



# AWI Quarterly

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## SPOTLIGHT

### USDA Fails to Respond Swiftly to Animal Suffering

For years, US Department of Agriculture inspectors dutifully documented suffering: Chinchillas with eyes swollen, weeping, and sealed shut; a thin, unresponsive chinchilla, missing part of her leg, brutally “euthanized” by breaking her neck; another with a large, inflamed swelling under his chin. At another facility, multiple dogs under severe heat stress with no drinking water, one in a skeletal emaciated state; a puppy who cried out and died before inspectors’ eyes. Horses entered in shows with injured legs—pain intentionally inflicted to “enhance” their gait.

After not confiscating a single animal despite years of inspections documenting animal pain and distress, the USDA finally brought a case against chinchilla dealer

Daniel Moulton (page 11). His license was revoked—but the animals remain in his possession. In two years as a licensed dog breeder, Daniel Gingerich (page 20) amassed an unprecedented number of citations for horrific animal mistreatment, denying inspectors access, and concealing animals. Finally, after incomprehensible delays, the USDA referred the case to the Department of Justice and Gingerich was forced to surrender over 500 dogs. In May, a botched Horse Protection Act complaint and subsequent cover-up (page 5) ended with a repeat offender skating free.

It is up to the USDA’s Animal and Plant Health Inspection Service administrator, its Animal Care officials, and its general counsel to act with all due urgency on inspectors’ disturbing reports of cruelty, to seize animals in need of rescue, and to ensure that such appalling mistreatment doesn’t continue. AWI has long documented the USDA’s inexcusable failure to enforce the Animal Welfare Act and the Horse Protection Act. The situation, however, has reached a tipping point. The USDA has allowed immense, avoidable suffering of untold numbers of animals. Congress must demand accountability. If that doesn’t work, we must look for another federal agency to ensure animal welfare. 🐾

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## AWI QUARTERLY WINTER 2021

## ANIMALS IN LABORATORIES

- 11 Daniel Moulton, Dealer of Chinchillas for Research, Has License Revoked
- 14 Blood Money: Vested Industry Interests Keep Drain Open on Horseshoe Crab Population

## COMPANION ANIMALS

- 20 Abhorrent Dog Breeder Finally Forced to Surrender Animals and License

## FARM ANIMALS

- 22 AVMA Urged to Revise Guidelines for Mass Killing of Animals
- 22 Mortality Aboard Cattle Shipment Raises Serious Questions
- 23 AWI Calls on USDA to Crack Down on Deceptive Labels
- 23 Horizon Organic Severs Ties with Northeast Family Farms
- 23 California Enhances System to Rescue Animals in Emergencies
- 24 USDA, Local Officials Do Nothing as Birds Left to Die at Loading Dock

## MARINE LIFE

- 6 The International Whaling Commission at 75: A Vision for the Future
- 8 Solitary Orca Endures Elder Abuse at Miami Seaquarium
- 8 Judge Recommends Waiver to Allow Gray Whale Hunt
- 8 Warming Oceans Threaten Southern Right Whale Recovery

- 9 Beluga Death Calls Aquarium's Import Permit into Question
- 10 Using Noninvasive Digital Acoustic Tags to Track Florida Manatees

## WILDLIFE

- 16 Study Finds Support for Red Wolves, but Poaching Persists
- 16 Oil Spill Harms California Wildlife and Wetlands
- 16 Schweitzer Medalist Helps Nab Ivory and Horn Smugglers
- 17 Idaho Redoubles Its Attacks on Wolves
- 17 AWI Funds Innovative Wildlife Science
- 18 Building Back a Better Climate
- 28 Parliamentary Report Condemns Current Kangaroo Management

## GOVERNMENT AFFAIRS

- 2 USDA Fails to Respond Swiftly to Animal Suffering
- 4 Bill to Ban Cruel Body-Gripping Traps Introduced in House
- 4 Seeking Greater Oversight of Mink Fur Farms
- 4 Animal Protection Measures on Hold as Appropriations Bills Gather Dust
- 5 USDA Tries to Sweep Bungled HPA Enforcement Under the Rug

## REVIEWS

- 26 *Eloquence of the Sardine*
- 27 *All Creatures Safe and Sound*
- 27 *On Animals*



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## ABOUT THE COVER

Chinchillas, with their large ears and similar hearing to humans, are often used for research on ear diseases. Moulton Chinchilla Ranch in Minnesota has long been a primary supplier of chinchillas for this purpose. That appears poised to end. AWI has repeatedly called out the US Department of Agriculture for failing to enforce the Animal Welfare Act (AWA) against Moulton—who, since 2014, has amassed more direct citations than any other entity regulated under the law. In October, at long last, an administrative law judge revoked owner Daniel Moulton's dealer license, citing a long and horrific pattern of AWA violations. For more on this case, see page 11. Photograph by Olga Gorovenko.

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*The Public Safety and Wildlife Protection Act would restrict the use of steel-jaw leghold and Conibear traps, devices that cause animals—intended and unintended victims alike—to experience prolonged suffering.*

## BILL TO BAN CRUEL BODY-GRIPPING TRAPS INTRODUCED IN HOUSE

In October, Representative Alma Adams (D-NC) reintroduced the Public Safety and Wildlife Protection Act. A longstanding AWI priority, this bill would prohibit the import and export of, as well as interstate commerce in, two of the most notorious types of body-gripping traps—steel-jaw leghold and Conibear traps. Steel-jaw leghold traps operate by slamming shut with bone-crushing force on the limb of any animal who trips the device. Left in agony for long periods, victims may chew off their own trapped limb to escape. Conibear traps are intended to kill instantly by breaking or crushing animals' spinal columns but do not reliably kill quickly, resulting instead in severe injuries and prolonged suffering.

## SEEKING GREATER OVERSIGHT OF MINK FUR FARMS

As part of its coronavirus relief package, Congress gave the US Department of Agriculture \$300 million to monitor susceptible wild and domestic animals for the presence of COVID-19. Over the summer, the department proposed a framework for how it intends to use the funds. However, despite COVID-19 outbreaks on more than 17 US mink fur farms and at least one likely instance of mink-to-human transmission, the proposal made no mention of how the USDA intends to address the threat such farms pose to public health. AWI worked with Representative



EVGENIYQW

Jerrold Nadler (D-NY) on a letter from 21 representatives urging the USDA to use a portion of the allocated funds to dramatically expand its oversight of mink and other fur farms. A coalition of organizations led by AWI also submitted comments to the USDA explaining the many ways in which farmed mink could contribute to the spread of COVID-19 and urged the department to prioritize investment in efforts to prevent, detect, and monitor the disease on mink farms.

## ANIMAL PROTECTION MEASURES ON HOLD AS APPROPRIATIONS BILLS GATHER DUST

Congress has made little progress on finalizing fiscal year 2022 spending bills—an unfortunate circumstance given that many of them include important provisions that would benefit animals. The House agriculture appropriations bill provides funds to assist with housing domestic violence survivors and their companion animals, continues bans on licensing dealers who sell random source dogs and cats to laboratories and on horse slaughter inspection (effectively preventing the

commercial slaughter of horses for human consumption), and expresses concern over lax enforcement of the Animal Welfare Act (AWA), the Horse Protection Act (HPA), and the Humane Methods of Slaughter Act. Other House bills address ongoing problems with wild horse management and provide much needed funding for conservation of North Atlantic right whales, Southern Resident killer whales, and other highly vulnerable species. Senate spending bills also address lax AWA and HPA enforcement, prevent the slaughter of horses for human consumption, address problems with the wild horse program, fund Endangered Species Act activities, and combat wildlife trafficking.

Both House and Senate health and human services appropriations bills criticize the National Institutes of Health for frustrating congressional intent by refusing to retire a number of former research chimpanzees to a sanctuary. Both also request reports on the number of animals used in NIH-funded research.

Hopefully, these animal protection provisions will remain intact when Congress eventually moves forward on these bills.

## USDA Attempts to Sweep Bungled HPA Enforcement Under the Rug

The Horse Protection Act (HPA) was passed in 1970 to clamp down on the practice of soring (intentionally injuring horses' legs and hooves) to create a more high-stepping gait for walking horse shows. Weak enforcement of the law, however, has allowed the practice to continue through the ensuing decades. But recently the US Department of Agriculture reached a new low—committing an inexplicable error, then trying to cover it up.

In April 2021, the USDA filed an administrative complaint under the HPA against David Latham. It was the first HPA complaint filed in 14 months and only the second in the last four years. Yet, one month later, the department bewilderingly asked the chief USDA administrative law judge, Channing Strother, to dismiss it. The request was granted.

Latham has been in trouble for soring before. In a prior case, a September 2017 settlement was reached that resolved all alleged or potential HPA violations by Latham committed up to and including September 4, 2017. He was assessed a paltry \$550 fine and given a four-month suspension during the off-season.

The April 2021 complaint alleged that Latham entered sored horses in shows seven times from May to October 2017. But five of the allegations involve

shows that occurred before September 4, 2017—even though the earlier settlement shielded Latham from further penalties involving incidents prior to that date. This monumental blunder, however, apparently evaded USDA investigators, attorneys, and the head of the USDA's Animal and Plant Health Inspection Service, who all signed off on the complaint.

So, did the USDA attempt to rectify this by requesting dismissal of the complaint and starting over, minus the five resolved instances? No. The department, in fact, didn't tell Judge Strother *why* it was seeking dismissal. It merely stated that it had “determined that it is not necessary to pursue this matter at this time in order to effectuate the purposes” of the HPA. Further, the USDA asked Judge Strother to dismiss *with prejudice* the remaining two allegations regarding instances that occurred *after* September 4, 2017. In short, the USDA asked its own chief administrative law judge to bar it from ever pursuing the only viable claims in the complaint.

Instead of admitting to the judge that it had erred and would either amend or re-file the complaint, the department apparently chose to wipe the slate clean and hope no one would notice. Perhaps, considering all of the criticism AWI and others have aimed at the USDA for decades regarding its lack of enforcement of federal animal welfare laws, the department felt little desire to further advertise its slipshod HPA enforcement.

Being forced to withdraw a complaint—again, only the second filed in the past four years—just a month after filing is indeed an embarrassment. But cravenly misleading a federal judge and the public regarding the true reasons for the dismissal while unconditionally surrendering the only legally viable enforcement avenues is far, far worse. This latest example of the department's abject failure to enforce the law cries out for action—e.g., congressional hearings, an Office of Inspector General investigation—to ensure accountability and legitimate enforcement in the future. 🐾



*A high-stepping gait is prized at gaited horse shows. Some trainers surreptitiously injure their horses' legs—using pain to make the gait more pronounced.*

HSUS

# The International Whaling Commission at 75: *A Vision for the Future*

**T**he International Whaling Commission, established in Washington, DC, and headquartered in the United Kingdom since the 1950s, celebrated its 75<sup>th</sup> anniversary on December 2, 2021. AWI has participated in almost every meeting of the IWC and its committees since the 1960s, and we organized anniversary celebrations this year by the NGO community. The IWC has evolved in many ways since its establishment, and this anniversary provides the perfect opportunity to express gratitude for what it has achieved and define a clear vision of the role it must play in the future as cetaceans and their environment face combined biodiversity, climate, and pollution crises. The next five decades will be critical, and during the anniversary week, AWI and colleagues around the world unveiled a bold 50-Year Vision for the IWC as the center of global cetacean conservation efforts.

## ***The evolution of the IWC***

The IWC—created with the 1946 ratification of the International Convention for the Regulation of Whaling—is one of the earliest international bodies focused on wild species. It was, in many ways, a product of its time. At first, it comprised a small group of

industrial whaling nations solely focused on maximizing exploitation amid intense global competition for whale oil. However, thanks to prescient provisions in the treaty that provide a legal mandate for conservation as well as resource management, the IWC evolved over subsequent decades. From only dispensing commercial whaling quotas initially, the IWC eventually moved to ban commercial whaling entirely and develop a management scheme for subsistence whaling by Indigenous people. The organization has now evolved even further to build a strong conservation-based agenda and adopt animal welfare measures, while recognizing the vital ecological role cetaceans play within their ecosystems and in mitigating planetary climate change.

The IWC's progress over seven decades reflects not just a growing scientific understanding of cetaceans over the same period but also society's increasing support for the preservation of keystone and endangered species and heightened concern for animal welfare. Today, the IWC is a progressive conservation organization representing 88 nations that is central to international efforts to address the threats and challenges faced by *all* cetaceans,

not just whales, including from chemical pollution, marine debris, anthropogenic ocean noise, ship strikes, fisheries bycatch, habitat loss, and climate change. This role has never been so critical. As the health of the world's oceans dramatically declines, cetaceans are in trouble: An estimated 300,000 whales, dolphins, and porpoises are killed annually as bycatch in fisheries alone. Of the 90 species, 12 subspecies, and 28 subpopulations of cetaceans assessed by the International Union for Conservation of Nature, 22 are listed as critically endangered, 22 as endangered, and 16 as vulnerable. Without globally coordinated conservation actions, many species and populations will go extinct within our lifetimes.

At its next meeting in October 2022—its first in-person meeting in four years—the IWC will consider operational and budget reform as part of an important ongoing governance review process. It will also adopt a new strategic plan for its Conservation Committee, the heart of its threat-mitigation agenda. The IWC must also grapple with how its work will be funded. This is a growing concern for many intergovernmental agreements, as revenue from membership fees declines due to the economic strain of the COVID-19 pandemic, impacting important work streams. It is a particular concern for the IWC, where not all member governments support the conservation agenda and threaten to block adoption of budgets. (See sidebar, next page.)



### ***The launch of our 50-Year Vision***

The launch event for the 50-Year Vision on the IWC's 75<sup>th</sup> anniversary included a keynote address by Dr. Jane Goodall and commentaries by other dignitaries. AWI's Sue Fisher and others gave presentations, and there was a moderated panel

discussion with experts and decision-makers, including the chair of the Conservation Committee. Together, we explained the IWC's strong legal basis, global reach, and established mandate to implement and adequately fund a bold international conservation agenda for cetaceans

and their environment. As stated in the 50-Year Vision, the IWC should be "at the center of global, regional and local efforts to ensure the full recovery and health of all cetacean populations, safeguard their welfare, and maximize their ecological contributions to healthy oceans." 🐾

## **IWC Virtual Special Meeting in 2021**

Like most international meetings last year, the planned in-person 2020 IWC meeting (IWC68) fell victim to the COVID-19 pandemic. With IWC68 postponed to 2022, the IWC held a virtual special meeting in two short sessions in September 2021 to discuss pressing financial matters and adopt a bridge budget to allow the organization to continue to operate during the next fiscal year. Sixty member governments plus Japan (a nonmember government observer since leaving the IWC in 2019) participated in the discussion, along with five intergovernmental organizations and 24 nongovernmental organizations, including AWI.

The adoption of the budget was almost derailed by pro-whaling nations whose membership fees are in arrears. Although the budget was to be adopted by consensus, these nations protested an IWC rule (common among comparable organizations) that suspends the right of parties in arrears to vote. After a long and difficult discussion, the IWC acknowledged the fiscal challenges of the pandemic on

contracting governments, especially developing countries, and instructed a working group to review the practice of other international bodies relating to the payment of fees and to consider alternative rules for voting rights in emergency situations. This discussion document will be considered as the first order of business at IWC68.

The meeting also discussed the IWC's long-term financial problems caused in large part by the arrears and late payment of fees and a refusal by some countries to agree to an increase in those fees in line with inflation. AWI has prepared a detailed review of how comparable intergovernmental organizations are addressing similar budget problems. Speaking on behalf of 19 conservation and animal protection NGOs, we noted that overemphasizing cost cutting over revenue raising was misguided and suggested several alternative approaches that the IWC may wish to consider, including raising the fees paid by nonmember government observers.

## SOLITARY ORCA ENDURES ELDER ABUSE AT MIAMI SEAQUARIUM

For over 50 years, Lolita (a.k.a. Tokitae, Toki, and Sk'aliCh'elh-tenaut), an orca originally captured from the Southern Resident killer whale population, has been languishing as the only orca in a tiny tank at the Miami Seaquarium. She has survived due at least in part to caretakers who tried their best to keep her healthy (remarkably, her teeth are in good condition). However, in 2014, the locally owned facility was sold to Palace Entertainment, an international conglomerate. Since then, the training staff has almost completely turned over. In June 2021, a USDA inspection report, released publicly in September, described a horrific litany of abuses, including management ignoring veterinary advice, making Lolita perform tricks (at her advanced age) that resulted in a serious jaw injury, and feeding her spoiled fish that led to bloodwork showing inflammation. Her cramped living conditions have been trial enough, but now this management team has actively mistreated her and several other marine mammals under their care. AWI is pushing hard to have

the relevant federal agencies mount a strong enforcement action against the Seaquarium. These regulatory infractions must be punished and Lolita's golden years secured against any future abuse.

## JUDGE RECOMMENDS WAIVER TO ALLOW GRAY WHALE HUNT

In September, the administrative law judge who presided over the November 2019 hearing regarding the Makah tribe's request for a waiver of the Marine Mammal Protection Act gave his formal recommendation to the National Marine Fisheries Service. He recommended that NMFS issue the waiver so that the tribe may engage in periodic hunting of gray whales, and suggested changes to the draft regulations governing the hunt, including revisions to reduce hunt impacts on critically endangered western North Pacific gray whales. In November 2021, AWI submitted extensive comments (see [awionline.org/graywhalehunt](http://awionline.org/graywhalehunt)) to NMFS on the recommended decision and the changes

to the draft regulations, providing a comprehensive legal analysis of why NMFS cannot issue the requested waiver without violating the law.

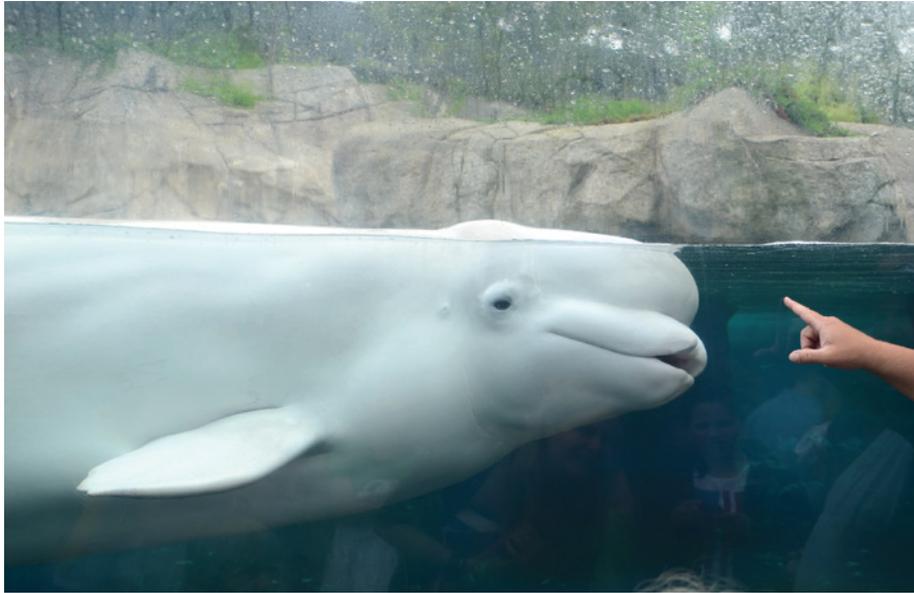
## WARMING OCEANS THREATEN SOUTHERN RIGHT WHALE RECOVERY

Scientists in South America are studying the recovery of southern right whales after many decades of whaling in the past and ongoing human threats, including entanglement in fishing nets, ship strikes, pollution, anthropogenic ocean noise, and climate change. That they would be threatened by climate change is ironic, given the role these huge animals play in mitigating its effects. Whales do this by providing nourishment for keystone species, notably krill, in their excreta (and, ultimately, their carcasses) and absorbing and sequestering huge amounts of carbon dioxide during their lifetimes. The scientists have analyzed 50 years of data related to southern right whales in the waters off Argentina's Valdes Peninsula, and have found a marked increase in whale mortality rates following El Niño events. These events are increasingly associated with the warming of the central and eastern tropical Pacific Ocean. The scientists modeled how the right whale population responds to changes in the frequency and intensity of El Niño events in an attempt to gauge how such events are likely to impede population recovery. Given the integral role that southern right whales play in a healthy Southern Ocean ecosystem, such information is key to helping assess the impacts of climate change on marine ecosystems in general.

*A southern right whale and calf in the Nuevo Gulf, off Argentina's Valdes Peninsula. Stronger, more frequent El Niño events, linked to climate change, may threaten this species' recovery.*



WILDESTANIMAL



CAELUMCROW

## Beluga Death Calls Aquarium's Import Permit into Question

AWI has previously reported on Mystic Aquarium in Connecticut importing five beluga whales from MarineLand in Canada. (See *AWI Quarterly*, winter 2020.) The National Marine Fisheries Service issued a permit in August 2020 under the US Marine Mammal Protection Act to allow the five whales into the country, but after a concerted effort by AWI and allies, NMFS restricted the permit to allow for research only, prohibiting the use of the animals for entertainment shows or breeding.

Between that time and May 2021, when five belugas were sent south, Mystic Aquarium requested an amendment to this permit. It wished to substitute three of the five whales described in the permit for three other whales, as the three original animals were too ill to transport. AWI considered this a major change to the permit. NMFS, unfortunately, deemed it minor and, thus, did not require the amendment request to undergo public review. However, the agency did post all of the related paperwork to the permit's dedicated page on the NMFS website. AWI noted particularly that Mystic committed in writing to transporting only healthy whales.

Within three months of the import, Havok, one of the substitute whales, was dead. He was only six years old—still a juvenile. Mystic Aquarium reported that he had a preexisting condition—gastric ulcers—and had been treated for them almost from the time of his arrival in Connecticut. Mystic management insisted he had been stabilized at the time of the import, but transport is stressful for cetaceans, and ulcers

do not react well to stress. One has to wonder how a whale with ulcers, stable or not, was deemed “healthy.”

Worse still, soon after Havok died, Mystic Aquarium reported that yet another of the substitute whales, a female named Jetta, was ill. According to the aquarium, she had been under treatment for an unspecified condition for weeks, at times “gravely ill” and at other times improving. While it is unclear whether Jetta's condition was preexisting or developed since arriving at Mystic, a spokesperson for the facility stated to the media that, given the poor conditions at MarineLand, it would not be surprising to learn that all the belugas there had preexisting conditions. This startling comment certainly suggests that Mystic's commitment to import only healthy whales was doomed to failure from the outset.

When three marine mammals are imported in place of three others too ill to transport, and one of the substitute whales subsequently dies while another falls seriously ill, it becomes evident that, under current standards, the veterinary assessments required for entry of live wildlife into the United States are seriously lacking. How did a whale with a potentially fatal preexisting condition get a pass at the border when the permit holder had made a written commitment to import only healthy animals?

AWI is following up with all involved agencies to address procedures related to live wildlife border crossings in order to safeguard marine mammals in trade. 🐾

# USING NONINVASIVE DIGITAL ACOUSTIC TAGS TO TRACK FLORIDA MANATEES

by Julia Dombroski, Syracuse University

The Florida manatee (*Trichechus manatus latirostris*) is an endemic subspecies of West Indian manatee that inhabits inland and coastal waters of the southeastern United States. Its population is threatened by natural and human-generated disturbances, including boat traffic, which may be ubiquitous throughout manatee habitat.

Boating is an important feature of the local culture and a \$20 billion industry in Florida. In 2018, over 919,000 vessels were registered in the state. With the growth of coastal communities, the number of registered vessels is expected to increase about 8 percent in the next few years. Therefore, we can expect an increase in the frequency and intensity of interactions between boats and manatees. While starvation (linked to seagrass die-off) was the primary cause of manatee deaths in 2021, in recent years over 50 percent of direct human-related manatee deaths have been linked to interactions with motorized boats, which cause propeller wounds and/or blunt force trauma. In 2019, a record number of deaths (129) were attributed to vessel strikes. Vessels also elicit behavioral responses

in manatees that vary according to individual and environmental factors. Yet, information on risk of exposure to vessel traffic and the variability in responses to such encounters is limited.

In this project, with funding from a Christine Stevens Wildlife Award from AWI, we investigated the levels of vessel traffic experienced by released manatees and how vessel exposure changed their behavior. To reach our goals, we integrated noninvasive digital acoustic recording tags into the animal's tracking gear, thereby avoiding catching and restraining wild animals exclusively for the purposes of the project, while improving knowledge about the risks manatees face. The acoustic tags can record for up to 48 days, continuously capturing sounds produced by the animal, as well as boat noise, allowing us to detect when, where, and how often a manatee encounters boats and how they respond.

We deployed acoustic tags on 11 manatees. Results suggest that along Florida's Atlantic Coast, individual manatees experience up to one close encounter with motorized boats per hour. Moreover, some of these

encounters happen in key areas in the habitat, such as seagrass beds. We also found that an individual's responsiveness to close vessel approaches varied; some demonstrated notable changes in acceleration when encountering a vessel, while others did not show quantifiable behavioral responses to a boat's presence. In either case, there may be welfare implications. For example, important behaviors such as feeding may be interrupted when a manatee responds to boat noise. When boat noise elicits a flight response, it can affect the probability of animals being struck by vessels.

Demonstrating this variability in responsiveness is important to inform estimates of potential long-term effects of exposure to boat disturbance on Florida manatees. The special distribution of vessel encounters obtained by our study can be used to evaluate the effectiveness of boat traffic management in Florida and potentially trigger changes, for example, by imposing spatial or temporal restrictions on vessel access to seagrass beds, thereby helping to mitigate the pressure of vessel traffic on this vulnerable species. 🐾





The eyes of this chinchilla were crusted shut, with lids swollen and a thick, pale discharge.

USDA

# DANIEL MOULTON, DEALER OF CHINCHILLAS FOR RESEARCH, HAS LICENSE REVOKED

**ON** October 8, US Department of Agriculture administrative law judge Jill Clifton permanently revoked the dealer license of Daniel Moulton, who for decades had been a primary supplier of chinchillas for experimentation (see *AWI Quarterly*, fall 2021). The 18-day hearing further revealed just how much the USDA and the research industry have enabled Moulton's cruelty.

Judge Clifton called his violations "absolutely astounding" and repeatedly expressed her disbelief about Moulton's record and callous disregard for animal welfare. Commenting on the person Moulton presented as his "attending" veterinarian, the judge said: "I'm very concerned if you regard Dr. Peeters as your attending [veterinarian]. He doesn't have time to be ... as was demonstrated in this hearing" (said, presumably, because Dr. Peeters performed

surgery *during* his remote testimony). "He said he had not read the veterinary plan, and he said he had not read the chapter in the book, latest edition, which he has in his office that relates to chinchillas. These are fire alarms to me. Were they to you, Mr. Moulton?"

## The USDA knew about Moulton

On just the second day after the USDA rested its case in chief, Judge Clifton said, "There is a strong likelihood that Mr. Moulton's license will be revoked." The USDA's evidence, gathered from 2013 to 2017, after all, was overwhelming. She repeatedly overruled Moulton's objections to multiple USDA inspectors testifying about the horrendous conditions. After Moulton objected to the testimony regarding repeated failed attempts to inspect because he was not available, Judge Clifton told him she

was “particularly shocked” that he did not see the relevance and noted that the multiple attempted inspections alone were enough to warrant license revocation.

On the first full day of testimony, veteran inspector Brenton Cox—discussing inspections from 2014—stated that Moulton Chinchilla Ranch (MCR) was the worst facility he had ever seen, that it gave him nightmares, and that he used MCR as a training tool for what not to be. Later in the hearing, Judge Clifton asked Moulton, “In 2014, doesn’t that look like a horrible living environment?” He responded, “Yes.”

Aaron Rhyner, DVM, the USDA’s assistant director of field operations, also said Moulton had the worst compliance history he had ever seen. The USDA’s expert witness, Laurie Gage, DVM, called the conditions at MCR “stunning,” “egregious,” and “atrocious.” Gage’s “egregious” comment was in reference to a particularly disturbing incident: According to the testimony of inspector Scott Welch, DVM, a chinchilla was found who was missing part of her leg. There was no record that the leg had been evaluated, and the stump was stuck in the cage wires—apparently not for the first time. As Moulton tried to free her, she was “letting out distress cries,” and then was “limp in his hands.” She was “skin and bones” and “not very responsive.” Welch was concerned she was in a state of “serious, severe suffering,” so he suggested that Moulton put her out of her misery. Moulton’s USDA-approved veterinary care program allowed him to kill chinchillas by breaking their necks, so that’s what he did, right in front of (as Moulton himself described them) “flabbergasted” inspectors. Welch said Moulton “twisted the neck, too, after practically ripping it apart.”

Gage testified that this particular chinchilla “resonated” with her, and that this unconscionable neglect seemed to be “a recurrent theme at this facility.” When she noted that this chinchilla “could’ve been stuck in the wire without any access to food or water for who knows how long?” Moulton objected and was overruled. Gage inadvertently issued a devastating indictment of the USDA’s inexcusable failure to confiscate animals living in such an abysmal state when she testified, “Every day that our inspectors have been present at this facility, there has been some kind of problem that has directly affected the health and welfare of these animals.” She lamented that “we’re only finding a fraction because we’re not there every day.”

At least since 2013, the USDA had known how things were at MCR. Yet the department never followed through on what their inspectors conscientiously recorded by confiscating a single chinchilla or notifying the Department of Justice (as mandated by the AWA once it determined that the chinchillas’ health was in serious danger). Since 2014, Moulton has racked up more direct citations (the most severe type of critical citation) than any of the other 10,000+ AWA-regulated licensees and registrants. The USDA documented direct citations every year from 2014 through 2021, including a 2018 announced inspection that found 22 chinchillas needing veterinary care. When Moulton asked if he was required to take a chinchilla with an eye infection to the veterinarian, Judge Clifton said, “Isn’t that an interesting statement. ... I guess he’s saying, I never knew I was supposed to do that. That’s very interesting after all these years.”



*An embedded collar was removed from this chinchilla to expose a raw wound with “eroded skin, pale liquid and granular discharge.”*



*During the hearing, the USDA stated that some chinchillas suffered from swellings the size of eggs or golf balls and indicated (over Moulton’s objections) that they were in pain.*

PHOTOS BY USDA

During the hearing, Moulton repeatedly attacked the inspectors, prompting comments like “absolutely appalling,” “disgusting” and “slanderous” from the department’s attorneys. But where was this outrage and affirmation of the inspectors’ vital work years ago, when the department could have acted on their findings and saved so many chinchillas from this ongoing abuse? Instead, in 2019, the USDA actually helped Moulton with the paperwork to renew his license.

### The research industry enabled Moulton

The USDA’s inaction over the years is not the only problem. For years, the American Association for Laboratory Animal Science (AALAS) Buyers Guide listed MCR as the only chinchilla supplier. In July, *National Geographic* described MCR’s enhanced ad in the vendor showcase of the guide, which touts reaching customers within the “trusted network” of AALAS. Before AALAS removed the ad weeks after the revocation, it was prominently featured on the Buyers Guide homepage. The textbook *Laboratory Animal Medicine*, published by the AALAS-affiliated American College of Laboratory Animal Medicine (ACLAM), also identifies MCR as the only chinchilla supplier.

Moulton told *National Geographic* that research is now his sole customer and that he had recently sold 30 chinchillas, with military installations inquiring about hundreds more. In 2010, Moulton told another ACLAM-published textbook that a research lab contacted him in 1975 looking for chinchillas and that, after that, he slowly converted the operation from fur farm to research vendor. By promoting and continuing to purchase from MCR, researchers have perpetuated the abuse of untold numbers of chinchillas.

Moreover, prominent research figures were actively involved in Moulton’s defense. A veterinary pathologist from the University of Minnesota testified for Moulton, as did a retired AALAS-certified lab animal technician who managed Southern Illinois University’s animal research facility and evaluated labs for the Association for Assessment and Accreditation of Laboratory Animal Care International.

Sanford Feldman, DVM, director of the Center for Comparative Medicine at the University of Virginia, also testified for Moulton and acted as his “technical advisor” at the hearing. Feldman has been at UVA for 24 years. He wrote the university’s guidelines for determining pain in animals and is responsible for ensuring that the university complies with the AWA. He also worked at the National Institutes of Health for five years, is an ACLAM Diplomate (consultant to other scientists), has presented at least 17 times at the annual AALAS National Meeting, and served as a reviewer for the *Laboratory Animal Medicine* textbook.



*This chinchilla had overgrown teeth that caused excessive drooling and prevented her from closing her mouth normally and chewing her food properly.*

Last year, Feldman told *Science* that Moulton’s chinchillas are not “suffering terribly” and likened the violations to a speeding ticket for going 26 mph in a 25 mph zone. At the hearing, the USDA attorney asked him if an animal is “experiencing discomfort” if his “eyes are swollen shut.” Feldman responded, “It’s probably uncomfortable, but it may not be painful. If your life is in a cage and you can acquire your food and your water, then the fact that your eye is glued shut may not be a terrible thing.” And when the USDA attorney asked, “Is that a source of stress, to not be able to see?” Feldman answered, “They’re not blind when one eye is shut. ... if I wake up in the morning during allergy season and my eye is crusted shut, me, I wipe the crust off. It’s not painful to me. It itches.” Feldman also testified that Moulton “has made and continues to make good-faith efforts to comply” with the AWA. He acknowledged, however, that Moulton gave him just 14 out of the 300 exhibits in the case and that he had never actually visited Moulton’s facility.

### Conclusion

The entire situation is a fire alarm. Indeed, conditions at MCR have been a blazing, highly visible ten-alarm fire for years. The USDA knew. The research industry knew. Their willful failure to act perpetuated what the USDA itself called “immense, avoidable suffering” for countless chinchillas.

At press time, Moulton is not yet out of business; he can keep his license during the five months he has been granted (incredibly, via two extensions) to file an appeal. Moreover, after Judge Clifton adjudicated 213 willful violations of the AWA (and called them “absolutely astounding”), she fined him a mere \$18,000—a fraction of what was called for. Meanwhile, a November inspection once again documented multiple direct citations as the chinchillas continue to suffer from lack of adequate veterinary care and staffing. As we wait to see whether Moulton appeals, the lives of nearly 700 chinchillas hang in the balance. 🐾

# Blood Money

## *Vested Industry Interests Keep Drain Open on Horseshoe Crab Population*

**T**hey are captured from the wild, piled inside plastic bins, and hauled into labs where they are strapped to a stand. A hypodermic needle is inserted into the membrane surrounding their heart, causing their blood to leak into a glass bottle below. Once the blood stops dripping (when about 30 percent of it has been drained) they are thrown back into the ocean. An estimated 10–30 percent do not survive this ordeal. The bleeding itself does not usually kill them; rather, death is caused by the additive effects of capture, transport, handling, and time spent out of the water, all of which cause stress and sometimes injury. Of those who survive, welfare is nonetheless compromised: For several weeks after the bleeding, they are slower, lethargic, and have weaker immune systems, making them more susceptible to disease; they are also less likely to spawn that season.

This is the fate of hundreds of thousands of horseshoe crabs each year in the United States at the hands of the biomedical industry. The animals' blood—bright blue because it contains copper rather than iron like ours—is collected for one key reason: It clots in the presence of “endotoxins.” Endotoxins are shed when gram-negative bacteria, such as *E. coli* or salmonella, die. If high levels of endotoxins were to enter the bloodstream or spinal fluid, they could cause fever, respiratory problems, or death.

For this reason, every medical substance and device that is injected or placed inside a human or animal body—for example, vaccines, insulin, injectable antibiotics, pacemakers, joint replacements, and any water used in their manufacturing process—is tested to ensure that it isn't contaminated with endotoxins. Since the 1970s, the standard method to check for the presence of endotoxins has been the horseshoe crab blood-derived limulus amoebocyte lysate (LAL) test.

A synthetic, animal-free alternative known as recombinant factor C (rFC) has been available commercially since 2004. Yet, since that time, the number of horseshoe crabs captured and bled each year has continued to rise. Between 2004 and 2012, the number of crabs used increased by 85 percent. In 2019, over 637,000 crabs were bled—a 30 percent increase from the year before. With millions of coronavirus vaccine batches being developed, trialed, and produced in the last year and a half in the United States alone, the number of crabs used by the biomedical industry is likely to have increased again. In March 2020, 241 vaccines and other therapies were in product development; that number had jumped to 838 by August 2021.

Why is the synthetic rFC test seldom used in place of the animal-derived LAL test? Regulations are partly to blame. In the United States, companies conducting endotoxin testing are directed by the Food and Drug Administration to follow the standards laid out by the US Pharmacopeia (USP). Pharmacopeias are independent scientific organizations that set the standards for medicines, dietary supplements, and food ingredients worldwide. The USP currently allows the use of rFC, but only if scientists do their own validation study for each new compound they want to use the test for; the time and cost associated with this requirement mean that rFC is rarely used.

The USP was expected to approve the rFC test without restrictions, but reversed this decision in May 2020 on the grounds that more evidence was needed to prove that rFC was effective. Fouad Atouf, USP vice president of global biologics, told the *Washington Post* in August 2020 that among industry stakeholders consulted, no broad consensus emerged that enough data existed to confirm its effectiveness.

One industry stakeholder and vocal opponent of rFC is Charles River Laboratories, the largest manufacturer of





Wild horseshoe crabs are strapped to a stand while their blood is harvested for use in toxicity testing, even though a synthetic alternative test exists.

TIMOTHY FADEK

the lucrative crab blood-derived LAL test. The company claims that rFC is not as safe as LAL. Jay Bolden, an expert in endotoxin detection at the pharmaceutical giant Eli Lilly, disagrees. Bolden asserts that rFC testing is not only as effective as LAL, but is also more efficient, more cost-effective, and yields fewer false positives. In 2016, his company decided to use rFC for all new injectable products despite the extra work this entails under current USP guidance.

Recently, Bolden and other members of the Parenteral Drug Association Leadership Forum published a review of existing studies comparing the efficacy of LAL and rFC to detect endotoxins. Their conclusion: The two tests are comparable in protecting patient safety. Bolden told the *Washington Post*, “We looked at all the available scientific literature on rFC, and we found a dozen studies that say exactly what we think the [USP] would need to make those kind of judgments.” He said only one study, performed by Charles River, found rFC to be inferior, and that this was because they used unfiltered water, which can skew the results. In an article published in the *American Pharmaceutical Review*, endotoxin expert Kevin Williams argued that unfiltered water samples should not be included in validation studies, because unfiltered water is not part of routine endotoxin testing and therefore falls outside the USP’s validation requirements. Meanwhile, for the past

year, rFC has been officially recognized by the European Pharmacopeia as a standard method. The change was proposed in late 2018, and came into effect on January 1, 2021.

Scientists have an obligation to use effective animal-free methods when these exist. The continued use of horseshoe crabs to produce LAL not only harms individual crabs but also puts a strain on the species and other species that rely on them. American horseshoe crabs are listed as vulnerable on the IUCN Red List, and their populations are in decline. Moreover, red knot shorebirds, a species listed as threatened, depend on horseshoe crabs for their own survival: On their 9,000-mile migration route from the southern tip of Argentina (where they winter) to the Canadian Arctic (where they breed), red knots make a crucial stop on the eastern US seaboard, where they double their weight by feeding on nutrient-rich horseshoe crab eggs.

The continued use of crabs to produce a test for which there is an equivalent, if not superior, alternative, is unacceptable. People’s health is also at risk. “As it is now, the entire supply chain for endotoxin testing of drugs rests upon the harvest of a vulnerable or near extinct sea creature,” Williams told the *Washington Post*, “As prudent as the pharmaceutical industry is, this seems to be a current blind spot.” 🐾

## STUDY FINDS SUPPORT FOR RED WOLVES, BUT POACHING PERSISTS

A recent study that surveyed attitudes regarding red wolves found that, while a broad majority of the population liked and supported the wolves, a small minority of poachers is driving the species toward extinction in the wild. Residents of the nine counties surrounding the Red Wolf Recovery Area in northeastern North Carolina were surveyed. A majority indicated they liked red wolves, and a plurality supported the recovery program, would not shoot wolves illegally, and disliked a policy that allows landowners to kill wolves. Male hunters indicated the highest inclination to poach and the lowest level of red wolf acceptance of any interest group, however. The authors recommended that officials from the US Fish and Wildlife Service, the agency responsible for managing the wild population, conduct outreach, law enforcement, and antipoaching and coexistence interventions with this interest group to better protect red wolves.

## OIL SPILL HARMS CALIFORNIA WILDLIFE AND WETLANDS

An underwater pipeline ruptured about five miles off California's southern coast in early October, spewing at least 25,000 gallons of oil into the sea. While the exact cause remains unclear, investigators believe the pipeline may have been damaged by one or more ships' anchors. The oil quickly reached the coast and spread south, within a few days washing up on beaches more than 50 miles away.

The slick was not as large as originally feared, but still harmed and killed numerous wild animals. An unknown number of dead fish washed up on

shore, at least one dolphin and several sea lions were killed, and dozens of birds coated in oil—most of them dead—were collected by responders. In addition to fouling beaches, the oil seeped into the Talbert Marsh, a 25-acre coastal ecological reserve that provides important wetland habitat for a variety of wildlife, including 90 avian species. The disaster is the latest in a long history of US oil pipeline spills and serves as yet another deadly reminder of the urgent need to rapidly shift away from fossil fuels.

## SCHWEITZER MEDALIST HELPS NAB IVORY AND HORN SMUGGLERS

Forensic analysis conducted by Dr. Sam Wasser led to the recent arrest of two men from the Democratic Republic of the Congo for conspiring to bring more than two tons of ivory, a ton of pangolin scales, and multiple white rhinoceros horns into the United States. Both men were indicted on 11 counts of conspiracy, money laundering, smuggling, and US Lacey

Act violations. If convicted, they could face up to 25 years in prison.

Wasser, who is co-executive director of the University of Washington's Center for Environmental Forensic Science, used DNA from the seized ivory to identify the origin of the poached animals based on a DNA database he developed of previously seized ivory products. Since 2004, Wasser and his team have been conducting genetic analyses of large elephant ivory seizures to identify where animals were poached. His work helps law enforcement officials link individual smugglers to specific ivory shipments. In 2018, AWI awarded the Schweitzer Medal to Wasser in recognition of his pioneering efforts to thwart wildlife trafficking. (See *AWI Quarterly*, summer 2018.) That same year, his work helped identify the three largest ivory smuggling cartels in Africa.

*A white rhinoceros in South Africa. White rhino horn was among the contraband two Congolese men conspired to smuggle into the United States before their arrest in November.*



ERNI

## IDAHO REDOUBLES ITS ATTACKS ON WOLVES

The US Department of Agriculture's Wildlife Services program recently killed eight wolf pups on federal public lands in Idaho. Conservation groups and a representative of Timberline High School—named after one of the affected packs—sent a letter to USDA Secretary Tom Vilsack calling for an immediate end to further killing of wolf pups on Forest Service lands. In response, the department claimed the action was “humane” and necessary to protect livestock—without indicating whether any nonlethal measures had been attempted first.

The news followed on the heels of legislation that went into effect in Idaho this summer further liberalizing wolf killing across the state. Among other changes, the new law legalized wolf trapping on private property year-round, authorized individuals to purchase an unlimited number of wolf licenses, and increased funding available for lethal wolf control, including for private contractors—effectively financing a statewide wolf bounty program. The changes were designed to eradicate about 90 percent of Idaho's wolf population. The US Fish and Wildlife Service has since initiated a status review to determine whether federal protections for wolves in Idaho and Montana should be reinstated.

## AWI FUNDS INNOVATIVE WILDLIFE SCIENCE

Since 2007, the Christine Stevens Wildlife Award, named after AWI's late founder and long-time president, has provided over \$900,000 in grants in total to over 85 award recipients to support innovative research to humanely study wildlife and mitigate



ONDREJ PROSICKY

wildlife conflicts. In 2021, nine new award recipients were selected:

*Cody Aylward of University of California, Davis* to develop and implement a novel, noninvasive genetic survey of the endangered salt marsh harvest mouse.

*Dr. Zoe Hanley of Defenders of Wildlife* to test and evaluate advanced radio-activated guard box technology to deter gray wolves from killing livestock in select western states.

*Dr. Karen Herman of Sky Mountain Wild Horse Sanctuary* to evaluate refined PZP-22 fertility control vaccines for wild horses in New Mexico's Carson National Forest to help develop a minimally invasive, sustainable herd management plan.

*Dr. Aerin Jacob of Yellowstone to Yukon Conservation Initiative* to measure the effects of winter recreation on at-risk species, including wolverines and grizzly bears, in the Canadian Rockies.

*Dr. Susan McRae of East Carolina University* to use noninvasive monitoring techniques, including infrared trail cameras and

environmental DNA from soil and water samples, to improve the conservation of threatened eastern black rails in North Carolina.

*Dr. Maureen Murray of Cummings School of Veterinary Medicine at Tufts University* to investigate rodenticide exposure among red-tailed hawks, with broader implications for other birds of prey.

*Dr. Beth Brady of Mote Marine Laboratory* to use novel technologies, including aerial drones and acoustic recordings, to investigate the impact of tour boats on Antillean manatees in Mexico's Sian Ka'an Biosphere Reserve.

*Dr. Tracey Tuberville of University of Georgia's Savannah River Ecology Laboratory* to evaluate the suitability of repatriating Eastern box turtles recovered from the illegal wildlife trade back into the wild.

*Dr. Jessica Castillo Vardaro of San Jose State University* to assess the vulnerability of the American pika to various threats, including climate change and livestock grazing, through genetic analysis of their fecal pellets.



# Building Back a Better Climate

*This is part two of a two-part series. In our previous issue, we described the devastating impacts that a warming planet is having on wildlife and its habitat. Here, we examine initiatives the Biden administration is pursuing to avoid the worst consequences of climate change.*

A “code red for humanity.” That is how UN Secretary-General António Guterres described this year’s latest report from the Intergovernmental Panel on Climate Change. Authored by 234 of the world’s leading climate scientists, it warns that the Earth’s surface temperature has increased faster since 1970 “than in any other 50-year period over at least the last 2000 years.”

And humans are feeling the effects. No longer a problem of tomorrow, the warming climate is increasingly impacting peoples’ daily lives. According to a Pew Research Center survey conducted in the spring of 2020, 63 percent of Americans reported that climate change is affecting their local community through events such as prolonged drought and heat waves, floods, intense storms, more frequent wildfires, eroding beaches as a result of rising sea levels, and harm to wildlife and its habitat. The same survey found that 65 percent felt the federal government was doing too little to address the problem. A few months later, just a few weeks before the 2020 election, another Pew survey found that climate change was very or somewhat important to 68 percent of registered voters.

Indeed, climate became a central election issue. Presidential candidate Joe Biden—under the campaign slogan “Build Back Better”—committed to invest an unprecedented \$1.7 trillion

over 10 years to create a “100 percent clean energy economy,” with net zero emissions, by 2050. He promised to demand action from Congress, galvanize world leaders to reduce their own nations’ emissions, and take a litany of executive actions to combat the climate crisis.

Once he was elected, President Biden quickly took steps to address climate change. On his first day in office, he signed executive orders returning the United States to the Paris climate agreement, revoking the permit for the Keystone XL pipeline, and halting oil and gas leasing activities in the Arctic National Wildlife Refuge. In addition, he directed federal agencies to review, with an eye toward rescinding or replacing, all regulations and other actions taken by the Trump administration that conflicted with the new administration’s policy of mitigating climate change.

A week later, President Biden signed another order containing a long list of climate measures. It directed the secretary of the interior to identify ways to increase renewable energy production on public lands and offshore waters, pause new oil and natural gas leases on federal lands and waters pending an assessment of potential climate impacts, and recommend steps the United States should take to conserve at least 30 percent of its lands and waters by 2030. It directed the heads of all federal agencies to reduce or eliminate federal subsidies for fossil fuels. And it created two new high-level positions: a special presidential envoy for climate, tasked with persuading other countries to take more aggressive action to curb their greenhouse gas emissions, and a national climate advisor to head the (also newly established) White House Office of Domestic Climate Policy and the National Climate Task Force.

In addition, the order launched an initiative to establish a Civilian Climate Corps, modeled after the storied Civilian Conservation Corps created by President Roosevelt in the wake of the Great Depression, to employ thousands of young people to conserve public lands, protect wildlife, and address the changing climate.

Later, on Earth Day, President Biden hosted a virtual Climate Leaders Summit where he announced that the United States would seek to reduce US emissions by up to 52 percent from 2005 levels by 2030—nearly doubling a prior commitment made by President Obama.

The new administration has also worked to develop and promote two pieces of legislation containing sweeping measures aimed at reducing the nation's reliance on fossil fuels, transitioning to a clean energy economy, and enhancing climate resilience. The first bill, focused on infrastructure, was passed and signed into law in November. It invests tens of billions of dollars in measures such as electrical grid and transmission improvements, charging stations for electric vehicles, and assistance to communities to prepare for more extreme fires, floods, storms, and droughts. The second bill, known as the Build Back Better Act, recently passed the House and is now in the Senate's hands. It would provide additional hundreds of billions of dollars for tax credits for wind and solar companies, incentives for consumers to purchase electric vehicles, investments to increase energy efficiency in homes and industrial facilities, and conservation measures to protect carbon-absorbing forests and public lands. If enacted, it would represent the most meaningful action to address climate change ever taken by the United States.

The Biden administration also played a leading role during the recent UN Climate Change Conference in Glasgow, Scotland. To build momentum in the weeks leading up to the talks, Biden convened a Major Economies Forum on Energy and Climate with leaders of several other countries, during which he announced a new US-European Union pledge aimed at cutting global methane pollution. Then, as a signal of US commitment, Biden attended the UN climate conference along with 13 cabinet members and senior administration officials. One of those officials, climate envoy and former secretary of state John Kerry, played a particularly important role in driving the urgency of the talks. Among other efforts, Kerry engaged in intense negotiations with Chinese delegates that resulted in a surprise US-China agreement to take “enhanced action” to keep the world from warming by more than 1.5 degrees Celsius, such as by reducing methane and carbon dioxide emissions and eliminating illegal deforestation.

The Biden administration's actions on climate have been far from perfect. For example, despite imposing an initial moratorium, it has since permitted more than 3,000 oil and gas leases on federal lands—including a recent record offshore sale that opens more than 80 million acres in the Gulf of Mexico to auction for oil and gas drilling. At the same time, no prior administration has shown a greater overall willingness to seek solutions and shift course. As the window to avert catastrophe closes, the administration must strengthen its resolve and recommit to its essential campaign promise of building back a better climate. The very livability of our planet—for all species—is at stake. 🐾



Some of the many canine victims of Gingerich's failure to provide veterinary care. Some were rescued in time. Others were not. Photos by USDA.



# Abhorrent Dog Breeder Finally Forced to Surrender Animals and License

**ON** October 29, the US Department of Agriculture permanently revoked the license of Iowa dog breeder Daniel Gingerich and fined him \$500,000, after the Department of Justice filed a complaint for injunctive relief a month earlier. The settlement resulted in Gingerich's surrendering 514 dogs. The DOJ's action—the first time in history it obtained an injunction against a breeder licensed under the Animal Welfare Act (AWA)—was based on USDA inspectors' documenting cruelty of almost unimaginable scope.

And yet, as welcome as this eventual outcome is, the events leading up to it illustrate, once again, the USDA's failure to pursue timely and robust enforcement that could save animals from the type of shocking abuse that was vividly on display over an extended period at Gingerich's facility. As AWI's Eric Kleiman told *National Geographic* for its October exposé ("USDA accused of ignoring animal welfare violations in favor of business interests"), the Gingerich situation is the latest example of the department's longstanding enforcement failures.

According to the USDA complaint, an inspector spoke with Gingerich numerous times in March and April about five locations where he was breeding dogs without a license, in violation of the AWA. When the inspector requested addresses for these unlicensed sites, Gingerich provided only two and prevaricated on the others, stating “that he could not otherwise remember the addresses, or that the locations were not ready for a new-site inspection.” Gingerich had apparently also destroyed required acquisition records for 505 puppies. Inspectors warned him in April about the dangers of heat stress and cited him for an emaciated dog and lack of potable drinking water.

Gingerich’s obstruction escalated on June 14 when, at yet another illegal site, he prevented inspectors from examining a single dog. That same day, he “laundered” 150 dogs by transferring them to an unnamed individual—one of many examples of Gingerich making it impossible for the USDA to track animals. A 33-page July 7 inspection included 34 citations and documented appalling neglect, including a dog suffering from severe heat stress, gasping for breath and almost unable to move as the heat index soared to 109 degrees Fahrenheit. Given what the USDA had documented previously, this should have triggered immediate confiscation and referral to the DOJ.

Instead, the USDA conducted seven more inspections in July, culminating on July 28 with eight direct citations—the most serious type of critical citation. As the heat index reached 119 degrees, multiple dogs were observed suffering from severe heat stress, with labored breathing and crying out, while others had no potable water. Inspectors found an emaciated golden retriever with “hip bones, ribs, shoulder blades and back bones clearly visible.” She was among over 40 whom Gingerich had hidden from the department; inspectors found several of them dead. On August 11, inspectors witnessed a poodle puppy who gasped for breath, cried out, and died right in front of them. Gingerich hadn’t even noticed her suffering.

In 2021 alone, 25 inspection reports exceeding 200 pages contained over 200 citations, with the vast majority occurring prior to September, when the USDA eventually took enforcement action. For comparison, notorious chinchilla dealer Daniel Moulton (see page 11) had the most direct citations from 2014 to 2021 among the 10,000+ licensees and registrants regulated under the AWA. In just three months, Gingerich amassed almost half the number of direct citations that Moulton took seven and a half years to accumulate.

The USDA temporarily suspended Gingerich’s license on September 7, then filed a complaint 17 days later. That same month, it finally referred the case to the DOJ (as mandated by the AWA) for injunctive action after determining that Gingerich was placing the animals’ health in serious danger.

But how could the USDA have possibly waited until September to make this determination? USDA inspectors did their job in documenting a clear emergency at Gingerich’s facility. The case admittedly posed significant challenges—Gingerich threatened to kill some sick dogs the USDA wanted him to send to a rescue unless the department allowed him to transfer them to whomever he wanted. Yet in the end, the department did not confiscate a single animal. It did refer the case to the DOJ, as required, but waited months to do so. Why does the USDA seem unable or unwilling to act with urgency?

In 2019, a firestorm ensued after the *Washington Post* reported that the USDA initiated a confiscation of heat-stressed raccoons at another Iowa facility, Ruby Fur Farm, only to reverse itself after an industry group complained to senior administration officials (including Agriculture Secretary Sonny Perdue), prompting them to intervene on behalf of the facility owner. This was considered a prime example of the AWA enforcement nadir under the Trump administration. Those raccoons should have been confiscated—Ruby Fur Farm was an unconscionable situation.

But Gingerich is far worse. The heat index at times was higher at Gingerich’s, even as dogs went without potable drinking water. There were dogs in horrible shape with little or no veterinary care. And Gingerich hid animals, destroyed records, and denied access to inspectors.

Congress considered the USDA’s authority to confiscate to be so fundamental to ensuring animal welfare that it was included in the original AWA passed in 1966. USDA staff veterinarians have repeatedly affirmed this vital duty, writing in 2001 that the USDA “will continue” to confiscate when “it is in the best interests of the animals,” and in 2020 reiterated this authority to “confiscate animals that are in a state of suffering.”

Moreover, USDA public relations officials have published glowing testimonials to the importance of confiscation, featuring “before and after” pictures of rescued animals. In an article entitled “APHIS: Rescuing Suffering Animals,” they wrote that the department “has the authority and obligation to confiscate any AWA-regulated animal that is in a condition of unrelieved suffering.”

Despite confiscation being endorsed by USDA veterinarians and extolled in PR pronouncements, the department itself failed to confiscate in this case after inspectors documented an unprecedented emergency of immense, avoidable suffering. If this situation does not exemplify suffering animals needing rescue—through confiscation and timely referral to the DOJ—what does? 🐾

*Animal advocates documented the killing by ventilation shutdown of a large number of healthy pigs at a farm in Iowa in May 2020.*



DIRECT ACTION EVERYWHERE

farm animals

## AVMA URGED TO REVISE GUIDELINES FOR MASS KILLING OF ANIMALS

AWI is urging the American Veterinary Medical Association (AVMA) to revise its guidelines to no longer permit killing animals by inducing heat stroke, a method known as ventilation shutdown plus (VSD+). This method has been used during the COVID-19 pandemic to kill at least a quarter of a million healthy pigs who posed no risk to public health. (The pigs could not be sent to slaughterhouses that had temporarily closed and, for economic and logistical reasons, could not be retained by the industrial farm facilities until slaughterhouses reopened.)

In VSD+, operators seal the barn, turn off the airflow, and add heat and sometimes steam to raise the temperature as high as 170°F. The process can take hours and cause extreme distress. In AWI's letter to the AVMA, we reiterated concerns that all forms of ventilation shutdown are likely to result in prolonged and severe suffering and should be reclassified as "not recommended" for depopulating animals.

The AVMA's Panel on Animal Depopulation is currently reviewing proposed changes to the guidelines. Though the AVMA guidelines are voluntary, the US Department of Agriculture typically relies on them to facilitate depopulation events for animal disease outbreaks. The USDA is providing payments to producers that depopulated chickens, turkeys, or pigs between March and December 2020

due to insufficient access to slaughter facilities. The payments, which can exceed \$1 million per producer, cover costs of killing the animals, regardless of the method used.

AWI also recently coordinated a letter from a coalition of animal protection organizations to congressional leadership requesting that any spending legislation related to animal disease prevention prohibit the use of federal funds to kill animals with the VSD+ method.

## MORTALITY ABOARD CATTLE SHIPMENT RAISES SERIOUS QUESTIONS

In late August, AWI sent a letter to USDA Secretary Thomas Vilsack about an incident in which 207 cattle (over 9%) onboard a shipment from Delaware to Qatar died from largely preventable conditions. According to records we obtained, high rates of calving, calving-related deaths, and lame and/or downed cattle involved in the incident reveal that fitness-to-travel criteria (regulations

promulgated in response to AWI's 2013 rulemaking petition) were likely not followed. We urged the secretary to ensure that port veterinarians properly evaluate fitness-to-travel criteria so that sick, injured, or heavily pregnant animals are not sent on long, cramped journeys. We also suggested that the Animal and Plant Health Inspection Service consider revising its regulations relating to stocking densities, since many of the deaths appear to have been due to heat stress.

In response to our letter, APHIS administrator Kevin Shea asserted that the incident had already been investigated thoroughly, that port veterinarians adequately evaluated the cattle before transport, and that animal health during the journey largely rests upon the vessel operator itself. Shea also mentioned that APHIS would consider AWI's input as it continued to review its regulations and documents relating to animal export. While we appreciate the response, we remain unconvinced that the welfare of live animals shipped from the United States is being adequately monitored.

## AWI CALLS ON USDA TO CRACK DOWN ON DECEPTIVE LABELS

AWI recently met with US Department of Agriculture officials regarding the negative effects misleading labels have on competitive markets for meat and poultry products. We believe that the deceptive use of animal welfare and environmental claims represents a major threat to the future of higher-welfare, sustainable farming in the United States. According to our research, consumers are extremely interested in the welfare of animals raised for food, and producers are eager to capitalize upon this interest. Unfortunately, the USDA's current label approval system does not guarantee that high-value, high-impact claims such as "humanely raised" and "sustainably farmed" are adequately substantiated. Some producers use these claims without ever receiving the USDA's approval for their use. Moreover, because producers are allowed to create their own definitions for these terms, many use them without making meaningful improvements to baseline industry standards in their production practices.

Producers that use these claims without basis compete unfairly with producers that make similar claims while actually raising their animals under higher standards. Further, consumers who wish to support higher-welfare farming are being deceived. AWI is urging the USDA to make a greater effort to ensure that misleading claims are not allowed to enter the marketplace.

## HORIZON ORGANIC SEVERES TIES WITH NORTHEAST FAMILY FARMS

The viability of 89 family-owned organic dairy farms in the Northeast is now in jeopardy following an announcement by Horizon Organic, the world's largest organic dairy brand, that it will be dropping these farms as suppliers. Danone, Horizon's parent company, cited "growing transportation and operational challenges ... particularly in the northeast" as a factor in the company's decision.

Animals raised on true organic farms fare better than those raised

conventionally, as organic producers are required to provide animals with access to pasture. However, greater concentration of operations and the growth of mega-dairies within the organic dairy industry is troublesome. It not only drives small organic dairy farms out of business, but also threatens animal welfare. Factory-scale organic dairies often exploit loopholes or outright flout organic regulations. Cows may be denied the required access to pasture and other amenities afforded to them on small organic farms as these super-sized operations maximize production at the expense of the animal.

## CALIFORNIA ENHANCES SYSTEM TO RESCUE ANIMALS IN EMERGENCIES

Following a series of devastating wildfires, the state of California is investing \$3 million to better protect animals when disasters strike. The funding, which is provided through the state's 2021 Budget Act, will go toward creation of a California Veterinary Emergency Team administered by the UC Davis School of Veterinary Medicine. According to a UC Davis press release, "The program will support and train a network of government agencies, individuals and organizations to aid domestic animals and livestock during emergencies." The team will also serve as a reinforcement for the current emergency response entity—the California Animal Response Emergency System—and assist in coordinating and mobilizing hundreds of volunteers when needed. If successfully implemented, this initiative could serve as a model for protecting farm animals in states across the country.



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# USDA, LOCAL OFFICIALS DO NOTHING AS BIRDS LEFT TO DIE AT LOADING DOCK

What will it take for the US Department of Agriculture and local law enforcement to take bird abandonment seriously? Apparently, five incidents resulting in the death of over 20,000 birds at one facility alone is not enough. Neither is the abandonment of birds in searing heat or freezing cold for days on end with no protection from the elements.

This problem has continued for years, but nothing seems to change. In 2013 and 2016, AWI wrote the USDA about incidents involving thousands of chickens and turkeys dying in transport trailers that were left out for days in inclement weather. In one particularly disturbing event, Norbest (a turkey company) held birds on a truck for 53 hours before slaughter without food or water. At another facility, Tip Top Poultry, personnel left six trucks of birds over the weekend, in extreme heat conditions, without food or water. Two months later, the same establishment

left three and a half truckloads of birds over the weekend, again in extreme heat conditions without food or water, and despite being cautioned by USDA inspectors not to abandon the birds.

While the USDA did document these incidents, its “enforcement” actions amounted to no more than a letter to the facility’s management describing what happened. Documentation of these incidents does nothing to punish the establishments or stop them from engaging in the same behavior in the future. Frequently, it does happen again—many of these incidents occur repeatedly at the same facilities.

This is largely because the USDA’s position is that the Poultry Products Inspection Act (PPIA)—the only law that governs poultry slaughter in the United States—gives

it no authority to regulate this behavior; it can only take nonregulatory actions, which amount to little more than a slap on the wrist. According to the USDA, it can also report these incidents to local prosecutors when the behavior appears to violate local anticruelty laws.

In our correspondence with the USDA, AWI asked the department to take these incidents more seriously and requested that it consider revising its directive and regulations to address the problem of bird abandonment. We argued that the USDA actually does have authority under the PPIA because it is obligated to ensure that animals do not die by means other than slaughter, such that the animal is considered “adulterated” and unfit for human consumption. We made similar arguments in a lawsuit filed in August 2020 requesting that the USDA regulate humane handling of poultry at slaughter. (See *AWI Quarterly*, winter 2020.) In October, a judge denied the USDA’s motion to dismiss the case, and it is moving forward.

Unfortunately, the USDA has not acted on AWI’s requests, so we are trying a different approach. According to most states’ anticruelty codes, abandoning an animal with no shelter is illegal. So this behavior, combined with the USDA’s position on where its jurisdiction ends, underlines the pressing need to apply local anticruelty laws to incidents where animals are left without care outside slaughterhouses.

In June 2021, in rural Butterfield, Minnesota, 2,552 birds died from exposure to extreme heat after being abandoned for hours in a transport trailer at Butterfield Food Company. In August 2020, 9,500 birds died from heat exposure. In February 2020, 9,000 hens froze when left outside in a wind chill of minus 32 degrees Fahrenheit. In March 2018, 330 birds froze to death in a transport trailer. And in February 2018, half of a shipment of birds were killed by freezing temperatures. At Jennie-O in Melrose, Minnesota, hundreds of turkeys died in six incidents from April to June of 2021 after they were left sweltering in direct sun as temperatures rose into the 90s. On-site USDA officials told employees repeatedly to provide shelter, fans, and misters to keep the birds cool, but employees did not follow these instructions.

In response to these incidents, AWI sent letters to local prosecutors asking that they pursue animal cruelty charges against Butterfield Foods and Jennie-O Turkey Store. Our letters urge the prosecutors to bring charges against the establishment and its employees for their deliberate and negligent behavior, in clear contravention of Minnesota’s anticruelty statute. Under Minnesota law, it is unlawful to deprive any animal of necessary food, water, and shelter. It is also unlawful to neglect or abandon any animal, or to keep



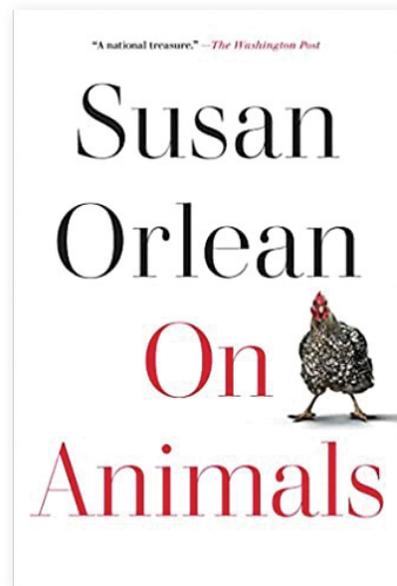
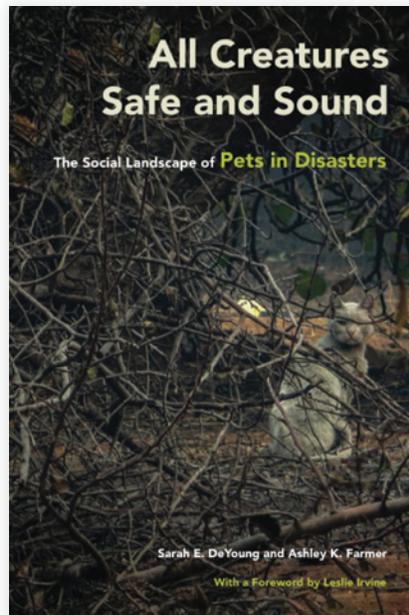
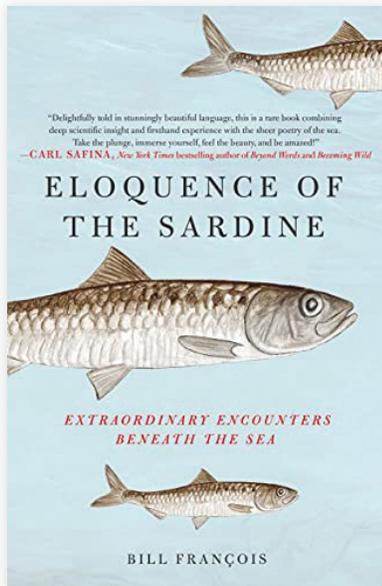
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any animal in an enclosure without providing change of air. AWI argued that prosecution would be appropriate to hold those accountable for this behavior and to deter similar incidents from occurring in the future. While the Stearns county attorney did refer the Jennie-O case to local law enforcement, the Watonwan county attorney is declining to prosecute the Butterfield case. The Watonwan county attorney’s letter to AWI informing us of this decision did not even analyze whether the facts of the case met the standard for cruelty under the law. AWI also provided this information to sheriffs in both counties and requested investigation or charges, but only Stearns County contacted us for more information. We do not know at this time whether the county is proceeding with an investigation.

AWI also sent a follow-up letter to the USDA arguing that the way it handles these incidents leaves local prosecutors confused about their role in the process. Because the USDA does not clearly indicate to local officials its stance that it has no authority to penalize the behavior, local officials do not fully grasp that it is incumbent upon them to address such situations.

AWI strongly believes that both the USDA and local officials are responsible for preventing cruelty and neglect from occurring at bird slaughterhouses. The USDA can exercise its authority and take stronger action against these establishments, and it can be firmer when it refers any incidents to local enforcement authorities. And local prosecutors and law enforcement can indict and prosecute those responsible for cruelty, thereby signaling to individuals and poultry slaughterhouses that such gross neglect will not be tolerated.

Currently, though, both the USDA and local officials seem content to stand on the sidelines—confused, reluctant to act, and seemingly indifferent to the suffering these birds endure. What amount of needless, preventable suffering will be enough to jolt them into action? 🐾



## ELOQUENCE OF THE SARDINE

Bill François / St. Martin's Press / 192 pages

*Eloquence of the Sardine: Extraordinary Encounters Beneath the Sea* by Bill François, a French physicist and naturalist, is full of fascinating and thought-provoking information about life beneath the waves. Through science and storytelling, François explores the lives of many sea creatures and the remarkable ways they live, communicate, reproduce, find food, play, and escape predators (including humans). Take, for instance, the amazing sardine, whose scales perfectly refract light to avoid detection from above, below, and to the side, and who live together in the thousands, leaderless but effortlessly in sync.

François describes extinct sea creatures, like the giant manatees of the Bering Strait, and how species that are endangered today, such as the monk seal, were once populous. He amusingly explores the derivations of aquatic names from terrestrial species (e.g., rabbitfish, sea cows, toadfish), professions (e.g., cardinalfish, clownfish), and outer space (e.g., sea stars, sunfish, moonfish). He tells of the alarming early lives of sand tiger sharks, who hatch from eggs while inside the womb and cannibalize their smaller siblings

until—from an initial multitude—only the strongest two are left (one in each uterus) to enter the world beyond.

Regarding octopuses, François spares no end of admiration for their intellect, ability to mimic and change shape, and dexterity that allows them to fit through the smallest crevices. He laments that a mother octopus cannot pass on her immense acquired knowledge—she goes without food for months as she tends her eggs, but dies of starvation just as they hatch. The young are left to figure out the world for themselves, which of course they do.

François describes how female humpback whales, in contrast, spend a lot of time with their young, communicating and teaching them cultural traits, including the songs of their ancestors. The young whales take these songs, add personal touches, and pass them to future generations. François also discusses exactly how baleen whales are able to communicate over huge distances, as well as how human use of the oceans interferes with such communications.

This relatively short book is a fluid read and is interspersed with charming pencil drawings by the author.

## ALL CREATURES SAFE AND SOUND

Sarah E. DeYoung and Ashley K. Farmer /  
Temple University Press / 223 pages

In 2005, hundreds of thousands of companion animals died or were left homeless by Hurricane Katrina. Pictures of abandoned pets taking refuge on the roofs of cars and houses flooded the media. This tragedy highlighted the disturbing lack of laws and policies to protect animals from harm during natural disasters. In 2006, Congress passed the Pet Evacuation and Transportation Standards (PETS) Act to provide a foundation for protecting animals in disaster scenarios. But gaps in coverage and enforcement make it necessary for private groups and individuals to continue stepping in.

In *All Creatures Safe and Sound: The Social Landscape of Pets in Disasters*, Sarah DeYoung and Ashley Farmer critique individual and group responses to natural disasters since Hurricane Katrina and articulate tangible solutions for each problem they address. The authors highlight the importance of taking the needs of animals into consideration during planning, rescue, and recovery efforts, not only for the welfare of the animals, but for humans as well, as companion animals play an integral part in people's evacuation and reentry decisions.

DeYoung and Farmer interviewed program coordinators and evacuees who had dealt with hurricanes, wildfires, and lava flows. Harrowing, frustrating, and inspirational stories are interspersed throughout the book. (Many of these anecdotes are upsetting, which may be a factor in choosing whether to read the book.)

*All Creatures Safe and Sound* is an ideal read for anyone with a professional, academic, or personal connection to the fields of disaster relief and animal welfare. It is a vital addition to disaster relief studies, because it recognizes an increasingly important but overwhelmingly ignored group. Unfortunately, the lessons in this book will only become more imperative as the number and size of natural disasters grow due to climate change.

## ON ANIMALS

Susan Orlean / Avid Reader Press / 256 pages

Susan Orlean is a gifted and well-read writer. I enjoyed reading *The Library Book* and therefore approached *On Animals* with eager anticipation. Less than a quarter of the way through it, my eager anticipation changed to bewilderment. How could a person who describes herself as “always a little animalish” and who states, “animals have always been my style” be so clueless and seemingly lacking in empathy with respect to the creatures with whom she claims such affinity?

In the first chapter, Orlean describes her husband's courtship of her. His winning move: surprising her on Valentine's Day by bringing a pet African lion to her door (accompanied by the owner and three off-duty police officers). She was delighted to be in the presence of such a magnificent creature. There is no mention of how a wild lion would experience being a pet. Her chapter on how she began acquiring chickens provides an informative history of attitudes toward chicken farming and includes the observation, “A chicken was a good investment. ... A hen in her prime ... could produce an egg every day or two in the laying season, and once she stopped laying, she could be cooked.”

Other chapters are devoted to taxidermy, a woman in New Jersey who hoarded tigers, the usefulness of mules in warfare, and Keiko, the orca featured in the movie *Free Willy*. Keiko endured 23 years in captivity, first in Iceland, then in Ontario, where he developed skin lesions (an indicator of poor health), and then at a rundown park in Mexico City, where the 21-foot long animal was kept in a pool 22 feet deep, 65 feet wide, and 114 wide long, with water that often was too warm. He is described by Orlean as a whale “who has lived most of his life as a large pet.”

If you have an interest in reading about how animals have been used by humans, you will find this an interesting book. Otherwise, I would avoid it.

—Mary Lou Randour, PhD

## Bequests

If you would like to help assure AWI's future through a provision in your will, this general form of bequest is suggested: *I give, devise and bequeath to the Animal Welfare Institute, located in Washington, DC, the sum of \$ \_\_\_\_\_ and/or (specifically described property).*

Donations to AWI, a not-for-profit corporation exempt under Internal Revenue Code Section 501(c)(3), are tax-deductible. We welcome any inquiries you may have. In cases in which you have specific wishes about the disposition of your bequest, we suggest you discuss such provisions with your attorney.



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LUKE SHELLEY

## PARLIAMENTARY REPORT CONDEMNS CURRENT KANGAROO MANAGEMENT

In October, Australia's New South Wales (NSW) Parliament published a blistering report entitled *Health and wellbeing of kangaroos and other macropods in New South Wales*, taking to task the NSW government for serious issues regarding its management of kangaroos. The parliamentary inquiry was triggered by public concern over the annual slaughter of millions of kangaroos, including for export of their skins and meat to the United States and other countries. In 2020, in NSW alone, commercial hunters slaughtered over 2.1 million kangaroos and wallaroos (a figure that does not include an unknown number of animals killed for noncommercial purposes and of baby kangaroos—joeys—killed in the hunts).

Forty witnesses, including ecologists, aboriginal elders, kangaroo carers (rehabilitators), biostatisticians, government officials, and concerned citizens, as well as Mick McIntyre and Kate Clere of Kangaroos Alive (an organization that has received support from AWI), provided compelling, often heart-wrenching testimony to the parliamentary committee established to lead the inquiry. The elders explained how

aboriginal interests in kangaroos have been ignored by the state agency responsible for kangaroo management. Other witnesses challenged the accuracy of kangaroo population counts and abundance estimates or described the blatant cruelty inherent in kangaroo shooting, including to the joeys either killed or orphaned and left to die by the hunters.

The report contains nearly two dozen recommendations, which, if implemented, will improve kangaroo management in NSW. The recommendations include incorporating aboriginal concerns into management plans, examining the economic benefits of ecotourism, assessing the impacts of climate change and exclusion fencing on kangaroos, ensuring that NSW's management plan complies with Australia's biodiversity conservation and environmental protection laws, developing new methods to count and estimate population abundance, considering drought conditions when setting quotas, collecting and releasing data on joey deaths from commercial hunts, and improving program transparency and enforcement. 🐾