

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 20-cv-0423-JFH

**JEFFREY LOWE, LAUREN LOWE,
GREATER WYNNEWOOD EXOTIC
ANIMAL PARK, LLC, and TIGER KING,
LLC,**

Defendants.

OPINION AND ORDER

This matter is before the Court on the motion for preliminary injunction [Dkt. No. 27] and the motion for temporary restraining order [Dkt. No. 31] filed by the United States of America (the “United States”) against Defendants Jeffrey Lowe a/k/a Jeff Lowe (“Jeff Lowe”), Lauren Lowe, Greater Wynnewood Exotic Animal Park, LLC (“GWEAP, LLC”) and Tiger King, LLC (collectively referred to as “Defendants”). For the reasons set forth below, the Court grants the preliminary injunctive relief requested by the United States in both motions.

I. FACTUAL AND PROCEDURAL BACKGROUND¹

This case arises from alleged violations by Defendants of the Endangered Species Act, 16 U.S.C. §§ 1531-44, (“ESA”) and the Animal Welfare Act, 7 U.S.C. §§ 2131-59, (“AWA”). *See generally* Dkt. No. 2. From 2017 until approximately September 2020, Jeff Lowe and Lauren

¹ The facts contained in this section are undisputed, except as noted. The Court deems uncontested facts established by affidavit or evidence as admitted for the purpose of deciding a motion for preliminary injunction. *See Hobby Lobby Stores, Inc. v. Sebelius*, 723 F.3d 1114, 1146 (10th Cir.2013).

Lowe (collectively, the “Lowes”), along with GWEAP, LLC, operated a roadside zoo in Wynnewood, Oklahoma (“Wynnewood Location”)² *See Big Cat Rescue*, No. CIV-16-155-SLP, 2020 WL 2842845, at *3 (requiring that the property be vacated 120 days from the June 1, 2020 Order). Dkt. No. 28-30 at 3-14.

Inspectors from the Animal and Plant Health Inspection Services (“APHIS”), United States Department of Agriculture (“USDA”), performed inspections of the Wynnewood Location on June 22, 2020 and July 8, 2020. Dkt. No. 28-15; Dkt. No. 28-21. Reports from those inspections document numerous instances of animals at the facility being provided inadequate food, shelter, and veterinary care in violation of the AWA. *Id.* As a result of the documented violations, Jeff Lowe’s AWA license was suspended on August 13, 2020. Dkt. No. 28-29 at 2-3. On August 17, 2020, the USDA filed an administrative complaint seeking permanent revocation of Jeff Lowe’s AWA license and imposition of civil penalties. Dkt. No. 28-30. Jeff Lowe voluntarily terminated his AWA license on August 21, 2020.³ Dkt. No. 28 at 20; Dkt. No. 54 at 1. The USDA’s administrative action against Jeff Lowe is still pending. Dkt. No. 28-30.

In an unrelated case, the United States District Court for the Western District of Oklahoma issued an order requiring Defendants to vacate the Wynnewood Location by October 1, 2020. *See Big Cat Rescue Corp. v. Schreibvogel*, No. CIV-16-155-SLP, 2020 WL 2842845, at *3 (W.D. Okla. June 1, 2020). At some point in 2020, the Lowes, along with a business associate Eric Yano (“Yano”), formed Tiger King, LLC for the purpose of marketing their zoo which was to be moved

² The zoo at the Wynnewood Location, for a period of time, was also operated by Joe Maldonado-Passage, also known as “Joe Exotic,” featured in the Netflix® series “Tiger King: Murder, Mayhem and Madness.”

³ Lauren Lowe does not have a USDA issued AWA exhibitors license; she and Defendant GWEAP, LLC had operated under Jeffrey Lowe’s license. Dkt. No. 54 at 1.

to, and operated from, a location in Thackerville, Oklahoma. Dkt. No. 56-3 at 1. According to the United States, Defendants have established an unlicensed exhibition facility known as Tiger King Park, in Thackerville, Oklahoma, which houses approximately 100 to 200 ESA protected animals for the purpose of exhibiting their animals to the public (the “Thackerville Location” or “Tiger King Park”) . Dkt. No. 2 at 5.

On November 19, 2020, the United States filed a complaint seeking declaratory and injunctive relief. Dkt. No. 2. Specifically, the United States seeks an order: (1) declaring that Defendants have violated the ESA and the AWA; (2) enjoining Defendants from interfering with USDA inspections of their properties, exhibiting animals without a license and placing the animals’ health and safety at risk; and (3) requiring Defendants to relinquish possession of all ESA protected animals. *Id.* at 46-47.

On November 25, 2020, the United States filed its first motion for preliminary injunction seeking an order: (1) requiring Defendants to provide a complete and accurate inventory of the animals in their custody or control; (2) prohibiting Defendants from acquiring or disposing of any animals without notice to the United States and consent of the Court; (3) requiring Defendants to submit complete and accurate veterinary records to the United States’ attorneys within seven days of any animal’s treatment; and (4) authorizing APHIS to conduct an immediate inspection of Tiger King Park and inspections every three weeks thereafter for the duration of the injunction. Dkt. No. 9; Dkt. No. 10 at 31-32. The Court set a hearing on the motion for December 16, 2020. Dkt. No. 14.

On December 14, 2020, the parties filed a stipulation in which they agreed, in pertinent part, that: (1) on or before December 15, 2020, Defendants would provide the United States with

a complete inventory of all ESA and AWA protected animals in their custody or control;⁴ (2) during the pendency of the case, Defendants would not acquire or dispose of any ESA or AWA protected animal without first meeting and conferring with the United States and obtaining leave of Court; (3) APHIS would conduct routine inspections of Tiger King Park, the first of which would occur on December 15, 2020; and (4) thereafter, APHIS would conduct unnoticed inspections of Tiger King Park, not to exceed one inspection every 21 days, at USDA's discretion. Dkt. No. 23 at 2.⁵ The Court approved the parties' stipulation and vacated the December 16, 2020 hearing. Dkt. No. 25.

On December 23, 2020, the United States filed a second motion for preliminary injunction, citing additional ESA and AWA violations following the December 15, 2020 inspection. Dkt. No. 27; Dkt. No. 28 at 13-14. In its motion, the United States requests that, pending adjudication of its claims, the Court order Defendants to: (1) immediately cease exhibiting animals without a valid exhibitor's license; (2) retain an attending veterinarian, as required under the AWA; (3) provide acquisition and disposition records for all animals missing since the June 2020 inspection; (4) submit veterinary records after treatment of an animal; and (5) submit acquisition and disposition records after any change to the December 16, 2020 inventory. Dkt. No. 27; Dkt. No. 28 at 33-34.

On December 30, 2020, the United States also filed a motion for a temporary restraining order. The United States claims that on or about December 21, 2020, Defendants authorized the euthanasia of a tiger cub with metabolic bone disease and secondary fracture without conferring with the United States or seeking leave of Court, in violation of the parties' stipulation. Dkt. No.

⁴ Pursuant to the stipulation, the inventory was to include each animal's name, species name, location within facility, parents, birth date or acquisition date, sex, and owner. Dkt. No. 23 at 2.

⁵ Common dogs, cats, guinea pigs, hamsters, and rabbits were exempted from the inventory and acquisition/disposition provisions of the stipulation. Dkt. No. 23 at 1.

32 at 23-24. In its motion for temporary restraining order, the United States seeks an order requiring Defendants to relinquish custody and control of all Big Cat⁶ cubs one year old or younger, along with the cubs' respective mothers, to the United States for temporary placement at reputable facilities selected by the United States. Dkt. No. 32 at 32.

The Court held an evidentiary hearing on the United States' motion for preliminary injunction and motion for temporary restraining order on January 12, 2021.⁷ Dkt. No. 35. Based on the parties' arguments and evidence, and for the reasons set forth below, the Court finds that the United States is entitled to the preliminary injunctive relief requested.

II. STANDARD

Except as to notice and duration, the legal standards governing a temporary restraining order ("TRO") and a preliminary injunction are the same. *See People's Tr. Fed. Credit Union v. Nat'l Credit Union Admin. Bd.*, 350 F. Supp. 3d 1129, 1138 (D.N.M. 2018) ("The requirements for a TRO issuance are essentially the same as those for a preliminary injunction order."). The primary difference between a TRO and a preliminary injunction is that a TRO may issue without notice to the opposing party and that a TRO is of limited duration. *See Fed. R. Civ. P.* 65(b). Where, as here, a motion for a TRO is before the Court after notice to the opposing party and an

⁶ For the purpose of the subject motions, "Big Cats" refer to lions, tigers and hybrids thereof. Dkt. 31 at 1, n. 1.

⁷ No live witness testimony was presented at the evidentiary hearing. All witness testimony in this case has been presented by Declaration. Dkt. No. 28-1; Dkt. No. 28-5; Dkt. No. 28-6; Dkt. No. 28-7; Dkt. No. 28-8; Dkt. No. 28-9; Dkt. No. 28-13; Dkt. No. 28-14; Dkt. No. 28-16; Dkt. No. 28-17; Dkt. No. 28-18; Dkt. No. 28-19; Dkt. No. 28-20; Dkt. No. 28-22; Dkt. No. 28-23; Dkt. No. 28-24; Dkt. No. 28-25; Dkt. No. 28-26; Dkt. No. 28-31; Dkt. No. 28-36; Dkt. No. 28-37; Dkt. No. 32-1; Dkt. No. 32-2; Dkt. No. 32-3; Dkt. No. 55-8; Dkt. No. 55-9; Dkt. No. 55-10; Dkt. No. 55-11; Dkt. No. 56-2; Dkt. No. 56-3; Dkt. No. 57-1; Dkt. No. 57-2. *See also* Stipulation for Hearing, Dkt. 53 at 2.

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