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FAX 512-457-9855**Jennifer S. Riggs**Certified in Administrative Law
Texas Board of Legal Specialization
jriggs@r-a-law.com**Bill Aleshire**Member, College of
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aleshire@r-a-law.com

October 20, 2006

VIA FACSIMILE: 210 545-4329Ms. Melissa Story
San Antonio Region Office
Texas Commission on Environmental Quality
14250 Judson Rd.
San Antonio, Texas 78233-4480

RE: Wild Animal Orphanage - RN# 102911369; Track Nos. 253839 and 253853

Dear Ms. Story,

This law firm represents the Wild Animal Orphanage (WAO) regarding the issues in your agency's letter of September 18, 2006. This letter is intended to document the conversation you and I had last week about this matter and to lay out the corrective actions our clients are taking to ensure full compliance with TCEQ rules.

Our client agrees to cease processing any solid waste onsite. Specifically, WAO has obtained and will continue to use a large dumpster to deposit solid waste to be processed at a licensed MSW site. All of the existing piles of materials will either (1) be neatly organized for material, such as cages and pallets, that will be used onsite, or (2) mulch brush after being stored for no more than three months, or (3) be deposited in the dumpster for proper transfer to a permitted Type 1 landfill. WAO has already begun cleaning up the trash piles, although they were delayed somewhat due to the recent rains.

Dead animals will not be disposed of onsite, and records will be maintained about the health and disposition of dead animals. For the foreseeable future, our client will contract with a service to collect dead animals or rely on their veterinarians to properly dispose of the dead animals. At some point, our client may apply for an animal incinerator permit by rule pursuant to TCEQ rules.

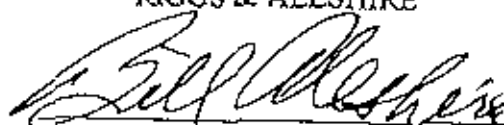
As you requested, WAO is preparing a report on the past disposition of animals buried in two places onsite. Rather than leave this solid waste onsite, since it may be in the floodplain, WAO prefers to remediate the site by removing the carcasses and depositing them in a permitted Type 1 landfill. WAO will make a record of each load including receipts from the landfill where the carcasses are taken.

Please let me know if this letter reflects your understand of our conversation. I am available to you at 512 457-9838 if there is anything else we need to discuss in order to bring this

Ms. Melissa Story
October 20, 2006
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matter to a proper conclusion. As soon as the report on the animals is ready—which I expect next week—I will let you know.

Sincerely,
RIGGS & ALESHIRE



Bill Aleshire

Cc: Wild Animal Orphanage

Melissa Story - RE: Wild Animal Orphanage

From: "Bill Aleshire" <Aleshire@r-alaw.com>
To: "Melissa Story" <MSTORY@tceq.state.tx.us>
Date: 11/3/2006 12:39 PM
Subject: RE: Wild Animal Orphanage

Ms. Story,

As we just discussed, please provide me, or have your legal department provide me, the specific statutory authority under which the TCEQ would receive medical records concerning deceased animals at the WAO. Over the years, there have been deceased animals whose carcasses were sent to specialized services, some retained by vets and disposed of by the vets, and others that were buried onsite. The burials onsite were pursuant to WAO's understanding with the Health Department. Now, TCEQ says they should not have been buried there, and our client is willing to remediate the site, dig up the carcasses and dispose of them in a Type 1 landfill.

The last animal buried onsite was in July 2006, according to records of our client. I do not see what regulatory issue, within the TCEQ's domain, is raised about carcasses that have been buried (and some burned) for many months or years.

Because our client is being besieged by crazed fanatics who wish to sensationalize any matter they can to hurt our clients, we, as their attorneys, must be careful that we do not waive any of our client's defensive or affirmative rights. That is the reason for my request that you indicate formally the authority for obtaining these medical records on deceased animals (1) that are buried onsite, and (2) that were not buried onsite.

I sincerely appreciate the professional approach you have demonstrated in this matter, and I stand ready to assist you in conducting any lawful inquiry you have concerning our client and our client's records.

Bill Aleshire
Riggs & Aleshire, P.C.
700 Lavaca, Suite 920
Austin, Texas 78701
512 457-9838 phone
512 457-9066 fax
Aleshire@R-ALaw.com

From: Melissa Story [mailto:MSTORY@tceq.state.tx.us]
Sent: Friday, November 03, 2006 12:15 PM
To: Bill Aleshire
Subject: Wild Animal Orphanage

Mr. Aleshire -

According to the complainant, the following list of animals may have been buried at the Wild Animal Orphanage Facility located on Talley Road.

- 2 Gray Wolves (Pawnee & Blackie; shot after escape)
- 1 Rhesus Macaque (Rogan): Born to Shawna **
- 1 Longtail Macaque: Born to ? **
- 2 Stumptail Macaques (Extended illness and fighting - Vilas Troop) **
- 1 Rhesus Macaque (Dexter - Fighting) **
- 1 North American Black Bear (Duchess)
- 1 Chimpanzee (Amanda)
- 1 5-day old Llama
- 1 Javan Macaque (Gladys) ***

If in the event I receive anymore animal listings, I will give you a call.

Thank you -

Melissa Story
TCEQ - Region 13
(210) 403-4071

Melissa Story - RE: Wild Animal Orphanage

From: "Bill Aleshire" <Aleshire@r-alaw.com>
To: "Melissa Story" <MSTORY@tceq.state.tx.us>
Date: 11/6/2006 5:01:51 PM
Subject: RE: Wild Animal Orphanage
CC: "Henry Karnei" <HKARNEI@tceq.state.tx.us>

Ms. Story,

We are concerned about releasing records of our client, that are otherwise confidential, to the TCEQ unless TCEQ clearly has authority to obtain that confidential information. More specifically, as I explained in my last email to you, I cannot find any legal basis for the TCEQ to obtain medical record information about the animals. Therefore, the only question I have about your request for the Summary information is whether TCEQ has authority to collect, assemble, or maintain the information about the cause of death or other details of (1) animals that are buried onsite and which we propose to transfer to a Type 1 landfill and (2) on animals that are not buried onsite. Please understand that we will fully cooperate with any lawful inquiry from the TCEQ. On the one hand, our clients swear that no animal was buried onsite that had a communicable disease as the cause of death. Nor can we find any health expert who claims that even if animals had diseases and were buried that it would still pose any unusual health risk after being buried so long. So, to us, the cause of death is a non-issue as well as being an issue outside TCEQ's jurisdiction.

On the other hand, this law firm has no intention of distributing information gratuitously to the TCEQ or to any other public agency that the fanatics who are unreasonably attacking our client can then acquire for sensationalistic purposes under the Texas Public Information Act. We have witnessed more than one incident whether these fanatics attempt to misuse the processes of government or the news media to pursue their personal attacks on our clients. We will not condone nor facilitate such illegitimate tactics.

If TCEQ wishes to obtain a summary of the information our client has of animals (species) that are buried onsite and the date the animals died, I can see how *that* information would be within the TCEQ jurisdiction. If TCEQ also wants records of disposition of animals that are not buried onsite, I need to receive notice of your authority to obtain that information from our client. Also, if TCEQ wants more detailed information about the medical records of the animals that are buried onsite (beyond the basic information about the type of animal and date of death), I likewise need to receive notice of your authority to obtain that information from our client.

Respectfully,

Bill Aleshire
Riggs & Aleshire, P.C.
700 Lavaca, Suite 920
Austin, Texas 78701
512 457-9838 phone
512 457-9066 fax
Aleshire@R-ALaw.com

From: Melissa Story [mailto:MSTORY@tceq.state.tx.us]
Sent: Monday, November 06, 2006 3:52 PM
To: Bill Aleshire
Cc: Henry Karnei
Subject: RE: Wild Animal Orphanage

Mr. Aleshire -

At this time, I am requesting a copy of the "Summary" that your client has prepared for the TCEQ in response to the NOV. The "Summary" you have spoken of should include the deceased animals, what they died of (disease, infected/virus, etc), and where they were disposed of. If the information appears to be adequate, other records from your client may not be necessary.

You also mentioned the burials onsite were pursuant to WAO's understanding with the Health Department. Please provide a copy of the approval or agreement between your client and the Health

Department.

The TCEQ appreciates your client's cooperation and efforts to have the site remediated and all carcasses removed of and disposed of properly.

Thank you as well for the cooperation in this matter.

Melissa Story
Environmental Investigator
TCEQ San Antonio Region Office
(210) 403-4071

>>> "Bill Aleshire" <Aleshire@r-alaw.com> 11/3/2006 12:39 PM >>>

Ms. Story,

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- 1 Chimpanzee (Amanda)
- 1 5-day old Llama
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If in the event I receive anymore animal listings, I will give you a call.

Thank you -

Melissa Story
TCEQ - Region 13
(210) 403-4071

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December 6, 2006

VIA FACSIMILE: 210 545-4329

Mr. Xavier Guerra
Staff Attorney
Litigation Division
Texas Commission on Environmental Quality
14250 Judson Rd.
San Antonio, Texas 78233

Re: Wild Animal Orphanage - RN# 102911369; Track Nos. 253839 and 253853

Dear Mr. Guerra,

This letter follows up from our conversation yesterday. I understand that there are 3 outstanding issues we need to deal with. As an overall concern, I request that any information or action that is requested by TCEQ personnel of our client be communicated through me. I believe this will enable us to respond more efficiently and appropriately than having TCEQ staff orally make requests of our client.

Disposal of buried animal carcasses: You indicated that TCEQ staff is concerned about whether buried carcasses may include "test-lab animals." Our clients will provide you with affidavits, if requested, noting that very few of the animals buried there, or accepted for care at WAO, were test-lab animals. Most of the animals were simply orphaned or abandoned animals. The test-lab chimps and monkeys were primarily involved in "hair loss" experiments.

I was shocked at your suggestion that TCEQ personnel would be seriously considering whether WAO buried animals that were "exposed to radiation" or other virus experimentation. First of all, no such animals have been received at WAO. Secondly, if such contagious animals had been accepted at WAO, the health dangers would have been more significant when such animals were alive than they would be with them being buried. No such animals have been accepted and none of the animals that were buried there died of any communicable diseases. Your suggestion is a sign of spreading hysteria and wild, defamatory accusations that have been published by wild-eyed critics of our client. We will not fan those flames and will preserve every option for our clients to, eventually, hold them accountable for the damage they are doing.

As I understand it, TCEQ enforcement staff agree with our clients that the carcasses should be removed from the current site and disposed of in a permitted landfill. In fact, Ms. Story told our client that, except for the larger animals, WAO should have been putting the carcasses in a dumpster to be hauled off to a landfill instead of burying them onsite. Therefore, we fail to see why such a fuss is being made about getting detailed information on the cause of death of each of the animals. WAO has not buried any animals onsite in several months. Our client is willing to provide statistical data, based on their records of the number of animals, by

Mr. Xavier Guerra
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species, buried onsite. After this number of years, we do not expect to find anything in the burial site but bones, and it would be virtually impossible to identify particular animals or particular species since they were buried en masse, not individual graves, about 12 feet below ground.

ISSUE: Please let me know in writing what TCEQ's request is for records regarding these buried carcasses and the procedure by which our clients can have the carcasses removed to a landfill.

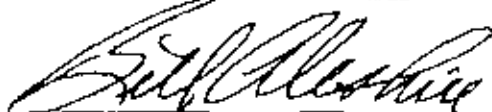
Holding tank and septic systems: You informed me that TCEQ would like to conduct an inspection of the holding tank and septic systems on WAO's property. Just let me know when your inspector would like to conduct that inspection and we will coordinate the date with our client.

Our client will try to find their copies of the permits and correspondence related to the holding tank and septic systems. Our client recalls receiving permits for the septic systems from Bexar County through the engineer who designed the systems. Our client also recalls discussions with and physical visits by TCEQ employee Mr. Lock at the time the facilities were being constructed. Please consider this an Open Records request for a copy of any TCEQ documents related to the holding tank and septic systems at the WAO property.

Documentation of Waste Disposal: Our client complied with TCEQ's request to have the solid waste removed to a landfill site. WAO deposited the material in several metal dumpsters for which they paid a contractor. I understand that Ms. Story received copies of the paid receipts for the dumpsters and hauling services, but that more specific documentation is requested about the transportation and disposal of the waste. Therefore, our client has requested the dumpster contractor to provide copies of their records indicating the final disposal location of the material.

Please feel free to call me if we need to discuss this further. I look forward to hearing back from you. I will provide you the documents indicated above as soon as they become available. You can email me at Aleshire@R-ALaw.com or by fax at 512 457-9066. My direct line is 512 457-9838.

Sincerely,
RIGGS & ALESHIRE



Bill Aleshire

Cc: WAO