

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWA Docket No. 02-0004
)	
Heartland Kennels, Inc., a)	
South Dakota Corporation; and)	Order Granting Respondents'
Halvor Skaarhaug, an individual,)	Requests for Extension of Time
)	and the Rules of Practice and Denying
Respondents)	Respondents' Request for Evidence

On August 13, 2002, Heartland Kennels, Inc., and Halvor Skaarhaug [hereinafter Respondents] filed three requests. First, Respondents request an extension of time to appeal Chief Administrative Law Judge James W. Hunt's "Decision and Order as to Heartland Kennels, Inc., and Halvor Skaarhaug By Reason of Admission of Facts." Colleen A. Carroll, counsel for Bobby R. Acord, Acting Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter Complainant], informed me that Complainant does not object to Respondents' request for an extension of time to file an appeal petition. I find good reason for granting Respondents' request for an extension of time to file an appeal petition.

Second, Respondents request a copy of the provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various

Statutes [hereinafter the Rules of Practice] (7 C.F.R. §§ 1.130-.151) which are applicable to filing an appeal petition.

The record before me establishes that the Hearing Clerk served Respondents with a copy of the Rules of Practice (7 C.F.R. § 1.130-.151) on October 15, 2001. Nonetheless, I hereby request that the Hearing Clerk send Respondents a copy of the Rules of Practice with this Order. Further, in the unlikely event that the Hearing Clerk fails to send a copy of the Rules of Practice with this Order to Respondents, I set forth below the provisions of the Rules of Practice which are applicable to filing an appeal petition:

§ 1.145 Appeal to Judicial Officer.

(a) *Filing of petition.* Within 30 days after receiving service of the Judge's decision, a party who disagrees with the decision, or any part thereof, or any ruling by the Judge or any alleged deprivation of rights, may appeal such decision to the Judicial Officer by filing an appeal petition with the Hearing Clerk. As provided in § 1.141(h)(2), objections regarding evidence or a limitation regarding examination or cross-examination or other ruling made before the Judge may be relied upon in an appeal. Each issue set forth in the petition, and the arguments thereon, shall be separately numbered; shall be plainly and concisely stated; and shall contain detailed citations of the record, statutes, regulations or authorities being relied upon in support thereof. A brief may be filed in support of the appeal simultaneously with the petition.

7 C.F.R. § 1.145(a).

Third, Respondents request a copy of the "evidence or proof" of the allegations in the Complaint. The record before me establishes that no hearing has been conducted in this proceeding in which evidence was received.

For the foregoing reasons, the following Order should be issued.

ORDER

The time for filing Respondents' appeal petition is extended to September 30, 2002. Respondents' request for a copy of section 1.145(a) of the Rules of Practice (7 C.F.R. § 1.145(a)) is granted. Respondents' request for a copy of the evidence of the allegations in the Complaint is denied.

Done at Washington, DC

August 30, 2002

William G. Jenson
Judicial Officer