

August 25, 2021

Honorable Judge Jill Clifton
Hearing Clerk's Office
U.S. Department of Agriculture
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Washington DC 20250-9203

via email:

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Re: Emergency Motion to Intervene in AWA Docket 19-0004 for the Limited Purpose of Preserving the Animal Welfare Institute's First Amendment Rights

Dear Hon. Judge Clifton:

Pursuant to the Administrative Procedure Act ("APA"), 5 U.S.C. § 555(b), the Animal Welfare Institute ("AWI") respectfully seeks leave to intervene in the matter *In re: Daniel J. Moulton*, AWA Docket No. 19-0004, for the sole purpose of ensuring that AWI can file any administrative appeal necessary to preserve its rights under the First Amendment to the United States Constitution. As you are aware, AWI has filed formal objections to two orders in this matter: the "Conditions Order, to Monitor the Hearing" dated July 22, 2021, and the "Order Deferring Ruling on non-party Objection filed 2021 July 23 (Fri)." AWI now seeks to intervene in this matter for the sole purpose of ensuring that it has the ability to appeal any ruling that may impair AWI's First Amendment rights.

LEGAL BACKGROUND

The APA provides that "[s]o far as the orderly conduct of public business permits, an interested person may appear before an agency or its responsible employees for the presentation, adjustment, or determination of an issue, request, or controversy in a proceeding, whether interlocutory, summary, or otherwise, or in connection with an agency function." 5 U.S.C. § 555(b).

The regulations of the United States Department of Agriculture's ("USDA") Office of Administrative Law Judges ("OALJ regulations") authorize a motion to intervene in an agency

adjudication under 5 U.S.C. §555(b) by providing that “[a]ny motion will be entertained other than a motion to dismiss on the pleading.” 7 C.F.R. § 1.143(b)(1).

The OALJ regulations also suggest that intervention as a party is a necessary precursor to an appeal of any ruling by an Administrative Law Judge (“ALJ”), because the regulations state that “*a party* who disagrees with the decision, any part of the decision, or any ruling by the judge or who alleges any deprivation of rights, may appeal the decision to the Judicial Officer by filing an appeal with the Hearing Clerk.” 7 C.F.R. § 1.145(a) (emphasis added).

With regard to hearings that concern “violations by licensees,” such as this matter, the Administrative Orders Review Act provides for judicial review of a “final order.” 7 U.S.C. § 2149(c). The OALJ regulations specify that “no decision shall be final for purposes of judicial review except a final decision of the Judicial Officer upon appeal.” 7 C.F.R. § 1.142(c)(4). As the U.S. Court of Appeals for the District of Columbia Circuit has explained, this “regulation is the equivalent of an agency rule stating, as a condition to judicial review, that an aggrieved party must first appeal to the judicial officer.” *Marine Mammal Conservancy, Inc. v. U.S. Dep’t of Agric.*, 134 F.3d 409, 411 (D.C. Cir. 1998). The requirement to exhaust an administrative appeal before seeking judicial review applies regardless of whether the issue is constitutional in nature. *Id.* at 413 (rejecting the argument that litigants could “bypass administrative appeals simply because one or all of their claims is constitutional in nature”).

Because the USDA has not promulgated any specific regulations regarding intervention in formal adjudications, any prospective intervention “is governed by [5 U.S.C.] § 555(b) itself and cases interpreting it, rather than by agency regulations or guidance.” *Animal Legal Def. Fund v. Vilsack* (“*ALDF*”), 237 F. Supp. 3d 15, 22 (D.D.C. 2017). Under such case law, agencies may consider various factors, including: (1) whether another party adequately represents the would-be intervenor’s viewpoint; (2) whether intervention would unduly broaden the issues considered; (3) whether intervention would obstruct or overburden the proceedings; or (4) whether intervention would assist the agency’s decisionmaking. *See Nichols v. Bd. of Trustees of Asbestos Workers Local 24 Pension Plan*, 835 F.3d 881, 897 (D.C. Cir. 1987). However, “[c]ourts willingly overturn challenged denials [of intervention] when the responsible agency, either by failing to fashion equitable procedures or by employing its power in an unreasonably overbroad or otherwise arbitrary manner, has not acted to preserve the participation opportunities of interested persons.” *Id.* Under these standards, “intervenors representing the public interest ‘must not be treated as interlopers.’” *ALDF*, 237 F. Supp. 3d at 22 (quoting *Bilingual Bicultural Coalition on Mass Media, Inc. v. FCC*, 595 F.2d 621, 624 n.4 (D.C. Cir. 1978)).

FACTUAL BACKGROUND

In this matter, the USDA’s Animal and Plant Health Inspection Service (“APHIS”) alleges that Daniel Moulton has willfully violated the Animal Welfare Act (“AWA”) by mistreating chinchillas at the Moulton Chinchilla Ranch, failing to provide adequate veterinary care or humane living conditions for the animals, and failing to provide APHIS with required access to inspect his facility.

AWI is a 501(c)(3) non-profit organization that promotes the welfare and humane treatment of animals, including animals raised in captivity for food, use in experiments, exhibition, and the pet trade. AWI achieves its mission of reducing the suffering of animals caused by people in large part by obtaining and disseminating factual information about the treatment of animals by humans to policymakers and the public. Indeed, AWI's mission of promoting the humane treatment of animals entails educating the public and policymakers about the fact that many animals raised in captivity endure seriously inhumane living conditions and inadequate veterinary care.

To achieve its mission, AWI regularly seeks out and disseminates factual information in support of the need for federal laws to protect animals and about the implementation of these laws. The organization and its lobbying arm successfully worked towards passage of the AWA in 1966 and its amendments, have consistently provided public comment on proposed regulations under the AWA, and have long supported appropriations for sound enforcement of this bedrock animal welfare law. In addition, AWI has provided information to the public about this work and the ability of the public to submit comments, too. AWI's information-gathering efforts utilize all available, lawful tools, including requests under the Freedom of Information Act ("FOIA") and attendance at hearings, USDA-hosted meetings, and scientific and veterinary forums regarding animal welfare issues that are open to the public. These information-gathering efforts allow AWI to better understand, and thus more effectively educate the public and policy-makers about, the treatment (or mistreatment) of animals in captivity. Likewise, these efforts allow AWI to monitor and educate the public regarding how federal agencies are implementing (or failing to adequately implement) federal laws designed to improve the welfare of animals. AWI also uses the information it gathers to educate the public and policy-makers regarding laws that may be working, but also the need for more effective laws and regulations to improve animal welfare.

AWI has an extensive history of gathering and disseminating factual information regarding the USDA's implementation and enforcement (or lack of enforcement) of the AWA. Likewise, AWI has for many years worked to promote more effective implementation and enforcement of the AWA and advocated for revisions to the statute and its implementing regulations that will render the law more effective. To that end, AWI regularly gathers information from the USDA's website and submits FOIA requests as necessary for inspection reports of AWA-licensed facilities. AWI also gathers information through FOIA and other publicly available sources regarding the USDA's enforcement actions under the AWA. AWI disseminates this information to the public and policy-makers in an effort to render the AWA, and its implementation and enforcement, more effective and more likely to actually achieve Congress's goal of ensuring the humane treatment of animals. For example, AWI has repeatedly used the information it has gathered to educate the public regarding the extremely low rate at which USDA brings AWA enforcement actions and to advocate for more effective enforcement of the law.¹

¹ See, e.g., AWI, *USDA Urgently Needs Upward Trajectory in Enforcement of Animal Protection Laws*, <https://awionline.org/awi-quarterly/spring-2021/usda-urgently-needs-upward-trajectory-enforcement-animal-protection-laws> (depicting a dramatic decrease in AWA enforcement actions between 2015 and 2020 and calling for more effective enforcement).

Over the past five years, AWI's original research and expertise regarding the USDA's enforcement of the AWA has been quoted in over 40 national and international media articles (see Declaration of Cathy Liss, Exhibit A), including multiple stories each in the *Washington Post*, *Science*, *National Geographic*, and *Nature*.

For example, in February 2017, the USDA's removal of online inspection and other animal welfare reports caused a public outcry. AWI provided the *Washington Post* with information exposing that a showhorse lawsuit filed by Contender Farms was the proximate cause. The resulting *Post* story, published February 9, 2017, provided data demonstrating that the USDA's move away from public transparency had occurred prior to the Trump Administration, as well as information about the Contender lawsuit. (See Declaration of Cathy Liss for citations) This *Post* story, which quoted an AWI researcher, was cited by other media outlets, including *Science*, the *Chronicle of Higher Education*, and *National Geographic*. An April 2017 *BuzzFeed News* article quoted an AWI researcher and also screenshot an AWI tweet, published the day of the February 9 *Post* story, that provided further documentation of the Contender Farms lawsuit connection to the site scrub. A May 2017 *Science* article, while citing the *Post*, also quoted an AWI researcher, showed the real-world consequences of the scrub, and cited original AWI research documenting that the records of 3,333 dealers and breeders still remained hidden.

In another instance, an AWI researcher was quoted in the *Washington Post* in October 2018 regarding plunging USDA enforcement of the AWA; AWI followed up four months later with original research that became the genesis of a February 2019 *Washington Post* article reporting that USDA inspection report citations had dropped a jaw-dropping 60 percent. This *Post* article, which showed the AWI data in a compelling graph, has been repeatedly cited, including in multiple follow-up stories in the *Post* (which also graphed AWI data showing the number of inspections had remained relatively constant while citations plunged), as well as other media outlets such as the *San Francisco Chronicle*, *Vanity Fair*, *Lab Animal*, and *The Scientist*, as well as an op-ed published in the *Washington Post*. AWI's research continues to be cited as recently as July and August 2021, in articles about captive elephant welfare and about the confiscation of a bear from a roadside zoo.

AWI also has a history of covering hearings like this. The last research-related AWA hearing was an action against Santa Cruz Biotechnology, Inc. ("SCBT") in 2015. Through analysis of data from the APHIS public database and obtained via FOIA requests, AWI assembled a comprehensive history of USDA's inspections and of SCBT and its alleged AWA violations. During an administrative hearing brought by the USDA against SCBT on August 18-21, 2015, AWI not only had multiple staff physically attend the hearing, but also posted nightly hearing updates on its website. At no time did AWI or its staff harass or intimidate any hearing witnesses, interfere in any way with the Court's proceedings, or harm any other public interest.

With regard to the Moulton Chinchilla Ranch specifically, AWI also has a lengthy history of gathering and disseminating information regarding the frequent and severe AWA violations that are now at issue in this matter. For example, AWI's website provides the public with direct, factual evidence—obtained through FOIA—showing that chinchillas have suffered inhumane

treatment at the Moulton Chinchilla Ranch for many years.² The site, which is currently the first Google result for the search term “Moulton Chinchilla Ranch,” includes various court filings in this case; media coverage; over 350 USDA photos of Moulton Chinchilla Ranch spanning five years of inspections; multiple articles published in the *AWI Quarterly*; and over 40 USDA inspection reports. Likewise, as AWI’s website notes, “[f]or years, AWI has been raising concerns about the abysmal conditions at MCR, which sells its chinchillas to research facilities around the country, and calling out the USDA for failing to enforce the AWA.”³ AWI has also provided factual information to international media outlets such as *Science* and *National Geographic*, which have published stories quoting AWI and cited the information compiled by AWI on this issue.

In keeping with its duty to monitor and inform the public regarding the USDA’s enforcement of the AWA generally, and with regard to the Moulton Chinchilla Ranch specifically, AWI has consistently sought unfettered access to the hearings in this matter pursuant to its constitutional right of access under the First Amendment as well as to fulfill its IRS-approved 501(c)(3) mission. An in-person *public* hearing was scheduled for April 6, 2020 and AWI immediately began making plans to travel to attend. Due to the COVID-19 pandemic, the hearing was delayed and was determined to be held virtually. A hearing notice in this matter was filed on February 10, 2021, scheduling hearings for: July 26–30, 2021; August 9–13, 2021; and September 20–24, 2021. On May 26, 2021, two months before any hearing was scheduled to commence, AWI submitted a request to attend the hearings. AWI’s request described its history of attending similar hearings, as well as its prior history of disseminating information to the public regarding USDA’s enforcement of the AWA. On June 24, 2021, the Court approved AWI’s request to attend the hearings.

However, as the hearings approached, Mr. Moulton filed two requests on July 7, 2021 and July 15, 2021 for the Court to close the hearings to the public. In those filings, Mr. Moulton provided absolutely no evidence—or even allegations—regarding AWI. Instead, Mr. Moulton made unsubstantiated claims regarding an organization that is not affiliated with AWI and (to AWI’s knowledge) has not sought access to these hearings, namely People for the Ethical Treatment of Animals (“PETA”). Notably, Mr. Moulton’s sole reference to AWI is that AWI is “aligned” with PETA, which is factually inaccurate. The USDA filed a response to Mr. Moulton’s request to close the hearing on July 16, 2021, noting the significant evidentiary deficiencies in Mr. Moulton’s filings, stressing that the public has a First Amendment right of access to these hearings and stating that public access was necessary for a fair hearing for both Mr. Moulton and the USDA. The Court did not provide AWI, or any of the other non-parties who had requested access to the hearings, any opportunity to respond to Mr. Moulton’s request to close the hearings.

On July 22, 2021, a mere one business day before the hearings in this matter were scheduled to commence, the Court issued an Exclusion Order to Protect Hearing Integrity and a Conditions Order, to Monitor the Hearing. Through these orders, the Court imposed significant

² See AWI, *Moulton Chinchilla Ranch*, <https://awionline.org/content/moulton-chinchilla-ranch> (providing copies of inspection reports dating back to 2014, which note that inhumane treatment of chinchillas existed before that time).

³ *Id.*

restrictions on the ability of non-parties, including AWI, to observe and report on the hearings in this matter. For example, the Conditions Order explicitly limited the ability of observers to “disseminat[e] evidence through the conclusion of the Hearing, except that which is already publicly available,” and required that non-parties submit FOIA requests for any exhibits. Again, the Court did not provide AWI, or any of the non-parties who had requested access, any opportunity to be heard before imposing these restrictions on access. The Court also noted that the hearing is likely to extend beyond September 24, meaning that this prior restraint would be in place indefinitely.

Acting as expeditiously as possible, on July 23, 2021, AWI submitted an Objection to Conditions Order, highlighting AWI’s right of access to hearings in this matter under the First Amendment, explaining that the record provided no sufficient basis to restrict access under the relevant constitutional analysis, and requesting that hearings be open to the public to preserve the First Amendment rights of the press and the public to observe and disseminate information about these proceedings.

Because the Court did not rule on AWI’s objection prior to commencing the hearings in this case, the first series of hearings on July 26–30, 2021 were conducted subject to the restrictions imposed by the Court’s Conditions Order, to Monitor the Hearing.

On August 2, 2021, the Court issued an Order to File Response to AWI’s Objections. The Court required the parties, the USDA and Mr. Moulton, to submit any response by 4:30 p.m. on August 6, 2021. The parties did so. The USDA filed a response strongly supporting AWI’s request that the hearings be open to the public without restriction. Mr. Moulton’s response did not dispute, or even address, AWI’s explanation that it has a First Amendment right of access to these hearings and that the restrictions on access violate that constitutional right. Instead, Mr. Moulton’s response failed to even mention AWI, instead highlighting a letter from PETA to Mr. Moulton which stated that Mr. Moulton’s prior characterizations of PETA’s conduct were false.

On August 9, 2021, the same day that the second week of hearings in the case began, the Court issued an Order Deferring Ruling on non-party Objection filed 2021 July 23 (Fri). In the Order Deferring Ruling, the Court specifically declined to issue a ruling on the First Amendment issues raised in AWI’s Objection. The Court did not give AWI any opportunity to be heard prior to issuing the Order Deferring Ruling. The Order Deferring Ruling specified that during the hearing set for Friday, August 13, 2021, the Court would discuss on the record with the parties alternative technologies that could provide better public access to hearings in this matter and suggested that it might issue a ruling orally at that time.

On August 10, 2021, AWI filed an Objection to the Order Deferring Ruling, stressing that the Court’s conditions on observation constitute an ongoing violation of the First Amendment and stressing that because AWI had not had any opportunity to be heard on these issues, the limitations on public access were imposed without due process of law.

On Thursday, August 12, 2021, AWI requested permission to access the portion of the hearing on Friday, August 13, 2021 during which the Court and the parties were to discuss

AWI's Objection. AWI never received any response to that request. As such, AWI had no ability to observe that hearing or to be heard with regard to its constitutional concerns.

Because the Court deferred ruling on AWI's objection, the hearings conducted from August 9–13, 2021, were subject to the conditions that AWI maintains violate the First Amendment.

On August 15, 2021, the Court issued a notice "2021 September 20 (Mon) Hearing Resumes." That notice stated that the Court had considered AWI's Objection and the parties' responses, and had "decided to use a Zoom platform borrowed from APHIS for the remainder of the Hearing" in order to provide a "greater conferencing capacity." The notice also included the following provisions:

5. During the next few weeks I expect to issue another Hearing Notice AMENDED: (a) to reflect the change to Zoom; (b) to reflect my reliance on counsel for APHIS to obtain the Zoom platform for our use; and (c) to reflect my expectations ("rules") for those connecting to the Zoom platform. At about that time I expect to modify my "Conditions Order, to Monitor the Hearing" filed July 22, 2021, primarily to allow multiple people from the 5 non-parties who were served with a copy of that Order, to serve as non-party observers; and to address the restrictions on non-party observers reporting evidence not already in the public domain prior to all evidence having been received. I am keeping in place my "Exclusion Order to Protect Hearing Integrity and to Prevent Witness Harassment" filed July 22, 2021. Both parties will be responsible for their own witnesses not hearing the evidence of other witnesses; I do NOT intend to have "gatekeepers" keep Zoom participants in a "waiting room".

Because the Court's August 15, 2021 notice did not resolve AWI's constitutional concerns, but instead stated that another Hearing Notice would be issued in "the next few weeks," AWI currently has no way to know what level of access will be available for the remaining hearings in this matter. In other words, the Court once again deferred a decision, further delaying the public's unrestricted access to the hearing while continuing to cripple AWI's First Amendment and due process rights. Likewise, AWI has no way to know whether it will have any opportunity to be heard prior to the Court issuing another Hearing Notice, or whether there will be any adequate opportunity for AWI to pursue any appeal of a subsequent Hearing Notice, should any appeal be necessary.

DISCUSSION

AWI respectfully requests leave to intervene in this matter for the sole purpose of ensuring that it has the ability under the OALJ regulations to appeal any rulings that adversely impact its constitutional rights under the First Amendment. Because AWI's constitutional rights are at issue, and in light of AWI's longstanding and well-documented interest in gathering and disseminating information about the USDA's enforcement of the AWA generally and about the Moulton Chinchilla Ranch specifically, AWI is an "interested person" within the meaning of the APA. 5 U.S.C. § 555(b). And because AWI does not seek to actively participate in any hearings

in this matter (i.e. does not seek any ability to put on any evidence regarding the claims at issue here or advocate in any hearing for any particular substantive outcome), its intervention will in no way interfere with “the orderly conduct of public business.” *Id.*

I. AWI is an “Interested Person”

Although the term “interested person” is not defined in the APA, “the D.C. Circuit has held that an individual or organization with standing to seek judicial review of an agency’s decision ‘clearly qualifies as an ‘interested person’ who normally may intervene in the administrative proceeding.” *ALDF*, 237 F. Supp. 3d at 21. Moreover, prospective intervenors in administrative proceedings face a lower burden of showing standing than litigants in federal court. *See id.* at 21–22 (“A lower threshold for participation under § 555(b) comports with the important role played by citizens’ groups in ensuring compliance with the statutory mandate that agency proceedings serve the public interest.” (quotations and alterations omitted)).

Under these standards, AWI is an “interested person” in these proceedings. As documented above and in AWI’s prior Objections of July 23, 2021, and August 10, 2021, AWI has an extensive history of seeking out and disseminating information about the USDA’s enforcement of the AWA, utilizing that information to educate the public about the deplorable living conditions that many captive animals endure and the inefficacy of current laws and regulations in improving those inhumane conditions, and advocating for revised laws and regulations that can more effectively improve animal welfare. More specifically, AWI has a lengthy history of seeking out and disseminating factual information about the Moulton Chinchilla Ranch. These activities by AWI would qualify it as an interested person in these proceedings even if AWI’s constitutional rights were not at stake. Moreover, the Court has directed its Orders at AWI, further supporting AWI’s status as an “interested person.”

The important First Amendment issues now at issue prove beyond cavil that AWI is an “interested person” with regard to these proceedings, because AWI would indisputably have standing to challenge the restrictions on its ability to observe and disseminate information about these proceedings. To demonstrate standing, a litigant must demonstrate (1) an “injury in fact” that (2) was caused by the challenged action and (3) is redressable by a favorable ruling. *See Lujan v. Def. of Wildlife*, 504 U.S. 555, 560–61 (1992).

Here, AWI has suffered several concrete injuries as a result of the Court’s limitations on access to observe and disseminate information about the hearings in this matter. Most notably, as described in AWI’s prior Objections, and as incorporated by reference here, AWI has been deprived of its First Amendment right of unobstructed access to the hearings in this matter. Indeed, because AWI was not willing to accept conditions on observation that impair its constitutional rights, AWI has not been able to observe or document the USDA’s case-in-chief in this matter. Likewise, because AWI was given no opportunity to advocate for its constitutional right to unrestricted access to these hearings before the restrictions were put in place, AWI’s interest in the due process of law has also been infringed. Furthermore, the Court’s restrictions on the dissemination of information about the hearings themselves constitutes an unconstitutional prior restraint on AWI’s speech that has harmed AWI’s strong interest in disseminating factual, news-worthy information. *See, e.g., Nebraska Press Ass’n v. Stuart*, 427

U.S. 539, 570 (1976) (holding that a restriction on reporting on judicial proceedings was a “clearly invalid” prior restraint on free speech). Not only is the deprivation of a First Amendment right sufficient injury to confer standing, but “[t]he loss of First Amendment freedoms, even for minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

The restrictions on access to hearings in this matter have also caused AWI a significant economic injury. In order to obtain any timely information about these hearings, AWI has been forced to submit expedited requests for the transcripts of the hearings, which cost over \$1,000 per day. The total cost to AWI to obtain expedited transcripts for the ten days of restricted-access hearings will thus be in excess of \$10,000. This also constitutes a sufficiently concrete injury to demonstrate that AWI would have standing here. *See Payne Enterprises v. U.S.*, 837 F.2d 486, 494 (D.C. Cir. 1988) (“The fact that [the plaintiff] eventually obtained the information it sought provides scant comfort when stale information is of little value yet more costly than fresh information ought to be.”).

Likewise, AWI’s injuries have clearly been caused by the Court’s restrictions on public access to observe and disseminate information about the hearings in this matter, and are redressable by a favorable ruling. Although a favorable ruling could not retroactively grant AWI access to hearings that have already occurred, a timely favorable ruling could ensure that AWI has constitutionally adequate access to the hearings that have not yet occurred, and which the Court has stated are likely to extend beyond September 24. Likewise, AWI could obtain injunctive and/or declaratory relief that would be adequate to demonstrate redressability. *See, e.g., Franklin v. Mass.*, 505 U.S. 788, 803 (1992) (holding that an “injury is likely to be redressed by declaratory relief” because the government “would abide by an authoritative interpretation of the [relevant] statute and constitutional provision”).

Accordingly, in light of AWI’s longstanding interest in obtaining and disseminating information about the enforcement of the AWA generally and about the enforcement of the AWA with regard to MCR specifically, and in light of the fact that AWI’s important constitutional rights are at stake, AWI is an “interested person” within the meaning of the APA.

II. AWI’s Intervention Would Not Interfere with the Orderly Conduct of Public Business

AWI’s intervention for the sole purpose of ensuring that it has the ability to administratively appeal, and potentially seek judicial review of, rulings that infringe on AWI’s First Amendment rights will in no way interfere with “the orderly conduct of public business.” 5 U.S.C. § 555(b). AWI does not seek to actively participate in the remaining hearings in this matter; it seeks neither to present any evidence regarding the allegations against Mr. Moulton nor to present any argument for the Court to issue any particular remedy. Instead, AWI is solely interested in ensuring that it has the ability—consistent with the First Amendment—to freely observe the hearings in this matter and to freely report on its observations. AWI is accordingly moving to intervene solely to ensure that it has procedural recourse with regard to any rulings that harm its constitutional rights. Because AWI does not seek to actively participate in the

hearings in this matter, its intervention will not interfere with the “orderly conduct of public business.” 5 U.S.C. § 555(b).

Instead, far from interfering with the orderly conduct of public business, AWI’s intervention is a necessary step to ensure that AWI has the ability to seek review of orders that harm its interests in an orderly fashion. As discussed above, the OALJ regulations make intervention necessary because only “a party” is entitled to administratively appeal a ruling by an Administrative Law Judge. 7 C.F.R. § 1.145(a). Furthermore, to the extent that AWI may need to seek judicial review in federal court to vindicate its constitutional rights, an administrative appeal is a necessary first step. *See id.* § 1.139; *see also Marine Mammal Conservancy*, 134 F.3d at 411.

Furthermore, the factors under case law construing 5 U.S.C. § 555(b) confirm that AWI’s intervention will not in any way interfere with the orderly conduct of public business. These factors include: (1) whether another party adequately represents the would-be intervenor’s viewpoint; (2) whether intervention would unduly broaden the issues considered; (3) whether intervention would obstruct or overburden the proceedings; or (4) whether intervention would assist the agency’s decisionmaking. *Nichols*, 835 F.3d at 897.

No party in this matter adequately represents AWI’s interests. Mr. Moulton’s requests to close the hearings in this matter are directly adverse to AWI. Moreover, although APHIS has supported the hearings in this matter being conducted in an open fashion, AWI has no reason to believe that APHIS would seek administrative or judicial review of orders restricting public access to the hearings; indeed, APHIS has not done so thus far. Likewise, the fact that APHIS does not represent AWI’s interest in publicly disseminating information about the enforcement of the AWA is clear from the agency’s prior history of restricting access to information on this subject.⁴ Accordingly, the first factor weighs heavily in favor of AWI’s intervention.

As discussed above, because AWI does not seek to actively participate in the hearings in this matter, AWI’s intervention will neither unduly broaden the issues considered nor obstruct nor overburden the proceedings. Hence, the second and third factors also weigh strongly in favor of AWI’s intervention.

Finally, AWI’s intervention will assist in the agency’s decision-making by ensuring that the hearings are open to public scrutiny and provide the “significant community therapeutic value” that the Supreme Court has stressed are an extremely valuable aspect of public trials. *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 571 (1980) (noting that “the open processes of justice serve an important prophylactic purpose, providing an outlet for community concern, hostility, and emotion”). As the Supreme Court admonished, “[t]he crucial prophylactic aspects of the administration of justice cannot function in the dark; no community catharsis can

⁴ *See, e.g.,* Craig Malisow, *Why is the USDA Limiting Transparency in Animal Cruelty Complaints?*, Houston Press, Dec. 15, 2016, available at <https://www.houstonpress.com/news/why-is-the-usda-limiting-transparency-in-animal-cruelty-complaints-9002170> (reporting on AWI’s concerns about APHIS’s effort to seal a complaint in an AWA matter despite having publicly released the very same document through FOIA) as well as Karin Brulliard, *USDA removed animal welfare reports from its site. A showhorse lawsuit may be why*, Washington Post, Feb. 9, 2017, available at <https://www.washingtonpost.com/news/animalia/wp/2017/02/09/usda-animal-welfare-records-purge-may-have-been-triggered-by-horse-industry-lawsuit/> which also reported on the USDA’s sealing said complaint.

occur if justice is done in a corner or in any covert manner.” *Id.* at 571–72. Because AWI’s intervention will serve this important public purpose, the fourth factor likewise weighs in favor of granting AWI’s intervention.

CONCLUSION

AWI respectfully seeks leave to intervene in this matter for the sole purpose of ensuring that it has the procedural ability to administratively appeal, and seek judicial review of, orders that infringe on its constitutional rights.

Thank you for your consideration.

Sincerely,

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DECLARATION OF CATHY LISS

I, Cathy Liss, declare as follows:

1. I am the President of the Animal Welfare Institute (AWI), and a member of its Board of Directors. I have been the President of AWI for nineteen years. In that capacity, I run and manage the organization and its programs, and ensure AWI's long-term future. In all, I have been a full-time employee with AWI for 39 years.

2. I am submitting this declaration in support of AWI's Emergency Motion to Intervene in AWA Docket 19-0004 for the Limited Purpose of Preserving the Animal Welfare Institute's First Amendment Rights in my capacity as President of AWI.

3. AWI is a 501(c)(3) nonprofit corporation organized and existing under the laws of Delaware, with its principal place of business in Washington, D.C.

4. AWI was established in 1951 to alleviate the pain and fear inflicted on animals by people. Initially AWI's focus was on the desperate needs of animals used for experimentation, later it expanded its work to address other areas of animal suffering.

5. AWI engages policymakers, scientists, industry, and the public to achieve better treatment of animals everywhere—in the laboratory, on the farm, in commerce, at home, and in the wild.

6. As President, I have been responsible for shaping and implementing the strategies that AWI uses to further its mission of advocating for the welfare and protection of animals, including those in laboratories.

7. AWI has more than 217,000 members and constituents, many of whom are particularly interested in the well-being of animals in laboratories and this includes numerous

individuals who work in laboratories. AWI regularly engages its members on the topic of protecting animals in laboratories. For example, AWI recently sent an eAlert to its members and constituents asking them to urge their representative to cosponsor the Pet Safety and Protection Act, a measure which seeks to close a loophole allowing fraudulently obtained pet dogs and cats to be sold for experimentation, generated thousands of actions. In addition, AWI publishes and provides free of charge, a variety of books to assist individuals in laboratories in providing better care and treatment for the animals. AWI also hosts the Laboratory Animal Refinement and Enrichment Forum, an online dialogue opportunity for individuals in research and maintains a database of scientific references on refinement of housing, husbandry, care and use of animals in research.

8. From the earliest days of the organization, AWI has worked to foster better care and handling of animals in research facilities. Sound enforcement of the Animal Welfare Act (“AWA”) is one of AWI’s primary goals. AWI’s relentless advocacy made the law’s enactment possible in 1966. AWI staff visited laboratories and the premises of dealers and trade days during the 1950s and early 1960s, chronicling the appalling conditions it found. But there was little political appetite to advance legislation to prevent such terrible conditions for animals supplied for research until the publication of a series of high-profile articles highlighting the problem. AWI’s founding president, Christine Stevens, convinced Henry Luce, the owner of *Life* magazine, that the issue merited coverage, and the article’s graphic images at a dealer’s premises led to the magazine receiving a record number of letters from the public.

9. In the years since the passage of the AWA (originally titled the Laboratory Animal Welfare Act), AWI has worked to strengthen and broaden the law via subsequent amendments. AWI was particularly engaged in supporting passage of the “Improved Standards

for Laboratory Animals Act,” collecting and distributing extensive documentation of the need for the 1985 amendment to the AWA.

10. AWI also relentlessly advocates for enforcement of the AWA. AWI regularly scrutinizes data from a public database maintained by the Animal Plant Health Inspective Service (“APHIS”) of the USDA and through Freedom of Information Act (“FOIA”) requests and provides critical information for the public, the media, scientists, and Congress. Data gathered and provided by AWI on the plunge in both citations by inspectors and in enforcement act taken against licensees and registrants has been the basis of numerous articles in prominent national media. After an AWI researcher was quoted in the *Washington Post* in October 2018,¹ AWI followed up four months later with original research that became the genesis of a February 2019 *Washington Post* article revealing that USDA inspection report citations had dropped a jaw-dropping 60 percent.² This *Post* article, which showed the AWI data in a compelling graph, has been repeatedly cited, including in multiple follow-up stories in the *Post*³ (which also graphed AWI data showing the number of inspections had remained relatively constant while citations plunged), as well as other media outlets such as the *San Francisco Chronicle*,⁴ *Vanity*

¹ Karin Bruilliard, *USDA’s enforcement of animal welfare laws plummeted in 2018, agency figures show*, *Washington Post*, Oct. 18, 2018, available at <https://www.washingtonpost.com/science/2018/10/18/usdas-enforcement-animal-welfare-laws-plummeted-agency-figures-show/>

² Karin Bruilliard, *The USDA is issuing far fewer citations to zoos, labs and breeders for animal welfare violations*, *Washington Post*, Feb. 26, 2019, available at <https://www.washingtonpost.com/science/2019/02/26/usda-is-issuing-far-fewer-citations-zoos-labs-breeders-animal-welfare-violations/>

³ Karin Bruilliard, *Caged raccoons drooled in 100-degree heat. But federal enforcement has faded*, *Washington Post*, Aug. 22, 2019, available at https://www.washingtonpost.com/science/caged-raccoons-drooled-in-100-degree-heat-but-federal-enforcement-has-faded/2019/08/21/9abf80ec-8793-11e9-a491-25df61c78dc4_story.html; Karin Bruilliard, *The USDA saw no problems at this zoo. Local authorities found ‘a monkey dungeon*, *Washington Post*, Dec. 19, 2019, available at <https://www.washingtonpost.com/science/2019/12/19/usda-saw-no-problems-this-zoo-local-authorities-found-monkey-dungeon/>

⁴ Nanette Asimov, *Live vole left in UCSF freezer prompts complaint from animal welfare group*, *San Francisco Chronicle*, Apr. 2, 2019, available at <https://www.sfchronicle.com/bayarea/article/Live-vole-left-in-UCSF-freezer-prompts-complaint-13736410.php>

Fair,⁵ *Lab Animal*,⁶ and *The Scientist*,⁷ as well as an op-ed published in the *Washington Post*.⁸

AWI's research continues to be cited as recently as July and August 2021, in articles about captive elephant welfare and about the confiscation of a bear from a roadside zoo.⁹

11. In addition to the articles that have quoted AWI and used AWI data, in 2019 I provided an overview of USDA's greatly weakened enforcement of the law by penning an op-ed in *The Hill*, entitled "Why won't USDA enforce the Animal Welfare Act?"¹⁰

12. Since 2017, AWI has published over 20 articles in its *AWI Quarterly* magazine regarding USDA enforcement of the AWA, including multiple articles about this case. The *AWI Quarterly* ISSN 1071-1384 (print), ISSN 1930-5109 (online) has been published for nearly 70 years (formerly under the name *AWI Information Report*) and has a circulation of over 51,000.

13. Beyond AWI's own publication, AWI's original research and expertise regarding the USDA's enforcement of the Animal Welfare Act has been quoted in over 40 national and international media articles (see Exhibit A), including multiple stories each in the *Washington Post*, *Science*, *National Geographic*, and *Nature*.

⁵ Bess Levin, *Report: Trump Admin Gave Green Light for Animal Abuse*, *Vanity Fair*, Aug. 22, 2019, available at <https://www.vanityfair.com/news/2019/08/trump-usda-animal-cruelty>

⁶ B. Taylor Bennett and Matthew R. Bailey, *Taking a closer look at the USDA inspection process in FY 2018*, *Lab Animal*, June 24, 2019, available at <https://www.nature.com/articles/s41684-019-0348-0>

⁷ Carolyn Wilke, *USDA Cited 60 Percent Fewer Animal Welfare Violations in 2018*, *The Scientist*, Feb. 27, 2019, available at <https://www.the-scientist.com/news-opinion/usda-cited-60-percent-fewer-animal-welfare-violations-in-2018-65540>

⁸ Helaine Olen, *Opinion, We all hate puppy mills. States are finally taking action*, *Washington Post*, Feb. 13, 2020, available at <https://www.washingtonpost.com/opinions/2020/02/13/we-all-hate-puppy-mills-states-are-finally-taking-action/>

⁹ Dee Gaug, *How the USDA is Failing America's Captive Elephants*, *Counterpunch*, Jul. 30, 2021, available at <https://www.counterpunch.org/2021/07/30/how-the-usda-is-failing-americas-captive-elephants/>; Cole Waterman, *Brown bear seized by feds at defunct Northern Michigan roadside zoo*, *Mlive*, Aug. 19, 2021, available at <https://www.mlive.com/news/saginaw-bay-city/2021/08/brown-bear-seized-by-feds-at-defunct-northern-michigan-roadside-zoo.html>

¹⁰ Cathy Liss, *Opinion, Why won't USDA enforce the Animal Welfare Act?*, *The Hill*, Sep. 21, 2019, available at <https://thehill.com/opinion/energy-environment/462348-why-wont-usda-enforce-the-animal-welfare-act>.

14. In 2017 when the USDA abruptly removed inspection reports and other information from the APHIS public database, it was AWI staff who noted that access had already begun to be reduced in late 2016, including retroactive redacting of records, and that a showhorse lawsuit filed by Contender Farms was the likely cause.¹¹ The resulting *Washington Post* story, was cited by other media outlets, including *Science*,¹² the *Chronicle of Higher Education*,¹³ and *National Geographic*.¹⁴ An April 2017 *BuzzFeed News* article quoted an AWI researcher and also screenshot an AWI tweet, published the day of the February 9 *Post* story, that provided further documentation of the Contender Farms lawsuit connection to the site scrub.¹⁵ A May 2017 *Science* article also quoted an AWI researcher, showed the real-world consequences of the scrub, and cited original AWI research documenting that the records of 3,333 dealers and breeders still remained hidden.¹⁶

15. It was AWI staff who noted that few inspection reports from 2017 were being posted: following a review of 7,000 pages of inspection reports for research facilities in 49 states and the District of Columbia, AWI found *four* dated in 2017. *Science* found this newsworthy enough to warrant an article.¹⁷

¹¹ Karin Brulliard, *USDA removed animal welfare reports from its site. A showhorse lawsuit may be why*, *Washington Post*, Feb. 9, 2017, available at <https://www.washingtonpost.com/news/animalia/wp/2017/02/09/usda-animal-welfare-records-purge-may-have-been-triggered-by-horse-industry-lawsuit/>

¹² David Grimm, *USDA scrubbing of animal records may have been sparked by horse lawsuit*, *Science*, Feb. 9, 2017, available at <https://www.sciencemag.org/news/2017/02/usda-scrubbing-animal-records-may-have-been-sparked-horse-lawsuit>

¹³ Paul Basken, *U.S. Closure of Animal-Use Database Alarms Both Scientists and Protesters*, *Chronicle of Higher Education*, Feb. 13, 2017, available at <https://www.chronicle.com/article/u-s-closure-of-animal-use-database-alarms-both-scientists-and-protesters>

¹⁴ Natasha Daly, *U.S. Backtracks on Purge of Animal Abuse Records—What We Know*, *National Geographic*, Feb. 22, 2017, available at <https://www.nationalgeographic.com/animals/article/wildlife-watch-usda-animal-welfare-records-trump-explainer>

¹⁵ Peter Aldhous, *The USDA Won't Say Why It Hid Animal Welfare Records From The Public*, *BuzzFeed News*, Apr. 29, 2017, available at <https://www.buzzfeednews.com/article/peteraldhous/usda-animal-welfare-redacted-documents>

¹⁶ Meredith Wadman, *Activists battle U.S. government in court over making animal welfare records public*, *Science*, May 24, 2017, available at <https://www.sciencemag.org/news/2017/05/activists-battle-us-government-court-over-making-animal-welfare-reports-public>

¹⁷ Meredith Wadman, *Few U.S. animal inspections are being posted*, *Science*, Mar. 31, 2017, available

16. AWI sought to get data restored to the APHIS public database. In December 2019, AWI lobbied Congress in support of a provision within a spending bill requiring the USDA to restore deleted records and to post complete inspection reports and enforcement records moving forward. The bill also included language directing the USDA to record all citations on inspection reports, rather than merely noting them as “teachable moments.” A letter signed by 168 House members in support of the bill cites data compiled by AWI.¹⁸

17. In 2019 when USDA issued a rulemaking proposing to reduce information that it would make publicly available for certain commercial entities responsible for complying with the AWA or the Horse Protection Act,¹⁹ AWI mobilized thousands of its members and constituents to submit comments to the USDA urging the department to allow greater public access to information about public commercial enterprises in the interest of transparency and accountability.²⁰

18. As part of its mission to gather and publicly disseminate information about USDA’s enforcement of the AWA, AWI attends administrative hearings like the one at issue in this case. The last research-related AWA hearing was an action against Santa Cruz Biotechnology, Inc. (“SCBT”) in 2015. Through analysis of data from the APHIS public database and obtained via FOIA requests, AWI assembled a comprehensive history of USDA’s inspections and of SCBT and its alleged AWA violations.²¹ During an administrative hearing brought by the USDA against SCBT on August 18-21, 2015, AWI not only had multiple staff

at <https://www.sciencemag.org/news/2017/03/few-us-animal-inspections-are-being-posted>

¹⁸ 168 Members of Congress, *Letter to House Subcommittee on Agriculture, Rural Development, FDA & Related Agencies regarding Fiscal Year 2020 appropriations for animal welfare law enforcement at the USDA*, Apr. 4, 2019, available at <https://documentcloud.adobe.com/link/track?uri=urn%3Aaaid%3Ausc%3A812eef32-96ea-41b9-9c7e-bc623bfd4e7b#pageNum=1>

¹⁹ Docket No. APHIS–2011–0102

²⁰ <https://awionline.org/compassion-index#/314>

²¹ <https://awionline.org/content/information-santa-cruz-biotechnology-inc>

physically attend the hearing, but also posted nightly hearing updates on its website.²² At no time did AWI or its staff harass or intimidate any hearing witnesses, interfere in any way with the Court's proceedings, or harm any other public interest.

19. The ability to gather and publicly disseminate information about USDA's enforcement of the AWA is critical to AWI's mission. AWI seeks to reduce the suffering of animals caused by people in large part by obtaining and disseminating factual information about the treatment of animals to the media, policymakers, enforcement agencies, and the public. Indeed, AWI's objective of promoting the humane treatment of animals entails educating the public and policymakers about the fact that many animals raised in captivity endure seriously inhumane living conditions and inadequate veterinary care. AWI participates in the administrative process by submitting comments and encouraging others to submit comments to the federal government, including the USDA, on the agency's actions that affect animals.

20. With regard to the Moulton Chinchilla Ranch specifically, AWI also has a lengthy history of gathering and disseminating information regarding the frequent and severe AWA apparent violations that are now at issue in this matter. For example, AWI's website provides the public with direct, factual evidence—obtained through FOIA—showing that chinchillas have suffered inhumane treatment at the Moulton Chinchilla Ranch for many years.²³ The site, which is currently the first Google result for the search term “Moulton Chinchilla Ranch,” includes various court filings in this case; media coverage; over 350 USDA photos of Moulton Chinchilla Ranch spanning five years of inspections; multiple articles published in the *AWI Quarterly*; and over 40 USDA inspection reports. Likewise, as AWI's website notes, “[f]or years, AWI has been

²² *Id.*

²³ *See* AWI, *Moulton Chinchilla Ranch*, <https://awionline.org/content/moulton-chinchilla-ranch> (providing copies of inspection reports dating back to 2014, which note that inhumane treatment of chinchillas existed before that time).

raising concerns about the abysmal conditions at MCR, which sells its chinchillas to research facilities around the country, and calling out the USDA for failing to enforce the AWA.”²⁴ AWI has also provided this factual information to international media outlets such as *Science* and *National Geographic*, which have published stories quoting AWI and used said information.²⁵

21. Consistent with its mission to monitor and inform the public regarding the USDA’s enforcement of the AWA generally, and with regard to the Moulton Chinchilla Ranch specifically, AWI has consistently sought unfettered access to the hearings in this matter pursuant to its constitutional right of access under the First Amendment as well as to fulfill its IRS-approved 501(c)(3) mission. An in-person public hearing was scheduled for April 6, 2020 and AWI immediately began making plans to travel to attend.

22. Due to the COVID-19 pandemic, the hearing was delayed and was forced to be held virtually. On May 26, 2021, two months before any hearing was scheduled to commence, AWI submitted a request to attend the hearing. AWI’s request described its history of attending similar hearings, as well as its prior history of disseminating information to the public regarding USDA’s enforcement of the AWA. On June 24, 2021, the Court approved AWI’s request to attend the hearing.

23. On July 22, 2021, the Court issued an Exclusion Order to Protect Hearing Integrity and a Conditions Order, to Monitor the Hearing. Through these orders, the Court

²⁴ *Id.*

²⁵ See, Dina Fine Maron, *Major U.S. chinchilla supplier heads to court with more than 100 animal welfare violations*, National Geographic, Jul. 28, 2021, available at <https://www.nationalgeographic.com/animals/article/major-chinchilla-supplier-heads-to-court-with-more-than-100-animal-welfare-violations>; Meredith Wadman, *Chinchilla dealer to appear in court for alleged animal welfare violations*, Science, Jul. 16, 2021, available at <https://www.sciencemag.org/news/2021/07/chinchilla-dealer-appear-court-alleged-animal-welfare-violations>; Meredith Wadman, *Sick chinchillas languish at farms that supply U.S. researcher*, Science, May 26, 2020, available at <https://www.sciencemag.org/news/2020/05/sick-chinchillas-languish-farms-supply-us-researchers>

imposed significant restrictions on the ability of non-parties, including AWI, to observe and report on the hearings in this matter. The Court did not provide AWI, or any of the non-parties who had requested access, any opportunity to be heard before imposing these restrictions on access.

24. On July 23, AWI submitted an Objection to Conditions Order, highlighting AWI's right of access to hearings in this matter under the First Amendment, explaining that the record provided no sufficient basis to restrict access under the relevant constitutional analysis, and requesting that hearings be open to the public to preserve the First Amendment rights of the press and the public to observe and disseminate information about these proceedings.

25. Because the Court did not rule on AWI's objection prior to commencing the hearings in this case, the first series of hearings on July 26–30, 2021 were conducted subject to the restrictions imposed by the Court's Conditions Order, to Monitor the Hearing and AWI was barred from observing.

26. On August 2, 2021, the Court issued an Order to File Response to AWI's Objections. The Court required the parties to submit any response by 4:30 p.m. on August 6, 2021. The parties did so. The USDA filed a response strongly supporting AWI's request that the hearings be open to the public without restriction. Mr. Moulton's response did not dispute, or even address, AWI's explanation that it has a First Amendment right of access to these hearings and that the restrictions on access violate that constitutional right. Instead, Mr. Moulton's response failed to even mention AWI, instead highlighting a letter from PETA to Mr. Moulton which stated that Mr. Moulton's prior characterizations of PETA's conduct were false.

27. On August 9, 2021, the same day that the second week of hearings in the case began, the Court issued an Order Deferring Ruling on non-party Objection filed 2021 July 23

(Fri). In the Order Deferring Ruling, the Court specifically declined to issue a ruling on the First Amendment issues raised in AWI's Objection.

28. The Court did not give AWI any opportunity to be heard prior to issuing the Order Deferring Ruling.

29. The Order Deferring Ruling specified that during the hearing set for Friday, August 13, 2021, the Court would discuss on the record with the parties alternative technologies that could provide better public access to hearings in this matter and suggested that it might issue a ruling on that issue orally at that time.

30. On August 10, 2021, AWI filed an Objection to the Order Deferring Ruling, stressing that the Court's conditions on observation constitute an ongoing violation of the First Amendment and stressing that because AWI had not had any opportunity to be heard on these issues, the limitations on public access were imposed without due process of law.

31. On Thursday, August 12, 2021, AWI requested permission to access the portion of the hearing on Friday, August 13, 2021 during which the Court and the parties were to discuss AWI's Objection. AWI never received any response to that request. As such, AWI had no ability to observe that hearing or to be heard with regard to its constitutional concerns.

32. Because the Court deferred ruling on AWI's objection, the hearings conducted from August 9–13, 2021, were subject to the conditions that AWI maintains violate the First Amendment. Because AWI did not accept the conditions, it was barred from observing.

33. AWI and its supporters are injured by the arbitrary limitations to access and observation of the hearing. AWI's organizational interest in showing its supporters and the public how the government is enforcing the AWA is a key component of AWI's strategic

advocacy. Without being able to actually observe the proceedings, AWI's advocacy strategies with respect to AWA enforcement actions will be irreparably impaired.

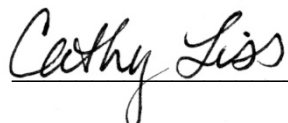
34. AWI has also suffered significant financial harm because it is excluded from the hearings. In order to monitor the proceedings AWI has been forced to order expedited transcripts from the Court reporter at a cost of over \$1000 per day of proceedings. In total, this financial harm will result in more than \$10,000 in expenses to AWI that it would not have had to spend but for the Court's infringement on AWI's constitutional rights.

35. By preventing AWI or any other non-party observer from meaningfully observing and disseminating information about the hearing, the court is infringing upon our First Amendment rights to observe and report on significant government activities. The court's decision to arbitrarily limit access to observe and document this notable hearing also irreversibly harms both my individual interest as well as AWI's organizational efforts in gathering and disseminating information about the enforcement of the AWA generally and about the enforcement of the AWA with regard to MCR specifically.

36. A Court order allowing AWI full access to the remaining hearings in this matter would redress AWI's injuries, by ensuring that AWI's First Amendment rights are vindicated.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Date: August 25, 2021



Cathy Liss

Exhibit A

Meredith Wadman, *Activists battle U.S. government in court over making animal welfare records public*,” Science, May 24, 2017, available at

<https://www.sciencemag.org/news/2017/05/activists-battle-us-government-court-over-making-animal-welfare-reports-public>

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CERTIFICATE OF SERVICE

Daniel J. Moulton, a/k/a Dan Moulton, d/b/a Moulton Chinchilla Ranch, Respondent
Docket: 19-0004

Having personal knowledge of the foregoing, I declare under penalty of perjury that the information herein is true and correct, and this is to certify that a copy of the EMERGENCY MOTION TO INTERVENE IN AWA DOCKET 19 0004 FOR THE LIMITED PURPOSE OF PRESERVING THE ANIMAL WELFARE INSTITUTE'S FIRST AMENDMENT RIGHTS has been furnished and was served upon the following parties on August 26, 2021 by the following:

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Respectfully Submitted,

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