Steven W. Troxler
Commissioner

North Carolina Department of Agriculture and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

February 16, 2015

Mr. Henley Brock
1401 Archie Mobley Road
Williamston, NC 27892

UPS Tracking Number
1Z21Ø617 42 5714 9237

Re: SUSPENSION OF EUTHANASIA TECHNICIAN CERTIFICATION
Henley Brock
Euthanasia Technician Certification no. CET2012-0307HPB

Dear Mr. Brock:

This letter is an Order issued pursuant to N.C. Gen. Stat. § 19A-24 and 02 NCAC 52J .0419 concerning your certification as a euthanasia technician employed by the Martin County Animal Shelter by the Director of the Animal Welfare Section, Veterinary Division, North Carolina Department of Agriculture & Consumer Services ("AWS").

An investigation of your practices and conduct as a euthanasia technician at the Martin County Animal Shelter indicates that grounds exist for suspension of your certification based upon violation(s) of the requirements set forth under the NC Animal Welfare Act and the rules for euthanasia technicians promulgated under that law.

The attached Notice of Violation(s) describes in detail the factual basis for your suspension. You have failed to carry out the duties of a Certified Euthanasia Technician, demonstrated by the acts and/or omissions set forth in the Notice.

You may contest this decision by filing a petition under the North Carolina Administrative Procedure Act, N.C. Gen. Stat. § 150B-23, within five (5) days of your receipt of this Order. Please find enclosed information on filing a petition.

Therefore, you are notified to CEASE AND DESIST from performing those duties and tasks involved in euthanizing animals in a registered animal shelter. If AWS finds evidence indicating that you performed any such duties or tasks following your receipt of this letter, I have the authority to impose a civil penalty of up to five thousand dollars ($5,000.00) pursuant to:

§ 19A40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars ($5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear

proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C457.2.

Your suspension is effective immediately upon receipt of this letter. If you have any questions concerning the basis for this order you may call me at the telephone number listed above.

Sincerely,

Dr. Patricia Norris, DVM,
Director, Animal Welfare Section
Veterinary Division, NCDA&CS

Enclosures:
1) Notice of Violation(s);
2) Appeal Information

cc: Joseph Reardon, Assistant Commissioner, NCDA&CS
Dr. Douglas Meckes, DVM, State Veterinarian, NCDA&CS
Tina Hlabse, General Counsel, NCDA&CS
Barry Bloch, Assistant Attorney General, NCDOJ

APPEAL INFORMATION

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. Gen. Stat. § 150B-23. The petition must be accompanied by a filing fee of twenty dollars ($20.00) payable to the N.C. Office of Administrative Hearings. Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings.

File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone 919/733-0926. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

NOTICE OF VIOLATION

Respondent's Name:	Mr. Henley Brock Certified Euthanasia Technician no. CET2012-0307HPB
Address of Respondent:	1401 Archie Mobley Road Williamston, NC 27892
Date(s) of Activity:	February 2015
Work Site:	Martin County Animal Shelter 1401 Archie Mobley Road Williamston, NC 27892
Date of Inspection:	February 12, 2015
Name of Animal Welfare Section Investigator(s):	Lisa Carlson

The following statement includes facts upon which the Animal Welfare Section bases its conclusion that you have violated certain provisions of the North Carolina Animal Welfare Act and regulations promulgated thereunder. The facts may be based upon several sources including observations made by the investigator during her investigation, statements made to the investigator by a complainant or other individuals or property owners, documents, and/or analyses of records or photographs taken by the investigator.

1. On or about February 9, 2015, you failed to adequately and humanely euthanize and verify the death of a cat. The cat was placed in a freezer where it was found alive the following morning.

2. On February 12, 2015, you failed to adequately and humanely euthanize and verify the death of another cat. You left the work place for the day leaving the cat in a cat trap. You reportedly instructed Animal Control Officer (ACO) Beck to finish off the cat if he did not die. ACO Beck took the cat to a licensed veterinarian to complete the euthanasia.

Based on the results of our investigation, there is reason to believe that your acts and/or omissions violated the following provisions of the North Carolina Animal Welfare Act and/or the rules promulgated thereunder:

02 NCAC 52J .0419 **Grounds for Discipline – Certified Euthanasia Technicians**

The Department may refuse to issue, renew, or reinstate the certification of a Euthanasia Technician, or may deny, revoke, suspend, sanction, or place on probation, impose other forms of discipline, and enter into consent agreements and negotiated settlements with Certified Euthanasia Technician pursuant to the procedures set forth in G.S. 150B, Article 3, for any of the following reasons:

(1) Failure to Carry Out Duties. Failure to carry out the duties of a Certified Euthanasia Technician;...

(7) Unethical or Unprofessional Conduct. Unethical or unprofessional conduct means to knowingly engage in conduct of a character likely to deceive or defraud the public. Such conduct includes working in conjunction with any agency or person illegally practicing as a Certified Euthanasia Technician; failing to provide sanitary facilities or apply sanitary procedures for the euthanizing of any animal; euthanizing animals in a manner that endangers the health or welfare of the public; **gross ignorance, incompetence or inefficiency in the euthanizing of animals as determined by the practices generally and currently followed and accepted as approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association;** intentionally performing a duty, task or procedure involved in the euthanizing of animals for which the individual is not qualified; and swearing falsely in any testimony or affidavits relating to practicing as a Certified Euthanasia Technician;

02 NCAC 52J .0401 ADOPTION BY REFERENCE

A person required to obtain a certificate of registration pursuant to G.S. 19A, Article 3 may use any method of euthanasia approved by the American Veterinary Medical Association (AVMA), the Humane Society of the United States (HSUS), or the American Humane Association (AHA) which are hereby incorporated by reference, including subsequent amendments and editions. Copies of these documents may be obtained as follows:

(1) AVMA Guidelines on Euthanasia may be accessed at no cost on their website at www.avma.org.

(2) The HSUS Euthanasia Training Manual can be purchased through their website at www.hsus.org at a cost of nineteen dollars and ninety-five cents ($19.95).

(3) The AHA publication, Euthanasia by Injection, can be purchased through their website at www.americanhumane.org at a cost of ten dollars ($10.00).

History Note: Authority G.S. 19A-24;

Eff. March 23, 2009.

Both the 2013 AVMA Guidelines on Euthanasia and the 2013 HSUS Euthanasia Training Manual expressly provides that, when an animal is euthanized, the process should be done correctly and humanely. In addition, death is to be verified by one or a combination of the following methods: lack of pulse, breathing, corneal reflex, respiratory sounds via stethoscope, heartbeat via stethoscope; negative response to firm toe pinch; graying of mucous membranes; heart stick (in some cases); and rigor mortis. (2013 AVMA Euthanasia Guidelines page 16; 2013 HSUS Euthanasia Training Manual, page 41)

Each of the above violations of the North Carolina Animal Welfare Act is subject to a civil penalty or may serve as grounds for disciplinary action against your license, as follows:

N.C. Gen. Stat. § 19A-24. …

(b) In addition to rules on the euthanasia of animals adopted pursuant to subdivision (5) of subsection (a) of this section, the Board of Agriculture may adopt rules on the euthanasia of animals for:

(7) Denial, suspension, or revocation of certification of euthanasia technicians who either violate any provision of the Animal Welfare Act pursuant to Article 3 of Chapter 19A of the General Statutes or otherwise become ineligible for certification. ...

(10) The duties, responsibilities, and standards of conduct for certified euthanasia technicians.

Your certification as a CET is hereby suspended due to the violations noted above of the Animal Welfare Act and rules promulgated thereunder.