

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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| In re: |) | AWA Docket No. 04-0017 |
| |) | |
| Ricky M. Watson, an individual; |) | |
| Cheri Watson, an individual; |) | |
| Tiger's Eyes, Inc., a Texas |) | |
| domestic nonprofit corporation, |) | |
| d/b/a Noah's Land Wildlife Park; |) | |
| and Richard J. Burns, an |) | Ruling Granting Complainant's |
| individual, |) | Motion to Continue Time for Filing |
| |) | Amended Complaint and for |
| Respondents |) | Exchanging Documents |

On September 3, 2004, the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter Complainant], filed a "Motion for Adoption of Proposed Decision and Order" and a proposed "Decision and Order as to Ricky M. Watson and Cheri Watson By Reason of Admission of Facts." On October 12, 2004, Respondents Ricky M. Watson and Cheri Watson filed objections to Complainant's Motion for Adoption of Proposed Decision and Order.

On November 22, 2004, Administrative Law Judge Victor W. Palmer [hereinafter the ALJ] filed a "Summary of Teleconference; Hearing Notice and Exchange Deadlines": (1) denying Complainant's Motion for Adoption of Proposed Decision and Order; (2) scheduling a hearing to commence in Houston, Texas, on June 28, 2005; (3) ordering

that, by February 1, 2005, Complainant file an amended complaint with the Hearing Clerk and deliver to Respondents Ricky M. Watson, Cheri Watson, and Richard J. Burns copies of proposed exhibits, a list of proposed exhibits, and a list of anticipated witnesses; and (4) ordering that, by April 1, 2005, Respondents Ricky M. Watson, Cheri Watson, and Richard J. Burns deliver to Complainant copies of proposed exhibits, a list of proposed exhibits, and a list of anticipated witnesses.

On November 26, 2004, Complainant appealed the ALJ's denial of Complainant's Motion for Adoption of Proposed Decision and Order to the Judicial Officer. On January 18, 2005, Complainant moved to continue, without date, the February 1, 2005, deadline for filing an amended complaint and the February 1, 2005, and April 1, 2005, deadlines for the exchange of proposed exhibits, lists of proposed exhibits, and lists of anticipated witnesses.¹

Due to the short period between the time Complainant filed Complainant's Motion for Continuance and the February 1, 2005, deadlines, I requested that Respondents Ricky M. Watson, Cheri Watson, and Richard J. Burns file any responses to Complainant's Motion for Continuance no later than January 26, 2005.

Respondent Cheri Watson did not file a response to Complainant's Motion for Continuance; on January 25, 2005, Respondent Ricky M. Watson filed a response urging

¹“Complainant's Motion to Continue Time for Complainant to File Amended Complaint and for Parties to Comply With Exchange Deadlines” [hereinafter Complainant's Motion for Continuance].

that I grant Complainant's Motion for Continuance; and on January 26, 2005, Respondent Richard J. Burns filed a response urging that I deny Complainant's Motion for Continuance. On January 27, 2005, the Hearing Clerk transmitted the record to the Judicial Officer for a ruling on Complainant's Motion for Continuance.

I agree with Complainant's assertion that this matter will not be ready for hearing until the merits of Complainant's appeal of the ALJ's denial of Complainant's Motion for Adoption of Proposed Decision and Order have been resolved.² Moreover, any amended complaint Complainant files and the identity of the persons to whom Complainant must deliver copies of proposed exhibits, lists of proposed exhibits, and lists of anticipated witnesses may be affected by the disposition of Complainant's appeal. Therefore, based on the current posture of this proceeding, I find good reason to continue, without date, the February 1, 2005, deadline for Complainant to file an amended complaint and the February 1, 2005, and April 1, 2005, deadlines for the parties to exchange copies of proposed exhibits, lists of proposed exhibits, and lists of anticipated witnesses.

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

²See Memorandum of Points and Authorities at 2 attached to Complainant's Motion for Continuance.

RULING

The February 1, 2005, deadline set by the ALJ for Complainant to file an amended complaint is continued, without date. The February 1, 2005, and April 1, 2005, deadlines set by the ALJ for the parties to exchange copies of proposed exhibits, lists of proposed exhibits, and lists of anticipated witnesses are continued, without date.

Done at Washington, DC

January 28, 2005

William G. Jenson
Judicial Officer