

UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE

OFFICIAL WARNING
VIOLATION OF FEDERAL REGULATIONS

CASE NUMBER:

CA10891

VIOLATOR:

Morro Bay Marine Rehabilitation Center

Customer #: 3632

Certificate #: 93-C-0814

ADDRESS (Street, City, State, ZIP Code):

595 Embarcadero

Morro Bay, CA 93442

The U.S. Department of Agriculture has evidence that on or about April 20, 2009, March 10, 2010, June 15, 2010, July 12, 2010 and August 12, 2010, you or your organization committed the following violation(s) of Federal Regulations 9 CFR, Section:

3.105(a) Feeding... DIRECT... failure to ensure the food for marine mammals is wholesome, palatable, and free from contamination and must be of sufficient quantity and nutritive value to maintain the marine mammals in a state of good health. The diet must be prepared with consideration for factors such as age, species, condition and size of marine mammal being fed.

3.105(c) Feeding... repeated failure to have an employee or attendant who has the necessary knowledge to assure that each marine mammal receives an adequate quantity of to maintain it in good health feed marine mammals individually. Inappetence exceeding 24 hours must be reported immediately to the attending veterinarian.

3.110(b) Veterinary Care... DIRECT... repeated failure to have holding facilities in place and available to meet the needs for isolation, separation, medical treatment, and medical training of marine animals. Marine animals that are isolated or separated for nonmedical purposes must be held in facilities that meet minimum space requirements as outlined in Sec. 3.104.

3.110(d)(2) Veterinary Care... DIRECT... repeated failure to keep individual animals medical records and have them available for APHIS inspection. Physical examination information, including but not limited to length, weight, physical examination results by body system, identification of all medical and physical problems with proposed plan of action, all diagnostic test results, and documentation of treatment.

3.110(f) Veterinary Care... DIRECT... failure to ensure all marine mammals are visually examined by the attending veterinarian at least semiannually and must be physically examined under the supervision of and when determined to be necessary by the attending veterinarian.

The Animal and Plant Health Inspection Service (APHIS) created federal regulations to ensure the welfare of animals and help prevent the spread of animal and plant pests and diseases. Since violations of the regulations can have serious and costly impacts that are detrimental to the public interest, APHIS is providing you with an Official Warning for the violation(s) described above. Any further violation of these federal regulations may result in the assessment of a civil penalty, criminal prosecution, or other sanctions. If you have any questions concerning this Official Warning or violation(s), please contact the APHIS official listed in this

APHIS OFFICIAL (Name):
Chester Gipson, DVM

(b)(6),(b)(7)(C)

OFFICE ADDRESS:

4700 River Rd., Suite 6D03
Riverdale, MD 20737

APHIS OFFICIAL (Title):
Deputy Administrator

DATE ISSUED:

January 11, 2012

TELEPHONE NUMBER:

(301) 734-4980

Certified Mail Receipt #: 7011 0110 0001 6115 7170

2012-2590 Page 1



United States
Department of
Agriculture

Animal and
Plant Health
Inspection
Service

Animal Care
Western Region

2150 Centre Ave
Building B
Mail Stop #3W11
Ft Collins, CO 80526
Phone: (970) 494-7481

January 11, 2012

Certified Mail Receipt #:
7011 0110 0001 6115 7170

Customer #: 3632
Certificate #: 93-C-0814

Morro Bay Marine Rehabilitation Center
595 Embarcadero
Morro Bay, CA 93442
Attn: Bertha Tyler

Dear Sir and/or Madam:

The enclosed APHIS Form 7060, "Official Warning, Violation of Federal Regulations", is being issued to you for alleged violations of the Federal Animal Welfare Act. This notice is being issued at this time as a serious warning that if you fail to comply with the requirements of the Animal Welfare Act in the future, this citation and all past and future documented violations will be used to justify a more severe penalty.

The Animal Welfare Act provides for penalties of up to \$10,000 per violation.

If you have any questions regarding this citation or the Animal Welfare Act, please contact this office at the address or telephone number above.

Sincerely,

(b)(6),(b)(7)(C)

Chester A. Gipson
Deputy Administrator
Animal Care

cc: IES-HQ
R. Gibbens, RD
SACS
ACI / VMO

7060 Issued January 11, 2012

Case Number: CA10891
Name: Morro Bay Marine Rehabilitation Center
Customer #: 3632
License #: 93-C-0814
Certified Mail Receipt #:
7011 0110 0001 6115 7170

SACS:

K Garland
Inspector:
M. Rosendale

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	Postmark Here
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Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Morro Bay Marine Rehabilitation Center 595 Embarcadero Morro Bay, CA 93442 3632 / 93-C-0814	
For Instructions	

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.Print your name and address on the reverse so that we can return the card to you.Attach this card to the back of the mailpiece, or on the front if space permits.	<div>(b)(6),(b)(7)(C)</div> <div><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</div> <div>B. Received By (Printed Name) C. Date of Delivery</div> <div>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</div> <div>JAN 17 2012</div> <div>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</div> <div>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</div>
1. Article Addressed to: Morro Bay Marine Rehabilitation Center 595 Embarcadero Morro Bay, CA 93442 3632 / 93-C-0814 I 7060	
2. Article Number (Transfer from service label)	7011 0110 0001 6115 7170
PS Form 3811, February 2004	Domestic Return Receipt 102595-02-M-1540



USDA, APHIS, Animal Care
ANIMAL WELFARE COMPLAINT

Complaint No. W11-071	Date Entered 16-Feb-11	Received By mcl
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Referred To Drs. Garland & Rosendale	Reply Due
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Facility or Person Complaint Filed Against

Name Morro Bay Marine Rehabilitation Center	Customer/License/Registration No. 93-C-0814 CID 3632
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Address 595 Embarcadero			
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City Morro Bay	State CA	Zip 93442	Phone No 805-772-7647
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Complainant

Name (b)(6),(b)(7)(C)	Organization
--------------------------	--------------

Address (b)(6),(b)(7)(C)			
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City Santa Ynez	State CA	Zip 93460	Phone No /Email address (b)(6),(b)(7)(C)
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How was complaint received?
Letter to WRO

Details of Complaint: Complainant observed "California Seals" in the back of the gift shop in "an extremely small and unsanitary pool."

Results: I arrived at Morro Bay Aquarium on 2/9/2011, just prior to receiving the complaint. I did not find the enclosure to be too small for the number of animals present or the water to be unsanitary. I also observed the Aquarium along with Dr. Lee and Dr. Smith on 3/9/2011 and again did not observe the enclosure to be too small or the water to be unsanitary.

Application packet provided? Yes ☐
No ☒

INSPECTOR
Marcy E. Rosendale, VMO

DATE
23-Jun-11

REVIEWED BY
Kathleen Garland, VMO

DATE
23-Jun-11

(b)(6),(b)(7)(C)

93-C-0814

36

(b)(6),(b)(7)(C)

011-071

February 9, 2011

USDA APHIS, Animal Care
2150 Centre Avenue
Bldg. B, Mail Stop #3W11
Fort Collins, CO 80526

Dear Sir or Madam:

I am writing concerning the captive seals at the Morro Bay Gift Shop and Aquarium in Morro Bay, California. I do not understand why this very small gift shop is allowed to keep California seals in the back of their store in an extremely small and unsanitary pool for the entertainment of those willing to pay a few dollars to see them.

A situation such as this is what I remember as a child in the 1960's when it was common to keep wild animals in situations that were inhumane so one could earn a few bucks from passersby. I thought there were federal laws in place now that prevented this cruelty directed at our native wildlife.

Are you aware of this situation and is anything being done to release this abused animals back into the wild?

Thank you so much for any attention you can give to this matter.

Sincerely,

(b)(6),(b)(7)(C)



February 16, 2011

(b)(6),(b)(7)(C)

United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

Dear (b)(6),(b)(7)(C)

Thank you for your letter of February 9, 2011, concerning Morro Bay Marine Rehabilitation Center. Your concern has been issued number W11-071.. If you wish to know the results of our findings, you must send a request, in writing, to our Freedom of Information Act office. Depending on the circumstances of the situation, please allow us enough time (30 to 60 days) to thoroughly investigate your concerns.

FOIA requests can be submitted three ways--

1. Email: foia.officer@aphis.usda.gov
2. Fax: 301-734-5941
3. US Mail: USDA, APHIS, FOIA
4700 River Road, Unit 50
Riverdale, MD 20723

Animal Care is the division of the U.S. Department of Agriculture (USDA) that is responsible for the enforcement of the Animal Welfare Act. The Act provides minimum standards for the humane care and use of animals at USDA licensed or registered facilities.

Animal Care inspectors conduct routine unannounced inspections at all USDA licensed and registered facilities to ensure that they are meeting or exceeding these minimum standards. Our inspectors also conduct searches for unlicensed facilities conducting regulated activities. We perform inspections and searches when necessary in response to valid concerns and complaints received from the public to ensure the well-being of the animals and compliance with the law. If violations are found, enforcement action appropriate for the circumstances will be initiated.

Please be assured that we will look into your concerns and take appropriate action if necessary.

Thank you for your interest in the welfare of these animals.

Sincerely,

(b)(6),(b)(7)(C)

Robert Gibbens, DVM
Director, Western Region
USDA, APHIS, Animal Care



Safeguarding American Agriculture
APHIS is an agency of USDA's Marketing and Regulatory Programs

An Equal Opportunity Provider and Employer



April 9, 2009

United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

(b)(6),(b)(7)(C)

Thank you for your letter of April 2, 2009, concerning the Morro Bay Marine Rehabilitation Center. Your concern has been issued number W09-096. If you wish to know the results of our findings, you must send a request, in writing, to our Freedom of Information Act office. Depending on the circumstances of the situation, please allow us enough time (30 to 60 days) to thoroughly investigate your concerns.

FOIA requests can be submitted three ways--

1. Email: foia.officer@aphis.usda.gov
2. Fax: 301-734-5941
3. US Mail: USDA, APHIS, FOIA
4700 River Road, Unit 50
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Thank you for your interest in the welfare of these animals.

Sincerely,

(b)(6),(b)(7)(C)

Robert Gibbens, DVM
Director, Western Region
USDA, APHIS, Animal Care



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93-C-0814

11- 312

Ind.

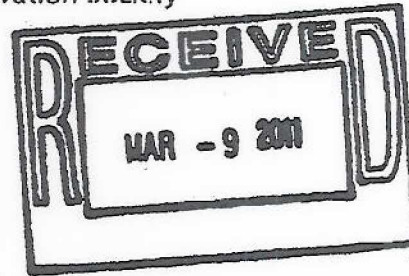
AC/IES
Lempire


WDCS

Whale and Dolphin Conservation Society

March 9, 2011

Freedom of Information Act Office
Legislative and Public Affairs
APHIS, USDA
4700 River Road, Unit 50
Riverdale, MD 20737
Via fax: 301-734-5941



To the FOIA Officer:

APR -6 2011

I am writing to request the following information under, and pursuant to, the Freedom of Information Act (FOIA), and all other laws entitling full public disclosure of the following information.

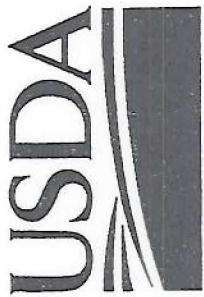
- 1). All records, notes (including of phone conversations), correspondence and documentation (electronic or otherwise) relating to the inspection and violation reports for all US facilities holding marine mammals and dating from January 1, 2008 to the present;

Please send the results of this request to:

Courtney S. Vail
WDCS, US
333 N. Danielson Way
Chandler, Arizona 85225

Furthermore, we understand that under the Electronic Freedom of Information Act Amendments to the Freedom of Information Act (EFOIA), all federal agencies are required to make available on the Internet, any records that have been disclosed in response to a FOIA request and which the agency determines have become or are likely to become the subject of subsequent requests.

This request satisfies the criteria for fee waiver under 5 U.S.C. 552 (a)(4)(A)(iii). WDCS is a non-profit animal welfare and conservation organization and none of the information under this request will be used for profit or to advance any commercial interests. Rather, WDCS has the ability to contribute to the public's understanding of federal agencies' operations as well as their policies and activities relating to worker and animal protection



United States
Department of
Agriculture

Marketing and
Regulatory
Programs

Animal and
Plant Health
Inspection
Service

Animal Care

EXPIRATION DATE: SEPTEMBER 18, 2012

This is to certify that

MORRO BAY MARINE REHABILITATION CENTER

is a licensed
under the

CLASS C EXHIBITOR

Animal Welfare Act

(7 U.S.C. 2131 et seq.)

Certificate No.

93-C-0814

Customer No.

3632

(b)(6),(b)(7)
(C)

Deputy Administrator



United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

RE: ACKNOWLEDGEMENT OF RENEWAL

Certificate Number: 93-C-0814

Renewal Date: 09/18/2012

August 23, 2011

Customer ID Number: 3632

Bertha Tyler
Morro Bay Marine Rehabilitation Center
Morro Bay Aquarium
595 Embarcadero
Morro Bay, CA 93442

Dear Licensee:

Thank you for submitting your Animal Welfare Act (AWA) license renewal documents and applicable fees. Enclosed is a copy of the renewal form and a new certificate indicating that your AWA license has been renewed for another year.

As a reminder, you should file your application for renewal and pay your licensing fees on or before the expiration date each year. We will send you a renewal notice again next year about 60 days before the expiration date of your license. If you cease conducting regulated activities, you may cancel your license at any time by notifying us, in writing, that you wish to terminate your license.

The law also requires that you notify us, by certified mail, of any change in the name, address, location, management and control or ownership of your business within 10 days after such a change has occurred.

Please be advised that your facility records must be kept current and they are subject to review by APHIS Officials during compliance inspections. You may order record keeping forms from this office free of charge.

We appreciate your efforts in complying with the Animal Welfare Act. Contact this office at (970) 494-7478 if you have any questions regarding this letter or the Animal Welfare Act.

Sincerely,

(b)(6),(b)(7)(C)

Robert M. Gibbens, D V M
Regional Director – Animal Care
Western Region

cc: Marcy E. Rosendale, D.V.M.

Enclosures



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United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

RE: LICENSE RENEWAL
Certificate Number: 93-C-0814
Renewal Date: 09/18/2011

July 19, 2011
Customer ID Number: 3632

Bertha Tyler
Morro Bay Marine Rehabilitation Center
595 Embarcadero
Morro Bay, CA 93442

Dear Licensee:

This is to remind you that your U.S. Department of Agriculture (USDA) Animal Welfare Act (AWA) license is due for renewal on or before the above renewal date. This is the only renewal notice you will receive.

Please complete the enclosed application form, making any necessary corrections to the pre-printed information, and return it to the above address, along with the appropriate license renewal fee. The annual fee is calculated by using the enclosed fee schedule. You may pay by cashier's check, certified check, personal check or money order made payable to the United States Department of Agriculture. You can also pay with a Visa or MasterCard, using the enclosed credit card authorization form. However, we cannot accept cash payments.

Please note that you must have an approved, complete, and up-to-date program of veterinary care form on file at your place of business. You can obtain blank forms -- or any others you may need -- directly from this office or your USDA inspector. The AWA also requires that you report to us any changes in your name, address, location, management, control or ownership of your business via certified mail within 10 days after the change has occurred.

It is very important that you file your AWA license renewal application before the expiration date. Any renewal notices received after that date will be considered invalid and returned. Accordingly, to continue to conduct AWA regulated business, it would be necessary for you to reapply and undergo the entire pre-licensing process. If your license expires and you continue to operate as a dealer or exhibitor, you will be in violation of the AWA and subject to legal action.

We appreciate your efforts in complying with the Animal Welfare Act. Contact this office at (970) 494-7478 if you have any questions regarding this letter or the Animal Welfare Act.

Sincerely,

(b)(6),(b)(7)(C)

Robert M Gibbens, D V M
Regional Director -- Animal Care

cc: Marcy E Rosendale, D.V.M.

Enclosures



Safeguarding American Agriculture
APHIS is an agency of USDA's Marketing and Regulatory Programs
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United States
Department of
Agriculture

Marketing and
Regulatory
Programs

Animal and
Plant Health
Inspection
Service

Animal Care

EXPIRATION DATE: SEPTEMBER 18, 2011

This is to certify that

MORRO BAY MARINE REHABILITATION CENTER

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under the

CLASS C EXHIBITOR

Animal Welfare Act

(7 U.S.C. 2131 et seq.)

Certificate No.

93-C-0814

Customer No.

3632

(b)(6),(b)
(7)(C)

Deputy Administrator

UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
INVESTIGATIVE AND ENFORCEMENT SERVICES

REPORT OF INVESTIGATION

Case Number: CA10891-AC

Subject(s): Morro Bay Marine Rehabilitation
(Contact Information) Center
595 Embarcadero
Morro Bay, CA 93442
(805) 772-7647

Investigator: (b)(6), (b)(7)(C)
(Contact Information) 2150 Centre Avenue, Bldg. B, 3W10
Fort Collins, CO 80526
(970) 494- (b)(6), (b)(7)(C)

Date of Report: September 16, 2011

- ☒ **Substantiated allegation(s)**
- ☐ **No violation(s)**
- ☐ **Insufficient evidence**
- ☐ **Fact finding**
- ☐ **Contains Confidential Business Information**

FOR OFFICIAL USE ONLY

This document and its contents are not to be distributed outside your agency, or duplicated, without prior consent from USDA APHIS Investigative and Enforcement Services.

☒ Reviewer(s) KAREN KRAUBNER-LUCAS

SYNOPSIS

On April 20, 2009, a veterinarian with the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Animal Care (AC) conducted an inspection at the Morro Bay Marine Rehabilitation Center (MBMRC) located in Morro Bay, CA. The inspection was in response to a complaint received by the USDA, APHIS, AC Western Regional Office (WRO). During the inspection, the veterinarian noted the facility was behind in maintaining its feeding logs and medical records were not available for the marine mammals.

On March 10, 2010, a veterinarian with the USDA, APHIS, AC conducted a routine inspection at the MBMRC. During the inspection, the veterinarian noted feeding records were not available for the marine mammals, the facility lacked separate space for newly arriving mammals and the facility lacked space for mammals in need of isolation, separation, medical treatment and medical training.

On June 15, 2010, veterinarians with the USDA, APHIS, AC conducted a routine inspection at MBMRC. During the inspection, the veterinarians noted the marine mammals were not being provided with sufficient food to sustain a healthy body weight. The veterinarians noted one of the sea lions was significantly underweight and had not received adequate veterinary care. The veterinarians also noted the facility had no separate holding facility for mammals in need of isolation, separation, medical treatment and medical training.

On July 12, 2010, veterinarians with the USDA, APHIS, AC conducted a routine inspection at MBMRC. During the inspection, the veterinarians noted the facility lacked space for mammals in need of isolation and medical records failed to document physical examination information.

On August 12, 2010, veterinarians with the USDA, APHIS, AC conducted a routine inspection at MBMRC. During the inspection, the veterinarians noted a harbor seal housed in a pool area lacking sufficient space. They also noted the facility lacked space for mammals in need of isolation, medical treatment and medical training and that the facility's records failed to document physical examination information and adequate veterinary care.

On September 21, 2010, a veterinarian with the USDA, APHIS, AC conducted a routine inspection at MBMRC. During the inspection, the veterinarian noted no non-compliant issues.

BACKGROUND

Subject(s) Information

MBMRC is a family owned aquarium and has been in business for over thirty (30) years. MBMRC is a USDA licensed exhibitor, certificate number 93-C-0814, and a registered corporation in the State of California, number C1240798.

Subject(s) Previous History

Prior Enforcement Actions

N/A

Prior Adjudications

N/A

NARRATIVE**Basis for Investigation**

USDA, APHIS, AC Western Regional Director, Dr. Robert Gibbens requested in a memorandum (Exhibit 1) that USDA, APHIS, Investigative and Enforcement Services (IES) initiate an investigation of MBMRC as a result of their repeated failure to provide adequate veterinary care to mammals.

Investigative Findings

On 4/07/09, the USDA, APHIS, AC, Western Regional Office (WRO) received a complaint (Exhibit 2) from (b)(6),(b)(7)(C) CA. The WRO initiated Animal Welfare Complaint number W09-096 (Exhibit 3) and referred the complaint to USDA, APHIS, AC Veterinary Medical Officer (VMO) Dr. Marcy E. Rosendale. On 4/20/09, Dr. Rosendale conducted an inspection of MBMRC and determined that feeding records for the marine mammals were not available. Dr. Rosendale also determined individual medical records were unavailable and recommended that a system be established to ensure that food consumption and medical records were maintained and available for inspection. After the inspection, Dr. Rosendale completed a USDA, APHIS Inspection Report (Exhibit 4) and on 5/14/09, she provided a copy of the report to (b)(6),(b)(7)(C) of MBMRC.

On 3/10/10, Dr. Rosendale conducted an inspection of MBMRC and determined that feeding records for the marine mammals were not available for the months of February and March. Dr. Rosendale also determined that newly acquired marine mammals were not being isolated before exposing them to resident marine mammals and that no space was available to meet the needs of isolation, separation, medical treatment and medical training. After the inspection, Dr. Rosendale completed a USDA, APHIS Inspection Report (Exhibit 5) and provided a copy to (b)(6),(b)(7)(C) of MBMRC.

On 6/15/10, Dr. Rosendale accompanied by USDA, APHIS, AC Large Felid and Marine Mammal Specialist Dr. Laurie J. Gage conducted an inspection of MBMRC. During the inspection, Dr. Rosendale determined the facility lacked adequate space to accommodate isolation, separation, medical treatment and medical training of marine mammals and noted animals at the facility were being under feed. Dr. Rosendale's review of the facility's feeding records determined that on 4/19/10, a staff member reported one of the harbor seals to have a decreased appetite and on 4/23/10 the animal died. Dr. Rosendale determined that the harbor seal that died on 4/23/10, did not receive a complete necropsy. Dr. Rosendale inspected the food preparation area and observed thawed fish in the refrigerator uncovered. She determined that fish diced for public feeding were being fed to the marine mammals more than twenty-four (24) hours after being thawed. After completing the inspection, Dr. Rosendale prepared a USDA, APHIS, AC Inspection Report (Exhibit 6) and provided a copy to (b)(6),(b)(7)(C) of MBMRC. Dr. Gage also prepared a report (Exhibit 7) documenting her observations.

On 7/12/10, Dr. Rosendale accompanied by Dr. Gage conducted a follow-up inspection of MBMRC. During the inspection, Dr. Rosendale determined the facility still lacked adequate space to accommodate isolation, separation, medical treatment and medical training of marine mammals and that the medical records for the animals remained inadequate.

After completing the inspection, Dr. Rosendale prepared a USDA, APHIS, AC Inspection Report (Exhibit 8) and provided a copy to (b)(6),(b)(7)(C) of MBMRC. Dr. Gage also prepared a report (Exhibit 9) documenting her observations.

On 8/12/10, Dr. Rosendale accompanied by USDA, APHIS, AC Supervisory Specialist Dr. Kathleen M. Garland conducted an inspection of MBMRC. Dr. Rosendale determined MBMRC still lacked adequate space to accommodate isolation, separation, medical treatment and medical training of marine mammals. She said one of the pools housing a harbor seal was only 19.7 inches deep and that the minimum depth for the pool should have been three (3) feet. Dr. Rosendale said the facility also lacked adequate medical records for the animals. Dr. Rosendale said she observed a male sea lion named "Ramses" to be significantly underweight and to have intermittent muscle tremors. Dr. Rosendale said she completed a USDA, APHIS, AC Inspection Report (Exhibit 10) and provided a copy to (b)(6),(b)(7)(C) of MBMRC.

On 9/21/10, Dr. Rosendale conducted an inspection of MBMRC. Dr. Rosendale found no noncompliant items during the inspection. Dr. Rosendale completed a USDA, APHIS, AC Inspection Report (Exhibit 11) and provided an email copy to (b)(6),(b)(7)(C) of MBMRC.

On 6/24/11, USDA, APHIS, IES Investigator (b)(6),(b)(7)(C) contacted Dr. Gage and obtained a sworn affidavit (Exhibit 12). Dr. Gage said on 6/15/10, she accompanied Dr. Rosendale during a site visit and inspection of MBMRC. She said there had been public concerns about the aquarium and about the marine mammals exhibited at the facility. Dr. Gage said they arrived in the afternoon and observed a number of members of the public buying small paper bags with about five (5) to ten (10) small pieces of fish in them. She said the members of the public were feeding these bits of fish to the pinnipeds at MBMRC. Dr. Gage said at the time of their visit, there was one (1) harbor seal "Smokey" approximately two (2) years old, two (2) California sea lions, a female "Nera," and a male "Ramses," both approximately two (2) years old and one (1) California sea lion female "Maggie" twenty-three (23) years old. She said the harbor seal "Smokey" and the two (2) young sea lions "Nera" and "Ramses" arrived from Sea World, Florida on 12/06/09.

Dr. Gage said MBMRC houses all of the animals inside a room with a roof and an outside wall that has cyclone fencing at the top allowing a small amount of natural sunlight inside. She said there is one long pool divided into three areas. She said the pool is approximately eight (8) feet wide and appears to be less than thirty (30) feet long. Dr. Gage said the harbor seal is held by itself in a sectioned off part of the pool approximately eight (8) feet by eight (8) feet with a dry resting area approximately two (2) feet by four (4) feet in the center and a concrete resting area approximately eight (8) feet by four (4) feet at one end. She said three (3) sea lions shared the remaining two (2) sections of the pool. She said the sections were divided by cyclone fencing and had two (2) circular openings in the fencing so that the sea lions could move between the two (2) areas by jumping through the circular openings in the fence.

Dr. Gage said the sea lion water was cloudy in comparison to the harbor seal's water. She said as they watched the sea lions, one (1) sea lion was lying on a haul out shelf while the other two were swimming. She said the one on the shelf, "Ramses," defecated as they watched and had watery diarrhea. Dr. Gage said "Ramses" was very thin and the scapulae, ribs, and vertebral bodies were readily visible. She said the other two (2) sea lions were slightly underweight, but were in the water the entire time they were there making it difficult to access them. Dr. Gage said the harbor seal

appeared to be of acceptable weight. Dr. Gage said members of the public were allowed to feed the animals small bits of fish sold in small white paper bags. She said at one point, she observed a paper bag floating in the pool and the staff made no attempt to remove the bag from the water.

Dr. Gage said she and Dr. Rosendale asked if "Ramses" was under veterinary care and a staff member told them that the veterinarian had been out to the facility the day before and looked at the animal. She said the staff member told them the veterinarian prescribed two hundred and four (204) milligrams of Droncit once and again in two (2) weeks and five hundred (500) milligrams of metronidazole PO BID "until the pills were gone." Dr. Gage said the facility maintained no treatment sheet so they had no means of knowing if and when the animal was getting its medication. She said the staff told them the animal had not been physically examined and that the veterinarian just brought over the medication without doing any diagnostics. Dr. Gage said she and Dr. Rosendale asked to see the treatment sheet showing each time the animal got its medication and the staff had no idea what they were talking about. She said the staff told them they rarely gave animals medication, and treatment for "Ramses" was rather a new procedure.

Dr. Gage said she and Dr. Rosendale expressed concern about "Ramses" because he was very thin in addition to having diarrhea. She said the staff told them they were feeding "Ramses" two (2) extra fish (Herring) and then fed "Ramses" the extra fish while they watched. Dr. Gage said it appeared "Ramses" had a good appetite and she observed him to readily eat the fish.

Dr. Gage said she and Dr. Rosendale asked how much fish the animals were getting to eat. She said the staff told them each animal received three (3) pounds of herring and three (3) pounds of capelin each day. Dr. Gage said they asked about the fat content in each fish and the staff told them they did not know. She said the staff did not seem to understand that knowing the fat content was important. She said the staff told her they started giving the animals herring because it had a higher fat content than the capelin. She said she explained to the staff that herring is not always higher in fat content and that in fact, herring can be very lean depending on where and what time of the year they are caught.

Dr. Gage said the staff was feeding the bigger twenty-three (23) year old sea lion the same amount of food as the other three younger animals. She said staff had made no attempt to calculate the caloric needs or to calculate the caloric intake of each animal each day. She said staff told them they sell small cut pieces of capelin to the public to feed to the animals, but from their confusing explanation it was difficult to say if the capelin fed by the public was in addition to the base diet or included as part of the total amount given to animals each day.

Dr. Gage said they toured the small fish preparation room. She said the cutting boards, sink, and preparation area appeared clean, but old and worn. She said all of the thawed fish held in the refrigerator was uncovered. Dr. Gage said the staff told her after they thaw the fish they place the fish in small bags and then sell the fish to the public. Dr. Gage said she observed several containers of thawed pieces of fish sitting uncovered in the refrigerator. She said the staff told her the fish would be placed in the small paper bags and the following day sold to the public. She said she told the staff that fish must be discarded within twenty-four (24) hours of being thawed. She said the staff did not seem to know about this requirement and were prepared to feed the thawed fish well beyond the twenty-four (24) hour period.

Dr. Gage said she and Dr. Rosendale then asked about the vitamin supplementation and the staff told them the animals each received a vitamin with two hundred fifty (250) milligrams of Thiamin once a day. Dr. Gage said there were no records to show the staff actually gave the supplement to the animals. She said the records were seriously lacking detail and included only a few sentences written each week indicating each animal had eaten its herring and capelin. Dr. Gage said on weeks where the animals were sick, the records would indicate one of the animals had "gone off feed" and then either that same week or within one (1) to two (2) weeks the records would indicate the same animal died.

Dr. Gage said she observed the filtration system for MBMRC draws water from the bay next to the aquarium, filters the water through a small sand and gravel filter, and then pulls the water through a sand/gravel bed. She said the system does not disinfect the water coming into the facility even though MBMRC claims past sewage spills into the bay have resulted in at least one pinniped death each time. Dr. Gage said the MBMRC staff does not test the water coming into the MBMRC facility for pathogens before it enters the animal pools. She said according to staff, they test the Coliform levels weekly using water collected from the animal pools and they change the water in the pools every other day. Dr. Gage said she and Dr. Rosendale suggested more frequent water changes would be desirable since one of the animals had diarrhea and the facility had no way to isolate that animal from the other animals.

Dr. Gage said she and Dr. Rosendale examined MBMRC records and found there were no individual records kept for the animals. She said the staff maintains one small notebook where brief weekly reviews are written. She said and the amounts of food consumed by the animals are written as generalizations for the group and not recorded accurately for each animal.

Dr. Gage said the mortality rate at MBMRC is very high even when discounting the animals rehabilitated there. She said since 1969, MBMRC has had nineteen (19) resident sea lions either living at the facility or born there. Dr. Gage said one (1) sea lion lived to be thirty-two (32) years old and one (1) female "Maggie" has been at MBMRC for twenty-three (23) years, and was a rehabilitated animal in 1987. She said one rehabilitated sea lion lived to be sixteen (16) years old and died in 2003 with no cause of death determined. She said one sea lion, "Thunder," was rehabilitated in 1992 and died in 2007 at fifteen (15) years of age. Dr. Gage said "Thunder" had a two (2) week history of diarrhea, was treated with some antibiotics and Droncit and Albon and died having no laboratory work, histopathology or microbiology performed. She said the veterinarian noted the animal "lost a lot of weight" and that Albon "had not worked." Dr. Gage said a gross necropsy was done with no cause of death identified. She said a local sewage spill was blamed for the diarrhea.

Dr. Gage said four (4) sea lions were captive born at the facility. She said one (1) male lived 5.5 years and died with scanty history. She said a California sea lion, "Lloyd," was born at the facility on 5/25/03 and died 6/15/05 when he was two (2) years old. She said "Lloyd" died from "encephalitis" caused by a "bacterial sewage spill." Dr. Gage said there were no diagnostics performed on the animal; however, the gross necropsy noted jaundice and mottling of the liver. She said the medical history reflected the animal had been off feed for five (5) to seven (7) days and that staff noted head twisting to the right and depression. She said she noted no treatment documented in the record. Dr. Gage said no one examined the central nervous system or brain during the gross necropsy and only one tissue, the liver, was submitted for histopathology. She said the "Necropsy Record" noted that "histopathology did not give etiology" and she commented that with only one tissue submitted, it is no

surprise an etiology could not be determined. Dr. Gage said in spite of the animal showing neurologic signs before death, no physical examination or other diagnostics were performed.

Dr. Gage said a California sea lion "Julie" was captive born 7/07/98 and died 11/05/99 from "drowning." She said the animal was only 1.4 years old. She said another California sea lion "Turkey" was captive born on 6/6/03 and died on 7/11/03 at five (5) weeks of age from drowning. Dr. Gage said there are now two (2) new sea lions that were captive born at Sea World, Florida and transferred to MBMRC on 12/06/09. She said one (1) of those animals, "Ramses" was very thin and had liquid diarrhea the day she and Dr. Rosendale were there. She said "Ramses" had not been physically examined and no fecal cultures or blood work had been performed.

Dr. Gage said the harbor seals also have a high mortality. She said two (2) stranded seals lived to be fifteen (15) and nineteen (19) years old, but died with no cause of death determined. She said since 2002, MBMRC has received six (6) captive born harbor seals from Sea World, Florida. She said one (1) of the harbor seals "Cajun" was two (2) years old when it arrived at MBMRC in 2002, and after living at the facility for six (6) months, the animal stopped eating. Dr. Gage said the medical records indicated "not eating for five (5) days, possible GI bloating, painful." She said as a result, the animal was anesthetized for radiographs and died during anesthesia of respiratory/cardiac arrest. Dr. Gage said the animal weighed fifty-five (55) pounds and would have been easy to restrain for this procedure. She said the animal's body weight was too low for a harbor seal this age.

Dr. Gage said another harbor seal "Army" was over one (1) year old when it arrived at MBMRC in 2002. She said "Army" died on 12/29/04 at about three (3) years of age. She said "Army" lived at the aquarium for 1.5 years and died of "intestinal torsion" after 4-5 days of anorexia. Dr. Gage said the owners apparently changed the type of fish the animal was being fed and the animal died later that night. She said "Army" died on 12/29/04, but a necropsy was not performed until 1/27/05. She said no histopathology or laboratory work was performed on the animal. Dr. Gage said the veterinarian noted there were six (6) to eight (8) feet of small intestine that "appeared torsed around the mesenteric root." Dr. Gage said a few tissues were saved for "possible histo," but no histopathology report was available in the file.

Dr. Gage said a harbor seal male "Chunky" was captive born 4/15/02 and transferred to the MBMRC on 8/13/03. She said he died on 6/22/05 having lived less than two (2) years at the MBMRC. She said "Chunky" was only slightly over three (3) years of age. Dr. Gage said the cause of death was listed as "encephalitis" (bacteria from a sewage spill). She said the history stated the animal had "anorexia for several days-distinct neurologic signs-acute (?) death." Dr. Gage said the general impressions written by the veterinarian were "possible meningitis (3rd animal with neurologic signs) or toxin." "Acute death due to brain dysfunction or to degree drowning." "Etiology is unknown possible toxin or bacterial??" Dr. Gage said the central nervous system and brain were not evaluated in the necropsy. She said there was no physical examination, no laboratory sampling, no microbiology and no histopathology done to try to determine the cause of death of the animal. Dr. Gage said the animal weighed 100 pounds at the time of death.

Dr. Gage said a harbor seal male "Achilles" was captive born 4/27/05, arrived at MBMRC on 1/13/06 and died on 3/23/09 at four (4) years of age. She said the cause of death listed was "valley fever peritonitis." She said the veterinarian's history reflected the animal was anorexic for several weeks, experienced weight loss, vomited one time on 3/21/09 and died on 3/24/09. Dr. Gage said other

notations in the file included "Poss cough x sev months." "Found dead in the pool." Dr. Gage said the animal's weight at death was 92 pounds. She said the abdominal fluid was sent for laboratory analysis, the omental sample was sent for histopathology and the "ovoid structures" noted with a diagnosis of coccidomycosis. Dr. Gage said no histopathology report was available in the folder and no physical examination or diagnostics was performed on the animal prior to death.

Dr. Gage said harbor seal "Socket" was captive born on 4/24/05, transferred to the MBMRC on 1/23/06 and died on 4/23/10 at five (5) years of age. She said the necropsy was conducted on 4/24/10 and the history written by the veterinarian was "4/20 appetite decreased, 4/22 head tremor, owner drained habitat to protect from drowning." "4/23 found dead in habitat. No indication of V or D or struggle prior to death – appeared acute." "All structures appeared normal on post- no abnormalities detected in body structure-Dx open." Dr. Gage said the weight was listed as "125-130" pounds and there was no physical exam, no laboratory work, no microbiology or histopathology done on the animal. Dr. Gage said in spite of the head tremor, the central nervous system/brain was not examined in the necropsy. She said the veterinarian noted in his comments the "head tremor might indicate a neurologic malfunction (2nd to enterotoxins? parasites? hemorrhage? etc. inconclusive)." Dr. Gage said no fecal exam was performed for parasites and no treatment was listed for the animal. She said the cause of death provided to the National Marine Fisheries Service (NMFS) by MBMRS was "probably in heat."

Dr. Gage said there is one harbor seal "Smokey" at MBMRC that is still alive. She said "Smokey" was captive born on 4/13/08. She said "Smokey" arrived on 12/06/09 from Sea World, Florida and appeared to be in good health during her visit. She said "Smokey" appeared slightly underweight.

Dr. Gage said while she and Dr. Rosendale were at MBMRC, they were told there had been several sewage spills from the "Men's Colony" over the years and the owners of MBMRC thought these spills had caused some of their animals to die. Dr. Gage said she asked the MBMRC staff if they had a contingency plan for sewage spills so the animals would not be forced to live in contaminated water. She said the staff did not have a plan and could not think of a way to prevent the animals from living in contaminated water. Dr. Gage said she asked if they cultured the water coming out of the bay before it was put into the animal pools. She said the staff told her they did not know how to perform the test. Dr. Gage said she pointed out they could culture the bay water exactly the same way they culture the water in the animal pools each week for coliforms.

Dr. Gage said her general impression of MBMRC is that the owner/staff did not seem to understand good husbandry practices. She said the owners stated bay water has been contaminated on several occasions over the years and they feel their animals have died because of the contamination yet they do not test the bay water before it goes into the animal pens and they do not have any plan in place to protect the animals if the water becomes contaminated again. Dr. Gage said it appears that virtually every animal that has died received little to no veterinary care.

Dr. Gage said on 6/21/10, she called and spoke with (b)(6),(b)(7)(C) for MBMRC. Dr. Gage said (b)(6),(b)(7)(C) did not know much about pinniped medicine, and stated that there was nobody else in the area who could or would provide veterinary care to the animals. She said she asked (b)(6),(b)(7)(C) never did physical examinations on the animals when they appeared to be sick or exhibiting abnormal behaviors and (b)(6),(b)(7)(C) did not want to "stress" the animals by handling them. Dr. Gage said she told (b)(6),(b)(7)(C) she had done physical examinations

on over 1500 pinnipeds (both harbor seals and sea lions) during her employment with the Marine Mammal Center where she served as the Director of Veterinary Services for fourteen (14) years and not one died as a result of her examination. She said he responded by telling her he was not sure if he was physically able to conduct a physical examination of the animals. She said she told (b)(6),(b)(7)(C) to contact the Marine Mammal Center to see if they had personnel who could help restrain animals for a physical examination and blood/fecal sampling.

Dr. Gage said she asked (b)(6),(b)(7)(C) why he rarely sent tissues for histopathology, and when he did, it was only one or two tissues (not a full set). She said he told her if he didn't see anything grossly in the tissues then he didn't bother to send them in. She said he stated it was very expensive to run histopathology on multiple tissues. Dr. Gage said she asked (b)(6),(b)(7)(C) why he did some of the necropsies on animals that had been frozen and in one situation an animal that had been frozen over one month before it was examined. She said he told her MBMRC had to freeze the animals because he was out of town. Dr. Gage said (b)(6),(b)(7)(C) seemed unaware or unconcerned that freezing tissues make it difficult if not impossible for the pathologist to make a diagnosis on the more subtle problems. She said one pathologist noted on one of the reports that freezing artifacts made a diagnosis difficult. She said she informed (b)(6),(b)(7)(C) that it was not up to him to provide veterinary services when he was out of town, but that the owners needed to find someone to cover for him if any of the animals had problems when he was away.

Dr. Gage said she asked (b)(6),(b)(7)(C) how "Ramses," the sea lion observed with diarrhea during her previous visit, was doing. She said he told her he thought "Ramses" was doing better, but he had not been back to MBMRC to see him. She said she asked (b)(6),(b)(7)(C) why he treated the animal with Droncit when it was eating fish that had been previously frozen and had little chance of contracting tapeworm (or fluke) infection. She said he told her he had seen "parasite problems" in the past and so did this as a matter of course. Dr. Gage said her concern was that one of Droncit's side effects is that it causes diarrhea and that in her experience, tapeworm infections do not cause diarrhea in pinnipeds.

Dr. Gage said she expressed concern to (b)(6),(b)(7)(C) that no cultures had been taken of "Ramses" feces, that he was defecating into a pool that housed two (2) other animals and that there was no way for MBMRC to separate sick animals from the healthy ones. Dr. Gage said (b)(6),(b)(7)(C) did not seem overly concerned about these issues. She said she then expressed a concern over the very high mortality at MBMRC and (b)(6),(b)(7)(C) responded saying MBMRC had rehabilitated a number of animals and the animals probably died from reasons that had nothing to do with stranding. Dr. Gage said the captive born animals at MBMRC have the highest mortality and (b)(6),(b)(7)(C) argument that the mortality at MBMRC was related to the rehabilitated animals was not valid.

Dr. Gage said she is concerned about (b)(6),(b)(7)(C) ability to diagnose problems in the animals either pre or post mortem. She said each animal that died at MBMRC has a similar history. The animal shows signs of anorexia or diarrhea for a few days to weeks; it may or may not be treated with a shotgun therapy of possibly inappropriate drugs; it will not ever have a physical examination or any diagnostics performed and then it will die with little effort or expense to find the cause of death. Dr. Gage said not one of the captive born animals that have lived at MBMRC has lived beyond the age of 5.5 years.

Dr. Gage said MBMRC now houses one (1) older female sea lion, one (1) young male with health issues, one (1) young female sea lion, and one (1) young harbor seal. She said she knows of a case

where a two (2) year old male sea lion impregnated a three (3) year old female sea lion, so it is possible in the next year or so, the young female could become pregnant. She said the MBMRC facility is inappropriate for sea lion births. She said there is no haul-out area large enough for a female to easily nurse her pup, and there is no beach area for a young pup to exit the pool to rest. Dr. Gage said a young pup could easily drown the way the exhibit is designed. She said there have already been two (2) deaths of sea lions born at the facility due to drowning.

Dr. Gage said the haul-out areas are inappropriate for sea lions and likely do not meet USDA minimum standards. She said she believes there was a variance given to the MBMRC facility at one time in the past, however, the animals and conditions have changed since then and she believes the MBMRC facility for the sea lions is out of compliance.

Dr. Gage said the fish fed to the animals was poorly handled and it was clear that the MBMRC staff and the attending veterinarian had no general knowledge of the proper handling of fish or the appropriate caloric values. She also said it was questionable if the staff understood the importance of vitamin supplementation.

Dr. Gage said since there were no detailed feed or medical records for each animal, only general sentences written each week about the entire group of animals, it was impossible to know if any of the animals received a proper diet or supplementation. She said neither the owners nor the attending veterinarian seemed to understand the importance of knowing the fat content of the fish being fed to the animals and the diet for the animals was created without approval of the veterinarian. She said she informed the veterinarian that a hypovitaminosis B1 could be a cause of vague neurologic signs and death and that he seemed unaware of the issue and asked if that could be seen on histopathology. Dr. Gage said she told (b)(6), (b)(7)(F) that the issue could be seen on histopathology if the samples were sent to a pathologist who is familiar with marine mammals.

Dr. Gage said MBMRC is not designed to hold pinnipeds properly. She said sick animals cannot be removed or separated for care and no diagnostics are ever done to determine a treatment program. She said the MBMRC facility has an alarming mortality rate of captive animals that is over 90% for both sea lions and harbor seals. She said no captive born pinniped has lived longer than 5.5 years after arriving at MBMRC. Dr. Gage said pinnipeds should be able to live easily into their twenties and typically require little veterinary attention if they are fed a wholesome diet with appropriate supplements and housed in clean water. She said she felt the USDA had a very strong case for confiscating at least the young harbor seal and two (2) of the young sea lions. Dr. Gage said the older female has survived twenty-three (23) years in spite of the spotty care, but is a social animal and should be housed with other sea lions.

Dr. Gage said on 7/12/10, she accompanied Dr. Rosendale to MBMRC to follow up on the inspection they conducted in June. She said they saw "Ramses", the young sea lion that had diarrhea the last time they were there. She said "Ramses" appeared to have gained some weight and they did not see any diarrhea. She said the water quality in the pool appeared better, which suggested to her the sea lion did not have the severe diarrhea that appeared to be clouding the water during their last visit. Dr. Gage said the attending veterinarian had visited the aquarium after their last visit and had prescribed another course of metronidazole for the sea lion. She said no samples were taken or diagnostics performed. Dr. Gage said the owner told her the animal still had diarrhea from time to time, but that it was

“improved.” She said she observed “Ramses” to be brighter and more active than he was during their last visit, and his appetite appeared to be good.

Dr. Gage said as she watched the harbor seal “Smokey” swim in the “east pool,” isolated from the other animals by a fence, she realized the pool was very shallow. She said it appeared that the pool was barely deep enough for the harbor seal to swim and the seal could not dive. She said she asked the owner how deep the pool was and he first stated it was “about four (4) feet deep.” She said she told the owner she knew it was not that deep and asked to see the plans for the pools. Dr. Gage said the owners did not seem to know where their plans were and stated the USDA had approved the plans “about 20 years ago.” Dr. Gage said she told the owners she did not feel the pool was deep enough for the harbor seal to live in permanently and that it appeared to be about two (2) feet deep. She said the owner argued that wild harbor seals live in very shallow water in some places.

Dr. Gage said she contacted USDA, APHIS, AC Staff Veterinarian Dr. Barbara Kohn, who had a copy of the construction plan (Exhibit 13) for MBMRC. Dr. Gage said the plan showed the pool the harbor seal was living in to be only 19.7” deep. Dr. Gage said the owners told her in the past, the harbor seals and sea lions were held together so the harbor seals had access to the deeper pools the sea lions are now housed in. She said the owners felt the older female sea lion was not compatible with the harbor seals so they separated them.

Dr. Gage said she and Dr. Rosendale reviewed the inspection report from the June inspection and outlined their concerns to the owners. She said the owners had made a few improvements and the record keeping for each animal was vastly improved. She said feeding and behavior records were now maintained for each of the four animals that live there.

Dr. Gage said she and Dr. Rosendale stressed that the animals must be provided adequate veterinary care, which includes a physical examination and collection of appropriate samples when the animals get sick. She said they pointed out that this had not happened for most of the animals that had died at the facility.

Dr. Gage said the owners continued to blame the “Men’s Colony” sewage spills for their animal deaths. She said she and Dr. Rosendale told them they must have a plan to protect the animals from future spills and that blaming the Men’s Colony was not justification. Dr. Gage said she also pointed out that if the animals were exposed to a sewage spill, a good diagnostic veterinary work-up with cultures and the administration of appropriate antibiotics could likely save the lives of the sick animals.

Dr. Gage said she and Dr. Rosendale shared their concern for the sea lion haul out space and stated it was inadequate, especially for a mother and pup. She said they stressed MBMRC should take measures not to breed their sea lions as they had two young sea lions die from drowning in the pools. Dr. Gage said the owners seemed concerned that they were trying to “shut down” their aquarium. She said she and Dr. Rosendale told them they had to comply with the Animal Welfare Act (AWA) regulations and if they were not able to comply they would have to find a new home for one or more of their pinnipeds. Dr. Gage said the owners of MBMRC insisted they should have another variance and she pointed out they had an extremely high mortality rate with the young captive born pinnipeds. Dr. Gage said none of the four sea lions born at their facility survived past the age 5.5 years, and none of the five harbor seals brought from Sea World survived past the age of 4 years.

Dr. Gage said she and Dr. Rosendale are very concerned for the health and welfare of the two young sea lions and one young harbor seal brought in from Sea World last December. She said the owners agreed to try to put the harbor seal in with the sea lions, but were concerned the animals would be incompatible. Dr. Gage said she told the owners if the animals were incompatible, they would need to find a home for the harbor seal. She said the owners stated they would "just release the harbor seal." Dr. Gage said she and Dr. Rosendale informed the owners that releasing the harbor seal would be illegal and they would need to contact National Marine Fisheries Service (NMFS) to see if it could be done.

Dr. Gage said she does not believe the two elderly owners or their grandson are capable of taking proper care of the animals at MBMRC. She said after all the years of running this aquarium they still do not seem to know how to restrain the animals for a simple veterinary examination, how to protect the animals from contaminated bay water or how to calculate the caloric needs of the animals.

On 7/28/11, Investigator (b)(6),(b)(7) contacted Dr. Rosendale and obtained a sworn affidavit (Exhibit 14). Dr. Rosendale said on 4/07/09, the USDA, APHIS, AC WRO received a complaint from (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) CA. She said the complaint indicated three (3) sea lions at MBMRC were showing signs of distress. Dr. Rosendale said on 4/20/09, she conducted an inspection of MBMRC and observed two (2) apparently healthy marine mammals, one California sea lion and one harbor seal. She said she learned from MBMRC staff that one of the three (3) animals addressed in the complaint, a harbor seal, died on 3/22/09. She said the necropsy results indicated the animal died of a chronic fungal infection (coccidioidomycosis).

Dr. Rosendale said she contacted (b)(6),(b)(7)(C), and interviewed him by telephone. She said he told her he treated the animal on several different occasions for undiagnosed illnesses. She said he told her MBMRC contacted him on either 3/17/09 or 3/19/09 to report that the animal was ill and he dispensed an anthelmintic.

Dr. Rosendale said the owners of MBMRC were not at the facility at the time of the inspection and personnel who were present could not locate the medical records. She said she also determined the facility was behind on maintaining feeding logs and cited MBMRC for the two (2) non-compliant items on the USDA, APHIS Inspection Report. Dr. Rosendale said it appeared that MBMRC had notified the attending veterinarian promptly when they noted the animal was ill and that MBMRC was treating the animal at the time of the complaint. She said as part of the Inspection Report, she recommended to MBMRC that a system be established to ensure that food consumption and medical records be maintained and available for inspection and on 5/14/09, she provided a copy of the Inspection Report to MBMRC.

Dr. Rosendale said on 3/10/10, she conducted another inspection of MBMRC. She said during the inspection, she determined that feeding records for the marine mammals were not available for the months of February and March. She said she also determined that newly acquired marine mammals were not been isolated before exposing them to the resident marine mammals and that no space was available to meet the needs of isolation, separation, medical treatment and medical training. Dr. Rosendale said after the inspection, she completed a USDA, APHIS Inspection Report and provided a copy to MBMRC.

Dr. Rosendale said on 6/15/10, she conducted an inspection of MBMRC accompanied by USDA, APHIS, AC Large Felid Specialist Dr. Laurie J. Gage. She said during the inspection, she and Dr. Gage determined the facility still lacked adequate space to accommodate isolation, separation, medical treatment and medical training for marine mammals under their care. She said the MBMRC submitted plans for a holding facility that did not meet the space requirements outlined in 9 CFR § 3.104 as neither the dry resting area nor the minimum horizontal area met the minimum space requirements. She said the plans for the dry resting area provided only a three foot wide by six foot long platform which was not large enough to accommodate the average length (7.3 feet) of an adult male sea lion and in addition, the dry resting area was to be suspended directly above the center of the holding area, decreasing the surface area of the facility.

Dr. Rosendale said at the time of the inspection, there was no separate holding facility to isolate or separate the sea lions under the care of MBMRC. She said MBMRC had converted the area they used in the past for separation to permanent housing for an incompatible resident marine mammal. Dr. Rosendale said if MBMRC needs to separate one (1) of the sea lions at the facility from the others for any reason there is now no holding facility available for use at the aquarium. Dr. Rosendale said during their visit, the male California sea lion at the aquarium had diarrhea and she noted the sea lion to be significantly underweight. She said the MBMRC staff had not weighed the animal and no diagnostic tests had been performed. Dr. Rosendale said one (1) dose of medication had been administered to the animal prior to the inspection, but had not been documented. Dr. Rosendale said without a holding facility there was no way to isolate this animal from the other sea lions and the inability to separate marine mammals could endanger their health and well-being.

Dr. Rosendale said she and Dr. Gage observed one (1) of the sea lions to be significantly underweight and possibly underfed. She said MBMRC staff told them all of the sea lions including the larger female were receiving the same amounts of food and that they had not attempted to calculate the caloric needs or intake of the marine mammals housed at their facility. She said she reviewed the facility's feeding records and determined on 4/19/10, a staff member reported one of the harbor seals to have a decreased appetite. She said the record indicated the attending veterinarian was not notified until 4/22/10 and the animal died on 4/23/10.

Dr. Rosendale said she and Dr. Gage then inspected the food preparation area. She said she observed thawed fish in the refrigerator that was uncovered. She said she also determined diced fish for public feeding was being fed more than twenty-four (24) hours after being thawed. Dr. Rosendale said the harbor seal that died on 4/23/10, did not receive a complete necropsy. She said although the animal was exhibiting neurologic signs, the central nervous system, including the brain, was not examined and no histopathology or other lab work was obtained. Dr. Rosendale said after completing the inspection, she prepared a USDA, APHIS Inspection Report and provided a copy to MBMRC.

Dr. Rosendale said on 7/12/10, she and Dr. Gage conducted a follow-up inspection of MBMRC. She said she and Dr. Gage observed "Ramses," the sea lion that had diarrhea the last time they inspected MBMRC, and noted that he had gained some weight. Dr. Rosendale said the facility still lacked adequate space to accommodate isolation, separation, medical treatment and medical training of marine mammals and at the time of the inspection, no separate holding facility to isolate or separate the sea lions housed at the aquarium was available. Dr. Rosendale said the separation area used in the past was being used as permanent housing for an incompatible resident marine mammal. Dr. Rosendale said she reviewed the medical records and noted they still did not include physical

examination information. She said the animals had not been measured or weighed and no diagnostic tests had been performed on the California sea lion with diarrhea. Dr. Rosendale said after completing the inspection, she prepared a USDA, APHIS, AC Inspection Report and provided a copy to MBMRC.

Dr. Rosendale said on 8/12/10, she returned to MBMRC with USDA, APHIS, AC Supervisory Specialist Dr. Kathleen M. Garland and conducted an inspection of the facility. She said they determined MBMRC still lacked adequate space to accommodate isolation, separation, medical treatment and medical training of marine mammals. She said they also determined one of the pools housing a harbor seal was only 19.7 inches deep and that the minimum depth for the pool should have been three (3) feet. Dr. Rosendale said MBMRC staff told them they planned to try introducing the harbor seal to the California sea lions the following week when public attendance was expected to be lower. She said MBMRC staff told them the move would give the harbor seal access to the deeper enclosure housing the sea lions.

Dr. Rosendale said she and Dr. Garland examined the medical records for the animals and noted they did not include physical examination information. They also noted the animals had not been measured or weighed and no diagnostic tests had been performed. Dr. Rosendale said she and Dr. Garland observed the male sea lion named "Ramses" to be significantly underweight and to have intermittent muscle tremors. She said they also observed "Ramses" to have an abnormal gait on the dry resting area hitting his head once and running into the wall once while they were present. Dr. Rosendale said a MBMRC staff member told them he would call the attending veterinarian to examine "Ramses" later the same day. She said on the same date, she contacted MBMRC to check on the results of the attending veterinarian's examination of "Ramses." She said she learned that no examination had been conducted because the attending veterinarian was not capable of performing diagnostic tests and could only prescribe an antibiotic for "Ramses."

Dr. Rosendale said on 8/13/10, Dr. Gage contacted (b)(6),(b)(7) and learned from him that he was not physically capable of handling any of the marine mammals at the facility and that he felt he was not up to date on Pinniped medicine. She said she prepared a USDA, APHIS, AC Inspection Report and provided a copy to MBMRC.

Dr. Rosendale said on 9/21/10, she conducted an inspection of MBMRC. She said during this inspection she noted no noncompliant issues. She said after the inspection, she prepared an Inspection Report and provided a copy via email to MBMRC.

On 7/28/11, Investigator (b)(6),(b)(7) contacted (b)(6),(b)(7)(C) for MBMRC and obtained a sworn affidavit (Exhibit 15). (b)(6),(b)(7)(C) said he has been employed by the MBMRC for (b)(6),(b)(7)(C) of the facility. (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C) said on 4/20/09, USDA, APHIS, AC Veterinary Medical Officer (VMO) Dr. Marcy Rosendale conducted an inspection of MBMRC. He said after completing the inspection Dr. Rosendale prepared a report documenting her findings and on 5/14/09 the USDA, APHIS, Inspection Report was reviewed and signed by Bertha Tyler one of the owners. (b)(6),(b)(7)(C) said during the inspection, Dr. Rosendale found MBMRC was not able to provide feeding records for the marine mammals. He said she also found MBMRC was not maintaining adequate medical records for the marine mammals. (b)(6),(b)(7)(C) said he was present during the inspection; however, he could not locate

the medical records Dr. Rosendale required. (b)(6),(b)(7)(C) said the system MBMRC was using to document feeding at the time of the inspection was outdated and he was not aware that MBMRC was required to keep more detailed records. He said Dr. Rosendale recommended that MBMRC establish a system to ensure that food consumption and medical records be maintained and available for inspection.

(b)(6),(b)(7)(C) said on 3/10/10, Dr. Rosendale conducted another inspection of MBMRC. He said after completing the inspection Dr. Rosendale prepared a report documenting her findings and on 4/01/09, Bertha Tyler reviewed and signed the USDA, APHIS, Inspection Report. (b)(6),(b)(7)(C) said during the inspection, Dr. Rosendale found MBMRC was not able to provide February and March feeding records for the marine mammals. He said she also found MBMRC was not isolating newly acquired marine mammals and that MBMRC had no separate holding facility to meet the needs of isolation, separation, medical treatment, and medical training of marine mammals. (b)(6),(b)(7)(C) said he was present during the inspection, but MBMRC was behind in entering the information into the log book and he was not able to provide the records to Dr. Rosendale at the time. (b)(6),(b)(7)(C) said at the time of the inspection, MBMRC had recently acquired some new sea lions. He said he was concerned about compatibility so they housed the harbor seal in the area they normally used for isolation.

(b)(6),(b)(7)(C) said on 6/15/10, Dr. Rosendale conducted another inspection of MBMRC. He said after completing the inspection Dr. Rosendale prepared a report documenting her findings and on 7/12/10, Bertha Tyler reviewed and signed the USDA, APHIS, Inspection Report. (b)(6),(b)(7)(C) said during the inspection, Dr. Rosendale found one of the California sea lion "Ramses" was significantly underweight; that MBMRC was not calculating the caloric needs or the intake of the marine mammals; that MBMRC was not adequately monitoring changes in food consumption resulting in delays in medical treatment for the marine mammals; and MBMRC was allowing thawed fish to remain in the refrigerator uncovered. (b)(6),(b)(7)(C) said Dr. Rosendale also found MBMRC failed to maintain adequate medical records for the marine mammals under MBMRC care; had failed to perform a complete necropsy for an animal that died on 6/23/10; had no separate holding facility to meet the needs of isolation, separation, medical treatment, and medical training of marine mammals; and that the plan MBMRC submitted for improvements was inadequate. (b)(6),(b)(7)(C) said he was present during the inspection and later addressed each of the issues identified by Dr. Rosendale. He said in response to "Ramses" being underweight their attending veterinarian, (b)(6),(b)(7)(C) (b)(6), prescribed antibiotics and they increased the amount of Herring they were feeding "Ramses." He said they also looked into creating space for isolation through a redesign of the MBMRC facility, but found that the proposed changes were not possible. (b)(6),(b)(7)(C) said prior to this inspection, they were leaving food uncovered in the refrigerator because they were unaware that it was an issue. He said they also did not do a complete necropsy of the animal that died because they did not realize they had to.

(b)(6),(b)(7)(C) said on 7/12/10, Dr. Rosendale conducted an inspection of MBMRC. He said after completing the inspection Dr. Rosendale prepared a report documenting her findings and on 8/12/10, he reviewed and signed the USDA, APHIS, Inspection Report. (b)(6),(b)(7)(C) said during the inspection, Dr. Rosendale found MBMRC had no separate holding facility to meet the needs of isolation, separation, medical treatment, and medical training of marine mammals and failed to maintain adequate medical records for the marine mammals under our care. He said he was present during the inspection. (b)(6),(b)(7)(C) said MBMRC still does not have adequate space for isolation, separation, medical treatment, and medical training of marine mammals because the plans they submitted were rejected. He said he is still concerned about the compatibility of the animals at the facility. He said

MBMRC did develop a system for tracking the calories and fat they feed to each animal and currently they create a daily diet for each animal based on their individual needs.

(b)(6),(b)(7)(C) said on 8/12/10, Dr. Rosendale conducted an inspection of MBMRC. He said after completing the inspection Dr. Rosendale prepared a report documenting her findings and on 8/13/10, Bertha Tyler reviewed and signed the USDA, APHIS, Inspection Report. (b)(6),(b)(7)(C) said during the inspection, Dr. Rosendale found one of the pools housing a harbor seal at MBMRC was too shallow. He said the pool was determined to be 19.7 inches deep. (b)(6),(b)(7)(C) said Dr. Rosendale also found no separate holding facility to meet the needs of isolation, separation, medical treatment, and medical training of marine mammals, inadequate medical records for the marine mammals under our care, and lack of veterinary care for the marine mammals. He said he was present during the inspection.

(b)(6),(b)(7)(C) said after the inspection, they opened the gate separating the pools for short periods of time to acclimate the harbor seal to the others. He said by opening the gate they allowed the Harbor seal to move from the shallow pool to a deeper pool housing California sea lions and they created adequate space for isolation, separation, medical treatment, and medical training of marine mammals.

(b)(6),(b)(7)(C) said on 9/21/10, Dr. Rosendale conducted an inspection of MBMRC. He said after completing the inspection, Dr. Rosendale prepared a report documenting her findings and emailed the report to MBMRC. He said on 10/12/10, Bertha Tyler acknowledged receipt of the inspection report. (b)(6),(b)(7)(C) said because they made changes to address the issues identified by Dr. Rosendale during previous inspections, she found no non-compliance issues at the time of this inspection. After completing the interview with (b)(6),(b)(7)(C) Investigator (b)(6),(b)(7) took photographs (Exhibit 16) of the MBMRC facility depicting the water filtering system, the area housing the marine mammals and the food preparation area.

On 10/25/11, Investigator (b)(6),(b)(7) contacted USDA, APHIS, AC Supervisory Specialist Dr. Kathleen Garland. Dr. Garland said she had reviewed Dr. Rosendale's Inspection Reports and was confident the reports accurately reflected the violations she observed. Dr. Garland said she also reviewed the reports written by Dr. Gage, concurred with her conclusions and felt the reports were an accurate reflection of the events that took place during the inspections.

On 10/28/11, USDA, APHIS, IES Investigator (b)(6),(b)(7)(C) (b)(6),(b)(7) contacted Section Manager and Enforcement Coordinator Harvey Packard of the California Regional Water Quality Control Board (CRWQCB), Central Coast Region. At the request of Investigator (b)(6),(b)(7)(C) Mr. Packard checked CRWQCB records for reported sewage spills in the Morro Bay area during the last five (5) years.

After researching CRWQCB records, Mr. Packard in his Interview Log (Exhibit 17) said there have been ten (10) sewage spills in the Morro Bay area reported to the CRWQCB during the last five years. He said some of the spills flowed directly into the ocean and did not enter bay waters. He said a few of the spills flowed into tributaries ending at Morro Bay, but it is not known how much sanitary sewer overflow (SSO) actually entered bay waters.

(b)(6),(b)(7)(C) said three of the spills were report by the California Department of Corrections California Men's Colony in San Luis Obispo, CA. He said the first spill occurred on or about 08/16/07 and involved approximately 5,000 gallons of SSO. (b)(6),(b)(7)(C) said approximately 4,000 gallons of SSO was recovered before it reached the surface water. (b)(6),(b)(7)(C) said the second spill occurred on or

about 1/27/2008 and involved approximately 20,000 gallons of SSO. He said this was the largest of the reported spills and based on their records all of the SSO reached the surface water. Mr. Packard said he does not know how much of this SSO entered the bay waters, but the San Luis Obispo County Health Department closed Morro Bay to water contact recreation for four (4) days and sport shellfish harvesting was closed for two (2) weeks. Mr. Packard said the third spill occurred on or about 10/13/2009 and involved 200 gallons of SSO. He said approximately 100 gallons of SSO was recovered before it reached the surface water. Mr. Packard provided Investigator (b)(6),(b)(7) with a copy of the CRWQCB Sanitary Sewer Overflow Event Report (Exhibit 18).

Investigator (b)(6),(b)(7) compared the dates of the spills reported by the California Department of Corrections Men's Colony to the illnesses reported by MBMRC and found no direct correlation.

These findings substantiate the following alleged violation(s):

9 CFR § 3.105(c) Feeding.

On 4/20/09, MBMRC, operating as an exhibitor, failed to maintain feeding records for the marine mammals under their care.

9 CFR § 3.110(d) Veterinary care.

On 4/20/09, MBMRC, operating as an exhibitor, failed to keep and make available medical records documenting animal identification, physical examination information, diagnostic test results and a proposed treatment plan for animals under their care.

9 CFR § 3.105(c) Feeding.

On 3/10/10, MBMRC, operating as an exhibitor, failed to make feeding records for the marine mammals available for APHIS inspection.

9 CFR § 3.110(a) Veterinary care.

On 3/10/10, MBMRC, operating as an exhibitor, failed to isolate newly acquired marine mammals until they could be determined to be in good health by the attending veterinarian.

9 CFR § 3.110(b) Veterinary care.

On 3/10/10, MBMRC, operating as an exhibitor, failed to provide holding facilities for isolation, separation, medical treatment, and medical training of marine mammals.

9 CFR § 3.105(a) Feeding.

On 6/15/10, MBMRC, operating as an exhibitor, failed to provide sufficient quantities of food to sustain a healthy body weight in animals under their care.

9 CFR § 3.105(c) Feeding.

On 6/15/10, MBMRC, operating as an exhibitor, failed to report inappetence exceeding twenty-four hours to the attending veterinarian.

9 CFR § 3.105(d) Feeding.

On 6/15/10, MBMRC, operating as an exhibitor, failed to feed thawed food within twenty-four hours and failed to handle food in a way that assured the wholesomeness and nutritive value.

9 CFR § 3.110(b) Veterinary care.

On 6/15/10, MBMRC, operating as an exhibitor, failed to provide holding facilities for isolation, separation, medical treatment, and medical training of marine mammals.

9 CFR § 3.110(d) (2) Veterinary care.

On 6/15/10, MBMRC, operating as an exhibitor, failed to keep and make available medical records documenting physical examination information, diagnostic test results, a proposed treatment plan and documentation of treatment for animals under their care.

9 CFR § 3.110(g) (1) Veterinary care.

On 6/15/10, MBMRC, operating as an exhibitor, failed to conduct a complete necropsy for a marine mammal that died under their care in captivity.

9 CFR § 3.110(b) Veterinary care.

On 7/12/10, MBMRC, operating as an exhibitor, failed to provide holding facilities for isolation, separation, medical treatment, and medical training of marine mammals.

9 CFR § 3.110(d) (2) Veterinary care.

On 7/12/10, MBMRC, operating as an exhibitor, failed to keep and make available medical records documenting physical examination information, diagnostic test results, a proposed treatment plan and documentation of treatment for animals under their care.

These findings indicate that the evidence does not support a violation of the following section(s):

N/A

MITIGATING AND/OR AGGRAVATING FACTORS

N/A

ADDITIONAL INFORMATION

A photocopy of the State of California, Secretary of State, Business Entity Detail showing RMS as an active corporation, number C1240798 (Exhibit 19). Photocopies of USDA, APHIS, AC renewal documents for MBMRC (Exhibit 20).

<u>WITNESS LIST</u> <i>Provide First, MI and Last Name with Complete Address</i>		
Name	Title	Address / Phone Number
(b)(6),(b)(7)(C) (b)(6),(b)(7)(C)	Investigator USDA, APHIS, IES	2150 Centre Avenue, Bldg. B-3W10 Fort Collins, CO 80526 (970) 494-7485
Laurie J. Gage	Veterinary Medical Officer USDA, APHIS, AC	2150 Centre Avenue, Bldg. B-3W11 Fort Collins, CO 80526 (970) 494-7478
Kathleen M. Garland	Supervisory Specialist USDA, APHIS, AC	2150 Centre Avenue, Bldg. B-3W11 Fort Collins, CO 80526 (970) 494-7478
Marcy E. Rosendale	Veterinary Medical Officer USDA, APHIS, AC	2150 Centre Avenue, Bldg. B-3W11 Fort Collins, CO 80526 (970) 494-7478
(b)(6),(b)(7)(C)		595 Embarcadero Morro Bay, CA 94442 (805) 772- (b)(6),(b)(7)(C)
Harvey Packard	Section Manager and Enforcement Coordinator	895 Aerovista Place, Suite 101 San Luis Obispo, CA 93401 (805) 542-4639

CASE REPORT DISTRIBUTION (cc)**Program Official(s)**

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USDA, APHIS, AC
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USDA, APHIS, IES
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(310) 726-9027

CASE UPDATES**Program Official(s)**

Dr. Robert Gibbens, Regional Director
USDA, APHIS, AC, CO

Primary Investigator

(b)(6), (b)(7)
(C) (b)(6), (b)(7)
USDA, APHIS, IES, CA

IES Area Manager

Karen Kraubner-Lucas, Area Manager
USDA, APHIS, IES, CA

IES Deputy Regional Director

Eric Nickerson, Deputy Western Regional Director
USDA, APHIS, IES, CO

IES Regional Director

Timothy Fordahl, Western Regional Director
USDA, APHIS, IES, CO

EXHIBIT LIST

Exhibit #	Description	Date	Total Pages
1	Letter and license attachments from USDA, APHIS, AC Western Regional Director Robert M. Gibbens requesting an investigation	08/23/11	38
2	Photocopy of letter addressed to (b)(6),(b)(7)(C) from APHIS, AC Western Regional Director Robert Gibbens	04/09/09	3
3	Photocopy of USDA, APHIS, AC Animal Welfare Complaint, No. W09-096	04/09/09	2
4	Photocopy of USDA, APHIS Inspection Report, dated 4/20/09, prepared by Dr. Rosendale	04/20/09	2
5	Photocopy of USDA, APHIS Inspection Report, dated 3/10/10, prepared by Dr. Rosendale	03/10/10	2
6	Photocopy of USDA, APHIS Inspection Report, dated 6/15/10, prepared by Dr. Rosendale	06/15/10	4
7	Photocopy of inspection notes, dated 6/21/10, completed by Dr. Laurie Gage	06/21/10	8
8	Photocopy of USDA, APHIS Inspection Report, dated 7/12/10, prepared by Dr. Rosendale	07/12/10	7
9	Photocopy of inspection notes, dated 7/12/10, prepared by Dr. Laurie Gage	07/12/10	2
10	Photocopy of USDA, APHIS Inspection Report, dated 8/12/10, prepared by Dr. Rosendale	08/12/10	3
11	Photocopy of USDA, APHIS Inspection Report, dated 9/21/10, prepared by Dr. Rosendale	09/21/10	4
12	APHIS form 7162, Affidavit for Dr. Laurie Gage	06/24/11	9
13	Photocopy of facility plans for MBMRC	10/30/97	3
14	APHIS form 7162, Affidavit for Dr. Marcy Rosendale	07/28/11	3
15	APHIS form 7162, Affidavit for (b)(6),(b)(7)(C)	07/28/11	6
16	Photographic templates depicting the MBMRC facility	07/28/11	11
17	USDA, APHIS, IES Interview Log for Harvey Packard	10/28/11	1
18	Photocopy of CRWQCB Sanitary Sewer Overflow Event Report showing spills in the Morro Bay area.	N/A	2
19	Photocopy of State of California, Secretary of State Business Entity Detail for MBMRC	07/26/11	1

20	Photocopy of MBMRC renewal documents	08/24/11	4
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August 23, 2010

United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

Timothy R. Fordahl
Western Regional Director
Investigative & Enforcement Services

**Request for Investigation of Alleged Violations
Regarding the Animal Welfare Act, Regulations,
and/or Standards**

Please initiate an investigation on the following individuals:

NAME: Morro Bay Marine Rehabilitation Center
ADDRESS: 595 Embarcadero
CITY: Morro Bay, CA 93442
LIC / CUST #: 93-C-0814 / 3632

ADDITIONAL INFORMATION:


Repeated failure to provide adequate veterinary care to mammals. Violations also include direct NCIs for veterinary care of California sea lion, Ramses, on August 12, 2010 and direct NCIs for feeding (California sea lions underweight) and veterinary care on June 15, 2010.

Finalized inspection reports (June 15, 2010, July 12, 2010 and August 12, 2010) will be forwarded to IES upon arrival to AC WRO. Unsigned ACIS copies of the June 15 2010 and July 12, 2010 inspection reports are included in the information package sent to IES. Also included is 93-C-0314, canceled September 10, 2007 for failure to renew.

Laurie Gage, AC Field Specialist Large Cats and Marine Mammals, has knowledge of these violations.

If further information is needed, please let me know.

(b)(6),(b)(7)(C)

 Robert M. Gibbens
Director, Western Region
USDA, APHIS, Animal Care

cc: Marcy Rosendale, VMO

Count of Animals Inspected at Last Inspection

Customer Type: *
Inspection Dates From: 01-July-2007 - 30-Sep-2010
Customer: 3632

Region: *
State: *

Cust No	Cert No	Site	Site Name County Name	Inspection Date	Specie	Animal Inventory Count
3632	93-C-0314	001	Cancelled 09/10/07 - Morro Bay Marine Rehabilitation Center San Luis Obispo County	2-Aug-2007	Marine - Pinnipeds - Group 1 Fur Seal, Walrus, Harbor Seal, Sea Lion	4
	93-C-0814	001	Morro Bay Marine Rehabilitation Center San Luis Obispo County	17-Oct-2007	Marine - Pinnipeds - Group 1 Fur Seal, Walrus, Harbor Seal, Sea Lion	4
				4-Jun-2008	Marine - Pinnipeds - Group 1 Fur Seal, Walrus, Harbor Seal, Sea Lion	3
				20-Apr-2009	Marine - Pinnipeds - Group 1 Fur Seal, Walrus, Harbor Seal, Sea Lion	2
				10-Sep-2009	Marine - Pinnipeds - Group 1 Fur Seal, Walrus, Harbor Seal, Sea Lion	2
				10-Mar-2010	Marine - Pinnipeds - Group 1 Fur Seal, Walrus, Harbor Seal, Sea Lion	5
Site Total: 16 Certificate Total: 16 Customer Total: 20						

Animal Inventory count Report Total: 20

Inspection count that had selected specie type at last inspection : 6

Sensitive But Unclassified/Sensitive Security Information -- Disseminate on a Need-To-Know Basis Only

GOVERNMENT
EXHIBIT

Page 2 of 38

APR 5 1984

U.S. DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE

DO NOT USE THIS SPACE - OFFICIAL USE ONLY

SEND THE COMPLETED FORM TO:

VETERINARY SERVICES
83 SCRIPPS DRIVE
SACRAMENTO, CALIFORNIA 95825

APPLICATION FOR LICENSE
OR ANNUAL REPORT
(Under Animal Welfare Act)

RCS #34-VS-50

☐ NEW LICENSE ☐ ANNUAL REPORT AND CONTINUATION

1. NAME OF AREA VIC (Type or print)	2. AREA NO.	3. LICENSE NO.	4. CLASS	5. ANNIVERSARY DATE	ANNUAL FEE PAID					
(b)(6),(b)(7)(C)		93C-314	C	MO. DAY YR.	6. AMOUNT			7. DATE		
				0 8 3 0 8 5	\$10.00			0 8 3 0 8 5		

8. NAME(S) OF OWNER(S) AND MAILING ADDRESS (Include Zip Code)	9. FIRM NAME AND LOCATION (If different from Item 8)
MORRO BAY MARINE REHABILITATION CENTER a California non-profit public benefit corporation	

10. IF PREVIOUSLY LICENSED - GIVE NAME AND ADDRESS UNDER WHICH LICENSED (If different from Item 8)	11. NAME AND ADDRESS OF CONSULTING VETERINARIAN (Include street, city, state and zip code)
	(b)(6),(b)(7)(C)

12. PREVIOUS LICENSE NO.	13. ACCREDITATION NO. OF CONSULTING VETERINARIAN (Item 11)
	X (b)(6),(b)(7)(C)

14. NATURE OF BUSINESS (Check item(s) that describes nature of your business)	15. EXHIBITOR ONLY
<input type="checkbox"/> A - ZOO <input type="checkbox"/> B - AQUARIUMS <input type="checkbox"/> C - AUCTION <input type="checkbox"/> D - TRUCKER <input type="checkbox"/> E - BREEDER <input type="checkbox"/> F - PETS <input type="checkbox"/> G - ROADSIDE ZOO <input type="checkbox"/> H - BROKER <input type="checkbox"/> I - CIRCUS <input type="checkbox"/> J - ANIMAL ACTS <input type="checkbox"/> K - CARNIVAL <input checked="" type="checkbox"/> L - RESEARCH <input type="checkbox"/> M - DRIVE IN ZOO <input type="checkbox"/> N - PET STORE	15. CURRENT INVENTORY OF ANIMALS 4 sel lions 3 Harbor seals 1 sea otter

DEALER (Last business year)		DATE OF LAST BUSINESS YEAR	
16. TOTAL NO. ANIMALS SOLD	17. TOTAL GROSS AMOUNT DERIVED FROM THE SALE OF ANIMALS	18. DOLLAR AMOUNT ON WHICH FEE IS BASED (Sects. 2.6 and 2.7)	19. NO. MONTHS (If less than 12)
\$	\$		

22. TOTAL NUMBER ANIMALS BOUGHT AND SOLD (Including transported, traded, and donated) DURING LAST BUSINESS YEAR (Specify under appropriate species)							
CONDITIONED (Include Purebred)		NON-CONDITIONED		E. RABBITS	F. GUINEA PIGS	G. HAMSTERS	H. NON-HUMAN PRIMATES
A. DOGS	B. CATS	C. DOGS	D. CATS	-0-	-0-	-0-	-0-
-0-	-0-	-0-	-0-				
J. BEARS	K. CANINE (Wild)	L. MARSUPIAL	M. LARGE HOOVED STOCK	N. SMALL HOOVED STOCK	O. MISCELLANEOUS (Specify or attach sheet)		
-0-	-0-	-0-	-0-	-0-	-0-		

23. IN YOUR BUSINESS WHERE DO YOU ACQUIRE ANIMALS?	24. IN YOUR BUSINESS WHERE DO YOU SELL, DONATE, OR TRANSPORT ANIMALS?
<input type="checkbox"/> INTERSTATE <input checked="" type="checkbox"/> INTRASTATE <input type="checkbox"/> INTERNATIONAL	<input checked="" type="checkbox"/> INTERSTATE <input type="checkbox"/> INTRASTATE <input type="checkbox"/> INTERNATIONAL

25. TYPE OF ORGANIZATION	26. NAME & ADDRESS OF OTHER BUSINESS(ES) HANDLING ANIMALS IN WHICH LICENSEE HAS AN INTEREST
<input type="checkbox"/> PARTNERSHIP <input checked="" type="checkbox"/> CORPORATION <input type="checkbox"/> INDIVIDUAL	
OTHER (Specify):	
27. STATE WHERE INCORPORATED (If corporation)	28. DATE INCORPORATED
California	March 6, 1984

29. LIST OWNERS, PARTNERS, AND OFFICERS OF THIS FIRM (See Item 9 above)		
NAME	TITLE	ADDRESS (No., Street, and Zip Code)
Dean R. Tyler	Pres., director	595 Embarcadero, Morro Bay, CA 93442
Bertha F. Tyler	Vice Pres., Secretary, Chief Fin. Officer, Director	595 Embarcadero, Morro Bay, CA 93442

CERTIFICATION

I hereby make application for a license under the Animal Welfare Act 7 U.S.C. 2131 et seq. I certify that the information provided herein is true and correct to the best of my knowledge and belief.

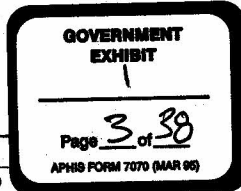
(b)(6),(b)(7)(C)	31. TITLE President	32. DATE OF APPLICATION March, 30, 1984
------------------	------------------------	--

KNOWLEDGEMENT OF RECEIPT OF STANDARDS

I hereby acknowledge receipt of and agree to comply with all the regulations and standards contained in 9 CFR Chapter 1, Subchapter A.

(b)(6),(b)(7)(C)	34. TITLE President	35. DATE March, 30, 1984
------------------	------------------------	-----------------------------

PENALTIES: Any Dealer, Exhibitor, or Operator of an auction sale who violates any provisions of the Animal Welfare Act 7 U.S.C. shall on conviction be subject to imprisonment for not more than one year, or a fine of not more than \$1,000 or both, or any other penalty as provided in 7 U.S.C. Section 2149.





United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Veterinary
Services

Animal Care

This is to certify that
**MORRO BAY MARINE
REHABILITATION CENTER**
is a licensed EXHIBITOR
under the

Animal Welfare Act

(7 U.S.C. 2131 et seq.)

License No. 93C-314

Date Issued AUGUST 30, 1985

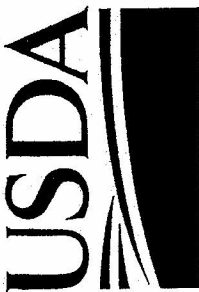
Acting

Federal Veterinarian In Charge

(b)(6), (b)(7)(C)

Deputy Administrator

GOVERNMENT EXHIBIT
Page <u>4</u> of <u>38</u>
APHIS FORM 7070 (MAR 82)



United States
Department of
Agriculture

Marketing and
Regulatory
Programs

Animal and
Plant Health
Inspection
Service

Animal Care



EXPIRATION DATE: AUGUST 30, 2007

This is to certify that

MORRO BAY MARINE REHABILITATION CENTER
DBA: MORRO BAY AQUARIUM

is a licensed
under the
CLASS C EXHIBITOR

Animal Welfare Act

(7 U.S.C. 2131 et seq.)

Certificate No. 93-C-0314

Customer No. 3632

(b)(6),(b)(7)
(C)

Deputy Administrator

U.S DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE

APPLICATION FOR LICENSE

(TYPE OR PRINT)

LICENSE RENEWAL

DO NOT USE THIS SPACE - OFFICIAL USE ONLY

SEND THE COMPLETED FORM TO: 2150 Centre Ave, Building B
Mailstop # 3w11
Fort Collins, CO 80526 8117
Telephone: (970) 494-7478

CERTIFICATE / CUSTOMER NO.	RENEWAL DATE	FEES	
		AMOUNT	DATE RECEIVED
CERT: 93-C-0314 CUST: 3632	30-AUG-2006	40-	14 Aug 06

1. NAME(S) OF LICENSEE(S) AND MAILING ADDRESS

Morro Bay Marine Rehabilitation Center
Morro Bay Aquarium
595 Embarcadero
Morro Bay, CA 93442

Telephone: (805)772-7647

2. ALL BUSINESS (Site) LOCATIONS HOUSING ANIMALS; INCLUDE DIRECTIONS TO EACH LOCATION (P.O. Box not acceptable)

595 Embarcadero
Morro Bay, CA 93442
County: San Luis Obispo
Telephone: (805)772-7647

3. LIST PERSONS 18 YEARS OF AGE OR OLDER AUTHORIZED TO CONDUCT BUSINESS. RESPONSIBLE OFFICIAL SIGNING BLOCK 10 SHOULD BE LISTED IN THIS BLOCK

(b)(6),(b)(7)(C)

4. (A) PREVIOUS USDA LICENSE NUMBER (if any)

(B) ACTIVE USDA CERTIFICATE NUMBER IN WHICH YOU HAVE AN INTEREST:

6. DATE OF LAST 12-MONTH BUSINESS YEAR (CALENDAR OR FISCAL)

FROM

TO

31-AUG-2005

30-AUG-2006

7. TYPE OF ORGANIZATION

☐ Individual ☒ Corporation ☐ Partners
☐ Other (Specify)

GOVERNMENT
EXHIBIT

1

Page 6 of 39

APHIS FORM 7070 (MAR 95)

8. DEALERS ONLY. Class A or Class B licensees must complete this Block.
(Class C Exhibitors go to Block 9)

CLASS A (BREEDER) - LINE 'D' = 1/2 OF LINE 'C'
CLASS B (DEALER) - LINE 'D' = LINE 'C' LESS THE AMOUNT PAID FOR THE ANIMAL(S)
(Sections 2.6)

A. TOTAL NO. OF ANIMALS PURCHASED
IN THE LAST BUSINESS YEAR

B. TOTAL NO. OF ANIMALS SOLD
IN THE LAST BUSINESS YEAR

C. TOTAL GROSS DOLLAR AMOUNT DERIVED
FROM REGULATED ACTIVITIES (SALES,
BOOKING FEES, COMMISSIONS, ETC.)

D. DOLLAR AMOUNT ON WHICH FEE IS BASED
(SECTIONS 2.6 AND 2.7)

not a FOIA
deletion

9. CLASS C EXHIBITORS ONLY. (Number of animals holding now or held during the last business year, whichever is greater.)

DOGS		NONHUMAN PRIMATES		RODENTS (Do not include lab rats or mice)	
CATS		MARINE ANIMALS		WILD/EXOTIC HOOFSTOCK	
GUINEA PIGS		FARM ANIMALS		BEARS	
HAMSTERS		WILD/EXOTIC CANINES		WILD/EXOTIC MAMMALS (NOT LISTED ELSEWHERE)	
RABBITS		WILD/EXOTIC FELINES		TOTAL (ALL ANIMALS LISTED IN BLOCK 9)	4

CERTIFICATION

I hereby make application for a license under the Animal Welfare Act 7 U.S.C. 2131 et seq. I certify that the information provided herein is true and correct to the best of my knowledge. I hereby acknowledge receipt of and certify to the best of my knowledge I am in compliance with all the regulations and standards in 9 CFR, Subpart A, Parts 1, 2 and 3. I certify that I am 18 years of age or older.

10. SIGNATURE

(b)(6),(b)(7)(C)

11. PRINT NAME

BERTHA TYLER

12. SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER

(b)(4)

13. DATE

8-10-06



INSPECTION REPORT

3632 cust_id
233371 insp_id
606 site_id

MORRO BAY MARINE
REHABILITATION CENTER
MORRO BAY AQUARIUM

595 EMBARCADERO
MORRO BAY, CA 93442

Customer ID: 3632
Certificate: 93-C-0314

Site: 001

MORRO BAY MARINE
REHABILITATION CENTER

Inspection
Type: ROUTINE INSPECTION
Date: AUG-02-2007

No noncompliant items were identified during this inspection.

Prepared By:

MARCY ROSENDALE, V.M.O., USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER, Inspector ID: 5039

Received By:

SENT BY E-MAIL

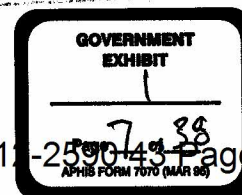
Title:

Date:

AUG-06-2007

Date:

AUG-06-2007



Marcy E
Rosendale/CA/APHIS/USDA

08/06/2007 11:41 PM

To: Michael C Long/CO/APHIS/USDA@USDA

cc

bcc

Subject: Moro Bay Aquarium Insp Rpt/Response 08/02/07

History: This message has been replied to.



INSPECTION_RPT Moro Bay 080207.pdf

----- Forwarded by Marcy E Rosendale/CA/APHIS/USDA on 08/06/2007 10:42 PM -----



"Bertha Tyler"
<mbaquarium@charter.net>

08/06/2007 03:58 PM

To: <Marcy.E.Rosendale@aphis.usda.gov>

cc:

Subject: Re: August 02, 2006 Animal Care inspection report

Thank you, yes we did receive the inspection report of 08-02-07.
Bertha

----- Original Message -----

From: Marcy.E.Rosendale@aphis.usda.gov

To: Bertha Tyler

Sent: Monday, August 06, 2007 1:59 PM

Subject: August 02, 2006 Animal Care inspection report

Attached is your inspection report of August 02, 2007. Please respond to me by email when you have successfully received the report.
Thank you,

Marcy Rosendale, DVM
Veterinary Medical Officer
USDA, APHIS, Animal Care

RECEIVED THIS DOCUMENT

FROM

GOVERNMENT
EXHIBIT

1

2012-2590 44-3838
APHIS FORM 7070 (MAR 05)



United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478

Morro Bay Marine Rehabilitation
Center
Morro Bay Aquarium
595 Embarcadero
Morro Bay, CA 93442

June 2007

Customer No: 3632
Certificate No: 93-C-0314
Renewal Date: 08/30/2007
RE: LICENSE RENEWAL

Dear Licensee:

This is to remind you that your U.S. Department of Agriculture (USDA) Animal Welfare Act (AWA) license is due for renewal on or before the above expiration date. This is the only renewal notice you will receive.

Please complete the enclosed application form, making any necessary corrections to the pre-printed information, and return it to the above address, along with the appropriate license renewal fee. The annual fee is calculated by using the enclosed fee schedule. You may pay by cashier's check, certified check, personal check or money order made payable to the United States Department of Agriculture. You can also pay with a Visa or MasterCard, using the enclosed credit card authorization form. However, we cannot accept cash payments.

Please note that you must have an approved, complete, and up-to-date program of veterinary care form on file at your place of business. You can obtain blank forms -- or any others you may need -- directly from this office or your USDA inspector. The AWA also requires that you report to us any changes in your name, address, location, management, control or ownership of your business via certified mail within 10 days after the change has occurred.

It is very important that you file your AWA license renewal application before the expiration date elapses -- any renewal notices received after that date will be considered invalid and returned. Accordingly, to continue to conduct AWA regulated business, it would be necessary for you to reapply and undergo the entire pre-licensing process. If your license expires and you continue to operate as a dealer or exhibitor, you will be in violation of the AWA and subject to legal action.

We appreciate your efforts in complying with the Animal Welfare Act. Contact this office at 970-494-7471 if you have any questions regarding this letter or the Animal Welfare Act.

Sincerely,

(b)(6),(b)(7)(C)

Robert M. Gibbens
Regional Director - Animal Care
Western Region

cc: Marcy E. Rosendale, V.M.O.

Enclosures



Safeguarding American Agriculture
APHIS is an agency of USDA's Marketing and Regulatory Programs
An Equal Opportunity Provider and Employer

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Page 9 of 38
FORM 7070 (MAR 95)

2012-2590 4



REMAIN IN FILE

United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

Morro Bay Marine Rehabilitation
Center
Morro Bay Aquarium
595 Embarcadero
Morro Bay, CA 93442

September 10, 2007

Customer No: 3632
Certificate No: 93-C-0314
Renewal Date: 08/30/2007

RE: CERTIFICATE CANCELLATION
FAILURE TO RENEW
CERTIFIED MAIL-RETURN RECEIPT

Dear Sir/Madam:

This is to inform you that, because we did not receive your Animal Welfare Act (AWA) license renewal documents and applicable fees before the stated expiration date, your license has expired and is no longer valid.

If you have allowed your license to lapse and are no longer conducting regulated activities, please be advised that you must undergo the entire licensing process, i.e. apply, pay the appropriate fees and pass a pre-licensing inspection, before being issued another license.

However, if you are currently conducting regulated activities without a valid license, you will be considered in violation of the Animal Welfare Act and subject to legal action.

We appreciate your efforts in complying with the Animal Welfare Act. Contact this office at 970-494-7471 if you have any questions regarding this letter or the Animal Welfare Act.

Sincerely,

(b)(6),(b)(7)(C)

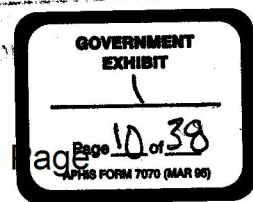
Robert M. Gibbens
Regional Director - Animal Care
Western Region

cc: Marcy E. Rosendale, VMO



Safeguarding American Agriculture
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An Equal Opportunity Provider and Employer

2012-2590 46





Kathleen M
Garland/CA/APHIS/USDA

09/11/2007 12:24 PM

To Michael C Long/CO/APHIS/USDA@USDA
cc
bcc
Subject Fw: Morro Bay Aquarium

*For info only
DO NOT FOIA*

ok with me, too

----- Forwarded by Kathleen M Garland/CA/APHIS/USDA on 09/11/2007 11:20 AM -----

Marcy E
Rosendale/CA/APHIS/USDA

09/11/2007 11:19 AM

To Kathleen M Garland/CA/APHIS/USDA@USDA
cc Michael C Long/CO/APHIS/USDA@USDA
Subject Re: Morro Bay Aquarium

It would be good enough for me as long as it's ok with everyone else.

Kathleen M Garland



Kathleen M Garland
09/11/2007 11:16 AM

To: Michael C Long/CO/APHIS/USDA@USDA
cc: Marcy E Rosendale/CA/APHIS/USDA@USDA
Subject: Re: Morro Bay Aquarium

What do you think ,Marcy?
Michael C Long/CO/APHIS/USDA



Michael C
Long/CO/APHIS/USDA
09/11/2007 11:14 AM

To Kathleen M Garland/CA/APHIS/USDA@USDA, Marcy E
Rosendale/CA/APHIS/USDA@USDA
cc
Subject Morro Bay Aquarium

As expected, I just received a call from Bertha - she had not received my FTR letter yet, but found her renewal documents buried, realized she was late and called. She is sending the renewal application and a check for \$10 overnight, to begin the licensing process over again. It looks as though Marcy was there on August 2nd and the inspection was clean.

Is this close enough to suffice as her "prelicense inspection" or would y'all like her to go through the process?

Let me know . . .

m.

11/11/2007 2:51 PM

11/11/2007

GOVERNMENT
EXHIBIT

1

2012-2590 47 Page 11 of 38

AGRS FORM 7070 (MAR 95)



United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

Morro Bay Marine Rehabilitation
Center
Morro Bay Aquarium
595 Embarcadero
Morro Bay, CA 93442

Dear Licensee:

We are pleased to inform you that you have met the licensing requirements under the Animal Welfare Act (AWA). Accordingly, we are enclosing a copy of your approved application (APHIS Form 7003A), along with the official license certificate, which is suitable for display.

Please note the license expiration date; each year, you are required to submit your license renewal application and renewal fees on or before the expiration date. The appropriate forms and instructions will be sent to you at least 60 days prior to the expiration date -- this will serve as the sole reminder that your license is nearing expiration.

In addition to maintaining your facility and animals in accordance with the AWA regulations and standards, you must keep current, accurate records -- including a written program of veterinary care. You must also notify this office by mail of any change of name, address, management, or substantial control or ownership of your business within 10 days of the change.

We appreciate your efforts in complying with the Animal Welfare Act. Contact this office at 970-494-7471 if you have any questions regarding this letter or the Animal Welfare Act.

Sincerely,

(b)(6),(b)(7)(C)

Robert M. Gibbens
Regional Director - Animal Care
Western Region

cc: Marcy E. Rosendale, VMO

Enclosures

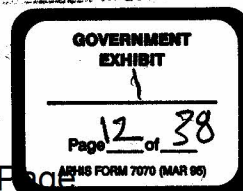
September 18, 2007

Customer No: 3632
Certificate No: 93-C-0814
Renewal Date: 09/18/2008
RE: NEW LICENSE APPROVAL



Safeguarding American Agriculture
APHIS is an agency of USDA's Marketing and Regulatory Programs
An Equal Opportunity Provider and Employer

2012-2590 48 Page



U.S DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE

APPLICATION FOR LICENSE

(TYPE OR PRINT)

New LICENSE

DO NOT USE THIS SPACE - OFFICIAL USE ONLY

SEND THE COMPLETED FORM TO: 2150 Centre Ave, Building B
Mailstop # 3w11
Fort Collins, CO 80526 8117
Telephone: (970) 494-7478

CERTIFICATE / CUSTOMER NO.	RENEWAL DATE	FEES	
		AMOUNT	DATE RECEIVED
93-C-0814	18 Sep 08	46	13 Sep 07

1. NAME(S) OF LICENSEE(S) AND MAILING ADDRESS

Morro Bay Marine Rehabilitation Center

595 Embarcadero
Morro Bay, CA 93442

Telephone: (805)772-7647

2. ALL BUSINESS (Site) LOCATIONS HOUSING ANIMALS; INCLUDE DIRECTIONS TO EACH LOCATION (P.O. Box not acceptable)

595 Embarcadero
Morro Bay, CA 93442
County: San Luis Obispo

Telephone: (805)772-7647

3. LIST PERSONS 18 YEARS OF AGE OR OLDER AUTHORIZED TO CONDUCT BUSINESS. RESPONSIBLE OFFICIAL SIGNING BLOCK 10 SHOULD BE LISTED IN THIS BLOCK.

(b)(6),(b)(7)(C)

4. (A) PREVIOUS USDA LICENSE NUMBER (if any)

93 - C - 0314

(B) ACTIVE USDA CERTIFICATE NUMBER IN WHICH YOU HAVE AN INTEREST:

6. DATE OF LAST 12-MONTH BUSINESS YEAR (CALENDAR OR FISCAL)

FROM	TO
31-AUG-2006	30-AUG-2007

7. TYPE OF ORGANIZATION

☐ Individual ☒ Corporation ☐ Partner
☐ Other (Specify)

GOVERNMENT
EXHIBIT

Page 13 of 38
APHIS FORM 7070 (MAR 95)

8. DEALERS ONLY. Class A or Class B licensees must complete this Block.
(Class C Exhibitors go to Block 9)

CLASS A (BREEDER) - LINE 'D' = 1/2 OF LINE 'C'
CLASS B (DEALER) - LINE 'D' = LINE 'C' LESS THE AMOUNT PAID FOR THE ANIMAL(S)
(Sections 2.6)

A. TOTAL NO. OF ANIMALS PURCHASED
IN THE LAST BUSINESS YEAR

not a FOIA
deletion

B. TOTAL NO. OF ANIMALS SOLD
IN THE LAST BUSINESS YEAR

C. TOTAL GROSS DOLLAR AMOUNT DERIVED
FROM REGULATED ACTIVITIES (SALES,
BOOKING FEES, COMMISSIONS, ETC.)

D. DOLLAR AMOUNT ON WHICH FEE IS BASED
(SECTIONS 2.6 AND 2.7)

9. CLASS C EXHIBITORS ONLY. (Number of animals holding now or held during the last business year, whichever is greater.)

DOGS	NONHUMAN PRIMATES	RODENTS (Do not include lab rats or mice)
CATS	MARINE ANIMALS	WILD/EXOTIC HOOFSTOCK
GUINEA PIGS	FARM ANIMALS	BEARS
HAMSTERS	WILD/EXOTIC CANINES	WILD/EXOTIC MAMMALS (NOT LISTED ELSEWHERE)
RABBITS	WILD/EXOTIC FELINES	TOTAL (ALL ANIMALS LISTED IN BLOCK 9)

CERTIFICATION

I hereby make application for a license under the Animal Welfare Act 7 U.S.C. 2131 et seq. I certify that the information provided herein is true and correct to the best of my knowledge. I hereby acknowledge receipt of and certify to the best of my knowledge I am in compliance with all the regulations and standards in 9 CFR, Subpart A, Parts 1, 2 and 3. I certify that I am 18 years of age or older.

SEP 13 2007

10. (b)(6),(b)(7)(C)	11. PRINT NAME BERTHA TYLER	12. SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER (b)(4)	13. DATE 9-11-07
----------------------	--------------------------------	--	---------------------

7007 0220 0004 6854 6373

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage		

Sent To 93-C-0314
BERTHA TYLER
Street, Apt. N MORRO BAY MARINE REHABILITATION CENTER
or PO Box No 595 EMBARCADERO
City, State, Z MORRO BAY, CA 93442

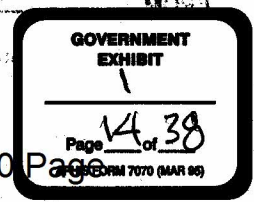
PS Form 3800, August 2004

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.Print your name and address on the reverse so that we can return the card to you.Attach this card to the back of the mailpiece, or on the front if space permits. <p>93-C-0314 BERTHA TYLER MORRO BAY MARINE REHABILITATION CENTER 595 EMBARCADERO MORRO BAY, CA 93442</p> <p>SEP 18 2007</p>	<p>(b)(6).(b)(7)(C)</p> <p><input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>Date of Delivery 11/3/07</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

Article Number 7007 0220 0004 6854 6373
(transfer from service label)

Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

RECEIVED BY DOCUMENT





United States
Department of
Agriculture

Marketing and
Regulatory
Programs

Animal and
Plant Health
Inspection
Service

Animal Care

EXPIRATION DATE: SEPTEMBER 18, 2008

This is to certify that MORRO BAY MARINE REHABILITATION CENTER

CLASS C EXHIBITOR

is a licensed
under the

Animal Welfare Act

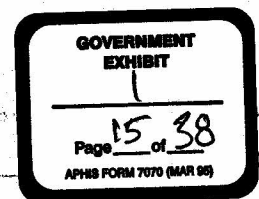
(7 U.S.C. 2131 et seq.)

Certificate No. 93-C-0814

Customer No. 3632

(b)(6), (b)(7)
(C)

Deputy Administrator





INSPECTION REPORT

3632 cust_id
233399 insp_id
49646 site_id

MORRO BAY MARINE
REHABILITATION CENTER
MORRO BAY AQUARIUM

595 EMBARCADERO
MORRO BAY, CA 93442

Customer ID: 3632
Certificate: 93-C-0814

Site: 001

MORRO BAY MARINE
REHABILITATION CENTER

Inspection
Type: ROUTINE INSPECTION
Date: OCT-17-2007

No noncompliant items were identified during this inspection.

Prepared By:

MARCY ROSENDALE, V.M.O. , USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER , Inspector ID: 5039

Received By:

SENT BY E-MAIL

Title:

Date:

OCT-19-2007

Date:

OCT-19-2007

RECEIVED THIS DOCUMENT

FROM

NO

GOVERNMENT
EXHIBIT
1

2012-16-38
Page 1 of 38
APHIS FORM 7070 (MAR 06)

Marcy E
Rosendale/CA/APHIS/USDA

10/20/2007 12:42 AM

To Michael C Long/CO/APHIS/USDA@USDA

cc

bcc

Subject Morro Bay Marine Insp Rpt & Response 10/17/07



"Bertha Tyler"
<mbaquarium@charter.
net>

10/19/2007 06:31 PM

To: <Marcy.E.Rosendale@aphis.usda.gov>

cc:

Subject: Re: October 17, 2007 Animal Care inspection report

We did successfully received the report dated Friday, 10-17-07.
Thank you, Bertha

----- Original Message -----

From: Marcy.E.Rosendale@aphis.usda.gov

To: Bertha Tyler

Sent: Friday, October 19, 2007 8:54 AM

Subject: October 17, 2007 Animal Care inspection report

Attached is your inspection report of October 17, 2007. Please respond to me by email when you have successfully received the report.
Thank you,

Marcy Rosendale, DVM
Veterinary Medical Officer
USDA, APHIS, Animal Care

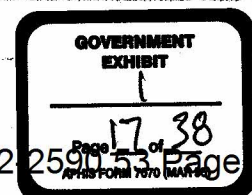


INSPECTION_RPT MorroBayAq101707.pdf

RECEIVED THIS DOCUMENT

FROM

NO



2012-2590-53 Page 1738



USDA, APHIS, Animal Care



ANIMAL WELFARE COMPLAINT

Complaint No. 08-089	Date Entered 25-Jan-08	Received By mcl
Referred To Drs. Garland & Rosendale	Reply Due	

Facility or Person Complaint Filed Against

Name Morro Bay Marine Rehabilitation Center		Customer/License/Registration No. 93-C-0814 ID-3632	
Address 595 Embarcadero			
City Morro Bay	State CA	Zip 93443	Phone No 805-772-7647

Complainant

Name Anonymous		Organization	
Address			
City	State	Zip	Phone No./Email address

How was complaint received?
Fax

Details of Complaint: Complainant visited facility in August 2007. S/he "is extremely concerned about the condition and care of a captive sea lion or seal at a tiny aquarium in Morro Bay."

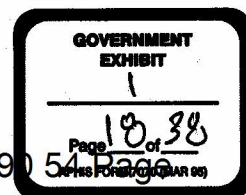
Results: A routine inspection of the facility was performed on October 17, 2007. There were no noncompliant items identified at the time of that inspection.

Application packet provided? Yes ☐ No ☐

INSPECTOR
Marcy Rosendale, VMO
REVIEWED BY
Kathleen Garland, SACS

DATE
3-Jun-08
DATE
3-Jun-08

(b)(6),(b)(7)(C)



93-C-0814
3632
#08-089

January 25, 2008

To USDA APHIS
fax: 970-494-7461

I visited Morro Bay, CA in August of last year.

I am extremely concerned about the condition and care of a captive sea lion or seal at a tiny aquarium in Morro Bay.

I have made many phone calls since that time and I understand that the USDA APHIS is responsible for insuring that an aquarium is in compliance with the regulations for marine mammal care and standards.

This fax is a formal complaint concerning animal care under the Animal Welfare Act.

The aquarium is:

The Morro Bay Aquarium and Gift Shop
595 Embarcadero
Morro Bay, CA 93442

Please inspect this facility as soon as possible.

Thank you,

Anonymous
012508

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MOB-1

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EXHIBIT

1

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APHIS FORM 7070 (MAR 95)

2012-2590 55 Page



INSPECTION REPORT

3632 cust_id
233459 insp_id
49646 site_id

MORRO BAY MARINE
REHABILITATION CENTER
MORRO BAY AQUARIUM

595 EMBARCADERO
MORRO BAY, CA 93442

Customer ID: 3632

Certificate: 93-C-0814

Site: 001

MORRO BAY MARINE
REHABILITATION CENTER

Inspection
Type: ROUTINE INSPECTION

Date: JUN-04-2008

No noncompliant items were identified during this inspection.

Prepared By:

MARCY ROSENDALE, V.M.O. , USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER , Inspector ID: 5039

Received By:

SENT BY E-MAIL

Title:

Date:

JUN-10-2008

Date:

JUN-10-2008

GOVERNMENT
EXHIBIT

2012-

590-56 Page

2038
APHIS FORM 7070 (06/01/08)

Marcy E
Rosendale/CA/APHIS/USD
A

07/15/2008 04:38 PM

To Michael C Long/CO/APHIS/USDA@USDA

cc

bcc

Subject Morro Bay Marine Rehab Center Insp Rpt/Response
06/04/08

Marcy Rosendale

----- Forwarded by Marcy E Rosendale/CA/APHIS/USDA on 07/15/2008 02:31 PM -----



"Bertha Tyler"
<mbaquarium@charter.net>

07/14/2008 05:23 PM

To <Marcy.E.Rosendale@aphis.usda.gov>

cc

Subject Re: June 4, 2008 Animal Care inspection report

Yes I did and I'm thinking I did send a reply right away. Bertha

----- Original Message -----

From: Marcy.E.Rosendale@aphis.usda.gov

To: mbaquarium@charter.net

Sent: Monday, July 14, 2008 2:08 PM

Subject: June 4, 2008 Animal Care inspection report

Bertha, did you receive the inspection report I sent by email last month?
Marcy

Marcy E
Rosendale/CA/APHIS/USD
A

06/10/2008 12:49 PM

To mbaquarium@charter.net

cc

Subject June 4, 2008 Animal Care inspection report

Attached is your inspection report of June 04, 2008. Please respond to me
by email when you have successfully received the report.
Thank you,

Marcy Rosendale, DVM
Veterinary Medical Officer
USDA, APHIS, Animal Care
Voice Mail: (703) 812-6740



INSPECTION_RPT Morro Bay 060408.pdf

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FROM

GOVERNMENT
EXHIBIT

Page 21 of 38

APR 23 2008 10:00 (MAR 08)

2012-2590 57



United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970-494-7478
Fax: 970/494-7461

Morro Bay Marine Rehabilitation
Center
Morro Bay Aquarium
595 Embarcadero
Morro Bay, CA 93442

Dear Licensee:

This is to remind you that your U.S. Department of Agriculture (USDA) Animal Welfare Act (AWA) license is due for renewal on or before the above expiration date. This is the only renewal notice you will receive.

Please complete the enclosed application form, making any necessary corrections to the pre-printed information, and return it to the above address, along with the appropriate license renewal fee. The annual fee is calculated by using the enclosed fee schedule. You may pay by cashier's check, certified check, personal check or money order made payable to the United States Department of Agriculture. You can also pay with a Visa or MasterCard, using the enclosed credit card authorization form. However, we cannot accept cash payments.

Please note that you must have an approved, complete, and up-to-date program of veterinary care on file at your place of business. You can obtain blank forms -- or any others you may need -- directly from this office or your USDA inspector. The AWA also requires that you report to us any changes in your name, address, location, management, control or ownership of your business via certified mail within 10 days after the change has occurred.

It is very important that you file your AWA license renewal application before the expiration date elapses -- any renewal notices received after that date will be considered invalid and returned. Accordingly, to continue to conduct AWA regulated business, it would be necessary for you to reapply and undergo the entire pre-licensing process. If your license expires and you continue to operate as a dealer or exhibitor, you will be in violation of the AWA and subject to legal action.

We appreciate your efforts in complying with the Animal Welfare Act. Contact this office at 970-494-7471 if you have any questions regarding this letter or the Animal Welfare Act.

Sincerely,

(b)(6),(b)(7)(C)

Robert M. Gibbens
Regional Director - Animal Care
Western Region

cc: Marcy E. Rosendale, V.M.O.

Enclosures

July 2008

Customer No: 3632
Certificate No: 93-C-0814
Renewal Date: 09/18/2008
RE: LICENSE RENEWAL



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GOVERNMENT
EXHIBIT

Page 22 of 38

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United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970-494-7478
Fax: 970/494-7461

August 27, 2008

Customer No: 3632
Certificate No: 93-C-0814
Renewal Date: 09/18/2009
RE: ACKNOWLEDGEMENT OF RENEWAL

Morro Bay Marine Rehabilitation
Center
Morro Bay Aquarium
595 Embarcadero
Morro Bay, CA 93442

Dear Licensee:

Thank you for submitting your Animal Welfare Act (AWA) license renewal documents and applicable fees. Enclosed is a copy of the renewal form and a new certificate indicating that your AWA license has been renewed for another year.

As a reminder, you should file your application for renewal and pay your licensing fees on or before the expiration date each year. We will send you a renewal notice again next year about 60 days before the expiration date of your license. If you cease conducting regulated activities, you may cancel your license at any time by notifying us, in writing, that you wish to terminate your license.

The law also requires that you notify us, by certified mail, of any change in the name, address, location, management and control or ownership of your business within 10 days after such a change has occurred.

Please be advised that your facility records must be kept current and they are subject to review by APHIS Officials during compliance inspections. You may order record keeping forms from this office free of charge.

We appreciate your efforts in complying with the Animal Welfare Act. Contact this office at 970-494-7471 if you have any questions regarding this letter or the Animal Welfare Act.

Sincerely,

(b)(6),(b)(7)(C)

Regional Director - Animal Care
Western Region

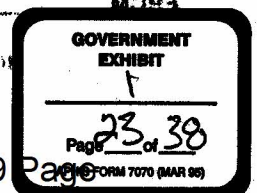
cc: Marcy E. Rosendale, V.M.O.

Enclosures



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2012-2590 59





United States
Department of
Agriculture

Marketing and
Regulatory
Programs

Animal and
Plant Health
Inspection
Service

Animal Care

EXPIRATION DATE: SEPTEMBER 18, 2009

This is to certify that
MORRO BAY MARINE REHABILITATION CENTER

CLASS C EXHIBITOR

is a licensed
under the

Animal Welfare Act

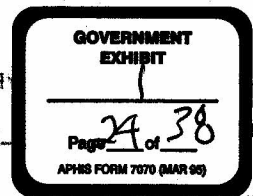
(7 U.S.C. 2131 et seq.)

Certificate No. 93-C-0814

Customer No. 3632

(b)(6),(b)(7)
(C)

Deputy Administrator



U.S DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE

APPLICATION FOR LICENSE
(TYPE OR PRINT)

LICENSE RENEWAL

DO NOT USE THIS SPACE - OFFICIAL USE ONLY

SEND THE COMPLETED FORM TO: 2150 Centre Ave, Building B
Mailstop # 3w11
Fort Collins, CO 80526 8117
Telephone: (970) 494-7478

CERTIFICATE / CUSTOMER NO.

RENEWAL DATE FEES

CERT: 93-C-0814

18-SEP-2008

AMOUNT

DATE RECEIVED

CUST: 3632

40 - 25 Aug 08

1. NAME(S) OF LICENSEE(S) AND MAILING ADDRESS

Morro Bay Marine Rehabilitation Center

595 Embarcadero
Morro Bay, CA 93442

Telephone: (805)772-7647

2. ALL BUSINESS (Site) LOCATIONS HOUSING ANIMALS; INCLUDE DIRECTIONS TO EACH LOCATION (P.O. Box not acceptable)

595 Embarcadero
Morro Bay, CA 93442
County: San Luis Obispo

Telephone: (805)772-7647

3. LIST PERSONS 18 YEARS OF AGE OR OLDER AUTHORIZED TO CONDUCT BUSINESS. RESPONSIBLE OFFICIAL SIGNING BLOCK 10 SHOULD BE LISTED IN THIS BLOCK

(b)(6),(b)(7)(C)

4. (A) PREVIOUS USDA LICENSE NUMBER (if any)

--

(B) ACTIVE USDA CERTIFICATE NUMBER IN WHICH YOU HAVE AN INTEREST:

6. DATE OF LAST 12-MONTH BUSINESS YEAR (CALENDAR OR FISCAL)

FROM

TO

31-AUG-2007

30-AUG-2008

7. TYPE OF ORGANIZATION

☐ Individual ☒ Corporation ☐ Partner
☐ Other (Specify)

GOVERNMENT
EXHIBIT

Page 25 of 38
APHIS FORM 7070 (MAR 99)

8. DEALERS ONLY. Class A or Class B licensees must complete this Block.
(Class C Exhibitors go to Block 9)

CLASS A (BREEDER) - LINE 'D' = 1/2 OF LINE 'C'
CLASS B (DEALER) - LINE 'D' = LINE 'C' LESS THE AMOUNT PAID FOR THE ANIMAL(S)
(Sections 2.6)

A. TOTAL NO. OF ANIMALS PURCHASED
IN THE LAST BUSINESS YEAR

not a FOIA
deletion

B. TOTAL NO. OF ANIMALS SOLD
IN THE LAST BUSINESS YEAR

C. TOTAL GROSS DOLLAR AMOUNT DERIVED
FROM REGULATED ACTIVITIES (SALES,
BOOKING FEES, COMMISSIONS, ETC.)

D. DOLLAR AMOUNT ON WHICH FEE IS BASED
(SECTIONS 2.6 AND 2.7)

9. CLASS C EXHIBITORS ONLY. (Number of animals holding now or held during the last business year, whichever is greater.)

DOGS

NONHUMAN
PRIMATES

RODENTS
(Do not include
lab rats or mice)

CATS

MARINE
ANIMALS

WILD/EXOTIC
HOOFSTOCK

GUINEA PIGS

FARM
ANIMALS

BEARS

HAMSTERS

WILD/EXOTIC
CANINES

WILD/EXOTIC
MAMMALS
(NOT LISTED
ELSEWHERE)

RABBITS

WILD/EXOTIC
FELINES

TOTAL
(ALL ANIMALS
LISTED IN BLOCK 9)

CERTIFICATION

I hereby make application for a license under the Animal Welfare Act 7 U.S.C. 2131 et seq. I certify that the information provided herein is true and correct to the best of my knowledge. I hereby acknowledge receipt of and certify to the best of my knowledge I am in compliance with all the regulations and standards in 9 CFR, Subpart A, Parts 1, 2 and 3. I certify that I am 18 years of age or older.

10. SIGNATURE

(b)(6),(b)(7)(C)

11. PRINT NAME

BERTHA TYLER

12. SOCIAL SECURITY OR TAX
IDENTIFICATION NUMBER

13. DATE

8-20-08



United States Department of Agriculture
Animal and Plant Health Inspection Service

MROSENDALE
265091249560082 insp_id

Inspection Report

MORRO BAY MARINE REHABILITATION CENTER

Customer ID: 3632

Certificate: 93-C-0814

MORRO BAY AQUARIUM
595 EMBARCADERO

Site: 001

MORRO BAY MARINE REHABILITATION CENTER

MORRO BAY, CA 93442

Type: ROUTINE INSPECTION

Date: Sep-10-2009

No noncompliant items were identified during this inspection.

Note:

This inspection was focused on regulated animals and their housing.

Prepared By:

MARCY E ROSENDALE, D.V.M. USDA, APHIS, Animal Care

Date:

Title: VETERINARY MEDICAL OFFICER Inspector 5039

Sep-22-2009

Received By:

Title: SENT B E-MAIL

Date:

Sep-22-2009



**Marcy E
Rosendale/CA/APHIS/
USDA**

09/24/2009 10:47 AM

To Michael C Long/CO/APHIS/USDA@USDA

cc

bcc

Subject Fw: Animal Care inspection report



MorroBay091009Inspection_265091249560082_Cert_93-C-0814_Cust_3632_Type_ROUTINE INSPECTION_Site_001_Date_2009-09-10_InspectionRe

----- Forwarded by Marcy E Rosendale/CA/APHIS/USDA on 09/24/2009 09:45 AM -----



"Bertha Tyler"
**<mbaquarium@charter.
net>**

09/22/2009 04:12 PM

To <Marcy.E.Rosendale@aphis.usda.gov>

cc

Subject Re: Animal Care inspection report

The inspection report was successfully received. Thanks, Bertha Tyler

----- Original Message -----

From: Marcy.E.Rosendale@aphis.usda.gov

To: mbaquarium@charter.net

Sent: Tuesday, September 22, 2009 1:42 PM

Subject: Animal Care inspection report

Attached is your inspection report of September 10, 2009. Please respond to me by email when you have successfully received the report.

A REPLY IS REQUIRED TO COMPLETE THE INSPECTION PROCESS.

Thank you,

Marcy Rosendale, DVM
Veterinary Medical Officer
USDA, APHIS, Animal Care
Cell phone: (240) 308- 0458

RECEIVED INSPECTION

FROM

GOVERNMENT
EXHIBIT

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FORM 7070 (MAR 95)



United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

RE: LICENSE RENEWAL
Certificate Number: 93-C-0814
Renewal Date: 09/18/2009

July 13, 2009
Customer ID Number: 3632

Bertha Tyler
Morro Bay Marine Rehabilitation Center
Morro Bay Aquarium
595 Embarcadero
Morro Bay, CA 93442

Dear Licensee:

This is to remind you that your U.S. Department of Agriculture (USDA) Animal Welfare Act (AWA) license is due for renewal on or before the above renewal date. This is the only renewal notice you will receive.

Please complete the enclosed application form, making any necessary corrections to the pre-printed information, and return it to the above address, along with the appropriate license renewal fee. The annual fee is calculated by using the enclosed fee schedule. You may pay by cashier's check, certified check, personal check or money order made payable to the United States Department of Agriculture. You can also pay with a Visa or MasterCard, using the enclosed credit card authorization form. However, we cannot accept cash payments.

Please note that you must have an approved, complete, and up-to-date program of veterinary care form on file at your place of business. You can obtain blank forms -- or any others you may need -- directly from this office or your USDA inspector. The AWA also requires that you report to us any changes in your name, address, location, management, control or ownership of your business via certified mail within 10 days after the change has occurred.

It is very important that you file your AWA license renewal application before the expiration date. Any renewal notices received after that date will be considered invalid and returned. Accordingly, to continue to conduct AWA regulated business, it would be necessary for you to reapply and undergo the entire pre-licensing process. If your license expires and you continue to operate as a dealer or exhibitor, you will be in violation of the AWA and subject to legal action.

We appreciate your efforts in complying with the Animal Welfare Act. Contact this office at (970) 494-7478 if you have any questions regarding this letter or the Animal Welfare Act.

Sincerely,

(b)(6),(b)(7)(C)

Robert M. Gibbens, D V M
Regional Director -- Animal Care
Western Region

cc: Marcy E. Rosendale, D.V.M.

Enclosures



Safeguarding American Agriculture
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EXHIBIT

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APHIS FORM 7070 (MAR 98)

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**United States
Department of
Agriculture**

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

RE: ACKNOWLEDGEMENT OF RENEWAL
Certificate Number: 93-C-0814
Renewal Date: 09/18/2010

September 16, 2009
Customer ID Number: 3632

Bertha Tyler
Morro Bay Marine Rehabilitation Center
Morro Bay Aquarium
595 Embarcadero
Morro Bay, CA 93442

Dear Licensee:

Thank you for submitting your Animal Welfare Act (AWA) license renewal documents and applicable fees. Enclosed is a copy of the renewal form and a new certificate indicating that your AWA license has been renewed for another year.

As a reminder, you should file your application for renewal and pay your licensing fees on or before the expiration date each year. We will send you a renewal notice again next year about 60 days before the expiration date of your license. If you cease conducting regulated activities, you may cancel your license at any time by notifying us, in writing, that you wish to terminate your license.

The law also requires that you notify us, by certified mail, of any change in the name, address, location, management and control or ownership of your business within 10 days after such a change has occurred.

Please be advised that your facility records must be kept current and they are subject to review by APHIS Officials during compliance inspections. You may order record keeping forms from this office free of charge.

We appreciate your efforts in complying with the Animal Welfare Act. Contact this office at (970) 494-7478 if you have any questions regarding this letter or the Animal Welfare Act.

Sincerely,

(b)(6),(b)(7)(C)

Robert M. Gibbens, D V M
Regional Director – Animal Care
Western Region

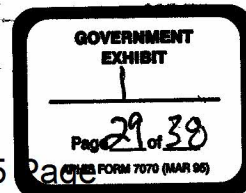
cc: Marcy E. Rosendale, D.V.M.

Enclosures



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2012-2590 65



According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0579-0036. The time required to complete this information collection is estimated to average .25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

No license may be issued unless a completed application has been received (7 U.S.C. 2132-2143), and the applicant is in compliance with the standards and regulations Section 2133.

U.S. DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE

APPLICATION FOR LICENSE

(TYPE OR PRINT)

☒ RENEWAL

DO NOT USE THIS SPACE - OFFICIAL USE ONLY

SEND THE COMPLETED FORM TO:

Western Region
2150 Centre Ave.
Building B, Mailstop 3W11
Fort Collins, CO 80526-8117
(970) 494-7478

CE-4-0055
CE 7247

LICENSE NO./CUST NO

93-C-0814
3632

RENEWAL DATE

18-Sep-2009

FEES

AMOUNT

40-

DATE RECEIVED

9/14/09

1. NAME(S) OF OWNER(S) AND MAILING ADDRESS
MORRO BAY MARINE REHABILITATION CENTER
595 Embarcadero
Morro Bay, CA 93442

COUNTY: SAN LUIS OBISPO TELEPHONE (805) - 772 - 7647

2. ALL BUSINESS NAME, LOCATIONS, AND ALL SITES HOUSING ANIMALS (P. O. Box not acceptable)

595 Embarcadero
Morro Bay, CA 93442
County: SAN LUIS OBISPO

TELEPHONE ()

3. IF PREVIOUSLY LICENSED - NAME AND ADDRESS

PREVIOUS LICENSE NO.:

5. TYPE OF LICENSE

☐ A - Dealer (Breeder) ☐ B - Dealer ☒ C - Exhibitor

7. NATURE OF BUSINESS (Check item that describes nature of your business)

☐ A - Zoo ☒ B - Aquariums ☐ C - Auction
☐ D - Breeder ☐ E - Pets ☐ F - Roadside Zoo
☐ G - Circus ☐ H - Animal Acts ☐ I - Carnival
☐ J - Drive thru ☐ K - Pet Store ☐ L - Broker
Zoo

4. NAME AND ADDRESS OF OTHER BUSINESS(S) HANDLING ANIMALS IN WHICH APPLICANT/LICENSEE HAS AN INTEREST

Morro Bay Aquarium
595 Embarcadero
Morro Bay, CA 93442

6. DATE OF LAST BUSINESS YEAR

FROM						TO					
MO	DAY	YEAR	MO	DAY	YEAR	MO	DAY	YEAR	MO	DAY	YEAR
0	8	3	1	0	8	0	8	3	0	0	9

8. TYPE OF ORGANIZATION

☐ Partnership ☒ Corporation ☐ Individual
☐ Other (Specify) _____

9. LIST OWNERS, PARTNERS, AND OFFICERS

NAME AND TITLE

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

ADDRESS

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

10. DEALER ONLY

TOTAL NO. OF ANIMALS PURCHASED IN THE LAST BUSINESS YEAR

TOTAL NO. OF ANIMALS SOLD IN THE LAST BUSINESS YEAR

TOTAL GROSS AMOUNT DERIVED FROM THE SALE OF ANIMALS

DOLLAR AMOUNT OF WHICH FEE IS BASED
(Sections 2.6 and 2.7)

not a FOIA
deletion

11. EXHIBITOR ONLY (No. of animals holding now or held during the last business year, whichever is greater)

DOGS		RABBITS	
CATS		NONHUMAN PRIMATES	
GUINEA PIGS		MARINE MAMMALS	4
HAMSTERS		WILD OR EXOTIC MAMMALS	
OTHER (i.e., farm animals) (List Species and No.)		TOTAL:	

CERTIFICATION

I hereby make application for a license under the Animal Welfare Act 7 U.S.C. 2131 et seq. I certify that the information provided herein is true and correct to the best of my knowledge. I hereby acknowledge receipt of and certify to the best of my knowledge I am in compliance with all regulations and standards in 9 CFR, Subpart A, Parts 1, 2, and 3. I certify that I am over 18 years of age.

(b)(6),(b)(7)(C)

13. NAME AND TITLE (Type or Print)

BERTHA TYLER Secretary 9-8-09

(Previous editions are obsolete)

(JAN 1995)

GOVERNMENT
EXHIBIT

1

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APHIS FORM 7070 (MAR 99)



United States
Department of
Agriculture

Marketing and
Regulatory
Programs

Animal and
Plant Health
Inspection
Service

Animal Care

EXPIRATION DATE: SEPTEMBER 18, 2010

This is to certify that MORRO BAY MARINE REHABILITATION CENTER

is a licensed
under the
CLASS C EXHIBITOR

Animal Welfare Act

(7 U.S.C. 2131 et seq.)

Certificate No. 93-C-0814

Customer No. 3632

(b)(6), (b)
(7)(C)

Deputy Administrator

RECEIVED THIS DOCUMENT

GOVERNMENT
EXHIBIT

3138

2011-2590-67 Page 1

APHIS FORM 7007 (NOV 99)

Previous editions are obsolete.



United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

RE: LICENSE RENEWAL
Certificate Number: 93-C-0814
Renewal Date: 09/18/2010

July 8, 2010
Customer ID Number: 3632

Bertha Tyler
Morro Bay Marine Rehabilitation Center
Morro Bay Aquarium
595 Embarcadero
Morro Bay, CA 93442

Dear Licensee:

This is to remind you that your U.S. Department of Agriculture (USDA) Animal Welfare Act (AWA) license is due for renewal on or before the above renewal date. This is the only renewal notice you will receive.

Please complete the enclosed application form, making any necessary corrections to the pre-printed information, and return it to the above address, along with the appropriate license renewal fee. The annual fee is calculated by using the enclosed fee schedule. You may pay by cashier's check, certified check, personal check or money order made payable to the United States Department of Agriculture. You can also pay with a Visa or MasterCard, using the enclosed credit card authorization form. However, we cannot accept cash payments.

Please note that you must have an approved, complete, and up-to-date program of veterinary care form on file at your place of business. You can obtain blank forms -- or any others you may need -- directly from this office or your USDA inspector. The AWA also requires that you report to us any changes in your name, address, location, management, control or ownership of your business via certified mail within 10 days after the change has occurred.

It is very important that you file your AWA license renewal application before the expiration date. Any renewal notices received after that date will be considered invalid and returned. Accordingly, to continue to conduct AWA regulated business, it would be necessary for you to reapply and undergo the entire pre-licensing process. If your license expires and you continue to operate as a dealer or exhibitor, you will be in violation of the AWA and subject to legal action.

We appreciate your efforts in complying with the Animal Welfare Act. Contact this office at (970) 494-7478 if you have any questions regarding this letter or the Animal Welfare Act.

Sincerely,

(b)(6),(b)(7)(C)

Robert M. Gibbens, D V M
Regional Director -- Animal Care
Western Region

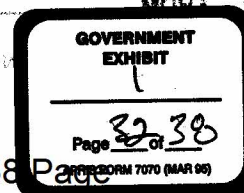
cc: Marcy E. Rosendale, D.V.M.

Enclosures



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United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

RE: ACKNOWLEDGEMENT OF RENEWAL

Certificate Number: 93-C-0814

Renewal Date: 09/18/2011

August 24, 2010

Customer ID Number: 3632

Bertha Tyler
Morro Bay Marine Rehabilitation Center
Morro Bay Aquarium
595 Embarcadero
Morro Bay, CA 93442

Dear Licensee:

Thank you for submitting your Animal Welfare Act (AWA) license renewal documents and applicable fees. Enclosed is a copy of the renewal form and a new certificate indicating that your AWA license has been renewed for another year.

As a reminder, you should file your application for renewal and pay your licensing fees on or before the expiration date each year. We will send you a renewal notice again next year about 60 days before the expiration date of your license. If you cease conducting regulated activities, you may cancel your license at any time by notifying us, in writing, that you wish to terminate your license.

The law also requires that you notify us, by certified mail, of any change in the name, address, location, management and control or ownership of your business within 10 days after such a change has occurred.

Please be advised that your facility records must be kept current and they are subject to review by APHIS Officials during compliance inspections. You may order record keeping forms from this office free of charge.

We appreciate your efforts in complying with the Animal Welfare Act. Contact this office at (970) 494-7478 if you have any questions regarding this letter or the Animal Welfare Act.

Sincerely,

(b)(6),(b)(7)(C)

Robert M. Gibbens, D V M
Regional Director – Animal Care
Western Region

cc: Marcy E. Rosendale, D.V.M.

Enclosures



Safeguarding American Agriculture
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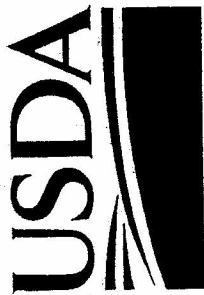
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EXHIBIT

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APHIS FORM 7070 (MAR 06)

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United States
Department of
Agriculture

Marketing and
Regulatory
Programs

Animal and
Plant Health
Inspection
Service

Animal Care

EXPIRATION DATE: SEPTEMBER 18, 2011

This is to certify that

MORRO BAY MARINE REHABILITATION CENTER

is a licensed
under the

CLASS C EXHIBITOR

Animal Welfare Act

(7 U.S.C. 2131 et seq.)

Certificate No.

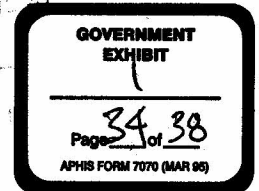
93-C-0814

Customer No.

3632

(b)(6),(b)(7)(C)

Deputy Administrator



9

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0579-0036. The time required to complete this information collection is estimated to average .25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

FORM APPROVED OMB NO.: 0579-0036

No license may be issued unless a completed application has been received (7 U.S.C. 2132-2143), and the applicant is in compliance with the standards and regulations Section 2133.

U.S. DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE

APPLICATION FOR LICENSE

(TYPE OR PRINT)

☐ RENEWAL

DO NOT USE THIS SPACE - OFFICIAL USE ONLY

SEND THE COMPLETED FORM TO:
USDA APHIS ANIMAL CARE
Western Region
2150 Centre Ave.
Building B, Mailstop 3W11
Fort Collins, CO 80526-8117
(970) 494-7478

AK-10-0050
CR 7455

LICENSE NO./CUST NO	RENEWAL DATE	FEES	
93-C-0814 3632	18-Sep-2010	AMOUNT 40-	DATE RECEIVED 8/23/10

1. NAME(S) OF OWNER(S) AND MAILING ADDRESS
MORRO BAY MARINE REHABILITATION CENTER
595 Embarcadero
Morro Bay, CA 93442

2. ALL BUSINESS NAME, LOCATIONS, AND ALL SITES HOUSING ANIMALS (P. O. Box not acceptable)
595 Embarcadero
Morro Bay, CA 93442
County: SAN LUIS OBISPO TELEPHONE ()

COUNTY: SAN LUIS OBISPO TELEPHONE (805) - 772 - 7647

3. IF PREVIOUSLY LICENSED - NAME AND ADDRESS

4. NAME AND ADDRESS OF OTHER BUSINESS(S) HANDLING ANIMALS IN WHICH APPLICANT/LICENSEE HAS AN INTEREST

Morro Bay Aquarium
595 Embarcadero

PREVIOUS LICENSE NO.:

5. TYPE OF LICENSE

☐ A - Dealer (Breeder) ☐ B - Dealer ☒ C - Exhibitor

7. NATURE OF BUSINESS (Check item that describes nature of your business)

☐ A - Zoo ☒ B - Aquariums ☐ C - Auction
☐ D - Breeder ☐ E - Pets ☐ F - Roadside Zoo
☐ G - Circus ☐ H - Animal Acts ☐ I - Carnival
☐ J - Drive thru Zoo ☐ K - Pet Store ☐ L - Broker

6. DATE OF LAST BUSINESS YEAR

FROM						TO					
MO	DAY	YEAR	MO	DAY	YEAR						
0	8	3	1	0	9	0	8	3	0	1	0

8. TYPE OF ORGANIZATION

☐ Partnership ☒ Corporation ☐ Individual
☐ Other (Specify) _____

9. LIST OWNERS, PARTNERS, AND OFFICERS

ADDRESS

(b)(6), (b)(7)(C)

President

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

10. DEALER ONLY

TOTAL NO. OF ANIMALS PURCHASED IN THE LAST BUSINESS YEAR

TOTAL NO. OF ANIMALS SOLD IN THE LAST BUSINESS YEAR

TOTAL GROSS AMOUNT DERIVED FROM THE SALE OF ANIMALS

DOLLAR AMOUNT OF WHICH FEE IS BASED
(Sections 2.6 and 2.7)

not a foia
Deletion

11. EXHIBITOR ONLY (No. of animals holding now or held during the last business year, whichever is greater)

DOGS	RABBITS
CATS	NONHUMAN PRIMATES
GUINEA PIGS	MARINE MAMMALS 4
HAMSTERS	WILD OR EXOTIC MAMMALS
OTHER (i.e., farm animals) (List Species and No.)	TOTAL:

CERTIFICATION

I hereby make application for a license under the Animal Welfare Act 7 U.S.C. 2131 et seq. I certify that the information provided herein is true and correct to the best of my knowledge. I hereby acknowledge receipt of and certify to the best of my knowledge I am in compliance with all regulations and standards in 9 CFR, Subpart A, Parts 1, 2, and 3. I certify that I am over 18 years of age.

12. (b)(6), (b)(7)(C)

13. NAME AND TITLE (Type or Print)

Secretary

14. DATE

BERTHA TYLER 8-17-10

APHIS Form 7070
(JAN 1995)

(Previous editions are obsolete)

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APHIS FORM 7070 (MAR 05)



March 23, 2011

United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

☐ Enforcement Operations – IES HQ

☐ OGC

☒ IES Western Region

☐ IES Investigator

**Additional information for Investigation of Alleged
Violations Regarding the Animal Welfare Act, Regulations,
and/or Standards**

Please add the following documentation to case #: CA 10891

VIOLATOR NAME: Morro Bay Marine Rehabilitation Center

ADDITIONAL INFORMATION:

☐ Application documents

☐ Licensing documents

☐ Renewal documents

☐ Cancellation documents

☒ Inspection report dated March 9, 2011

☐ Inspection report dated _____ including CD

☐ Inspection report dated _____ with photos, including CD

☐ Inspection report dated _____ with photos

☐ Correspondence

☐ Other _____

If further information is needed, please let me know.

(b)(6),(b)(7)(C)

Robert M. Gibbens
Director, Western Region
USDA, APHIS, Animal Care



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FORM 7070 (MAR 05)

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United States Department of Agriculture
Animal and Plant Health Inspection Service

MROSENDALE
80111832200819 insp_id

Inspection Report

MORRO BAY MARINE REHABILITATION CENTER

Customer ID: 3632

Certificate: 93-C-0814

Site: 001

MORRO BAY MARINE REHABILITATION CENTER

MORRO BAY AQUARIUM
595 EMBARCADERO

Type: ROUTINE INSPECTION

Date: Mar-09-2011

MORRO BAY, CA 93442

No non-compliant items identified during this inspection.

Note:

An exit briefing was conducted with a facility representative.

Prepared By:

MARCY E ROSENDALE, D.V.M. USDA, APHIS, Animal Care

Date:

Title: VETERINARY MEDICAL OFFICER Inspector 5039

Mar-21-2011

Received By:

Title: SENT BY E-MAIL

RECEIVED
Date:
Mar-21-2011

GOVERNMENT
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Page 37 of 38
US FORM 7070 (MAR 95)

To: Michael C Long/CO/APHIS/USDA@USDA,
Cc:
Re:
Subject: Morro Bay Marine Rehab Center Insp Rpt & Reply 3/9/11
From: Marcy E Rosendale/CA/APHIS/USDA - Tuesday 03/22/2011 05:17 PM



MorroBay03092011.pdf

----- Forwarded by Marcy E Rosendale/CA/APHIS/USDA on 03/22/2011 04:17 PM -----

"Bertha Tyler"

<mbaquarium@charter.net

To <Marcy.E.Rosendale@aphis.usda.gov>

>

cc

03/22/2011 12:50 PM

Subject Re: Animal Care inspection report

Thank You, received the report o.k., Bertha

----- Original Message -----

From: Marcy.E.Rosendale@aphis.usda.gov

To: Bertha Tyler

Sent: Monday, March 21, 2011 3:43 PM

Subject: Animal Care inspection report

Attached is your inspection report of March 9, 2011. Please respond to me by email when you have successfully received the report.

Thank you,

Marcy Rosendale, DVM
Veterinary Medical Officer
USDA, APHIS, Animal Care

12/11/11 10:11 AM 11/11/11 10:11 AM

12/11/11 10:11 AM 11/11/11 10:11 AM

12/11/11 10:11 AM 11/11/11 10:11 AM



April 9, 2009

(b)(6),(b)(7)(C)

United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

Dear (b)(6),(b)(7)(C)

Thank you for your letter of April 2, 2009, concerning the Morro Bay Marine Rehabilitation Center. Your concern has been issued number W09-096. If you wish to know the results of our findings, you must send a request, in writing, to our Freedom of Information Act office. Depending on the circumstances of the situation, please allow us enough time (30 to 60 days) to thoroughly investigate your concerns.

FOIA requests can be submitted three ways--

1. Email: foia.officer@aphis.usda.gov
2. Fax: 301-734-5941
3. US Mail: USDA, APHIS, FOIA
4700 River Road, Unit 50
Riverdale, MD 20723

Animal Care is the division of the U.S. Department of Agriculture (USDA) that is responsible for the enforcement of the Animal Welfare Act. The Act provides minimum standards for the humane care and use of animals at USDA licensed or registered facilities.

Animal Care inspectors conduct routine unannounced inspections at all USDA licensed and registered facilities to ensure that they are meeting or exceeding these minimum standards. Our inspectors also conduct searches for unlicensed facilities conducting regulated activities. We perform inspections and searches when necessary in response to valid concerns and complaints received from the public to ensure the well-being of the animals and compliance with the law. If violations are found, enforcement action appropriate for the circumstances will be initiated.

Please be assured that we will look into your concerns and take appropriate action if necessary.

Thank you for your interest in the welfare of these animals.

Sincerely,

(b)(6),(b)(7)(C)

Robert Gibbens, DVM
Director, Western Region
USDA, APHIS, Animal Care



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FORM 7070 (MAR 99)

2012-2590 75

Bms

02-0814
32
-096

(b)(6),(b)(7)(C)

April 2, 2009

Dr. Robert Gibbens
USDA, APHIS, Animal Care
2150 Centre Ave
Building B
Mail Stop 3W11
Fort Collins CO, 80526

Dear Dr. Robert Gibbens,

My name is (b)(6),(b)(7)(C) and I am writing you after my recent visit to the Morro Bay Aquarium located in Morro Bay, CA.

I made the huge mistake of visiting this facility while on vacation for my birthday. I have been unable to shake the images from my head and know that I need to do something about this.

On (b)(6),(b)(7)(C) entered the Morro Bay Aquarium for what I thought would be an enjoyable experience. I was unable to remain there for more than five minutes after walking around the facility I started crying.

There were three sea lions total in two cages. The first cage contained two seal lions, one of whom which could barely swim around as he kept running into the other, and the other was thrown fish and could have cared less. The look in its eyes was of misery and sadness. In the cage next to that was one sea lion by itself. This sea lion was swimming neurotic circles around itself, clearly distressed and barking the most horrific sound I have ever heard. It was not a normal healthy bark. It was clearly distressed and unable to stop making the tightest circles around itself. This sea lion is what really made me say I had to do something about this. What was even

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APHIS FORM 7070 (MAR 95)

more heartbreaking to me was that the sea lions in their natural habitat in the ocean just outside could hear their friends barking in distress and they were barking back, making circles themselves, unable to do anything about it.

The cages/enclosures they are in are too small. They can barely move or swim, let alone if two are in one enclosure. I am outraged that these animals can be treated like this. I know that I might be accustomed to other accommodations based on my studies in marine life, and my numerous visits to the Monterey Bay Aquarium, but this was just horrific, the completely opposite end of the spectrum.

I am writing you today to beg you to please do something to help these sea lions. I've been doing allot of research on who to contact and who is in the position to make a difference in our State for these types of matters and I am told it is you. Please visit the Morro Bay Aquarium to inspect their facilities as I just can not believe a set up like this is legal and am begging for you to go see these conditions, inspect their facility and to please do something to help them.

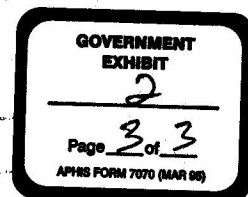
I would greatly appreciate a response to this letter.

Most Sincerely,

(b)(6),(b)(7)(C)

Please file as
complaint

(b)(6),(b)(7)(C)



APR - 7 2009



USDA, APHIS, Animal Care



ANIMAL WELFARE COMPLAINT

Complaint No. W09-096	Date Entered 9-Apr-09	Received By mcl
Referred To Drs. Garland & Rosendale		Reply Due

Facility or Person Complaint Filed Against

Name Morro Bay Marine Rehabilitation Center		Customer/License/Registration No. 93-C-0814 ID-3632	
Address 595 Embarcadero			
City Morro Bay	State CA	Zip 93442	Phone No 805-772-7647

Complainant

Name (b)(6),(b)(7)(C)		Organization	
Address (b)(6),(b)(7)(C) 225 Seaview			
City (b)(6),(b)(7)(C)	State CA	Zip 95062	Phone No /Email address (b)(6),(b)(7)(C)

How was complaint received?
Letter to WRO

Details of Complaint: Complainant visited aquarium on 3/21/09. Cage 1 had 2 Sea Lions, one of whom could barely swim around - kept running into the other, who was being thrown fish. Cage 2, with 1 Sea Lion - animal "swimming neurotic circles around itself;" barking horrifically. Did not sound like a "normal healthy bark." Distress of Sea Lions inside the facility was having an adverse effect on the wild Sea Lions in the ocean just outside the facility.

Results: I arrived at the facility at 1445 hours on April 20, 2009. I observed two apparently healthy marine mammals, one California Sea Lion and one Harbor Seal. One of the three animals addressed in the complaint, a Harbor Seal, died on 3/22/09. Necropsy results indicated that the animal died of a chronic fungal infection (coccidioidomycosis). The attending veterinarian was interviewed by telephone. He stated that he had treated the animal on several different occasions for undiagnosed illnesses. The licensee contacted him on either 3/17 or 3/19 to report that the animal was ill and he dispensed an anthelmintic. The licensee was not at the facility at the time of the inspection and personnel who were present could not locate the medical records. The facility was also behind on maintaining feeding logs. These two non compliant items were cited on the inspection report. It appeared that the attending veterinarian was notified promptly that the animal was ill and the licensee was treating the animal at the time of the complaint.

As to the barking, the Sea Lion does bark and circle when visitors enter the aquarium because the visitors may feed him. I did not notice anything unusual about the Sea Lion, including the bark or behavior. There are rarely any wild Sea Lions in the bay behind the facility. The ocean is actually some distance from the facility. I did not observe any Sea Lions in the bay.

Application packet provided? Yes ☐ No ☒

MDH4

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USDA FORM 7070 (MAR 95)

INSPECTOR

Marcy Rosendale, DVM, VMO

REVIEWED BY

Kathleen Garland, DVM

DATE

9-Feb-10

DATE

9-Feb-09

10

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APHIS FORM 7070 (MAR 05)

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Inspection Report

MORRO BAY MARINE REHABILITATION CENTER

Customer ID: 3632

Certificate: 93-C-0814

MORRO BAY AQUARIUM
595 EMBARCADERO

Site: 001

MORRO BAY MARINE REHABILITATION CENTER

MORRO BAY, CA 93442

Type: ROUTINE INSPECTION

Date: Apr-20-2009

3.105 (c)

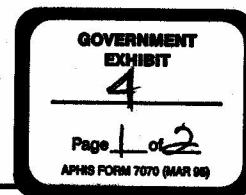
FEEDING.

Sec. 3.105 Feeding.

(c) Marine mammal feeding records noting the estimated individual daily consumption must be maintained at the facility for a period of 1 year and must be made available for APHIS inspection. For marine mammals that are individually fed and not subject to public feeding, the feeding records should reflect an accurate account of food intake; for animals fed, in part, by the public, and for large, group-fed colonies of marine mammals where individual rations are not practical or feasible to maintain, the daily food consumption should be estimated as precisely as possible.

Feeding records for the marine mammals were not available for APHIS review at the time of the inspection. A staff member stated that the facility was behind on their daily food consumption records. Changes in food consumption may be an indication of changes in the health status of marine mammals. Maintaining feeding records helps to ensure that changes in consumption are identified in a timely manner and enables the attending veterinarian and APHIS inspectors to monitor daily food consumption of marine mammals kept at the facility. A system should be in place to ensure that food consumption records are maintained and made available for APHIS inspection.

Correct immediately.



Prepared By:

(b)(6),(b)(7)(C)

Title:

MARCY E ROSENDALE, D.V.M. USDA, APHIS, Animal Care

Date:

May-08-2009

Received By:

(b)(6),(b)(7)(C)

Title:

DIRECTOR

Date:

May-14-2009



Inspection Report

3.110 (d)

VETERINARY CARE.

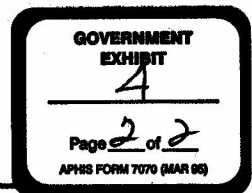
Sec. 3.110 Veterinary care.

(d) Individual animal medical records must be kept and made available for APHIS inspection. These medical records must include at least the following information:

- (1) Animal identification/name, a physical description, including any identifying markings, scars, etc., age, and sex; and
- (2) Physical examination information, including but not limited to length, weight, physical examination results by body system, identification of all medical and physical problems with proposed plan of action, all diagnostic test results, and documentation of treatment.

The medical record of a marine mammal that died in March was not available for review at the time of the inspection. Information compiled in medical records should include the data obtained during physical examinations, diagnostic test results, any proposed plan of action, and treatment regimens in order that facility personnel, the attending veterinarian, and APHIS inspectors may adequately monitor the health status of those animals. A system should be in place to ensure that the facility keeps all pertinent information in individual animal medical records that are available for APHIS inspection.

Correct immediately.



Prepared By:

(b)(6),(b)(7)(C)

Title:

MARCY E ROSENDALE, D.V.M. USDA, APHIS, Animal Care
VETERINARY MEDICAL OFFICER Inspector 5039

Date:

May-08-2009

Received By:

(b)(6),(b)(7)(C)

Title:

DIRECTOR

RECEIVED THE DIRECTOR
Date:

May-14-2009



Inspection Report

MORRO BAY MARINE REHABILITATION CENTER

Customer ID: 3632

Certificate: 93-C-0814

MORRO BAY AQUARIUM
595 EMBARCADERO

Site: 001

MORRO BAY MARINE REHABILITATION CENTER

Type: ROUTINE INSPECTION

Date: Mar-10-2010

MORRO BAY, CA 93442

3.105 (c)

REPEAT

FEEDING.

Sec. 3.105 Feeding.

(c) Marine mammal feeding records noting the estimated individual daily consumption must be maintained at the facility for a period of 1 year and must be made available for APHIS inspection. For marine mammals that are individually fed and not subject to public feeding, the feeding records should reflect an accurate account of food intake; for animals fed, in part, by the public, and for large, group-fed colonies of marine mammals where individual rations are not practical or feasible to maintain, the daily food consumption should be estimated as precisely as possible.

February and March feeding records for the marine mammals were not available for APHIS review at the time of the inspection. A staff member stated that the facility was behind on their daily food consumption records. Changes in food consumption may be an indication of changes in the health status of marine mammals. Maintaining feeding records helps to ensure that changes in consumption are identified in a timely manner and enables the attending veterinarian and APHIS inspectors to monitor daily food consumption of marine mammals kept at the facility. A system should be in place to ensure that daily food consumption records are maintained and made available for APHIS inspection.

Previous correction date: Correct immediately.

3.110 (a)

VETERINARY CARE.

Sec. 3.110 Veterinary care.

(a) Newly acquired marine mammals must be isolated from resident marine mammals. Animals without a known medical history must be isolated until it is determined that the newly acquired animals are determined to be in good health by the attending veterinarian.

Prepared By:

(b)(6),(b)(7)(C)

MÁRCY É ROSENDALE, D.V.M. USDA, APHIS, Animal Care

Title:

VETERINARY MEDICAL OFFICER Inspector 5039

Date:

Mar-18-2010

Received By:

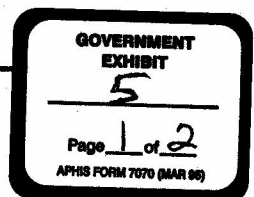
(b)(6),(b)(7)(C)

Title:

OWNER

Date:

Apr-01-2010





Inspection Report

Three newly acquired marine mammals were placed directly in the permanent enclosures with resident animals at the facility. Two new California Sea Lions and one Harbor Seal were acquired and placed directly in the enclosures with the resident California Sea Lion and Harbor Seal. Staff at the aquarium stated that they did not have a separate holding facility in which to isolate the animals.

Newly acquired marine mammals must be isolated in order to ensure that they are in good health prior to exposing them to resident marine mammals. Animals that initially appear to be in good health may later be determined to have communicable diseases that may adversely affect the well-being of resident animals. The aquarium should not acquire any additional animals until they have adequate isolation facilities in place.

This noncompliant item should be corrected prior to obtaining additional animals.

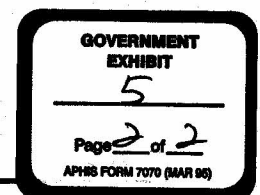
3.110 (b)

VETERINARY CARE.

(b) Holding facilities must be in place and available to meet the needs for isolation, separation, medical treatment, and medical training of marine mammals.

There is currently no separate holding facility in which to isolate or separate marine mammals being kept at the facility. The area the aquarium used for separation in the past is now permanent housing for two incompatible resident marine mammals. If one of the animals at the facility needs to be separated from the others for any reason there is now no holding facility available for use at the aquarium. The inability to separate marine mammals may endanger their health and well-being. The facility must ensure that adequate holding facilities are available when needed to isolate, separate, or provide medical treatment or training.

Submit plans for correction by June 1, 2010.



Prepared By:

(b)(6),(b)(7)(C)

MARCY E ROSENDALE, D.V.M. USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER Inspector 5039

Date:

Mar-18-2010

Received By:

(b)(6),(b)(7)(C)

Title: OWNER

Date:

Apr-01-2010



Inspection Report

MORRO BAY MARINE REHABILITATION CENTER

Customer ID: 3632

Certificate: 93-C-0814

Site: 001

MORRO BAY MARINE REHABILITATION CENTER

MORRO BAY AQUARIUM
595 EMBARCADERO

Type: ROUTINE INSPECTION

Date: Jun-15-2010

MORRO BAY, CA 93442

3.105 (a)
FEEDING.

DIRECT NCI

(a) The food for marine mammals must be wholesome, palatable, and free from contamination and must be of sufficient quantity and nutritive value to maintain marine mammals in a state of good health. The diet must be prepared with consideration for factors such as age, species, condition, and size of the marine mammal being fed.

One of the California Sea Lions was found to be significantly underweight. All the Sea Lions, including a larger female, were receiving the same amount of food. Staff at the facility had not made any attempts to calculate the caloric needs or intake of the marine mammals being housed there.

Animals at the facility must be provided with a sufficient quantity of food to sustain a healthy body weight. A system should be in place to ensure that the caloric needs of the animals are determined and appropriate amounts of food provided.

Correct immediately.

3.105 (c)
FEEDING.

REPEAT

(c) Inappetence exceeding 24 hours must be reported immediately to the attending veterinarian.

According to feeding records one of the Harbor Seals had a decreased appetite that was first observed on April 19, 2010, yet the attending veterinarian was not notified until April 22, 2010. The animal died on April 23, 2010.

Changes in food consumption may be an indication of changes in the health status of marine mammals. Prompt notification of inappetence gives the attending veterinarian the opportunity to diagnose and treat medical conditions in their early stages. Delaying appropriate treatment may adversely affect the health of the animals. The aquarium should ensure that accurate feeding records are kept and the attending veterinarian is promptly notified of

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Date:

Jun-24-2010

Date:

Jul-12-2010

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AUG 27 2010



Inspection Report

inappetence exceeding 24 hours in any of the marine mammals housed there.

Previous correction date: Correct immediately.

3.105 (d)

FEEDING.

(d) Food preparation and handling must be conducted so as to assure the wholesomeness and nutritive value of the food. The length of time food is stored and the method of storage, the thawing of frozen food, and the maintenance of thawed food must be conducted in a manner that will minimize contamination and that will assure that the food retains nutritive value and wholesome quality until the time of feeding. All foods must be fed to the marine mammals within 24 hours following the removal of such foods from the freezers for thawing, or if the food has been thawed under refrigeration, it must be fed to the marine mammals within 24 hours of thawing.

Thawed fish in the refrigerator was uncovered. Fish that had been diced for public feeding was being fed more than 24 hours after being thawed.

Proper food preparation is important to ensure that the food is wholesome and retains nutritive value. The facility should ensure that fish is kept covered and fed within 24 hours of being thawed.

Correct immediately.

3.110 (b)

REPEAT DIRECT NCI

VETERINARY CARE.

(b) Holding facilities must be in place and available to meet the needs for isolation, separation, medical treatment, and medical training of marine mammals. Marine mammals that are isolated or separated for nonmedical purposes must be held in facilities that meet minimum space requirements as outlined in Sec. 3.104.

There is currently no separate holding facility in which to isolate or separate the Sea Lions being kept by the aquarium. The aquarium submitted plans for holding facilities that did not meet the space requirements outlined in Sec. 3.104. Neither the dry resting area nor the minimum horizontal dimension (MHD) met the minimum space requirements. The plans for the dry resting area provided only a three foot wide by six foot long platform. The average adult length of male California Sea Lions, one of which is being housed at the facility, is 7.3 feet. The dry

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resting area provided for in the submitted plan was grossly insufficient for the animals housed at the facility. The total horizontal dimension of the proposed holding facility was only six feet wide by 12 feet long, again providing insufficient minimum horizontal dimension for an adult male Sea Lion. Additionally, the three by six foot dry resting area platform was to be suspended directly above the center of the holding area, thus decreasing the surface area of the facility. The exact depth of the facility was not provided in the plan and staff at the aquarium did not know the exact depth.

The area the aquarium used for separation in the past is now permanent housing for an incompatible resident marine mammal. If one of the Sea Lions at the facility needs to be separated from the others for any reason there is now no holding facility available for use at the aquarium. The male Sea Lion at the aquarium had diarrhea during the inspection but without a holding facility there was no way to isolate this animal from the other Sea Lions. The inability to separate marine mammals may endanger their health and well-being.

The aquarium must ensure that adequate holding facilities are available when needed to isolate, separate, or provide medical treatment or training to the marine mammals being housed there.

Previous correction date: Submit plans for correction by June 1, 2010.

3.110 (d) (2)

DIRECT NCI

VETERINARY CARE.

(d) Individual animal medical records must be kept and made available for APHIS inspection. These medical records must include at least the following information:

(2) Physical examination information, including but not limited to length, weight, physical examination results by body system, identification of all medical and physical problems with proposed plan of action, all diagnostic test results, and documentation of treatment.

The male California Seal Lion had diarrhea and was observed to be significantly underweight at the time of the inspection. The animal had not been weighed and no diagnostic tests had been performed. One dose of a medication had been administered to the animal prior to the inspection but had not been documented.

Appropriate medical records that document basic physical examination information are necessary in order that aquarium staff, the attending veterinarian, and APHIS inspectors may monitor the health of the animals. The aquarium should ensure that physical examinations and diagnostic tests are performed when necessary and the information obtained from the examinations and tests are included in the medical records.

Correct immediately.

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3.110 (g) (1)

VETERINARY CARE.

(g)(1) A complete necropsy, including histopathology samples, microbiological cultures, and other testing as appropriate, must be conducted by or under the supervision of the attending veterinarian on all marine mammals that die in captivity. A preliminary necropsy report must be prepared by the veterinarian listing all pathologic lesions observed. The final necropsy report must include all gross and histopathological findings, the results of all laboratory tests performed, and a pathological diagnosis.

A Harbor Seal that died on June 23, 2010 did not receive a complete necropsy. Although the animal was exhibiting neurologic signs the central nervous system, including the brain, was not examined and no histopathology or other lab work was obtained.

A complete necropsy must be obtained for each marine mammal that dies in captivity in order that a cause of death may be determined. Data obtained from a thorough necropsy may provide information that could be used to prevent sickness or death of other marine mammals at the aquarium.

Correct for any future marine mammal deaths.

Note:

An exit briefing was conducted with the licensee.

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MARCY E ROSENDALE, D.V.M. USDA, APHIS, Animal Care
VETERINARY MEDICAL OFFICER Inspector 5039

Date:

Jun-24-2010

GOVERNMENT
EXHIBIT

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APHIS FORM 7070 (MAR 95)

Received By:

(b)(6),(b)(7)(C)

Title:

OWNER

Date:

Jul-12-2010

AUG 27 2010

Site Visit for Morro Bay Aquarium

Report created by Laurie J. Gage, DVM, Dipl. ACZM

June 21, 2010

On June 15, 2010, I accompanied Dr. Marcy Rosendale, VMO Animal Care inspector to do a site visit and an inspection of the Morro Bay Aquarium. There have been some public concerns about this aquarium and about the marine mammals that are exhibited there. We arrived in the afternoon and there were a number of members of the public purchasing small paper bags with about 5 – 10 small pieces of fish in them and were feeding these bits of fish to the pinnipeds in residence. Presently there is one harbor seal, Smokey, approximately 2 years old, two California sea lions a female and a male, Nera and Ramses, both 2 years old, and one California sea lion female, Maggie, that is 23 years old. The harbor seal and two young sea lions arrived from Sea World Florida last December on 12/06/09.

All of the animals are housed inside a room with a roof and an outside wall that has cyclone fencing at the top and allows some natural sunlight inside. There is one long pool divided into three areas. The pool is approximately 8 feet wide and appeared to be less than 30 feet long.

The harbor seal is held by itself in one section in a small (approximately 8' x 8') pool with a dry resting area in the center of that (about 2' x 4') and a concrete resting area at one end, approximately 8' x 4'. The three sea lions shared the next two sections which had a divider near the center of the two with circular openings so the sea lions could move between the two areas by jumping through the circular openings in the fence. (See Figure 1)

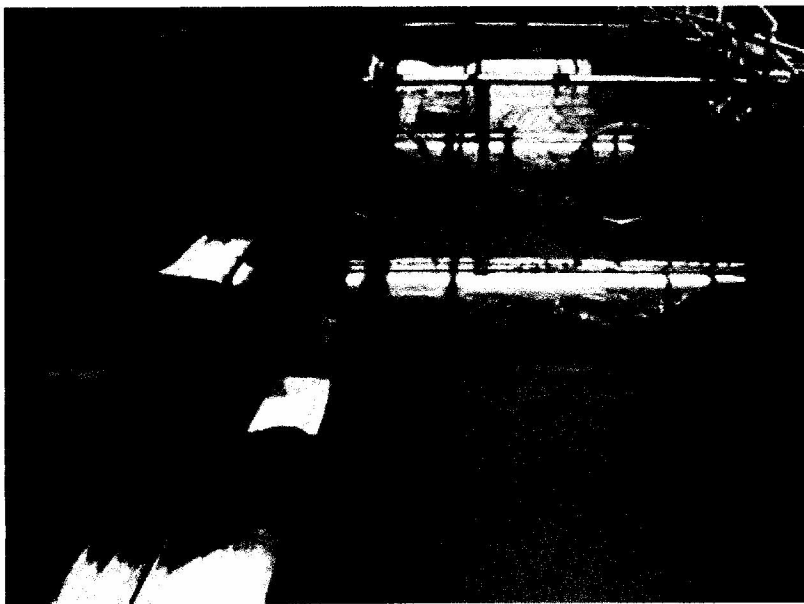


Figure 1 Two sea lion enclosures and harbor seal enclosure (furthest away)

The sea lion water was cloudy in comparison to the harbor seal's water. As we watched the sea lions one was laying on a haul out shelf while the other two were swimming. The one on the shelf, identified as "Ramses" defecated as we watched and had watery diarrhea. (Figures 2 and 3)



Fig. 2 "Ramses" diarrhea running down flipper onto shelf below Fig.3 Watery diarrhea off flippers

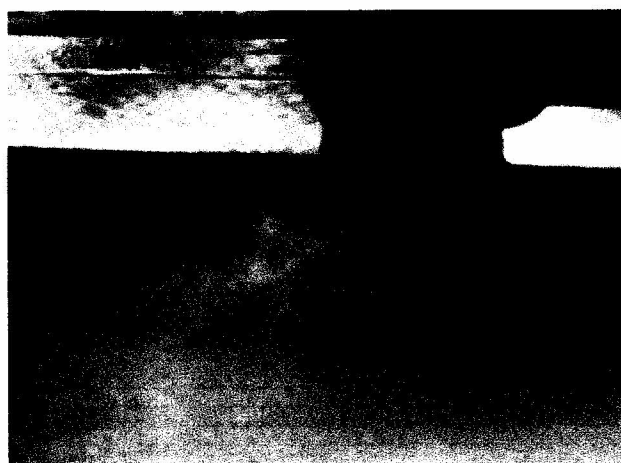


Figure 4 Diarrhea in water below Ramses

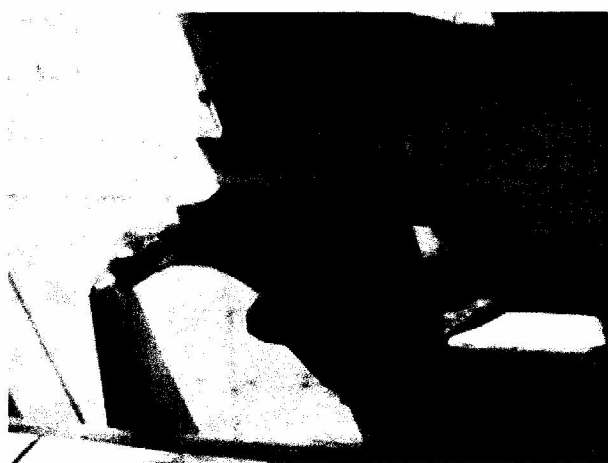


Fig. 5 "Ramses" thin sea lion with diarrhea

"Ramses" was very thin and the scapulae, ribs and vertebral bodies were readily visible. (See Fig 5)

NEWSPHOTOGRAPHY

The other two sea lions were slightly underweight but were in the water the entire time we were there so were somewhat difficult to evaluate. The harbor seal appeared to have acceptable body weight. The public was allowed to feed the animals small bits of fish sold in small white paper bags. At one point a paper bag was seen floating in the pool. No attempt was made to get the bag out. (Fig 6)

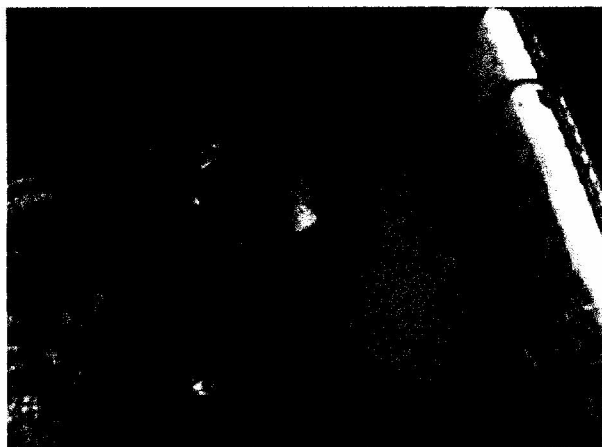
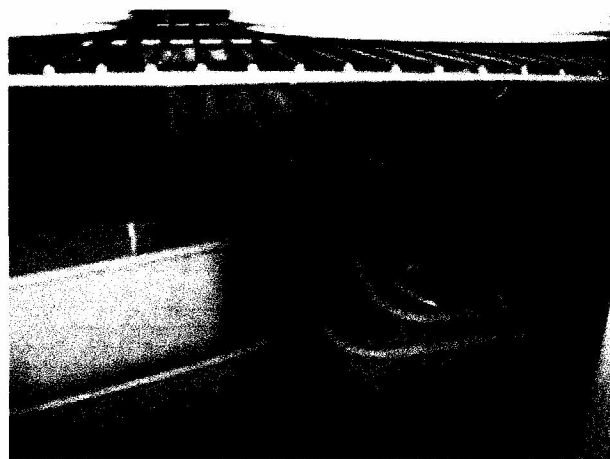
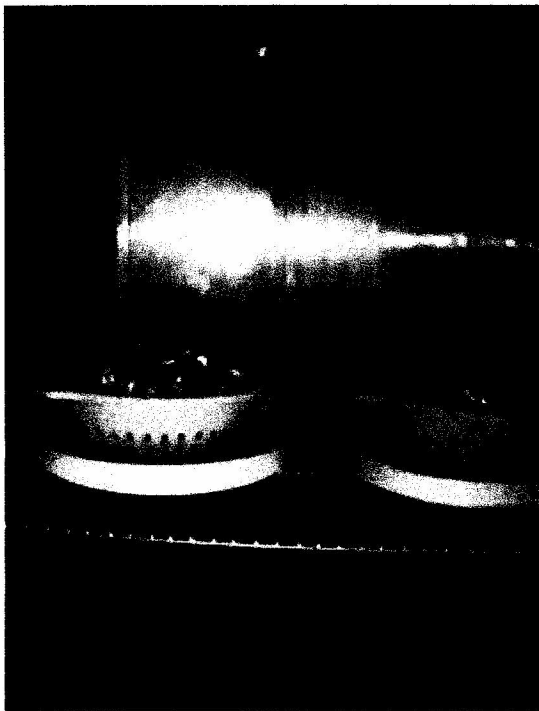


Fig 6 Sea lion playing with paper food bag

We asked if Ramses were under veterinary care. We were told the veterinarian had been out the day before and had looked at the animal, and had prescribed some medication (204 mg Droncit once and again in 2 weeks, and 500 mg metronidazole PO BID "until the pills were gone". There was no treatment sheet and no means of knowing if and when the animal was getting its medication. The staff told us the animal had not had a physical examination and that the vet had just brought over the medication (without doing any diagnostics). When we asked to see the treatment sheet (that would be checked off each time the animal got its medication) the staff had no idea what we were talking about, and stated they rarely ever gave animals medication and this was rather a "new" procedure. We expressed concern that the animal appeared very thin in addition to having diarrhea. They stated he was being fed two extra herring (two individual fish) and then fed the animal the extra fish while we watched. "Ramses" appeared to have a good appetite and readily ate the fish. We asked how much fish the animals were getting and were told they each received 3lbs herring and 3lbs capelin. When asked what the fat content was of each fish, they did not know and did not know that was an important fact to know. They stated they gave the herring because it had a higher fat content than the capelin. I explained this is not always true and that herring in fact can be very lean depending on where and what time of year it was caught. The bigger 23 year old female sea lion was being fed the same amount of food as the other three younger animals. No attempt was being made to calculate caloric needs or to calculate the caloric intake of each animal each day. The public was sold small cut pieces of capelin in a bag and the staff stated (in a confusing way) that this was probably not part of the 12 pounds fed, but the explanation was so confusing it was difficult to say if they the capelin was in addition to the base diet or not.

We toured the small fish preparation room. The cutting boards, sink, and prep area appeared clean but old and worn. All of the thawed fish that was held in the refrigerator was uncovered. There were several baskets of small cut pieces of capelin in a colander that was uncovered. We were told this fish would be placed in bags tomorrow and sold to the public. We were shown fish already in bags for the customers today or tomorrow. This was uncovered. I pointed out that fish must be discarded within 24 hours of being thawed. The staff did not seem to know this, and were prepared to feed fish that had

been thawed well over 24 hours. We later asked about vitamin supplementation and they stated the animals each received a vitamin with 250 mg Thiamin once a day. There were no records to show this actually was given to the animals. The records were seriously lacking and organized into a few sentences written each week, and generalized that each animal had eaten its herring and capelin that week. On weeks where animals were sick it would state that one animal had "gone off feed" and then either that same week or within 1 – 2 weeks the animal had died.



Figs 7 and 8 Cut fish and whole fish uncovered in refrigerator

We viewed the filtration system which drew water from the bay next to the aquarium, filtered it through a small sand and gravel filter, and then the water is pulled through a sand/gravel bed. There is no way to disinfect the water in spite of the fact that on several occasions in the past there has been a sewage spill into the bay, resulting in at least one pinniped death each time. The water is not tested for pathogens before it enters the animal pools. Coliform levels are run each week with water collected from the animal pools. The staff stated they change the water every other day in the animal pools. We suggested more frequent water changes would be desirable for the situation they are in now with an animal with diarrhea and no way to isolate that animal from the other animal.

There were no individual records kept for the animals. The staff maintained one small notebook where brief weekly reviews were written and the amounts of food each animal ate were written as a generalization and not documented each day for each animal.

The mortality rate at this facility is very high even when discounting the animals that were rehabilitated there. Since 1969, removing animals that were transferred to another facility, this facility has had 19 resident sea lions either living at the facility or were born there. One sea lion lived to be 32 years old, and there is one female, Maggie, that has been at the facility now for 23 years, and was a rehabilitated animal in 1987. One rehabilitated sea lion lived to be 16 years old, and died in 2003 with no cause of death determined. One sea lion, Thunder, rehabilitated in 1992 died in 2007 at 15 years of age and had a history of diarrhea for 2 weeks, was treated with some antibiotics and Droncit, and Albon and

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died having no labwork, histopathology or microbiology performed. The vet noted the animal had "lost a lot of weight" and that the Albion "had not worked". A gross necropsy was done with no cause of death identified. A local sewage spill was blamed for the diarrhea. While we were there we heard there had been several sewage spills from the "Men's Colony" over the years and the owners thought these spills had caused some of their animals to die. I asked if they had a contingency plan for sewage spills so the animals would not be forced to live in contaminated water. The staff did not have any plans and could not think of any way to prevent the animals from living in contaminated water. I asked if they cultured the water coming out of the bay before it was put into the animal pools. They stated they did not know how to do that. I pointed out they could culture the bay water exactly the same way they culture the water in the animal pools each week for coliforms.

Four sea lions were captive born at the facility. One male lived 5.5 years and died with scanty history.

California sea lion (CSL), "Lloyd" was born at the facility on 5/25/2003 and died 6/15/2005 when he was 2 years old. He died from "encephalitis" in 2005 caused by a "bacterial sewage spill". There were no diagnostics performed on the animal, the gross necropsy noted jaundice and mottling of the liver. The history reflected the animal had been off feed for 5-7 days with head twisting to the right and depression. No treatment was noted. The central nervous system or brain was not examined on gross necropsy and only one tissue, the liver, was submitted for histopathology. The "Necropsy Record" noted that "histopathology did not give etiology". With only one tissue submitted, it is no surprise an etiology could not be determined. In spite of the animal showing neurologic signs before death, no physical examination or other diagnostics were performed.

CSL "Julie" was captive born 7/7 1998 and died 11/05/1999 from "drowning". This animal was only 1.4 years old.

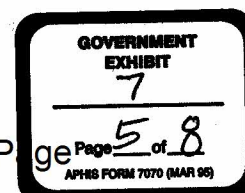
CSL "Turkey" was captive born on 6/2/03 and died on 7/11/03 at 5 weeks of age from drowning.

There are now two new sea lions that were captive born at Sea World Florida and transferred to Morro Bay Aquarium on 12/6/09. One of those animals, "Ramses" is very thin, had liquid diarrhea the day we were there, and has to date, had no physical examination, fecal cultures, or bloodwork performed as described above.

The harbor seals (HS) also have a high mortality. Two stranded seals lived to be 15 and 19 years old but died with no cause of death determined. This facility has had six captive born harbor seals sent to them from Sea World Florida since 2002.

HS "Cajun" was two years old when it arrived at the aquarium in 2002, and after living there for 6 months, was "not eating for 5 days, possible GI bloating, painful" and was anesthetized for radiographs and died of respiratory/cardiac arrest during anesthesia. The animal weighed 55 lbs and would have been easy to restrain for this procedure. This body weight would be considered too low for a harbor seal this age.

HS "Army" was over 1 year old when it arrived at the aquarium in 2002, and died on 12/29/04 at about 3 years of age. It had lived at the aquarium for 1.5 years and died of an "intestinal torsion" after 4-5 days of anorexia, the owners apparently changed the type of fish being fed, the animal ate and then died later that night. It died on 12/29/04 but a necropsy was not performed until 1/27/05. No histopathology or laboratory work was performed on this animal. The veterinarian noted there were 6



8 feet of small intestine that "appeared torsed around the mesenteric root". A few tissues were saved for "possible histo" but no histopathology report was available in the file.

HS male "Chunky" was captive born 4/15/02 and transferred to the aquarium on 8/13/03. It died on 6/22/05 having lived less than 2 years at the aquarium. It was only slightly over 3 years of age. The cause of death was listed as "encephalitis" (bacteria from a sewage spill). The history stated the animal had "anorexia for several days - distinct neurologic signs- acute (?) death". General impressions written by the veterinarian were "possible meningitis (3rd animal with neurologic signs) or toxin. Acute death due to brain dysfunction or 2^o drowning. Etiology is unknown Poss toxin or bacterial ??". The central nervous system and brain were not evaluated on the necropsy. There was no physical examination, no laboratory sampling, no microbiology and no histopathology done to try to determine the cause of death of this young animal. The animal weighed 100 lbs at the time of death.

HS male "Achilles" was captive born 4/27/05, arrived at the aquarium on 1/13/06 and died on 3/23/09 at 4 years of age. Cause of death was listed as "valley fever peritonitis". The veterinarian's history reflected the animal was anorexic for several weeks. Weight loss. Vomited one time on 3/21/09. Died on 3/24/09. "Poss cough x sev months". It was "found dead in the pool". Animal's weight at death was 92 lbs. The abdominal fluid was sent for laboratory analysis, omental sample sent for histopathology and "ovoid structures" noted with a diagnosis of coccidomycosis. No histopathology report was available in the folder. No physical examination or diagnostics were performed on this animal prior to death.

HS female "Socket" was captive born on 4/24/05, transferred to the aquarium on 1/23/06 and died on 4/23/10 at 5 years of age. The necropsy was conducted on 4/24/10. The history written by the veterinarian was "4/20 appetite decreased, 4/22 head tremor, - owner drained habitat to protect from drowning. 4/23 found dead in habitat. No indication of V or D (vomiting or diarrhea?) or struggle prior to death- appeared acute." "All structures appeared normal on post- no abnormalities detected in body structure- Dx open". Weight was listed as "125 - 130 (lbs?)". There was no physical exam, no laboratory work, no microbiology or histopathology done on this animal. In spite of the head tremor, the central nervous system / brain was not examined on the necropsy. The veterinarian noted in the comments that the "head tremor might indicate a neurologic malfunction (2^o to enterotoxins ?, parasites?, hemorrhage ? etc. but inconclusive)". No fecal exam was run for parasites. There was no treatment listed for this animal. The cause of death provided to NMFS was listed as "probably in heat".

There is one harbor seal (Smokey) in residence that is still alive. It was captive born on 4/13/2008. It arrived on 12/06/2009 from Sea World Florida. It appeared to be in good health during our visit. It appeared slightly underweight.

My general impression of this facility is that the owner/staff did not seem to understand good husbandry practices. The owners stated bay water has been contaminated on several occasions over the years and they feel their animals have died because of that, yet they do not test the bay water before it goes into the animal pens and they do not have any plan in place of what to do if the water becomes contaminated again. It appears that virtually every animal that has died received little-to-no veterinary care.

On June 21, 2010 I called and spoke with (b)(6),(b)(7)(C) who has been the (b)(6),(b)(7)(C) for over a decade. (b)(6),(b)(7)(C) admitted he did not know much about pinniped medicine, and stated that there was nobody else in the area who could or would provide veterinary care to these animals. I asked him why he never did physical examinations on the animals when they appeared to be sick or exhibiting

abnormal behaviors. He said they did not want to "stress" the animals by handling them. I told him I had done physical examinations on over 1500 pinnipeds (both harbor seals and sea lions) that came into the Marine Mammal Center where I served as the Director of Veterinary Services for 14 years, and not one had died as a result of my examination. He then stated that now he may not be physically able to conduct a physical examination on these animals. I told him to contact the Marine Mammal Center to see if they had personnel who could help restrain animals for a physical examination and blood/fecal sampling. I asked (b)(6),(b)(7) why he rarely sent in tissues for histopathology, and when he did, it was only one or two tissues (not a full set). He stated that if he didn't see anything grossly in the tissues then he didn't bother to send them in. He stated it was very expensive to run histopathology on multiple tissues. I asked why he did some of the necropsies on animals that had been frozen, and on one that had been frozen over one month before it was examined. He stated he thought he was out of town for that one. He seemed unaware or unconcerned that freezing tissues will make it difficult if not impossible for the pathologist to make a diagnosis on the more subtle problems, in spite of the fact one pathologist had noted on one of the reports that the freezing artifacts made a diagnosis difficult. I informed him that it was not up to him to provide veterinary services when he was out of town, but that the owners needed to find someone to cover for him if any of the animals had problems when he was away.

I asked the Attending Veterinarian how "Ramses" the sea lion with diarrhea last week was doing. He stated he thought it was doing better but had not been there to see it again. I asked why he treated the animal with Droncit when it was eating fish that had been previously frozen and had little chance of causing a tapeworm (or fluke) infection. He stated he had seen "parasite problems" in the past and so did this as a matter of course. My concern is that Droncit itself may have side effects one of which is causing diarrhea. In my experience tapeworm infections do not usually cause diarrhea in pinnipeds.

I expressed a concern that no cultures had been taken of the feces and the animal was defecating into a pool that housed two other animals, and there was no way to separate the sick animal from the healthy ones. (b)(6),(b)(7) did not seem overly concerned about that. I expressed a concern over the very high mortality there at the aquarium, but he said they had rehabilitated numbers of animals and they probably died from reasons that had to do with stranding. But the captive born animals have the highest mortality and this argument is not valid. I am concerned about the Attending Veterinarian's ability to diagnose problems in these animals either pre or post mortem. Each animal that has died at the Morro Bay Aquarium has a similar history. It may show signs of anorexia or diarrhea for a few days to weeks, it may or may not be treated with a shotgun therapy of possibly inappropriate drugs, it will not ever have a physical examination or any diagnostics performed, and then it dies with little effort or expense to find the cause of death. And not one of the captive born animals that have lived at the aquarium has lived beyond the age of 5.5 years.

The facility now houses one older female sea lion, one young male with health issues, one young female sea lion, and one young harbor seal. I know of one case where a two-year-old male sea lion impregnated a 3-year-old female sea lion, so it is possible in the next year or so, the young female could become pregnant. This facility is inappropriate for sea lion births. There is no haul-out area large enough for a female to easily nurse her pup, and there is no beach area for a young pup to exit the pool to rest. A young pup could easily drown the way this exhibit is designed. There have already been two deaths of sea lions born at the facility due to drowning.

The haul-out areas are inappropriate for sea lions and likely do not meet our minimum standards. I believe there was a variance given to the facility at one time in the past, however the animals and conditions have changed since then and I believe the facility for the sea lions is out of compliance.

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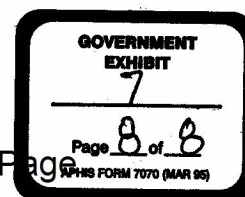
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The fish that was fed to the animals was poorly handled, and it was clear the staff and the veterinarian had no general knowledge of proper handling of fish, appropriate caloric values, and it was questionable if they understood the importance of vitamin supplementation.

Since there were no detailed feed or medical records for each animal, only general sentences were written each week about the entire group of animals, it was impossible to know if any of the animals received a proper diet or supplementation. Neither the owners or the veterinarian seemed to understand the importance of knowing what the fat content of the fish being fed to the animals was, and the diet for the animals was created without the approval of the veterinarian. I informed the veterinarian that a hypovitaminosis B1 could be a cause of vague neurologic signs and death. He seemed unaware of that and asked if that could be seen on histopathology. I stated that it could if the samples were sent to a pathologist who is familiar with marine mammals.

The Morro Bay Aquarium is not designed to hold pinnipeds properly. Sick animals cannot be removed or separated for care, and no diagnostics are ever done to determine a treatment program. This facility has an alarming mortality rate of captive born animals that is over 90% for both sea lions and harbor seals. No captive born pinniped has lived longer than 4.5 years after arriving at the aquarium.

These animals should be able to live easily into their 20's and typically require little veterinary attention if they are fed a wholesome diet with appropriate supplements and housed in clean water. I feel we have a very strong case for confiscating at least the young harbor seal and two young sea lions before they too die at an early age. The older female has survived 23 years in spite of the spotty care but is a social animal and should be housed with other sea lions.





Inspection Report

MORRO BAY MARINE REHABILITATION CENTER

Customer ID: 3632

Certificate: 93-C-0814

Site: 001

MORRO BAY MARINE REHABILITATION CENTER

MORRO BAY AQUARIUM

595 EMBARCADERO

Type: ROUTINE INSPECTION

Date: Jul-12-2010

MORRO BAY, CA 93442

3.110 (b) REPEAT
VETERINARY CARE.

(b) Holding facilities must be in place and available to meet the needs for isolation, separation, medical treatment, and medical training of marine mammals. Marine mammals that are isolated or separated for nonmedical purposes must be held in facilities that meet minimum space requirements as outlined in Sec. 3.104.

There is currently no separate holding facility in which to isolate or separate the Sea Lions being kept by the aquarium. The aquarium submitted plans for holding facilities that did not meet the space requirements outlined in Sec. 3.104. The area the aquarium used for separation in the past is now permanent housing for an incompatible resident marine mammal. If one of the Sea Lions at the facility needs to be separated from the others for any reason there is now no holding facility available for use at the aquarium. The inability to separate marine mammals may endanger their health and well-being.

The aquarium must ensure that adequate holding facilities are available when needed to isolate, separate, or provide medical treatment or training to the marine mammals being housed there.

Previous correction date: Submit plans for correction by June 1, 2010.

3.110 (d) (2) REPEAT
VETERINARY CARE.

(d) Individual animal medical records must be kept and made available for APHIS inspection. These medical records must include at least the following information:

(2) Physical examination information, including but not limited to length, weight, physical examination results by body system, identification of all medical and physical problems with proposed plan of action, all diagnostic test results, and documentation of treatment.

Individual animal medical records still did not include physical examination information. The animals had not been

Prepared By:

(b)(6),(b)(7)(C)

MARCY E'ROSENDALE, D.V.M. USDA, APHIS, Animal Care

Title:

VETERINARY MEDICAL OFFICER Inspector 5039

Date:

Aug-02-2010

Received By:

(b)(6),(b)(7)(C)

AUG 27 2010

Date:

Aug-12-2010

Title:

(b)(6),
(b)(7)(C)

Page 1 of 2

GOVERNMENT
EXHIBIT

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Page 1 of 7

APHIS FORM 7070 (MAR 85)

2012-2590 96



Inspection Report

measured or weighed and no diagnostic tests had been performed on the California Sea Lion with a history of diarrhea.

Appropriate medical records that document basic physical examination information are necessary in order that aquarium staff, the attending veterinarian, and APHIS inspectors may monitor the health of the animals. The aquarium should ensure that physical examinations are performed when necessary and the information obtained from the examinations are included in the medical records.

Previous correction date: Correct immediately.

Notes:

An exit briefing was conducted with the licensee.
Accompanied by Dr. Laurie Gage.

Prepared By:

(b)(6),(b)(7)(C)

Title:

MARCY E'ROSENDALE, D.V.M. USDA, APHIS, Animal Care
VETERINARY MEDICAL OFFICER Inspector 5039

Date:

Aug-02-2010

Received By:

(b)(6),(b)(7)(C)

Title:

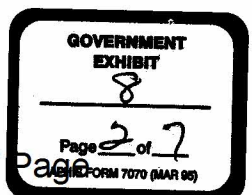
(b)(6),(b)(7)(C)

Date:

Aug-12-2010

Page 2 of 2

AUG 27 2010



Site Visit to Morro Bay Aquarium, Follow-up

July 12, 2010

I accompanied Dr. Marcy Rosendale, USDA VMO inspector to the Morro Bay Aquarium to follow up the inspection we conducted in June. We saw Ramses, the young sea lion that had diarrhea the last time we were there. Ramses appeared to have gained some weight and we did not see any diarrhea. The water quality in the pools appeared better than on our previous visit, which suggests the sea lion did not have severe diarrhea as he did during our last visit when the diarrhea appeared to be clouding the water. The attending veterinarian had visited the aquarium since our last visit and had prescribed another course of metronidazole for the sea lion. No samples were taken or diagnostics performed. The owner stated the animal still had diarrhea from time to time but it was "improved". Ramses was brighter and more active than he was during our last visit, and his appetite appeared to be good.

As I watched the harbor seal "Smokey" swim in his area where he is isolated from the other animals by a fence in the "east pool", I realized the pool was very shallow. It appeared that the pool was barely deep enough for the harbor seal to swim and he could not dive. I asked the owner how deep the pool was and he first stated it was "about 4 feet deep". I stated I knew it was not that deep and asked to see the plans for the pools. The owners did not seem to know where their plans were and stated they had sent plans to USDA and that the plans had been approved "about 20 years ago". I stated I did not feel the pool was deep enough for the harbor seal to live in permanently (it appeared to be about 2 feet deep). The owner argued that wild harbor seals live in very shallow water in some places. I contacted Dr. Barbara Kohn, who had a copy of some plans for the Morro Bay Aquarium. The plans show the pool the harbor seal is living in is only 19.7" deep. (See Attachment). In the past the harbor seals and sea lions were held together so the harbor seals had access to the deeper pools the sea lions are now housed in. The owners felt the older female sea lion may not be compatible with the harbor seals.

We reviewed the inspection report from our June inspection and outlined our concerns. The owners had made a few improvements and the record keeping for each animal was vastly improved, with feeding and behavior records now maintained for each of the four animals that live there. We stressed that animals must be provided adequate veterinary care, which includes a physical examination and collection of appropriate samples when the animals get sick. We pointed out that this had not happened for most of the animals that had died at the facility. The owners continue to blame the "Men's Colony" sewage spills for their animal deaths. We stated they must have a plan for how to protect their animals from future spills. They cannot blame the Men's colony sewage spills for their animal deaths. We also pointed out that if the animals were exposed to a sewage spill, a good diagnostic veterinary work-up with cultures and the administration of appropriate antibiotics could likely save the lives of the sick animals.

We shared our concern for the sea lion haul out space and stated it was inadequate, especially for a mother and pup, and stressed they should take measures not to breed their sea lions as they had two young sea lions die from drowning in those very pools.

MORRO

GOVERNMENT EXHIBIT 8 Page 3 of 7 FORM 7070 (MAR 95)

The owners seemed concerned that we were trying to "shut down" their aquarium. We stated they had to meet the AWA regulations for the mammals and if they did not they would need to come into compliance or find a new home for one or more of their pinnipeds. They insisted they should have another variance. I pointed out they had an extremely high mortality rate with the young captive born pinnipeds. None of the four sea lions born at their facility survived past the age of 5.5 years, and none of the the five harbor seals brought from Sea World survived past 4 years of age.

We are very concerned for the health and welfare of the two young sea lions and one young harbor seal brought in from Sea World last December.

The owners agreed to try to put the harbor seal in with the sea lions but were concerned the animals would be incompatible. We stated if that were the case they would need to find a home for the harbor seal. The owner stated he would then "just release the harbor seal" to which we stated that would be illegal and he would need to contact NMFS if he wanted to do something like that.

I do not believe the two elderly owners or their grandson are capable of taking proper care of these animals. After all these years of running this aquarium they still do not seem to know how to restrain the animals for a simple veterinary examination, and they are unaware of how to protect the animals from contaminated bay water. They do not know how to calculate out the caloric needs for the animals and barely grasp the idea that each lot of fish may have a vastly different fat content. We urged them to get some help with calculating out the calories fed to the animals so they do not underfeed them at the times of year when the fish is lean.

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FROM

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Page 4 of 7

Reproduce and use one page for each pool or enclosure

(This includes all night holding, temporary holding, training, and/or other off exhibit areas; do not include medical pools if not used as a primary enclosure.)

Facility/Licensee: Morro Bay Rehabilitation Center 93C0314Pool or Enclosure Name/Number: Sealion / Harbor seal pool 023
(all information on this sheet for this pool/enclosure only!)

Marine Mammals in enclosure:

Species or common name	Sex	Number
1. CA Sealion	M	13
2. CA Sealion	F	2
3. Harbor Seal	m	1
4.		
5.		

Pool Dimensions: (provide all that apply)
(specify units where needed)

General shape: Rectangular
3 connecting pools
 Depth: 52", 45.5", 19.7" (3 pools)
 MHD: 25.50 ft (not include 3rd pool)
 Volume: ~ 962.72 cu ft (not include 3rd pool)
 Surface Area: 1st pool = 40.17 sq ft
2nd pool = 100.51 sq ft
3rd pool = 96.84 sq ft
 Length: 25.50 ft
 Width: + additional 10.17 ft, not deep in 3rd pool enough
9.43 ft

Describe bottom contour (slopes, grade, rocks, shallows, etc):

fiberglass sealed concrete

min surface area required = 149.63 ft
 min HD required = 10.95 ft
 depth required = 3.65 ft

Den: (specify units where needed)

Length: N/A
 Width: N/A
 Height: N/A

Pool in den?

Dry Resting Area: (specify units where needed)

General Shape: Rectangular
 See accompanying drawings
 Length: See drawing
 Width: See drawing
 Total Area: DRA is composed of small hard concrete & wooden steps
195.6 sq ft
 Describe area (materials, visual barriers, shade, accessibility):
Wood, fiberglass sealed concrete

DRA required = 149.63 ft

Is there available space to increase the size of this enclosure (dry resting area and/or pool) if needed? At this location or within the facility?

NO - Landlord - City of Morro Bay, CA - will not allow any construction

****On reverse side, please draw (2-D) pool(s)/enclosure, indicating length, width, depth, depth variability, and location of any islands, rocks, etc. Indicate as accurately as possible the shape of the pool.****

Use a separate sheet for each pool and/or enclosure.

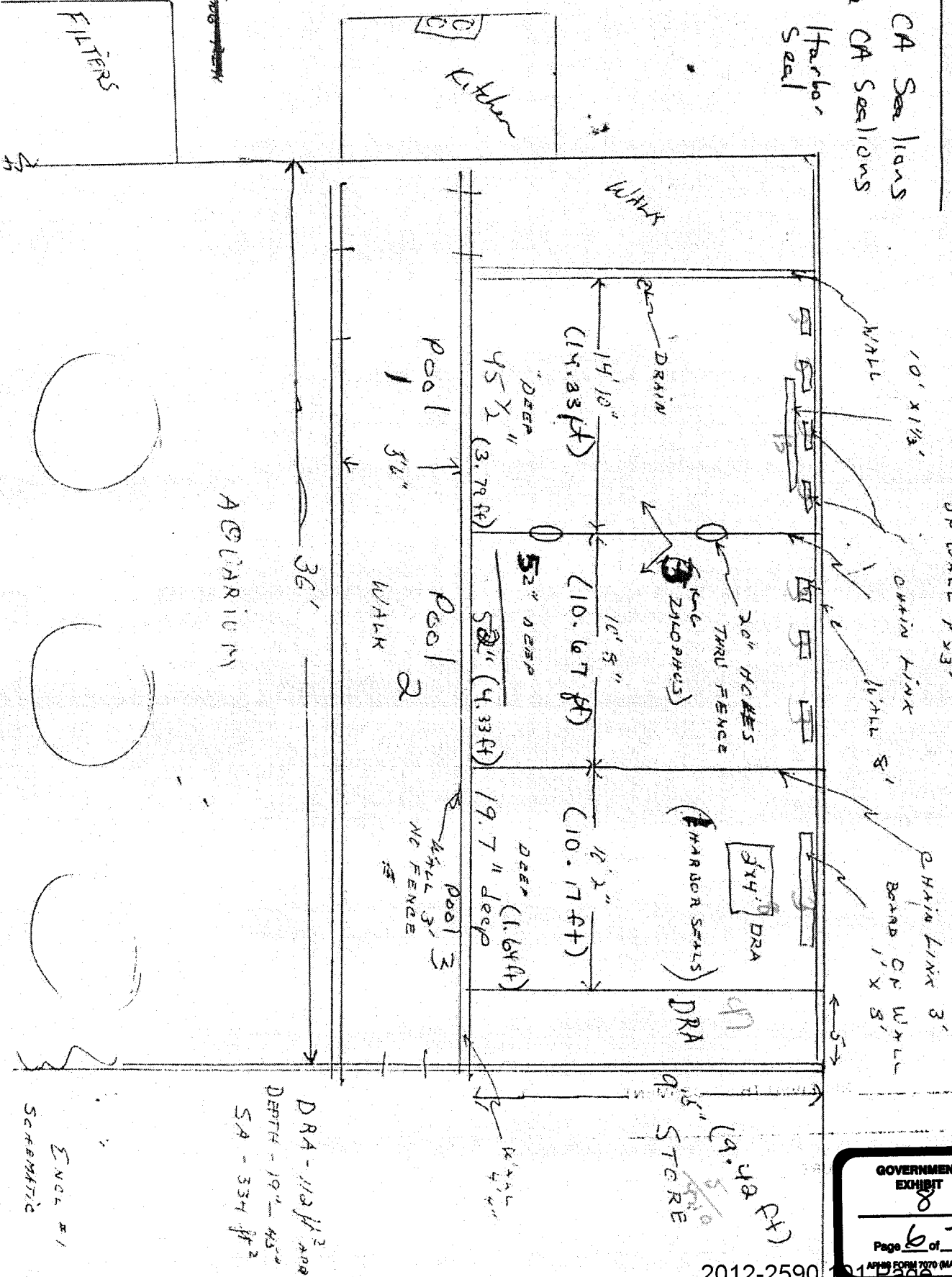
IF MARINE MAMMALS

1 male CA Seals
2 female CA Seals
1 male Harbor Seal

MORE WAY LIGHTS AND MECHANICS

SEAL POOLS

ELEVATED REEFING BOARDS
UP WALL 1' x 3'



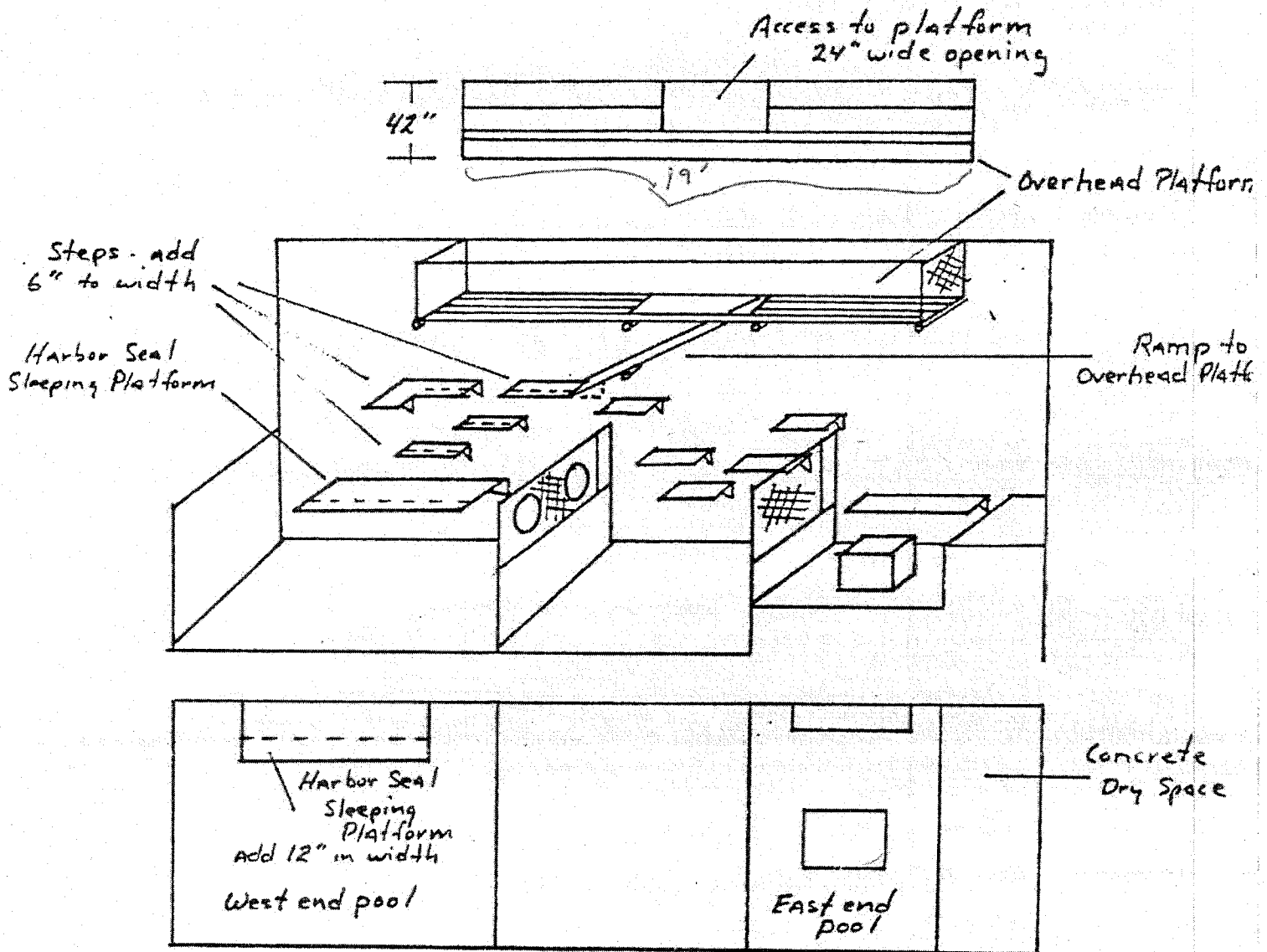
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Page 6 of 7

APR 98 FORM 7070 (MAR 98)

2012-2590

Morro Bay Aquarium Pinniped Facility



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2012-2590 102

FORM 7070 (MAR 95)

Site Visit to Morro Bay Aquarium, Follow-up

Report created by Laurie J. Gage, DVM, Dipl. ACZM

July 12, 2010

I accompanied Dr. Marcy Rosendale, USDA VMO inspector to the Morro Bay Aquarium to follow up the inspection we conducted in June. We saw Ramses, the young sea lion that had diarrhea the last time we were there. Ramses appeared to have gained some weight and we did not see any diarrhea. The water quality in the pools appeared better than on our previous visit, which suggests the sea lion did not have severe diarrhea as he did during our last visit when the diarrhea appeared to be clouding the water. The attending veterinarian had visited the aquarium since our last visit and had prescribed another course of metronidazole for the sea lion. No samples were taken or diagnostics performed. The owner stated the animal still had diarrhea from time to time but it was "improved". Ramses was brighter and more active than he was during our last visit, and his appetite appeared to be good.

As I watched the harbor seal "Smokey" swim in his area where he is isolated from the other animals by a fence in the "east pool", I realized the pool was very shallow. It appeared that the pool was barely deep enough for the harbor seal to swim and he could not dive. I asked the owner how deep the pool was and he first stated it was "about 4 feet deep". I stated I knew it was not that deep and asked to see the plans for the pools. The owners did not seem to know where their plans were and stated they had sent plans to USDA and that the plans had been approved "about 20 years ago". I stated I did not feel the pool was deep enough for the harbor seal to live in permanently (it appeared to be about 2 feet deep). The owner argued that wild harbor seals live in very shallow water in some places. I contacted Dr. Barbara Kohn, who had a copy of some plans for the Morro Bay Aquarium. The plans show the pool the harbor seal is living in is only 19.7" deep. (See Attachment). In the past the harbor seals and sea lions were held together so the harbor seals had access to the deeper pools the sea lions are now housed in. The owners felt the older female sea lion may not be compatible with the harbor seals.

We reviewed the inspection report from our June inspection and outlined our concerns. The owners had made a few improvements and the record keeping for each animal was vastly improved, with feeding and behavior records now maintained for each of the four animals that live there. We stressed that animals must be provided adequate veterinary care, which includes a physical examination and collection of appropriate samples when the animals get sick. We pointed out that this had not happened for most of the animals that had died at the facility. The owners continue to blame the "Men's Colony" sewage spills for their animal deaths. We stated they must have a plan for how to protect their animals from future spills. They cannot blame the Men's colony sewage spills for their animal deaths. We also pointed out that if the animals were exposed to a sewage spill, a good diagnostic veterinary work-up with cultures and the administration of appropriate antibiotics could likely save the lives of the sick animals.

We shared our concern for the sea lion haul out space and stated it was inadequate, especially for a mother and pup, and stressed they should take measures not to breed their sea lions as they had two young sea lions die from drowning in those very pools.

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GOVERNMENT EXHIBIT 9 Page 1 of 2 APHIS FORM 7070 (MAR 95)

The owners seemed concerned that we were trying to "shut down" their aquarium. We stated they had to meet the AWA regulations for the mammals and if they did not they would need to come into compliance or find a new home for one or more of their pinnipeds. They insisted they should have another variance. I pointed out they had an extremely high mortality rate with the young captive born pinnipeds. None of the four sea lions born at their facility survived past the age of 5.5 years, and none of the the five harbor seals brought from Sea World survived past 4 years of age.

We are very concerned for the health and welfare of the two young sea lions and one young harbor seal brought in from Sea World last December.

The owners agreed to try to put the harbor seal in with the sea lions but were concerned the animals would be incompatible. We stated if that were the case they would need to find a home for the harbor seal. The owner stated he would then "just release the harbor seal" to which we stated that would be illegal and he would need to contact NMFS if he wanted to do something like that.

I do not believe the two elderly owners or their grandson are capable of taking proper care of these animals. After all these years of running this aquarium they still do not seem to know how to restrain the animals for a simple veterinary examination, and they are unaware of how to protect the animals from contaminated bay water. They do not know how to calculate out the caloric needs for the animals and barely grasp the idea that each lot of fish may have a vastly different fat content. We urged them to get some help with calculating out the calories fed to the animals so they do not underfeed them at the times of year when the fish is lean.

RECEIVED 10/10/00

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EXHIBIT

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Page 2 of 2

United States Department of Agriculture
Animal and Plant Health Inspection Service

225101022470302

ceamr
inap_id**Inspection Report****MORRO BAY MARINE REHABILITATION CENTER**

Customer ID: 3632

Certificate: 93-C-0814

Site: 001

MORRO BAY MARINE REHABILITATION CENTER

MORRO BAY AQUARIUM
595 EMBARCADERO

Type: ROUTINE INSPECTION

MORRO BAY, CA 93442

Date: Aug-12-2010

3.104 (d) (3) (iii)**SPACE REQUIREMENTS.**

(iii) The pool of water shall be at least 0.91 meters (3.0 feet) deep or one-half the average adult length of the longest species of pinniped contained therein, whichever is greater.

A staff member confirmed that the depth of the pool housing one Harbor Seal was only 19.7 inches deep. The minimum depth of the pool for the Harbor Seal should be three feet. The staff member stated that they planned to try introducing the Harbor Seal to the California Sea Lions next week when public attendance was expected to be lower thus giving the Harbor Seal access to the deeper enclosure currently housing the Sea Lions.

Correct by: August 27, 2010.

Note: Other space requirements regarding the Harbor Seal are being reviewed at this time.

3.110 (b)**REPEAT****VETERINARY CARE.**

(b) Holding facilities must be in place and available to meet the needs for isolation, separation, medical treatment, and medical training of marine mammals. Marine mammals that are isolated or separated for nonmedical purposes must be held in facilities that meet minimum space requirements as outlined in Sec. 3.104.

There is currently no separate holding facility in which to isolate or separate the Sea Lions being kept by the aquarium. The aquarium submitted plans for holding facilities that did not meet the space requirements outlined in Sec. 3.104. The area the aquarium used for separation in the past is now permanent housing for an incompatible resident marine mammal. If one of the Sea Lions at the facility needs to be separated from the others for any reason there is now no holding facility available for use at the aquarium. The inability to separate marine mammals may endanger their health and well-being.

Prepared By:

(b)(6),(b)(7)(C)

MARCY E ROSENDALE, D.V.M. USDA, APHIS, Animal Care
VETERINARY MEDICAL OFFICER Inspector 5039

Title:

Date:

Aug-13-2010

Received By:

(b)(6),(b)(7)(C)

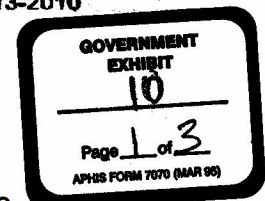
Date:

Aug-13-2010

Title:

OWNER

Page 1 of 3





United States Department of Agriculture
Animal and Plant Health Inspection Service

225101022470302

docman
insp_id

Inspection Report

The aquarium must ensure that adequate holding facilities are available when needed to isolate, separate, or provide medical treatment or training to the marine mammals being housed there.

Previous correction date: Submit plans for correction by June 1, 2010.

3.110 (d) (2)

REPEAT

VETERINARY CARE.

(d) Individual animal medical records must be kept and made available for APHIS inspection. These medical records must include at least the following information:

(2) Physical examination information, including but not limited to length, weight, physical examination results by body system, identification of all medical and physical problems with proposed plan of action, all diagnostic test results, and documentation of treatment.

Individual animal medical records still did not include physical examination information. The animals had not been measured or weighed and no diagnostic tests had been performed on the California Sea Lion with a history of diarrhea.

Appropriate medical records that document basic physical examination information are necessary in order that aquarium staff, the attending veterinarian, and APHIS inspectors may monitor the health of the animals. The aquarium should ensure that physical examinations are performed when necessary and the information obtained from the examinations are included in the medical records.

Previous correction date: Correct immediately.

3.110 (f)

DIRECT NCI

VETERINARY CARE.

(f) All marine mammals must be visually examined by the attending veterinarian at least semiannually and must be physically examined under the supervision of and when determined to be necessary by the attending veterinarian. These examinations must include, but are not limited to, a hands-on physical examination, hematology and blood chemistry, and other diagnostic tests as determined by the attending veterinarian.

The male California Sea Lion named Ramses was observed to be significantly underweight and to have intermittent muscle tremors during the inspection. Ramses was also observed to have an abnormal gait on the dry resting area, hitting his head once and running into the wall once. A staff member stated during the inspection that he would call the attending veterinarian and have him come to the facility that day. The

Prepared By:

(b)(6),(b)(7)(C)

Title:

NANCY E. ROSENDALE, D.V.M. USDA, APHIS, Animal Care
VETERINARY MEDICAL OFFICER Inspector 5039

Date:

Aug-13-2010

Received By:

(b)(6),(b)(7)(C)

Title:

OWNER

Date:

Aug-13-2010

Page 2 of 3

GOVERNMENT
EXHIBIT

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Page 2 of 3

APHIS FORM 7070 (MAR 05)

2012-2590 10

United States Department of Agriculture
Animal and Plant Health Inspection Service225101022470302
insp_id**Inspection Report**

staff member was contacted by the APHIS inspector by telephone at 1642 hours the day of the inspection to check on the results of the attending veterinarian's examination of Ramees and was told that their veterinarian said he was not capable of performing any diagnostic tests and could only prescribe an antibiotic for Ramees. He stated that some other veterinarian would have to be contacted to do any necessary diagnostic procedures. The attending veterinarian was contacted by telephone on August 13, 2010 by APHIS field specialist Laurie Gage. Dr. Gage stated that the attending veterinarian admitted that he was not physically capable of handling any of the marine mammals at the facility and that he felt that he was not up to date on pinniped medicine.

Inadequate veterinary care may lead to unnecessary suffering and death for the animals at the facility. It is the responsibility of the aquarium to ensure that their attending veterinarian has appropriate qualifications to provide adequate care for the marine mammals at their aquarium.

Correct immediately.

Note:

An exit briefing was conducted with a facility representative.
Accompanied by Dr. Kathleen Garland.

Prepared By:

(b)(6),(b)(7)(C)

MARCY E ROSENDALE, D.V.M. USDA, APHIS, Animal Care

Title:

VETERINARY MEDICAL OFFICER Inspector 5039

Date:

Aug-13-2010

Received By:

(b)(6),(b)(7)(C)

Title:

OWNER

Date:AUG 27 2010
Aug-13-2010

Page 3 of 3

GOVERNMENT
EXHIBIT

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Page 3 of 3

APHIS FORM 7070 (MAR 00)

2012-2590 107 Page 6



United States Department of Agriculture
Animal and Plant Health Inspection Service

MROSENDALE
267101521490476 insp_id

Inspection Report

MORRO BAY MARINE REHABILITATION CENTER

Customer ID: 3632

Certificate: 93-C-0814

Site: 001

MORRO BAY MARINE REHABILITATION CENTER

MORRO BAY AQUARIUM

595 EMBARCADERO

Type: ROUTINE INSPECTION

Date: Sep-21-2010

MORRO BAY, CA 93442

No noncompliant items were identified during this inspection.

Note:

An exit briefing was conducted with the licensee.

Prepared By:

MARCY E ROSENDALE, D.V.M. USDA, APHIS, Animal Care

Date:

Title: VETERINARY MEDICAL OFFICER Inspector 5039

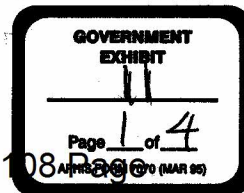
Sep-24-2010

Received By:

Title: SENT BY E-MAIL

Date:

Oct-12-2010



**Marcy E
Rosendale/CA/APHIS/
USDA**

10/13/2010 09:30 AM

To Connie R Morris/CO/APHIS/USDA@USDA, Michael C
Long/CO/APHIS/USDA@USDA

cc

bcc

Subject Morro Bay Marine Rehab Center Insp Rpt/Reply
9/21/10

MorroBay09212010.pdf

----- Forwarded by Marcy E Rosendale/CA/APHIS/USDA on 10/13/2010 08:30 AM -----



"Bertha Tyler"
<mbaquarium@charter.
net>

10/12/2010 06:38 PM

To <Marcy.E.Rosendale@aphis.usda.gov>

cc

Subject Re: Animal Care inspection report

Marcy, the inspection report was received and I have printed it OK.
THANK YOU, Bertha

----- Original Message -----

From: Marcy.E.Rosendale@aphis.usda.gov

To: Bertha Tyler

Sent: Tuesday, October 12, 2010 10:24 AM

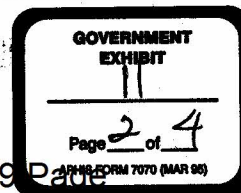
Subject: Animal Care inspection report

Attached is your inspection report of September 21, 2010. Please respond to me by email
when you have successfully received the report.

Thank you,

Marcy Rosendale, DVM
Veterinary Medical Officer
USDA, APHIS, Animal Care

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FROM
2010
BOUTAND
DECEMBER



2012-2590 109 Page



October 29, 2010

United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

☐ Enforcement Operations – IES HQ

☐ OGC

☐ IES Western Region

☐ IES Investigator

**Additional information for Investigation of Alleged
Violations Regarding the Animal Welfare Act, Regulations,
and/or Standards**

Please add the following documentation to case #: CA10891

VIOLATOR NAME: Morro Bay Marine Rehabilitation

ADDITIONAL INFORMATION:

☐ Application documents

☐ Licensing documents

☐ Renewal documents

☐ Cancellation documents

☒ Inspection report dated Sep-21-2010

☐ Inspection report dated _____ including CD

☐ Inspection report dated _____ with photos, including CD

☐ Inspection report dated _____ with photos

☐ Correspondence

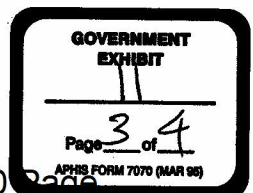
☐ Other

If further information is needed, please let me know.

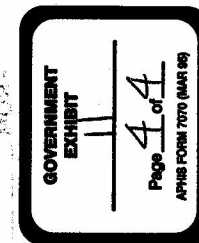
Robert M. Gibbens
Director, Western Region
USDA, APHIS, Animal Care



Safeguarding American Agriculture
APHIS is an agency of USDA's Marketing and Regulatory Programs
An Equal Opportunity Provider and Employer



2012-2590 110 2010-10-29



Case Id: CA10891 Program Code: AC Docket Number: NONE

Violation Date: 12 AUG 2010 Request Date: 23 AUG 2010 Open Date: 04 SEP 2010 Close Date: Promise Date:

Case Description

REPEATED FAILURE TO PROVIDE ADEQUATE VETERINARY CARE TO MAMMALS.

Event Information

Event No.	Event Date	State	Investigator	Stop Date	Event Description
1	04 SEP 2010	CA	(b)(6),(b)(7)(C)		PRIMARY INVESTIGATION (CLOCK)

Violator Address Information

* MORRO BAY MARINE REHABILITAT	Type: Business	2nd Phone:	Business Name: NONE
595 EMBARCADERO	Phone: (805) 772-7647	Fax:	
MORRO BAY CA 93442			
Room:			

Witness Address Information

Federal Codes Violated

Violator	CFR Title	Part	Section	Subsection	Paragraph	Subparagraph	Violation Date	Severity
* MORRO BAY MARINE REHABILIT	9 CFR	3	110	b			12 AUG 2010	SERIOUS

Final Action

Sanction

Violator	Sanction
----------	----------

AFFIDAVIT

I, Laurie Gage, being duly sworn on oath make the following statement:

I make this statement freely and without promise of reward to (b)(6), (b)(7)(C) who has identified himself as investigators employed by the United States Department of Agriculture. I affirm, under oath, the following statement is true and correct.

My name is Laurie J. Gage and I am a United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Animal Care (AC), Large Felid Specialist currently assigned to the office located at 2150 Centre Avenue, Bldg B, 3W11, Fort Collins, CO 80526, (970) 494-7477.

On 6/15/10, I accompanied USDA, APHIS, AC, VMO Marcy E. Rosendale to do a site visit and an inspection of the Morro Bay Marine Rehabilitation Center (MBMRC). There had been public concerns about the aquarium and about the marine mammals exhibited at the facility. We arrived in the afternoon and observed a number of members of the public buying small paper bags with about five (5) to ten (10) small pieces of fish in them. The members of the public were feeding these bits of fish to the pinnipeds at MBMRC. At the time of our visit, there was one (1) harbor seal "Smokey" approximately two (2) years old, two (2) California sea lions, a female "Nera," and a male "Ramses," both approximately two (2) years old and one (1) California sea lion female "Maggie" twenty-three (23) years old. The harbor seal "Smokey" and the two (2) young sea lions "Nera" and "Ramses" arrived from Sea World, Florida on 12/06/09.

MBMRC houses all of the animals inside a room with a roof and an outside wall that has cyclone fencing at the top and allows a small amount of natural sunlight inside. There is one long pool divided into three areas. The pool is approximately eight (8) feet wide and appears to be less than thirty (30) feet long. The harbor seal is held by itself in a sectioned off part of the pool approximately eight (8) feet by eight (8) feet with a dry resting area approximately two (2) feet by four (4) feet in the center and a concrete resting area approximately eight (8) feet by four (4) feet at one end. The three (3) sea lions share the remaining two (2) sections of the pool. The sections are divided by cyclone fencing and have two (2) circular openings in the fencing so that the sea lions can move between the two (2) areas by jumping through circular openings in the fence.

The sea lion's water was cloudy in comparison to the harbor seal's water. As we watched the sea lions one was lying on a haul out shelf while the other two were swimming. The one on the shelf, "Ramses" defecated as we watched and had watery diarrhea. I observed "Ramses" to be very thin and the scapulae, ribs, and vertebral bodies were readily visible. The other two (2) sea lions were slightly underweight, but were in the water the entire time we were there making it difficult to evaluate them. The harbor seal appeared to be of acceptable weight. The public was allowed to feed the animals small bits of fish MBMRC sold in small white paper bags. At one point, a paper bag floating in the pool and the staff made no attempt to remove the bag from the water.

We asked if "Ramses" was under veterinary care and a staff (b)(6), (b)(7)(C) veterinarian

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AUTHORITY NO. (b)(6), (b)(7)(C)

AFFIDAVIT

I, Laurie Gage, being duly sworn on oath make the following statement:

had been out to the facility the day before and had looked at the animal. The staff member told us the veterinarian prescribed two hundred and four (204) milligrams of Droncit once and again in two (2) weeks and five hundred (500) milligrams of metronidazole PO BID "until the pills were gone." The facility maintained no treatment sheet so there was no means of knowing if and when the animal was getting its medication. The staff told us the animal had not had a physical examination and that the veterinarian just brought over the medication without doing any diagnostics. When we asked to see the treatment sheet showing each time the animal got its medication the staff had no idea what we were talking about. The staff told us they rarely gave animals medication, and treatment for "Ramses" was rather a new procedure.

We expressed concern about "Ramses" because he was very thin in addition to having diarrhea. The staff told us they were feeding "Ramses" two (2) extra Herring and then fed "Ramses" the extra fish while we watched. "Ramses" appeared to have a good appetite and readily ate the fish.

We asked how much fish the animals were getting to eat and the staff told us each animal received three (3) pounds of Herring and three (3) pounds of Capelin each day. When we asked about the fat content in each fish, the MBMRC staff told us they did not know and they did seem to understand that knowing the fat content of the fish they are feeding was important. The staff told us they gave the animals herring because it had a higher fat content than the capelin. I explained to the staff that herring is not always higher in fat content and that in fact, herring can be very lean depending on where and what time of the year they are caught.

The MBMRC staff was feeding the bigger twenty-three (23) year old sea lion the same amount of food as the other three younger animals. The staff had made no attempt to calculate the caloric needs or to calculate the caloric intake of each animal each day. The staff told us they sold small cut pieces of capelin to the public to feed to the animals, but from their confusing explanation it was difficult to say if the amount of capelin fed by the public was in addition to the base diet fed to each animal or not.

We toured the small fish preparation room and the cutting boards, sink, and preparation area appeared to be clean, but old and worn. All of the thawed fish held in the refrigerator was uncovered. The staff told us that after they thaw the fish, they place the fish in small bags and then sell the fish to the public. We observed several containers of thawed pieces of fish sitting uncovered in the refrigerator. The staff told us this fish would be placed in the small paper bags the following day sold to the public. I told the staff that fish must be discarded within twenty-four (24) hours of being thawed. The staff did not seem to know about this requirement and were prepared to feed the thawed fish well beyond the twenty-four (24) hour period defined in the Animal Welfare Act.

We asked about the vitamin supplementation and the staff told us the animals each receive a vitamin with two hundred fifty (250) milligrams of Thiamin once a day. There were no records to show the staff actually gave the supplement to the animals. The records were seriously

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AUTHORITY NO. (b)(6),(b)(7)(C)

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APHIS FORM 7070 (MAR 05)

AFFIDAVIT

I, Laurie Gage, being duly sworn on oath make the following statement:

lacking detail and included only a few sentences written each week indicating each animal had eaten its Herring and Capelin. On weeks where the animals were sick, the records would indicate one of the animals had "gone off feed" and then either that same week or within one (1) to two (2) weeks the records would indicate the same animal died.

We observed the filtration system for MBMRC which draws water from the bay next to the aquarium, filters the water through a small sand and gravel filter, and then pulls the water through a sand/gravel bed. The system does not disinfect the water coming into the facility even though past sewage spills into the bay have resulted in at least one pinniped death each time. The MBMRC staff does not test the water coming into the MBMRC facility for pathogens before it enters the animal pools. According to staff, they test the Coliform levels weekly using water collected from the animal pools and they change the water in the pools every other day. We suggested more frequent water changes would be desirable since one of the animals had diarrhea and the facility had no way to isolate that animal from the other animals.

We examined MBMRC records and found there were no individual records kept for the animals. The staff maintains one small notebook where brief weekly reviews are written. The amounts of food the animals consume was written as a generalization for the group, and not recorded accurately for each animal.

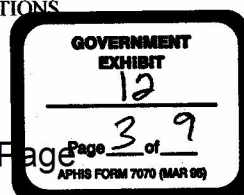
The mortality rate at MBMRC is very high even when discounting the animals rehabilitated there. Since 1969, MBMRC has had nineteen (19) resident sea lions either living at the facility or born there. One (1) sea lion lived to be thirty-two (32) years old and one (1) female "Maggie" has been at MBMRC for twenty-three (23) years, and was a rehabilitated animal in 1987. One rehabilitated sea lion lived to be sixteen (16) years old and died in 2003 with no cause of death determined. One sea lion, "Thunder," was rehabilitated in 1992 and died in 2007, at fifteen (15) years of age. "Thunder" had a two (2) week history of diarrhea, was treated with some antibiotics and Droncit and Albon and died having no laboratory work, histopathology or microbiology performed. The veterinarian noted the animal "lost a lot of weight" and that Albon "had not worked." A gross necropsy was done with no cause of death identified. A local sewage spill was blamed for the diarrhea.

Four (4) sea lions were captive born at the facility. One (1) male lived 5.5 years and died with scanty history. A California sea lion, "Lloyd" was born at the facility on 5/25/03 and died 6/15/05 when he was two (2) years old. "Lloyd" died from "encephalitis" caused by a "bacterial sewage spill." No diagnostics were performed on the animal; however, the gross necropsy noted jaundice and mottling of the liver. The medical history reflected the animal had been off feed for five (5) to seven (7) days and that staff noted head twisting to the right and depression. No treatment was documented in the record and no one examined the central nervous system or brain during the gross necropsy. Only one tissue, the liver, was submitted for histopathology. The "Necropsy Record" noted that "histopathology did not give etiology." With only one tissue submitted, it is no surprise an etiology could not be determined. In spite of the animal showing

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ADMINISTER OATHS, AFFIDAVITS, AND AFFIRMATIONS
AUTHORITY NO.: (b)(6)



AFFIDAVIT

I, Laurie Gage, being duly sworn on oath make the following statement:

neurologic signs before death, no physical examination or other diagnostics were performed.

A California sea lion "Julie" was captive born 7/07/98 and died 11/05/99 from "drowning." The animal was only 1.4 years old. Another California sea lion "Turkey" was captive born on 6/6/03 and died on 7/11/03 at five (5) weeks of age from drowning.

There are now two (2) new sea lions that were captive born at Sea World, Florida and transferred to MBMRC on 12/06/09. One (1) of those animals, "Ramses" was very thin and had liquid diarrhea the day we were there. "Ramses" had not been physically examined and no fecal cultures or blood work had been performed.

The harbor seals also have a high mortality. Two (2) stranded seals lived to be fifteen (15) and nineteen (19) years old, but died with no cause of death determined. Since 2002, MBMRC has received six (6) captive born harbor seals from Sea World, Florida. One (1) of the harbor seals "Cajun" was two (2) years old when it arrived at MBMRC in 2002, and after living at the facility for six (6) months, the animal stopped eating. The medical records indicated "not eating for five (5) days, possible GI bloating, painful." "Cajun" was anesthetized for radiographs and died, during anesthesia, of respiratory/cardiac arrest. The animal weighed fifty-five (55) pounds and would have been easy to restrain for this procedure. The animal's body weight was too low for a harbor seal this age.

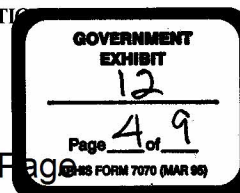
Another harbor seal "Army" was over one (1) year old when it arrived at MBMRC in 2002. "Army" died on 12/29/04 at about three (3) years of age. "Army" lived at the aquarium for 1.5 years and died of "intestinal torsion" after 4-5 days of anorexia. The owners of MBMRC apparently changed the type of fish the animal was being fed and the animal died later that night. "Army" died on 12/29/04, but a necropsy was not performed until 1/27/05. No histopathology or laboratory work was performed on the animal. The veterinarian noted there were six (6) to eight (8) feet of small intestine that "appeared torsed around the mesenteric root." A few tissues were saved for "possible histo," but no histopathology report was available in the file.

A harbor seal male "Chunky" was captive born 4/15/02 and transferred to the MBMRC on 8/13/03. "Chunky" died on 6/22/05 having lived less than two (2) years at the MBMRC. "Chunky" was only slightly over three (3) years of age. The cause of death was listed as "encephalitis" (bacteria from a sewage spill). The history stated the animal had "anorexia for several days-distinct neurologic signs -acute (?) death." The general impressions written by the veterinarian were:

"possible meningitis (3rd animal with neurologic signs) or toxin." "Acute death due to brain dysfunction or to degree drowning." "Etiology is unknown poss toxin or bacterial??" The central nervous system and brain were not evaluated in the necropsy. There was no physical examination, no laboratory sampling, no microbiology and no histopathology done to try to determine cause of death of the animal. The animal weighed 100 pounds at time of death.

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AFFIDAVIT

I, Laurie Gage, being duly sworn on oath make the following statement:

A harbor seal male "Achilles" was captive born on 4/27/05, arrived at MBMRC on 1/13/06 and died on 3/23/09 at four (4) years of age. The cause of death listed was "valley fever peritonitis." The veterinarian's history reflected the animal was anorexic for several weeks, experienced weight loss, vomited one time on 3/21/09 and died on 3/24/09. Other notations in the file included "Poss cough x sev months." "Found dead in the pool." The animal's weight at death was 92 pounds. The abdominal fluid was sent for laboratory analysis, omental sample sent for histopathology and the "ovoid structures" noted with a diagnosis of coccidiosis. No histopathology report was available in the folder and no physical examination or diagnostics were performed on the animal prior to death.

A harbor seal "Socket" was captive born on 4/24/05, transferred to the MBMRC on 1/23/06 and died on 4/23/10 at five (5) years of age. The necropsy was conducted on 4/24/10 and the history written by the veterinarian was:

"4/20 appetite decreased, 4/22 head tremor, owner drained habitat to protect from drowning." "4/23 found dead in habitat. No indication of V or D or struggle prior to death – appeared acute." "All structures appeared normal on post- no abnormalities detected in body structure-Dx open." The weight was listed as "125-130" pounds and there was no physical exam, no laboratory work, no microbiology or histopathology done on the animal. In spite of the head tremor, the central nervous system/brain was not examined in the necropsy. The veterinarian noted in his comments:

"head tremor might indicate a neurologic malfunction (2nd to enterotoxins? parasites? hemorrhage? etc. inconclusive)." No fecal exam was performed for parasites and no treatment was listed for the animal. The cause of death provided to the National Marine Fisheries Service (NMFS) by MBMRS was "probably in heat."

There is one harbor seal "Smokey" at MBMRC that is still alive. "Smokey" was captive born on 4/13/08. "Smokey" arrived on 12/06/09 from Sea World, Florida and appeared to be in good health during our visit. "Smokey" appeared slightly underweight.

While Dr. Rosendale and I were at MBMRC, we were told there had been several sewage spills from the "Men's Colony" over the years and the owners of MBMRC thought these spills had caused some of their animals to die. I asked the MBMRC staff if they had a contingency plan for sewage spills so the animals would not be forced to live in contaminated water. The staff did not have a plan and could not think of a way to prevent the animals from living in contaminated water. I asked if they cultured the water coming out of the bay before it was put into the animal pools. The staff told me they did not know how to perform the test. I pointed out they could culture the bay water exactly the same way they culture the water in the animal pools each week for coliforms.

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AFFIDAVIT

I, Laurie Gage, being duly sworn on oath make the following statement:

My general impression of MBMRC is that the owner/staff do not seem to understand good husbandry practices. The owners stated bay water has been contaminated on several occasions over the years and they feel their animals have died because of the contamination yet they do not test the bay water before it goes into the animal pens and they do not have any plan in place to protect the animals if the water becomes contaminated again. It also appears that virtually every animal that has died at the facility received little to no veterinary care.

On 6/21/10, I called the (b)(6),(b)(7)(C) and spoke with him about care for the animals at MBMRC. (b)(6),(b)(7)(C) admitted he did not know much about pinniped medicine, and stated that there was nobody else in the area who could or would provide veterinary care to the animals. I asked (b)(6),(b)(7) why he never did physical examinations on the animals when they appeared to be sick or exhibiting abnormal behaviors and he told me he did not want to "stress" the animals by handling them. I told (b)(6),(b)(7)(C) I had done physical examinations on over 1500 pinnipeds (both harbor seals and sea lions) during my employment with the Marine Mammal Center where I served as the Director of Veterinary Services for fourteen (14) years and not one died as a result of my examination. (b)(6),(b)(7)(C) responded by telling me he was not sure if he was physically able to conduct a physical examination of the animals. I told (b)(6),(b)(7)(C) to contact the Marine Mammal Center to see if they had personnel who could help restrain animals for a physical examination and blood/fecal sampling.

I asked (b)(6),(b)(7)(C) why he rarely sent tissues for histopathology, and when he did, it was only one or two tissues (not a full set). (b)(6),(b)(7)(C) told me if he didn't see anything grossly in the tissues then he didn't bother to send them in. He stated it was very expensive to run histopathology on multiple tissues. I asked (b)(6),(b)(7)(C) why he did some of the necropsies on animals that had been frozen and in one situation an animal that had been frozen over one month before it was examined. (b)(6),(b)(7)(C) told me MBMRC had to freeze the animals because he was out of town. (b)(6),(b)(7)(C) seemed unaware or unconcerned that freezing tissues make it difficult if not impossible for the pathologist to make a diagnosis on the more subtle problems. One pathologist noted on one of the reports that freezing artifacts made a diagnosis difficult. I informed (b)(6),(b)(7)(C) that it was not up to him to provide veterinary services when he was out of town, but that the owners needed to find someone to cover for him if any of the animals had problems when he was away.

I asked (b)(6),(b)(7)(C) how "Ramses," the sea lion observed with diarrhea during my previous visit, was doing. (b)(6),(b)(7)(C) said he thought "Ramses" was doing better, but he had not been back to MBMRC to see him. I asked (b)(6),(b)(7)(C) why he treated the animal with Droncit when it was eating fish that had been previously frozen and had little chance of contracting tapeworm (or fluke) infection. (b)(6),(b)(7)(C) told me he had seen "parasite problems" in the past and so did this as a matter of course. My concern was that one of Droncit's side effects is that it causes diarrhea and that in my experience, tapeworm infections do not cause diarrhea in pinnipeds.

I expressed concern to (b)(6),(b)(7)(C) that no cultures had been taken (b)(6),(b)(7)(C) he was

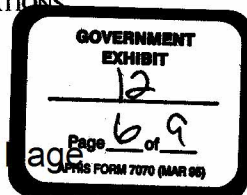
SIGNATURE OF AFFIANT

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AFFIDAVIT

I, Laurie Gage, being duly sworn on oath make the following statement:

defecating into a pool that housed two (2) other animals and that there was no way for MBMRC to separate sick animals from the healthy ones. (b)(6),(b)(7)(C) did not seem overly concerned about these issues. I then expressed a concern over the very high mortality at MBMRC and (b)(6),(b)(7)(C) responded saying MBMRC had rehabilitated a number of animals and the animals probably died from reasons that had nothing to do with stranding.

The captive born animals at MBMRC have the highest mortality and (b)(6),(b)(7)(C) argument that the mortality at MBMRC was related to the rehabilitated animals was not valid. I am concerned about (b)(6),(b)(7)(C) ability to diagnose problems in the animals either pre or post mortem. Each animal that died at MBMRC has a similar history. The animal shows signs of anorexia or diarrhea for a few days to weeks; it may or may not be treated with a shotgun therapy of possibly inappropriate drugs; it will not ever have a physical examination or any diagnostics performed and then it will die with little effort or expense to find the cause of death. Not one of the captive born animals that have lived at MBMRC has lived beyond the age of 5.5 years.

MBMRC now houses one (1) older female sea lion, one (1) young male with health issues, one (1) young female sea lion, and one (1) young harbor seal. I know of a case where a two (2) year old male sea lion impregnated a (3) year old female sea lion, so it is possible in the next year or so, the young female could become pregnant. The MBMRC facility is inappropriate for sea lion births. There is no haul-out area large enough for a female to easily nurse her pup, and there is no beach area for a young pup to exit the pool to rest. A young pup could easily drown the way the exhibit is designed and there have already been two deaths of sea lions born at the facility due to drowning.

The haul-out areas are inappropriate for sea lions and likely do not meet USDA minimum standards. I believe there was a variance given to the MBMRC facility at one time in the past, however, the animals and conditions have changed since then and I believe the MBMRC facility for the sea lions is out of compliance.

The fish fed to the animals were poorly handled and it was clear that the MBMRC staff and the attending veterinarian had no general knowledge of the proper handling of fish or the appropriate caloric values. It is also questionable if the staff understands the importance of vitamin supplementation. There were no detailed feed or medical records for each animal, only general sentences written each week about the entire group of animals. It is impossible to know if any of the animals receive a proper diet or supplementation. Neither the owners nor the attending veterinarian seemed to understand the importance of knowing the fat content of the fish being fed to the animals and the diet for the animals was created without approval of the veterinarian.

I informed the veterinarian that a hypovitaminosis B1 could be a cause of vague neurologic signs and death and he seemed unaware of the issue and asked if that could be seen on histopathology. I told (b)(6),(b)(7)(C) that the issue could be seen on histopathology if the samples were sent to a pathologist who is familiar with marine mammals.

(b)(6),(b)(7)(C)

SIGNATURE OF AFFIRANT

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APHIS FORM 7070 (MAR 05)

2012-2590 118 P 08

AFFIDAVIT

I, Laurie Gage, being duly sworn on oath make the following statement:

MBMRC is not designed to hold pinnipeds properly. Sick animals cannot be removed or separated for care and no diagnostics are ever done to determine a treatment program. The MBMRC facility has an alarming mortality rate of captive animals that is over 90% for both sea lions and harbor seals. No captive born pinniped has lived longer than 5.5 years after arriving at MBMRC. Pinnipeds should be able to live easily into their twenties and typically require little veterinary attention if they are fed a wholesome diet with appropriate supplements and housed in clean water. I believe the USDA has a very strong case for confiscating at least the young harbor seal and two (2) of the young sea lions. The older female has survived twenty-three (23) years in spite of the spotty care, but is a social animal and should be housed with other sea lions.

On 7/12/10, I accompanied USDA, APHIS, AC VMO Dr. Marcy E. Rosendale to the Morro Bay Marine Rehabilitation Center (MBMRC) to follow up on the inspection we conducted in June. During our June visit we saw "Ramses," the young sea lion had diarrhea and we wanted to check on his welfare. "Ramses" appeared to have gained some weight and we did not see any diarrhea. The water quality in the pool he occupied appeared better than on the previous visit, which suggested to me the sea lion did not have the severe diarrhea he had during their our last visit. The attending veterinarian had visited the aquarium after our last visit and had prescribed another course of metronidazole for the sea lion. No samples were taken or diagnostics performed. The owner told her the animal still had diarrhea from time to time, but that it was "improved." I observed "Ramses" to be brighter and more active than he was during our last visit, and his appetite appeared to be good.

As we watched the harbor seal "Smokey" swim in the "east pool," isolated from the other animals by a fence, I realized the pool was very shallow. It appeared that the pool was barely deep enough for the harbor seal to swim and the seal could not dive. I asked the owner how deep the pool was and he first stated it was "about four (4) feet deep." I told the owner I knew it was not that deep and asked to see the plans for the pools. The owners did not seem to know where their plans were and stated the USDA had approved the plans "about 20 years ago." I told the owners I did not feel the pool was deep enough for the harbor seal to live in permanently and that it appeared to be about two (2) feet deep. The owner argued that wild harbor seals live in very shallow water in some places.

I contacted USDA, APHIS, AC Staff Veterinarian Dr. Barbara Kohn, who had a copy of the construction plan for MBMRC. The plan showed the pool the harbor seal was living in to be only 19.7" deep. The owners told us that in the past, the harbor seals and sea lions were held together so the harbor seals had access to the deeper pools the sea lions are now housed in. The owners felt the older female sea lion was not compatible with the harbor seals so they separated them.

Dr. Rosendale and I reviewed the inspection report from the June inspection and outlined our concerns to the owners. The owners had made a few improvements since the June inspection and the animal was vastly improved.

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

SIGNED AND SWORN TO before me at

Vacaville, CA, 95687

on this 24th day of June 2011.APHIS FORM 7162 Replaces VS Form 3-59G which is obsolete.
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APHIS FORM 7070 (MAR 05)

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AFFIDAVIT

I, Laurie Gage, being duly sworn on oath make the following statement:

records were now maintained for each of the four animals that live there.

Dr. Rosendale and I stressed that the animals must be provided adequate veterinary care, which includes a physical examination and collection of appropriate samples when the animals get sick. We pointed out to the owners that this had not happened for most of the animals that had died at the facility.

The owners of MBMRC continued to blame the "Men's Colony" sewage spills for their animal deaths. Dr. Rosendale and I told them they must have a plan to protect the animals from future spills and that blaming the Men's Colony was not justification. I also pointed out that if the animals were exposed to a sewage spill, a good diagnostic veterinary work-up with cultures and the administration of appropriate antibiotics could likely save the lives of the sick animals.

Dr. Rosendale and I shared our concern with the MBMRC owners that the sea lion haul out space was inadequate, especially for a mother and pup. We stressed MBMRC should take measures not to breed their sea lions as they had two young sea lions die from drowning in the pools. The owners seemed concerned that we were trying to "shut down" their aquarium. Dr. Rosendale and I told them they had to comply with the Animal Welfare Act (AWA) regulations and if they were not able to comply they would have to find a new home for one or more of their pinnipeds. The owners of MBMRC insisted they should have another variance and I pointed out they had an extremely high mortality rate with the young captive born pinnipeds. None of the four sea lions born at their facility survived past the age of five and one half (5 ½) years and none of the five harbor seals brought from Sea World survived past the age of four (4) years.

Dr. Rosendale and I are very concerned for the health and welfare of the two young sea lions and one young harbor seal brought in from Sea World last December. The owners agreed to try to put the harbor seal in with the sea lions, but were concerned the animals would be incompatible. We told the owners if the animals were incompatible, they would need to find a home for the harbor seal and the owners told us they would "just release the harbor seal." Dr. Rosendale and I informed the owners that releasing the harbor seal would be illegal and they would need to contact the National Marine Fisheries Service (NMFS) to see if it could be done.

I do not believe the two elderly owners or their grandson are capable of taking proper care of the animals at MBMRC. After all the years of running this aquarium they still do not seem to know how to restrain the animals for a simple veterinary examination, how to protect the animals from contaminated bay water or how to calculate the caloric needs of the animals.

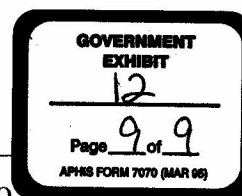
I have read the above statement and been given the opportunity to make changes. I swear that the above statement is true and correct.

(b)(6),(b)(7)(C)

SIGNATURE OF AFFIRANT
Subscribed and sworn to before me at (b)(6),(b)(7)(C)
Vacaville, CA, 95687
on this 24th day of June 2011.
APHIS FORM 7162 Replaces VS Form 3-59G which is obsolete.
(NOV 92)

(b)(6),(b)(7)(C)

DESIGNATED PURSUANT TO 7 U.S.C. 2271 TO
ADMINISTER OATHS, AFFIDAVITS, AND AFFIRMATIONS
AUTHORITY NO. (b)(6),
(b)(7)(C)



Date 10-30-97

RETAIN IN FILE

73-C-0814
Page 1 of 3 3632

Reproduce and use one page for each pool or enclosure
 (This includes all night holding, temporary holding, training, and/or other off exhibit areas; do not include medical pools if not used as a primary enclosure.)

Facility/Licensee: Morro Bay Rehabilitation Center 93C0314
 Pool or Enclosure Name/Number: Sealion / Harbor seal pool 01213
 (all information on this sheet for this pool/enclosure only!)

Marine Mammals in enclosure:

Species or common name

Sex

Number

1. CA Sealion
2. CA Sealion
3. Harbor Seal
- 4.
- 5.

M

F

m

12

2

1

Pool Dimensions: (provide all that apply)
 (specify units where needed)

General shape: Rectangular
3 connecting pools
 Depth: 52", 45.5", 19.7" (3 pools)
 MHD: 25.50 ft (not include 3rd pool)
 Volume: ~ 962.72 cu feet (not include 3rd pool)
 Surface Area: 1st pool = 110.17 sq ft
2nd pool = 100.51 sq ft
3rd pool = 96.58 sq ft
 Length: 25.50 ft
 Width: + additional 10.17 ft not deep in 3rd pool enough
9.43 ft

Describe bottom contour (slopes, grade, rocks, shallows, etc):

fiberglass sealed concrete

min surface area required = 149.63 ft
min depth required = 10.95 ft
depth required = 3.65 ft

Den: (specify units where needed)

Length:
 Width:
 Height:

N/A

Pool in den?

Dry Resting Area: (specify units where needed)

General Shape: Rectangular
See accompanying drawings

Length: See drawingWidth: DRA is composed of

Total Area: 195.6 sq ft
Saniti haul cubes + wooden steps

Describe area (materials, visual barriers, shade, accessibility):

Wood, fiberglass sealed concrete

DRA required = 149.63 ft

Is there available space to increase the size of this enclosure (dry resting area and/or pool) if needed? At this location or within the facility?

NO - land owned - City of Morro Bay, CA - will not allow any construction

****On reverse side, please draw (2-D) pool(s)/enclosure, indicating length, width, depth, depth variability, and location of any islands, rocks, etc. Indicate as accurately as possible the shape of the pool.***

Use a separate sheet for each pool and/or enclosure.

GOVERNMENT EXHIBIT

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 2012 FORM 7070 (MAR 00)

IF MARINE MAMMALS

1 male CA Seals
3 female CA Seals
1 male Harbor Seal

MORE THAN 1/4 INCH AND NEARLY 1/2

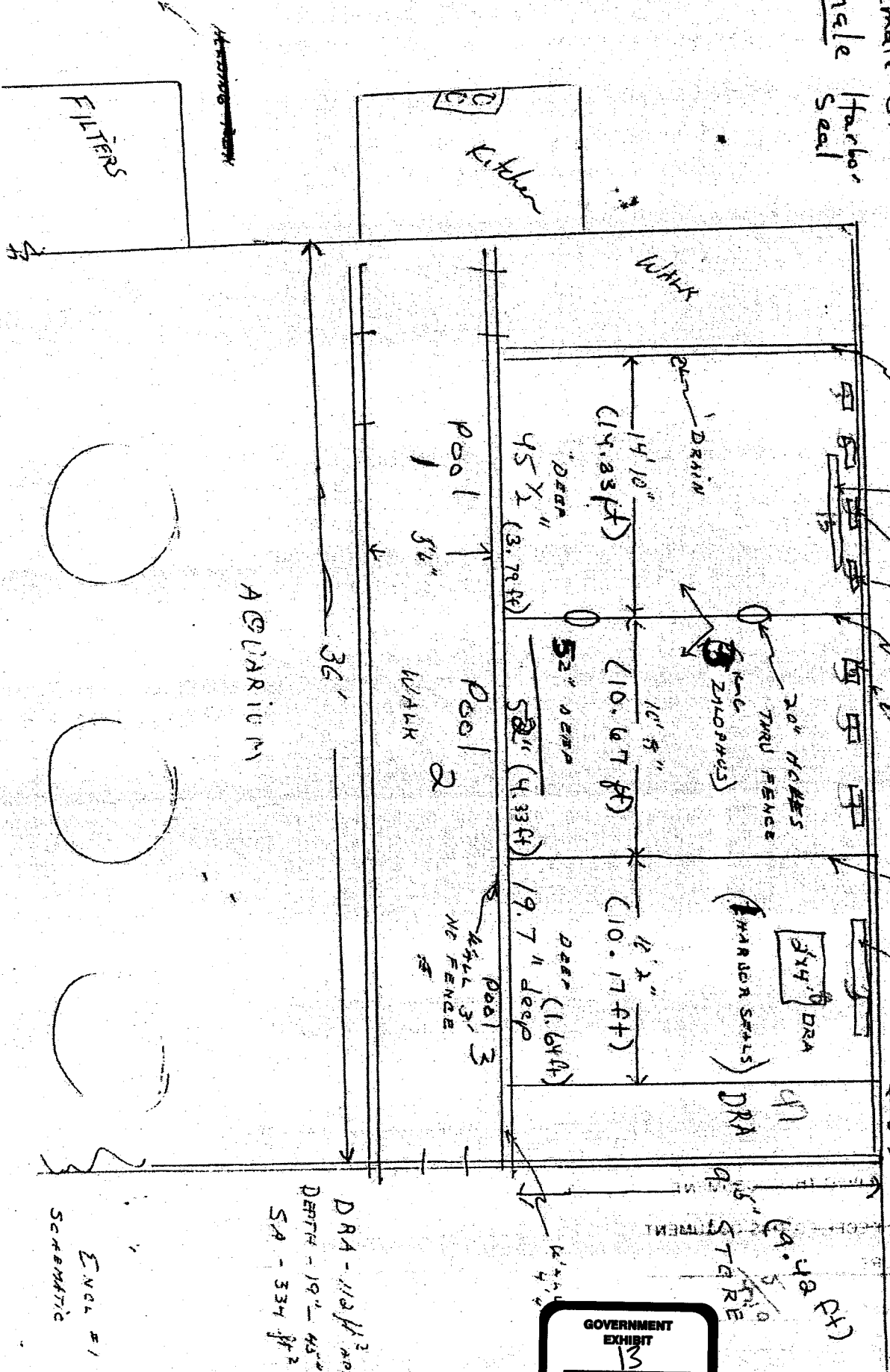
SEAL POOLS

ELEVATED RESTING BOARDS
UP WALL 1' X 3'

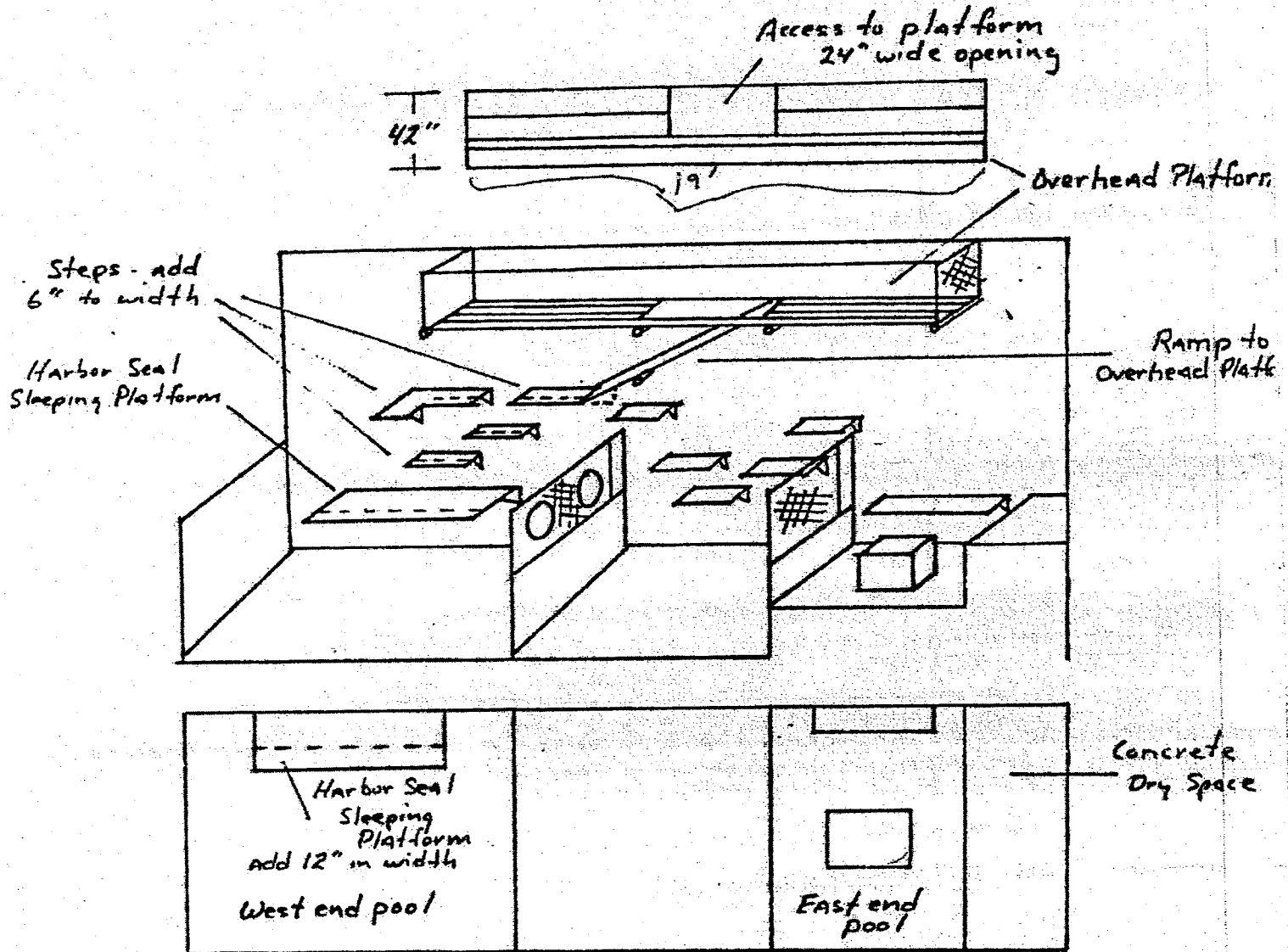
CHAIN LINK

CHAIN LINK 3'
BOARD ON WALL
1' X 8'

Page 2 of 3
Marine Bay



Morro Bay Aquarium Pinniped Facility



RECEIVED THIS DOCUMENT

FROM

GOVERNMENT

EXHIBIT

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Page 3 of 3

APHIS FORM 7070 (MAR 86)

AFFIDAVIT

I, Marcy Rosendale, being duly sworn on oath make the following statement:

I make this statement freely and without promise of reward to (b)(6),(b)(7)(C) who has identified himself as investigator employed by the United States Department of Agriculture. I affirm, under oath, the following statement is true and correct.

My name is Marcy E. Rosendale and I am a United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Animal Care (AC), Veterinary Medical Officer (VMO) currently assigned to the office located at 2150 Centre Avenue, Bldg B, 3W11, Fort Collins, CO 80526, (970) 494-7477.

On 4/07/09, the USDA, APHIS, AC Western Regional Office (WRO) received a complaint from (b)(6),(b)(7)(C). The complainant indicated three (3) sea lions at the Monterey Bay Marine Rehabilitation Center (MBMRC) were showing signs of distress. On 4/20/09, I conducted an inspection of MBMRC and observed two (2) apparently healthy marine mammals; one California sea lion and one harbor seal. I learned from MBMRC staff that one of the three (3) animals addressed in the complaint, a harbor seal, died on 3/22/09. The necropsy results indicated the animal died of a chronic fungal infection (coccidioidomycosis). I contacted (b)(6),(b)(7)(C) and interviewed him by telephone. He told me he treated the animal on several different occasions for undiagnosed illnesses. He said MBMRC contacted him on either 3/17/09 or 3/19/09 to report that an animal was ill and he dispensed an anthelmintic.

The owners of MBMRC were not at the facility at the time of the inspection on 4/20/09 and personnel who were present could not locate the medical records. I also determined the facility was behind on maintaining feeding logs and cited MBMRC for the two (2) non-compliant items on the USDA, APHIS Inspection Report. It appeared that MBMRC had notified the attending veterinarian promptly when they noted the animal was ill and that MBMRC was treating the animal at the time of the complaint. As part of the Inspection Report, I recommended to MBMRC that a system be established to ensure that food consumption and medical records be maintained and available for inspection and on 5/14/09, I provided a copy of the Inspection Report to MBMRC.

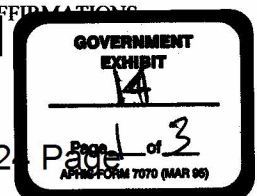
On 3/10/10, I conducted another inspection of MBMRC. During the inspection, I determined that feeding records for the marine mammals were not available for the months of February and March. I also determined that newly acquired marine mammals were not being isolated before exposing them to the resident marine mammals and that no space was available to meet the needs of isolation, separation, medical treatment and medical training. After the inspection, I completed a USDA, APHIS Inspection Report and provided a copy to MBMRC.

On 6/15/10, I conducted an inspection of MBMRC accompanied by USDA, APHIS, AC Large Felid Specialist Dr. Laurie J. Gage. During the inspection, Dr. Gage and I determined the facility still lacked adequate space to accommodate isolation, (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C).

SIGNATURE OF AFFIANT
Subscribed and sworn to before me at (b)(6),(b)(7)(C)
Morro Bay, CA 94342.
on this 28th day of July 2011.
APHIS FORM 7162 Replaces VS Form 3-59G which is obsolete.
(NOV 92)

DESIGNATED PURSUANT TO 9 U.S.C. 2271 TO
ADMINISTER OATHS, AFFIDAVITS, AND AFFIRMATIONS
AUTHORITY NO. (b)(6),(b)(7)(C)

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AFFIDAVIT

I, Marcy Rosendale, being duly sworn on oath make the following statement:

medical training for marine mammals under their care. MBMRC submitted plans for a holding facility that did not meet the space requirements outlined in 9 CFR § 3.104 as neither the dry resting area nor the minimum horizontal area met the minimum space requirements. The plans for the dry resting area provided only a three foot wide by six foot long platform which was not large enough to accommodate the average length (7.3 feet) of an adult male sea lion. In addition, the dry resting area was to be suspended directly above the center of the holding area, decreasing the surface area of the facility.

At the time of the inspection, there was no separate holding facility to isolate or separate the sea lions under the care of MBMRC. The area the aquarium used in the past for separation had been converted to permanent housing for an incompatible resident marine mammal. If one of the sea lions at the facility needed to be separated from the others for any reason there was no holding facility available for use at the aquarium. During our visit, the male California sea lion at the aquarium had diarrhea and I noted the sea lion to be significantly underweight. The MBMRC staff had not weighed the animal and no diagnostic tests had been performed. One dose of medication had been administered to the animal prior to the inspection, but had not been documented. Without a holding facility there was no way to isolate this animal from the other sea lions. The inability to separate marine mammals could endanger their health and well-being.

Dr. Gage and I observed one (1) of the sea lions to be significantly underweight and possibly underfed. MBMRC staff told us all of the sea lions including the larger female were receiving the same amounts of food and that they had not attempted to calculate the caloric needs or intake of the marine mammals housed at their facility. I reviewed the facility's feeding records and determined on 4/19/10, a staff member reported one of the harbor seals to have a decreased appetite. The record indicated the attending veterinarian was not notified until 4/22/10 and the animal died on 4/23/10.

Dr. Gage and I then inspected the food preparation area. I observed thawed fish in the refrigerator that was uncovered. I also determined diced fish for public feeding was being fed more than twenty-four (24) hours after being thawed. The harbor seal that died on 4/23/10, did not receive a complete necropsy. Although the animal was exhibiting neurologic signs, the central nervous system, including the brain, was not examined and no histopathology or other lab work was obtained. After completing the inspection, I prepared a USDA, APHIS Inspection Report and provided a copy to MBMRC.

On 7/12/10, Dr. Gage and I conducted a follow-up inspection of MBMRC. We observed "Ramses" the sea lion that had diarrhea the last time we inspected MBMRC and noted that he had gained some weight. The facility still lacked adequate space to accommodate isolation, separation, medical treatment and medical training of marine mammals and we determined the medical records for the animals remained inadequate. At the time of the inspection, no separate holding facility to isolate or separate the sea lions housed at the facility.

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

SIGNATURE OF AFFIANT

Subscribed and sworn to before me at: Morro Bay, CA 94342.

on this 28th day of July 2011.

APHIS FORM 7162 Replaces VS Form 3-59G which is obsolete.

(NOV 92)

(b)(6),(b)(7)(C)

DESIGNATED PURSUANT TO 7 U.S.C. 2271 TO
ADMINISTER OATHS, AFFIDAVITS, AND AFFIRMATIONS

AUTHORITY NO.: (b)(6)

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GOVERNMENT
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APHIS FORM 7070 (MAR 05)

AFFIDAVIT

I, Marcy Rosendale, being duly sworn on oath make the following statement:

separation area used in the past was now permanent housing for an incompatible resident marine mammal. I reviewed the medical records and noted they still did not include physical examination information. The animals had not been measured or weighed and no diagnostic tests had been performed on the California sea lion with a history of diarrhea. I prepared a USDA, APHIS, AC Inspection Report and provided a copy to MBMRC.

On 8/12/10, I returned to MBMRC with USDA, APHIS, AC Supervisory Specialist Dr. Kathleen M. Garland and conducted an inspection of the facility. We determined MBMRC still lacked adequate space to accommodate isolation, separation, medical treatment and medical training of marine mammals. We also determined one of the pools housing a harbor seal was only 19.7 inches deep and that the minimum depth for the pool should have been three (3) feet. MBMRC staff told us they planned to try introducing the harbor seal to the California sea lions the following week when public attendance was expected to be lower. MBMRC staff told us the move would give the harbor seal access to the deeper enclosure housing the sea lions.

Dr. Garland and I examined the medical records for the animals and noted they did not include physical examination information. We also noted the animals had not been measured or weighed and no diagnostic tests had been performed.

Dr. Garland and I observed a male sea lion named "Ramses" to be significantly underweight and to have intermittent muscle tremors. I also observed "Ramses" to have an abnormal gait on the dry resting area hitting his heads once and running into the wall once while we were present. A MBMRC staff member told us that he would call the attending veterinarian to examine "Ramses" later the same day. On the same date, I contacted MBMRC to check on the results of the attending veterinarian's examination of "Ramses." I learned that no examination had been conducted because the attending veterinarian was not capable of performing diagnostic tests and could only prescribe an antibiotic for "Ramses."

On 8/13/10, Dr. Gage contacted (b)(6),(b)(7)(C) and learned from him that he was not physically capable of handling any of the marine mammals at the facility and that he felt he was not up to date on Pinniped medicine. I prepared a USDA, APHIS, AC Inspection Report and provided a copy to MBMRC.

On 9/21/10, I conducted an inspection of MBMRC. During this inspection I noted no noncompliant issues. After the inspection, I prepared an Inspection Report and provided a copy via email to MBMRC.

I have read the above statement and been given the opportunity to make changes. I swear that the above statement is true and correct.

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

SUBSCRIBED AND SWORN TO before me at:
Morro Bay, CA 94342.
on this 28th day of July 2011.
APHIS FORM 7162 Replaces VS Form 3-59G which is obsolete.
(NOV 92)

(b)(6),(b)(7)(C)

DESIGNATED PURSUANT TO 7 U.S.C. 2271 TO
ADMINISTER OATHS, AFFIDAVITS, AND AFFIRMATIONS
AUTHORITY NO. (b)(6),(b)(7)(C)

GOVERNMENT
EXHIBIT

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APHIS FORM 7070 (MAR 95)

AFFIDAVIT

I, (b)(6),(b)(7)(C) being duly sworn on oath make the following statement:

I make this statement freely and without promise of reward to (b)(6),(b)(7)(C) who has identified himself as an Investigator employed by the United States Department of Agriculture. I affirm, under oath that the following statement is true and correct.

My name is (b)(6),(b)(7)(C) of the Morro Bay Marine Rehabilitation Center (MBMRC) 595 Embarcadero, Morro Bay, CA 94442, telephone number (805) 772-7647. The MBMRC is licensed as an exhibitor, number 93-C-0314, under the Animal Welfare Act (AWA) by the United States department of Agriculture. The MBMRC is also a licensed corporation in the State of California, number C1240798. I have been employed by the MBMRC for (b)(6),(b)(7)(C)

On 4/20/09, United States Department of Agriculture (USDA), Animal Plant Health Inspection Service (APHIS), Animal Care (AC) Veterinary Medical Officer (VMO) Dr. Marcy Rosendale conducted an inspection of MBMRC. After completing the inspection Dr. Rosendale prepared a report documenting her findings and on 5/14/09 the USDA, APHIS, Inspection Report was reviewed and signed by Bertha Tyler one of the owners. During the inspection, Dr. Rosendale found that MBMRC was not able to provide feeding records for the marine mammals. She also found that MBMRC was not maintaining adequate medical records for the marine mammals. I was present during the inspection, however, I (b)(6),(b)(7)(C) could not locate the medical records Dr. Rosendale required. The system we were using to document feeding at the time of the inspection was outdated and we were not aware that we were required to keep more detailed records. Dr. Rosendale recommended that we establish a system to ensure that food consumption and medical records be maintained and available for inspection.

On 3/10/10, Dr. Rosendale conducted another inspection of MBMRC. After completing the inspection Dr. Rosendale prepared a report documenting her findings and on 4/01/09, Bertha Tyler reviewed and signed the USDA, APHIS, Inspection Report. During the inspection, Dr. Rosendale found that MBMRC was not able to provide February and March feeding records for the marine mammals. She also found that MBMRC was not isolating newly acquired marine mammals and that MBMRC had no separate holding facility to meet the needs of isolation, separation, medical treatment, and medical training of marine mammals. I was present during the inspection, but we were behind in entering the information into our log book and I was not able to provide the records to Dr. Rosendale at the time. At the time of the inspection, we had

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

SIGNATURE OF AFFIANT

Subscribed and sworn to before me at (b)(6),(b)(7)(C)
Morro Bay, CA, 93442
on this 28th day of July 2011.

APHIS FORM 7162 Replaces VS Form 3-59G which is obsolete.
(NOV 92)

(b)(6),(b)(7)(C)

DESIGNATED PURSUANT TO 7 U.S.C. 2217 TO
ADMINISTER OATHS, AFFIDAVITS, AND AFFIRMATIONS,
AUTHORITY NO (b)(6),(b)(7)(C)

GOVERNMENT
EXHIBIT

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Page 1 of 3

APHIS FORM 7070 (MAR 96)

AFFIDAVIT

I, (b)(6),(b)(7)(C), being duly sworn on oath make the following statement:

recently acquired some new sea lions. We were concerned about compatibility so we housed the harbor seal in the area we normally used for isolation.

On 6/15/10, Dr. Rosendale conducted another inspection of MBMRC. After completing the inspection Dr. Rosendale prepared a report documenting her findings and on 7/12/10, Bertha Tyler reviewed and signed the USDA, APHIS, Inspection Report. During the inspection, Dr. Rosendale found that one of the California sea lion "Ramses" was significantly underweight, that we were not calculating the caloric needs or the intake of the marine mammals, that we were not adequately monitoring changes in food consumption resulting in delays in medical treatment for the marine mammals and we were allowing thawed fish to remain in the refrigerator uncovered, and that it was being fed to marine mammals after it had been thawed more than twenty-four hours. Dr. Rosendale also found we had no separate holding facility to meet the needs of isolation, separation, medical treatment, and medical training of marine mammals, that the plan we submitted for improvements was inadequate, that we failed to maintain adequate medical records for the marine mammals under our care that we had failed to perform a complete necropsy for an animal that died on 6/23/10. I was present during the inspection and later addressed each of the issues identified by Dr. Rosendale. In response to "Ramses" being underweight (b)(6),(b)(7)(C) prescribed antibiotics and we increased the amount of Herring we were feeding "Ramses." We also looked into creating space for isolation through a redesign of our facility, but found that the proposed changes were not possible. Prior to this inspection, we were leaving food uncovered in the refrigerator for more than twenty-four hours because we were unaware that it was an issue. We also did not do a complete necropsy of the animal that died because we did not realize we had to.

On 7/12/10, Dr. Rosendale conducted an inspection of MBMRC. After completing the inspection Dr. Rosendale prepared a report documenting her findings and on 8/12/10, I reviewed and signed the USDA, APHIS, Inspection Report. During the inspection, Dr. Rosendale found MBMRC had no separate holding facility to meet the needs of isolation, separation, medical treatment, and medical training of marine mammals and failed to maintain adequate medical records for the marine mammals under our care. I was present during the inspection. We still did not have adequate space for isolation, separation, medical treatment, and medical training of marine mammals because the plans we submitted were rejected and we were still concerned about the compatibility of the animals. We did develop a system for tracking of the calories and

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

SIGNATURE OF AFFIANT
Subscribed and sworn to before me at
Morro Bay, CA, 93442
on this 28th day of July 2011.

APHIS FORM 7162 Replaces VS Form 3-59G which is obsolete.
(NOV 92)

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

DESIGNATED PURSUANT TO 7 U.S.C. 2217 TO
ADMINISTER OATHS, AFFIDAVITS, AND AFFIRMATIONS,
AUTHORITY NO (b)(6),(b)(7)(C)

GOVERNMENT
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Page 2 of 3

APHIS FORM 7070 (MAR 98)

AFFIDAVIT

I, (b)(6),(b)(7)(C) being duly sworn on oath make the following statement:

the fat we feed to each animal and currently we create a daily diet for each animal based on their individual needs.

On 8/12/10, Dr. Rosendale conducted an inspection of MBMRC. After completing the inspection Dr. Rosendale prepared a report documenting her findings and on 8/13/10, Bertha Tyler reviewed and signed the USDA, APHIS, Inspection Report. During the inspection, Dr. Rosendale found one of the pools housing a Harbor seal at MBMRC was too shallow. The pool was determined to be 19.7 inches deep. Dr. Rosendale also found no separate holding facility to meet the needs of isolation, separation, medical treatment, and medical training of marine mammals. Inadequate medical records for the marine mammals under our care, and lack of veterinary care for the marine mammals. I was present during the inspection.

After the inspection, we opened the gate separating the pools for short periods of time to acclimate the Harbor seal to the others. By opening the gate we allowed the Harbor seal to move from the shallow pool to a deeper pool housing California sea lions and we created adequate space for isolation, separation, medical treatment, and medical training of marine mammals.

On 9/21/10, Dr. Rosendale conducted an inspection of MBMRC. After completing the inspection, Dr. Rosendale prepared a report documenting her findings and emailed the report to MBMRC. On 10/12/10, Bertha Tyler acknowledged receipt of the inspection report. Because we had made changes to address the issues identified by Dr. Rosendale during previous inspections, she found no non-compliance issues at the time of this inspection.

I have read the above statement and been given the opportunity to make changes. I swear that the above statement is true and correct.

(b)(6),(b)(7)(C)

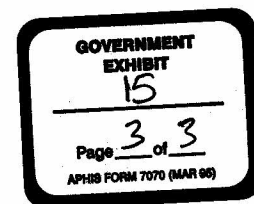
(b)(6),(b)(7)(C)

U SIGNATURE OF AFFIANT
Subscribed and sworn to before me at (b)(6),(b)(7)(C)
Morro Bay, CA, 93442
on this 28th day of July 2011.

APHIS FORM 7162 Replaces VS Form 3-59G which is obsolete.
(NOV 92)

(b)(6),(b)(7)(C)

DESIGNATED PURSUANT TO 7 U.S.C. 2217 TO
ADMINISTER OATHS, AFFIDAVITS, AND AFFIRMATIONS,
AUTHORITY NO (b)(6),(b)(7)(C)



CASE NUMBER: CA10891-AC



SUBJECT NAME: Morro Bay Marine Rehabilitation Center

DESCRIPTION OF PHOTOGRAPH: Front of Facility

PHOTOGRAPHER: (b)(6), (b)(7)(C)

DATE: 7/28/11

(b)(6), (b)(7)(C)

GOVERNMENT EXHIBIT
<u>16</u>
Page <u>1</u> of <u>11</u>
SP-1185 FORM 7070 (MAR 95)

CASE NUMBER: CA10891-AC



SUBJECT NAME: Morro Bay Marine Rehabilitation Center

DESCRIPTION OF PHOTOGRAPH: Front of Facility

PHOTOGRAPHER: (b)(6),(b)(7)(C) DATE: 7/28/11

(b)(6),(b)(7)(C)

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FORM 7070 (MAR 05)

CASE NUMBER: CA10891-AC

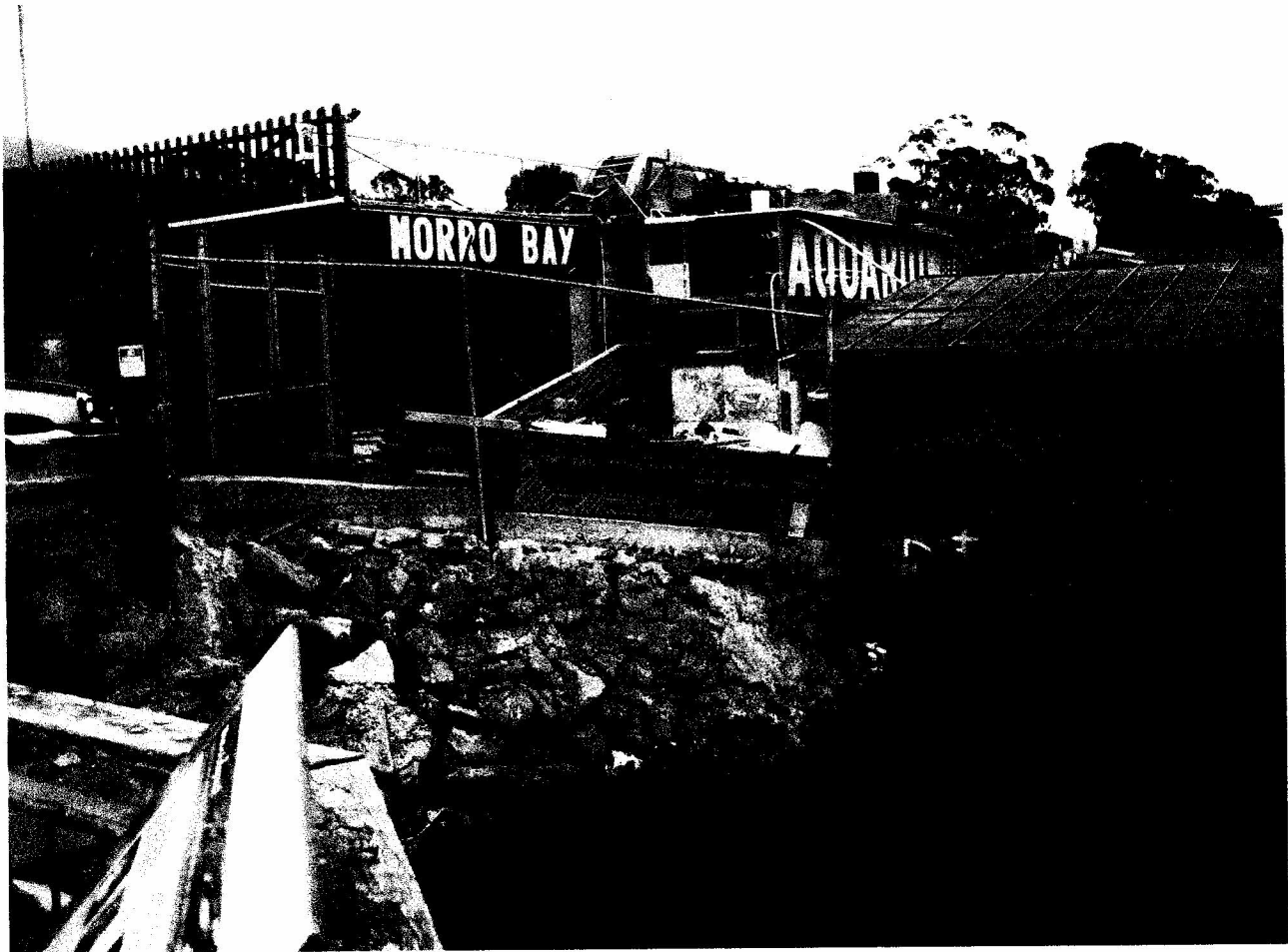


SUBJECT NAME: Morro Bay Marine Rehabilitation Center
DESCRIPTION OF PHOTOGRAPH: North side of building
PHOTOGRAPHER: (b)(6),(b)(7)(C) DATE: 7/28/11 (b)(6),(b)(7)(C)

GOVERNMENT EXHIBIT 16 Page 3 of 11 ARJIS FORM 7070 (MAR 06)

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CASE NUMBER: CA10891-AC



SUBJECT NAME: Morro Bay Marine Rehabilitation Center

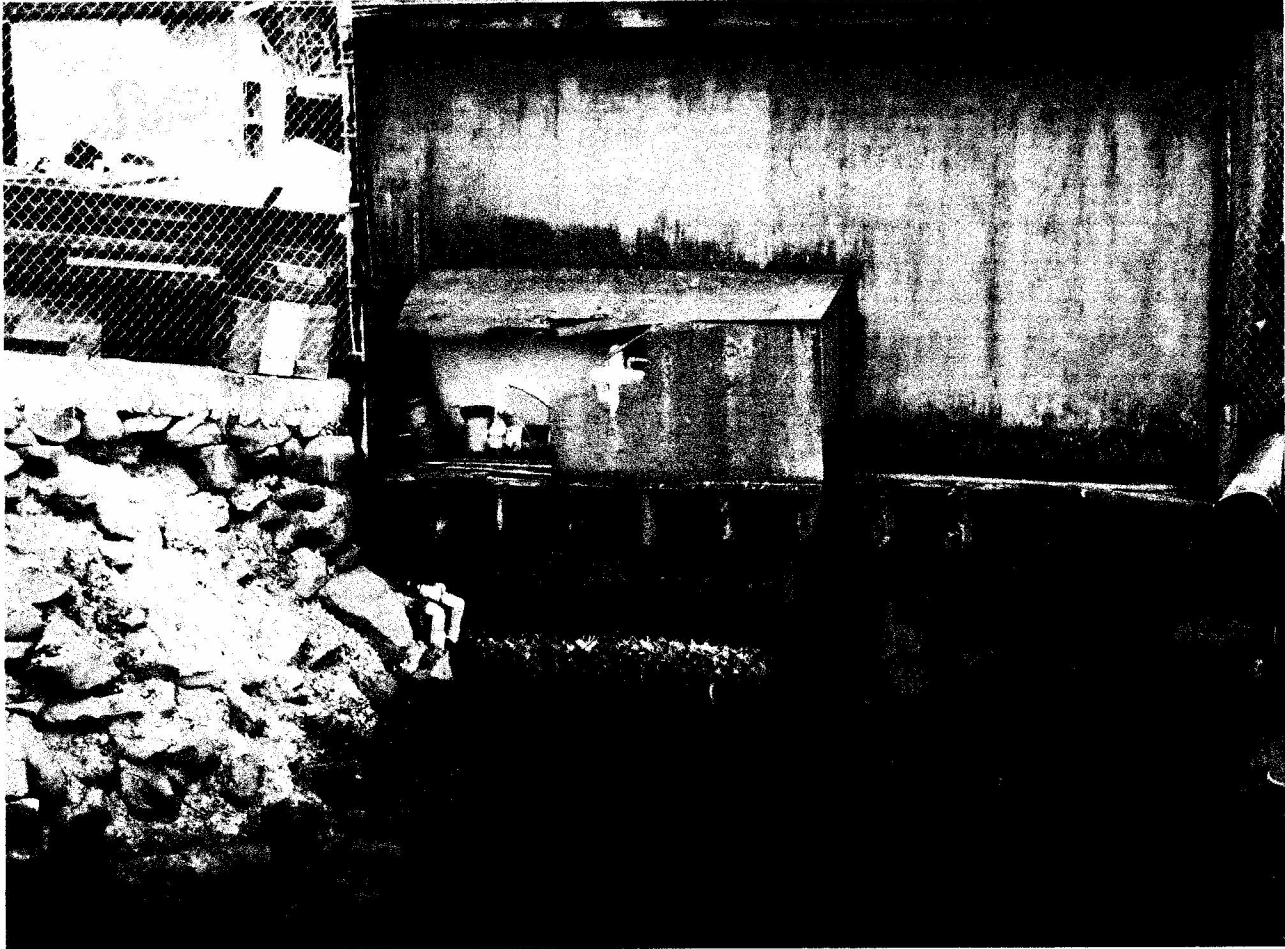
DESCRIPTION OF PHOTOGRAPH: Rear of Fac

PHOTOGRAPHER: (b)(6),(b)(7)(C) DATE: 7/28/11 (b)(6),(b)(7)(C)

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APHIS FORM 7070 (MAR 05)

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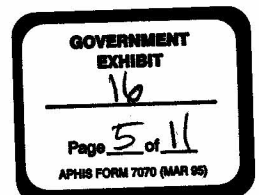
CASE NUMBER: CA10891-AC



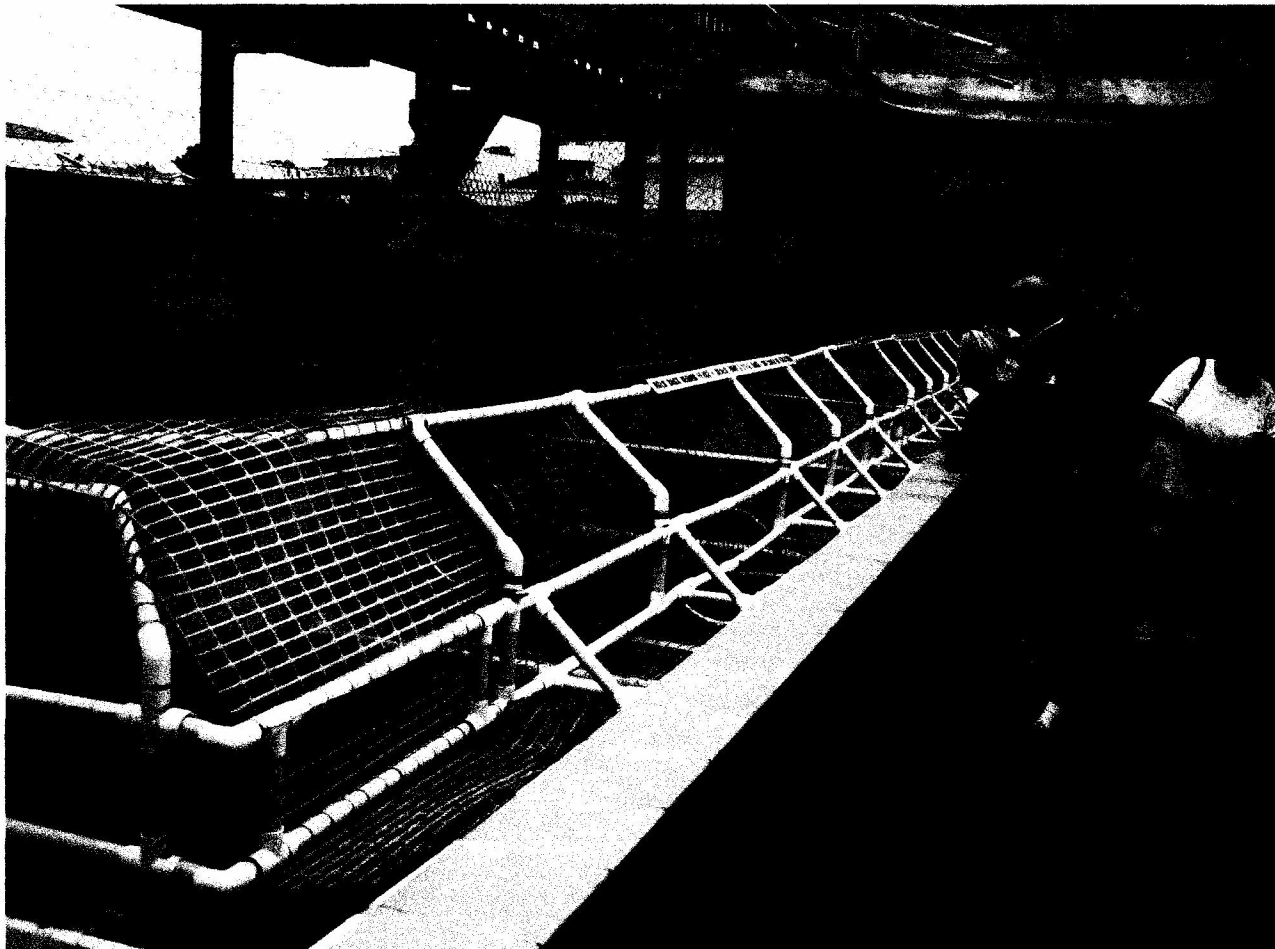
SUBJECT NAME: Morro Bay Marine Rehabilitation Center

DESCRIPTION OF PHOTOGRAPH: Rear of Facility water pump system

PHOTOGRAPHER: (b)(6),(b)(7)(C) DATE: 7/28/1 (b)(6),(b)(7)(C)



CASE NUMBER: CA10891-AC



SUBJECT NAME: Morro Bay Marine Rehabilitation Center
DESCRIPTION OF PHOTOGRAPH: Exhibit area inside facility
PHOTOGRAPHER: (b)(6),(b)(7)(C) **DATE:** 7/28/ (b)(6),(b)(7)(C)

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AMPHIBFORM 7070 (MAR 95)

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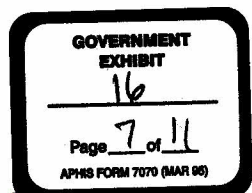
CASE NUMBER: CA10891-AC



SUBJECT NAME: Morro Bay Marine Rehabilitation Center

DESCRIPTION OF PHOTOGRAPH: Food preparation area inside facility

PHOTOGRAPHER: (b)(6),(b)(7)(C) **DATE:** 7/28 (b)(6),(b)(7)(C)



CASE NUMBER: CA10891-AC

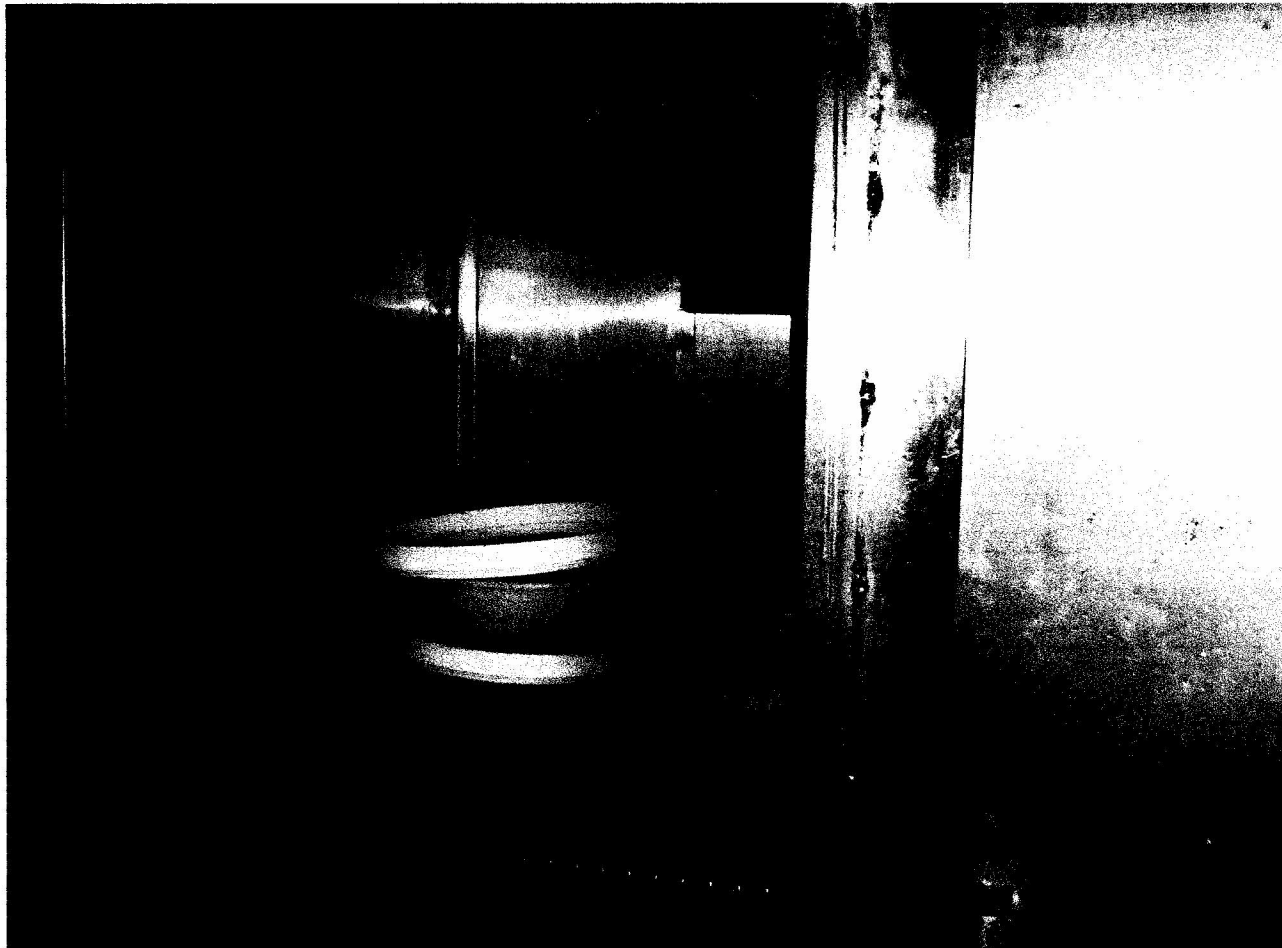


SUBJECT NAME: Morro Bay Marine Rehabilitation Center
DESCRIPTION OF PHOTOGRAPH: Fish trapped in sink
PHOTOGRAPHER: (b)(6),(b)(7)(C) **DATE:** 7/28 (b)(6),(b)(7)(C)

GOVERNMENT EXHIBIT
16
Page 8 of 11
APHS FORM 7070 (MAR 05)

2012-2590 137 Page

CASE NUMBER: CA10891-AC

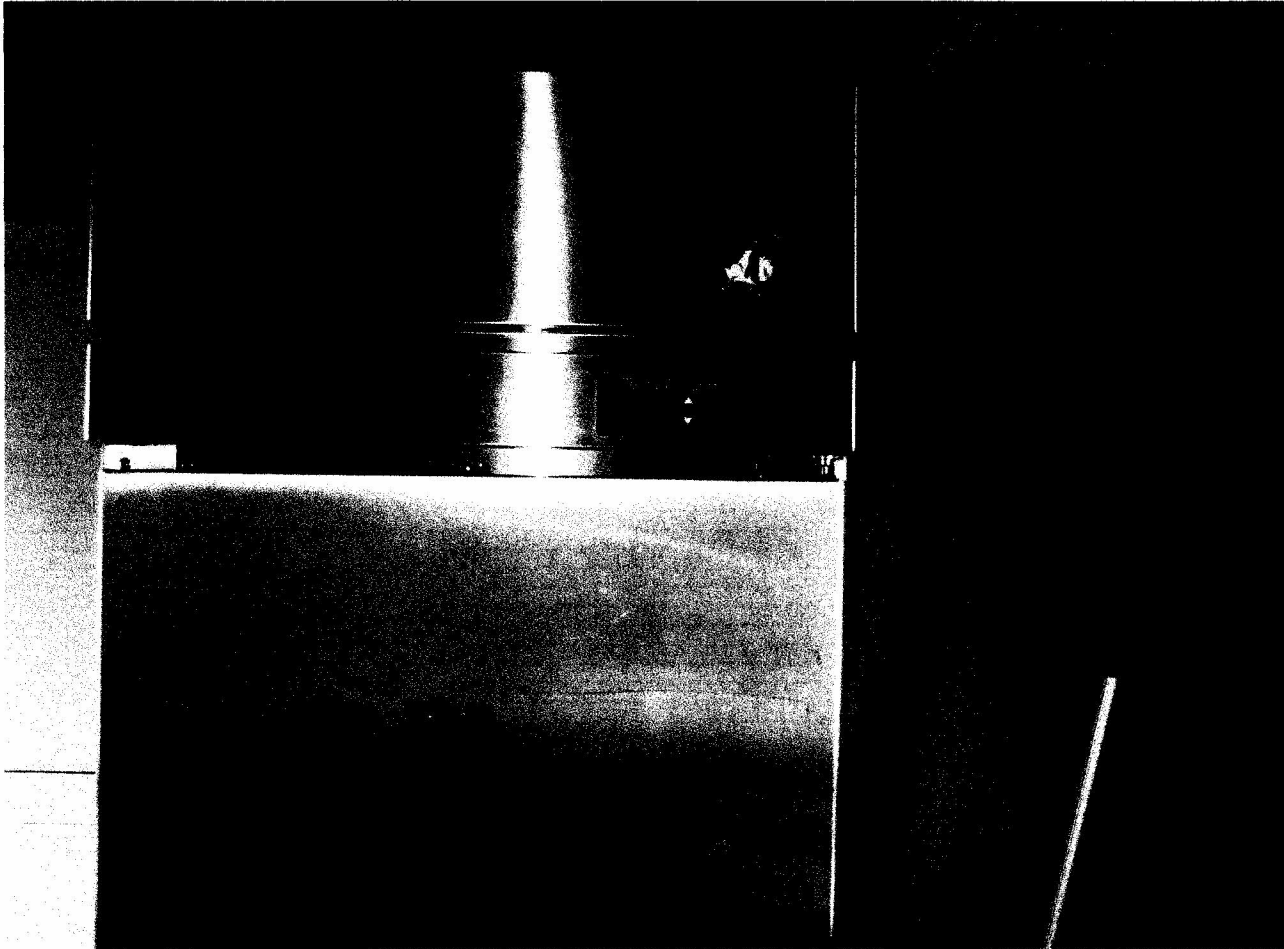


SUBJECT NAME: Morro Bay Marine Rehabilitation Center
DESCRIPTION OF PHOTOGRAPH: Fish store
PHOTOGRAPHER: (b)(6),(b)(7)(C) **DATE:** 7/28/1 (b)(6),(b)(7)(C)

GOVERNMENT EXHIBIT
16
Page 9 of 11
FORM 7070 (MAR 05)

2012-2590 138 Page

CASE NUMBER: CA10891-AC

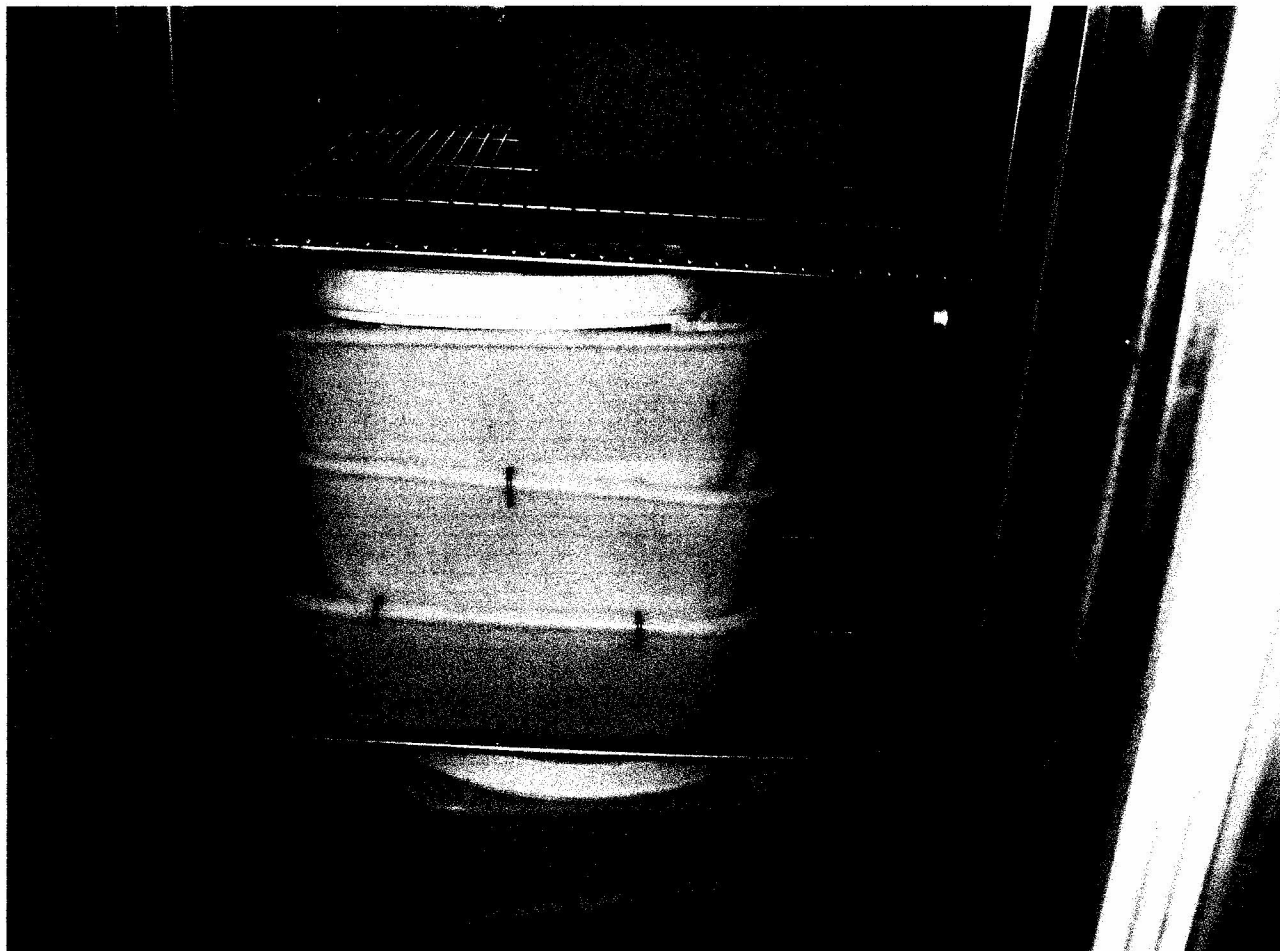


SUBJECT NAME: Morro Bay Marine Rehabilitation Center
DESCRIPTION OF PHOTOGRAPH: Refrigerator storing fish
PHOTOGRAPHER (b)(6),(b)(7)(C) **DATE:** 7/28/ (b)(6),(b)(7)(C)

GOVERNMENT EXHIBIT
<u>16</u>
Page <u>10</u> of <u>11</u>
FORM 7070 (MAR 95)

(b)(6),(b)(7)(C)

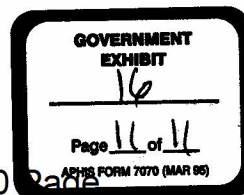
CASE NUMBER: CA10891-AC



SUBJECT NAME: Morro Bay Marine Rehabilitation Center

DESCRIPTION OF PHOTOGRAPH: Fish in fr

PHOTOGRAPHER: (b)(6),(b)(7)(C) **DATE:** 7/28/1 (b)(6),(b)(7)(C)



2012-2590 140

INTERVIEW LOG

USDA, APHIS, IES

NAME AND ADDRESS OF PERSON(S)

CONTACTED:

Harvey Packard
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

DATE:

October 28, 2011

TYPE OF INTERVIEW (BY PHONE OR IN PERSON):

By telephone

ORGANIZATION:

California Regional Water Quality
Control Board

TELEPHONE NUMBER:

(805) 549-3147

SUBJECT:

Morro Bay Marine Rehabilitation Center, Inc.
(CA10891-AC)

LOCATION OF INTERVIEW:

N/A

SUMMARY:

On 10/28/11, USDA, APHIS, IES Investigator (b)(6),(b)(7)(C) contacted Section Manager and Enforcement Coordinator Harvey Packard of the California Regional Water Quality Control Board (CRWQCB), Central Coast Region. At the request of Investigator (b)(6),(b)(7)(C) Mr. Packard checked CRWQCB records for reported sewage spills in the Morro Bay area during the last five (5) years.

After researching CRWQCB records, Mr. Packard said there have been ten (10) sewage spills in the Morro Bay area reported to the CRWQCB during the last five years in the Morro Bay area. He said some of the spills flowed directly into the ocean and did not enter bay waters. He said a few of the spills flowed into tributaries ending at Morro Bay, but it is not known how much sanitary sewer overflow (SSO) actually entered bay waters.

Mr. Packard said three of the spills were report by the California Department of Corrections, California Men's Colony in San Luis Obispo, CA. He said the first spill occurred on or about 08/16/07 and involved approximately 5,000 gallons of SSO. Mr. Packard said approximately 4,000 gallons of SSO was recovered before it reached the surface water. Mr. Packard said the second spill occurred on or about 1/27/2008 and involved approximately 20,000 gallons of SSO. He said this was the largest of the reported spills and based on their records all of the SSO reached the surface water. Mr. Packard said it is not known how much of this SSO entered the bay waters, but the San Luis Obispo County Health Department closed Morro Bay to water contact recreation for four(4) days and sport shellfish harvesting was closed for two (2) weeks. Mr. Packard said the third spill occurred on or about 10/13/2009 and involved 200 gallons of SSO. He said approximately 100 gallons of SSO was recovered before it reached the surface water.

Mr. Packard emailed Investigator (b)(6),(b)(7)(C) a photocopy of the CRWQCB Sanitary Sewer Overflow Event Report.

NAME OF PERSON DOCUMENTING INTERVIEW:

(b)(6),(b)(7)(C) Investigator

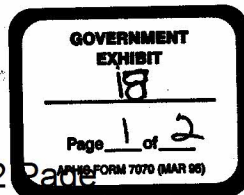
CONTACTED:

(b)(6),(b)(7)(C)

DATE:

October 28, 2011

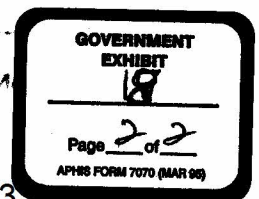
<u>EVENT ID</u>	<u>Region</u>	<u>Responsible Agency</u>	<u>Collection System</u>	<u>SSO Category</u>	<u>Start Date</u>	<u>SSO Address</u>
<u>706438</u>	3	Morro Bay City	City of Morro Bay CS	Category 2	10/21/2007	1495 Quintana
<u>711189</u>	3	Morro Bay City	City of Morro Bay CS	Category 2	1/12/2008	595 Estero Street
<u>723960</u>	3	Morro Bay City	City of Morro Bay CS	Category 2	7/24/2008	2725 Juniper Avenue
<u>723961</u>	3	Morro Bay City	City of Morro Bay CS	Category 2	7/24/2008	2725 Juniper Avenue
<u>732834</u>	3	Morro Bay City	City of Morro Bay CS	Category 1	1/30/2009	380 Main Main St. Street
<u>751723</u>	3	Morro Bay City	City of Morro Bay CS	Category 1	4/15/2010	Alder Avenue
<u>745582</u>	3	CA Dept of Corrections	California Mens Colony CS	Category 1	10/13/2009	Sutter Ave
<u>739850</u>	3	CA Dept of Corrections	California Mens Colony CS	Category 1	8/16/2007	
<u>712967</u>	3	CA Dept of Corrections	California Mens Colony CS	Category 1	1/27/2008	
<u>759741</u>	3	Cuesta College	Cuesta College CS	Category 1	12/19/2010	



<u>SSO City</u>	<u>SSO Vol</u>	<u>Vol of SSO Recovered</u>	<u>Vol of SSO Reached Surface Water</u>	<u>SSO Failure Point</u>	<u>WDID</u>
Morro Bay	300	300	0		3SSO11429
Morro Bay	30	0	0		3SSO11429
Morro Bay	5	0	0	Main	3SSO11429
Morro Bay	5	0	0	Main	3SSO11429
Morro Bay	300	100	200	Main	3SSO11429
Morro Bay	500	300	200	Main	3SSO11429
	200	100	100	1.5 inch ball valve in old digester room	3SSO10236
	5,000	4,000	0	out let of clarifier	3SSO10236
San Luis Obispo	20,000	0	20,000		3SSO10236
	1,000	0	1,000	Main	3SSO10261

RECEIVED AND FORWARDED

APR 11 2012



Business Entity Detail

Data is updated weekly and is current as of Friday, July 22, 2011. It is not a complete or certified record of the entity.

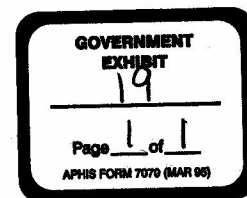
Entity Name:	MORRO BAY MARINE REHABILITATION CENTER
Entity Number:	C1240798
Date Filed:	03/06/1984
Status:	ACTIVE
Jurisdiction:	CALIFORNIA
Entity Address:	595 EMBARCADERO
Entity City, State, Zip:	MORRO BAY CA 93442
Agent for Service of Process:	JERRY LULIJAN
Agent Address:	1199 LONGVIEW AVE
Agent City, State, Zip:	PISMO BEACH CA 93448

* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code section 2114 for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to Name Availability.
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to Information Requests.
- For help with searching an entity name, refer to Search Tips.
- For descriptions of the various fields and status types, refer to Field Descriptions and Status Definitions.

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August 24, 2011

United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

☐ Enforcement Operations – IES HQ

☐ OGC

☒ IES Western Region

☐ IES Investigator

**Additional information for Investigation of Alleged
Violations Regarding the Animal Welfare Act, Regulations,
and/or Standards**

Please add the following documentation to case #: CA10891

VIOLATOR NAME: Morro Bay Marine Rehabilitation Center

ADDITIONAL INFORMATION:

☐ Application documents

☐ Licensing documents

☒ Renewal documents

☐ Cancellation documents

☐ Inspection report dated _____

☐ Inspection report dated _____ including CD

☐ Inspection report dated _____ with photos, including CD

☐ Inspection report dated _____ with photos

☐ Correspondence

☐ Other _____

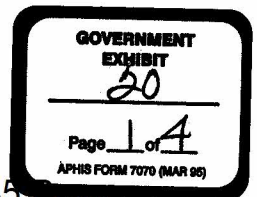
me know.

(b)(6),(b)(7)(C)

Robert M. Gibbens
Director, Western Region
USDA, APHIS, Animal Care



Safeguarding American Agriculture
APHIS is an agency of USDA's Marketing and Regulatory Programs
An Equal Opportunity Provider and Employer





United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

RE: ACKNOWLEDGEMENT OF RENEWAL

Certificate Number: 93-C-0814

Renewal Date: 09/18/2012

August 23, 2011

Customer ID Number: 3632

Bertha Tyler
Morro Bay Marine Rehabilitation Center
Morro Bay Aquarium
595 Embarcadero
Morro Bay, CA 93442

Dear Licensee:

Thank you for submitting your Animal Welfare Act (AWA) license renewal documents and applicable fees. Enclosed is a copy of the renewal form and a new certificate indicating that your AWA license has been renewed for another year.

As a reminder, you should file your application for renewal and pay your licensing fees on or before the expiration date each year. We will send you a renewal notice again next year about 60 days before the expiration date of your license. If you cease conducting regulated activities, you may cancel your license at any time by notifying us, in writing, that you wish to terminate your license.

The law also requires that you notify us, by certified mail, of any change in the name, address, location, management and control or ownership of your business within 10 days after such a change has occurred.

Please be advised that your facility records must be kept current and they are subject to review by APHIS Officials during compliance inspections. You may order record keeping forms from this office free of charge.

We appreciate your efforts in complying with the Animal Welfare Act. Contact this office at (970) 494-7478 if you have any questions regarding this letter or the Animal Welfare Act.

Sincerely,

(b)(6),(b)(7)(C)

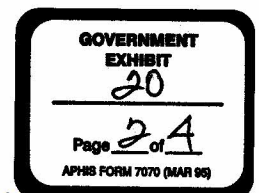
Robert M. Gibbens, D V M
Regional Director – Animal Care
Western Region

cc: Marcy E. Rosendale, D.V.M.

Enclosures



Safeguarding American Agriculture
APHIS is an agency of USDA's Marketing and Regulatory Programs.
An Equal Opportunity Provider and Employer





United States
Department of
Agriculture

Marketing and
Regulatory
Programs

Animal and
Plant Health
Inspection
Service

Animal Care

EXPIRATION DATE: SEPTEMBER 18, 2012

This is to certify that

MORRO BAY MARINE REHABILITATION CENTER

is a licensed
under the

CLASS C EXHIBITOR

Animal Welfare Act

(7 U.S.C. 2131 et seq.)

Certificate No.

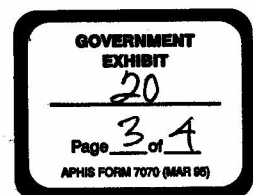
93-C-0814

Customer No.

3632

(b)(6),(b)(7)
(C)

Deputy Administrator



According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0579-0036. The time required to complete this information collection is estimated to average 25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

FORM APPROVED OMB NO. 0579-0036

No license may be issued unless a completed application has been received (7 U.S.C. 2132-2143) and the applicant is in compliance with the standards and regulations Section 2133.

U.S. DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE

APPLICATION FOR LICENSE (TYPE OR PRINT)

X RENEWAL

DO NOT USE THIS SPACE - OFFICIAL USE ONLY

SEND THE COMPLETED FORM TO:
USDA APHIS ANIMAL CARE
Western Region
2150 Centre Ave
Building B, Mailstop 3W11
Fort Collins, CO 80526-8117
(970) 494-7478

LICENSE NO./CUST NO.	RENEWAL DATE	FEES	
93-C-0814 3632	18-Sep-2011	AMOUNT	DATE RECEIVED

1. NAME(S) OF OWNER(S) AND MAILING ADDRESS

Morro Bay Marine Rehabilitation Center
595 Embarcadero
Morro Bay, CA 93442

COUNTY: San Luis Obispo TELEPHONE (805) 772-7647

2. ALL BUSINESS NAME, LOCATIONS, AND ALL SITES HOUSING ANIMALS (P. O. Box not acceptable)

595 Embarcadero
Morro Bay, CA 93442
County: San Luis Obispo

TELEPHONE ()

3. IF PREVIOUSLY LICENSED - NAME AND ADDRESS

PREVIOUS LICENSE NO.:

4. NAME AND ADDRESS OF OTHER BUSINESS(S) HANDLING ANIMALS IN WHICH APPLICANT/LICENSEE HAS AN INTEREST

Morro Bay Aquarium
595 Embarcadero

5. TYPE OF LICENSE

☐ A - Dealer (Breeder) ☐ B - Dealer ☒ C - Exhibitor

7. NATURE OF BUSINESS (Check item that describes nature of your business)

- ☐ A - Zoo ☒ B - Aquariums ☐ C - Auction
☐ D - Breeder ☐ E - Pets ☐ F - Roadside Zoo
☐ G - Circus ☐ H - Animal Acts ☐ I - Carnival
☐ J - Drive thru Zoo ☐ K - Pet Store ☐ L - Broker

6. DATE OF LAST BUSINESS YEAR

FROM			TO		
MO	DAY	YEAR	MO	DAY	YEAR
0	8	3	1	0	0

8. TYPE OF ORGANIZATION

☐ Partnership ☒ Corporation ☐ Individual
☐ Other (Specify) _____

9. LIST OWNERS, PARTNERS, AND OFFICERS

NAME AND TITLE

ADDRESS

Kean Tyler, owner President
Bertha Tyler, Secretary-Treas.

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

10. DEALER ONLY

TOTAL NO. OF ANIMALS PURCHASED IN THE LAST BUSINESS YEAR

TOTAL NO. OF ANIMALS SOLD IN THE LAST BUSINESS YEAR

TOTAL GROSS AMOUNT DERIVED FROM THE SALE OF ANIMALS

DOLLAR AMOUNT OF WHICH FEE IS BASED
(Sections 2.6 and 2.7)

Not a FOIA
deletion

11. EXHIBITOR ONLY (No. of animals holding now or held during the last business year, whichever is greater)

DOGS		RABBITS	
CATS		NONHUMAN PRIMATES	
GUINEA PIGS		MARINE MAMMALS	4
HAMSTERS		WILD OR EXOTIC MAMMALS	
OTHER (i.e., farm animals) (List Species and No.)	TOTAL:		

CERTIFICATION

I hereby make application for a license under the Animal Welfare Act 7 U.S.C. 2131 et seq. I certify that the information provided herein is true and correct to the best of my knowledge. I hereby acknowledge receipt of and certify to the best of my knowledge I am in compliance with all regulations and standards in 9 CFR, Subpart A, Parts 1, 2, and 3. I certify that I am over 18 years of age.

1. NAME AND TITLE (Type or Print)

14. DATE

(b)(6), (b)(7)(C)

BERTHA TYLER, Secretary 8-17-11

(Previous editions are obsolete)

(JAN 1995)

GOVERNMENT
EXHIBIT

20

Page 4 of 4

APHIS FORM 7070 (MAR 95)

Investigator

Notes

CA10891-AC



USDA, APHIS, IES
WESTERN REGION
2150 CENTRE AVENUE
BLDG B-3W10
FORT COLLINS, CO 80526
(970) 494-7485

Memorandum

TO: Karen Kraubner-Lucas
Area Manager

FROM: Timothy Fordahl
Western Regional Director

DATE: August 24, 2010

SUBJECT: Request for Investigation

Please find enclosed a request for investigation from Robert Gibbens, USDA, APHIS, WR Animal Care Director, Fort Collins, CO, regarding alleged violations involving:

Morro Bay Marine Rehabilitation Center
595 Embarcadero
Morro Bay, CA 93442
Lic/Reg: 93-C-0814/Customer # 3632

Re: Repeated failure to provide adequate veterinary care to mammals.

Please assign this investigation accordingly. Investigators are directed to:

- Open an investigation in the IES Tracking System within (five) 5 days of receipt of this request
- E-mail the case number to your PSA, Area Manager, Connie Morris and Karen March within 10 working days
- Complete this investigation within the required 100 day time frame outlined in the IES Training Manual

If a complication arises, or, if you have any questions or concerns regarding this request, notify your Area Manager immediately.

TO BE COMPLETED BY FIELD INVESTIGATOR:

Case Number Assigned: CA10891-AC

Date entered into IES Tracking System: 9-3-10

(b)(6),(b)(7)(C)

Regional Director
Western Regional Office
Investigative and Enforcement Services



Inspection Report

MORRO BAY MARINE REHABILITATION CENTER

Customer ID: 3632

Certificate: 93-C-0814

Site: 001

MORRO BAY MARINE REHABILITATION CENTER

MORRO BAY AQUARIUM

595 EMBARCADERO

Type: ROUTINE INSPECTION

Date: Jun-15-2010

MORRO BAY, CA 93442

3.105 (a)

DIRECT NCI

FEEDING.

(a) The food for marine mammals must be wholesome, palatable, and free from contamination and must be of sufficient quantity and nutritive value to maintain marine mammals in a state of good health. The diet must be prepared with consideration for factors such as age, species, condition, and size of the marine mammal being fed.

One of the California Sea Lions was found to be significantly underweight. All the Sea Lions, including a larger female, were receiving the same amount of food. Staff at the facility had not made any attempts to calculate the caloric needs or intake of the marine mammals being housed there.

Animals at the facility must be provided with a sufficient quantity of food to sustain a healthy body weight. A system should be in place to ensure that the caloric needs of the animals are determined and appropriate amounts of food provided.

Correct immediately.

**COPY FOR YOUR
INFORMATION**

3.105 (c)

REPEAT

FEEDING.

(c) Inappetence exceeding 24 hours must be reported immediately to the attending veterinarian.

According to feeding records one of the Harbor Seals had a decreased appetite that was first observed on April 19, 2010, yet the attending veterinarian was not notified until April 22, 2010. The animal died on April 23, 2010.

Changes in food consumption may be an indication of changes in the health status of marine mammals. Prompt notification of inappetence gives the attending veterinarian the opportunity to diagnose and treat medical conditions in their early stages. Delaying appropriate treatment may adversely affect the health of the animals. The aquarium should ensure that accurate feeding records are kept and the attending

Prepared By:

MARCY E ROSENDALE, D.V.M. USDA, APHIS, Animal Care

Date:

Title:

VETERINARY MEDICAL OFFICER Inspector 5039

Jun-24-2010

Received By:

Title:

OWNER

Date:

Jul-12-2010



Inspection Report

veterinarian is promptly notified of inappetence exceeding 24 hours in any of the marine mammals housed there.

Previous correction date: Correct immediately.

3.105 (d)

FEEDING.

(d) Food preparation and handling must be conducted so as to assure the wholesomeness and nutritive value of the food. The length of time food is stored and the method of storage, the thawing of frozen food, and the maintenance of thawed food must be conducted in a manner that will minimize contamination and that will assure that the food retains nutritive value and wholesome quality until the time of feeding. All foods must be fed to the marine mammals within 24 hours following the removal of such foods from the freezers for thawing, or if the food has been thawed under refrigeration, it must be fed to the marine mammals within 24 hours of thawing.

Thawed fish in the refrigerator was uncovered. Fish that had been diced for public feeding was being fed more than 24 hours after being thawed.

Proper food preparation is important to ensure that the food is wholesome and retains nutritive value. The facility should ensure that fish is kept covered and fed within 24 hours of being thawed.

Correct immediately.

COPY FOR YOUR INFORMATION

3.110 (b)

REPEAT DIRECT NCI

VETERINARY CARE.

(b) Holding facilities must be in place and available to meet the needs for isolation, separation, medical treatment, and medical training of marine mammals. Marine mammals that are isolated or separated for nonmedical purposes must be held in facilities that meet minimum space requirements as outlined in Sec. 3.104.

There is currently no separate holding facility in which to isolate or separate the Sea Lions being kept by the aquarium. The aquarium submitted plans for holding facilities that did not meet the space requirements outlined in Sec. 3.104. Neither the dry resting area nor the minimum horizontal dimension (MHD) met the minimum space requirements. The plans for the dry resting area provided only a three foot wide by six foot long platform. The average adult length of male California Sea Lions, one of which is

Prepared By:

MARCY E ROSENDALE, D.V.M. USDA, APHIS, Animal Care

Date:

Title:

VETERINARY MEDICAL OFFICER Inspector 5039

Jun-24-2010

Received By:

Title:

OWNER

Date:

Jul-12-2010



Inspection Report

being housed at the facility, is 7.3 feet. The dry resting area provided for in the submitted plan was grossly insufficient for the animals housed at the facility. The total horizontal dimension of the proposed holding facility was only six feet wide by 12 feet long, again providing insufficient minimum horizontal dimension for an adult male Sea Lion. Additionally, the three by six foot dry resting area platform was to be suspended directly above the center of the holding area, thus decreasing the surface area of the facility. The exact depth of the facility was not provided in the plan and staff at the aquarium did not know the exact depth.

The area the aquarium used for separation in the past is now permanent housing for an incompatible resident marine mammal. If one of the Sea Lions at the facility needs to be separated from the others for any reason there is now no holding facility available for use at the aquarium. The male Sea Lion at the aquarium had diarrhea during the inspection but without a holding facility there was no way to isolate this animal from the other Sea Lions. The inability to separate marine mammals may endanger their health and well-being.

The aquarium must ensure that adequate holding facilities are available when needed to isolate, separate, or provide medical treatment or training to the marine mammals being housed there.

Previous correction date: Submit plans for correction by June 1, 2010.

**COPY FOR YOUR
INFORMATION**

3.110 (d) (2)

DIRECT NCI

VETERINARY CARE.

(d) Individual animal medical records must be kept and made available for APHIS inspection. These medical records must include at least the following information:

(2) Physical examination information, including but not limited to length, weight, physical examination results by body system, identification of all medical and physical problems with proposed plan of action, all diagnostic test results, and documentation of treatment.

The male California Seal Lion had diarrhea and was observed to be significantly underweight at the time of the inspection. The animal had not been weighed and no diagnostic tests had been performed. One dose of a medication had been administered to the animal prior to the inspection but had not been documented.

Appropriate medical records that document basic physical examination information are necessary in order that aquarium staff, the attending veterinarian, and APHIS inspectors may monitor the health of the animals. The aquarium should ensure that physical examinations and diagnostic tests are performed when necessary and the information obtained from the examinations and tests are included in the medical records.

Correct immediately.

Prepared By:

MARCY E ROSENDALE, D.V.M. USDA, APHIS, Animal Care

Date:

Title: VETERINARY MEDICAL OFFICER Inspector 5039

Jun-24-2010

Received By:

Title: OWNER

Date:

Jul-12-2010



Inspection Report

3.110 (g) (1)

VETERINARY CARE.

(g)(1) A complete necropsy, including histopathology samples, microbiological cultures, and other testing as appropriate, must be conducted by or under the supervision of the attending veterinarian on all marine mammals that die in captivity. A preliminary necropsy report must be prepared by the veterinarian listing all pathologic lesions observed. The final necropsy report must include all gross and histopathological findings, the results of all laboratory tests performed, and a pathological diagnosis.

A Harbor Seal that died on June 23, 2010 did not receive a complete necropsy. Although the animal was exhibiting neurologic signs the central nervous system, including the brain, was not examined and no histopathology or other lab work was obtained.

A complete necropsy must be obtained for each marine mammal that dies in captivity in order that a cause of death may be determined. Data obtained from a thorough necropsy may provide information that could be used to prevent sickness or death of other marine mammals at the aquarium.

Correct for any future marine mammal deaths.

Note:

An exit briefing was conducted with the licensee.

**COPY FOR YOUR
INFORMATION**

Prepared By:

MARCY E ROSENDALE, D.V.M. USDA, APHIS, Animal Care

Date:

Jun-24-2010

Title:

VETERINARY MEDICAL OFFICER Inspector 5039

Received By:

Date:

Jul-12-2010

Title:

OWNER



Inspection Report

MORRO BAY MARINE REHABILITATION CENTER

Customer ID: 3632

Certificate: 93-C-0814

Site: 001

MORRO BAY MARINE REHABILITATION CENTER

MORRO BAY AQUARIUM

595 EMBARCADERO

Type: ROUTINE INSPECTION

Date: Jul-12-2010

MORRO BAY, CA 93442

3.110 (b) REPEAT
VETERINARY CARE.

(b) Holding facilities must be in place and available to meet the needs for isolation, separation, medical treatment, and medical training of marine mammals. Marine mammals that are isolated or separated for nonmedical purposes must be held in facilities that meet minimum space requirements as outlined in Sec. 3.104.

There is currently no separate holding facility in which to isolate or separate the Sea Lions being kept by the aquarium. The aquarium submitted plans for holding facilities that did not meet the space requirements outlined in Sec. 3.104. The area the aquarium used for separation in the past is now permanent housing for an incompatible resident marine mammal. If one of the Sea Lions at the facility needs to be separated from the others for any reason there is now no holding facility available for use at the aquarium. The inability to separate marine mammals may endanger their health and well-being.

The aquarium must ensure that adequate holding facilities are available when needed to isolate, separate, or provide medical treatment or training to the marine mammals being housed there.

Previous correction date: Submit plans for correction by June 1, 2010.

**COPY FOR YOUR
INFORMATION**

3.110 (d) (2) REPEAT
VETERINARY CARE.

(d) Individual animal medical records must be kept and made available for APHIS inspection. These medical records must include at least the following information:

(2) Physical examination information, including but not limited to length, weight, physical examination results by body system, identification of all medical and physical problems with proposed plan of action, all diagnostic test results, and documentation of treatment.

Individual animal medical records still did not include physical examination information. The animals had not been

Prepared By:

MARCY E ROSENDALE, D.V.M. USDA, APHIS, Animal Care

Date:

Title:

VETERINARY MEDICAL OFFICER Inspector 5039

Aug-02-2010

Received By:

Title:

MANAGER

Aug-12-2010



Inspection Report

measured or weighed and no diagnostic tests had been performed on the California Sea Lion with a history of diarrhea.

Appropriate medical records that document basic physical examination information are necessary in order that aquarium staff, the attending veterinarian, and APHIS inspectors may monitor the health of the animals. The aquarium should ensure that physical examinations are performed when necessary and the information obtained from the examinations are included in the medical records.

Previous correction date: Correct immediately.

Notes:

An exit briefing was conducted with the licensee.
Accompanied by Dr. Laurie Gage.

**COPY FOR YOUR
INFORMATION**

Prepared By:

MARCY E ROSENDALE, D.V.M. USDA, APHIS, Animal Care

Date:

Aug-02-2010

Title:

VETERINARY MEDICAL OFFICER Inspector 5039

Received By:

Date:

Aug-12-2010

Title:

MANAGER

Questions

(b)(6),(b)(7)(C)

CA10891-AC

Full Name:

(b)(6),(b)(7)(C)

Employer:

MBMRC

Business Address:

595 EMBARCADERO
MORRO BAY CA

Verified by: (Drivers License/other)

(b)(6),(b)(7)(C)

Contact telephone number:

(805) 772-7647

Title?

(b)(6),(b)(7)(C)

How long?

(b)(6),(b)(7)(C)

What is your role?

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

On or about 4/20/09, was MBMRC inspected by USDA, APHIS, AC Dr. Rosendale?

YES

Did Dr. Rosendale complete an inspection report after the inspection?

YES

Did you receive a copy of the inspection report? If not, who did?

YES - SIGNED RECEIVED BY OWNER BERTHA

What did the inspection report find?

RECORDS FOR FEEDING INADEQUATE
MEDICAL RECORDS NOT AVAILABLE AT TIME
OF INSPECTION

What were these issues identified?

/

What did you do as a result of these findings?

MADE A BOOK TO KEEP TRACK OF INDIVIDUAL
ANIMALS - PROVIDED MEDICAL RECORDS AFTER
INSPECTION

On or about 3/10/10, was MBMRC inspected by USDA, APHIS, AC Dr. Rosendale?

I BELIEVE SO

Did Dr. Rosendale complete an inspection report after the inspection?

YES

Did you receive a copy of the inspection report? If not, who did?

YES - RECEIPT SIGNED BY BERTHA

What did the inspection report find?

FEEDING RECORDS NOT AVAILABLE
VET CARE - NO ISOLATION AREA

What were these issues identified?

✓

What did you do as a result of these findings?

SEA LIONS WERE NEW TO FACILITY - HARBOR SEAL WAS
HOUSED IN AREA NORMALLY USED FOR ISOLATION -
MOVED HARBOR SEAL INTO AREA W/ OTHERS
DONT REMEMBER WHY FEEDING RECORDS WERE NOT
AVAILABLE - MAY HAVE BEEN BEHIND 2012-2500158 Page 158 RECORDS FEEDING

On or about 6/15/¹⁰~~09~~, was MBMRC inspected by USDA, APHIS, AC Dr. Rosendale?

YES

Did Dr. Rosendale complete an inspection report after the inspection?

YES

Did you receive a copy of the inspection report? If not, who did?

YES - SIGNED RECEIVED BY BERTHA

What did the inspection report find?

1. (1) SEA LION UNDERWEIGHT "RAMSES"
2. HARBOR SEAL DEATH
3. ISOLATION ISSUE
4. WE WERE NOT ADDRESSING CALORIE/FAT INTAKE ISSUE

~~Why were these issues identified?~~ WHAT HAVE YOU DONE TO ADDRESS?

(b)(6), (b)(7)(C)

- [REDACTED] PRESCRIBED MEDICINE (ANTIBIOTICS AND SOMETHING FOR DIARRHEA AND TOLD US TO INCREASE FOOD
- DR. VANESSA (MARINE MAMMALS CENTER) RECOMMENDED INCREASED FEEDING
- KEEPING TRACK OF CALORIE INTAKE / FAT CONTENT FOR EACH ANIMAL

~~What did you do as a result of these findings?~~

- EACH ANIMAL HAS OWN DIET AND MEDICATION LOG

Did Dr. Rosendale inform you of concerns she had with a California Sea Lion named Ramses?

YES

How did you address her concerns?

GAVE MEDICATION
CONSULTED W/ MARINE MAMMAL CENTER

What is the status of Ramses health at this time?

HEALTHY - EATING WELL

On or about 7/12/10, was MBMRC inspected by USDA, APHIS, AC Dr. Rosendale?

YES

Did Dr. Rosendale complete an inspection report after the inspection?

YES

Did you receive a copy of the inspection report? If not, who did?

YES - SIGNED BY ME

What did the inspection report find?

- ISOLATION ISSUE - HAD BEEN TRYING TO CREATE SPACE BUT DIDNT MOVE ANIMALS BECAUSE WE WERE CONCERNED ABOUT COMPATIBILITY
- INDIVIDUAL MEDICAL RECORDS NOT AVAILABLE
- NO TESTS CONDUCTED ON "RAMSES"

~~What were these issues identified?~~ WHAT DID YOU DO?

- TOOK SOME TIME TO COME UP WITH SYSTEM FOR MAINT. RECORDS
- HAD DR. VANESSA COME DOWN - SHE EXAMINED ANIMAL, DID BLOOD TEST AND STOOL SAMPLE
- WE NOW KEEP FOOD LOG FOR EA ANIMAL - IF PROBLEM IS DETECTED WE NOT IT IN LOG
- CREATED MEDICAL LOG FOR MEDICATIONS/DAILY VITAMINS, ANY OBS OF ANIMALS, TESTING RESULTS

~~What did you do as a result of these findings?~~

On or about 8/12/10, was MBMRC inspected by USDA, APHIS, AC Dr. Rosendale?

YES

Did Dr. Rosendale complete an inspection report after the inspection?

YES

Did you receive a copy of the inspection report? If not, who did?

YES - SIGNED BY BERTHA

What did the inspection report find?

1. SHALLOW TANK
2. ISOLATION
3. MEDICAL RECORDS

~~What were these issues identified?~~

What did you do as a result of these findings? OPENED DOOR TO ENCLOSURE
ALLOWING ACCESS TO DEEP POOL

On or about 9/21/10, was MBMRC inspected by USDA, APHIS, AC Dr. Rosendale?

YES

Did Dr. Rosendale complete an inspection report after the inspection?

YES

Did you receive a copy of the inspection report? If not, who did?

YES - RECEIVED BY BERTHA IN EMAIL

What did the inspection report find?

NO NON-COMP. ISSUES

What is the water source for the facility pools?

PUMP WATER FROM BAY - GOES THROUGH DOUBLE FILTER - CONSTANT FLOW REPLACING WATER IN POOLS

Where is the Men's Colony located?

HIGHWAY 1 - SOUTH NEAR SLO, CA

Has water testing been implemented? How often?

YES - WE TEST ONCE A WEEK