

February 13, 2018

Joseph Hill, Chief
Horry County Police Department

Via email: hillj@horrycounty.org; crimetips@horrycounty.org

Re: Request to Investigate Kathleen Futrell dba Waccatee Zoological Farm for Apparent Violations of S.C. Code Ann. §§ 47-2-10 – 47-2-70

Dear Chief Hill:

I am writing on behalf of PETA to request that the Horry County Police Department investigate Kathleen Futrell's, dba Waccatee Zoological Farm (Waccatee), apparent unlawful possession of wild cats at 8500 Enterprise Rd, Myrtle Beach, SC 29588. South Carolina Code Section 47-2-30 prohibits the possession of large wild cats unless an entity qualifies for one of several enumerated exemptions or the grandfather clause. A key component to both the exemption and the grandfather clause is that the entity must be in compliance with the Animal Welfare Act (AWA) (7 U.S.C. §§ 2131-2159). S.C. Code Ann. §§ 47-20-20(A)(6), 47-2-30(B)(5).

As detailed in the attached appendix, Waccatee does not qualify for either because of ongoing violations of the AWA. Kathleen Futrell is in possession of at least four wild cats. These cats, along with other animals at Waccatee are consistently held in conditions that violate the AWA. For example, the United States Department of Agriculture (USDA) has cited Waccatee for:

- Failing to provide adequate shelter during below freezing temperatures to animals including a serval and cougars. Ex. A.
- Failing to provide adequate veterinary care to a cougar exhibiting abnormal, pacing behaviors. Ex. B.
- Failing to provide adequate veterinary care to a lion with incoordination in his rear legs, which can be a sign of nutritional deficiencies. Ex. B.

Please investigate this matter to ensure that Kathleen Futrell is not unlawfully possessing large wild cats in violation of South Carolina law. Please hold Kathleen Futrell fully accountable for any violations you discover during your investigation.

PETA stands ready to assist in any way able, including by referring you to independent species experts or captive wildlife veterinarians or securing placement for any confiscated animals and arranging for their transport to reputable sanctuaries, where they can receive the care that they need.

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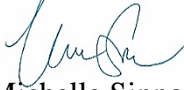
PETA FOUNDATION IS AN
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AFFILIATES:

- PETA U.S.
- PETA Asia
- PETA India
- PETA France
- PETA Australia
- PETA Germany
- PETA Netherlands
- PETA Foundation (U.K.)

Thank you for your attention to this important matter. I look forward to hearing from you.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Michelle Sinnott".

Michelle Sinnott
Counsel, Captive Animal Law Enforcement



Appendix:

South Carolina law prohibits any person¹ from possessing, keeping, purchasing, breeding, having custody of, or selling large wild cats, non-native bears, or great apes within the state. S.C. Code Ann § 47-2-30(A). Large wild cats are defined as “all lions, tigers, leopards, jaguars, cougars, cheetahs, snow leopards, and clouded leopards.” *Id.* § 47-2-20(2)(a). These prohibitions do not apply to “any person who possesses a valid United States Department of Agriculture Class A, B, or C license in good standing *and* is in compliance with the United States Department of Agriculture [AWA] regulations and standards as of January 1, 2018.” *Id.* § 47-2-20(A)(7)(emphasis added).²

There is also a grandfather provision for people or entities “in legal possession of a large wild cat . . . prior to January 1, 2018.” To take advantage of this grandfather exemption, an entity must comply with “the following conditions:”

1. register with the local animal control “on or before January 1, 2018,” which must include, among other things, “a complete inventory of each large wild cat,” and “a photograph or microchip number for each animal”;
2. submit “a contingency plan to protect first responders by providing for the quick and safe recapture of the large wild cat . . . in the event of escape”;
3. maintain relevant records and documents to establish possession before January 1, 2018;
4. comply “with the basic standards for housing exotic animals and protecting the public under the federal [AWA]. . . and shall allow the animal control authority access to the animal’s housing in order to ensure that the animal is properly cared for and poses no risk of unauthorized contact with the public”; and
5. comply with “any and all applicable federal, state, or local law, rule, regulation, ordinance, permit, or other permission regarding the ownership of large wild cats.”

Id. § 47-2-30(B).

Kathleen Futrell dba Waccatee Zoological Farm (Waccatee), is a roadside zoo operating in Myrtle Beach, South Carolina. Mrs. Futrell possesses at least four wild cats at her facility regulated by South Carolina Code Section 47-2-30. Ex. C (Oct. 24, 2018 USDA Inspection Report) (listing two lions, a tiger, and one cougar). While Waccatee does have an AWA license (AWA license number 56-C-0230), Mrs. Futrell was not in compliance with AWA regulations “as of January 1, 2018.”

In fact, Waccatee was cited with multiple AWA violations during an inspection on December 28, 2017, just three days before the statute went into effect. Ex. A (Dec. 28, 2017 USDA Inspection Report). During this inspection, Waccatee was cited for failing to provide numerous animals, including the serval and cougars, with adequate shelter to protect them from below freezing temperatures that “with wind chill[] [was] in the teens” in violation of 9 C.F.R. §

¹ “Person” is defined as “any individual, partnership, corporation, organization, trade, or professional association, firm, limited liability company, joint venture, association, trust, estate, or any other legal entity, and any employee, agent, or representative of the entity.” S.C. Code Ann § 47-2-10(3).

² The plain language of this provision broadly encompasses compliance with any and all “United States Department of Agriculture [AWA] regulations.” S.C. Code Ann § 47-2-30(A)(7). As a result, documented violations regarding species not covered by this statute, especially when those violations demonstrate a pattern of noncompliance with AWA regulations, are relevant.

3.127(b). *Id.* Over the past three months, PETA has consistently documented both the cougar and the serval engaging in abnormal pacing behaviors in small, barren enclosures. *See* Nov. 11, 2018 Video 1 (Cougar), Video 2 (Serval); Nov. 25, 2018 Video 3 (Cougar), Video 4 (Serval); Dec. 12, 2018 Video 5 (Cougar), Video 6 (Serval); Jan. 11, 2019 Video 7 (Cougar), Video 8 (Serval). Additionally, in November and December 2018 and January 2019, PETA documented enclosures with a shade structure, without sides, as the animals' only shelter, which provides no protection from the wind and cold temperatures. *See* Jan. 11, 2019 Video 9; Photo 1 (Dec. 12, 2018); Photos 2-3 (Nov. 11, 2018).

On March 28, 2018 Waccatee was cited for a repeat violation of the AWA for failing to meet the physical needs of two black bears who were observed “pac[ing] 10-12 steps the length of their enclosures” repeatedly for over ten minutes. Ex. D (March 28, 2018 USDA Inspection Report). The USDA explained that these abnormal pacing behaviors were indicative of psychological distress related to inadequate space and habitat. *Id.* These behaviors were initially cited on May 9, 2017 as needing veterinary evaluation and requiring modification to the bear's enclosures. Yet, almost a year later, nothing had changed to improve the facilities for these bears. Earlier this month, PETA documented that these bears are *still* in the same inadequate enclosures and engaging in the same abnormal pacing behavior. *See* Video 10 (Jan. 11, 2019); Video 11 (Jan. 11, 2019). In November and December of last year, PETA also documented the lions and tiger engaged in similar abnormal pacing behavior. *See* Nov. 11, 2018 Video 12 (Lion), Video 13 (Tiger); Nov. 25, 2018 Video 14 (Tiger); Dec. 12, 2018 Video 15 (Female Lion), Video 16 (Male Lion), Video 17 (Tiger).

During the March 2018 inspection, the USDA also cited Waccatee for failing to provide veterinary care to a male cynomolgus macaque who “was observed licking the tip of his tail which was bare of skin,” possibly from frost bite. Ex. D. Waccatee was also cited for failing to provide adequate environmental enrichment for several primates, including a male baboon repeatedly pacing and circling, a female baboon swaying, and a male cynomolgus who was exhibiting “frenzied self-attacking behaviors” in violation of 9 C.F.R. § 3.81(c)(2). The baboons' abnormal behavior was previously cited on May 9, 2017. Ex. B. For the past three months, PETA has consistently documented that these primates are still exhibiting abnormal behavior. *See* Nov. 11, 2018 Video 18, Video 19; Nov. 25, 2018 Video 20; Dec. 12, 2018 Video 21, Video 22, Video 23, Video 24; Jan. 11, 2019 Video 25, Video 26.

Waccatee has also been repeatedly cited for failing to provide veterinary care to animals, including to two squirrel monkeys with severe hair loss and redness covering their hind legs and tails, a goat and several aoudads with overgrown hooves, and a young lion with apparent incoordination in his hind legs. Ex. D; Ex. B.

Despite evidence that conditions have not changed since the December 2017 and March 2018 inspections, the USDA has recently stopped citing Waccatee for violations of the AWA. Ex. E (May 14, 2018 USDA Inspection Report); Ex. F (June 14, 2018 USDA Inspection Report); Ex. C. While these three inspection reports are contrary to weight of the evidence, this is not the first time the USDA has failed to enforce the AWA. In fact, the USDA has a long history of failing to take enforcement action even in egregious circumstances. A [2014 Report](#) by the USDA Office of Inspector General (OIG) found that in an effort to reduce a backlog of open investigations, the USDA closed at least 59 cases “involving grave (e.g., animal deaths) or repeat welfare violations” by issuing a warning or taking no action. A similar [2010 OIG Report](#) found

that “the agency was not aggressively pursuing enforcement actions against violators of AWA and that it assessed minimal monetary penalties against them.” A [2005 OIG Report](#) reached the same conclusion, finding that enforcement actions were often not pursued and that fines were often discounted to such an extent that violators considered the fines “a normal cost of conducting business rather than a deterrent for violating the law.”

Since 2000, Waccatee has been cited for violating the AWA in twenty-four of its past thirty-seven USDA inspections. Ex. G (2000-2018 USDA Inspection Reports). Waccatee has demonstrated a pattern of non-compliance with the AWA, and PETA has documented that this pattern continues. As a result, Waccatee does not qualify for the exemption in South Carolina Code Section 47-2-20(A)(7) for entities who possess an AWA license and are “in compliance with” the AWA.

Neither does Waccatee qualify for the grandfather provision in Section 47-2-30(B). As demonstrated above, Waccatee is not in compliance with the AWA. *See* S.C. Code Ann § 47-2-20(A)(7); *see also id.* § 47-2-30(B)(7)(requiring compliance with all applicable federal, state, or local law). Even if Waccatee was in compliance, it still would not be able to qualify under the grandfather provision because it is not in compliance with the other enumerated conditions in Section 47-2-30(B). For instance, public records requests demonstrate that Mrs. Futrell has not registered with local animal control “on or before January 1, 2018,” which was the deadline for registering to take advantage of the grandfather provision. *Id.* § 47-2-30(B)(1). Nor is there information to suggest that Mrs. Futrell has paid the requisite fee or submitted a contingency plan for the “quick and safe recapture of the large wild cat[s]” in her possession should they escape. *Id.* § 47-2-30(B)(1)-(2). Thus, in light of Waccatee’s AWA violations, failure to register with local animal control, and failure to submit a contingency plan, it is not entitled to maintain possession of its cats under the grandfather provision.

As demonstrated above, Kathleen Futrell is currently in possession of at least four large wild cats, despite the fact that she is ineligible to possess these animals under South Carolina law because she does not qualify for any of the enumerated exemptions or the grandfather clause. Thus, we urge Horry County Police Department to investigate this issue promptly and fully. If the four large wild cats at Waccatee are “being held in contravention” of the law, the Horry County Police Department “may confiscate” those animals. *Id.* § 47-2-40(A)(1). PETA stands ready to refer you to accredited wildlife sanctuaries that could provide transportation and appropriate permanent housing for these animals. In addition, any “person who violates” Section 47-2-30 “must be fined” up to \$1,000 for the first offense and \$5,000 for the second offense, or imprisoned. *Id.* § 47-2-70. If you identify any violations of the South Carolina law, Waccatee should be held accountable as required by law for those violations.