

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) AWA Docket No. 09-0084  
)  
Karl Mitchell, an individual; and )  
Big Cat Encounters, a Nevada )  
corporation, )  
)  
Respondents ) **Order Denying Petition to Reconsider**

**PROCEDURAL HISTORY**

On February 25, 2011, Karl Mitchell and Big Cat Encounters filed a petition requesting that I reconsider *In re Karl Mitchell*, \_\_ Agric. Dec. \_\_\_\_ (Dec. 21, 2010). On March 7, 2011, Kevin Shea, Acting Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, filed “Reply to Petition for Reconsideration.” On March 8, 2011, the Hearing Clerk transmitted the record to the Office of the Judicial Officer for a ruling on Mr. Mitchell and Big Cat Encounters’ petition to reconsider.

## CONCLUSION BY THE JUDICIAL OFFICER

The Hearing Clerk served Mr. Mitchell and Big Cat Encounters with *In re Karl Mitchell*, \_\_ Agric. Dec. \_\_\_\_ (Dec. 21, 2010), on February 1, 2011.<sup>1</sup> The rules of practice applicable to the instant proceeding<sup>2</sup> provide that a petition to reconsider must be filed within 10 days after the date of service of the Judicial Officer's decision, as follows:

**§ 1.146 Petitions for reopening hearing; for rehearing or reargument of proceeding; or for reconsideration of the decision of the Judicial Officer.**

(a) *Petition requisite. . . .*

. . . .

(3) *Petition to rehear or reargue proceeding, or to reconsider the decision of the Judicial Officer.* A petition to rehear or reargue the proceeding or to reconsider the decision of the Judicial Officer shall be filed within 10 days after the date of service of such decision upon the party filing the petition. Every petition must state specifically the matters claimed to have been erroneously decided and alleged errors must be briefly stated.

7 C.F.R. § 1.146(a)(3). Therefore, Mr. Mitchell and Big Cat Encounters were required to file a petition to reconsider *In re Karl Mitchell*, \_\_ Agric. Dec. \_\_\_\_ (Dec. 21, 2010), no later than February 11, 2011. On February 25, 2011, Mr. Mitchell and Big Cat Encounters filed the petition to reconsider *In re Karl Mitchell*, \_\_ Agric. Dec. \_\_\_\_ (Dec. 21, 2010). Mr. Mitchell and Big Cat Encounters' petition to reconsider was not

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<sup>1</sup>See Memorandum to the File dated February 1, 2011, signed by the Hearing Clerk, Leslie E. Whitfield.

<sup>2</sup>The 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).

timely filed. Accordingly, Mr. Mitchell and Big Cat Encounters' petition to reconsider is denied.<sup>3</sup>

For the foregoing reasons, the following Order is issued.

### ORDER

Mr. Mitchell and Big Cat Encounters' petition to reconsider, filed February 25, 2011, is denied. This Order shall become effective upon service on Mr. Mitchell and Big Cat Encounters.

Done at Washington, DC

March 8, 2011

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William G. Jenson  
Judicial Officer

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<sup>3</sup>See *In re Susan Biery Sergiojan* (Order Denying Pet. to Reconsider), \_\_\_ Agric. Dec. \_\_\_ (Aug. 3, 2010) (denying, as late-filed, the respondent's motion to reconsider filed 22 days after the Hearing Clerk served the respondent with the order denying late appeal); *In re David L. Noble* (Order Denying Motion for Recons.), \_\_\_ Agric. Dec. \_\_\_ (Jan. 20, 2010) (denying, as late-filed, the respondent's motion to reconsider filed 19 days after the Hearing Clerk served the respondent with the order denying late appeal); *In re Mitchell Stanley* (Order Denying Pet. for Recons.), 65 Agric. Dec. 1171 (2006) (denying, as late-filed, a petition to reconsider filed 13 days after the date the Hearing Clerk served the respondents with the decision and order); *In re Heartland Kennels, Inc.* (Order Denying Second Pet. for Recons.), 61 Agric. Dec. 562 (2002) (denying, as late-filed, a petition to reconsider filed 50 days after the date the Hearing Clerk served the respondents with the decision and order); *In re David Finch* (Order Denying Pet. for Recons.), 61 Agric. Dec. 593 (2002) (denying, as late-filed, a petition to reconsider filed 15 days after the date the Hearing Clerk served the respondent with the decision and order).