

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWA Docket No. 00-0032
)
Bridgeport Nature Center, Inc.,)
Heidi M. Berry Riggs, and)
James Lee Riggs, d/b/a)
Great Cats of the World,)
) **Order Denying Late Appeal**
Respondents) **Regarding James Lee Riggs**

DECISION

On May 25, 2010, Administrative Law Judge Jill S. Clifton [hereinafter the ALJ] filed a Decision on Remand in which she concluded that James Lee Riggs violated the Animal Welfare Act, as amended (7 U.S.C. §§ 2131-2159) and the regulations issued under the Animal Welfare Act (9 C.F.R. §§ 1.1-2.133). The Hearing Clerk served the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter the Administrator], with the ALJ's Decision on Remand on May 26, 2010.

The rules of practice applicable to the instant proceeding¹ provide that a party must appeal an administrative law judge's written decision to the Judicial Officer within 30 days after that party receives service of the written decision, as follows:

§ 1.145 Appeal to Judicial Officer.

(a) *Filing of petition.* Within 30 days after receiving service of the Judge's decision, if the decision is a written decision, . . . 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 petition with the Hearing Clerk.

7 C.F.R. § 1.145(a). Therefore, the Administrator was originally required to file an appeal petition with the Hearing Clerk no later than June 25, 2010. The Administrator requested, and I granted, four extensions of time within which to file an appeal petition; thereby extending the time for the Administrator's filing an appeal petition to September 8, 2010.² In the fourth order extending the time for the Administrator's filing an appeal petition, I stated:

The Administrator has been granted three previous extensions of time within which to file an appeal petition and has had more than 3 months within which to file an appeal petition. I grant this fourth request for an extension of time, but forewarn the Administrator that, barring

¹The rules of practice applicable to the instant proceeding are the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130-.151).

²Order Extending Time for Filing the Administrator's Appeal Petition, dated June 22, 2010; Order Extending Time for Filing the Administrator's Appeal Petition, dated August 6, 2010; Order Extending Time for Filing the Administrator's Appeal Petition, dated August 20, 2010; Order Extending Time for Filing the Administrator's Appeal Petition, dated September 1, 2010.

extraordinary circumstances, I will not grant any additional request for an extension of time within which to file an appeal petition.

On September 8, 2010, the Administrator filed a fifth request for an extension of time to file an appeal petition, but did not identify any extraordinary circumstances as support for the Administrator's request, and on September 9, 2010, I denied the Administrator's fifth request for an extension of time to file an appeal petition.³ On September 10, 2010, the Administrator filed "Complainant's Petition for Appeal as to Respondent James Lee Riggs" 2 days late; therefore, "Complainant's Petition for Appeal as to Respondent James Lee Riggs" is denied as untimely.

For the foregoing reasons, the following Order is issued.

ORDER

1. "Complainant's Petition for Appeal as to Respondent James Lee Riggs," filed September 10, 2010, is denied.
2. The ALJ's Decision on Remand as it relates to Mr. Riggs, filed May 25, 2010, is the final decision in the instant proceeding.

Done at Washington, DC

September 14, 2010

William G. Jenson
Judicial Officer

³Order Denying the Administrator's Request for Extension of Time, dated September 9, 2010.