

IN THE MATTER OF THE *PREVENTION OF CRUELTY TO ANIMALS ACT*,
R.S.B.C. 1996, c. 372
ON APPEAL FROM A REVIEW DECISION OF THE BC SOCIETY FOR THE
PREVENTION OF CRUELTY TO ANIMALS CONCERNING THE SEIZURE OF
40 DOGS

BETWEEN:

ALAN MAGAW

APPELLANT

AND:

BRITISH COLUMBIA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

RESPONDENT

DECISION

APPEARANCES:

For the British Columbia Farm Industry
Review Board:

Tamara Leigh, Presiding Member
David Zirnhelt, Member

For the Appellant:

Mason Goulden, Counsel

For the Respondent:

Christopher Rhone, Counsel

Date of Hearing:

May 3 and 7, 2021

Location of Hearing:

Teleconference

I. Overview

1. This is an appeal pursuant to s. 20.3 of the *Prevention of Cruelty to Animals Act, R.S.B.C. 1996, c. 372* (the *PCAA*) related to the seizure of 40 dogs (the *Animals*) from the Appellant, Alan Magaw at his property located at 966 Airport Road in Salmo, BC (the *Property*).
2. The Appellant is appealing the March 31, 2021 review decision issued under s. 20.2(4)(b) of the *PCAA* by Marcie Moriarty, Chief Investigation and Enforcement Officer of the British Columbia Society for the Prevention of Cruelty to Animals (the *Society*).
3. Section 20.6 of the *PCAA* permits the British Columbia Farm Industry Review Board (BCFIRB), on hearing an appeal in respect of an animal, to require the *Society* to return the animal to its owner with or without conditions or to permit the *Society*, in its discretion to destroy, sell or otherwise dispose of the animal. The Appellant in this case is seeking the return of all of the *Animals*.
4. On May 3 and 7, 2021 a BCFIRB hearing panel (the *Panel*) held a hearing via teleconference. The hearing was recorded.
5. The Appellant was represented by counsel and did not testify. The Appellant called two witnesses who lived and worked at the *Property* with the Appellant and two expert witnesses.
6. The *Society* was represented by counsel and called four witnesses: two veterinarians who attended the seizure, a former volunteer at the Appellant's property, and the special provincial constable (SPC) who led the investigation and seizure.

II. Decision Summary

7. In brief, this appeal involves the seizure of 40 dogs from the *Property*. For reasons explained in detail later, the *Panel* has decided not to return the animals in dispute to the Appellant. Pursuant to s. 20.6(b) of the *PCAA*, the *Society* is permitted, in its discretion, to destroy, sell or otherwise dispose of the *Animals*.
8. The *Society* sought to recover costs in the amount of \$64,517.02. The *Panel* has decided that the Appellant is liable to the *Society* for costs in the amount incurred by the *Society* with respect to care of the *Animals* while in custody.

III. Preliminary Matters

9. The hearing was initially scheduled for May 3 and 5. Appellant counsel submitted a notice of application for adjournment to reschedule the second day of hearing. After hearing from all parties, the date of the second day of the hearing was changed to May 7. The submission schedule remained the same.
10. The Appellant mistook the submission dates and submitted initial disclosure early. This raised an objection by counsel for the Society due to the number of witnesses. The issue was resolved once the Appellant provided full disclosure on the due date.
11. The animals seized by the Society consisted of 40 dogs. Eight of the dogs were not owned by the Appellant. Two have been returned to their owners (Kera (534280) and Trigger (524288); and six are or have been redeemed (Juno (524277), Ajax (524279), Dae (524283), Charley (524284), Rico (524286) and Big Red (524287). The remaining 34 dogs are subject to this Appeal.
12. After the hearing was complete, two dogs were found to be in a condition of critical distress and were humanely euthanized, reducing the number of dogs under appeal to 32. These animals are referred to in the decision and orders as the Remaining Animals.

IV. Material Admitted on this Appeal

13. The Panel identified all the documents received by BCFIRB in advance of the hearing as exhibits. The record comprises Exhibits 1-42 and attached as Appendix A to this decision.

V. History Leading to Seizure of Animals and the Day of Seizure

14. On January 12, 2021, the Society received a complaint call regarding approximately 30 dogs on the Property. The complainant stated that many of the dogs were old, did not get out for exercise, and were standing in water in their pens. The complainant added that recently four of the dogs had become ill and died without the owner seeking veterinary care.
15. SPC Affleck reviewed the complaint and found 12 other complaints and dispatch requests for the same address in the Society's database.
16. On January 14, 2021, SPC Affleck and Animal Protection Officer (APO) Chapman attended the Property and met with the Appellant. After being advised of the complaint, the Appellant agreed let SPC Affleck and APO Chapman inspect all the animals on the Property. The Appellant told the officers that he provides sled dog tours, boarding and training at his facility. Inspection of the dogs found 41 dogs in kennels and on tethers, as well as 7 dogs running loose in a fenced yard, and two

horses. The attendance resulted in four Notices (B35318, B35317, B35316 and B35315) being issued to the Appellant with instructions to address housing concerns, to ensure that all dogs were released from containment once a day, and to provide veterinary care or assessment to several of the dogs.

17. On January 21, 2021, SPC Affleck and APO Chapman arrived at the Property to conduct the compliance check. They reviewed the records of the sled dogs and spoke with the Appellant about his training and the status of the dogs in his care. SPC Affleck read the Appellant an Official Warning. The Appellant allowed them to inspect the animals and agreed to sign a BC SPCA Vet Record release form for Nelson Veterinary Services.
18. The Appellant advised that the dog “King” had been euthanized by gunshot since the last visit, and that he had plans to take two dogs with dental concerns to the vet the next day. He said he would have a phone consultation with the vet about two other dogs because it was hard to get an appointment because of Covid. The Appellant granted permission for APO Chapman to take photos and video of the dogs. SPC Affleck issued a Notice (B35319) to the Appellant to provide adequate shelter for all dogs as described the relevant acts and regulations.
19. The Appellant disagreed with the assessment that the dogs were cold. The officers advised that they would return in one week to re-check.
20. On January 28, 2021, APO Chapman and SPC Affleck returned to the Property to conduct a compliance check on the January 21st Notice. They found the conditions of the dogs were unchanged. The Appellant stated that no changes were going to be made. During the visit, the officers noted a dog that was limping, had red feet, and a concern with his penis. They issued a Notice (B35321) for the dog to receive vet treatment within 24 hours.
21. On February 12, 2021, SPC Affleck submitted the Information to Obtain a Search Warrant (ITO) and on February 16, 2021, SPC Affleck and APO Chapman executed the warrant to search the Property, at which time SPC Affleck determined that the animals were in distress and undertook the seizure of the Animals with the assistance of two veterinarians, other Peace Officers and BCSPCA staff.

VI. Review Decision

22. On March 31, 2021, Ms. Moriarty issued her review decision in which she outlined her reasons for not returning the Animals to the Appellant (the “Review Decision”). She reviewed the various Notices issued, the complaints received, the warrant related documents, the veterinary records and invoices and the veterinary reports, as well as various videos and photos, document disclosed on behalf of the Appellant. Ms. Moriarty was satisfied, based on the evidence, that the SPC reasonably formed the opinion that the Animals were in distress, as defined in

section 1(2) of the PCAA, and his action to take custody of the Animals to relieve them of distress was appropriate.

23. Ms. Moriarty next considered whether it would be in the best interest of the Animals to be returned. She noted that the Appellant had three chances to make improvements and changes in accordance with the Notices, and that he had made no meaningful change to the conditions of the Animals or their living environment and that he expressed no intention to do so. “When officers inquired about this, you were blatant in your intentions to not undertake any of the recommended changes or to follow the direction of the notices issued.”
24. Speaking to the Appellants allegations that the veterinarians and SPC Affleck were holding him to standards that did not conform with the requirements of the Sled Dog Standards of Care Regulation, Ms. Moriarty specified that the sled dog standard of care regulation and the PCAA work together to provide clarity about the standards of care and interpreting the definition of distress for sled dogs. “For example, in determining what is considered to be “adequate shelter” for a sled dog, one is guided by the relevant section of the Regulation. However, the Regulations are not to be considered in a vacuum and in fact, in order to interpret certain requirements, such as protection from excessive heat and cold in s.7(2)(b), one can look to veterinary experts.”
25. In addressing the assertion that sled dogs are “born and bred to live and work in extreme cold climates,” and are uniquely adapted to live in these conditions, Ms. Moriarty noted that the sled dog regulations define a sled dog by the activity that it performs, not by a specific breed. She further stated that the breed mixes of some of the dogs meant that they were not equipped to be free from “cold” and adapt to the shelter that was provided the same way a northern breed would.
26. She found that the Appellant’s claim that sled dogs were inherently different from other dogs stood in contrast to the evidence of two veterinary experts that detail the nature of the dogs’ distress. Based on the veterinary evidence, Ms. Moriarty found that the animals were in distress.
27. She concluded:

“While you have provided a detailed plan as to what you would do if the Dogs were returned to you, I am not convinced that you would maintain these plans as I do not believe that you feel you were doing anything wrong at the time the Dogs were seized. Most importantly, even if you were to change the physical environment to meet the Dogs needs, I am not convinced that you are capable of ensuring their psychological well-being as there is no indication in your submissions that you at any time saw anything wrong with the behaviour of the Dogs. As such, I do not feel it is in the best interest of the Dogs to be returned to you.”
28. The Appellant filed his appeal with BCFIRB on April 6, 2021.

VII. Key Facts and Evidence

29. In an appeal under the PCAA, the Panel must determine whether the Animals were in distress when seized and if they should be returned to the Appellant. Below is a summary of the relevant and materials facts and evidence based on the parties' written submissions and evidence presented during the hearing. Although the Panel has fully considered all the facts and evidence in this appeal, the Panel refers only to the facts and evidence it considers necessary to explain its reasoning in this decision.

The Hearing of this Appeal

30. The Appellant did not provide oral evidence at the hearing and was therefore not subject to any cross examination by counsel for the Society.

Appellant's Lay Witnesses – James Black & Nadjesda Ogilvie

31. James Black lives on the Property and has been there for 8 years. He worked at Spirit of the North Kennels full time for 6 years. For the past 2 years he has worked part time on the Property and full time at a hardware store in Salmo. He does not pay rent but gets his room in exchange for assistance on the Property.
32. Mr. Black's role at Spirit of the North kennels is to help in the dog yard with feeding, watering, cleaning, repairing doghouses and kennels, planting axels for tethers and leveling the ground. He also grooms trails in the summer and winter. His typical daily activity starts at 5:30 or 6pm when he checks the dog yard, including houses and water buckets and then goes out to groom trails.
33. On cross-examination, Mr. Black admitted that he did not have any educational background with regards to animal care or animal behavior. This was his first employment on a sled dog operation. He described the Appellant as "a genuine dog person." He is very compassionate towards his dogs, and they are his number one priority. He is "a good guy and a good mentor."
34. Nadjesda Ogilvie lives on the Property and has been there for 9 years. She is 21 years old. She works with behavior and sled dogs at the kennel. Her responsibilities at the kennel include cleaning, attending to medical care and injuries, monitoring issues, feeding, watering, maintaining bedding, undertaking minor repairs, leveling the ground, filling holes and maintaining trails.
35. Ms. Ogilvie lives 100-200 feet from the dog yard and can hear and see the dogs from her front door. She does dog-related tasks daily, 7 days a week. If she's not there, she coordinates someone to replace her.

36. Submissions for the Appellant included Affidavits prepared by the Alan Magaw, Nadjesda Ogilvie, James Black, Tanner Pearson, and a number of people who wrote in support of the Appellant.
37. With regards to general operations of Spirit of the North, the witnesses offered evidence as follows:
- (a) Spirit of the North uses Alaskan Husky crosses in their sledding operations. It is common for sprint kennels to use Alaskan Huskies with hound mixed in – often German Shorthaired Pointers, Salukis or Greyhounds. These dogs are typically lean and muscled like human sprint athletes.
 - (b) At the time of the seizure there were 29 sled dogs, 11 behavioural therapy dogs, and 12 pet dogs between Ms. Ogilvie, Mr. Black and the Appellant on the Property.
 - (c) Spirit of the North operated mainly as a sled dog operation. They offered sled dog tours to the public for \$99 per person. The tour experience included signing an insurance waiver, going through an orientation, bringing the dogs up and harnessing them, riding the trails with the dog team, de-harnessing, putting the dogs back on tethers and spending time with the dogs afterwards. The entire experience would last an hour.
 - (d) Spirit of the North also trained the dogs for sled dog races. Mr. Black described his little sister, Nadjesda Ogilvie, as “training to be Al’s replacement in the sled dog world.”
 - (e) There are no paid employees at the Property. Mr. Black, Ms. Ogilvie and Tanner Pearson, Ms. Ogilvie’s boyfriend, live at the Property and do not pay any rent in exchange for work.
 - (f) The Appellant usually also has 2 part time volunteer helpers who come twice a week or more. They usually start with easy tasks like cleaning and getting to know the dogs before they move up to more challenging tasks like running the dogs. Often volunteers are interested in racing sled dogs.
 - (g) At the time of the seizure, there were five people involved in the care of the dogs and the maintenance of the Property – Nadjesda Ogilvie, Tanner Pearson and James Black, and two part-time volunteers, Cassandra and Jaimie.
 - (h) Ms. Ogilvie knew the Society’s witness, McKenzie Kirk through Ms. Kirk’s previous volunteering with Spirit of the North. Ms. Ogilvie noted that Ms. Kirk volunteered twice a week for about a month. She did the initial walkthrough and training with Ms. Kirk, and another helper also provided instruction on cleaning. Mr. Black did not know Ms. Kirk because he was working at his full-time job off the Property when she volunteered.
 - (i) Audrey Poirier was another volunteer who lived at the Property. Mr. Black did not have much interaction with her and said she did not express any concerns to him about the dogs.

- (j) The Appellant's son, Stephen, also lives on the Property, but is not involved with the dogs. Mr. Black could not speak to the ownership of the property, but he had been told that the Appellant and the dogs were given an eviction notice. Mr. Black had been told that the Appellant had an agreement to stay on the property for the rest of his life.
- (k) The Appellant consults with Ms. Ogilvie about the care and training of the dogs: "He's the go-to guy for questions and runs the business side of the operation."

38. With regards to the daily care of the dogs, the witnesses offered evidence as follows:

- (a) Ms. Ogilvie's typical daily schedule includes feeding the dogs at 9am, then doing chores, cleaning up, exercising, doing more chores and then feeding again between 4-5pm. Feeding and watering the dogs usually takes between 30-60 minutes depending on the number of people helping.
- (b) In the winter the dogs receive hot water and kibble mixed in, or baited, to make a soup. Each dog will get 2 to 6 cups in the morning and at night. This is sometimes supplemented with meat, fat and bones.
- (c) Each dog gets 2L of water with 1-2 cups of kibbled mixed in so they drink all their water and stay hydrated. This is referred to as "baited water" and is a common practice with sled dog kennels. They do it so that they know how much the dogs are drinking and so that the water does not freeze. They don't have heated water bowls, and don't leave buckets of water outside in the winter because the water would freeze.
- (d) They wait two hours between feeding and exercising the dogs, so that they have a chance for their food to digest before running. Medical issues, like vomiting or twisted gut, can arise if the dogs are exercised too soon after eating.
- (e) Feces is cleaned up daily and dumped in a trench. It's impossible to get every piece of poop, particularly in the winter, but if it's visible and they can find it, they pick it up. As the snow melts, they clean up old feces when it becomes visible.
- (f) Ms. Ogilvie checks each doghouse by putting her hand along the bottom of the straw and all the way to the back of the house. For one person to check and change all the straw takes 60-90 minutes. With picking up poop, cleaning can take up to 2 hours.
- (g) She says that it's common for male dogs to pee on their house or doorway.
- (h) If a dog is in an area with pooling water, they will be moved to a dry run. Dogs always have access to their houses as well.

39. With regards to the housing and runs for the dogs, the witnesses offered evidence as follows:
- (a) The doghouses are built with ½" thick plywood. They are off built 12" off the ground, and have approximate dimensions of 3' deep, 2' high and 2' wide. Some of the dog houses are larger. The door is half the size of the face of the house. Mr. Black says the size of the door can hold in the straw and keep out a lot of the wind.
 - (b) The plywood is caulked before it is put together and sealed afterward.
 - (c) Houses are large enough for a dog to get in and turn around, but small enough that the house could keep the dog warm. Ms. Olgivie explained that if houses are too large, it's hard for dogs to heat with body heat and they need more straw. Body heat is generally adequate to heat the doghouses. Both Mr. Black and Ms. Olgivie said you can tell by touching the dogs that they are warm - outside or in the house.
 - (d) The barrel houses were used to keep the dogs from chewing or eating at their wood houses. Since the seizure the barrel houses have all been removed and replaced with standard wooden dog houses.
 - (e) The tethers are approximately 7 feet in length. They use a half-shaft for a tie-down tether because it's hard to pull out of the ground for the big strong males. If a chain gets twisted, they will replace it with a new one right away.
 - (f) The doghouses were placed close enough to the tether so the dogs were able to get into the house, but unable to jump over the house to prevent strangulation risk.
 - (g) They use hollow core straw for bedding because it has better insulation than hay. It is replaced daily or more often if it gets wet. In the summer the straw is removed to prevent the dogs from overheating.
 - (h) When there was heavy rain or snow melt, they dig trenches to drain the dog yard. Sometimes in the winter water would freeze and the dogs would have to stand on an icy surface.
40. With regards to the exercise routines and socialization of the dogs, the witnesses offered evidence as follows:
- (a) The dogs run every day unless there are poor trail conditions, or the dog needs rest because it is tired or injured. If a dog is not run, it is walked on-leash or put in socialization pens.
 - (b) They book tours/exercise at 11am, then continue with clean-up after the exercise/tour if required. The run is 7km and takes 20-40 mins depending on trail conditions. Including harnessing and other preliminary steps the whole process takes just over an hour.
 - (c) Each team is typically 8 dogs. Normally 4 teams go out on tours per day. Often they will run a couple of teams at once.

- (d) When not on tours, the dogs are chained up or in dog runs. They also have socialization pens for smaller groups of sled dogs when they return from a run.
 - (e) Ms. Ogilvie races sled dogs competitively. Training for the races begins in early September by running the dogs with quads and carts.
 - (f) She checks the dogs' feet before and after they run to look for injury or irritation. This includes checking the nails, between pads, and the length of hair on feet. Snowballs in the feet will cause the dogs to lick or chew their paws, so they monitor and remove any snowballs right away.
 - (g) Ms. Ogilvie interacts with the dogs several times a day, giving them pets, cuddles, checking ears and feet, checking houses and making sure the straw is dry, or taking them for their runs.
 - (h) To check body condition, she runs her hands along the spine, ribs and underbelly. She checks ears for dirt and eyes to make sure they aren't watery. She says that they monitor the dogs closely to see if there's cause for concern. If there's a health concern they contact the vet, either verbally or make an appointment to go in.
 - (i) Generally, the dogs are very playful and social. They can sometimes be shy with strangers but will usually warm up to them within a few minutes.
 - (j) When the dogs are in their runs, they are usually relaxed unless they are going for a run or people are coming to see them. They often jump up on top of their houses to get a better view or try to get attention. Ms. Ogilvie says she has trained the dogs to jump up on their houses to lean in for a cuddle, so they don't get people muddy or dirty. Sometimes they will jump up repeatedly if they are excited or are trying to get more attention.
 - (k) The dogs don't normally pace or circle unless there's something exciting happening that they want to be part of. They usually lay on their houses.
 - (l) The dogs don't usually bark unless they are going for a run, it's feeding time, or there is a disturbance outside like a dog getting loose. They are not constantly barking.
41. With regards to the veterinary care of the animals, the witnesses offered evidence as follows:
- (a) The main vet for Spirit of the North was Celeste Bignell at Nelson Animal Hospital, but they also see other vets and technicians that work in that office.
 - (b) Mr. Black recalls seeing Celeste Bignell on the Appellant's property once approximately six years ago.
 - (c) 95 percent of the time, Ms. Ogilvie and the Appellant would consult the vet together. They don't call the vet every time the dogs have a health issue, but if there's an issue that persists, they will call. If the vet tells them to do something, they follow the care plan they are given.

- (d) The Appellant pays the vet bills and is responsible for maintaining records on the dogs.
- (e) Dogs can occasionally get injured when running. When that happens, they will get pain medication or will be treated with massage, heat and rest for a day.
- (f) They use antiseptic and antibiotic creams or peroxide, as well as penicillin when needed.
- (g) They bring dogs into the house to monitor them if there's an issue.
- (h) They track and monitor pain through physical and visual assessments.
- (i) When asked about dogs that had died, Mr. Black could not offer any details. He said that he assisted with the holes for burying them. The last dog that he buried was King. He was not present when King was put down, but he buried him. He couldn't offer any more detail about other the dogs that had died and was not aware of whether there were records kept.
- (j) Ms. Ogilvie said that they checked the dogs' teeth "somewhat regularly," and were aware that some of the dogs needed assistance but they had to wait for funds to become available to get them help.
- (k) Ms. Ogilvie was on the Property when the Society inspected the Property. She introduced the Society's officers to the dogs and responded to their requests as best she could. She said that she attempted to comply with all of the directions, including:
 - i. Removing Penny and Rosa from the house that they had chewed.
 - ii. She took Aladdin to the vet for a broken tooth following a Notice from the Society.
 - iii. They did a phone consult for Ajax and Atlas and were told to keep monitoring them.
 - iv. They did not take the dog, Buddy, to the vet because she felt he just needed the snow removed from between the pads of his feet.
- (l) Over the years, Ms. Ogilvie has seen dogs die, though she did not offer a number. She gave evidence that "they don't all die outside, some are euthanized. It's less stressful for them to be euthanized at home."
- (m) With regards to some of the more recent dogs to die, they offered the following evidence:
 - i. The dog Adam was brought into the house for observation and chained in the kitchen to keep him from getting into things. They believe that he had a stroke. They did not euthanize him because they felt he was making improvements. Ms. Ogilvie was present for phone calls with the vet regarding Adam where the vet suggested they keep him hydrated. Monitored. They also prescribed pain medication.

- ii. Mr. Black was aware that Adam was deaf and getting old. He was not aware of an injury to his front legs. He described the dog as “an old teetery man,” and had taken him on walks in the past. The last time was in late fall 2020. He did not know if Adam had seen a vet, and he did not ask. Mr. Black was not there when Adam passed away. He was informed by Ms. Ogilvie, but did not ask for details.
 - iii. The dog Selene was a senior but in good condition until just before her passing. Ms. Ogilvie did not notice Selene’s condition getting worse or her losing hair. The dog was eating and drinking until just before she passed, though her ribs became more prominent.
 - iv. Mr. Black knew that Selene had passed away but was not sure what her medical issue was. When asked if he noticed her bloating, he responded that she “looked a little fat after dinner.” He also noticed that her ribs became more prominent. He was not sure if Selene was taken to see the vet.
42. With regards to the behavioral therapy dogs, the witnesses offered evidence as follows:
- (a) The behavior therapy program rehabilitates dogs and brings them back to normal behavior by working with them on exposure and structured exercise, so that they can interact with a human without biting or jumping. In Mr. Black’s words, “we don’t do obedience training, we do behavior modification therapy.”
 - (b) The Appellant does the majority of work with the behavior dogs.
 - (c) Ms. Ogilvie also works with the behavioral therapy dogs. She has learned everything she knows about this work from the Appellant and from practical experience with the dogs. She describes the behaviour dogs training as a combination of exercise and leadership-based training with positive reinforcement.
 - (d) Mr. Black participated in the behavioral dog training as a volunteer when he was working at Spirit of the North full time. He no longer works with the behavior therapy dogs because he can’t afford to take time off work if he gets bitten. It has been two years since he has done that work, and he can’t speak to what the Appellant and Ms. Ogilvie do with the dogs because he’s not there.
 - (e) Mr. Black worked with the dog “King,” who was brought in for behavioral training from Manitoba. King was highly aggressive towards dogs and humans. Over time Mr. Black bonded with King and was one of the only people who could handle the dog safely. In his opinion, King was his dog.
 - (f) Behavior therapy dogs were not used for sled tours. They do not interact with the public. They get taken out for runs or walks, they do basic leash work and they work on interactions with other dogs and people.

- (g) The behavioral therapy dogs are a mix of private clients and last-chance shelter dogs that have been ordered into Spirit of the North's care as an alternative to euthanasia. These dogs have behavioral issues including separation anxiety, aggression towards other dogs and people, or being shy and timid. Their goal is to bring them back to normal dog behavior.
 - (h) Pens are cleaned and straw changed in houses regularly. If they are unable to be in the pen with a dog safely, they'll either move them or lock them in their house when they clean. Kennels are on a sand base, so they usually drain well. Dogs are not left to sit in puddles.
 - (i) The end goal is to adopt out behavioral therapy dogs to a suitable home. That is done between the Appellant and the shelter. When they feel the dog is past their problems, they look for a suitable home that meets the dogs needs and that will continue the dog's training.
 - (j) It can take from 2 weeks to a year to get a behavior dog ready to adopt out. A few dogs have stayed in their care. Occasionally a dog will be euthanized if there's something mentally wrong with them after consultation with either the shelter vets or Celeste Bignell.
43. On the day of the seizure the witnesses offered evidence as follows:
- (a) Ms. Olgivie was at the property at the time of the seizure. Some of the dogs had been fed and watered, but the seizure interrupted feeding.
 - (b) The dogs were more agitated than normal. They started out excited, and when they didn't see anyone familiar, they got agitated.
 - (c) Mr. Black was ordered to stay up at the house. He saw a cube van getting ready to load the dogs and the dogs running and pacing back and forth.
 - (d) Mr. Black said the dogs were not exhibiting normal behavior. Usually they are at the end of their tethers bouncing and looking for attention. They usually don't circle and pace.
 - (e) At the time of the seizure, some of the doghouses were sitting on the snow. He said the houses are on legs, but that snow can get pushed underneath the houses or around the tethers and needs to be cleared out by volunteers.
44. With regards to the plans for the future care of animals at Spirit of the North, the witnesses offered evidence as follows:
- (a) Mr. Black reported that since the seizure, the dog houses have been moved and the ground levelled. The houses were then replaced, and their tethers extended. All nails, screws and wires that were loose have been repaired.
 - (b) Future plans include insulating the floor of the houses, adding extra straw and possibly building larger houses depending on the size of the dog.

Appellant's Expert Witness – Dr. Arleigh Reynolds

45. Dr. Arleigh Reynolds holds a Doctor of Veterinary Medicine and PhD in Veterinary Medicine from Cornell University, and is board certified by the American College of Veterinary Nutrition. He is currently a professor in the Department of Veterinary Medicine and Director of One Health in the Office of the Vice Chancellor for Research at the University of Alaska Fairbanks. He is also a musher, and throughout his career has specialized in veterinary care of sled dogs. He was qualified as an expert in veterinary medicine with a specialization in sled dogs.
46. Dr. Reynolds provided a written report as well as oral testimony based on his review of the documents and videos provided to him.
47. Generally, after reviewing the documents and videos, Dr. Reynolds' assessment of the kennel is that there were minor hygiene and maintenance issues. He said "the sled dogs look and behave like you would expect sled dogs to appear and act." He further suggested that the people conducting the examinations were "looking for problems rather than objectively assessing" the situation.
48. On the matter of body condition score, Dr. Reynolds said that there is a difference between assessing the BCS of a house pet versus an athlete. Specifically, he said he would look to muscle mass in the thigh and the lumbar muscles. He said that people who aren't used to assessing sled dogs often under-score them. He admitted that it is easier to make the assessment in person, but that his review of the photos and videos showed good muscle mass on the dogs.
49. Dr. Reynold's oral evidence conflicts with his written report on the matter of BCS, where in writing he submits that none of the dogs had a BCS below 4 out of 9, during his testimony he assessed photos of three dogs - B8, B19, B9 - which he rated as BCS 4, 3.5 and 3 respectively.
50. Dr. Reynolds gave evidence that using baiting water is a very common practice in sled dogs because it is impossible to keep water available at all times at ambient temperatures below 0C. "In this way sled dogs are usually watered in the morning, after they run, and in the evening with their meal. This strategy will maintain normal hydration. This is likely why all the water bowls were empty upon inspection."
51. Dr. Reynolds explained that baiting water helps hydrate the dogs and get them on the right schedule, so they aren't full or needing to urinate when they run or travel. He says dogs like the Appellant's would be getting 3-3.5L per day to meet their hydration needs.

52. Dr. Reynolds also spoke to the coats on husky saluki crosses. He said that they tend to have shorter overall coats, but almost always have a double coat. He went through the pictures provided by the Society that illustrated the fanning of the longer guard hair and the shorter downy undercoat.
53. He decisively rejected the theory that the dogs were hypothermic, dismissing the ear thermometer readings because the thermometer is not meant for use on dogs, and the readings should have been validated with a rectal thermometer.
54. Dr. Reynolds offered the professional opinion that it was very unlikely that the dogs suffered from cold diuresis, which only happens in cases of extreme hypothermia, and the temperatures on the day of the seizure were relatively mild. He offered that high levels of stress can result in cortisol secretion which also produces a diuresis response in the kidneys, and that the urine results may have resulted from the stress of the seizure.
55. On cross-examination, Dr. Reynolds said he would defer to a veterinarian who had been on site if they knew sled dogs. He also agreed that a prudent sled dog owner would contact a veterinarian and seek care for a dog that was not doing well or was ill.

Appellant's Expert Witness – Dr. Ailena Baum

56. Dr. Ailena Baum holds a Doctor of Veterinary Medicine from UW-Madison School of Veterinary Medicine (graduated 2011) and is a USDA Level 2 Accredited Veterinarian. She is the owner of Lyons Veterinary Service in Burlington, Wisconsin and has extensive experience in the medical care of working dogs, especially hunting dogs and sled dogs. She has been a competitive dog musher for 21 years and is a longtime member of the Wisconsin Trailblazers Sled Dog Club and the International Sled Dog Racing Association. She was qualified as an expert in veterinary medicine and sled dogs.
57. Dr. Baum provide a written report as well as oral testimony based on her review of the documents and videos provided to her.
58. In her report, she states that the BCSPCA Site Visit Population Behaviour Report “fails to take sled dog kennel norms into account, and that it is also in many instances contradictory and speculative.”
59. She states that sled dogs are usually fed diets that are high in calories and are often trained to eat their food immediately to avoid the risk of running dogs with potentially full stomachs. She writes, “In my experience with sled dog kennels it would be expected to find empty bowls between feeding times in almost any sled dog kennel in the winter/spring/fall.”

60. She testified that, in her review of the Society's videos, the dogs "appear to be in ideal body condition for working sled dogs and in no distress."
61. On the matter of hypothermia, she says that the observation of "thermoregulatory behaviours" including shivering and paw lifting are highly subjective and could be caused by other things such as anxiety. She said that she has a euro-hound type sled dog in her own kennel as well as number of them in her veterinary practice, and that she has never seen one of these crosses with hypothermia or frostbite. She added "They handle Wisconsin winters just fine."
62. She contests the temperature measurements taken by Dr. Walton, citing a paper by Dr. Rebecca J. Greer (included in the submissions) that concluded most non-invasive methods underestimate core body temperature in dogs. In her oral testimony she explained that the human ear canal is straight, but in the dog the canal goes down and turns a corner so the infrared light won't bounce off the tympanic membrane.
63. She says the thermometer that was used is only certified for used on human and to work between 50-104F, so using it outside would influence the readings. To accurately determine if a dog was hypothermic would require a rectal thermometer reading. She dismissed the use of urine testing as a validating data, suggesting that they should have taken blood samples instead.
64. On cross-examination, Dr. Braun was asked about prevention and treatment of periodontal disease. She acknowledged that some of photos showed advanced periodontal disease. She recommended that the kennel use approved dental chews and cleanings to keep periodontal disease at bay. When asked specifically if she would prescribe pain medication if an owner did not have funds to get their dog treated for stage 3 periodontal disease, she said no and that she would push the owner to treat the disease.
65. When asked if some mushers insulate the walls or roof of doghouses, she said it varied. Some kennels with short-haired dogs will, but the majority do not. She noted that her own sled dogs have insulated houses.

Additional Submissions – Affidavits

66. Additional submissions by the Appellant include Affidavits from the Appellant's daughters Caron Magaw and Alisa Trembecki.
67. Both affidavits speak to the Appellant's lifelong commitment, experience and caring for dogs. They maintain that the dogs had regular exercise and that the kennel was well kept and that the dogs were happy and healthy
68. Caron Magaw notes in her Affidavit that the Appellant often took dogs into his care without compensation and tried to do what was best for each dog in his care. She

states, "I believe that if my Father has stretched himself too thin it was because he had too big of a heart for dogs."

69. Both daughters were on the Property on February 15, 2021 and stated that conditions were normal at the kennel and they had an enjoyable day together as a family with the sled dogs.
70. On the day of the seizure, both daughters came to the Property when they heard what was happening. They met with SPC Affleck, who they both characterize as dismissive, uncommunicative, condescending and aggressive during their interactions. They both note conflicting evaluations of the conditions present at the time of seizure. In one example, SPC Affleck said that the straw was wet and the sisters found the straw was dry. In the words of Alisa Trembecki, "Affleck seems very extreme about his opinions;" and "He refused to have a rational conversation. It seemed that he was coming to conclusions that were not based in reality."
71. Both sisters gave evidence that there was conflict in the family between Steven and Donna Magaw, who owned the property, and the Appellant. Caron Magaw states: "I know my father to have a life estate on the property that includes being able to keep Spirit of the North on the property."
72. An Affidavit was also provided by Cassandra Urbashas, who was a part time volunteer at Spirit of the North from October 2020 until the day of the seizure. She helped with the cleaning, feeding, watering, exercising and other chores with the dogs.
73. Ms. Urbashas corroborated Ms. Olgivie's description of the daily schedule at the kennel: feeding and watering from 9-10am, running the dogs from 11am-12pm.
74. In her statement, she notes that she changed the straw in most of the doghouses and picked up poop the day before the seizure. She further describes some of the worst conditions in the dog pens and the efforts to clean them or move the dogs.
75. Overall Ms. Urbashas states that everyone working at Spirit of the North cared immensely for the dogs and were responsive to their needs. She says, "I thought that Spirit of the North needed more staff. I was speaking to Alan about potentially getting grants from the government to see if they could get paid staff members." She further writes, "I believe that any of the issues at Spirit of the North could be solved with a few more staff member or a few less dogs."
76. With respect to the Appellant, Ms. Urbashas writes that he is smart, experienced and caring. "I believe that Alan only wanted the best for the dogs."

VIII. Respondent's Evidence

Respondent's Witness – Mackenzie Kirk

77. Mackenzie Kirk volunteered at Spirit of the North kennels twice a week from November 11, 2020 to December 30, 2020. She provided a written statement of her experience [Exhibit 40] as well as oral testimony during the hearing. She confirms that she wrote the document and that it is true and accurate.
78. She describes working primarily with Audrey Poirier, a full-time, live-in volunteer at the Property. Audrey was responsible for training Mackenzie. "During my time there it was always Audrey making decisions and giving instructions." Nadjesda Olgivie would come out when they ran the dogs, and she saw her a few times cutting up meat for the sled dogs, but they did not work together.
79. Her impression of the Appellant was that he did not seem physically capable of running the kennel on his own as he is an elderly man in his 80s. She says that she rarely saw him outside or working with dogs.
80. She describes doing daily feeding and watering of the dogs, including using baited water – water mixed with kibble – to ensure that the dogs were drinking. She was told that bedding straw was to be changed every two weeks and describes it as wet and with a strong smell of urine when they changed it.
81. Ms. Kirk also describes exercising the behavior dogs and sled dogs by running them behind a quad, either using a trailer pulled behind the quad, attached directly to the quad, or using a sled dog set-up in front of the quad. She says the dogs were not run every day, and she did not see them use the play pen.
82. She describes several occasions where dogs were sick or injured while she was at the Property and her experience of their care. Her evidence is as follows:
 - (a) On November 18, 2020 there was a dog fight between two sled dogs while they were running with them with the quad. In the fight, Jethrow punctured the neck of Bacchus and drew blood. Ms. Kirk took Bacchus to the Appellant to explain what happened and suggested that they call the vet. The Appellant dismissed the injury and did nothing to treat it.
 - (b) A pitbull mix named Amy who was there for adoption was kept outside until she got bad frostbite on her head and ears. After that she was allowed to sleep inside at night and was left outside during the day with a neck-warmer over her ears.
 - (c) An older sled dog, Celine, suffered from declining health over 2-3 weeks. She became extremely bloated and her ribs were protruding. Her fur fell out in patches. She would not eat or drink. Ms. Kirk suggested to the Appellant that Celine needed veterinary care, but he refused and told her to "wait and see." Celine eventually passed away without veterinary care.

- (d) Another retired sled dog, Adam, “suffered greatly” before he died at the kennel. Ms. Kirk describes him whining, moaning and struggling to get out of his house. He had a wound on his leg that appeared infected. Eventually the Appellant called the vet to consult about Adam and was given permission to put him down. Two weeks later, Adam died in his kennel.
83. Ms. Kirk says she tried to address the issues going on in the kennel, but “he responded with denial, deflection and excuses.” In a conversation about veterinary care, she reports the Appellant told her that vets tend to be expensive and that he didn’t have the funds. She eventually stopped volunteering because she could no longer support the Appellant and his practices. She stayed in contact with Audrey Poirier who told her that she intended to report the Appellant.
84. On cross-examination, Ms. Kirk admitted that she could not speak to what happened when she was not there, she only knows what she was told by Audrey Poirier.

Respondent’s Veterinarian – Dr. Adrian Walton

85. Dr. Adrian Walton is a veterinarian licensed to practice in British Columbia; he is the owner and lead veterinarian at Dewdney Animal Hospital. His practice is primarily small animals, including farm and hunting dogs in rural areas. He was qualified as an expert in veterinary medicine, particularly with regards to dogs.
86. Dr. Walton gave oral evidence in support of his experience on the day of the seizure and his report on the site inspection and physical exams which were included in the Society’s Submissions.
87. He began his evidence by explaining the body condition score scale and normal body temperatures for dogs.
88. He explained that during his examinations he used an infrared thermometer that takes the temperature of the tympanic membrane. He admitted that debris in the ear can create blockages and make values artificially low. He explained that whenever he gets an abnormal reading (high or low) he does 3-4 readings on both ears to reduce the potential for error.
89. In this case, Dr. Walton used three data points when considering the condition of the dogs; the body condition scores, temperature readings and urinalysis readings.

90. Dr. Walton offered the following observations of the Property on the day of the seizure:
- (a) The first thing that he noticed was that one of the dogs couldn't fit all the way in the house before the chain became taught.
 - (b) Barrel houses were not tall enough for dogs to fully stand.
 - (c) Some dogs demonstrated stereotypical behaviour.
 - (d) Several tethers were buried in the snow so that the chain was not fully mobile. This was not compliant with the BC Sled Dog guidelines.
 - (e) Some kennel doors had been chewed so the openings were too large.
 - (f) In the area where the behavioral therapy dogs were kept, the dogs were housed in huts that were too large to provide any warmth. The houses provided protection from wind, rain and sun, but did not allow for the dogs to self-heat in the cold.
 - (g) Some dogs in this area also had feces build-up.
 - (h) Most animals had fresh straw and things looked "pretty clean."
 - (i) There was no enrichment for the dogs aside from a single bone and a Kong-type toy.
 - (j) In some houses there was ice under the straw bedding.
91. His major concerns with the health of the Animals were as follows:
- (a) Issues with low body condition scores – there were 2 dogs with BCS 2, which requires veterinary care. Most of the animals were in the 3-4 range. BCS 3 is too thin and requires attention so the animal does not deteriorate further.
 - (b) There was a high prevalence of dental disease. B4, B7, B13 and B20 all had immediately apparent dental issues that would have been painful and required treatment.
 - (c) One dog had an eye infection that was painful and needed treatment.
 - (d) A number of dogs had redness and saliva staining on their feet.
 - (e) A few dogs had wounds under their collars where the buckle of the collar rubbed the skin raw; he particularly noted a large red patch on B9.
 - (f) Two dogs were clinically dehydrated as assessed by prolonged skin tenting.
 - (g) A number of dogs had body temperature readings low enough that would indicate they were hypothermic.
92. The eye issues, dental disease and collar abrasions would have required veterinary care.
93. Urine samples were taken onsite because they had concerns about urine concentration. They found that there were in fact no signs of concentrating. In the

absence of evidence of disease or bladder infections, Dr. Walton determined that the cause of the low urine specific gravity was likely cold diuresis, a kidney condition that occurs when dogs are hypothermic.

94. Dr. Walton explained that the dogs were closer in body conformation to sight hounds. He said salukis have been brought into more racing lines, because they are fast, but that their speed is a result of genetic adaptation to dissipate heat. “The problem is when you bring a dog designed to dissipate heat into mushing they do great on the track, but off the track you have to change their housing and husbandry to accommodate their needs.”
95. According to his assessment, many of the dogs were single-coated instead of double-coated like the husky types.
96. On cross-examination, Dr. Walton was questioned about his use of the Royal Canin body condition score chart instead of the version of the chart included in the Sled Dog standards. He ceded that under the Sled Dog Standards of Care Regulation, 4 is considered an ideal BCS, but emphasized that BCS of 3 and 2 are too thin. BCS 3 warrants intervention by the musher, and BCS 2 warrants intervention by a veterinarian.
97. He was further question about comments he has made in the past about tethering and responded, “I have issues surrounding tethering, but also understand and accept that the Canadian Veterinary Medical Association approves tethering. Some of the way that these animals were tethered to the stake were contrary to the Sled Dog Standards of Care Regulation.”
98. When asked “Would it change your analysis of these dogs had they not been given any water since dinner time the day before?” Dr. Walton admitted that it could affect the analysis, but added that if that was the case, they should have been seeing extremely concentrated urine because the dogs were dehydrated.
99. He expressed concern that a number of dogs had short coats, including some of the sled dogs, a pit bull and a cane corso, and would have struggled to keep warm being kept outdoors in freezing temperatures all day. “You cannot have dogs with short coats and little subcutaneous fat and expect them to thrive in winter conditions.”

Respondent’s Veterinarian – Dr. Karen van Haaften

100. Dr. Karen van Haaften is a veterinarian licensed to practice in British Columbia; she has also completed a three-year residency in clinical behavior. She was qualified as an expert in veterinary medicine and animal behaviour.
101. Dr. van Haaften gave oral evidence in addition to her Site Visit Population Report that forms part of the Society’s Submissions. She also provided a number of

videos and records from her physical, environmental and behavioral assessments of the dogs on the Property.

102. She notes that the dogs that were determined to be in distress and seized fell into two groups – those bred for mushing (the sled dogs) and those boarded on the property for behavior therapy (the behavior dogs). There was also a population of group-housed dogs in a yard that were assessed to not be in distress and were not seized.
103. There were four distinct areas where dogs were housed. On first walk-through they numbered the dogs according to which area they were housed in:
 - (a) Group A consists of 2 dogs cohoused in a large metal pen near the Southeastern end of the property.
 - (b) Group B was the largest group of tethered sled dogs extending along the Eastern and Northern sides of the property.
 - (c) Group C was a metal pen kennel structure containing 2 sled dogs and 7 behavior dogs, all individually housed in pens with metal fencing.
 - (d) Group D was a mix of sled dogs and behavior dogs that were tethered on the Southern side of the property.
104. Dr. van Haaften gave evidence that a number of dogs, particularly in Group C exhibited highly ritualized pacing and jumping. She described it as different from normal behavior in that every repetition of the behavior is performed in exactly the same way. In multiple cases she saw dogs throwing their heads up or jerking at the same point in the rotation every time.
105. These behaviors also differ in intensity from normal behavior. They are difficult to interrupt. Normally approaching an animal would be enough to interrupt the behavior. Most of these dogs would continue, and in a couple of cases the animals had to be physically restrained to make them stop.
106. She explained that this is generally seen as a coping mechanism that animals develop in cases of chronic confinement and neglect. Based on the evidence that she heard from Nadjesda Olgivie, Dr. van Haaften stated that what Ms. Olgivie described may have met the basic low level of care for these dogs, but that most animals need more than an hour off leash.
107. Dr. van Haaften commented that the socialization pen that she observed was set up with multiple kennels inside and was not big enough for dogs like sled dogs to run around and get exercise.
108. She also expressed concerns about the trailer that was used to exercise the therapy dogs, saying that she has never heard of something like that being used to modify behavior. Dogs attached to the trailer by collars with a short chain could feel trapped, exposed and not able to make choices.

109. Dr. van Haaften stated that the behavior witnessed on the Property does not develop overnight, and that the behavioral evidence is more consistent with the evidence of Mackenzie Kirk than what was described by Nadjesda Olgivie.
110. She also noticed several dogs shivering and exhibiting thermo-regulating behaviors like alternately lifting paws to get away from the cold, holding all limbs close to the body at rest, and reluctance to leave their houses. She says normally if huskies were thermally comfortable they would be lounging around and not showing these signs of cold and discomfort.
111. She remarked on the low body condition scores of the dogs as a population – “When you look at a big population of dogs like this and see many of them being underweight, that means they are not getting enough calories or there’s something going on at a population level.”
112. She notes that they found round worm and whip worm in the population. Roundworm is easily treated, but can cause disease in humans, which concerned her because it was a commercial sled dog operation open to the public. Whip worm is not often found in BC and can persist in the environment for a long time. It is treatable but putting animals back onto this Property puts them at risk for reinfection. Both of these parasites are transmitted by fecal/oral transmission.
113. Regarding enrichment, Dr. van Haaften admitted that sled dogs are hard on toys, but that you can find toys that are hardy enough for them or use other form of enrichment where destruction is not a problem.
114. With regards to the environmental concerns on the Property at the time of seizure, she gave evidence as follows:
 - (a) Containment and resting areas were contaminated with urine and feces. This can contribute to skin irritation, for example, red paws, olfactory discomfort, and the spread of fecal-oral infectious diseases such as parasites.
 - (b) Not all dogs had adequate clean bedding in their shelters for comfort and insulation. Some straw was damp and icy.
 - (c) Some dogs were urinating on their doghouses, creating strong ammonia odours that would be irritating over time.
 - (d) There was no water or food present for the dogs.
 - (e) Constant barking could contribute to auditory stress.
 - (f) Some Group C dogs were kept in close contact with neighboring aggressive dogs.
 - (g) Tethered dogs lacked opportunities for play or social interaction.
 - (h) Some dog houses for the sled dogs were too small to allow full use.
 - (i) Housing for the behavior dogs was too large to be insulative and protect from cold.

115. Overall, Dr. van Haaften found that all of the seized dogs from the Property were in distress from one or more factors related to cold stress, malnutrition, deficiencies in housing and high rates of stereotypic behavior.
116. In response to the care plan provided by the Appellant, Dr. van Haaften expressed the following concerns:
- (a) It does not address improving standards of housing and care for the behavior dogs.
 - (b) There's no parasite control plan.
 - (c) It only proposes to insulate the floors of the houses.
 - (d) There is no plan for a perimeter fence around the dog yard.
 - (e) There is still only one core volunteer responsible for taking care of these dogs and giving them everything they need. "There's not an increase of the level of care before the seizure, when we have evidence that the care was inadequate."

Respondent's Witness – SPC Matthew Affleck

117. SPC Affleck is an employee of the Society having been appointed as an SPC under the Police Act. He has been employed in this capacity for 10 years.
118. Since the events leading up to the date of the seizure are documented earlier in this decision, what follows focuses on the evidence provided by SPC Affleck regarding relevant information that has not otherwise been captured above and about the seizure itself.
119. SPC Affleck describes the Appellant as 84 years old and observed that he has a hard time getting around the Property. During a tour of the dog yard, the Appellant had to stop to catch his breath. He informed SPC Affleck that he has a health condition.
120. Prior to filing for a warrant, SPC Affleck called the Nelson Vet Clinic to find out if the Appellant had followed up on the Notices to seek veterinary care. There was no file at the clinic for Ajax or Atlas aside from a note that the Appellant had been advised in a phone conversation to bring the two dogs into the clinic. There was a record for Aladdin. Buddy, who was the subject of two Notices had no information on file and had not been examined.
121. According to the clinic, the last time a vet was on the Appellant's property to conduct an inspection was almost 2 years ago. The deceased dog, Adam, was last seen in 2017. The deceased dog, Selene, was last seen in 2016. Neither dog was brought into the clinic when it was sick before it died.

122. In his evidence on the execution of the warrant on February 16, 2021, SPC Affleck offered the following:
- (a) They seized 40 dogs that were determined to be in distress. They left 5 dogs that were in the dwelling yard and had access to a doggy door that went under the house. There were no concerns with the horses or other animals at the Property.
 - (b) As the lead investigator with the Warrant, he arrived with the RCMP and APO Chapman, and explained to the Appellant what would be happening. The Appellant refused to take the warrant and asked to speak to his vet.
 - (c) He left APO Chapman and the RCMP with the Appellant at the house and toured the property with Dr. Walton and Dr. van Haften.
 - (d) He noted a lack of water and adequate shelter, doghouses in disrepair, urine-soaked houses and bedding, accumulations of urine and feces in the containment areas, inadequate shelter and protection, and dogs with injuries and health concerns. SPC Affleck determined the dogs were in distress based on findings of lack of adequate shelter, water, care, sanitary living conditions and veterinary care.
 - (e) Later that afternoon he had a conversation with Caron Magaw and Liss Trebecki, who asked him what was going on. He said they were concerned for the Appellant and wanted to understand why the dogs were being taken. He says he explained the history and showed them the areas of concern that he saw.
123. Since the seizure, SPC Affleck reports that the dogs are doing well. A lot of them have gained weight. They have toys and water and seem happy. He says that he no longer sees them pacing or shivering, and that they seem to enjoy being inside.
124. On cross-examination, SPC Affleck shared that this was his first encounter with a large-scale sled dog operation.
125. He said that he drives a marked vehicle and wears a uniform. He did not offer the Appellant a lawyer.
126. When questioned about the cleanliness of the dog yard, and whether a person was required to dig up buried poop, he replied, "Under the PCAA, the dog has to be in sanitary living conditions. I think it's acceptable if a dog goes to the bathroom that you pick it up later that day or leave it overnight. I've been to kennels with that many dogs or more where they are able to keep up with it."
127. With regards to the build-up of waste at the time of seizure, he says "Sometimes things get missed or buried in the snow, but especially in the behavior dog area, it was more than a day or two of feces accumulated."

128. He stated that the Appellant told him that the retired dogs were not getting off the tethers every day.

IX. Analysis and Decision

129. Part 2.1 of the PCAA establishes the standards of care for animals and establishes a duty on those responsible for the animals to ensure those standards are met:

9.1 (1) A person responsible for an animal must care for the animal, including protecting the animal from circumstances that are likely to cause the animal to be in distress.

(2) A person responsible for an animal must not cause or permit the animal to be, or to continue to be, in distress.

11 If an authorized agent is of the opinion that an animal is in distress and the person responsible for the animal

(a) does not promptly take steps that will relieve its distress, or

(b) cannot be found immediately and informed of the animal's distress, the authorized agent may, in accordance with sections 13 and 14, take any action that the authorized agent considers necessary to relieve the animal's distress, including, without limitation, taking custody of the animal and arranging for food, water, shelter, care and veterinary treatment for it.

130. The definition of "distress" provides:

1 (2) For the purposes of this Act, an animal is in distress if it is

(a) deprived of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment,

(a.1) kept in conditions that are unsanitary,

(a.2) not protected from excessive heat or cold,

(b) injured, sick, in pain or suffering, or

© abused or neglected.

131. We have also proceeded on the basis that the Appellant has an onus to show, that the remedy they seek (return of the Remaining Animals) is justified. The first issue to consider is whether the Animals were in distress at the time of seizure. Depending on the answer to that question, the next issue is to decide whether to return the Remaining Animals or whether to do so would return them to a situation of distress.

132. At the time of seizure, SPC Affleck concluded that the Animals were in distress due to lack of adequate water, space, exercise, care or veterinary treatment, based on the definition of distress set out above in s. 1(2)(a) of the PCAA. He also concluded that their living conditions were unsanitary due to the build-up of feces in the outdoor pens and urine on the houses and bedding, s. 1(2)(a.1).

133. SPC Affleck sought the warrant based on the Appellant's failure to take action on the Notices that were provided, and the Appellant's denial that there was anything that needed to be done to improve the conditions or provide veterinary support to

the dogs in his care. This provided sufficient cause to seek a warrant. Based on concerns for the dogs' welfare based on poor body conditions, health issues and the living conditions on the Property, he exercised the Society's authority under section 11 of the PCAA to take the Animals into custody to relieve their distress.

134. The Appellant maintains that the dogs in his care were kept in good living conditions and received adequate care and exercise. He maintains that sled dogs are inherently different from other dogs, that they are "born and bred to work in extremes," and that his practice was in compliance with the Sled Dog Standards of Care Regulation
135. The Panel was presented with a body of definitive evidence that the Appellant was not in compliance. As a sled dog operator, the Appellant neglected to adhere to basic requirements for hygiene, housing and record keeping under the Sled Dog Standards of Care Regulation. While he objects to any interpretation of the regulations by the Society as misleading, his own evidence takes liberties with interpretation and implementation.

Sled dogs are different.

136. In statements to SPC Affleck, emails to the Society and his written submissions, the Appellant repeatedly asserts that: "Sled dogs are born and bred to live and work in extreme cold climates and to perform highly specialized tasks. Sled dogs have many special adaptations which include but are not limited to Special Pads on their paws that are resistant to frost bite, water resistant pads to prevent the abortion of water snow and ice; unique blood circulation to control thermoregulation in extreme cold conditions; and dense coats that have a double layer to help maintain body heat."
137. The Panel heard evidence that it is now common practice among short and middle-distance sled dog racers to cross the cold-adapted Alaskan Huskies with sight hounds like Greyhounds, German Short-haired Pointers, or Middle Eastern breeds like Salukis.
138. The Panel heard from Dr. Walton, Dr. Reynolds and Dr. Baum that these crosses were desirable because they are very fast, partly due their adaptive ability to dissipate heat, not retain it. The Panel saw photographic evidence from the Society that demonstrated the short, thin coats of the dogs at Spirit of the North.
139. While Dr. Reynolds provided a perspective on the photos that indicated some of the dogs may technically have a double coat, it is apparent to the Panel that their coats were not substantial and the findings of the veterinarians onsite support the conclusion that most of these dogs had no special adaptation to the cold, in fact they would have benefited from additional support, including a higher energy diet, additional bedding and insulated houses, to deal with the cold weather.

Lack of Care

140. The BCS guidelines included in the Regulation define BCS 1-3 as “Too Thin”, and the Regulation requires veterinary care for any dog with a BCS of 2 or lower, of which there were at least 3 in the population.
141. Across the population of dogs, the Panel gives particular consideration to the following findings of fact with regards to veterinary care of the animals:
 - (a) 13/40 dogs were underweight (BCS 3 or lower) at the time of seizure
 - (b) 10/40 dogs required veterinary treatment immediately after seizure
 - (c) 5/40 dogs were found to have parasites, including hook worm, round worm and ring worm
 - (d) 15/40 dogs had urine analysis results indicating low specific gravity
 - (e) 9/28 dogs 5 years or younger had minor to moderate health issues
 - (f) 8/12 dogs 6 years of age or older had serious health issues
142. The Panel further considers evidence of the death of four dogs on the Property that the Appellant allowed to die without seeking veterinary care, and the fact that the Appellant chose to shoot the dog ‘King’ rather than take him for a behavioral consultation with a veterinarian as indicative of how similar situations may be dealt with in the future.
143. After the Appeal hearing, two senior dogs in the care of the Society (D2 & D3) were determined to be in critical distress and were humanely euthanized. These were two of the dogs specified in Notice 351315, the first notice delivered on January 11, 2021, which specified that Atlas, Ajax and Aladdin required veterinary care. The Panel heard evidence that only Aladdin was taken to the vet. The Appellant tried to call in an inquiry to the vet about Atlas and Ajax and was asked to bring them into the clinic the following day. The Appellant’s evidence does not provide any reason why these two dogs were not taken in to see the vet. It appears he just could not be bothered.
144. Veterinary records from the Nelson Animal Hospital demonstrated how rarely the Appellant took dogs to see the vet. In fact, only 3 of the dogs that were seized were included in the records provided. One comment stood out in the record for Isis on March 17, 2020 in response to a request for a veterinary letter recommending euthanasia. It reads, “Basically Celeste is not wanting to spend time drafting a letter for this, as he is often phoning about dogs that we have never seen for exam. She has had this conversation with him a few times.”
145. Further to the evidence of lack of care provided in the Nelson Animal Hospital records and the findings of the veterinarians attending the seizure, as well those doing the intake exams that all point to a lack of veterinary care, the Panel also

heard from Mr. Black that he had only seen Dr. Bignell at the property once in the 8 years he had lived there.

146. The Appellant submitted no kennel records to the proceedings, and no evidence or affidavit from their primary vet. The veterinary records that were provided by the Appellant had significant gaps. As a result, the Panel has very limited evidence beyond that of the veterinarians who attended the seizure.
147. While the Appellant's expert witnesses both have excellent credentials as veterinarians and sled dog owners, the weight of their evidence was undermined by the fact that they have never visited the Appellant's property or physically examined the dogs. Consequently, the Panel gives more weight and consideration to the evidence of Dr. Walton and Dr. Van Haaften, who attended the property and independently examined the dogs at the time of seizure.

Body Condition Scores

148. Expert witnesses and evidence focused heavily on the validity of the body condition scores and body temperature readings that the veterinarians found at the time of the seizure. Dr. Reynolds and Dr. Baum both provided evidence that a BCS of 4/9 is considered ideal for sled dogs. This is supported by documentation provided in the Sled Dog Regulation using the Nestle scale that specifies 4 as an ideal BCS.
149. The Panel notes that regardless of the qualitative descriptions provided by each of the BCS guidelines referred to during the hearing, the quantitative descriptions are consistent among them. While the Panel accepts the evidence that a BCS of 4 was ideal when weighing the evidence and considering the condition of the dogs, it also notes that a BCS of 3 or lower is considered "Too Thin" across every scale.
150. It is evident, that with 13/40 dogs presenting with a BCS of 3 or less that many of the dogs were not getting adequate nutrition to support their caloric needs in a cold environment with minimal protections against the cold.

Body Temperature

151. The Appellant put forward a compelling case to dismiss the evidence of hypothermia based on the body temperature readings taken by Dr. Walton using an aural thermometer. The Appellant's Submissions included a product sheet for the Braun ThermoScan that specifies the following:
 - (a) The Braun ThermoScan thermometer is intended for intermittent measurement and monitoring of human body temperature for people of all ages. It is intended for household use only. (emphasis added)
 - (b) The operating ambient temperature range for this thermometer is 50 – 104 °F (10 – 40 °C).

- (c) It is not intended to interpret hypothermic temperatures
152. Both expert witnesses for the Appellant challenged the conclusion that many of the dogs were hypothermic on the following basis:
- (a) Auricular thermometers are the least accurate method of taking body temperature.
 - (b) The thermometer used was not calibrated for use on dogs.
 - (c) The anatomy of the inner ear of a dog is different from a human and consequently the infrared light used to take the temperature would not reach the tympanic membrane to take an accurate temperature.
 - (d) Based on their review of the video evidence, the dogs were not demonstrating behaviors consistent with a hypothermic state.
 - (e) Body temperature readings should have been taken or at least confirmed using a rectal thermometer.

153. The Appellant submitted a research paper that compared the accuracy of different techniques for taking body temperature in dogs. It concluded that auricular temperature readings are the least accurate of the techniques assessed. The Society submitted an email from Dr. Rebecca Greer, the lead author of the paper that stated:

Specific to the question of auricular temperature readings providing USEABLE results my answer is YES auricular temps have usable results. Although they did not correlate well with true core temperatures, they were within 1 degree C most of the time and I do think there is a place for auricular measurements in real practice as there are medical conditions, animal behaviors, or other circumstances that preclude taking rectal temperatures.

My opinion is: if an auricular reading is more than 1 C degree deviant from a normal body temperature that dog likely has an abnormal temperature and the temperature should be rechecked multiple times or via another method. Therefore if a dog has an auricular temp deviation of >1 degree below normal on multiple readings and is displaying clinical signs of hypothermia the dog is likely hypothermic.

154. The Panel finds that there is too much doubt over the accuracy of the temperature readings taken by Dr. Walton with an auricular thermometer to give them any significant weight on their own. However, the dogs were examined by two veterinarians separately during the seizure, and urine samples were collected on-site. Where there are overlaps in the assessments, the Panel gave greater weight to evidence on body temperature. Specifically, dogs B7, B8 and B9, which were observed by Dr. Van Haaften to demonstrate significant thermoregulating behavior (shivering and paw lifting) as well as having the lowest temperature readings from Dr. Walton.

155. The Panel reviewed the evidence on urine specific gravity and body temperature and could not draw any conclusion of hypothermia based on alignment of the USG values with auricular body temperature readings and behavioral observations. We could give no weight to Dr. Walton's theory that the urine specific gravity was indicative of Cold Diuresis, and as a result did not take that into consideration in our decision.

Hydration

156. The Panel accepts the evidence of the Appellant supported by Dr. Reynolds and Dr. Baum, that providing baited water is a common practice in sled dog kennels and is a viable way of providing hydration for sled dogs living in freezing conditions where water in buckets or bowls would otherwise freeze.
157. The Panel further accepts the possibility that the Society contributed to the potential dehydration of the dogs by stopping staff from completing their work feeding and watering the dogs when they arrived.

Circling & Stereotypical Behaviors

158. The Panel acknowledges the Appellant's argument that some of the circling, barking and jumping behavior could be attributed to the disturbance resulting from the presence of new people and non-typical activity in the dog yard. However, Dr. van Haaften's notes include the presence of deep tracks worn into the snow, which would indicate that the circling behavior is a recurring behavior.
159. Among the dogs in the B and D groups, 19/29 dogs had worn deep tracks in their area as a result of circling. To support this, the Society video submissions from the day of the seizure show a number of dogs demonstrating stereotypic circling behavior, not just on the arrival of the Society's officers, but continuing well past the point where the novelty would have worn off.
160. The Appellant argues that the dogs were exhibiting typical behaviour for sled dogs and were not in distress. Dr. Reynolds and Dr. Baum support this argument in their testimony, saying it is natural for dogs to bark and get agitated when strangers arrive.
161. The Panel prefers the evidence of Dr. van Haaften, who had the opportunity to spend hours with the dogs in their environment. We find that the video evidence supports Dr. van Haaften's description of repetitive behaviors being carried out identically over and over again over time. This is supported by wear patterns on the ground.
162. The Panel accepts this as evidence that the dogs were not receiving adequate enrichment

163. It is important to note that it is not necessary to find every animal to be in immediate physical distress to justify seizure. In *Simans v BCSPCA* (December 2, 2016), at paragraph 180 the Panel in that case explained:

180. I note that “distress” in s. 1(2) of the PCAA is a specialized term. It does not require the Society to make a finding of pain and suffering as a precondition to removing an animal. While pain and suffering were present here for many of the animals, that is not necessary for the definition of “distress” to be met. Rather, in accord with the purposes of this protective statute, the definition extends beyond that. **The first three criteria listed in s. 1(2) – any one of which is sufficient to satisfy the definition – also constitute “distress” and make clear that the Society is not required to find “pain” and “suffering” before it may move to protect an animal. Those factors reflect serious risk factors that would foreseeably give rise to suffering and harm if protective action is not taken. While they must not be trivialized in their application, they also do not require the Society to wait until the worst happens.** [emphasis added]

164. In *Churchill and Bhasin v BCSPCA* (September 18, 2019), the Panel in that case found:

178. In considering the issue of distress, the Panel starts with the proposition that the definition of distress is broad and the Society does not have to establish an actual deprivation or harm to an animal before determining the animal is in distress. **A medical finding that an animal is injured or in pain is not required in order to conclude that an animal is in distress. The definition of distress is intended to be protective and preventative.** It does not require proof of actual harm; rather it describes those circumstances that create a significant risk of harm to animals and should be avoided. When these circumstances are not avoided and conditions place animals at sufficient risk, the PCAA provides that they can be protected. [emphasis added]

165. Based on the totality of evidence, we find the Animals were in distress under s. 1(2) and were appropriately and reasonably seized by the Society.

XI. Return of the Animals

166. Having determined the seizure of the Animals was justified, I now consider whether it is in the best interest of the animals to be returned. The courts have considered the legislative framework in the PCAA. In *Eliason v SPCA*, 2004 BCSC 1773, Mr. Justice Groberman (as he then was) stated:

The scheme of the Act clearly is designed to allow the Society to take steps to prevent suffering of animals, and also to allow owners of animals to retrieve them, or have the animals returned to them, if they are able to satisfy the Society that the animals will be taken care of.

167. In *Brown v BCSPCA*, [1999] B.C.J. No.1464 (S.C.) the court explained:

The goal and purpose of the act is explicit in its title. It would be unreasonable, in my view, to interpret the Act as the Plaintiff’s counsel suggests. In the interest of preventing a recurrence of the cause or causes leading to the animal being in the

distress in the first place, the court must be satisfied that if the animal is returned to its owner, it will remain [in] the good condition in which it was released into its owner's care.

168. The question at this stage is whether the Appellant is capable of providing adequate care for the Remaining Animals. The onus is on the Appellant to prove the return of the Remaining Animals is in their best interests and to explain what, if any, changes have been made or will be made to prevent the Remaining Animals from returning to a state of distress.
169. The Appellant represents himself as an expert in sled dogs and behavioral therapy, and provides letters of support from previous clients and family members. Lay witnesses have learned everything they know from him. Expert witnesses know the Appellant by reputation through sled dog circles.
170. The Panel has no doubt that the Appellant and his volunteers care about the dogs, but the condition of the dogs and the environment at the time of seizure casts doubt on their ability to care for the dogs.
171. It is important to note that the Society has not alleged abuse on the part of the Appellant. This is an issue of ongoing marginal care provided to working animals. The Panel believes that everyone was operating with best intentions and to the best of their abilities, but the evidence in the condition of the dogs and their environment is that the care was not adequate to ensure that the dogs remained free of distress.
172. While the Appellant claims the Society is trying to advance its own agenda by reading too high a level of care into the Sled Dog regulations, the Panel notes that he dismisses the choices he makes that depart from the regulations on the rationale that he has greater expertise and understanding of what sled dogs really need. It diminishes the impact of the Appellant's claims against the Society, and demonstrates disregard for any authority on the sled dog care aside from his own.
173. Based on the evidence and submissions of the Society, as well as admissions by the Appellant, it is evident that the Appellant was not in compliance with the Sled Dog Standards of Care Regulation in a number of areas that contributed directly to the finding of distress. This forms part of the rationale in the Panel's decision not to return the dogs, particularly since the areas of non-compliance with the Regulation overlap with the areas concern under the PCAA, specifically housing, containment and hygiene, meeting nutritional needs, access to veterinary care, and record keeping and lifecycle planning.
174. The areas of non-compliance with the Regulations contributed directly to the findings of distress by SPC Affleck and the attending veterinarians.
175. The Sled Dog Standards of Care Regulation provide a minimum standard of care for animals used in specific work. They are additive to the PCAA which sets out

the minimum standard of care for all animals. In no way should the Sled Dog Standards of Care Regulations be considered an excuse for a lower level of care, or any situation in which an animal is determined to be in distress. Distress is distress regardless of the animal's work.

176. The Panel further suggests that dogs being asked to perform exceptional tasks in exceptional circumstances should be afforded additional care to support their health and well-being.
177. The Appellant's case for the dogs is largely built around three themes; the dogs were not in distress at the time of seizure despite the evidence of the attending veterinarians, sled dogs have different needs than other dogs, and if the dogs are returned the Appellant will adhere to a more stringent care plan.
178. The Panel is concerned that the first two themes of the Appellant's defence, paired with his history of non-compliance, make it unlikely that the proposed care plan will be respected. The Appellant relies on his care plan in support of the dog's return but does not address the primary issue which is the fact that there are too many dogs to maintain adequate care of the animals with the existing resources.
179. The Panel heard evidence that veterinary care was not provided because it was too expensive, and that the Appellant was reliant on volunteer labour to care for his dogs. It is difficult to reconcile that evidence with the promise that the dogs will be returned to a greater level of care without evidence that there are the resources to back it.
180. The evidence, notably the Notice of Eviction, also calls into question the stability of the Appellant's living situation and ability to keep the dogs on the Property. Even if the Appellant's life trust arrangement endures, questions have been raised about the number of dogs he is permitted to keep, and there is also no assurance that the dogs would be able to stay where they were should anything happen to the Appellant. This uncertainty is not addressed in the care plan.
181. Finally, in considering the return of the dogs, the Panel gave significant weight to the prevalence of health issues in the older dog population, as well as emerging issues in the younger dog population. It is evident that, while the younger dogs are generally in better condition, living in ongoing marginal conditions with inadequate housing, nutrition, enrichment and access to adequate socialization, wears down the dogs over time. The deterioration of the older dogs appears to be a consequence of long-term stressors as a result of nutritional deficiency, inadequate housing, bedding and hygiene, and a general lack of veterinary maintenance and care.
182. For that reason, the Panel has determined that the return of any Animals to this situation, regardless of their current age and health, would still carry a significant risk of returning them to a condition of distress.

183. The Panel concludes that it is not in the best interest of the Remaining Animals to be returned to the Appellant and the Society should be permitted to dispose of them as it sees fit.

XI. Costs

184. Section 20 of the *PCAA* states:

20 (1) The owner of an animal taken into custody or destroyed under this Act is liable to the society for the reasonable costs incurred by the society under this Act with respect to the animal.

(2) The society may require the owner to pay all or part of the costs, with or without conditions, for which he or she is liable under subsection (1) before returning the animal.

(3) Subject to subsection (4), the society may retain the proceeds of a sale or other disposition of an animal under section 17 or 18.

(4) If the proceeds of a sale or other disposition exceed the costs referred to in subsection (1), the owner of the animal may, within 6 months of the date the animal was taken into custody, claim the balance from the society.

(5) Payment of costs under subsection (2) of this section does not prevent an appeal under section 20.3.

185. Section 20.6(c) of the *PCAA* provides that on hearing an appeal the board may “confirm or vary the amount of costs for which the owner is liable under section 20 (1) or that the owner must pay under section 20 (2)”.

186. The Society is seeking costs as follows:

(a) Veterinary, hauling, boarding and feed costs:	\$ 13,147.37
(b) SPCA time to attend seizure:	\$ 273.90
(c) Housing, feeding and caring for the Animals:	\$ 51,095.75
(d) Total:	\$ 64,517.02

187. On the matter of costs, the Society’s submissions provide detailed cost accounting, including invoices for veterinary care and detailed estimates on the daily operating costs associated with the care of each animal. The calculation of these estimates has been reviewed and supported in previous appeals.

188. The panel finds that the Society’s costs are reasonable, and confirm, pursuant to s. 20.6(c) of the *PCAA*, that the Appellants are liable to the Society for the amount of **\$64,517.02**.

XI. Order

189. The Panel concludes that the Animals at issue on this appeal were in distress, that their removal was appropriate and that it is likely and foreseeable that their living conditions would not improve, and they would return to situations of distress if returned to the Appellant. Consequently, and pursuant to s. 20.6(b) of the *PCAA*, the Society is permitted, in its discretion, to destroy, sell, or otherwise dispose of the Remaining Animals.

Dated at Victoria, British Columbia this 27th day of May 2021.

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:



Tamara Leigh, Presiding Member



David Zirnhelt, Member

Appendix “A”

Exhibit #	Date (Received)	Received from	Document
Exhibit 01	March 31, 2021	BCSPCA	BCSPCA No Return Decision Letter
Exhibit 02	April 6, 2021	Appellant	Notice of Appeal (NOA)
Exhibit 03	April 6, 2021	Appellant	Filing fee Receipt
Exhibit 04	April 6, 2021	BCFIRB	Notice of Appeal process letter
Exhibit 05	April 14, 2021	BCSPCA	LT all encl doc disclosure
Exhibit 06	April 14, 2021	BCSPCA	BCSPCA Document Disclosure Tabs 1-52 Pg. 1 - 400
Exhibit 07	April 14, 2021	BCSPCA	BCSPCA Document Disclosure Tabs 1-52 pg. 401 - 856
Exhibit 08	April 14, 2021	Appellant	Appellant Initial Disclosure
Exhibit 09	April 14, 2021	Appellant	Preliminary List of Witnesses and Documents
Exhibit 10	April 14, 2021	Appellant	Submissions on Behalf of Applicant
Exhibit 11	April 14, 2021	Appellant	Exhibits to Written Submissions
Exhibit 12	April 14, 2021	Appellant	Individual Assessments
Exhibit 13	April 14, 2021	Appellant	Video Sled Dogs being forced into Uhaul(1)
Exhibit 14	April 14, 2021	Appellant	Video sled dogs terrified in Uhaul Trailer
Exhibit 15	April 14, 2021	Appellant	Video Dog going into the doghouse
Exhibit 16	April 16, 2021	BCSPCA	Updated BCSPCA Document Disclosure Index
Exhibit 17	April 16, 2021	BCSPCA	BCSPCA Document Disclosure – Tab 52 and Tab 53
Exhibit 18	April 16, 2021	BCSPCA	Tab 8 – Jan. 21 2021 photo and video
Exhibit 19	April 16, 2021	BCSPCA	Tab 12 – Feb 16, 2021 photos
Exhibit 20	April 16, 2021	BCSPCA	Tab 27 – Attachment to Feb 26, 2021 at 627pm

Exhibit #	Date (Received)	Received from	Document
Exhibit 21	April 16, 2021	BCSPCA	Tab 36 – Dr. van Haaften materials
Exhibit 22	April 16, 2021	BCSPCA	Tab 42 – Appellant submissions
Exhibit 23	April 16, 2021	BCSPCA	Tab 43 – Historical Video Footage
Exhibit 24	April 16, 2021	BCSPCA	Tab 43 cont. Historical Video Footage 286726
Exhibit 25	April 16, 2021	BCSPCA	Tab 53 – Video Attachment
Exhibit 26	April 16, 2021	BCSPCA	Tab 54 – Voicemail Message
Exhibit 27	April 21, 2021	Appellant	Written Materials 2021-04-21
Exhibit 28	April 21, 2021	Appellant	Expert Witness Contact Form
Exhibit 29	April 21, 2021	Appellant	Additional photos and videos
Exhibit 30	April 26, 2021	BCSPCA	LT all encl affidavit, witness forms and additional
Exhibit 31	April 26, 2021	BCSPCA	Updated Document Disclosure Index
Exhibit 32	April 26, 2021	BCSPCA	BC SPCA Document Disclosure [Tab 55-58]
Exhibit 33	April 26, 2021	BCSPCA	Society Submissions
Exhibit 34	April 26, 2021	BCSPCA	Affidavit of Marcie Moriarty
Exhibit 35	April 26, 2021	BCSPCA	BCSPCA Expert Witness Form
Exhibit 36	April 26, 2021	BCSPCA	BCSPCA Witness Contact Form
Exhibit 37	April 28, 2021	BCSPCA	BC SPCA Document Disclosure Index (Tab 1-Tab 60)
Exhibit 38	April 28, 2021	BCSPCA	Tab 59-Tab 60 Sup.
Exhibit 39	April 28, 2021	BCSPCA	Sup. Cost Submissions of the BC SPCA
Exhibit 40	April 29, 2021	BCSPCA	321147 Email 1 COMP 2-22-2021
Exhibit 41	April 29, 2021	BCSPCA	Witness contact form – Mackenzie Kirk
Exhibit 42	April 29, 2021	Appellant	Reply Submissions

CORRIGENDUM

Released: June 15, 2021.

[1] This is a corrigendum to the Panel’s Decision issued May 27, 2021 for paragraphs 11 and 12, with respect to the number of animals owned by the Appellant. Please see changes below and how they should read:

- 11. The animals seized by the Society consisted of 40 dogs. Nine of the dogs were not owned by the Appellant. Two have been returned to their owners (Kera (534280) and Trigger (524288); and seven are or have been redeemed (Juno (524277), Ajax (524279), Dae (524283), Charley (524284), Rico (524286), Lucky/Buddy (524283) and Big Red (524287). The remaining 31 dogs are subject to this Appeal.
- 12. After the hearing was complete, two dogs were found to be in a condition of critical distress and were humanely euthanized, reducing the number of dogs under appeal to 29. These animals are referred to in the decision and orders as the Remaining Animals.

[2] As two dogs were euthanized after the hearing concluded, the costs have been reduced to account for the period of time after the dogs were euthanized. Thus, costs awarded as referenced at paragraphs 186 and 188 should read:

186. The Society is seeking costs as follows:

(a) Veterinary, hauling, boarding and feed costs:	\$ 13,147.37
(b) SPCA time to attend seizure:	\$ 273.90
(c) Housing, feeding and caring for the Animals:	\$ 51,095.75
(d) Total:	\$ 64,152.67

188. The panel finds that the Society’s costs are reasonable, and confirm, pursuant to s. 20.6(c) of the PCAA, that the Appellants are liable to the Society for the amount of **\$64,152.67**.

FOR THE PANEL,



Tamara Leigh, Presiding Member



David Zirnelt