

**KARL MITCHELL, AN INDIVIDUAL; et al. v. USDA.**  
**No. 01-71486.**  
**(Cite as: 42 Fed. Appx. 991, 2002 WL 1941189 (9th Cir.))**  
**Decided Aug. 22, 2002.**

**AWA – Arbitrary and Capricious, when not – Failure to file answer.**

**United States Court of Appeals,  
Ninth Circuit.<sup>1</sup>**

On Petition for Review of an Order of the Department of Agriculture. AGRI  
No. 01-0016.

Before: SCHROEDER, Chief Judge, TASHIMA and RAWLINSON, Circuit  
Judges.

**MEMORANDUM<sup>2</sup>**

Karl Mitchell, sole proprietor of All Acting Animals, petitions pro se for review of the Secretary of the United States Department of Agriculture's ("Secretary") decision to revoke his animal exhibitor's license and to impose a civil penalty of \$16,775.00 for violations of the Animal Welfare Act ("AWA"), 7 U.S.C. §§ 2131-2159. We have jurisdiction pursuant to 7 U.S.C. § 2149(c). "[T]he scope of our review of administrative decisions is narrow: administrative agency decisions will be upheld unless arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." *Farley & Calfee, Inc. v. United States Dep't of Agric.*, 941 F.2d 964, 966 (9th Cir.1991) (internal quotation marks omitted). We deny the petition for review.

Because Mitchell failed to file a timely answer to the complaint, he is deemed to have admitted the allegations of the complaint. *See* 7 C.F.R. §§ 1.136, 1.147(c)(1). Therefore, the record supports the Secretary's decision to sanction Mitchell for violations of the AWA. *See* 7 C.F.R. § 1.136(c), 1.139. Moreover, the Secretary's choice of sanction is not "unwarranted in law or unjustified in fact." *Balice v. United States Dep't of Agric.*, 203 F.3d 684, 689 (9th Cir.2000) (internal quotation marks omitted); *see also* 7 U.S.C. § 2149(a) & (b); 7 C.F.R.

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<sup>1</sup>The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

<sup>2</sup>This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by Ninth Circuit Rule 36-3.

§ 3.91(b)(2)(v).

Mitchell's remaining contentions lack merit.

**PETITION FOR REVIEW DENIED.**