

Whitacre, Phillip

From: Moore, Jennifer M - APHIS <jennifer.m.moore@usda.gov>
Sent: Monday, June 24, 2019 11:05 AM
To: Whitacre, Phillip
Subject: RE: Request for info sharing

CAPT Whitacre:

Thank you for contacting our office with your request for information. Below are the responses to your inquiries:

Is the Moulton Chinchilla Ranch licensed by the USDA?

Yes. Daniel Moulton operates as a dealer and holds a class "B" U.S. Department of Agriculture license.

Is the Moulton Chinchilla Ranch being investigated by the USDA or other investigative authority?

I do not have any knowledge about any outside investigative activity into Daniel Moulton and Moulton Chinchilla Ranch. The USDA, Animal and Plant Health Inspection Services (APHIS), Investigative and Enforcement Services (IES) concluded our investigation into alleged violations of the Animal Welfare Act (AWA) by licensee Daniel Moulton and, based on the substantiated violations, requested that USDA Marketing, Regulatory, and Food Safety Programs, Office of the General Counsel (OGC) pursue administrative enforcement against Moulton. The case is currently with their office for action.

If there were conditions present / unresolved that inspectors felt constituted animal cruelty what is the USDA protocol?

USDA Animal Care, a program under USDA's APHIS, ensures the humane treatment of animals covered by the AWA. USDA APHIS Animal Care Inspectors conduct announced and unannounced inspections at regulated facilities. If an Inspector identifies noncompliances, the inspector documents the incidents via an Inspection Report (IR). The process allows Animal Care to refer noncompliances to IES for investigation. IES investigators follow the investigative process detailed below. Our process also allows, if there is reason to believe animal cruelty is present, a referral to local, state or federal agency for action as deemed appropriate.

Our investigative and enforcement processes are detailed on IES' website:

https://www.aphis.usda.gov/aphis/ourfocus/business-services/ies/ies_processes. The information is also in the body of this email below.

Investigative Process

When APHIS personnel discover a potential violation of an APHIS-administered law, they may request a formal investigation by IES.

- The investigation is a fact-finding mission, which may include collecting documents, taking photographs, and interviewing witnesses including the alleged violator.
- When an alleged violator is interviewed as part of the investigative process, IES provides the alleged violator with the opportunity to submit any evidence that may demonstrate they did not violate an APHIS-administered law.
- Once the investigation is complete, the investigator prepares a report of investigation (ROI), which summarizes the investigative findings.
- The investigator sends the ROI and all evidence collected to IES' enforcement staff for review.

Enforcement Process

- When the enforcement staff receives the ROI and accompanying evidence, a specialist reviews and analyzes this information to determine if the violation is substantiated by the evidence provided.
- If the evidence shows a violation occurred, the enforcement staff determines whether an enforcement action is appropriate.
- When preparing penalty recommendations, IES relies on the penalty provisions contained in the relevant APHIS-administered law. Each statute contains a unique provision, and IES applies penalty adjustments for aggravating and mitigating factors.
- Before carrying out any enforcement action, IES consults with the referring program.
- Enforcement actions may include an official warning, a voluntary settlement agreement, a referral to USDA's Office of the General Counsel (OGC) to institute an administrative proceeding or, in cases involving the most serious violations, a referral to the U.S. Department of Justice for civil or criminal action.
- When IES issues an official warning, it closes the investigative file involving the alleged violation.
- Pre-litigation settlement agreements. IES may offer to alleged violators pre-litigation settlement agreements. These may include monetary penalties or other sanctions, and generally contain terms that are more favorable to the alleged violator than what APHIS would seek through administrative, civil, or criminal action.
- If the alleged violator accepts the settlement agreement, IES closes its investigative file. If the alleged violator does not accept the settlement agreement, IES will refer the violation to OGC for administrative action.

IES may also refer a violation directly to OGC for administrative action without first offering a settlement agreement. The Rules of Practice Applicable to Proceedings Pending Before the Secretary of Agriculture govern all proceedings filed by OGC.

Very Respectfully,

Jennifer M. Moore, Branch Chief
 Animal Welfare Enforcement Branch
 Investigative and Enforcement Services
 USDA APHIS MRPBS
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 Riverdale, MD 20737

-----Original Message-----

From: Whitacre, Phillip [mailto:pwhitacre@co.fillmore.mn.us]
 Sent: Thursday, June 20, 2019 8:59 AM
 To: Moore, Jennifer M - APHIS <jennifer.m.moore@usda.gov>
 Subject: Request for info sharing

Jennifer,

As we discussed, here is my official request. Our agency was approached by Animal Folks of Minnesota. That organization compiled records consisting of redacted USDA inspection reports for a period of years ending in 2018. The subject of their report is the Moulton Chinchilla Ranch owned by Dan Moulton and located in Chatfield MN.

It is the opinion of Animal Folks that there have been conditions at this facility in violation of the animal cruelty statutes. I have reviewed there reports and I have the following questions:

Is the Moulton Chinchilla Ranch licensed by the USDA?

Is the Moulton Chinchilla Ranch being investigated by the USDA or other investigative authority?

If there were conditions present / unresolved that inspectors felt constituted animal cruelty what is the USDA protocol?

I appreciate any cooperation you can offer in this matter. If there is an open or recent investigation or if Mr. Moulton is meeting USDA guidelines then I do not know if there would be a reason for us to open an investigation. My office number is 507-765-3874, cell is 507-696-0292.

Sincerely,

Captain Phil Whitacre
Fillmore County Sheriff's Office
901 Houston Street
Preston, MN 55965
507-765-3874

Sent from my Verizon, Samsung Galaxy smartphone

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