

# AWI Quarterly

Spring 2015 Volume 64 Number 2

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## ABOUT THE COVER

Pasture-raised sheep graze at an Animal Welfare Approved high-welfare farm. At such farms, the emphasis is on breeding and husbandry techniques that enable animals to thrive in natural settings and engage in species-appropriate behaviors.

Not so at the US Department of Agriculture's Meat Animal Research Center (MARC) in Clay Center, Nebraska. There, the emphasis is on engineering animals that can serve as anonymous units of ever-increasing production. An investigative report printed this year in *The New York Times* revealed ghastly production-boosting experiments performed at MARC—studies that indicate a shocking disregard for the pain and suffering of the animals involved.

Such unconscionable research is allowed to go on in large part because agricultural research involving farm animals is exempt from scrutiny under the Animal Welfare Act. AWI is urging the USDA to reign in its rogue facility, and urging Congress to end the Animal Welfare Act's farm animal research exemption. For more on this story, see pages 20 and 22.

PHOTO BY MIKE SUAREZ

## Gray Whales Under Hunting Threat

IN MAY 1999, whalers from the Makah Tribe in northwestern Washington state killed a gray whale—something they had not done since the 1920s. Even the few tribal elders who could remember the last kill did not know how to butcher the animal, so an Alaskan whaler was called in to demonstrate. They were able to obtain only a fraction of the meat and blubber before the carcass was left to rot on the beach.

In 2000, the Ninth Circuit Court of Appeals ruled the government acted illegally in allowing the hunt to take place. A second attempt to issue the permit was struck down in 2002. In the latter ruling, the court held that, under the National Environmental Policy Act, the National Marine Fisheries Service (NMFS) must complete an environmental impact statement before permitting the hunt, and that the Marine Mammal Protection Act (MMPA) prohibition on killing marine mammals was applicable to the Makah Tribe.

In response, in 2005 the tribe formally requested a waiver to the MMPA. NMFS, seeking to accommodate the request, initiated an environmental review of the proposed hunt. In March 2015, the agency's draft environmental impact statement (DEIS) was published—the first step toward granting a waiver and sanctioning the hunt. The Makah seek an allowance to “strike” up to 42 whales over six years, and to kill 24 over that period. (Struck whales are not always killed.)

For reasons outlined on page 13 of this issue, AWI opposes the hunt and the granting of an MMPA waiver.

## WHAT YOU CAN DO

The government is accepting public comments on the DEIS through **June 11, 2015**. Please consider adding your voice to the process. Send comments to: [Makah2015DEIS.wcr@noaa.gov](mailto:Makah2015DEIS.wcr@noaa.gov). The DEIS and other materials are available at: [www.1.usa.gov/1DGmhrH](http://www.1.usa.gov/1DGmhrH). Additional information about the DEIS, including suggested comments to send to NMFS, is available at [www.awionline.org/makah](http://www.awionline.org/makah). 🐾

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6



9



10

# Spring 2015

VOLUME 64 NUMBER 2

## ANIMALS IN LABORATORIES

- 28 AWI Announces 2015 Refinement and Enrichment Grant Awardees

## COMPANION ANIMALS

- 10 Urban Carriage Horses: Out of Step with Responsible Horse Welfare

## FARM ANIMALS

- 17 USDA Amending Live Animal Export Regulations, but Is It Enough?
- 17 Advisory Committee Urges Sustainable Dietary Guidelines
- 17 Leading Food Service Companies Expand Cage-Free Commitment
- 18 California Mandates More Space in the Cage for Egg-Laying Hens
- 22 MARC Continues to Feel the Heat

## MARINE LIFE

- 2 Gray Whales Under Hunting Threat
- 5 AWI Staff Helps Stem Trash Tide Along DC River
- 12 New Coalition Seeks End of Orca Captivity in EU
- 12 AWI and Allies Win Big Victory on Behalf of Marine Animals

- 13 US Tribe's Quest to Kill Whales Moves Closer to Reality
- 14 Family Is Everything

## WILDLIFE

- 4 Circus Elephants to Leave Ring After Ringling Tosses In Towel
- 5 New York Tones Down Mute Swan Eradication Plan
- 6 Spaying Deer: An Alternative to Bullets and Arrows for Deer Management in Cities and Suburbs?
- 8 California County Puts Killing Contract on Ice After AWI and Allies Sue
- 8 USFWS Gives OK to Imports of Black Rhino Trophies
- 9 Detection Dogs Help Find Contaminants Along Montana Waterways

## GOVERNMENT & LEGAL AFFAIRS

- 20 AWARE Act Seeks to Protect Farm Animals at Federal Research Sites
- 21 Politics Plays Role in USFWS Northern Long-Eared Bat Decision
- 21 AWI Presses for Animal-Friendly Appropriations
- 24 APHIS Strategic Plan Strays from Strong Enforcement of Animal Welfare Act

## AWI PUBLICATIONS

- 27 *Marine Mammals Brochure*

## REVIEWS

- 26 *The Chain*
- 26 *Pig Tales*
- 27 *Beneath the Surface*

**Above Left:** Fairfax City, VA, is using an innovative deer-spaying program to manage its deer population without resorting to lethal control. (JanetandPhil)

**Top Right:** Orbee, a working dog trained to find otter and mink scat, is helping scientists detect chemical pollution in Montana waterways. (Dr. Ngaio Richards)

**Bottom Right:** A New York City carriage horse is pinned under his rig. The frightened horse had darted through a busy traffic circle, sideswiping a car.



## CIRCUS ELEPHANTS TO LEAVE RING AFTER RINGLING TOSSES IN TOWEL

On March 5, 2015, Feld Entertainment, Inc., the world's largest live family entertainment company and owner of the largest number of Asian elephants in North America, announced it would end elephant performances in its Ringling Bros. and Barnum & Bailey Circus by 2018. The news spread like wildfire and caught the attention of local and major news outlets across the country.

For more than 100 years, the Ringling elephants have been forced to don headdresses and perform tricks for paying patrons of the circus. In the name of entertainment, these gentle giants have been repeatedly hit, poked and beaten with bullhooks to train and “break” them so that they stay in line and perform stunts dictated by their handlers. These same animals, who walk in the wild up to 40 miles a day, have also been shackled with heavy metal chains for hours on end to confine and control them when they're not performing and during transport from state to state on trains.

Feld Entertainment claims that a “mood shift” among its consumers and public concern over elephants touring with the circus helped lead it to make the change. The company immediately denied that animal welfare activism had anything to do with its decision. It's abundantly clear, however, that efforts by AWI and others over several decades were the primary catalyst—uncovering Ringling's mistreatment of elephants and exposing it to an increasingly disenchanted public.

Certainly (if Ringling doesn't find a way to back out), the retirement of its elephants is an enormous step in the right direction. The decision, however, took far too long, and the further delay until 2018 is shameful. Presumably, the 13 performing elephants still on the road will continue to be struck with bullhooks and chained as they travel throughout the country in cramped, narrow, dark railway cars. Meanwhile, Ringling continues to subjugate tigers and other exotic wildlife, and has touted that it is adding camels to the mix.

Moreover, Feld Entertainment has indicated that these 13 elephants will join 29 others at its so-called Center for Elephant Conservation (CEC), a facility that is by no means a sanctuary. The CEC's general manager, Gary Jacobson, admitted under deposition in 2007 that nursing baby elephants are forcibly separated from their mothers, that most of the elephants 10 years of age or younger are kept standing on concrete floors for about 16 hours each day chained by a front and back leg, and that some elephants are kept on chains for more than 23 hours each day. He

stated further that none of the adult males are allowed on grass. Both bullhooks and electric prods have been used on elephants at the CEC.

The CEC as it currently operates is no place to retire circus elephants that have already endured a lifetime of misery. Certainly, if past is prologue, Feld will display neither the expertise nor the willingness to provide these elephants with a species-appropriate environment that will not be compromised by commercial interest. These animals deserve more—much more. While the precise future of these elephants remains in question, AWI will continue to advocate for their prompt placement in a proper sanctuary. 🐾



PEFA

Former Ringling Bros. elephant trainer Sam Haddock stated in an affidavit, “Training techniques used by [CEC general manager] Gary Jacobson [shown here, holding a bullhook in one hand and a ‘hotshot’ electric shock device in the other] include a lot of manpower, brute force, electricity, and a savage disposition.”



AARON CHANDLER

A Ringling Bros. bullhook. Haddock added in his affidavit, “The bullhook is designed for one purpose, and one purpose only, to inflict pain and punishment.”



PAUL STEIN

Mute swans in Central Park. The NYDEC's revised management plan would spare some mute swans. Many, however, would still be killed.

## NEW YORK TONES DOWN MUTE SWAN ERADICATION PLAN

The New York State Department of Environmental Conservation (NYDEC) released a revised wild mute swan management plan in which it backs away (somewhat) from its initial proposal to eradicate all 2,200 mute swans, a nonnative species, in the state.

When the initial plan was unveiled, AWI and many of its members sent in comments, saying the proposal was inhumane and failed to comply with the state's legal duty to first produce an environmental impact statement (see Spring 2014 *AWI Quarterly*). The flood of negative comments induced the NYDEC to reconsider.

According to an NYDEC press release, the revised plan focuses "on minimizing swan impacts, rather than eliminating all free-flying swans." It also allows municipalities to keep swans at local parks and other settings pursuant to local swan management plans and promises to consider nonlethal techniques. Nevertheless, the revised plan would still result in the killing of numerous mute swans, and animal welfare activists are not singing its praises.

Last year, New York Sen. Tony Avella introduced a bill in the state legislature that would place a moratorium on mute swan eradication until the NYDEC conducted public hearings, prioritized nonlethal management, and provided scientific evidence of damage caused by mute swans. Concerning the revised plan, Sen. Avella stated that it is "the first step toward a better solution for mute swan management, but it may not be enough." His bill passed the legislature last year but was vetoed by Governor Cuomo on the basis of NYDEC's promised plan revision. The bill—which AWI supports—has since been reintroduced. 🐾

## AWI Staff Helps Stem Trash Tide Along DC River

WE POUR A LOT OF PLASTIC into the world's oceans—directly and through the myriad waterways that spill into the seas. A pioneering study published in *Science* in February estimated that, in 2010 alone, we dumped nearly 9 million tons of plastic into the deep—so much that if we were to spread it out along the shores, we could cover every foot of the planet's coastlines with five full grocery bags of the stuff.

Study co-author, Kara Lavender Law, an oceanographer at the Sea Education Association in Woods Hole, Massachusetts, says that, to curb the problem, we must invest in waste management infrastructure, especially in countries with rapidly developing economies. She adds that "in high-income countries, we also have a responsibility to reduce the amount of waste, especially plastic waste, that we produce."

In the meantime, we need to gather up what we do produce so it doesn't end up flowing downstream and into the ocean. To that end, on April 25, AWI staff members joined EarthShare and others from the DC Metro area, for the Anacostia Watershed Society's annual *Earth Day Cleanup and Celebration*. The Anacostia watershed—which encompasses most of the eastern half of Washington and portions of Maryland—is home to more than 230 different animal species, including turtles, otters, red fox, and a multitude of birds and fish. Last year, over 2,000 volunteers, including AWI staff, collected 44 tons of trash and recyclable items from the river and adjacent neighborhoods, parks, and streams. 🐾



BRITTANY HORTON, AWI

AWI staff members and volunteers help clean up the Anacostia River in Washington, DC. Each year, AWI participates in this Anacostia Watershed Society-sponsored Earth Day event.



# SPRAYING DEER

## An Alternative to Bullets and Arrows for Deer Management in Cities and Suburbs?

In many communities throughout the United States, particularly in the Northeast, if you want to rile up the neighbors ask them about deer. Many people see these big-eyed ungulates as real-life Bambi, survivors in a habitat modified by humans, and are thus tolerant of the deer's transgressions and willing to modify their own behaviors and expectations to live with these elegant animals. Others view deer as "rats with hooves," often cursing their existence and inexcusable gumption for eating garden vegetables and flowers, colliding with automobiles, allegedly spreading Lyme disease, and even pooping in yards.

Whether adored or abhorred, no one can question the remarkable versatility of these animals. Deer, particularly the white-tailed variety, are one of nature's most adaptable creatures. As we modify their habitats, they find ways to survive and often thrive amidst our homes, strip malls, roadways, and industrial parks. Indeed, in many areas, by taking advantage of human-supplied open spaces such as golf courses, ball fields, parks, and yards, as well as the cornucopia of tasty treats that we provide them via gardens and ornamental plantings, deer densities can soar in suburban landscapes.

Sadly, although the deer are simply adapting to modifications of their wild homes, too many deer eating gardens, getting hit by cars, or triggering fear of disease results in cities and municipalities employing lethal means

to remedy the problem. To thin the herds, elected officials and management professionals hire sharpshooters and archers, recruit local hunters, or sanction live trapping and euthanasia. Sharpshooters often work under the cover of darkness with silencer-equipped high-powered rifles, using spotlights to gun down unsuspecting deer feeding on bait piles used to attract them to facilitate their killing. When bow-hunters are employed, there have been reports of deer impaled with arrows wandering into neighborhoods and succumbing to their injuries after what may have been hours of suffering. Such strategies often must be endlessly repeated, as fewer deer results in more food available to the survivors, thus improving their condition, increasing their reproductive rate, and ensuring that they quickly fill the vacancies created by the slaying of their brethren.

Is there a better strategy for deer control in urban and suburban landscapes? In late January 2015, AWI helped fund and AWI staff participated in a deer sterilization project in Fairfax City, Virginia. This was the second year of the sterilization effort approved by the Fairfax City Council in 2013 and organized by Humane Deer Management (HDM), a local group of dedicated volunteers created to promote an alternative to lethal control. Using funds provided primarily by private citizens and humane and wildlife advocacy organizations, HDM hired professionals to carry out the project.

Fairfax City, a 6.3-square-mile enclave within Fairfax County, is home to over 22,500 permanent residents and George Mason University (with its nearly 34,000 students). It represents typical suburbia with its strip malls, neighborhoods, and office buildings interspersed with parks, woodlots, and creeks—an inviting place for deer. Although its deer density (estimated at no more than 16 deer per square mile prior to the initiation of the project) is not nearly as high as other municipalities, citizen concerns about deer prompted the consideration of various lethal and nonlethal deer management alternatives. Instead of proceeding with lethal control as most municipalities do, Fairfax City decision-makers wisely elected to proceed promptly with the humane, nonlethal option of sterilization to control its deer numbers before allowing the population to grow and thereby increase the pressure to resort to lethal control.

Over the course of six nights, Dr. Anthony DeNicola and his team successfully darted 18 female deer, who were then spayed by Dr. Jeffrey Newman of the Caring Hands Animal Hospital and other volunteer veterinarians. They were assisted by AWI and HDM staff, veterinary technicians from the animal hospital and Humane Society of Fairfax County, and other volunteers. Because this technique remains experimental, most of the treated deer were ear-tagged and fitted with telemetry collars to monitor project success before they were returned to where they were darted.

In total, over two years, 36 deer have been captured and successfully spayed, with two known mortalities—one spayed doe was struck and killed by a vehicle and another wandered outside the city and was killed by a hunter.

Fairfax City is not the first deer sterilization project in the United States. Similar efforts have been undertaken in Baltimore City, Maryland; Town and Country, Missouri; San Jose, California; East Hampton, New York; and elsewhere. As data is collected from these separate projects, scientists will be able to assess the efficacy and value of deer sterilization as an alternative to hunting, sharpshooting, or capture and euthanasia to control deer populations in urban and suburban areas. Behavioral impacts of this technique on both male and female deer are also being assessed.

Is sterilization an ideal solution to deer-human conflicts? We don't yet know. Certainly, sterilization is an invasive, labor-intensive, and potentially costly procedure that can result in complications for the treated deer. However, if it proves efficacious, AWI thinks it should be used alongside immunocontraceptive technologies as an alternative to lethal options for municipalities to consider. Municipalities debating deer management strategies should urgently embrace immunocontraception or sterilization options to stabilize the population instead of delaying action and allowing deer populations to soar.

In an ideal world, those who live among deer would be more tolerant of deer and their impacts, learn to appreciate the value of deer, educate themselves about deer and their behavior, and use the various nonlethal tools and strategies available to live harmoniously with deer—instead of advocating for their killing. Most importantly, they would acknowledge that they have occupied the deer's habitat, not the other way around. For now, since that ideal world is not yet here, new, less cruel tools are needed to control the deer populations that inhabit cities and suburbs. Deer sterilization may be such a tool. 🐾



VICKIE DENICOLA



BRITTANY HORTON, AWI

Top: Deer consume corn at a bait pile set up to facilitate darting and spaying. (Those with tags may have been captured and sterilized the previous year.) Bottom: AWI's wildlife biologist, D.J. Schubert (in checked jacket) helps move a still-sedated deer from the operating table into a truck, in preparation for her return home.

## California County Puts Killing Contract on Ice After AWI and Allies Sue

**IN RESPONSE** to legal pressure from AWI and its allies, Mendocino County, California, officials have agreed to suspend the planned renewal of the county's contract with the US Department of Agriculture's Wildlife Services program, pending an environmental review that will include consideration of nonlethal predator control methods. Mendocino County's contract called for Wildlife Services to kill hundreds of coyotes, as well as bears, bobcats, foxes, and other animals in the county every year, without assessing the ecological damage or considering alternatives—at an annual cost to the taxpayers of \$142,356.

The county's decision came after local citizen Carol Becker and a coalition of animal welfare and environmental groups that included AWI, the Animal Legal Defense Fund, the Center for Biological Diversity, Project Coyote, and the Natural Resources Defense Council sued the county in November 2014 for violating the California Environmental Quality Act (CEQA).

In April 2015, the parties to the lawsuit signed a settlement agreement, whereby AWI and its allies agreed to drop the suit and the county agreed to 1) hold a public meeting in which Project Coyote's Camilla Fox will make a presentation to the board of supervisors regarding the advantages of nonlethal alternatives; 2) comply with CEQA prior to any renewal or modification of the county's contract with Wildlife Services; and 3) provide petitioners with monthly updates regarding the status of the CEQA review. 🐾



CHRIS PARKER

Red fox and other wild animals in Mendocino, CA, get a stay of execution after the county suspended its contract with USDA's deadly Wildlife Services program.



BLACK RHINO/GERRY ZAMBONINI

## USFWS GIVES OK TO IMPORTS OF BLACK RHINO TROPHIES

The US Fish and Wildlife Service (USFWS) gave the green light in March for two American hunters to import one black rhino carcass each from Namibia as trophies. One hunter, Michael Luzich, had already shot a rhino—having paid the Namibian government \$200,000 for the privilege—but had not yet received permission from the US government to import the carcass. Another hunter, Corey Knowlton, forked over \$350,000 in January 2014 in an auction sponsored by the Dallas Safari Club for the right to gun down his own endangered rhino—for the purpose of “conserving the species.” Knowlton, however, decided to put his hunt on hold until he could be sure the USFWS would allow him to drag the body back to the United States.

Two years earlier, the USFWS issued another such permit—the first since the black rhino's 1980 listing as endangered under the Endangered Species Act. Fewer than 5,000 black rhinos remain in the wild—less than one tenth the population half a century ago—with roughly 1,750 of those residing in Namibia. Efforts to recover the species have been hindered by poachers, who sell the horn on the black market for ornamental and medicinal purposes; despite being comprised mostly of ordinary keratin, rhino horn can fetch in excess of \$100,000 per pound.

The USFWS received more than 135,000 petition signatures and 15,000 public comments opposing the two latest import permits, but issued them, anyway. USFWS Director Dan Ashe even expressed enthusiastic support for Namibia's kill-to-serve policy. Namibia allows five male black rhinos to be hunted each year, supposedly to support conservation programs, including anti-poaching campaigns. Critics, however, claim there is thin evidence that the trophy fees are actually used to promote rhino conservation. 🐾



# DETECTION DOGS HELP FIND CONTAMINANTS ALONG MONTANA WATERWAYS

By Dr. Ngaio Richards, Forensics and Field Specialist

Clean water and healthy aquatic ecosystems are of immeasurable value to people and wildlife. But we need a full picture of what contaminants are circulating in our waterways and where they are originating to properly protect these ecosystems. This knowledge is currently lacking in many parts of the United States, including Montana.

Interestingly, the very wildlife that dwell and feed along rivers can tell us a lot about overall freshwater ecosystem health. Their fecal matter, or “scat” represents a rich repository of information, including exposure to contaminants in their prey and environment. With a diet abundant in aquatic organisms, river otter and mink are particularly appropriate as indicator species to help narrow down presence and sources of contaminants. The problem? They are also notoriously elusive.

That’s where Montana-based nonprofit Working Dogs for Conservation can help, because it has a superb, noninvasive monitoring tool—exuberant detection dogs—specially trained to find scat samples. Dogs are able to comprehensively and quickly cover a sizeable area and they excel at finding only the scat of the species they are trained on. This is of tremendous assistance to researchers, because visually searching for scats (even large, smelly ones) across a landscape requires a prodigious human effort. Dogs also eliminate the need to capture, handle, or mark wild animals—thereby avoiding the risks, including mortality, inherent to using such traditional wildlife study techniques.

Working Dogs for Conservation, with the aid of a Christine Stevens Wildlife Award, teamed up with our enthusiastic and inquisitive partners at the University of Montana, Colorado State University-Pueblo, and University of Manitoba to find out whether heavy metals, pharmaceuticals, and flame retardants were lurking in the scats of river otter and mink, and by extension polluting our

ivers. These contaminant groups were chosen because they cause a host of long-term ailments in wildlife and people.

Along with their human coworkers, two of our veteran conservation dogs, Orbee and Pepin, searched along five rivers in Montana and found hundreds of otter and mink scats where, in most cases, none or very few had been found before by humans! It wasn’t uncommon for project partners who joined us in the field to express shock over the ability of the dogs to find scat samples they had overlooked—sometimes literally right where they were standing.

In the scats analyzed to date, all the heavy metals screened for—arsenic, copper, selenium, zinc, cadmium, mercury and lead—have been detected at levels ranging from “background environmental” to “elevated.” Lead and mercury exposure in otter and mink is of special interest because of the known endocrine, neurological and reproductive repercussions. Several flame retardants were detected, as well, in some of the scats. Long-term exposure to both these contaminant groups can jeopardize aquatic ecosystem food webs, local wildlife populations, and health in adjacent human communities.

As far as we know, this is the first time that heavy metals have been detected in otter scats in North America—or ever in mink scats. It is also the first time ever that flame retardants have been found in the scat of either species. Tantalizingly, results of pharmaceutical assays are pending. We’ve also garnered interest in future noninvasive, detection dog-based otter and mink surveys—not just for contaminants monitoring, but for general ecological monitoring.

On an especially memorable day of surveying, while working with Orbee, I caught a glimpse of the glossy head of an otter emerging from the fast-moving Clark Fork River. The animal eyed us for a millisecond then disappeared downstream, with Orbee, nose pressed to the ground intent on finding his scat target, none the wiser. 🐾





# URBAN CARRIAGE HORSES: Out of Step with Responsible Horse Welfare

**In many cities**, horse-drawn carriages are seen as tourist attractions, taking visitors on tours of city streets and evoking nostalgic images of days gone by. Yet, underlying these quaint notions is the reality for the horses: daily exposure to noise and pollution, heavy traffic, hard pavement, long work days, constant heavy loads, and lack of access to pasture. All of these are directly detrimental to horses' welfare.

Carriage horses, particularly in heavily congested urban settings such as New York City and Chicago, spend much of their day breathing exhaust fumes from cars directly in front of them. They also spend hours walking through a miasma of oil, road salt, and other roadway pollutants. The health issues associated with chronic exposure to airborne and ground pollution—well documented in people—affect horses, as well. Even when horses are not pulling carriages, they may be kept in inadequately ventilated stalls where they are exposed to high levels of dust contaminated with mold and other fungi. Long-term exposure to these elements lead to many respiratory conditions, including bronchitis, rhinitis, inflammatory airway disease, and reactive airway disease.

Life in the city is noisy. Sudden sounds can frighten horses, causing them to bolt, resulting in harm to

themselves, the carriage passengers, or other bystanders and vehicles. Every year in New York City, there are multiple accidents involving carriage horses who have been startled in this manner. On a daily basis, the animals are exposed to near constant, high levels of noise—often 80–100 decibels, or up to 100 times louder than a typical conversation. Chronic exposure to street noise—linked to hearing loss, poor cardiovascular health, and stress in people—is also harmful to horses.

Since carriage drivers do not have the time, facilities, or funds to train a horse to pull a 1,000-pound carriage, they purchase horses who are already accustomed to pulling a carriage. Such horses most often come from farms, where they have already put in many years of labor and are being sold because they are no longer capable of working on the farm. Once they become urban carriage horses, their lifespans are greatly reduced. A recent

study, using New York Department of Health data, determined that the annual turnover of New York City carriage horses is over 30 percent. Horses not re-registered may end up at the same auctions where they were purchased, either to return to farm work or be sold for slaughter, with only rare opportunities for true retirement.

Proper hoof care is a critical component of a horse's overall health. Long hours pounding on hard roadway surfaces can damage hooves, even when they are properly shod, causing pain with each step. The American Veterinary Medical Association recommends that horses be allowed to spend time on soft surfaces (i.e., pasture), to avoid damage and facilitate circulation within the hoof. In most urban settings, horses have no regular access to pasture for the majority of the year. Carriage horses in New York City only spend a single five-week period every year away from

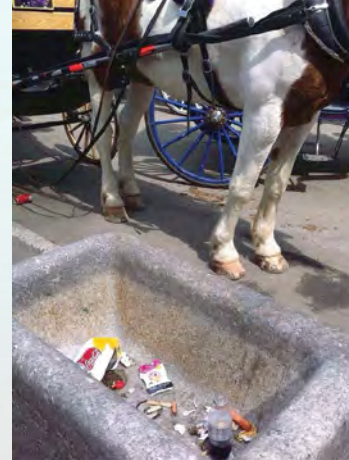
pavement, not enough to adequately maintain hoof health. Many of the carriage horses will spend this period pulling wagons for fairs and events to earn additional money for their owners—not by any means a restorative break.

Being outside for much of the day exposes carriage horses to a wide range of temperatures. In New York City, the regulations allow for their use pulling carriages whenever the temperature is between 18 and 90 degrees Fahrenheit. In Chicago, the minimum allowable temperature is 15° F, while in Charleston, the maximum allowable temperature is 98° F. Road conditions at the edges of the temperature range can be a serious issue. In hot weather, asphalt temperatures may be 50–100° F higher than the air temperature and can damage the sensitive areas of the hoof. In cold weather, salt treated roads can be the same temperature as the air, potentially causing frostbite to the hoof.

Extreme heat and humidity can also put the horses at risk of dehydration and overheating. A typical horse will drink 5–10 gallons of water a day. Horses pulling carriages in high heat require much greater water volumes (15–20 gallons), as they may lose over 10 gallons from evaporation. This much water is difficult to provide

in the urban setting, even when water troughs are available. During high humidity days, the horses may be unable to properly cool themselves, through sweating or other measures, putting them at further risk of overheating.

Urban carriage horses are purely a tourist attraction—not a necessity. Given the many documented health and welfare issues for the horses, the only sensible solution is to ban them from daily use. Legislation has recently been introduced in New York City to end horse-drawn carriage rides as of June 2016 (New York City Council: Int 0573-2014). This legislation provides job training for the approximately 300 carriage drivers who would be affected by the ban and would also require proof that the carriage horses would not be killed after they are retired. The legislation is currently being reviewed in committee, with an uncertain future. In February 2014, a similar ordinance was proposed in Chicago to end the horse-drawn carriage industry there, but is still pending in city council, with no timetable for advancing. In December 2014, Salt Lake City became the 14<sup>th</sup> city in the United States to ban carriage horses, joining Las Vegas, Santa Fe, Key West, Camden, and Biloxi, to name a few. 🐾



Top: A horse's water trough is left to dry and become a makeshift trash receptacle. Above: A carriage horse lies dead after collapsing on 54th street in New York City. Below left: A horse kneels on the pavement after the animal spooked and bolted into traffic, dumping the carriage driver and two passengers.

## AWI POSITION STATEMENT

AWI supports a ban on horse-drawn carriages used as tourist attractions in urban settings. The constant exposure to traffic, noise, and pollution; the long hours of standing and walking on hard surfaces; the hard labor under sometimes extreme weather conditions; and lack of pasture access are not consistent with the owner's responsibility to provide high-quality, long-term care for the horses.



## New Coalition Seeks End of Orca Captivity in EU

DR. NAOMI ROSE OF AWI attended the launch of a new coalition called Dolphinarium-Free Europe (DFE), on March 4, at the European Parliament in Brussels, Belgium. Comprised of more than a dozen nonprofit animal charities, DFE seeks to end the display of captive whales and dolphins in the European Union, through science, public outreach, policy change, and the establishment of retirement sanctuaries.

Dr. Rose is serving as an advisor to the coalition and participated in discussions in 2014 leading up to its launch, and in additional strategy and planning sessions on March 7–8, after the launch. She is a member of the DFE management and science committees. The coalition has several supporters among members of the European

Parliament, including Keith Taylor, a member of the Green Party representing the United Kingdom.

This year, as last, the documentary *Blackfish* was screened in Parliament. Following this year's screening, a group of children from the Devonshire Road Primary School in Bolton, England, came to recite a poem they had written about orcas in captivity. "It was truly an inspiring experience, said Dr. Rose, "to hear these 10-year-olds speak up for the orcas and to see them show such poise as they advocated for the whales' freedom."

DFE will continue its work at the European Parliament and in each member country until the more than 300 whales and dolphins currently held captive in the EU are free or moved to sanctuaries. 🐾

## AWI AND ALLIES WIN BIG VICTORY ON BEHALF OF MARINE ANIMALS

A federal judge ruled on March 31 that the National Marine Fisheries Service (NMFS) acted illegally in approving US Navy testing and training activities that threaten widespread harm to marine life in a vast region of the Pacific Ocean. The ruling stems from a December 2013 lawsuit brought by Earthjustice on behalf of AWI, the Conservation Council for Hawai'i, the Center for Biological Diversity, and the Ocean Mammal Institute (see Winter 2014 AWI Quarterly).

NMFS had approved the Navy's proposed five-year plan despite acknowledging that the Navy's use of explosives and sonar, along with vessel strikes, could result in thousands of animals suffering death, permanent hearing loss, or lung injuries. Millions of other animals could be left with temporary injuries and significant disruptions to feeding, breeding, communicating, resting, and other essential behaviors—an estimated 9.6 million instances of harm to marine mammals alone.

Noting the "stunning number of marine mammals" threatened by the plan, Judge Susan Oki Mollway of the US District Court for the District of Hawaii found that NMFS violated its legal duties under the Endangered Species Act to ensure Navy training would not push endangered whales and turtles to extinction, and that NMFS violated its duties under the Marine Mammal Protection Act to prevent harm to marine mammal populations. Judge Mollway also ruled



A Navy destroyer off the coast of Oahu. A federal judge ruled that NMFS acted illegally in handing the Navy unlimited license to harm or kill marine life during testing and training activities in the Pacific.

that NMFS and the Navy failed to evaluate alternatives that would place biologically important areas off-limits to training and testing, as required under the National Environmental Policy Act.

Judge Mollway concluded that the Navy's claim that it needs unfettered access to the waters in question and could not avoid—even temporarily—biologically important areas where marine mammals breed, nurse their young, and feed, "makes no sense given the size of the ocean area involved." 🐾

# US TRIBE'S QUEST TO KILL WHALES MOVES CLOSER TO REALITY

In March of this year, as noted on page 2, the National Marine Fisheries Service (NMFS) issued a draft environmental impact statement (DEIS) on the Makah Tribe's proposed hunt of gray whales—the first step toward issuing a waiver under the Marine Mammal Protection Act (MMPA) to allow the hunt under US law. In its comments to NMFS, AWI asserts that the DEIS is inadequate, and that the MMPA waiver should not be granted.

While AWI recognizes the historical significance of whaling to the Makah, the tribe no longer depends on whales for sustenance—and hasn't for a very long time. With the exception of a single gray whale killed in 1999 and another whale killed illegally in 2007, the Makah have not hunted whales for nearly 90 years. Consequently, the tribe cannot demonstrate a "continuing traditional dependence on whaling and the use of whales." Such a need is required to obtain an Aboriginal Subsistence Whaling (ASW) quota from the International Whaling Commission (IWC).

And yet, since 1997, the United States has sought and obtained an ASW quota from the IWC for the Makah—submitting its proposal jointly with Russia's ASW proposal to avoid a separate vote on the Makah quota. Despite this dubious "clearance" granted by the IWC, the hunt is still prohibited under US law—for now. An MMPA waiver could change that.

Makah whaling could be disastrous for two of the three gray whale populations that traverse the tribe's planned hunting grounds. One such population—resident gray whales who spend their summers off the western coasts of Canada and the United States—consists of an estimated 209 individuals. A second, critically endangered population of 140 Western North Pacific gray whales could also be harmed, as some of these animals migrate through the Makah's proposed hunting ground.

Whales from these two populations cannot be distinguished on physical appearance alone from the larger third population of Eastern North Pacific gray whales. Even this third population of nearly 21,000 animals is subject to threats such as climate change, contaminants, ocean noise, ship strikes, and net entanglement throughout their summering, wintering, and incredibly long migratory range. Therefore, they shouldn't be subject to a new threat posed by a hunt.

In addition to these considerations, the cold fact remains that whaling causes great suffering; trying to chase, harpoon, shoot and quickly kill an enormous,

swimming mammal from a moving vessel buffeted by ocean waves and currents is virtually impossible. When five Makah whalers illegally killed a gray whale in the Strait of Juan de Fuca in 2007, they pierced the whale's flesh with four harpoon strikes and 16 bullets. They did not, however, manage to reel in the whale, who suffered for at least 12 hours before dying and sinking to the ocean floor.

Instead of facilitating a resurrection of long-abandoned Makah whaling, the tribe and the US government should be working to permanently relegate the tribe's whaling to the history books. Taking a cue from the neighboring Quileute Nation, the Makah could celebrate whales and still honor the tribe's whaling past without killing any of these remarkable animals. If the Makah were to offer whale watching tours, for example, they could resurrect their relationship with gray whales without killing them, provide visitors with a unique opportunity to observe whales and other wildlife, raise important revenue for the tribe, and educate visitors about wildlife and ocean conservation as well as Makah culture and traditions. This would be far better for all involved, including the gray whales, than initiating an unnecessary and cruel hunt. 🐾



WHALE PHOTO


A young gray whale parts the water. The Makah Tribe of western Washington seek to revive a long-abandoned gray whale hunt. NMFS seems eager to allow it to happen.



# Family Is Everything

On April 18, Dr. Naomi Rose gave a talk on captive orcas at TedX Bend in Oregon. She focused on the idea that family is everything to orcas and that captivity destroys their family-oriented social structure. What follows is based on her presentation.

CHRIS NEUBERT, MINDEN PICTURES



Family is a topic we can all relate to. We would probably all agree that having a loving family makes us stronger, more secure, and more confident. Even as adults, many of us probably consider our parents and siblings among the most important people in our lives. And if we grow up in a less-than-happy family situation, we may carry emotional scars for the rest of our lives.

But I'm not talking about human families. I'm talking about killer whale, or orca, families.

Most people know orcas from seeing them in shows at marine theme parks—when they think “killer whale,” they think “Shamu.”

But orcas don't belong in captivity. Captivity destroys family, which for orcas, just as with us, is everything. Once people understand family life for orcas in the wild, they can see why it is important to retire Shamu, for good.

What are orca families like in the wild? Orca society is matriarchal, with females the naturally dominant sex. Not coincidentally, female orcas experience menopause, a phenomenon generally considered rare in the animal kingdom. Usually, both males and females have evolutionary value only as long as they can reproduce—once their reproductive systems stop functioning due to age, death follows soon after. But if a mother's continued presence in her offspring's lives helps them survive or reproduce, then menopause may evolve. This will occur in species with close-knit families, where older females have value—whether it is knowledge (of reliable fishing grounds, for example) or help in raising grandchildren.

Male orcas are more successful at mating as they get older and prove their survival value. A recent analysis, based on years of data, demonstrated that male orcas with living mothers live longer. So the longer a female survives, up to 50 years past the end of her reproductive life, the more grandchildren her sons will sire. Sons who survive their mothers, in fact, often die soon after she does, especially when they have no sisters or aunts to “move in” with.

Four generations of whales can travel together. Daughters, who do associate with their mothers their whole lives, spend more time away from her once they start having their own offspring. Sons travel with their mothers their whole lives, spending more than 70 percent of their time within a few body lengths of her. They are six-ton mama's boys!

Yet males do not mate with their mothers or sisters. This was determined by collecting skin samples and doing genetic relatedness testing. Like the vast majority of human

societies, incest is taboo in orca society. Males mate outside their immediate family.

It is possible that mothers gain access for their sons to unrelated, reproductive females through their own social contacts. There is, of course, no paternal care in orcas—outside males come into a group, mate with an unrelated female, and then return to their mothers.

Sons and daughters help their mothers supervise her subsequent offspring (their siblings); basically, they serve as babysitters. Babysitting allows mothers to rest undisturbed and provides daughters practice at mothering behavior; for a son, it is a benefit he provides his mother in exchange for her tolerance of his continued presence by her side.

Older, post-menopausal females are sometimes observed copulating with adolescent males. Adolescent males are sexually but not socially mature. Reproductive-aged females exercise mate selection—they can refuse the attentions of a male they feel is unsuitable. Because young, sexually mature males remain in the social group, they can become highly disruptive, given their lack of access to unrelated females and the taboo against incest. Older females, with no fear of pregnancy, copulating with young, unproven males may reduce these social tensions.

All-male groups occur occasionally in orca society, where male relatives and “friends” socialize with ritualized interactions; for example, two males might mock fight or exhibit homosexual behavior. This ritualized behavior is one means of avoiding true male-male aggression.

Captivity destroys these elements of orca society. Captive orca groups are often made up of whales from different families, different populations, and entirely different oceans. They would never even meet in the wild, let alone live together.

Captive orcas grow up without family to teach them proper social behavior. Young males receive no “training” from older females, so they can be violent when mating. Likewise, dominant females in captivity can assert their dominance with unnatural violence. In 1989, a whale named Kandu attacked a subordinate female so violently that she broke her own jaw and severed an artery, bleeding out in minutes. In general, aggressive interactions in captivity can escalate to levels of violence rarely, if ever, seen in the wild.

And it is not just dominant females who exhibit unnatural violence. Nakai, a young male, received a massive injury a couple of years ago after an altercation with other whales in his tank. A large, dinner plate-sized chunk of blubber and muscle was torn from his chin. The facility that

holds him said he was wounded by hitting his chin on some protruding bit of concrete or metal—but there is nothing sharp enough in his enclosure, nothing other than the teeth of another orca, that could have done the damage his chin sustained. Indeed, if there was anything in his tank that could have done that damage, the facility would not have been in compliance with federal animal welfare laws!

Males without mothers have no social status, no social protection, and essentially no social role other than “stud,” which can lead to frustration and violence with trainers and other whales. Tilikum, the whale featured in *Blackfish*, mauled and killed his trainer, Dawn Brancheau, in Florida in February 2010. His life has been one of unending frustration. In the 32 years he has been in captivity, he has killed three people. But he is not the only “killer” killer whale in captivity—a young adult male named Keto killed Alexis Martinez, a trainer in Spain, only nine weeks prior to Brancheau’s death. Yet throughout history there are no records of orcas killing human beings in the wild.

In captivity, orcas have committed incest, with at least one known case of a son mating with his mother and producing a daughter/sister. This is strong evidence that captive orcas are socially abnormal—they never learn that incest is unacceptable.

The captive population in general is inbred. Tilikum has fathered more than a dozen offspring and his descendants are now mating with each other.

Female orcas are bred far too young in captivity, when they are physically but not socially ready—they are children having children. They have not learned to be proper mothers and therefore sometimes reject their calves.

On the other hand, some captive females have borne several calves successfully and cared for them devotedly.

But in many of these cases, their offspring are taken from them while the calves are still emotionally and socially dependent on their mothers, when they are less than 5 and in some cases as young as 2 years of age. This is exactly the same as taking a toddler from his or her mother.

Think about this. We all have family. How can it be morally right to do to others—even if those “others” aren’t human—what we would consider devastating if it happened to us? This comparison isn’t anthropomorphism. It’s empathy.

There are only 56 orcas in captivity world-wide. Ending orca captivity is not an insurmountable problem to solve. But while most wild orca captures ended decades ago, in Russia the trade has started up again, with 10 young orcas ripped from their families in the past three years, to be sold into the marine theme park industry in Russia and China. Marine theme parks in the United States set an example abroad—and not necessarily a good one. The time to act is now.

The goal is to gradually phase out orca exhibits at marine theme parks, to be replaced with modern technology, including animatronics, 3-D films, and holograms. The currently captive whales would be retired to sanctuaries.

Two ways to accomplish this goal are consumer choice—people refusing to patronize parks with live orca shows—or passing legislation that prohibits the display of captive orcas. Such legislation has already been enacted in South Carolina and New York, and is being considered in California and Washington.

The captive display of orcas began with good intentions. But that was 50 years ago, when we knew little about the animals involved. Now we do know: for orcas, family is everything. So we must change. We must protect these amazing whales in their own world instead of forcing them to live in ours. 🐾







Cattle stand in their own waste on a vessel from the United States, after its arrival in a Russian port. The manure removal system had broken down during the voyage.

## USDA Amending Live Animal Export Regulations, but Is It Enough?

MILLIONS OF ANIMALS are exported from the United States annually—over 7.5 million animals in January 2015 alone. Most are shipped in aircrafts, but many are transported overseas in ocean vessels. These trips may last weeks and animals can suffer greatly from inadequate ventilation, loud noises, motion sickness, and heat stress—all of which increase susceptibility to illness and disease.

Because of the detrimental effects on animal welfare, in February 2011, AWI petitioned the US Department of Agriculture (USDA) to add internationally-recognized “fitness to travel” requirements to lower the risk of illness and death on long journeys. In the four years it took the USDA to respond to AWI’s petition, animals suffered; in 2012 more than 1,000 cattle died on their way or shortly after arrival to Russia, and in 2013 carcasses of US cattle washed ashore in Northern Europe. The Russian government questioned the USDA about its protocol for shipping animals and accused the United States of “gross violations” of international animal welfare standards.

The USDA has finally rewritten its live animal export regulations. The proposed regulations will help guard against the breakdown of life support systems and help prevent the shipping of animals unfit to travel. However, there are gaps in the proposal, and the USDA still cannot guarantee safe travel. Readily available alternatives to live animal transport, such as shipment of semen and embryos, should be used instead. 🐾

## ADVISORY COMMITTEE URGES SUSTAINABLE DIETARY GUIDELINES

The animal agriculture industry is responsible for an estimated 18 percent of global greenhouse gas emissions. A significant portion of environmental degradation from animal agriculture can be attributed to factory farms, where waste—whether it is excrement, antibiotics, or fertilizer—is discharged at higher volumes.

The impacts of climate change will drastically decrease the productivity of our food system, ultimately affecting human health, animal welfare, and the environment. The 2015 *Dietary Guidelines for Americans* provide the federal government with a unique opportunity to help reduce the impacts of climate change. The USDA and the US Department of Health and Human Services (HHS) are reviewing the Dietary Guidelines Advisory Committee’s scientific report, which endorses reducing meat consumption and increasing consumption of plant-based foods.

If the USDA and HHS implement the report’s findings and recommendations, programs and institutions that follow the guidelines—such as school lunch programs and the military—and individuals who adjust their diets in accordance with the recommendations could help reduce the impacts of climate change and cruel factory farming practices. 🐾

## Leading Food Service Companies Expand Cage-Free Commitment

COMPASS GROUP, SODEXO, AND ARAMARK, three of the largest food service companies, announced a commitment to purchase liquid eggs from cage-free hens for US sales. Compass plans to complete its transition to cage-free by the end of 2019, and Sodexo and Aramark will do the same by the end of 2020. In the United States alone, Compass buys 30 million pounds of liquid eggs annually produced by more than 1 million egg-laying hens. This is not the first time these companies have required higher animal raising standards; in 2007, Compass, and in 2012, Sodexo and Aramark committed to purchase shell eggs in the United States only from cage-free hens. 🐾

# California Mandates More Space in the Cage for Egg-Laying Hens

**Approximately** 305 million egg-laying hens live in the United States at any given time. Between 90 and 95 percent of these birds are packed into tiny, barren wire cages that are stacked in rows, one on top of the other. The egg industry's trade association, United Egg Producers, only asks producers to give each bird 67 square inches of space—that is considerably smaller than the page on which this article appears in print.

Several states have tried to change this status quo, but no state has received more attention for its efforts than California. In 2008, 8.2 million Californians voted for “Prop 2”—a ballot proposition AWI supported—to give egg-laying hens space to perform a few basic natural behaviors: the freedom to turn around, lie down, and flap their wings without interference. (The successful ballot initiative gave similarly expanded freedom of movement to pregnant pigs and veal calves.) In 2010, California passed a law requiring anyone wishing to sell shelled eggs from outside of California to comply with Prop 2. Then, in 2013, California's Department of Food and Agriculture issued a food safety

rule (CCR 1350), unrelated to Prop 2, requiring specific cage size requirements for egg-laying hens—116 square inches per bird for cages containing nine or more hens.<sup>1</sup> All three of these laws went into effect on January 1, 2015.

There has been much confusion over what farmers and producers need to do to comply with the space requirements for Prop 2. Do they have to go “cage free” (the original sentiment behind the measure), get bigger cages for hens, or keep the same cages but put fewer birds in them? Currently, producers are using all three interpretations of the law. California's Department of Food and Agriculture, the entity responsible for enforcing CCR 1350, has stated that it believes CCR 1350 meets the standards of Prop 2, but cannot state this definitively as it is not charged with administering Prop 2.

Meanwhile, there are several other states that have established new requirements for egg-laying hens. Michigan, for example, will require one square foot (144 square inches) of floor space for each egg-laying hen when its law goes into effect in 2020. Oregon and Washington will require 116 square inches of space per bird when their egg-laying hen laws take full effect.

While Michigan, Oregon, and Washington establish standards for egg-laying hens that may be stronger than California's Prop 2, they all have significant drawbacks. Chief among them: all three states have extremely lengthy phase-in periods—10 years for Michigan and 15 years for both Oregon and Washington (with incremental steps that must be met along the way). And the Washington and Michigan laws only apply to egg-laying hens within their borders—not to all eggs sold within the state.

Giving birds more room to move is vital to their welfare, but it is not the only measurement. Providing enrichments—perches, scratching and nesting areas, and materials with which to dust bathe—also is essential to higher welfare for egg-laying hens, because such enrichments allow birds to perform some of their most basic natural behaviors. Washington is currently the only state that will require enrichments for egg-laying hens; the law states that hens must have access to nesting, scratching, and perching areas. However, this law does not fully go into effect until 2026. Oregon has a law similar to Washington's, but it is less clear as to whether enrichments are required for birds. (According to conversations AWI has had with representatives from Oregon's Department of Agriculture, however, new regulations will be written this year requiring enrichments for hens.)

<sup>1</sup>For cages with eight or fewer birds, the minimum space per bird increases incrementally as the number of birds per cage decreases (from 117 in<sup>2</sup> each for 8 birds to 322 in<sup>2</sup> for 1 bird).



Whereas these states have tried to make modest improvements for egg-laying hens, others have tried to codify the status quo. In 2009, Maine passed a resolution authorizing the state's Commissioner of Agriculture, Food, and Rural Resources to develop so-called "best management practices" for egg-laying hen facilities with more than 10,000 birds. The resolution followed an undercover investigation at the largest egg farm in New England, which captured images of workers swinging birds in circles by their necks to kill them, and birds with broken bones and open wounds. The commissioner subsequently developed standards that include minimum space requirements for hens: a mere 76 square inches of floor space per brown egg-laying hen and 67 square inches per white leghorn hen. While these standards are not written into law, according to the Maine Department of Agriculture, "compliance is required and overseen by the State Veterinarian."

Arizona also adopted rules for hen husbandry standards, but limited the rules to egg producers with at least 20,000 hens at each facility. The law preempts local attempts to set higher standards by specifying that hen-raising standards are a statewide issue and cities and towns cannot therefore adopt further regulations regarding the subject matter. In the year following the law's enactment,

the Arizona Department of Agriculture codified the *United Egg Producers Animal Husbandry Guidelines for U.S. Egg Laying Flocks, 2008 Edition*. This set of guidelines allows as little as 67 square inches of floor space per bird and does not provide enrichments for birds. All eggs sold in the state must come from hens raised under these standards, unless they come from facilities with fewer than 20,000 hens or facilities that raise their hens cage-free.

Over the next several years, more legal changes are to come with respect to egg-laying hens. Already this year, legislators in a few states are working to codify minimum space requirements for hens—some with even higher standards than California, Michigan, Oregon, and Washington. On the other end of the spectrum, some states are trying to stop any progress for animal welfare with "right to farm" laws (derisively referred to by animal welfare advocates as "right to harm" laws), some of which seek to amend state constitutions to bar local and state governments from passing animal welfare laws affecting farming practices.

While these battles continue, AWI will continue to push for better raising standards for egg-laying hens. For more information on laws effecting farm animals see [www.awionline.org/content/farm-animal-legal-protections](http://www.awionline.org/content/farm-animal-legal-protections). 🐾





TOM GODDER

The Animal Welfare Act provides basic protections for some animals in research—but not animals subject to agricultural research. A new bill in Congress seeks to change that at federal facilities.

## AWARE Act Seeks to Protect Farm Animals at Federal Research Sites

**RESPONDING SWIFTLY** to the *New York Times* exposé of cruel experiments involving farm animals at the US Department of Agriculture’s Meat Animal Research Center (MARC) in Nebraska, members of Congress introduced bills to provide protection for farm animals being used in agricultural research at federal facilities. The Animal Welfare in Agricultural Research Endeavors (AWARE) Act—HR 746 and S 388—was introduced by Reps. Earl Blumenauer (D-OR), Mike Fitzpatrick (R-PA), Vern Buchanan (R-FL), and Louise Slaughter (D-NY) in the House, and Sens. Cory Booker (D-NJ) and Richard Blumenthal (D-CT) in the Senate. This bipartisan legislation is designed to close the loophole in the Animal Welfare Act (AWA) that excludes farm animals used in agricultural research at federal facilities from the basic humane standards of care prescribed in the law. Passing the AWARE Act would be a modest step in the right direction, but would not affect the significant amount of agricultural research involving animals conducted at nonfederal facilities. Passing the Act would not hinder legitimate research. On the contrary, requiring federal facilities such as MARC to meet the AWA’s care requirements would benefit research by ensuring that

protocols are carefully thought out and followed. Better care of animals reduces extraneous variables and, in so doing, yields more reliable results.

The *Times*’ revelations about the atrocities at MARC were also the source of bipartisan outrage when USDA Undersecretary Catherine Woteki and Agricultural Research Service Administrator Chavonda Jacobs-Young testified before the House Agriculture Appropriations Subcommittee on March 24. These officials, who have direct responsibility for MARC, met a barrage of questions and criticisms from all the subcommittee members present. Chairman Robert Aderholt (R-AL) and Ranking Member Sam Farr (D-CA), as they had at previous hearings with USDA officials, including Sec. Vilsack, wanted a better accounting of the department’s actions. Both expressed frustration with the USDA’s unresponsiveness, especially its refusal to address questions in a letter from subcommittee members. Undersecretary Woteki and Administrator Jacobs-Young insisted that MARC voluntarily complies with the AWA and pointed to the recently released report from an independent review panel that glossed over deficiencies in animal care. (For AWI’s analysis of the report, see page 22.)

The congressional subcommittee members noted that MARC’s activities do not reflect good husbandry or industry practices and suggested that the facility suspend operations until the Inspector General completes her investigation. The subcommittee also requested that federal research facilities, like MARC, abide by the provisions in the AWA to ensure farm animals used in agricultural research at federal facilities are guaranteed a minimum standard of care and humane treatment. 🐾

Visit AWI’s *Compassion Index* ([www.congressweb.com/awi/bills](http://www.congressweb.com/awi/bills)) to urge your legislators to support the **AWARE Act** and two other bills to promote animal welfare: the **Pet and Women Safety (PAWS) Act** (HR 1258), which would provide assistance so that agencies can help domestic violence survivors find safe placement for cherished companion animals as they seek safety for themselves from abuse, and the **Horse Transportation Safety Act** (HR 1282/S 850), which bans the dangerous and inhumane use of double-deck trailers for transporting horses.

## Politics Plays Role in USFWS Northern Long-Eared Bat Decision

A NUMBER OF BILLS have been introduced in the 114<sup>th</sup> Congress that would undermine animal welfare; many of them take aim directly at endangered species (such as wolves), or at the Endangered Species Act itself, through efforts to weaken it and inappropriately inject Congress into the decision-making process for listing species—a job for scientists, not politicians. Several of these bills have been introduced before and public pressure has succeeded in keeping them from progressing. The fight, however, continues.

One particularly ominous action some members of the House and Senate have taken is to persuade the US Fish and Wildlife Service (USFWS) not to list the northern long-eared bat as endangered. The northern long-eared bat's population has been decimated by white-nose syndrome, a fungus that has caused the deaths of nearly 6 million bats of several species across the country since 2006. AWI joined other conservation groups in urging the USFWS to proceed with the endangered listing, and critiquing the



KRISTEN BOBO

*A northern long-eared bat in a Tennessee cave. Bowing to political pressure, the USFWS listed this species as “threatened” rather than “endangered.”*

conservation plan the agency proposed if it lists the bat as threatened rather than endangered. We asked Congress not to encumber in any way an endangered listing for the northern long-eared bat.

Unfortunately, the congressional interference worked. The USFWS chose to ignore the science supporting an endangered listing and, on April 1, announced that it would only designate this bat as threatened. 🐾

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## AWI PRESSES FOR ANIMAL-FRIENDLY APPROPRIATIONS

The appropriations process offers an opportunity to press for policies that can be implemented by providing or withholding funds for agency activities. On this front, AWI has been working to ensure that any funding increase for the Department of the Interior under the Wild Free-Roaming Horses and Burros Act be used solely for humane, on-the-range management methods such as

immunocontraception—and not for unnecessary roundup of wild equines. We are also working to maintain “no-kill” language in bills funding the Bureau of Land Management to prevent the bureau from killing healthy wild horses and burros.

In our continuing attempt to end cruel trapping in national wildlife refuges, we are working with Congress to direct the USFWS to take several steps: establish a pilot project banning

body-gripping traps from national wildlife refuges in the Northeast, collect data on the effect of this project on wildlife and refuge use, and compile data regarding the use of animal traps within the National Wildlife Refuge System.

AWI is supporting increased funding for the many law enforcement functions of the Department of Interior, which are vital to combatting the illegal wildlife trade.

With respect to the USDA, AWI seeks to enhance some programs and quash others. We continue to support robust funding for enforcement by the department of the Animal Welfare Act, the Horse Protection Act, and the Humane Methods of Slaughter Act. Conversely, we ask that no funds be allotted for (1) Wildlife Services’ lethal wildlife management activities, (2) inspections at horse slaughter operations that would, in effect, sanction these operations and enable them to do business, (3) licensing of Class B dealers that sell randomly sourced dogs and cats to laboratories, or (4) agricultural research on any live animal at a federal facility unless such research complies with the Animal Welfare Act. 🐾



BLACK BEAR/TIZ COUPERUS



# MARC CONTINUES TO FEEL THE HEAT

AS REPORTED IN THE WINTER 2015 *Quarterly*, USDA's Meat Animal Research Center (MARC), in Clay Center, Nebraska, has come under intense scrutiny after a January 19 article in *The New York Times* described indefensible acts that have taken place at MARC over the past several decades. These egregious acts included leaving newborn lambs to die of starvation, exposure, and predation; conducting breeding experiments that caused deformities in calves; and intentionally withholding treatment from suffering animals against the recommendations of veterinarians—all to accomplish the stated objective of "increasing the efficiency of production while maintaining a lean, high quality product."

AWI wrote to Secretary of Agriculture Tom Vilsack, expressing our alarm and recommending that an immediate investigation be undertaken, with appropriate corrective action, including possible closure of the facility. AWI's membership also responded, sending thousands of letters to Sec. Vilsack and members of Congress demanding action. The allegations have clearly touched a public nerve, with alarm voiced from disparate sectors, including animal protection groups, the American Veterinary Medical Association, and even the *Western Ag Reporter*, an agricultural trade paper.

Congress is equally outraged by the allegations. Sen. Ron Wyden (D-OR), along with eight other senators, wrote to Sec. Vilsack calling for an immediate investigation and report to Congress. Bipartisan legislation has been introduced in both the House and Senate to remove the exemptions from the Animal Welfare Act for agricultural research (see page 20).

Sec. Vilsack responded to the outcry by convening a four-member independent panel, comprised of veterinarians and academicians. The panel was charged with reviewing USDA policies and procedures for ensuring the care and well-being of livestock in research, visiting MARC to inspect the facilities, reviewing the institutional oversight of research, and assessing the training of staff in the care and handling of animals.

The panel conducted a superficial site visit coordinated well in advance with MARC officials. On March 9, the panel released its findings and recommendations. Not surprisingly, given its charge and the nature of its "inspection," the panel found no current instances of mistreatment of animals and deemed the facilities acceptable. The panel did find that the Institutional Animal Care and Use Committee (IACUC) at MARC was not providing adequate oversight of research. While there appeared to be "experimental outlines" (as opposed to protocols), which were shown to the IACUC, there was no evidence that even these "outlines" were formally reviewed and approved, and there was no indication that the committee even met. These findings demonstrated that the necessary oversight was not in place to ensure the health and welfare of the animals.

Notably absent from the panel's charge was any mandate to look into the findings in *The New York Times* article. The panel only reviewed research processes. It did not review research practice—what actually happens to the animals during experiments at MARC. Ensuring that the appropriate mechanisms for research oversight are (or aren't) in place does not account for a culture that is counter to animal care and welfare standards, as described in the *Times*. The allegations of unconscionable animal care must be investigated, preferably by a truly independent panel comprised of people knowledgeable about farm animal care and welfare.

The USDA did announce, subsequently, that an investigation of the abuse charges will be handled by the USDA Office of the Inspector General (OIG). The agency told *Reuters* that OIG officials are currently "determining the scope and objectives of their planned audit inquiry" into the MARC facility. Meanwhile, the USDA has ordered a moratorium on all new research projects until MARC strengthens its procedures and internal oversight in accordance with the panel's recommendation.

Sec. Vilsack already has it within his power to enact more immediate changes to improve research oversight and animal

welfare and should utilize them. He should mandate unannounced inspections at all USDA facilities conducting animal research, to ensure compliance with the AWA. The USDA facilities must be made to comply with the same AWA regulations as all other institutions that conduct research on animals. This includes rigorous oversight by IACUCs—which need to include a public member who has a record of commitment to animal welfare.

Amidst the serious allegations, MARC officials continue to defend their work as fulfilling a need to feed a growing world population, even as consumers increasingly demand that farm animals be treated humanely. Developing leaner pork by weaning piglets at 10 days old versus the 21–28 days required by some retailers, or redesigning sheep so that they give birth to multiple lambs in the field, resulting in many lambs suffering and dying (even as 90 percent of sheep farmers provide their birthing ewes with sheltering structures, according to a 2010 USDA survey), are just two of many examples of how MARC researchers are overstepping accepted boundaries in order to sacrifice animal welfare to economics.

Also troubling has been the relationship between the University of Nebraska-Lincoln (UNL) and MARC (echoed in the findings of the independent panel). UNL, until recently, owned the animals at MARC. As noted in *The New York Times* article, in 2013, the university quietly transferred ownership of most of the animals to the center. Both UNL and MARC stated this was for financial reasons, but it was posited by a member of the university's own IACUC that the transfer was made because the university was seeking

*Cattle eating grain, not greens, at a feedlot. "Increasing the efficiency of production" is the stated goal at MARC. Too often, it has been pursued with a callous indifference to animal suffering.*

accreditation through the Association for Assessment and Accreditation of Laboratory Animal Care International (AAALAC). Had the university retained the animals, AAALAC auditors would be empowered to conduct animal welfare inspections at MARC—a scenario deemed unacceptable to MARC officials.

Regardless of ownership, the long-standing relationship between UNL and MARC bears investigation. As the editor of the *Western Ag Reporter* stated, "Administrators, researchers, and employees who willfully allow animals to suffer and die should be summarily dismissed, charged criminally, and NEVER allowed near animals or the livestock industry or a taxpayer-subsidized paycheck again. Anything less is not only unethical and immoral but also sends a miserable message to the general public that the industry will tolerate this sort of behavior." 🐾

*A research flock of sheep at the USDA Agricultural Research Service US Sheep Experiment Station near Dubois, Idaho. Farm animals in agricultural research are not protected under the Animal Welfare Act.*



# APHIS Strategic Plan Strays from Strong Enforcement of Animal Welfare Act



TUBESOX FAMILY

*A bear at a roadside zoo in Cherokee, NC. The USDA is charged with enforcing the Animal Welfare Act to prevent abuse of such captive animals. The new APHIS strategic plan, however, shies away from tough enforcement in favor of “educating into compliance.”*

In December 2014, the US Department of Agriculture (USDA) Office of Inspector General (OIG) issued an audit that was highly critical of the department’s enforcement of the Animal Welfare Act (as described in the Winter 2015 AWI Quarterly). Just a month later, the USDA’s Animal and Plant Health Inspection Service (APHIS) announced its *Strategic Plan 2015–2019*, which read as if the audit had never occurred. The plan contains

many ideas that, if implemented, will detract from strong enforcement of the Animal Welfare Act (AWA). Decades of experience with the USDA would indicate that such ideas—which are not new—are not likely to improve animal care and welfare.

Most disconcerting is a continued movement towards “non-regulatory” solutions, including the notion of “educating into compliance.” Underpinning this movement is

APHIS’ stated belief that “collaborating with regulated entities is the best way to ensure compliance and help the regulated community minimize costs associated with noncompliance.”

While the USDA should be clear about the requirements under the law so that regulated entities understand what is expected of them, compliance is best achieved by a track record of prompt action against violators and sufficient penalties to serve as a deterrent. The USDA’s role is that of enforcing the law, but this basic tenet of APHIS’s primary responsibility is conspicuously missing from the new plan.

One of the tactics delineated to achieve the plan’s objective of “improv[ing] the welfare of animals covered under the AWA” is to supplement traditional inspections with “extensive consultation for struggling facilities” which, in “limited cases,” will result in APHIS’ “offer[ing] facilities facing civil penalties the option of non-monetary settlement agreements.”

The requirements under the AWA are modest; they are minimum standards that should not be difficult for anyone responsible for caring for animals to provide. Facilities “struggling” to comply with the AWA should not be coddled. This “educating into compliance,” coupled with taking fines off the table, is the worst of all worlds. It flies in the face of 20 years of highly critical OIG audits, congressional intent, and the very purpose of the AWA.

APHIS already refers to its regulated industries as “customers.” Now it is using the words *partners, partner with, partnership, facilitate, encourage, encouraging, education, trusting, collaborative, and collaborate* repeatedly in its tactics to achieve this plan objective. But where is the enforcement? How will APHIS shift from this collegial relationship to one that has a prosecutorial backbone?



In these new strategic plan tactics, APHIS does not, for example, mention strengthening of enforcement in light of multiple negative OIG reports (including those from 2010 and 2014), or increasing the number of inspectors, whose numbers have remained relatively constant over the past five years, while the number of sites requiring inspection has increased by 40 percent (from 9,985 in 2011 to 13,985 in 2015).

Moreover, the new plan includes a partnership with industry-funded accrediting organizations, such as the Association for Assessment and Accreditation of Laboratory Animal Care International (AAALAC) and the Association of Zoos and Aquariums (AZA), “to reduce inspection frequency, within legal requirements, for facilities that have implemented and documented strong animal care and welfare programs.” (In addition, the USDA suggests it’s going to work “with stakeholders to encourage development of a private sector, professional dog breeder’s accreditation program.”)

APHIS already has a risk-based inspection system and AAALAC and AZA are hardly impartial or disinterested parties. These organizations, it should also be noted, have accredited facilities that have been cited by the USDA inspectors for serious violations of the AWA. Reducing

inspection frequency based on partnering with organizations whose existence depends on funding from the very entities APHIS is supposed to be regulating is problematic, at best. A huge drawback is that industry documents regarding conditions at the facilities will not be available to the public for scrutiny, yet the USDA will be reducing its inspection frequency by relying on these accrediting bodies.

There is a tremendous difference between “encouraging education and discussion,” “build[ing] collaborative partnerships” and “facilitat[ing] outreach” regarding regulated entities—and focusing on improving APHIS’ long-problematic enforcement of the AWA.

Another strategic plan tactic that merits attention is the USDA’s intent to “further streamline and standardize animal welfare inspections through continual business process improvement efforts.” The phrase is so vague it is hard to fathom what it really means. In the past, this focus on streamlining has resulted in inspection reports that provide fewer and fewer meaningful notes from the inspectors about AWA violations—and even the failure to cite items that, while noncompliant, are not viewed as significant enough to warrant documentation on the inspection report forms. A detailed description by inspectors is vitally important and

frankly deserves encouragement and strengthening.

Nonetheless, the plan is not all bad in that it does emphasize the importance of the USDA being involved in protecting animals during emergencies, including the “development of detailed response plans.”

In addition, of particular note, the plan appears to have a different attitude about enforcement of the Horse Protection Act (HPA): it contains the lofty and laudable goal to “eliminate soring in the Tennessee Walking Horse industry.” The tactics to achieve this include bringing in additional personnel so there can be “increased attendance and oversight” at horse shows and other events, and it seeks to improve compliance through use of a broad range of new technologies. Compliance and enforcement actions will be reviewed and evaluated in an effort to improve compliance. If the USDA wants to achieve its goal regarding the HPA, however, an essential component is to support an amendment to the law to eliminate Designated Qualified Persons, or “DQPs.” These horse industry inspectors have an appalling track record of failure to enforce the HPA. Further, the USDA should take note of the enormous problems it has had with this industry’s efforts at self-regulation (and keep this in mind as it contemplates relying on industry self-regulation in trying to better meet its mandate under the AWA).

In summary, although there is some good language regarding non-AWA issues, the new *Strategic Plan 2015–2019* focuses far too much on collaborating, partnering, and educating entities that APHIS should instead be regulating through its primary legal and moral mandate: strong, effective enforcement of the Animal Welfare Act. 🐾

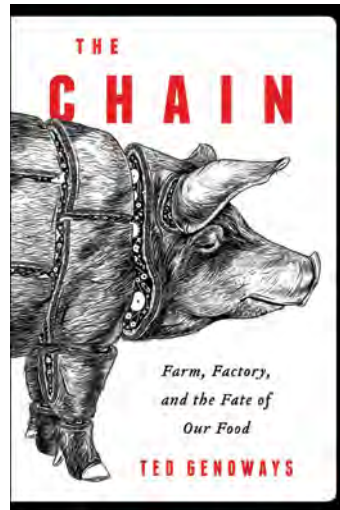


## The Chain: Farm, Factory, and the Fate of Our Food

Ted Genoways  
Harper  
ISBN: 978-0062288752  
320 pages; \$26.99

ACCORDING TO HORMEL FOODS, the producers of SPAM, 3.1 cans of the preserved pork product are consumed every second in the United States. If everyone read Ted Genoways' *The Chain*, it is possible that this number would plummet. The book creates an appalling picture of the pork industry's exploitation of workers, animals, and the environment—Genoways illustrates these points with an in-depth look at Hormel Foods (focusing in particular, on its production of SPAM) and at Quality Pork Processors.

The book critically evaluates how the pork industry (and our food system generally) is monopolized by a few

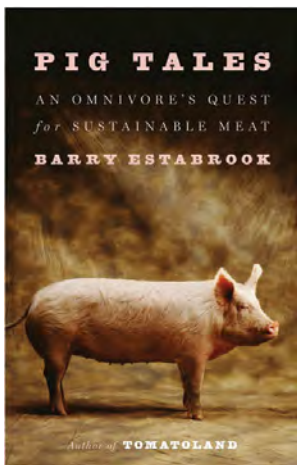


giant companies, all of which have the same narrow agenda—to boost production whatever the cost. This agenda, according to the book, is why workers feel treated like “trash” and animals are mere cogs within a machine. For instance, producers pushed (and continue to push) for faster slaughter line speeds in order to generate more products faster. According to Genoways, a Hormel plant processes over 1,300 animals an hour—a speed that is dangerous for workers and creates an environment where some pigs may not be quickly killed, instead ending up mutilated and boiled alive.

*The Chain* is a fascinating read for anyone interested in connecting the dots between animal welfare, worker safety, and the environment.

If there is a knock against the book, it is that it could have gone deeper on the treatment of animals in industrial agriculture. It also does not give a solution to the problem—which, simply stated, would be to eliminate factory farming altogether. 🐾

## Pig Tales: An Omnivore's Quest for Sustainable Meat



Barry Estabrook  
W.W. Norton & Company  
ISBN: 978-0393240245  
336 pages; \$26.95

*PIG TALES*, James Beard Award-winner Barry Estabrook's investigation into the commercial pork industry, travels over ground familiar to many farm animal welfare advocates. Illustrating that “factory raised meat may be cheap, but those inexpensive chops come at a cost,” Estabrook

chronicles the negative impacts of intensive animal raising on farmer and worker health, on communities, and on the animals themselves. He takes the reader through the

history of sow crates, which Estabrook describes as “a perfect example of the downward animal-welfare spiral that results from applying industrial solutions to biological problems.” The book eventually arrives at pasture-based farming and the birth of the pastured-pork market as an alternative to factory-farmed meat.

While *Pig Tales* covers material handled competently by at least a dozen previous writers, Estabrook's experience as a food industry journalist, and as a pig farmer himself, adds a lot to the telling of the story. The book is thoroughly researched—Estabrook traveled across the United States and Europe to interview sources and visit farms and slaughterhouses—and written in an approachable but compelling style. For someone seeking a single book to understand how factory farming became the standard for animal agriculture, and how we might go about dismantling a system that does incalculable damage to animals, farmers, and the earth, *Pig Tales* might well be that book. 🐾

## BENEATH THE SURFACE

John Hargrove  
Palgrave Macmillan Trade  
ISBN: 978-1137280107  
272 pages; \$26.00

John Hargrove was the first of several former orca trainers to appear in Gabriela Cowperthwaite's documentary *Blackfish*. A 14-year veteran of SeaWorld, he was a top trainer there until August 2012. Hargrove was working at the company's San Antonio park when Dawn Brancheau was killed in February 2010 in Orlando by Tilikum, Seaworld's 12,000-pound male orca. He was a first-hand witness to the behind-the-scenes reactions to this tragedy and the corporate response.

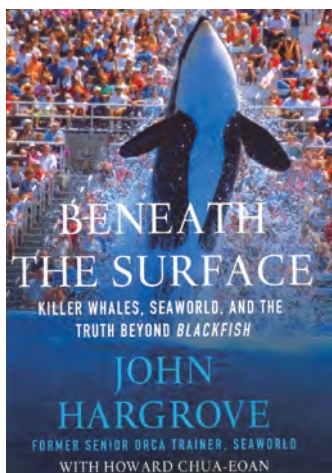
In *Beneath the Surface: Killer Whales, SeaWorld, and the Truth Beyond Blackfish*, co-authored by Howard Chua-Eoan, Hargrove recounts what he witnessed—after Brancheau's

death and in the preceding decade and half as a trainer at SeaWorld and (briefly) at Marineland Antibes in France. Even after David Kirby's 2012 book, *Death at SeaWorld* (in which AWI's Dr. Naomi Rose is featured), and 2013's *Blackfish*, there are still new revelations to be made regarding the serious problems related to trying to turn orcas, the ocean's top predator, into reliable performers in tiny tanks. SeaWorld tries to portray this process as benign,

but Hargrove makes it clear that underneath the slick veneer lurks a darker truth. Hargrove's insider view of this process is at times heartbreaking, at times terrifying, and always compelling.

Hargrove stayed at SeaWorld as long as he did—long after he started questioning SeaWorld's motives and methods—because he kept worrying about who would take care of the whales. But eventually he realized, as he said in *Blackfish*, that “they aren't [the trainers'] whales”—they belong to the corporation. He knew he couldn't truly help them, and it was time to go.

*Beneath the Surface* is John Hargrove's testimony; it is his atonement, and it is hopefully another step forward in the salvation of captive orcas. 🐾



## Marine Mammals Brochure

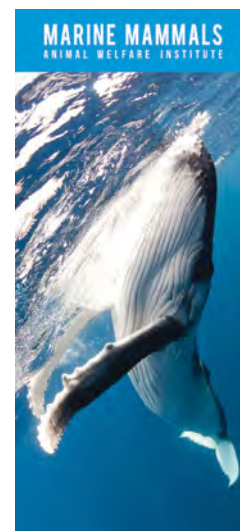
MARINE MAMMALS and their homes are under assault. Each year, hundreds of thousands of marine mammals are killed, and many more injured, as a result of human activities.

AWI's new *Marine Mammals* brochure outlines the primary dangers marine mammals face from human activities in and affecting the oceans. These threats include pollution in the form of debris, chemicals, and excessive noise; habitat degradation; climate change; hunting; ship strikes; capture for marine theme park and aquarium display; and interactions with and competition from commercial fisheries.

In the United States, The Marine Mammal Protection Act was passed in 1972 to prevent the harassment, capture, injury, or killing of marine mammals, including whales, dolphins, porpoises, seals, sea lions, walruses, manatees, dugongs, sea otters, and polar bears. International bodies and treaties—including the International Whaling Commission and the International Agreement on the Conservation of Polar Bears—also exist to conserve and manage particular marine mammal species.

Despite these agreements and efforts, marine mammals continue to be needlessly killed or harmed. Stronger laws, more effective enforcement of existing laws, and international agreements that specifically include safeguards for marine mammals are all necessary to ensure that these animals continue to thrive in their aquatic habitats.

To learn more about this issue and what individuals can do to help, visit [www.awionline.org/publications](http://www.awionline.org/publications) and download or order our free *Marine Mammals* brochure. 🐾



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### 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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## AWI Announces 2015 Refinement and Enrichment Grant Awardees

AWI IS DEDICATED TO IMPROVING the care, housing and handling of animals in research facilities. From our earliest days, we have encouraged laboratory personnel to provide animals with comfortable housing and the opportunity to engage in species-typical behaviors, while sparing them needless suffering. In continuing this long-standing support, AWI recently awarded Refinement and Enrichment grants to develop and demonstrate innovative methods of refinement and/or environmental enrichment to better the lives of animals in research. This year's grantees are:

**Dr. Rachel Dennis: Effects of Light Spectrum on the Well-Being of Birds Used in Research.** Birds can see in the ultraviolet spectrum, which is missing from most indoor housing. Dr. Dennis' study is designed to find an ideal mix of ultraviolet and visible lighting intensity, to improve the well-being and enrich the behavioral repertoire of birds in indoor housing.

**Dr. Brittany Backus: Investigating the relationship between environmental enrichment and response to stress in pigs.**

Handling can be very stressful to pigs, but may be a necessary component of many experiments. Dr. Backus will be giving piglets many novel items as they are reared and interacting with the animals frequently, to determine if they become less anxious and more amenable to handling.

**Ms. Janet Wolforth: Is a square mouse restrainer more comfortable and safer for the animal than a cylindrical restrainer?** Handling can be very stressful to mice, as well, and can negatively impact the health and well-being of the mice and affect the results of the study. Ms. Wolforth will be assessing a device that she developed to reduce the stress experienced by mice during restraint.

Following these studies, all of the animals will be retired from research and given the opportunity to be adopted, fulfilling a key component of AWI's *Policy on Research and Testing with Animals*. There will be information about the next round of Refinement and Enrichment grants in the next issue of the *AWI Quarterly*. 🐾

