020

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 complaint. The Animal and Plant Health Inspection Service requests that unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for 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 9th day of March 2015

[redacted]
Administrator
Animal and Plant Health Inspection Service

COLLEEN A. CARROLL
Attorney for Complainant
Office of the General Counsel
United States Department of Agriculture
1400 Independence Ave., S.W.
Room 2343 South Building
Washington, D.C. 20250-1400
Telephone: (202) 720-6430; FAX: (202) 690-4299
e-mail: colleen.carroll@ogc.usda.gov