

Staff Summary for April 17-18, 2024

Executive Session**Today's Item**Information Action

Executive session will include four standing topics:

- (A) Pending litigation to which the Commission is a party
- (B) Possible litigation involving the Commission
- (C) Staffing
- (D) Deliberation and action on license and permit items

Summary of Previous/Future Actions (N/A)**Background**

During the public portion of its meeting, the Commission will call a recess and reconvene in a closed session pursuant to the authority of California Government Code Section 11126, subdivisions (a), (c)(3) and (e)(1). The Commission will address four items in closed session:

(A) Pending Litigation to Which the Commission is a Party

See agenda for a complete list of pending civil litigation to which the Commission is a party, at the time the agenda was made public.

(B) Possible Litigation Involving the Commission**(C) Staffing**

For details about staffing, see the executive director's report under Agenda Item 2(A) for today's meeting.

(D) Deliberation and Action on License and Permit Items

- I. *Consider the proposed decision in Agency Case No. 21ALJ02-FGC, regarding the denial of Attila Molnar's restricted species exhibiting permit renewal application.*

On December 18, 2020, the Department sent Attila Molnar a notice of denial of a renewal application for a restricted species permit. The denial letter stated the Department's decision was based on multiple violations of regulations regarding restricted species.

Molnar timely appealed the denial to the Commission and filed a written statement in support of the appeal. The Department filed a response with the Commission arguing that the denial should be affirmed.

Commission staff referred the appeal to the California Office of Administrative Hearings (OAH). After Molnar submitted a supplemental brief to OAH, OAH submitted a proposed decision (Exhibit 1) to the Commission. The proposed decision finds the Department proved violations occurred that were cause for denial and the denial of the renewal application was the correct result.

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Significant Public Comments (N/A)

Recommendation

Commission staff: (D)I. Adopt the proposed decision for Agency Case No. 21ALJ02-FGC.

Exhibits

1. [Proposed decision regarding Molnar appeal, dated February 7, 2024](#)

Motion

Moved by _____ and seconded by _____ that the Commission adopts the proposed decision for Agency Case No. 21ALJ02-FGC.

**BEFORE THE
FISH AND GAME COMMISSION
STATE OF CALIFORNIA**

**In the Matter of the Appeal of the Denial of the Restricted
Species Exhibiting Permit Renewal Application of:**

ATTILA MOLNAR,

Appellant.

Agency Case No. 21ALJ02-FGC

OAH No. 2023080229

PROPOSED DECISION

Thomas Heller, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, took this matter under submission on December 18, 2023.

Patrick M. Ciocca, Esq., represented appellant Attila Molnar (Molnar).

David Kiene, Esq., represented the California Department of Fish and Wildlife (Department).

SUMMARY

Molnar appeals the Department's denial of his July 2019 application to renew his Restricted Species Exhibiting Permit. The permit authorized Molnar to possess and exhibit a variety of venomous snakes, exotic mammals, and other animals regulated by the Department as restricted species. The Department denied Molnar's renewal application in December 2020 after finding he committed multiple violations of the regulations regarding restricted species. Molnar contends the violations were technical and justified and do not warrant the denial of his renewal application under the totality of the circumstances.

The evidence supports the Department's action. Molnar possessed and exhibited a monkey for at least one year without assigning a unique identifier to the animal, possessed four species of venomous snakes not authorized by the permit, and imported and possessed four endangered snakes after his permit expired. The violations are grounds for denial of the renewal application, and the totality of the circumstances warrants that result. Therefore, the Department's denial of the renewal application is affirmed.

FACTUAL FINDINGS

Background and Procedural History

1. Molnar is a veterinarian who owns and operates All Animals Veterinary Hospital (All Animals) in Calabasas, California. He also collects exotic animals. In or about 2014, the Department first issued Molnar a Restricted Species Exhibiting Permit (Permit No. 3194) authorizing him to possess and exhibit a variety of venomous

snakes, exotic mammals, and other "restricted species" listed in California Code of Regulations, title 14, section 671 (Section 671). Molnar exhibited some of these animals at All Animals, at schools and in other educational settings, and at private homes.

2. The Department renewed Molnar's permit annually for several years. In the last such renewal on July 23, 2018, the Department authorized Molnar to possess and exhibit 26 species of venomous snakes, an American alligator, a dwarf caiman, and several exotic mammal species through July 23, 2019. The permit included conditions that Molnar "may import, export, transport, or possess only those species listed . . . for commercial and/or educational exhibition purposes," and he "may add new species to the inventory only with the prior written approval of the Department or as specified in the permit." (Department's Response to Appeal, Exhibit B (March 25, 2021) (Response).)

3. On July 23, 2019, the Department received Molnar's application to renew the permit for another year. The application included an edited list of species showing several changes to Molnar's animal collection, and a list of additional animals Molnar intended to acquire in the next 12 months. Between August and October 2019, Department investigators inspected All Animals several times and identified alleged violations related to Molnar's collection. In September 2019, the Department also asked Molnar to submit a résumé and letter of recommendation describing his qualifying experience for the permit. Molnar submitted several letters of recommendation to the Department that described his qualifying experience.

4. On December 18, 2020, the Department sent Molnar a notice of denial of the renewal application. The denial letter stated the Department's decision was based on findings that Molnar committed multiple violations of the regulations regarding

restricted species. On January 11, 2021, Molnar timely appealed the denial to the Fish and Game Commission (Commission) and filed a written statement in support of the appeal. On March 25, 2021, the Department filed a response with the Commission arguing that the denial should be affirmed. One of the Department's arguments for affirming the denial was that Molnar's statement in support of the appeal was not signed under penalty of perjury. On March 31, 2021, Molnar filed a copy of the same statement correcting that error.

5. On August 8, 2023, the Commission submitted a request to OAH to schedule a hearing on Molnar's appeal. After OAH granted the request, the Department moved to vacate the hearing, arguing that a hearing was not authorized under California Code of Regulations, title 14, section 671.1 (Section 671.1). Molnar's counsel did not oppose the motion but requested time to file a supplemental brief. An OAH staff member directed Molnar's counsel to file any such brief by September 15, 2023, and Molnar's counsel complied.

6. On September 27, 2023, Presiding Administrative Law Judge (PALJ) Matthew Goldsby vacated the hearing date and ordered the Department to file any response to Molnar's supplemental brief by October 4, 2023. The Department filed a response requesting reconsideration of the order authorizing Molnar's supplemental brief. In an order dated October 9, 2023, PALJ Goldsby denied the Department's request for reconsideration and deemed the matter submitted.

7. Thereafter, on December 4, 2023, the ALJ ordered the filing of exhibits to Molnar's written statement in support of the appeal that were missing from the submissions to OAH. Molnar's counsel filed the missing exhibits on December 18, 2023, and the matter was deemed resubmitted on that date.

Department's Contentions

8. In its Response to Molnar's appeal, the Department contends the Commission should affirm the denial of the renewal application because Molnar: (a) did not sign the statement in support of his appeal under penalty of perjury; (b) failed to microchip or otherwise uniquely identify a monkey and provide documentation of the identifier to the Department within 10 business days of receiving the animal; (c) imported and possessed four venomous snake species not authorized under his permit; and (d) imported and possessed four endangered snakes after his permit expired. The Department's original denial letter to Molnar also cited other alleged violations, but the Department's briefing in response to Molnar's appeal does not analyze those other alleged violations.

9. Regarding the statement in support of the appeal, Molnar initially did not sign it under penalty of perjury as required. (See § 671.1, subd. (c)(7)(B).) Molnar corrected the error on March 31, 2021, but only after the Department argued the appeal should be dismissed due to error. The Department contends the error justifies the Commission dismissing Molnar's appeal without reaching the merits.

10. Regarding the monkey, Lieutenant Kory Collins and Captain John Laughlin of the Department's Law Enforcement Division inspected All Animals on August 30, 2019. The Department's Response to Molnar's appeal attaches a report of Collins stating Molnar showed Collins and Laughlin a squirrel monkey (*Saimira sciureus*) during the inspection. (Response, Exhibit E.) According to the report, Molnar stated he acquired the squirrel monkey in October 2018, but he had not implanted a microchip in the animal or otherwise uniquely identified it (e.g., with an identifying tattoo).

11. According to Department records, the first indication that Molnar microchipped the squirrel monkey was in a revised inventory of animals that Molnar submitted on October 7, 2019, while his renewal application was pending. The revised inventory included the number and a bar code for the microchip that Molnar implanted in the animal. (Response, Exhibit G.)

12. Regarding the four unpermitted snake species, Collins inspected All Animals again on September 6, 2019. Collins reported he found Molnar to be in possession of four venomous snake species that were not listed on Molnar's permit. Specifically, Molnar had two Malabarian pit vipers (*Trimeresurus malabaricus*), one red adder (*Bitis rubidda*), two Ethiopian mountain adders (*Bitis parviocula*), and one Schulze's pit viper (*Parias schultzei*). Molnar's permit did not authorize him to possess these six animals.

13. Regarding the four endangered snakes, Collins and Laughlin inspected All Animals again on October 23, 2019, and they observed a wooden shipping container labeled "Live Animals" and "Live Reptiles, Venomous." According to Collins's report, Molnar stated he received a shipment of four Mangshan vipers (*Protobothrops mangshanens*) from overseas on October 19, 2019, several months after Molnar's permit expired. Collins asked Molnar why he had acquired the additional snakes, and Molnar replied he purchased them from someone in Germany approximately two years earlier and had just received them. Molnar stated the snakes are very difficult to acquire, and it takes a long time to obtain the required shipping paperwork. Mangshan vipers require Convention on International Trade in Endangered Species (CITES) paperwork because their wild populations are endangered. Before Molnar's permit expired, it authorized him to possess just one Mangshan viper. Molnar showed Collins and Laughlin the four new snakes, which were in individual containers.

14. According to the Department, Molnar's alleged violations evidence "a complete disregard for permitting laws intended 'to reduce the depletion of wildlife populations.'" (Response, p. 10 [quoting Fish & Game Code, § 2116.5].) Therefore, if the Commission does not dismiss the appeal, it should sustain the Department's denial of the renewal application on the merits.

Molnar's Contentions

15. Molnar contends he has worked with the Department for years assisting in seizures of illegal reptiles, mammals, and birds; identifying reptile species; treating confiscated exotic animals for free; and housing exotic and native wildlife as evidence for the Department. But starting in August 2019, Molnar became the subject of "a campaign of harassment" by Laughlin that led to the denial of his renewal application. (Molnar Appeal and Statement, p. 1 (Jan. 11, 2021) (Appeal).) Molnar never had a complaint against his permit, and Laughlin and Collins did not note any animal husbandry or safety problems at All Animals. Nonetheless, they demonstrated "dishonest, aggressive behavior" in front of Molnar's clients and staff. (*Id.* at p. 2.) Molnar contends he always provided up-to-date information to the Department, and he adhered to the regulations regarding reporting. But the entire process has been confusing, difficult, and "made worse by the behavior of officers who were supposed to guide me." (*Id.* at p. 5.)

16. Regarding the written statement accompanying his appeal, Molnar contends the initial lack of a signature under penalty of perjury was a technical error that does not justify denying his appeal. He remedied the error immediately upon learning of it.

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17. Regarding the squirrel monkey, Molnar contends the animal was “technically on loan” from another animal handler when Collins and Laughlin inspected All Animals on August 30, 2019. (Molnar’s Supplementary Brief, p. 4 (Sept. 15, 2023) (Supplementary Br.)) Molnar “had never taken official possession of the monkey,” and when the animal was given to Molnar, it was “hypoglycemic and extremely weak.” (*Ibid.*) According to Molnar, the monkey needed treatment in Molnar’s capacity as a veterinarian before Molnar could or would consider taking it on as a personal animal. Molnar was not going to take on the monkey as his own before he knew it was fit for his individual possession. Putting a microchip in the monkey “was out of the question, due to its weakened state.” (*Ibid.*)

18. According to Molnar, there were times that the monkey’s health improved, and Molnar was able to show the animal in schools and other educational settings. At Laughlin’s insistence and against Molnar’s professional judgment, Molnar microchipped the animal and submitted the microchip information to the Department in October 2019. The monkey died in May 2020 due to metabolic disease.

19. Regarding the four species of snakes not listed in the permit, Molnar was awaiting approval of his renewal application at the time of the inspection on September 6, 2019. The list of species Molnar intended to acquire in the next 12 months that was part of the application included all four species of snakes (see Supplementary Br., Attachment A), and Molnar was qualified for approval of that request. Moreover, Molnar was under the mistaken belief that possession of these species, which were similar to vipers he was permitted to possess, was “essentially allowed under the Department’s rules.” (*Id.* at p. 6.) Therefore, possession of the four species of snakes is a “technical violation” that should be judged in light of the totality of Molnar’s actions with regard to his restricted species permit. (*Ibid.*)

20. Regarding the Mangshan vipers, Molnar contends he ordered the snakes from a captive breeder in the Czech Republic long before the permit expired. The vipers should have arrived in 2018 when Molnar was properly permitted, but they were “waylaid by European regulations.” (Supplementary Br., p. 7.) When the vipers arrived, Molnar had already applied to the Department to renew his permit. Although the pending application admittedly did not authorize Molnar to possess the snakes, Molnar was concerned for the animals’ safety and well-being. Therefore, Molnar retrieved the vipers from Los Angeles Airport and took them “immediately” to another Department permittee who was authorized to possess these species. (*Ibid.*) According to Molnar, he acted as “little more than courier of these snakes to a properly permitted holder,” and doing anything less would have put the snakes at risk. (*Ibid.*) While this may be a “technical violation,” Molnar asserts his action was understandable and “even commendable.” (*Id.* at p. 8.)

21. Overall, Molnar contends the Department is disregarding his good record as a permittee and his long record of service to the Department. He describes himself as a devoted veterinarian who has given completely of himself for the betterment of the animals that come to his facility for treatment. In Molnar’s view, the violations do not justify denial of the renewal application.

Analysis of Contentions

22. The record supports Molnar’s contention that his initial failure to sign the statement supporting his appeal under penalty of perjury was an oversight. Molnar corrected the error immediately after perceiving it, and he did not change the statement when he signed it on March 31, 2021. The Department also presented no evidence or argument that the error prejudiced the Department. These facts weigh

against the Department's contention that Molnar's appeal should be dismissed without reaching the merits.

23. The record does not support Molnar's contention that he only possessed the squirrel monkey in his capacity as a veterinarian. According to the letters of recommendation he submitted to the Department in late 2019, Molnar regularly exhibited the squirrel monkey to others in a variety of settings during the preceding two years. One letter states, "[f]or the last two years [Molnar] has . . . enchanted us with his baby squirrel monkey, that accompanied him almost at all times." (Appeal, Exhibit 4 [letter from Matt Kiose, DVM].) Other letters similarly state Molnar acquired or started exhibiting the monkey about two years earlier, i.e., in late 2017. (*Id.* [letters from Nicole Yorkin, George Hees, Kimberly Ward, Michael Budnitsky, and Julian Sylvester].) In contrast, Molnar reportedly told Laughlin and Collins he acquired the monkey in October 2018. According to the letters, Molnar exhibited the squirrel monkey at All Animals, in school classrooms, at a wildlife learning center, and at private houses for children and adults. The monkey also appeared "several times in various promo shoots" in the entertainment industry. (*Id.* [letter from Julian Sylvester].)

24. Molnar would not be expected to exhibit what he contends was an "extremely weak" and "technically on loan" animal under veterinary care so widely, especially at locations other than his veterinary hospital. Considering the evidence, it is unlikely Molnar was acting only as the squirrel monkey's veterinarian from when he received the animal in October 2018 (as Molnar told Collins and Laughlin) or in late 2017 (as stated in the letters) until the inspection in late August 2019. This weighs against Molnar's contention that he was justified in not assigning a unique identifier to the monkey during that period.

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25. There is no material factual dispute that Molnar possessed four species of venomous snakes not listed in his permit. Molnar told the Department he intended to acquire these species of snakes in his July 2019 renewal application, but he acquired and possessed a total of six specimens of these four species before obtaining Department approval, which the Department never gave. Molnar downplays the violation as technical and based on a mistaken understanding of the regulations, but he does not dispute the violation itself.

26. Regarding the Mangshan vipers, the record does not support Molnar's contentions that he gave the vipers to another permittee "immediately" and acted as "little more than a courier" for them. Molnar himself told Collins and Laughlin he picked up the vipers from the airport on October 19, 2019, and the vipers were still at All Animals when Collins and Laughlin inspected the facility four days later on October 23, 2019. There was no "immediate" transfer to another permittee, and no evidence suggests Molnar would have transferred the snakes to another permittee at all absent the inspection.

27. The record also does not support a finding that Laughlin conducted a "campaign of harassment" against Molnar as alleged. Laughlin and Collins inspected All Animals several times over a two-month period and found violations related to Molnar's animal collection. The number of inspections was reasonable in light of the nature and gravity of the violations found. Molnar's submissions on this appeal do not prove his claims of Department harassment, dishonesty, or other misconduct.

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LEGAL CONCLUSIONS

Legal Standards

1. "The Fish and Game Code authorizes the Department to issue written permits to possess any wild animal designated as a restricted species, upon a determination that no detriment will be caused to agriculture, native wildlife, the public health and safety, or the welfare of the animal. (Fish and Game Code, § 2150, subd. (a)(1)." (*Young v. California Fish and Game Commission* (2018) 24 Cal.App.5th 1178, 1193.) Under Section 671.1, "[i]t is unlawful for any person to import, export, transport, maintain, sell, dispose of, or use for any purpose any animal restricted by Section 671 except as authorized in a permit issued by the department." (§ 671.1, subd. (a).) The animals restricted by Section 671 "are not normally domesticated in this state," and they are listed as restricted species "to prevent the depletion of wild populations and to provide for animal welfare," or "because they pose a threat to native wildlife, the agriculture interests of the state or to public health or safety." (§ 671, subd. (b).) The restricted species include all non-human primates, all species of vipers, and each of the other species identified in Molnar's permit and renewal application. (*Id.*, subd. (c).)

2. A restricted species exhibiting permit, such as the permit issued to Molnar, may be "[i]ssued to any person who is a resident or nonresident who is in the business of exhibiting animals at least half-time, for commercial and/or educational purposes, and who possesses the qualifications listed in subsection 671.1(c)(1)." (§ 671.1, subd. (b)(6).) For such a permit, "[t]he permittee may import, transport, and possess only those species specified on the department approved permit." (§ 671.1, subd. (c)(5)(A)(1).)

3. "The department may deny the issuance of a permit or amendment of an existing permit if: [¶] 1. the applicant or permittee has failed to comply with terms and conditions of a permit or any provision of the Fish and Game Code or regulations adopted pursuant thereto" (§ 671.1, subd. (c)(5)(A)(1).) "Any applicant or permittee who is denied a permit . . . may appeal that denial . . . by filing a written request for an appeal with the commission." (*Id.*, subd. (c)(7).) "The commission's president may appoint a commissioner, a current or former executive director of the commission, a current employee of the commission, or a member of the state bar of California in the active practice of law to serve as a hearing officer." (*Id.*, subd. (c)(7)(A).)

4. "[A] person requesting an appeal (appellant) shall submit a written statement to the commission that specifically identifies the legal and factual grounds for challenging the department's action." (§ 671.1, subd. (c)(7)(B).) The appellant's written statement "shall be signed by the appellant under penalty of perjury." (*Ibid.*) "[T]he department may submit a response to the commission, with a copy sent to the appellant, along with any supporting documentary evidence and/or declarations under penalty of perjury." (*Id.*, subd. (c)(7)(C).) If the Department submits a response, "the appellant may submit a reply to the commission signed by the appellant under penalty of perjury . . . that addresses arguments and evidence raised in the department's response." (*Id.*, subd. (c)(7)(D).) Thereafter, "the hearing officer may request additional information, including testimony under oath, from either party, and may permit either party to present additional information or rebuttal if the hearing officer determines such to be helpful in reaching a correct decision." (*Id.*, subd. (c)(7)(E).)

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5. “No later than 60 days after receipt of all submittals and any additional information or rebuttal permitted by the hearing officer . . . , the hearing officer shall prepare and submit a proposed decision to the executive director of the commission. The decision shall contain proposed findings and reasons for the commission’s action.” (§ 671.1, subd. (c)(7)(G).)

Analysis

6. The Department’s contention that Molnar’s appeal should be dismissed without reaching the merits is unpersuasive. Molnar’s initial failure to sign the statement supporting his appeal under penalty of perjury does not justify dismissing the appeal. The error was inadvertent, Molnar corrected it immediately, and the Department presented no evidence of prejudice from the error. (Factual Finding 22.)

7. The Department’s contentions on the merits are more persuasive. The preponderance of the evidence proves the violations analyzed in the Department’s Response. (See Evid. Code, § 115 [“Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence.”].) First, Molnar failed to microchip or otherwise uniquely identify the squirrel monkey and provide documentation of the identifier to the Department as required. Under Section 671.1, “[e]very . . . non-human primate . . . that is possessed under a restricted species permit shall be identifiable by an approved unique identifying method and reported to the department for inclusion in a registry.” (§ 671.1, subd. (c)(3)(J).) “Approved methods include microchips, tattoos or any other alternative method that is approved by the department. . . . [¶] . . . Each permittee must provide an animal’s unique identification to the department within 10 business days of receipt or transfer of an animal, the birth or death of an animal, or change in unique identification for an animal.” (*Ibid.*)

8. Molnar violated these requirements by possessing the squirrel monkey for at least one year (according to Molnar) and up to two years (according to the letters of recommendation) before implanting a microchip in the animal and informing the Department of the microchip in October 2019. Furthermore, Molnar’s contention that he possessed the animal solely in his capacity as a veterinarian during that entire period is unpersuasive. Molnar exhibited the squirrel monkey in a manner consistent with possession of the animal in Molnar’s personal capacity. (Factual Findings 23-24.) Molnar’s contention that the squirrel monkey was too fragile to microchip also does not justify the violation. Molnar could have used a different unique identifier (e.g., a tattoo) even if that were true.

9. Second, Molnar violated his permit and Sections 671 and 671.1 by possessing four species of venomous snakes (totaling six animals) not listed in his permit. Molnar’s permit states he may “possess only those species listed” in the permit. (Response, Exhibit B.) Sections 671 and 671.1 include the same limitation. (§§ 671, subd. (a); 671.1, subd. (b)(6).) In his renewal application, Molnar identified the four species of snakes as species he intended to acquire within the next 12 months, but Molnar acquired the snakes without waiting for Department approval, which never came.

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10. Third, Molnar violated Section 671, subdivision (a), by importing and possessing four Mangshan vipers after his permit expired. Molnar picked up the endangered snakes from the airport on October 19, 2019, about three months after the expiration of his permit. Molnar contends he ordered the snakes two years earlier, but that does not justify the violation. Molnar could have cancelled the shipment after his permit expired or informed Department staff of the snakes' impending arrival and arranged for another permitted facility to take them. Molnar also did not transfer the snakes to another permittee "immediately" as he contends; he only did so after Collins and Laughlin identified the violation. (Factual Finding 26.)

11. The violations described above authorized the Department to deny Molnar's renewal application. (§ 671.1, subd. (c)(5)(A)(1).) Considering the violations and the totality of the circumstances, denial is the correct result. Molnar committed multiple violations of the regulations related to restricted species. The violations were neither justified nor merely technical as Molnar contends. They resulted in Molnar possessing more restricted species than he was allowed to possess under his permit, and in the Department having incomplete information about Molnar's animal collection. Molnar's submissions on appeal also demonstrate limited acceptance of responsibility for the violations.

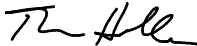
12. Molnar's lack of prior disciplinary history is a mitigating factor, as is his apparent assistance to the Department in other matters involving exotic animals. But those mitigating factors are not enough to justify granting the renewal application. Molnar was only a permittee for a few years before committing the violations, and the nature and gravity of the violations do not support renewal of the permit. Molnar contends his abilities and contributions as an exotic animal veterinarian weigh in favor of renewal, but his veterinary skills and practice are not at issue in this appeal. In

addition, there is no provision in Section 671.1 for the issuance of a restricted species exhibiting permit on a probationary basis. The Commission is presented with the binary choice of either affirming or reversing the Department's denial of Molnar's renewal application. Considering the entire record on appeal, affirming the Department's action is the correct result.

ORDER

The Department's denial of Attila Molnar's Restricted Species Exhibiting Permit Renewal Application is affirmed.

DATE: 02/07/2024


Thomas Heller (Feb 7, 2024 16:20 PST)

THOMAS HELLER
Administrative Law Judge
Office of Administrative Hearings