

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Daniel J. Moulton, an individual, also) AWA Docket No. **19-0004**
known as Dan Moulton, doing business)
as Moulton Chinchilla Ranch,)
)
Respondent.)

**Hearing Notice (“virtual” Hearing via online platform):
2021 July 26 through 30 (Mon – Fri),
2021 August 9 through 13 (Mon – Fri), and
2021 September 20 through 24 (Mon -- Fri)**

Appearances:

Rupa Chilukuri, Esq., and John V. Rodriguez, Esq., each with the Office of the General Counsel, United States Department of Agriculture, 1400 Independence Ave SW, Washington, DC 20250, for the Complainant, APHIS¹; and

the Respondent Daniel J. Moulton, also known as Dan Moulton, representing himself.

1. A dial-in telephone conference in Docket No. **19-0004**, the above-captioned matter, lasting an hour, was held on February 9, 2021. Participating were the three individuals shown above under “Appearances”; and for the USDA Office of Administrative Law Judges (“OALJ”), Judge Jill S. Clifton; Administrative Management Specialist Marilyn “Nita” Kennedy; and Attorney Advisor Erin Hoagland, Esq. During the call, Judge Clifton chose hearing dates and times.

2. The Hearing in AWA Docket No. **19-0004** regarding Respondent Daniel J. Moulton, an individual, also known as Dan Moulton, doing business as Moulton Chinchilla Ranch, has been scheduled for fifteen (15) days (unless completed sooner): **2021 July 26 through 30 (Mon – Fri), 2021 August 9 through 13 (Mon – Fri), and 2021 September 20 through 24 (Mon – Fri), via virtual webcast** (platform to be decided),² logging in no later than 9:00 a.m. Central (10:00 a.m. Eastern) the first day and concluding at about 2:55 p.m.

¹ The Complainant is the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture (“APHIS” or Complainant).

² See 7 C.F.R. § 1.141(b). The Office of Administrative Law Judges has access to Microsoft Teams but does not have a license to another platform. **Counsel for APHIS are requested to check with their client to confirm whether the Zoom license available to APHIS can be used.**

Central (3:55 p.m. Eastern).³ Upon logging in, Judge Clifton will ask counsel and parties and their participants to identify themselves and provide identifying information for the transcript, in part to assist the court reporter, and to confirm connectivity.

3. Parties and counsel shall promptly notify their clients, potential witnesses and other essential participants of this Hearing setting. The parties shall alert one another of any conflicts. Any objections to the schedule or the logistics of the Hearing shall be filed promptly with the Hearing Clerk with proposed solutions.

4. Due to the Corona virus pandemic and limited in-office staffing, filing via email with the Hearing Clerk at SM.OHA.HearingClerks@usda.gov is preferred. Or, use the FAX number for the Hearing Clerk, if you prefer. The Hearing Clerk receives FAXes sent to **1-844-325-6940** in an inbox on the computer, so coming into the office is not required to retrieve the FAXes.

Logistics for Participation in Virtual Hearing

5. Parties will need email addresses to which invitations to the Hearing will be sent. All participants in the Hearing—including the parties, the parties’ representatives, the parties’ witnesses, the court reporter, and the judge—may each choose his or her own physical location but should ensure the ability to access 1) a secure and dependable high-speed internet connection or telephone connection if using the dial-in option; 2) a computer or smart mobile device that is compatible with platform application and has a camera and microphone for both video and audio capability, or telephone if using the dial-in option; and 3) must have downloaded the platform application on the computer or mobile device to be used or be prepared to dial-in to the hearing as instructed below.

6. A virtual “room” will be reserved for the hearing dates,⁴ and calendar invitations will be sent to the parties via email along with access instructions.⁵ Links and access telephone numbers will be provided by the “Designation of Hearing Location” to be issued by the judge closer to the Hearing. For assistance, Ms. Kennedy can be contacted by phone at

³ The time at which the Hearing will go on record will be determined the first day based on the progress of counsel and the parties and witnesses logging in. Likewise, the time at which the Hearing will go on record for subsequent hearing dates will be determined and confirmed as we go.

⁴ If the Hearing is to be conducted via Zoom (*see supra* note 2), we are reliant on counsel for APHIS to reserve the virtual “room” and provide OALJ staff or others as appropriate with “hosting” privilege.

⁵ The parties are responsible for forwarding the calendar invitations to any other participants or observers via email, and for disclosing any participants/observers as detailed herein.

1-202-720-8423 or email at marilyn.kennedy@usda.gov and Ms. Hoagland can be contacted via email at erin.hoagland@usda.gov

7. There are two options for accessing the virtual hearing:
 - A. Participants may log into the platform via computer or smart mobile device (*preferred*), click on the provided link, ensure that your full name is viewable. Participants should test video and microphone to ensure operability. When you enter you should select “join by computer audio.”
 - B. If a participant does not have access to a computer or smart mobile device, the participant may dial-in to the platform. If a party to the hearing, or a party’s witness, must utilize the dial-in option, please ensure that all other hearing participants have been notified prior to the hearing and ensure that the telephone dial-in participant is identified by full name once connected.
8. Hearing testimony will be transcribed. A copy of the transcript or portions of the transcript may be purchased by making arrangements with the court reporter at the Hearing.

Virtual Hearing Expectations and Guidelines

9. Virtual hearings are a new experience for many participants and technical difficulties may arise. However, in the interest of due process, the following virtual hearing expectations are provided to maintain decorum and ensure an environment that is considerate and respectful of the parties, the judge, and all other participants.
 - Only participants that have been disclosed by the parties as directed herein and OALJ staff will be admitted to the Zoom hearing “room” (virtual).
 - DO NOT VIDEOTAPE, BROADCAST, TELEVISION, AUDIO RECORD, OR PHOTOGRAPH, INCLUDING TAKING SCREENSHOTS, OR OTHER COPYING. RECORDING IS PERMITTED ONLY BY THE OFFICIAL COURT REPORTER. Violation of this rule or causing disruptions may result in removal and other sanctions.
 - Participants are expected to appear on video in both dress and manner as they would if appearing before the judge in person. Participants should be aware of the appropriateness of the visible background and should keep background noise to a minimum.
 - Witnesses may not use a virtual background. Opposing counsel must be able to see who, if anyone, is in the room with them when they testify. The Judge may ask, upon the request of a party, a witness to move the camera to show their surroundings.

- Counsel/parties may use the “Share Screen” tool to share a document on the screen or use email to send a document as an attachment to a witness, other counsel, the judge, and the court reporter. The judge’s copy of any document that is shared on the day of the hearing and that is admitted to evidence will be the official record copy.
- Only participants “on the floor,” such as the judge, examining counsel/party, witness, and opposing counsel/party, should have their microphones on. If a party is not examining a witness or otherwise speaking, that party should keep his/her microphone on mute. All other participants/observers should keep their microphones on mute.
- Participants may use the “chat” function for technical questions/issues but should refrain from extraneous discussion. Participants may use the “raise hand” function to raise procedural issues or questions.
- The parties should ensure continued access to email throughout the virtual hearing in case documents must be exchanged.

Copies of this order

“Hearing Notice (“virtual” Hearing via online platform):

2021 July 26 through 30 (Mon – Fri),

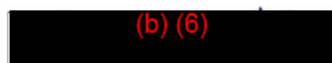
2021 August 9 through 13 (Mon – Fri), and

2021 September 20 through 24 (Mon -- Fri)”

shall be sent by the Hearing Clerk to each of the parties.

Done at Washington, D.C.

this 10th day of February 2021

 (b) (6)
Jill S. Clifton Digitally signed by JILL CLIFTON
Date: 2021.02.10 15:12:54 -05'00'

Jill S. Clifton

Administrative Law Judge

Hearing Clerk
United States Department of Agriculture
South Building, Room 1031-S
1400 Independence Ave SW
Washington, DC 20250
Phone: 1-202-720-4443
Fax: 1-844-325-6940
sm.oha.HearingClerks@usda.gov

CERTIFICATE OF SERVICE

Daniel J. Moulton, a/k/a Dan Moulton, d/b/a Moulton Chinchilla Ranch, Respondent
Docket: 19-0004

Having personal knowledge of the foregoing, I declare under penalty of perjury that the information herein is true and correct, and this is to certify that a copy of the HEARING NOTICE (“VIRTUAL” HEARING VIA ONLINE PLATFORM): 2021 JULY 26 THROUGH 30 (MON – FRI), 2021 AUGUST 9 THROUGH 13 (MON – FRI), AND 2021 SEPTEMBER 20 THROUGH 24 (MON -- FRI) has been furnished and was served upon the following parties on February 11, 2021 by the following:

USDA (OGC) - Electronic Mail

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Respondent – Electronic Mail

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Moultonchinchilla@gmail.com

Respectfully Submitted,

ELIUTH

MORON

Digitally signed by

ELIUTH MORON

Date: 2021.02.11

13:35:17 -05'00'

Eliuth Morón, Assistant Hearing Clerk
USDA/Office of Administrative Law Judges
Hearing Clerk’s Office, Room 1031-S
1400 Independence Ave., SW
Washington, DC 20250-9203