

December 6, 2021

John Wendland
 District Manager
 Redding District Office
 California Division of Occupational Safety and Health
 381 Hemsted Drive
 Redding, CA 96002

Via e-mail: DOSHRED@dir.ca.gov

Dear Mr. Wendland,

I am writing on behalf of PETA to request that the California Division of Occupational Safety and Health (Cal/OSHA) investigate the Barry R. Kirshner Wildlife Sanctuary (Kirshner) for continuing to allow staff to engage in dangerous direct contact with leopards—despite a recent Cal/OSHA citation and settlement order for similar conduct—in apparent violation of the California Occupational Safety and Health Act (COSH Act) and Cal/OSHA regulations.

The COSH Act generally requires employers to “furnish a place of employment that is safe and healthful for the employees therein.” Cal. Lab. Code § 6400(a). The COSH Act allows violations to be classified as serious and sets forth increased civil penalties for willful or repeated violations. *See id.* § 6432 (setting forth a rebuttable presumption that a serious violation exists where there is a realistic possibility that death or serious physical harm could result from the hazard); *see also id.* § 6429 (allowing for penalties up to \$124,709 for each willful or repeated violation).

Records obtained by PETA show that Cal/OSHA cited Kirshner for a serious violation of Cal. Code Regs. tit. 8, § 3314(g) after the agency determined that “[o]n or before 2-20-2021, [Kirshner] fail[ed] to follow the procedures for lockout during feeding or cleaning of the enclosure of the [l]eopard that was involved in an accident causing an injury to an employee.”¹ Ex. 2, Cal/OSHA Citation of Kirshner. The citation came after a Kirshner employee was attacked by a leopard, causing her serious injuries including puncture wounds to the neck requiring hospitalization. Ex. 3, Cal/OSHA Notice of Verification of Abatement of Serious Violations.

¹ Kirshner appealed the citation and ultimately settled for \$1,800 by way of a September 28, 2021 settlement order. Ex. 1, California Occupational Safety and Health Appeals Board Settlement Order.

PEOPLE FOR
 THE ETHICAL
 TREATMENT
 OF ANIMALS
 FOUNDATION

Washington
 1536 16th St. N.W.
 Washington, DC 20036
 202-483-PETA

Los Angeles
 2154 W. Sunset Blvd.
 Los Angeles, CA 90026
 323-644-PETA

Norfolk
 501 Front St.
 Norfolk, VA 23510
 757-622-PETA

PETA FOUNDATION IS AN
 OPERATING NAME OF FOUNDATION
 TO SUPPORT ANIMAL PROTECTION.

AFFILIATES:

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

Since then, PETA has learned that Kirshner has continued to allow employees to engage in this type of direct contact with leopards:

- On October 30, Konstantyn Noga posted photos to [Facebook](#) showing him engaging in direct contact with a leopard with no barriers in place. *See* Ex. 4, Noga Facebook Post (including a caption explaining that he had been “volunteering” at Kirshner).
- On November 17, James Diltz posted a photo to [Facebook](#) showing Angela Shelton-Bracco, another Kirshner employee, handling a leopard during an exhibit at the Yuba-Sutter Juvenile Hall in Marysville, California. *See* Ex. 5, Diltz Facebook Post (thanking Shelton-Bracco for bringing the animals).

Kirshner has repeatedly allowed employees to engage in direct contact with a leopard, which is the same conduct that led to an employee being seriously injured and hospitalized earlier this year. By doing so, this roadside zoo appears to be in violation of both Cal. Code Regs. tit. 8, § 3314(g)—the standard relating to lockout procedures that Cal/OSHA listed in its August 13, 2021 citation of Kirshner—and the COSH Act for failing to furnish a place of employment that is safe and healthful for its employees.

Accordingly PETA respectfully requests that Cal/OSHA investigate Kirshner for continuing to allow employees to engage in direct contact with a leopard and hold it fully accountable, including by issuing a citation for serious violations of Cal/OSHA regulations and levying civil penalties for willful and repeated violations, before another employee is seriously injured or killed.

Very truly yours,



Jonathan Morris
Counsel, Captive Animal Law Enforcement