THIS IS A CORRECTED INSPECTION REPORT OF THE REPORT DATED AUGUST 1, 2007 WHICH WAS ATTEMPTED ON JULY 30, 2007, REMOVING THE CITATION OF SECTION 2.126 BECAUSE A CURRENT ITINERARY NOTING MR DAVENPORT'S TRAVEL STATUS WAS ON FILE AT THE REGIONAL OFFICE.
Inspection Report

MAXIMUS "TONS OF FUN" LLC

Customer ID: 33736
Certificate: 74-C-0762
Site: 001

P.O. BOX 273

LEGGETT, TX 77350

Type: ATTEMPTED INSPECTION
Date: Aug-01-2007

2.126 (a)
ACCESS AND INSPECTION OF RECORDS AND PROPERTY.
A RESPONSIBLE ADULT SHALL BE MADE AVAILABLE TO ACCOMPANYAPHIS OFFICIALS DURING THE INSPECTION PROCESS.

A RESPONSIBLE ADULT WAS NOT AVAILABLE TO ALLOW ACCESS AND INSPECTION AT 1:00 PM ON JULY 30, 2007.

Prepared By:  
JEANNE KJOS, D.V.M. USDA, APHIS, Animal Care
Title: VETERINARY MEDICAL OFFICER Inspector 4013
Date: Aug-01-2007

Received By: (b)(6),(b)(7)(c)
Title: 
Date: Aug-01-2007
2.4  REPEAT
NON-INTERFERENCE WITH APHIS OFFICIALS.

Sec. 2.4 Non-interference with APHIS officials.

A licensee or applicant for an initial license shall not interfere with, threaten, abuse (including verbally abuse), or harass any APHIS official in the course of carrying out his or her duties.

In anticipation of the arrival of the APHIS employees, a notice was placed in the online newspaper Polk County Today, appearing on August 19, 2009, requesting that persons opposed to the seizure of elephant Jewel show up to protest against it. A link on the website was provided to directly contact Mr. Davenport. On arrival at the premise for the site visit on the morning of August 20, 2009, it was necessary for Federal law enforcement officers to disperse numerous persons assembled by Mr. Davenport to photograph, harass, and impede APHIS personnel. The officers also found it necessary to cause the vehicles of the assembled parties to be removed. Additionally, Mr. Davenport was found to have placed or caused to be placed additional vehicles in a manner to directly obstruct access to and removal of elephants from the premise, as described below (Section 2.126).

This item was not in compliance on the previous site visit of August 15, 2009. The findings of August 20, 2009, reflect a continued and escalated pattern of behavior by the exhibitor intended to thwart the enforcement of the Animal Welfare Act and regulations. Exhibitors shall not interfere with Federal officers in the performance of their duties.

2.40  (b)  (3)  REPEAT  DIRECT NCI
ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

(b) Each dealer or exhibitor shall establish and maintain programs of veterinary care that include:

(3) Daily observation of all animals to assess their health and well-being; Provided, however, That daily observation of animals may be accomplished by someone other than the attending veterinarian; and Provided, further, That a mechanism of direct and frequent communication is required so that timely and accurate information on problems of

Prepared By:  
EARNEST H JOHNSON, D.V.M.  USDA, APHIS, Animal Care  
Title:  VETERINARY MEDICAL OFFICER Inspector  4048  
Date:  Aug-24-2009

Received By:  
Date:  Aug-24-2009

Title:
animal health, behavior, and well-being is conveyed to the attending veterinarian.

The licensee again failed to provide adequate veterinary care and the consequent relief of suffering to Jewel. This item was not in compliance on inspections dated April 4, 2009, June 7, 2009, August 15, 2009 and August 20, 2009.

2.126 (a) (1)
ACCESS AND INSPECTION OF RECORDS AND PROPERTY.

Sec. 2.126 Access and inspection of records and property.

(a) Each dealer, exhibitor, intermediate handler, or carrier, shall, during business hours, allow APHIS officials:
(1) To enter its place of business;

On arrival it was noted that several cars were lined up and down the road to the premise, and also that the entrances to the elephant barn and to Mr. Davenport's grandfathers home were each blocked by a vehicle. The double gates to the elephant barn were closed and locked, with the entrance blocked by a blue pickup truck. Wilbur Davenport's tractor (the tractor component of his tractor-trailer vehicle) was parked partially off the road near the storage barn and away from the main entrance, with another tractor and trailer parked adjacent to it. This effectively blocked the main entrance to prevent any vehicle of the same size (e.g., another tractor-trailer) from entering. To prevent further interference it was necessary to have the persons Mr. Davenport had assembled escorted off premise and asked to move their cars. Everyone moved their vehicles except Wilbur Davenport. Mr. Davenport was requested to move the vehicles blocking the main entrance of the elephant barn at least four times. Mr. Davenport reluctantly removed both vehicles, after claiming that his tractor trailer had airbag problems and needed to warm up. The truck was subsequently moved and the entrance was cleared.

Mr. Davenport's continued obstruction of APHIS officials necessitated the assistance of numerous armed law enforcement officials to gain access to his premise and to the elephants, in order to evaluate the animals and to load them for removal.

3.129 (a) REPEAT DIRECT NCI
FEEDING.

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. Animals shall be fed at least once a day except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices.

The licensee failed to provide a nutritionally adequate diet for Jewel. August 16, 2009 and August 20, 2009.

Prepared By:  
EARNEST H JOHNSON, D.V.M. USDA, APHIS, Animal Care  
Title: VETERINARY MEDICAL OFFICER Inspector 4048  
Date: Aug-24-2009

Received By:  
(b)(6),(b)(7)(c)  
Date: Aug-24-2009

Title:  
Page 2 of 2
2.4 REPEAT

NON-INTERFERENCE WITH APHIS OFFICIALS.

A licensee or applicant for an initial license shall not interfere with, threaten, abuse (including verbally abuse), or harass any APHIS official in the course of carrying out his or her duties.

The APHIS site visitors arrived, determined that definitive care had not been provided to elephant Jewel, and issued the Notice of Confiscation. The licensee made clear he would not cooperate by loading the animal, nor open the gate to allow the truck to back the trailer up to the barn, nor bring Jewel into the barn from the pasture to facilitate the handlers in loading the animal onto the trailer secured for the transport of the animal. He took the key for the lock on the one double gate and threw it into the woods. The licensee called numerous friends/associates and requested that they come to his premise and bring others with them, initiating an influx of persons to harass the site visitors and interfere with the confiscation. The area was thus made unsafe for the professional handlers engaged to remove the elephant. A Mr. M.L. came to the facility at the licensee’s request and commenced to berate the site visitors, threaten them with lawsuits, and ask for their names (for said lawsuits). The licensee repeatedly asserted that he was going to make a stand, refusing to comply despite multiple requests for cooperation. A person identified as the licensees sister attempted to distract and engage the site visitors, swearing at them when her attempts were ineffective. An employee drove a Bobcat vehicle back and forth without purpose other than causing noise and disruption. The licensees associates were heard to make references to killing.

2.40 (b) (3) REPEAT DIRECT NCI

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:

(3) Daily observation of all animals to assess their health and well-being; Provided, however, That daily observation of animals may be accomplished by someone other than the attending veterinarian; and Provided, further, That a mechanism of direct and frequent communication is required so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian.

The licensee again failed to provide adequate veterinary care and the
consequent relief of suffering to Jewel. This item was not in compliance on inspections dated April 4, 2009, June 7, 2009, and August 15, 2009.

3.129  (a)  REPEAT  DIRECT NCI

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. Animals shall be fed at least once a day except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices.

The licensee failed to provide a nutritionally adequate diet for Jewel. Aug-16-2009

This routine inspection was conducted with management, USDA VMOS, Earnest H. Johnson, Denise Sofranko, ACI, Charles Cureer, IES Investigator Kevin L. McLaughlin and IES Supervisor, Jackie Freeman.
2.4 NON-INTERFERENCE WITH APHIS OFFICIALS.

During the inspection, the licensee was angry, agitated, argumentative, and confrontational. The licensee directed his attention toward one of the APHIS officials, and constantly verbally abused that person. Further, he said that he wished that his elephants were not so well tamed, directly implying that he wished injury to that employee by his animals. He constantly raised his voice and made accusations, materially interfering with the APHIS employees present during the site visit. The licensee was asked at least ten times to direct his attention to the inspector who was performing the routine inspection.

Prior to this inspection, the licensee was contacted by the home inspector on multiple occasions over the span of approximately two weeks, for the purpose of arranging the weighing of the elephants. The licensee repeatedly stated on these occasions that his truck was broken down, and therefore he could not transport the animals to a weigh station.

Immediately prior to this inspection, the home inspector again contacted the licensee, and was informed by Mr. Davenport that his tractor trailer could be moved even though the truck was not repaired. I was informed that the compressor needed replacement, and that the truck could travel approximately 14 miles per hour but would not change to a higher gear. The licensee was informed that portable scales would be provided by the Commercial Vehicle Enforcement agency. The licensee agreed by telephone to accept their assistance in the weigh-ins of the elephants at 6:00 pm on August 11, 2009. However, during the inspection on that date, APHIS officials were informed that the tractor trailer would not be used due to damages that might occur if the truck was moved. Shortly thereafter, the licensee’s grandfather informed us that he had access to another truck which could be used to transport the animals for weigh-ins. Therefore, transportation was available for the weigh-ins of the three elephants weeks ago. It is evident that the licensee purposely and in bad faith avoided obtaining weights of the elephants, thereby interfering with the inspection process.

2.40 (b) (3) REPEAT DIRECT NCI 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:
(3). Daily observation of all animals to assess their health and well-being; Provided, however, That daily observation of animals may be accomplished by someone other than the attending veterinarian; and Provided, further, That a mechanism of direct and frequent communications is required so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian.

It was noted during the inspection that Jewel, one of the female elephants, is thin and gaunt, as indicated by the prominent dorsal spines of the vertebrae, the prominent hip bones, and the prominent facial bones of the head. Her head appeared sunken, due to loss of facial fat, and she presents as a grossly underweight elephant. The weight of the animal could not be determined during the inspection, as she constantly shifted her weight on the truck scale. It is evident that Jewel is severely undernourished, and it is the conclusion of theAPHIS veterinarians present that she is suffering in consequence.

According to the licensee’s consulting veterinarian, who is an elephant expert retained at the behest of Animal Care, the licensee was directed to provide the following information to complete the expert’s evaluation:

(1) the results of the second blood samples;
(2) the weights of all three elephants.

The consulting veterinarian informed the licensee that Jewel is affected by a serious medical condition, and that a dental procedure is needed to allow her to eat normally. The licensee failed to provide the requested information to the consulting veterinarian, and informed the APHIS representatives that the veterinary exam performed about one month ago was all he planned to do for this elephant. He has thus failed to provide adequate veterinary care and the consequent relief of suffering to Jewel.

Elephants do not digest food efficiently, and rely upon their dentition to break up the food and to adequately maintain or increase their weight. The lack of dental care and an appropriate diet has resulted in emaciation, which may result in the death of the elephant. Failure to provide veterinary care is a repeated NCI as cited in the inspection reports dated April 4, 2009 and June 7, 2009.

3.129 REPEAT DIRECT NCI

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. Animals shall be fed at least once a day except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices.

The licensee stated he was feeding Jewel 2 cups of a calf milk replacer every day, 15 pounds of a sweet feed twice a day, 8 pounds of a high-fat cattle feed per day, and 4 oz of a liquid equine fat supplement (Liqui-Fat Plus) per day. He then said the elephants all get a free choice of hay and outdated bread.

Prepared By: EARNEST H JOHNSON, D.V.M. USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER Inspector 4048

Received By: (b)(6), (b)(7)(C)

Title: Date: Feb-23-2010

Date: Feb-23-2010
Inspection Report

It is noted that the quantity of calf milk replacer fed is inconsequential to an animal of the size of an adult elephant. Similarly, the daily quantity of Liqui-Fat Plus fed is appropriate for a mare; performance horses are fed 12 oz. per day of this product. The high-fat cattle feed does provide a dense caloric source. However, even in the aggregate these supplement products are not fed in sufficient quantity to meet the nutritional needs of an undernourished elephant. The nutrients in the sweet feed and the hay are in large part inaccessible to an animal which cannot effectively chew her food. The as-fed diet has not been reviewed and approved by a veterinarian.

The licensee is informed that relief and adequate care for elephant Jewel must be provided by correction of the noncompliances documented in this report by 9:00 am Friday, August 14.

The licensee is instructed that Jewel may not be removed from the premise without prior written approval from USDA, APHIS, Animal Care.

This routine inspection was conducted with management and USDA VMOS, Earnest H. Johnson, D.V.M., Laurie Gage, D.V.M., Denise Sofranko, D.V.M. (Field Specialist-Elephants) and IES Investigator, Kevin L. McLaughlin.

THIS IS A CORRECTED INSPECTION REPORT FOR THE REPORT COMPLETED ON AUGUST 11, 2009.

Prepared By:

EARNEST H JOHNSON, D.V.M. USDA, APHIS, Animal Care
Title: VETERINARY MEDICAL OFFICER Inspector 4048

Received By: (b)(6), (b)(7)(c)
Title: 

Date: Feb-23-2010

Date: Feb-23-2010
2.4 NON-INTERFERENCE WITH APHIS OFFICIALS.

A licensee or applicant for an initial license shall not interfere with, threaten, abuse (including verbally abuse), or harass any APHIS official in the course of carrying out his or her duties.

During the inspection, the licensee was angry, agitated, argumentative, and confrontational. The licensee directed his attention toward one of the APHIS officials and constantly verbally abused that person. Further, he said that he wished that his elephants were not so well tamed, directly implying that he wished injury to that employee by his animals. He constantly raised his voice and made accusations, materially interfering with the APHIS employees present during the site visit. The licensee was asked at least ten times to direct his attention to the inspector who was performing the routine inspection.

Prior to this inspection, the licensee was contacted by the home inspector on multiple occasions over the span of approximately two weeks, for the purpose of arranging the weighing of the elephants. The licensee repeatedly stated on these occasions that his truck was broken down, and therefore he could not transport the animals to a weigh station.

Immediately prior to this inspection, the home inspector again contacted the licensee, and was informed by Mr. Davenport that his tractor trailer could be moved even though the truck was not repaired. I was informed that the compressor needed replacement, and that the truck could travel approximately 14 miles per hour but would not change to a higher gear. The licensee was informed that portable scales would be provided by the Commercial Vehicle Enforcement agency. The licensee agreed by telephone to accept their assistance in the weigh-Ins of the elephants at 6:00 pm on August 11, 2009. However, during the inspection on that date, APHIS officials were informed that the tractor trailer would not be used due to damages that might occur if the truck was moved. Shortly thereafter, the licensee’s grandfather informed us that he had access to another truck which could be used to transport the animals for weigh-ins. Therefore, transportation was available for the weigh-ins of the three elephants weeks ago. It is evident that the licensee purposefully and in bad faith avoided obtaining weights of the elephants, thereby interfering with the inspection process.
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:

(3). Daily observation of all animals to assess their health and well-being; Provided, however, That daily observation of animals may be accomplished by someone other than the attending veterinarian; and Provided, further, That a mechanism of direct and frequent communications is required so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian.

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According to the licensee?s consulting veterinarian, who is an elephant expert retained at the behest of Animal Care, the licensee was directed to provide the following information to complete the expert?s evaluation: (1) the results of the second blood samples and (2) the weights of all three elephants.

The consulting veterinarian informed the licensee that Jewel is affected by a serious medical condition, and that a dental procedure is needed to allow her to eat normally. The licensee failed to provide the requested information to the consulting veterinarian, and informed the APHIS representatives that the veterinary exam performed about one month ago was all he planned to do for this elephant. He has thus failed to provide adequate veterinary care and the consequent relief of suffering to Jewel.

Elephants do not digest food efficiently, and rely upon their dentition to break up the food and to adequately maintain or increase their weight. The lack of dental care and an appropriate diet has resulted in emaciation, which may result in the death of the elephant. Failure to provide veterinary care is a repeated NCI as cited in the inspection reports dated April 4, 2009 and June 7, 2009.

FEEDING.

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. Animals shall be fed at least once a day except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices.

The licensee stated he was feeding Jewel 2 cups of a calf milk replacer every day, 15 pounds of a sweet feed twice a day, 8 pounds of a high-fat cattle feed per day, and 4 oz of a liquid equine fat supplement (Liqui-Fat Plus) per day. He then said the elephants all get ?free choice? hay and outdated bread.

It is noted that the quantity of calf milk replacer fed is inconsequential to an animal of the size of an adult elephant. Similarly, the daily quantity of Liqui-Fat Plus fed is appropriate for a mare; performance horses are fed 12 oz. per day of this product. The high-fat cattle feed does provide a dense caloric source. However, even in the aggregate these supplement products are not fed in sufficient quantity to meet the nutritional needs of an undernourished elephant. The nutrients in the sweet feed and the hay are in large part inaccessible to an animal which cannot effectively chew her food. The as-fed diet has not been reviewed and approved by a veterinarian.

The licensee is informed that relief and adequate care for elephant Jewel must be provided by correction of the noncompliances documented in this report by 9:00 am Friday, August 14.

The licensee is instructed that Jewel may not be removed from the premise without prior written approval from USDA, APHIS, Animal Care.

This routine inspection was conducted with management and USDA VMOS, Earnest H. Johnson D.V.M., Laurie Gage D.V.M., Denise Sofranko D.V.M. (Field Specialist-Elephants) and IES Investigator, Kevin L. McLaughlin.

Prepared By: EARNEST H JOHNSON, D.V.M. USDA, APHIS, Animal Care
Title: VETERINARY MEDICAL OFFICER Inspector 4048

Received By: (b)(6),(b)(7)(c)
Title: 

Date: Aug-13-2009
2.126 (b) ACCESS AND INSPECTION OF RECORDS AND PROPERTY.

A responsible adult shall be made available to accompany APHIS officials during the inspection process.

A responsible adult was not available to allow and accompany inspection at 0930 on September 11, 2008. Please contact me asap of your schedule of what date of return to your home site facility.

Thanks.
**3.127 (c) FACILITIES, OUTDOOR.**

A suitable method shall be provided to rapidly eliminate excess water. The method of drainage shall comply with applicable Federal, State, and local laws and regulations relating to pollution control or the protection of the environment.

The corral used by the elephants is saturated with water and contained areas of large pot holes. A suitable method shall be provided to rapidly eliminate excess water. Land grading and the additional of dirt may assist in the prevention of water retention.

**TO BE CORRECTED BY: 08/15/07.**

**3.131 (c) 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. Accumulations of trash shall be placed in designated areas and cleared as necessary to protect the health of the animals.

Accumulations of burnt trash, circus cars, a trailer and a fragile wooden building are located adjacent to the pathway of the elephants' holding area. Management was informed that these noncompliant items are hazardous to the health of the animals. Premises shall be kept clean and in good repair in order to protect the animals from injury.

**TO BE CORRECTED BY: 08/15/07.**

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**Prepared By:**

EARNEST H JOHNSON, D.V.M. USDA, APHIS, Animal Care

**Title:** VETERINARY MEDICAL OFFICER Inspector 4048

**Date:** Aug-02-2007

**Received By:**

(b)(6),(b)(7),(c)

**Title:**

**Date:**
3.132
EMPLOYEES.

A sufficient number of adequately trained employees shall be utilized to maintain the professionally acceptable level of husbandry practices set forth in this subpart. Such practices shall be under a supervisor who has a background in animal care.

Given the current condition of Jewel, the handler present during the routine inspection does not have adequate training or experience to provide day to day and/or specialized handling that is ensure that Jewel’s care and husbandry needs are met.

The last routine inspection and exit review were conducted on July 16, 2007. This routine inspection and exit review were conducted with management and USDA VMO, Earnest Johnson and Elephant Specialist, Denise Sofranko D.V.M..
Inventory: 2-Asian Elephants.

Note: Jewel, the thinnest of the two elephants still remains gaunt. Jewel’s facial bones are prominent and evidence of weight loss can be seen along her dorsal spine, shoulders and hips. Jewel demonstrated resistance when requested to lie on her left side for bathing. She displayed distress and discomfort while in a stretch via shifting her legs and weight, and moving from side to side. Jewel does not appear to have gained any significant weight over the last three inspections, which may indicate that she has a chronic, debilitating condition. An expert consulting veterinarian will be re-evaluating Jewel in the near future.
No non-compliant items identified this inspection.

Inspection and exit conducted with the licensee, Dr. Kurt Hammel, and Carrie Bongard, ACI.
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;

The Leggett, Texas location currently housing the Asian elephants, Tina and Jewel, is still considered a traveling site and does not fulfill the requirements for a long term permanent housing facility as outlined in the April 23, 2007 veterinary evaluation conducted by an elephant expert. Although many of the provisions of the evaluation are being implemented, the lack of a permanent long term housing facility that provides adequate shelter and enclosures jeopardizes the health of the animals and hinders their ability to gain weight. The lack of sufficient ventilation in the barn housing the elephants can contribute to heat related stress that would also adversely affect their health. Until it can be shown that all applicable provisions of the evaluation have been implemented, this facility will continue to be out of compliance with the standard for adequate veterinary care.

This is an amended report correcting inspection report for June 5, 2007 (cust id-33736, insp id-273459, site id-38719) by: correcting the site number 001 to TRA and changing the citation 3.126 (b). to 2.40 (b).(2).

FACILITIES, GENERAL.

(a) Structural strength. The facility must be constructed of such material and of such strength as appropriate for the animals involved. The outdoor housing facility shall be structurally sound and shall be maintained in good repair to protect the animals from injury and to contain the animals.

During a site visit at 106 Paducah, Leggett, Texas, it was noted that three strands of electrical wire attached to metal posts were used as the outdoor primary enclosure and as an indoor retention in a barn for the two elephants. It was explained to management that the current housing which utilizes hotwires and chaining, does not have an adequate
permanent enclosure for the elephants which is required of a home facility. He was informed that the facility must be constructed of such material and of such strength as appropriate for the animals involved.

TO BE CORRECTED BY: 07/05/07.

3.127 (a) 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.

During the routine inspection of the TRA site at 106 Paducah, Leggett, Texas, it was noted that there was not adequate shade in the outdoor enclosure for the two elephants. Shade must be provided by natural or artificial means to allow all animals kept outdoors to protect themselves from direct sunlight. Management was informed that if the barn is used as a form of shade, it lacks sufficient ventilation because there is only one large open door and one closed entry door to the barn. Two fans were running at the time of inspection, however there is no cross ventilation in the barn. Summer time temperatures will reach the mid and upper 90s and above and adequate ventilation is needed to prevent discomfort of the animals at all times. This noncompliance was pointed out to management and explained that adequate shade by natural or artificial means and sufficient ventilation is need for the health of the animals.

TO BE CORRECTED BY: 07/05/07.
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 disease and injuries.

On April 10, 2007 a USDA inspection was conducted on two Asian elephants identified as Tina & Jewel, in New Bern, NC. Because of concerns about chronic weight loss in Jewel, USDA requested there be a second opinion by a veterinarian with expertise in elephant health. A specialist in elephant health, was contacted by the Cole Bros. Circus, Inc. and requested to conduct a thorough evaluation of both elephants. An evaluation was conducted on April 23, 2007 at Greenville, NC. During the evaluation, the expert determined that both elephants showed an alarming amount of weight loss and that Jewel was not fit to continue traveling with the circus. The expert felt that both elephants should be kept together and should be moved to the winter quarters for the Cole Bros. Circus, in Deland, FL where they could be closely monitored and have access to veterinarians experienced in elephant health. It was the expert’s professional opinion that the cause of the weight loss still needed to be determined. He felt the elephants needed to stay at the winter quarters until the elephants returned to normal health and body condition and USDA determined that they were fit to travel and perform with the circus. In addition, the expert instructed the manager of Gigi’s Exotics to switch the elephants diet to one consistent with a diet the expert felt would allow the elephants to gain weight. The elephant expert discussed recording the amounts of feed provided as well as what was not eaten.

In early May, the elephants were moved to Leggett, TX instead of Deland, FL as requested by the elephant expert. The Leggett facility is currently not an approved site location and currently can not provide the same degree of care, monitoring or access to veterinarians experienced in elephant health as the Deland, FL winter quarters for Cole Bros. Circus.

Today during the routine inspection, the facility has not yet developed a method of maintaining daily log records of the amount of feed fed and eaten by both elephants as perscribed by the elephant expert. It was felt that the health of the elephants were further jeopardized because the facility does not meet the standards for long-term housing due to its incompleton of the primary enclosure and shelter. The animals must currently be housed in the travel trailer during inclement weather.
Inspection Report

The moving of the elephants to Legget, Texas rather than to Deland, Florida added additional stress due to longer transit time.

The records of the elephants weights were reviewed during this inspection. Both elephants were weighted on May 14, 2007 and Jewel weighted 6880 lbs while Tina weighted 7620 lbs. There appears to be a slight weight gain, but it is too early to determine if this is a temporary or permanent weight gain. Jewel is still visibly thin.

Management explained to USDA officials that their attending veterinarian had visited the site (Legget, Texas) to examined the two elephants' health. No records of feeding log were available upon request. It was noted and explained to management that documentation is necessary to validate that health care is being provided for the elephants as per instructed by the elephant expert.

In addition, drugs for immobilization of the elephants were stowed in a locked box filled with water from a leak. Part of the labels were missing and the drugs could not be identified. These control drugs should be properly disposed by returning them to his attending veterinarian.

This routine inspection and exit review were conducted with management, USDA VMO, Earnest Johnson, USDA SAC, Dr. Gregory Gaj and USDA IES, Mr. David Green.

Inventory: 2-Asian Elephants.
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:

(3) Daily observation of all animals to assess their health and well-being; Provided, however, That daily observation of animals may be accomplished by someone other than the attending veterinarian; and Provided, further, That a mechanism of direct and frequent communication is required so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian;

***** Three female Asian elephants were observed during this inspection. These elephants were “Boo”, “Tina”, and “Jewel”. "Jewel" was noted to be significantly thin as indicated by the prominent dorsal spines of the vertebrae of her back bones, the prominent hip bones, and the prominent facial bones of the head giving a sunken appearance of the skin and soft tissues to the animal’s head; this animal appears to be grossly underweight. In a previous inspection (4 April 2009) it is stated that "Jewel" lost 740 lbs from 19 May 2008 to 4 February 2009 and "Tina" had lost 540 lbs during the same time period [Animal Care personnel observing weight collections]. The weights completed on 6 April 2009 show that "Jewel" has stayed at the same weight - 6,760 lbs [was still at a 740 lbs weight loss since May 2008] and "Tina" - 7,720 lbs - lost an additional 100 lbs since the May 2008 weighing ["Tina" was now at a 640 lb weight loss].

All elephants need to be weighed again immediately in the presence of an Animal Care representative to determine their current weights and to aid in the evaluation of the animals health and well being.

The licensee is responsible for and must have "Jewel’s" chronic weight loss condition addressed (accomplished through the use of a veterinary expert in elephant management and medicine and/or re-evaluation by the veterinary expert who previously assessed "Jewel’s" weight loss condition [23 April 2007]).

This inspection was completed at the Shriner’s Circus, Sportscore 2, Loves Park, Illinois and exit interview was conducted with the licensee and Chad Moore, ACI - Animal Care.
ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

<<Each dealer or exhibitor shall establish and maintain programs of adequate veterinary care that include: Daily observation of all animals to assess their health and well-being; Provided, however, That daily observation of animals may be accomplished by someone other than the attending veterinarian; and Provided, further, That a mechanism of direct and frequent communication is required so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian;>>

During observation of the animal act involving the licensee's 3 elephants and during the inspection following the performance, the female Asian Elephant named "Tina" was noted to be in thin body condition and the female Asian Elephant named "Jewell" was noted to be in poor body condition and very underweight such that her hip bones and dorsal vertebrae were prominent and the area around her temples and facial bones appeared sunken. Since May 19, 2008, "Jewell" has lost 740 lbs as documented during AC observed weight collections. Her last recorded official weight on February 4, 2009 was 6760 lbs. Additionally, the female Asian Elephant named "Tina" has lost 540 lbs during the same time frame and weighed 7820 lbs on February 4, 2009. Both "Jewell" and "Tina" are below the target weights for traveling exhibition that was established by a Veterinary expert in Elephant Medicine for these elephants on April 23, 2007 and demonstrates a decline in the animal’s conditions. The third female Asian Elephant named "Boo" has lost 520 lbs during this same time frame, was 9100 lbs on February 4, 2009, and is overweight at this weight. No additional AC observed weights of these elephants have been taken since February 4, 2009 and therefore we do not know what the current weights are for these 3 elephants.

The AWA requires that adequate veterinary care and nutrition is provided for elephants and all other covered species. To meet these requirements, periodic weights that are observed by AC personnel must be taken on these elephants and the licensee shall follow any veterinary medical advice the attending veterinarian or a veterinarian with expertise in Elephant medicine might provide.

To be corrected by 4/6/09.

Prepared By:  
TRACY A THOMPSON, V.M.O.  
USDA, APHIS, Animal Care  
VETERINARY MEDICAL OFFICER Inspector  5044

Date:  
Apr-04-2009

Received By:  
(b)(6),(b)(7)(c)

Title:  
Date:  
Apr-04-2009
Inspection Report

Inspection performed at the Shrine Circus in Greenville, SC.

Accompanied on inspection by the licensee, an employee, APHIS personnel, and a Shrine Circus representative.

Prepared By: TRACY A THOMPSON, V.M.O. USDA, APHIS, Animal Care
Title: VETERINARY MEDICAL OFFICER Inspector 5044
Date: Apr-04-2009

Received By: (b)(6),(b)(7)(c)
Title: 
Date: Apr-04-2009
Inspection Report

MAXIMUS "TONS OF FUN" L L C
Customer ID: 33736
Certificate: 74-C-0762
Site: TRA

MAXIMUS "TONS OF FUN" L L C

Type: ROUTINE INSPECTION
Date: Mar-07-2009

LEGGETT, TX 77350

Inspection conducted at the Murat Shriner's Circus, Pepsi Coliseum, Indianapolis, Indiana, following an incident that occurred during elephant rides during the morning of March 7, 2009. A 48 year old female Asian elephant named Boo was being used for the rides. As she approached the scaffolding platform, she skidded on the damp canvas flooring of the ring and bumped into the scaffold. There were no serious injuries as a result.

There were no items of non-compliance observed this inspection.

Inspection and exit interview was conducted with the handler and Lori Linn, ACI.

The inspection was videotaped by the licensee.

Prepared By:

LORI E LINN, A C I
USDA, APHIS, Animal Care

Title: ANIMAL CARE INSPECTOR
Inspector 1080

Date: Mar-07-2009

Received By:

(b)(6),(b)(7),(c)

Date: Mar-07-2009
ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

This inspection took place at Vasquez circus across the street from Shea Stadium parking lot in NY city also present were Jim Finn and Jason Rood of APHIS-IES

Item Veterinary Care 2.40b
Each dealer or exhibitor shall establish and maintain programs of adequate veterinary care. Licensee is supposed to weigh the elephants every 2 weeks, the last weight was taken in Gary Indiana on Oct 28, 2008 putting the licensee over the 2 week requirement. Facility needs to follow the requirements and recommendations for the weighing the animals.
Correct from this day 11/22/08

3.126
FACILITIES, INDOOR.

Item Facilities General 3.126a Ambient Temp
The ambient temperature shall not be allowed to fall below nor rise above temperatures compatible with the health and comfort of the animal. At the time of inspection the temp in the city was in the low 30s not including the wind chill factor, the indoor tent which houses the animal during the day was as cold. the licensee has a space heater but did not turn it on till the animals came out of the trailer. the single space heater may not provide enough heat for the area to insure proper temperature requirements for the animals. Licensee needs to insure ambient temperature is adequate for the animals. Licensee obtained another space heater before the end of inspection.
Corrected at time of inspection
3.129  (a)  
FEEDING.  
Item Feeding 3.129a  
Food shall be wholesome palatable and free from contamination and of sufficient quantity to maintain all animals in good health.  
At the time of inspection the food storage area of the trailer has a condensation problem causing it to drip onto the feed bags.  
Food must be protected to prevent contamination  
Licensee covered food bags with a tarp at time of inspection  
Corrected at time of inspection

3.131  (c)  
SANITATION.  
Item Housekeeping 3.131c  
Premises shall be kept clean and in good repair to facilitate good husbandry practices  
Light cover in food storage area of the trailer was dirty and mildew developing  
Licensee needs to clean covers in order to maintain good housekeeping  
Correct by 11/24/08

Inventory  
3 elephants
NO NON-COMPLIANT ITEMS IDENTIFIED THIS INSPECTION.

INSPECTION CONDUCTED AT FIESTA PLAZA, FORT MILL, SC.

3 ASIAN ELEPHANTS - TINA, JEWEL, BOO
No noncompliances identified during this inspection.

Animals inspected: 3 female Asian Elephants (Tina, Jewel, and Boo)

Inspection performed at approximately 1200 W. North Temple in a lot across from the Utah State Fairgrounds.
No non compliances identified during this inspection. This inspection was a records review only.
2.40 ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

<< Each ... exhibitor shall assure that the attending veterinarian has appropriate authority to ensure the provision of adequate veterinary care and to oversee the adequacy of other aspects of animal care and use.>>

The written program of veterinary care with the current Attending Veterinarian for three female Asian Elephants (Tina, Jewel, Boo) includes provisions for 3 year rabies vaccinations, and annual vaccinations for Clostridium, tetanus, and West Nile Virus. No records for any of the vaccinations were available during this inspection and the licensee states that since they made the new written formal program of veterinary care with their Attending Veterinarian at the beginning of 2007, no vaccinations have been given. The exhibitor shall assure that the attending veterinarian has appropriate authority to ensure the provision of adequate veterinary care which is demonstrated through carrying out the provisions of the written formal program of veterinary care.

To be corrected 4/16/08

Inspection done in Panorama City, CA. Elephants are Boo, Jewel, and Tina. Last weight on Tina 3-18-08.
2.40  (a)  (2)
ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

<< Each ... exhibitor shall assure that the attending veterinarian has appropriate authority to ensure the provision of adequate veterinary care and to oversee the adequacy of other aspects of animal care and use.>>

The written program of veterinary care with the current Attending Veterinarian for three female Asian Elephants (Tina, Jewel, Boo) includes provisions for fecal exams every 3-4 months, 3 year rabies vaccinations, and annual vaccinations for Clostridium, tetanus, and West Nile Virus. Fecal exams for Tina and Jewel were last performed on July 31, 2007 and the last fecal exam for Boo was on October 9, 2007. No records for any of the vaccinations were available during this inspection and the licensee states that since they made the new written formal program of veterinary care with their Attending Veterinarian at the beginning of 2007, no vaccinations have been given.

The exhibitor shall assure that the attending veterinarian has appropriate authority to ensure the provision of adequate veterinary care which is demonstrated through carrying out the provisions of the written formal program of veterinary care.

Fecal samples were collected and examinations were performed during the second day of the inspection (3/17/08).

To be corrected 4/16/08.

2.131  (c)  (1)
HANDLING OF ANIMALS.

<<During public exhibition, any 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.>>

Three female Asian Elephants (Tina, Jewel, Boo) were housed in the parking lot of a shopping center with a large
volume of car traffic and public stopping to observe the animals. The only barriers present are temporary, movable metal barriers (ranging from ~2.5-4 feet high and ~8 feet long) and a single-strand electric wire surrounding the three elephants at ~4-5 feet from the ground, with a distance between the metal fence and the electric fence of ~10 feet. Upon arrival at this location for inspection on 3/16 at 12:00 PM, no attendant was visible and numerous public spectators were viewing the animals from the metal fence (up to 21 spectators at the time we were present with 13 of those being children estimated to be under the age of 10). We walked around the far side of the semi-trailer (which forms one side of the elephant enclosure) to an RV trailer that also had a moveable metal barrier (~4 feet high) between the end of the semi-trailer and the RV trailer. We called out repeatedly asking if anyone was around and received no response so we walked around the side of the RV trailer where there was no barrier looking for a responsible person. No one could be roused until we physically knocked on the RV trailer (~12:15 PM).

Sufficient distance and/or barriers must be between the animals and the viewing public so as to assure the safety of the animals and the public. The barriers and distance between the barriers would not be sufficient to limit access to these elephants by the public and no responsible trained handler was present or responsive to prevent such access.

To be corrected by 3/18/08.

Animals inspected: 3 female Asian Elephants (Tina, Jewel, and Boo)

Inspection performed on 3/16-17/08 at the Phoenix Marketplace, 6919 Thomas Rd, Phoenix, AZ. Accompanied on inspection the the owner/handler and Dr. Judy Davis, VMO, USDA, APHIS, AC.

NOTE: Due to concern for weight loss noted on Jewel at the 2/29/08 weighing, the licensee shall have weights taken for all three elephants by no later than 3/28/08 and shall provide at least 72 hrs notice of the scheduled weighing to the AC Western Regional Office in Fort Collins, CO (970-494-7478) so that an Animal Care employee may be present.

Prepared By:
TRACY A THOMPSON, V.M.O. USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER Inspector 5044

Received By: (b)(6),(b)(7),(c)

Title: 

Date: Mar-18-2008

Date: Mar-18-2008
This routine inspection was conducted for a new home site. This routine inspection and exit review were conducted with management and USDA ACI, Charles Currer and USDA VMO, Earnest Johnson.

NO NON-COMPLIANT ITEM (S) IDENTIFIED THIS INSPECTION.