

Jeffrey S. Kerr
General Counsel and
Vice President of Corporate Affairs

September 7, 2010

VIA FACSIMILIE ((407) 352-2070) AND FIRST-CLASS MAIL

Barbara Wetzler, President
SPCA of Central Florida
2727 Conroy Road
Orlando, FL 32839

James A. White,
Executive Vice President & General Manager
SPCA of Central Florida
2727 Conroy Road
Orlando, FL 32839

Dear Ms. Wetzler and Mr. White:

I am general counsel to PETA and I'm writing to request that you investigate what appear to be violations of state cruelty to animals laws in the matter of Tilikum's social isolation, absence of enrichment and confinement conditions at SeaWorld Orlando. *See* FLA. STAT. ANN. §§ 828.12(2), 828.13(2)(b). We are certain that, as an organization dedicated to the welfare of animals, the SPCA of Central Florida does not support privation that constitutes cruelty. We therefore request that you act to ensure that Tilikum is no longer held in this manner, pursuant to the authority granted to you by Florida law. *See* FLA. STAT. ANN. § 828.073.

As you know, the Occupational Safety and Health Administration (OSHA) recently issued a willful citation to SeaWorld for permitting "unprotected contact with Tilikum while conducting 'drywork' performances on pool ledges, slideouts and platforms," despite his history of possessive and aggressive tendencies and his involvement in two prior deaths. OSHA suggested that one method of abating this workplace hazard would be "to not allow animal trainers to have any contact with Tilikum unless they are protected by a physical barrier." Prohibiting such contact is in fact the only adequate method of preventing another death. However, doing so while Tilikum remains in captivity also presents circumstances under which he is socially isolated, provided little enrichment and confined to an even smaller area than that which was already inadequate, all of which are devastating for his physical and mental well-being.

PETA
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Florida's cruelty to animals law provides that "[a] person who intentionally commits an act to any animal which results in the . . . excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, is guilty of a felony of the third degree," punishable by up to 5 years imprisonment, a fine of not more than \$10,000, or both. FLA. STAT. ANN. § 828.12(2); 775.082(3)(d). It also prohibits "[k]eep[ing] an animal in any enclosure without wholesome exercise," a misdemeanor of the first degree punishable by up to 1 year imprisonment, a fine of not more than \$5,000, or both. FLA. STAT. ANN. § 828.13(2); 775.082(4)(a).

At SeaWorld, Tilikum is deprived of everything natural to him, and, since the Brancheau killing, of all stimulation. At 22 ½' long and over 12,000 pounds, he is sometimes kept in "F" pool, a solid sided concrete pool that measures just 36' long and 25' wide, less than three feet wider than the length of his body. Former employees and recent visitors have confirmed that Tilikum is also often relegated to the "G Pool." In each of these pools, he has no interaction with any other orcas, and trainers come to the pool to feed him three times a day and then leave with no interaction or enrichment. Tilikum is reported to spend his days drifting in the corner of the pool, moving only when he hears the music from Shamu Stadium, at which point he positions himself at the gate and begins chewing on the steel bars with what is left of his teeth—a behavior resulting from the stress and aggression brought on by SeaWorld's creation of an incompatible pod.¹

In the wild, orcas have complex and stable social grouping systems. In many populations, closely knit groups of up to four family generations will travel together for the duration of their lives, up to 100 miles per day, and separate for only hours at a time to mate or forage. These pods also have distinct dialects with which they communicate by echolocation. Given leading behavioral and wildlife biologist Dr. Toni Frohoff's finding that the orca brain is uniquely developed in a manner that enables the species to experience emotion—such as joy and suffering—to the same, if not a greater degree, than humans, the ability to maintain these relationships and engage in these behaviors is crucial.

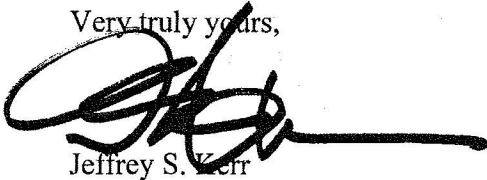
Knowing what we know about orcas, there can be no question that being held at SeaWorld has been and continues to be physically and psychologically devastating to Tilikum, yet the company has publicly and repeatedly refused to adopt any recommendations to alleviate his suffering and that suffering is now worse than ever before. While Tilikum is no longer used in shows, he is most valuable to SeaWorld as a breeding bull. Tilikum is trained to roll over—a behavior heavily rewarded with food—which allows trainers to masturbate him repeatedly with a gloved hand and collect his semen in a plastic container. His semen is then frozen for later use or used immediately to inseminate female killer whales at one of SeaWorld's parks, with the hopes of successfully breeding more wild animals to keep in captivity and draw in guests for generations to come. However, increasing revenue is not a defense to the repeated infliction of unnecessary pain and suffering and deprivation of wholesome exercise in violation of Florida's cruelty to animal laws. FLA. STAT. ANN. §§ 828.12(2); 828.13(2).

¹ See the enclosed photo as an example of the devastation to orcas' teeth caused by this behavior.

The SPCA of Central Florida's own position statement holds that "wild animals should be permitted to exist undisturbed in their natural environments," but where wild animals have been "maintained in captivity for lengthy periods [and] are not capable of survival in their natural environment," they must still "simulat[e] natural habitats as closely as possible" and "exhibit the highest degree of humaneness, care and professionalism."

We ask that you stand by your commitment to the eradication of "animal exhibitions which will not . . . raise their standards and operations" and, upon completion of your investigation, exercise your authority pursuant to § 828.073 to prohibit Tilikum from being confined in this extremely cruel manner. Although it is not possible to immediately return him to the waters from which he was taken nearly 30 years ago, experts have suggested that it is entirely within SeaWorld's practical and financial capabilities to construct a seaside rehabilitation facility, an environment in which Tilikum's current physical and psychological suffering would be significantly diminished. We look forward to your intervention. Please contact me at any time. I look forward to hearing from you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey S. Kerr", with a long horizontal line extending to the right.

Jeffrey S. Kerr

