

October 3, 2019

Sheriff Shawn Holloway
Benton County Sheriff
Via email: shawn.holloway@bentoncountyar.gov

Lt. Kevin Richmond
Criminal Investigations, Arkansas State Police
Via email: Kevin.Richmond@asp.arkansas.gov

Re: Request to investigate Wild Wilderness Safari Drive-Thru for cruelty to animals

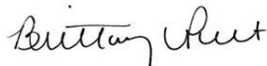
Dear Sheriff Holloway and Lieutenant Richmond,

I am writing on behalf of PETA to urge the Benton County Sheriff's Office and the Arkansas State Police to investigate and charge Wild Wilderness Safari Drive-Thru (a Gentry, Arkansas roadside zoo) and the facility's owner Charles Wilmoth¹ (collectively, Wild Wilderness), and any other culpable parties with cruelty to animals and aggravated cruelty to an equine. A September 1, 2019 video² taken by a Wild Wilderness visitor documented the incident in which Wild Wilderness subjected a pony to unjustifiable pain and suffering by confining the defenseless animal in an enclosure with an omnivorous captive bear who appeared to be biting or chewing on the pony while pinning him/her down. The video and witness statements also document that Wild Wilderness subjected the pony to inhumane treatment that likely caused the pony serious physical injury and prolonged pain.

Wild Wilderness' conduct falls squarely within Arkansas' statutory prohibitions against cruelty to animals and aggravated cruelty to an equine. PETA urges your agencies to immediately undertake an investigation of this incident and to pursue all applicable charges against the appropriate parties.

Thank you for your attention to this matter.

Very truly yours,



Brittany Peet
Director, Captive Animal Law Enforcement

[REDACTED]

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- PETA U.S.
- PETA Asia
- PETA India
- PETA France
- PETA Australia
- PETA Germany
- PETA Netherlands
- PETA Foundation (U.K.)

¹ Ex. A.

² Facebook.com, "Melissa Carnes," Sep. 1, 2019, <https://www.facebook.com/melissa.carnes.10/videos/2667299139968619/> (accessed Sep. 20, 2019) (also available at <https://calevideo.wistia.com/medias/txveolj819> (accessed Sep. 20, 2019) (Ex. B).

APPENDIX

Wild Wilderness claims to use animals such as ponies and goats to keep the lawn maintained in captive animal enclosures at its facility.³ On September 1, 2019, visitors to Wild Wilderness Drive-Thru reported seeing a bear grab a pony (who was confined in the bears' enclosure) by the neck and draw blood, covering the bear in blood.⁴ The witnesses took a video in which the pony can be seen pinned down in lateral recumbency by a large black bear.⁵ In the video, the bear appears to be using part, or a significant portion of, his/her body weight (black bears can weigh hundreds of pounds⁶) to pin the pony down at the front end of his/her body, which likely includes the neck and thorax. The bear repeatedly moves his/her head and mouth toward the pony, likely biting and chewing on the animal while the pony struggles and kicks out his/her rear leg.

Wild Wilderness violated Arkansas law prohibiting cruelty to animals by confining the pony with the captive bear and subjecting him/her to unjustifiable pain and suffering. A person⁷ commits cruelty to animals if they knowingly subject any animal to cruel mistreatment.⁸ Cruel mistreatment means "any act that causes or permits the continuation of unjustifiable pain or suffering."⁹ The pony, who reportedly survived,¹⁰ certainly experienced unjustifiable pain and suffering—both physical and psychological—throughout the incident, and for an unjustifiable purpose—to "help trim the grass."¹¹ Witnesses reported observing the bear "grab [the pony] by its neck," and they then "just started seeing blood,"¹² evidence that the pony suffered a significant injury. The witnesses' video also shows the bear repeatedly biting or chewing upon the pony.¹³ According to Dr. Christine Capaldo, a wildlife veterinarian,

Bears have powerful, strong muscles for biting and long, sharp canine teeth used for grasping, wounding, and tearing into the flesh of prey.¹⁴ A bear bite would cause deep, penetrating wounds, tearing of muscles and tissue, hemorrhage, infection, and bone fractures, any of which would cause the pony to endure pain and suffering.

The pony's voluntary movements and heavy breathing pattern further substantiate his/her suffering. After viewing the video, Dr. Capaldo provided the following analysis:

While pinned down by the bear, the pony struggled, kicked out a rear leg, and appeared to have a rapid, heavy breathing pattern—each indicative of consciousness and distress. Horses are prey animals and rely on their instinctive flight response and ability to run away from predators for survival.¹⁵ Bears are natural predators of horses, and horses would experience immense distress and unjustifiable pain and suffering when pinned and unable to flee from a predator. Horses also have excellent memories, meaning this pony will likely experience prolonged fear, suffering, and emotional distress because of the incident.¹⁶

³ THV11, *Gentry Safari responds to viral video showing bear attacking pony in pen*, Sep. 3, 2019, available at <https://www.thv11.com/article/news/gentry-safari-responds-to-viral-video-showing-bear-attacking-a-pony-in-pen/91-b2a65365-e0c0-438b-a589-622d6bd4daa6> (accessed Sep. 20, 2019) (Ex. C) (video also available at <https://calevideo.wistia.com/medias/tqieoedk74> (accessed Sep. 30, 2019)).

⁴ *Id.* at 00:00-00:28.

⁵ Ex. B.

⁶ Virginia Dept. of Game and Inland Fisheries, *Black Bear (Ursus Americanus), Facts*, <https://www.dgif.virginia.gov/wildlife/bear/black-bear-facts/> (accessed Sep. 17, 2019) (Ex. D).

⁷ "Person" includes any natural person; and when appropriate, an "organization." Ark. Code Ann. § 5-1-102(13)(A). "Organization" means a legal entity and includes a corporation, company, association, firm, partnership, or joint-stock company; or any other group of persons organized for any purpose. *Id.* § 5-2-501(3).

⁸ *Id.* § 5-62-103(1).

⁹ *Id.* § 5-62-102(8).

¹⁰ Ex. C.

¹¹ *Id.*

¹² *Id.* at 00:00-00:28.

¹³ Ex. B.

¹⁴ North American Bear Center, *Skull of a Black Bear*, at "teeth," <https://bear.org/skull-of-a-black-bear/> (accessed Sep. 19, 2019) (Ex. E).

¹⁵ Rutgers, Williams, C., *The Basics of Equine Behavior*, https://esc.rutgers.edu/fact_sheet/the-basics-of-equine-behavior/ (accessed Sep. 19, 2019) (Ex. F).

¹⁶ *Id.*

Wild Wilderness also knowingly allowed the pony to be “mutilate[ed] or maim[ed],” and likely caused the pony to suffer “intensive or prolonged pain,” and “serious physical injury” as a result of his/her inhumane treatment—felony violations of Arkansas law criminalizing knowing torture of an equine.¹⁷ Witness observations and video documentation indicate that the pony was injured in this incident: the witnesses described the bear as “covered in blood” after he/she brought the pony down,¹⁸ and their video shows the bear pinning the pony down and repeatedly biting or chewing upon him/her.¹⁹ Dr. Capaldo observed, “[t]he bear’s action of pinning the pony to the ground would cause physical trauma such as deep bite and claw wounds, blunt trauma and crushing injuries, fractured bones, neck injury, paralysis, internal trauma to the head, chest, and abdomen, hemorrhage, infection, and respiratory distress. Injuries such as these lead to maiming or mutilation as well as intensive or prolonged pain and suffering”—all violations of Arkansas felony cruelty law.²⁰

Wild Wilderness’ violations of Arkansas law were knowing. Wild Wilderness should have been aware that this type of activity was of such a nature that it would create an “attendant circumstance” where it was a “practically certain” to result in a bear attacking a pony and causing him or her pain, suffering, and injury.

Black bears are omnivores weighing hundreds of pounds²¹ and horses—some of whom are much smaller animals—are their natural prey. Here, the natural and probable consequences of keeping black bears enclosed with horses is exactly the outcome that occurred: an animal was unjustifiably subjected to pain, suffering, and injury. This is especially the case where captivity prevented the pony’s primary defense of flight.²² Further, bears’ dangerous and unpredictable nature is common knowledge and experience. In fact, the classification of bears as “inherently dangerous” animals in Arkansas’ health and safety code²³ serves as a legal recognition of this common knowledge and experience. As a bear exhibitor, Wild Wilderness possessed heightened knowledge of the practically-certain consequences of its actions. In fact, an employee reportedly told the witnesses that a similar incident had previously occurred at the facility.²⁴

Importantly, federal law does not insulate Wild Wilderness from state-level prosecution. While Wild Wilderness 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 Arkansas has done via its cruelty to animals laws—giving the sheriff’s office and the state police concurrent jurisdiction. In fact, the USDA’s historic failure to adequately enforce the AWA (as documented by the agency’s own Office of Inspector General²⁵) makes the respective concurrent jurisdictions of your agencies: they represent the only opportunity to hold Wild Wilderness and any others accountable for their egregious acts of cruelty in causing the pain, suffering, and injury to the pony.

¹⁷ *Id.* §§ 5-62-104, 5-62-102(21).

¹⁸ Ex. C at 00:07-00:28.

¹⁹ Ex. B.

²⁰ Wild Wilderness may be subject to enhanced penalties for this violation as the offense may have been committed in the presence of a child. Ark. Code Ann. §§ 5-4-702(b), 5-4-701(1). The witnesses who captured the incident on video were reportedly in line with their two small children in the drive-through portion of the park when the event occurred. KFSM TV Fort Smith, *Gentry Safari Responds To Viral Video Showing Bear Pinning Pony In Enclosure*, at 00:33-01:04, Sep. 3, 2019, <https://www.msn.com/en-us/autos/classic-cars/gentry-safari-responds-to-viral-video-showing-bear-pinning-pony-in-enclosure/vp-AAGI3rT> (accessed Sep. 20, 2019) (also available at <https://calevideo.wistia.com/medias/ugldrzu7c3> (accessed Sep. 20, 2019)).

²¹ Ex. D.

²² Ex. F.

²³ Ark. Code Ann. § 20-19-501.

²⁴ *Id.*

²⁵ 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).