

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) AWA Docket No. 19-0004  
)  
DANIEL J. MOULTON, an individual, )  
also known as DAN MOULTON, )  
doing business as MOULTON )  
CHINCHILLA RANCH, )  
)  
)  
) RESPONSE TO ANIMAL  
) WELFARE INSTITUTE’S  
) OBJECTION TO ALJ’S  
Respondent ) CONDITIONS ORDER

Complainant, the Administrator of the Animal and Plant Health Inspection Service (APHIS), hereby files his response to the Animal Welfare Institute’s (AWI) objection to Administrative Law Judge Clifton’s “Conditions Order, to Monitor the Hearing,” (Conditions Order) dated July 22, 2021. Although Complainant disagrees with some of AWI’s assertions and representations regarding USDA’s actions, Complainant supports AWI’s objection to the scope and breadth of the Conditions Order.

The Respondent, Daniel J. Moulton, is alleged to have willfully violated the Animal Welfare Act (7 U.S.C. §§ 2131 *et seq.*) (“AWA” or “Act”) and the regulations promulgated thereunder (9 C.F.R. §§ 1.1 *et seq.*) (“Regulations”) from 2013 to 2017. The Respondent allegedly failed to provide APHIS with access for inspection and/or to have a responsible adult available to accompany APHIS official during inspection; failed to provide adequate veterinary care to animals; failed to establish and maintain programs of adequate veterinary care that included appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and/or daily observation of animals; failed to comply with minimum standards for structural strength for facilities for animals; and failed to comply with minimum standards for

humane handling, care, treatment, housing, and transportation of animals. The allegations are serious and numerous and must be treated as such. It is necessary to ensure all safeguards and guarantees the administrative legal system provides—including the public’s right to access the hearing. In order to provide a fair hearing for both USDA and Respondent, it is important that the public be granted unlimited access to the hearing.

Complainant believes that public access in a virtual or telephonic venue should replicate public access in an in-person hearing to the extent possible. As noted in Complainant’s “Response to Request for a Closed Hearing” (“Response”) dated July 16, 2021, the public is presumed access and has a right to attend the hearing. In addition, as noted in that Response, Respondent has not articulated any good cause to justify closure of or limitations on the hearing.<sup>1</sup>

The circumstances at hand simply do not approach the level of necessity to require limiting First Amendment rights by enforcing a closure<sup>2</sup> or limiting public access. The Respondent has failed to identify sufficient higher values such that the hearing should be closed or limited. The conditions of the Respondent’s facility, the way the Respondent treats his chinchillas, and the Respondent’s inability to comply with the AWA, Regulations, and Standards should be for all to see and hear. If the Respondent is afraid of the facts, then he should not have violated the AWA and its Regulations and Standards, as alleged.

All of the Respondent’s assertions focus on acts by PETA—a party that has not requested to join the hearing. Respondent asserts in his request for a closed hearing: that Peta has gone after his customers with false information; that there have been false news stories published about him; that a veterinarian was needlessly turned over to the Minnesota Board of

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<sup>1</sup> In addition, as noted in that Response, Respondent failed to file a timely response to AWI’s request to attend the hearing.

<sup>2</sup> *New York C.L. Union v. New York City Transit Auth.*, 684 F.3d 286 at 303 (2d Cir. 2012).

Veterinarians by Peta; that Peta has harassed his wife, family, and veterinarians; that Peta has sent false letters and photographs; and that institutions have been criticized for purchasing chinchillas from the Respondent. The Respondent has not made supported claims regarding PETA's actions, the actions of other groups that have requested to attend the hearing, or the public at large. An open hearing ensures the facts are presented, in the light of the public, and not held captive.

Respondent asserts that others are spreading false information about him; however, in truth, he is merely trying to control the narrative and protect his reputation. Respondent has provided no evidence of any false information much less any evidence to limit access to the hearing by the public. A hearing that permits public access without the imposed conditions would be fair to both Respondent and USDA because it would allow the evidence to be heard by all. A fair and open hearing would allow the facts to be presented, squashing any false information the Respondent is concerned about.

Respondent asserts that he and his witnesses have been subject to harassment, and that articles by Science and National Geographic Magazine are incorrect. He stated in his amended request "the Science Magazine reporter wrote an article which she was predisposed to writing before resolving it. I offered to have her come to the farm but she refused to seek out the truth." Apparently in Respondent's eyes you must visit his facility in order to seek out the truth. If only his chinchillas could see as clearly.

There is nothing to suggest that members of the press are predisposed for or against Respondent. If anything, their articles highlight their perspectives on both Respondent and Complainant and presumably both parties could find something in these articles with which to



Chinchillas, similar to the wild one pictured here in Brazil, are bred in captivity as laboratory animals, pets, and for fur. In the U.S., a supplier of the animals for medical research has accrued more than a hundred alleged animal welfare violations.

PHOTOGRAPH BY LUCIANO CANDISANI, MINDEN PICTURES

ANIMALS WILDLIFE WATCH

## Major U.S. chinchilla supplier heads to court with more than 100 animal welfare violations

In a rare court hearing for a research animal dealer, the USDA alleges years of lapses in care.

BY DINA FINE MARON

PUBLISHED JULY 28, 2021 • 8 MIN READ

Chinchillas, docile South American rodents with big, round ears and soft, thick fur, are about as sensitive to sounds as humans. That's one reason why medical researchers use them to study hearing loss, such as exposure to hazardous noise levels—studies ethics review boards would never allow to be done on humans. In the United States, Moulton Chinchilla Ranch, in Minnesota, seems to be the only company that breeds and sells chinchillas for medical research.

But after being cited for more than a hundred alleged animal welfare violations between 2013 and 2017, owner Daniel Moulton is in court this week fighting to keep his operating license.

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At his facility, which has roughly 750 chinchillas, inspectors with the U.S. Department of Agriculture (USDA) found animals with weeping wounds, eyes crusted shut, and a range of injuries, including in one instance the partial loss of a limb, [according to the agency's court complaint](#).

The agency is seeking civil penalties of an unspecified amount and revocation of Moulton's license, which would prevent him from continuing to breed and sell chinchillas and bar him from reapplying for a license.

The USDA has been "going after me," Moulton tells *National Geographic*. He says his animals receive good care and regular veterinary visits. In his opening statement, delivered to a D.C.-based judge in a teleconference because of the pandemic, he disputed the animal welfare allegations, arguing in his opening statement that USDA inspectors don't understand chinchilla care and are trying to drive him out of business.

"We inspect every animal in the morning and at night and look at them during the day when we're there," he said. He added that he does weekly safety checks of their cages and that he's been raising chinchillas for nearly 55 years.

This is the first federal animal welfare case involving research animals to go before a judge in six years, says Eric Kleiman, a researcher at the nonprofit Animal Welfare Institute. Most animal welfare infractions are settled by correcting the issues, paying a fine, or both. But in a case of chronic or severe infractions, the agency issues a formal administrative complaint with the court. If the facility owner disputes the allegations, the case must proceed with a court hearing.

This chinchilla proceeding is "a case study of everything that is wrong with the animal welfare system," he says. According to Kleiman, the business should have been shut down and its animals seized years ago.

The Animal Welfare Act, the federal law that regulates the treatment of animals sold as pets and used for research and exhibition, sets low standards for required minimum care, animal welfare advocates say. The USDA's enforcement of the law has also fallen off dramatically during the past five years. Under former President Donald Trump, the agency changed its enforcement process to work more closely with license-holders to fix problems instead of documenting them as citations and pursuing fines or other penalties.

"It takes these extreme situations where a person has years and years of severe violations to get USDA to do anything about it" beyond follow-up inspections, says Deborah Press, a former USDA lawyer who is now associate general counsel at Physicians Committee for Responsible

Medicine, a Washington, D.C.-based nonprofit that opposes animal research. “USDA has the dual task of promoting agriculture and also protecting animals used in animal industries, so these two interests are completely at odds,” she says.

### ‘Avoidable suffering’

More than 80 of the alleged violations USDA inspectors reported during the four years were for poor or nonexistent veterinary care that caused animals’ “immense avoidable suffering,” USDA lawyer Rupa Chilukuri argued before an administrative law judge.

Chinchillas requiring urgent veterinary care still hadn’t received it after multiple inspections, months apart, records show.

Moulton said in [court documents](#) and in his opening statement that he “obtained the assistance of at least seven vets” during that period. One provided routine checkups every six months, he said.

Dirty and unsafe cages also were ongoing problems, according to USDA’s complaint. Inspectors noted filthy drinking water, buildup of feces, and exposed nails and sharp wires facing in toward the animals. In July 2014, an inspector found that “the decomposing body of a deceased newborn chinchilla was underneath an enclosure, buried in waste,” according to the complaint.

USDA filed its complaint in 2018 but has continued to find welfare problems at Moulton Chinchilla Ranch, according to its records. During a May 2021 site visit, inspectors noted that the waste build-up in one part of the facility had attracted “excessive flies” and that the ammonia smell was so pungent that it irritated inspectors’ throats and eyes and put animals at risk.

Many of the inspectors’ observations have been backed up by an undercover investigation by People for the Ethical Treatment of Animals (PETA) from October 2020 to January 2021. The investigator found numerous chinchillas with untreated injuries, including open wounds with exposed bone, and three freezers holding bags of chinchilla remains, says Dan Paden, a vice president at PETA. (Moulton tells *National Geographic* that the animals died over the course of multiple years and that he had been keeping them to skin for the fur market. “Why throw away a perfectly good pelt?” he says.)

In video footage reviewed by *National Geographic*, Moulton told the investigator that he spends only about 45 minutes a day caring for his hundreds of animals—and that typically he’s the only person caring for them. (In court, Moulton said his wife sometimes assists him. She has not been accused of wrongdoing.)

“I’m hard-pressed to recall another USDA-licensed facility where as large a number of animals have suffered and died without any effective intervention from the USDA or from local law enforcement,” Paden says.

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PETA’s findings have led to a criminal investigation into whether Moulton violated [Minnesota’s animal cruelty law](#). Rice County attorney John Fossum, whose office is handling the case, says they expect to make a final determination on whether to file charges this week.

### Chinchillas for sale

There are 85 USDA-licensed chinchilla dealers in the U.S., but most raise their animals for the pet trade. Moulton says he sometimes sold his for pets, but now he exclusively supplies them for research. He sold “about 30” in the past month, he says, and recently fielded two calls from military installations seeking hundreds.

“I’m the only one providing these animals for research,” he says. (The USDA doesn’t keep records on which companies sell animals for that purpose, though it confirmed that two other companies known to sell them to laboratories no longer have active licenses. A third told *National Geographic* that it’s going out of business.)

Moulton’s ranch is the [only chinchilla supplier](#) listed on a central shopping website for research animals, as *Science* reported on July 16. The site, the Laboratory Animal Science Buyers Guide, published by the American Association for Laboratory Animal Science (AALAS), also includes the ranch in its “vendor showcase,” a paid advertising section that allows companies to highlight their products more prominently for the 13,000 laboratory industry professionals in its “trusted network.”

The association lists vendors who ask to be included and doesn’t accredit facilities, according to Doug Taylor, president of AALAS. “It’s really the buyer who should look at [a facility’s history and licensure] and decide if this is a vendor I want to work with,” he says. If Moulton loses his USDA license, AALAS would “in all likelihood” remove the facility from their guide, he says.

The case against Moulton and his chinchilla ranch has court dates scheduled through September. The judge has barred journalists and other attendees from sharing witness testimony or the presented evidence until the end of the trial to prevent witnesses from being influenced or harassed.

*Wildlife Watch* is an investigative reporting project between National Geographic Society and National Geographic Partners focusing on wildlife crime and exploitation. Read more [Wildlife Watch stories here](#), and learn more about National Geographic Society’s nonprofit mission at [natgeo.com/impact](https://www.natgeo.com/impact). Send tips, feedback, and story ideas to [NGP.WildlifeWatch@natgeo.com](mailto:NGP.WildlifeWatch@natgeo.com). [📧](#)





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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 RESPONSE TO ANIMAL WELFARE INSTITUTE'S OBJECTION TO ALJ'S CONDITIONS ORDER has been furnished and was served upon the following parties on August 6, 2021 by the following:

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Respectfully Submitted,

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