

July 10, 2019

Sheriff Donny Youngblood
Kern County Sheriff's Office
1350 Norris Road
Bakersfield, CA 93308-2231
Via e-mail: sheriff@kernsheriff.org

Re: Request to investigate California Living Museum and its operator, Kern County Superintendent, for cruelty to animals

Dear Sheriff Youngblood,

I am writing on behalf of PETA to urge the Kern County Sheriff's Office (the Office) to investigate and charge the California Living Museum (CALM) and all other culpable parties with cruelty to animals following the horrific deaths of three animals at its facility. According to recently released U.S. Department of Agriculture (USDA) inspection reports from February 12 and April 16, 2019, CALM subjected two fisher cats infested with fleas to unnecessary cruelty and needless suffering by failing to provide them with treatment or veterinary care, and by failing to provide food, drink, necessary sustenance, and proper care and attention to a skunk who died of apparent starvation while confined at the facility.

CALM's [failure to provide two fisher cats with appropriate treatment and veterinary care](#) clearly subjected the animals to "unnecessary cruelty" and "needless suffering" (Cal. Penal Code § 597(b)), in violation of California law prohibiting cruelty to animals.¹ Both fisher cats died last spring, apparently from a flea infestation and resultant anemia, because CALM failed to seek medical care for them after staff identified that the animals likely had fleas and required treatment. Ex. A. A necropsy performed on the second fisher cat identified "thousands of fleas" on external exam, requiring the examiner to "fr[ee]ze [the] body overnight to kill [them]." *Id.* The "necropsy report also noted multiple insect bites, white mucous membranes, and marked pallor of abdominal organs." *Id.*

By failing to address this identified medical concern, CALM inflicted unnecessary cruelty upon the fisher cats, causing them needless suffering. The USDA inspector concluded: "[f]ailure to treat health conditions may lead to *unnecessary pain and distress* in animals, and in this case, their death." *Id.* (emphasis added). Dr. Heather Rally, a wildlife veterinarian, described this condition in greater detail:

Flea bites and infestations can cause severe itching, inflammation, skin disease, and anemia and can also cause bacterial and intestinal parasite infections. Severe flea infestations, such as those described in the two fisher cats, drain the animal of blood and slowly starve the brain and body of oxygen. Invariably, when such severe cases are left untreated they result in a progression of symptoms from incessant itching to malaise, weakness and eventual death. A competent caretaker would easily note changes in behavior and health associated with such a severe

¹ "Animal" is defined broadly to include "every dumb creature," and the words "owner" and "person" "include corporations as well as individuals." Cal. Penal Code § 599b.

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infestation of fleas long before the animal dies. These animals were forced to endure prolonged discomfort and pain associated with thousands of flea bites, widespread skin disease, and anemia resulting in hypovolemia and asphyxia.

CALM also failed to provide a skunk with food, drink, necessary sustenance, and proper care and attention, resulting in his/her death—another violation of California law, which provides that “whoever, having the charge or custody of any animal . . . fails to provide the animal with proper food, drink” is guilty of a crime. Cal. Penal Code § 597(b). Further, anyone who keeps an animal in a building or enclosure “without proper care or attention” is guilty of a misdemeanor. *Id.* §§ 597.1, 597f. The skunk was found dead of apparent starvation in his/her enclosure at CALM on February 11, 2019. Ex. B. The necropsy report concluded, “the animal had a body condition score of four out of nine,” and the stomach and intestines were “empty,” with “no ingesta or stool present”—overwhelming physical evidence that CALM failed to provide sustenance as required by state law. *Id.* So overwhelming, in fact, that the attending veterinarian “contacted [CALM] after the necropsy and commented on the fact that animal caretakers had *failed to notice that the skunk wasn't eating*” *Id.* (emphasis added).



In California, “an owner has an affirmative duty to properly care for an animal.” *Martinez v. Robledo*, 210 Cal.App.4th 384, 392 (2012). CALM wholly failed to meet this duty. Both CALM’s animal curator and the skunk caretaker informed USDA’s inspector that “there was no procedure in place to ensure that all animals in shared enclosures were eating,” and the attending veterinarian opined that staffing levels were insufficient “to provide adequate daily observation and care of the animals”—clear derelictions of CALM’s statutory duty to provide proper care and attention to the animals it confines. Ex. B. Moreover, the animal curator informed the USDA that “it is difficult for animal caretakers to adequately perform their duties” at current staffing levels, and despite her requests to hire more staff, she “has not received permission to do so from the Superintendent of Schools.” *Id.*

Importantly, federal law does not insulate CALM from state-level prosecution. While CALM is regulated by the Animal Welfare Act (AWA), the AWA expressly provides that states remain free to promulgate additional standards (7 U.S.C. § 2143(a)(8))—which California has done via its cruelty to animals laws—giving the Office concurrent jurisdiction. In fact, the USDA’s historic failure to adequately enforce the AWA (as documented by the agency’s own Office of Inspector General²) makes the Office’s jurisdiction critical: it represents the only opportunity to hold CALM and any others accountable for their egregious acts of cruelty in causing the agonizing deaths of these animals.

Accordingly, CALM’s conduct—which resulted in the deaths of at least three animals—falls squarely within California’s statutory prohibitions against cruelty to animals. PETA urges your agency to immediately undertake a full investigation into each of the incidents detailed above. Moreover, in light of the USDA’s finding that “the records review revealed an uncharacteristically high mortality rate at this facility since 1 January, 2018,” (*Id.*) there is significant concern that other animals in CALM’s custody could also be at risk. PETA stands ready to refer your agency to experienced and credible species experts upon your request.

Thank you for your attention to this matter.

Sincerely,


Brittany Peet
Director, Captive Animal Law Enforcement


² The Office of Inspector General (OIG) repeatedly found USDA’s Animal Welfare Act (AWA) enforcement “ineffective,” and found penalties assessed pursuant to the AWA—which are exceedingly rare— to be “basically meaningless” because they are too low to act as a deterrent. USDA, OIG, *APHIS Oversight of Research Facilities*, Audit No. 33601-0001-41 (Dec. 2014), Executive Summary & 1-3, 18 <https://www.usda.gov/oig/webdocs/33601-0001-41.pdf> (summarizing findings of recent and prior AWA enforcement audits). The OIG also found the USDA’s practice of automatically renewing licenses (even where exhibitors have repeatedly violated and are not in compliance with federal law) “potentially jeopardize[s] the health and well-being” of animals. USDA Office of Inspector General, *Enforcement of the Animal Welfare Act*, Audit. No. 33600-Ch-1, at 5 (Jan. 1995).