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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re)	AWA Docket No. 07-00
)	
SINCLAIR RESEARCH CENTER, INC.)	
(formerly known as REPRODUCTIVE)	
AND TOXICOLOGY CONSULTATION)	
AND SERVICES, INC.), a Missouri)	
domestic close corporation,)	
)	
Respondent.)	COMPLAINT

There is reason to believe that the respondent named herein has willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) (the "Act"), and the regulations and standards issued thereunder (9 C.F.R. § 1.1 et seq.) (the "Regulations" and "Standards"). Therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS") issues this complaint alleging, as follows:

JURISDICTIONAL ALLEGATIONS

1. Respondent Sinclair Research Center, Inc., formerly known as Reproductive and Toxicology Consultation and Services, Inc., is a Missouri domestic close corporation whose agent for service of process is Guy Bouchard, 562 State Route DD, Auxvasse, Missouri 65231.
2. At all material times herein, Guy Bouchard was the president, secretary and director of respondent Sinclair Research Center, Inc., and managed, controlled and directed its business activities. When construing or enforcing the provisions of the Act and the Regulations and Standards, the act, omission or failure of any person acting for or employed by respondent shall be deemed the act, omission, or failure of respondent as well as such person. 7 U.S.C. § 2139.
3. Since August 14, 1997, and at all material times herein, respondent operated as a

dealer as that term is defined in the Act and Regulations and held Animal Welfare Act license number 43-A-2499 issued to "SINCLAIR RESEARCH CENTER INC."

4. Since February 9, 1994, and at all material times herein, respondent operated as a research facility as that term is defined in the Act and Regulations and held Animal Welfare Act registration number 43-R-0104 issued to "SINCLAIR RESEARCH CENTER."

5. Respondent conducts its activities at various locations, to wit:

43-R-0104 Original Site 1 5701 S. Sinclair Road, Columbia, Missouri;

43-R-0104 Site 2 43 Anderson Road, Windham, Maine;

43-R-0104 New Site 1 562 State Road DD, Auxvasse, Missouri;

43-A-2499 Original Site 1 5701 S. Sinclair Road, Columbia, Missouri;

43-A-2499 Site 2 43 Anderson Road, Windham, Maine; and,

43-A-2499 New Site 1 562 State Road DD, Auxvasse, Missouri.

**ALLEGATIONS REGARDING THE SIZE OF RESPONDENT'S BUSINESSES,
THE GRAVITY OF THE ALLEGED VIOLATIONS,
RESPONDENT'S COMPLIANCE HISTORY AND GOOD FAITH**

6. Respondent operates a large business. At all material times herein, respondent conducted breeding and research activities at multiple sites and generated millions of dollars in gross sales of regulated animals, to wit:

	<u>Regulated Animals Sold</u>	<u>Gross Sales from Regulated Animals</u>
2001	153	\$52,520
2002	1,860	\$1,335,606
2003	2,343	\$1,684,565
2004	2,179	\$1,509,952

7. The gravity of the violations alleged in this complaint is great. They include

several instances in which respondent failed to provide minimally-adequate housing and husbandry to its animals after receiving written notice from APHIS regarding of such deficiencies.

8. Respondent does not have a history of pervious litigated violations. However, on December 20, 2002, complainant issued to respondent an Official Warning for its failure to submit an Annual Report for research facilities in accordance with section 2143(a)(7) the Act and section 2.36(a) and of the Regulations.

9. Respondent has shown a lack of good faith. Specifically, respondent conducted regulated activities at an unreported site, thereby thwarting the Secretary of Agriculture's ability to monitor and enforce the provisions of the Animal Welfare Act and the Regulations and Standards.

ALLEGED VIOLATIONS

10. Respondent violated the Regulations governing research facilities (9 C.F.R. §§ 2.30-2.38), as follows:

11. On or about July 9-10, 2003. Respondent failed to notify the APHIS Animal Care Regional Director by certified mail of changes in its operation that affected its status as a research facility within 10 days of making such changes. 9 C.F.R. § 2.30(c)(1).

12. On or about July 9-10, 2003. Respondent failed to ensure that protocol 02277, involving procedures on sheep that would cause more than momentary or slight pain or distress to the animals, was performed using appropriate sedatives, analgesics or anesthetics, and specifically, said protocol, as approved by the respondent's Institutional Animal Care and Use Committee ("IACUC"), failed to provide the animals with analgesics on the surgical date or

during the first twenty-four hours post-surgery. 9 C.F.R. § 2.31(d)(1)(iv)(A).

13. On or about July 9-10, 2003. Respondent failed to ensure that personnel conducting procedures on animals in protocol 02283 were appropriately qualified and trained in such procedures, and specifically, said protocol, as approved by the IACUC, failed to identify the surgeon who would perform the procedures on the animals or his qualifications.

9 C.F.R. § 2.31(d)(1)(viii).

14. On or about July 9-10, 2003. Respondent failed to ensure that protocols contained a complete description of the proposed animal use, and specifically, protocols 02278, 03307 and 02283, as approved by the IACUC, failed to describe completely the proposed use of 30 dogs, 5-100 swine, and 10 sheep, respectively. 9 C.F.R. § 2.31(e)(3).

15. On or about July 9-10, 2003. Respondent failed to provide minimally-adequate training and instruction to personnel regarding proper handling and care of the various species of animals used by the facility and methods by which deficiencies in animal care and treatment are reported. 9 C.F.R. § 2.32(c)(1)(ii), (4).

16. On or about July 9-10, 2003. Respondent failed to report and fully explain to APHIS an activity involving animals that was suspended by respondent's IACUC, and specifically, failed to report and explain to APHIS the circumstances surrounding the IACUC's termination of protocol 02255 involving 16 cats. 9 C.F.R. § 2.31(d)(7).

17. On or about July 9-10, 2003. Respondent failed to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent, control, diagnose, and treat disease and injuries, and specifically, failed to vaccinate dogs and cats, in accordance with its veterinary care program, and to administer prescribed medical

therapies to animals. 9 C.F.R. §§ 2.33(b)(2), 2.40(b)(2).

18. On or about July 9-10, 2003. Respondent failed to establish and maintain programs of adequate veterinary care that included daily observation of all animals to assess their health and well-being with a mechanism of direct and frequent communication so that timely information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian, and specifically, failed to observe and communicate timely information to the attending veterinary regarding no fewer than five pigs that exhibited signs of injury and/or disease. 9 C.F.R. §§ 2.33(b)(3), 2.40(b)(3).

19. On or about July 9-10, 2003. Respondent failed to list the location of all facilities where animals are housed or used in actual research, testing, teaching, or experimentation, or held for such purposes in the annual report it submitted to the AC Regional Director.
9 C.F.R. § 2.36(b)(4).

20. On or about May 10-11, 2005. Respondent failed to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent, control, diagnose, and treat disease and injuries, and specifically, allowed the hooves of six pigs to become overgrown. 9 C.F.R. § 2.33(b)(2).

21. Respondent willfully violated sections 2.38(k)(1) and 2.100(a) of the Regulations by failing to meet the minimum facilities and operating standards for dogs and cats (9 C.F.R. §§ 3.1-3.19), and other animals (9 C.F.R. §§ 3.125-3.142), and specifically:

22. On or about July 9-10, 2003. Respondent failed to sufficiently ventilate indoor housing facilities for dogs and cats at all times such animals are present to provide for their health and well-being, and to minimize odors, drafts, ammonia levels, and moisture

condensation, and specifically, housed 108 cats in rooms that lacked adequate ventilation and had a strong excreta odor. 9 C.F.R. §§ 2.38(k)(1), 2.100(a), 3.2(b). Respondent's IACUC previously notified respondent of ventilation deficiencies and high ammonia levels in buildings housing animals on January 23, 2002, July 16, 2002, and January 27, 2003.

23. On or about July 9-10, 2003. Respondent housed no fewer than three dogs in primary enclosures that failed to contain the animals securely, thereby risking both injury to the animals and their escape. 9 C.F.R. §§ 2.38(k)(1), 3.6(a)(2)(ii),(iii).

24. On or about July 9-10, 2003. Respondent housed no fewer than sixty-four cats in two rooms (rooms 13 and 16) that failed to contain a sufficient number of receptacles containing clean litter to contain excreta and body wastes. 9 C.F.R. §§ 2.38(k)(1), 2.100(a), 3.6(b)(3). Respondent's IACUC previously notified respondent regarding its failure to provide minimally-adequate litter boxes to cats housed at its facility on January 27, 2003.

25. On or about July 9-10, 2003. Respondent housed cats in no fewer than seven enclosures that failed to contain any resting surfaces for the animals or that contained resting surfaces that could not accommodate the cats comfortably. 9 C.F.R. §§ 2.38(k)(1), 2.100(a), 3.6(b)(4).

26. On or about July 9-10, 2003. Respondent failed to keep the premises where housing facilities are located, including buildings and surrounding grounds, clean and in good repair to protect the animals from injury, to facilitate the required husbandry practices, and to reduce or eliminate the breeding and living areas for rodents and other pests and vermin, and specifically, failed to remove expired dog food from a building near animal areas.
9 C.F.R. §§ 2.38(k)(1), 3.11(c).

27. On or about July 9-10, 2003. Respondent failed to construct housing facilities of appropriate material for the animals involved and to maintain them in good repair to protect the animals from injury, and specifically, housed piglets in enclosures that allowed the animals' feet to fall through the floor, thereby risking injury to the piglets' legs and feet. C.F.R.

§§ 2.38(k)(1), 2.100(a), 3.125(a).

28. On or about July 9-10, 2003. Respondent failed to establish and maintain a minimally-adequate program for the control of insects and birds and mammals that are pests, which failure resulted in two of respondent's piglets sustaining serious fly bites and APHIS officials observing roaches and rodent feces in and around the animal areas. 9 C.F.R.

§§ 2.38(k)(1), 2.100(a), 3.11(d), 3.131(d).

29. On or about July 9-10, 2003. Respondent failed to sufficiently regulate the temperature in indoor housing facilities by heating or cooling to protect the animals from the extreme temperatures, to provide for their health and to prevent their discomfort, and specifically, housed sows in buildings with extremely high temperatures; the ambient temperature was 97 Fahrenheit with equally high humidity. 9 C.F.R. §§ 2.38(k)(1), 2.100(a), 3.126(a). Respondent's IACUC previously notified respondent of high temperatures and humidity in animal buildings on January 27, 2003, and July 1, 2003.

30. On or about July 9-10, 2003. Respondent failed to construct and keep in good repair drains used to eliminate rapidly, excess water from indoor housing facilities in a manner that avoids foul odors and prevents any backup of sewage, and specifically, drains in two of respondent's buildings (Columbia site, buildings #40 and #62) were clogged and non-functional, thereby allowing stagnant water to surround the area used to sanitize the animals' enclosures.

9 C.F.R. §§ 2.38(k)(1), 2.100(a), 3.126(d).

31. On or about July 9-10, 2003. Respondent housed a pig in an enclosure that failed to provide the animal with sufficient space to make normal postural adjustments with adequate freedom of movement. 9 C.F.R. §§ 2.38(k)(1), 2.100(a), 3.128.

32. On or about July 9-10, 2003. Respondent housed animals that were not compatible in the same primary enclosure, and specifically, two pigs housed in the same enclosure exhibited injuries (abraded skin and mauled ears) consistent with fighting. 9 C.F.R. §§ 2.38(k)(1), 2.100(a), 3.133.

33. On or about December 11, 2003. Respondent failed to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent, control, diagnose, and treat disease and injuries, and specifically, failed to vaccinate cats, in accordance with its veterinary care program. 9 C.F.R. § 2.40(b)(2). APHIS officials previously provided respondent with written notice regarding its failure to vaccinate animals as set forth in respondent's veterinary care program in August 2003.

34. On or about December 11, 2003. Respondent failed to construct housing facilities of appropriate material for the animals involved and to maintain them in good repair to protect the animals from injury, and specifically, housed piglets in enclosures that allowed the animals feet to fall through the floor, thereby risking injury to the piglets legs and feet. C.F.R. §§ 2.100(a), 3.125(a). APHIS officials previously provided respondent with written notice regarding its failure to properly house piglets in August 2003.

35. On or about December 11, 2003. Respondent failed to construct and keep in good repair drains used to eliminate rapidly, excess water from indoor housing facilities in a manner

that avoids foul odors and prevents any backup of sewage, and specifically, the drainage system in one of respondent's buildings (Columbia site, building #46) was non-functional, thereby allowing the backup of feces, urine, and water near animal areas. 9 C.F.R. §§ 2.100(a), 3.126(d). APHIS officials previously provided respondent with written notice regarding its non-functioning drainage system in August 2003.

36. On or about December 11, 2003. Respondent housed no fewer than 12 animals (sows and boars) in enclosures that failed to provide the animals with sufficient space to make normal postural and social adjustments with adequate freedom of movement. 9 C.F.R. §§ 2.100(a), 3.128. Both APHIS officials and respondent's IACUC previously provided respondent with written notice regarding its failure to provide animals with minimally-adequate space, in August 2003, and July 16, 2002, January 27, 2003, and July 1, 2003, respectively.

37. On or about May 4-6, 2004. Respondent housed dogs in primary enclosures that failed to contain the animals securely, thereby risking both injury to the animals and their escape. 9 C.F.R. §§ 2.38(k)(1), 3.6(a)(2)(ii),(iii). APHIS officials previously provided respondent with written notice regarding its failure to properly house animals in August 2003.

38. Each animal affected by respondent's failure to comply with the Regulations and Standards, as alleged herein, constitutes a separate violation of the Act, Regulations and Standards. 7 U.S.C. § 2149(b); ¶¶ 14, 17-19, 22-25, 27, 32-34, 36-37.

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the regulations issued under the Act, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in

10

accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests:

1. That unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and
2. That such order or orders be issued as are authorized by the Act and warranted under the circumstances, including an order:
 - (a) Requiring the respondent to cease and desist from violating the Act and the regulations and standards issued thereunder;
 - (b) Assessing civil penalties against the respondent in accordance with section 19 of the Act (7 U.S.C. § 2149); and
 - (c) Suspending or revoking respondent's license.

Done at Washington, D.C.
this 4th day of October, 2006

Adhy
Kevin Shea
Administrator
Animal and Plant Health
Inspection Service

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