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**Official Report
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(Hansard)**

Monday 11 May 2015

**Journal
des débats
(Hansard)**

Lundi 11 mai 2015

**Standing Committee on
Social Policy**

Ontario Society
for the Prevention
of Cruelty to Animals
Amendment Act, 2015

**Comité permanent de
la politique sociale**

Loi de 2015 modifiant
la Loi sur la Société
de protection des animaux
de l'Ontario

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
SOCIAL POLICY**

**COMITÉ PERMANENT DE
LA POLITIQUE SOCIALE**

Monday 11 May 2015

Lundi 11 mai 2015

The committee met at 1401 in room 151.

ONTARIO SOCIETY
FOR THE PREVENTION
OF CRUELTY TO ANIMALS
AMENDMENT ACT, 2015
LOI DE 2015 MODIFIANT
LA LOI SUR LA SOCIÉTÉ
DE PROTECTION DES ANIMAUX
DE L'ONTARIO

Consideration of the following bill:

Bill 80, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act and the Animals for Research Act with respect to the possession and breeding of orcas and administrative requirements for animal care / Projet de loi 80, Loi modifiant la Loi sur la Société de protection des animaux de l'Ontario et la Loi sur les animaux destinés à la recherche en ce qui concerne la possession et l'élevage d'épaulards ainsi que les exigences administratives relatives aux soins dispensés aux animaux.

The Chair (Mr. Peter Tabuns): Good afternoon, everyone. For some members who were drifting, that brings them back to the committee.

We are here for public hearings of Bill 80, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act and the Animals for Research Act with respect to the possession and breeding of orcas and administrative requirements for animal care. Please note that additional written submissions have been received, and copies of all submissions to date are distributed to the committee today.

For those who are presenting today, each presenter will have up to five minutes for their presentation and up to nine minutes for questions from committee members, and that will be divided equally among the three parties. When we start the rotation of questions, we'll start with the official opposition.

CANADA'S ACCREDITED ZOOS
AND AQUARIUMS

The Chair (Mr. Peter Tabuns): Our first presenters today are from Canada's Accredited Zoos and Aquariums. Mr. Bruce Dougan and Martin Haulena, could you

please come forward. If you'll have a seat and introduce yourselves for Hansard, and then we'll start in on your five minutes.

Mr. Bruce Dougan: Good afternoon. My name is Bruce Dougan. I'm the director of the Magnetic Hill Zoo in Moncton, New Brunswick, and a past president of Canadian Accredited Zoos and Aquariums.

Dr. Martin Haulena: My name is Dr. Martin Haulena. I'm a board-certified specialist in zoo and aquatic animal medicine. I am chief or head veterinarian at the Vancouver Aquarium, adjunct professor of clinical sciences at North Carolina State University, and adjunct professor at the University of British Columbia's fisheries science centre.

Mr. Bruce Dougan: I'd like to begin by thanking the members of the committee for the opportunity to appear before you here today. Working with governments towards the highest standards of care in animal welfare is a priority of our organization, and the opportunity to speak to you in your review of Bill 80 is therefore very much welcome.

If adopted, Bill 80 will do two things:

(1) It will translate into law a new government policy; namely, that it should be illegal to own or breed orcas in Ontario.

(2) It will create the legal foundation for a regulatory framework for the care of marine mammals in the province.

In the current Ontario context, the proposed orca ban has generated both headlines and animal welfare concerns. However, because of the limited amount of time available to us today, our remarks will focus on what has been a less debated aspect of the bill; namely, the development of standards and regulations referenced in the legislation.

As you may know, CAZA has long advocated that the government of Ontario address this policy. Legislative and regulatory gaps exist with respect to animals in human care. That is why when Minister Naqvi indicated last January that the government would be introducing enhanced standards of care for marine mammals, we applauded his announcement. At the time, we expected to see unfold a process grounded in science and verifiable best practices that would begin to fix Ontario's broken system. However, while we were grateful for the opportunity to participate in the development of these standards as a member of the technical advisory group, we

had concerns from the outset with the timelines and the scope of the exercise.

Absent evidence of a current or imminent marine mammal welfare crisis in this province, we found the time frame as inexplicable as it was unfortunate. These timelines imposed arbitrary methodological shortcuts where a full examination of the issues and science around the care of marine mammals would be in order, and they precluded a made-in-Ontario solution that would be based on the validation of international best practices.

In order to meet its self-imposed deadline, the government has had to rely heavily on an outdated set of standards developed in the UK in the 1980s. To the best of our knowledge, it has not been implemented anywhere in the world.

Moreover, we believe that the regulatory and enforcement approach chosen is fundamentally flawed, as it is based on the assumption that animal welfare can be codified into a comprehensive regulatory checklist.

We believe that the determinants of animal health and well-being are so complex and dynamic as to preclude such a rigid approach. That is why CAZA favours a qualitative, expert, system-based inspection and enforcement model supplemented, where applicable, by prescriptive standards and policies. It is also why we have hoped to see the government opt for a rigorous review of options to enhance the level of care and well-being of marine mammals rather than a mad dash to an imaginary finish line.

In summary, we applaud the government's intentions but believe that the approach chosen is flawed. We urge this committee to recommend a pause and, for the sake of the animals, that this important exercise be placed on solid scientific footing.

The Chair (Mr. Peter Tabuns): Thank you. First questions go to the PC caucus: Mr. Nicholls.

Mr. Rick Nicholls: Mr. Dougan, thank you very much for taking the time to be here today. I've got a few questions for you.

The first one: Since you chaired the task force in New Brunswick, which actually looked at the policy framework around exotic animals, in your opinion, is the time frame spent around the development of this piece of legislation, especially standards of care, sufficient?

Mr. Bruce Dougan: I don't believe it to be sufficient, no. In New Brunswick, we had legislation, regulation, and policies and procedures in place with regard to the keeping of exotic animals in human care. We have met for the last nine months to try and identify gaps and weaknesses in that legislation and in those policies. We are very close to the end now, but it was a long process. We had a very good crew. We met with a lot of government agencies, a lot of NGOs. We looked at a lot of international policies with regard to this. We met weekly for a full day for nine months—on average, I would say. So it is a long process, and something as complex as this is going to require much more time.

Mr. Rick Nicholls: More time as well. Thank you. What would you say some of the major differences

would be in using the UK model, which, of course, was developed in 1986, as opposed to those standards adopted by the CCAC?

Mr. Bruce Dougan: I'll defer to Marty here on a lot of this, but I know that the UK model is 30 years old. It's not based on current science or best practices. There are no cetaceans in the UK at the present time, and the standards that were developed in the UK 30 years ago are not used anywhere in the world as standards that are adopted by anybody else.

Maybe Marty can talk a little more specifically to the differences between the CCAC model and the UK model.

Dr. Martin Haulena: I have several concerns. First of all—

The Chair (Mr. Peter Tabuns): You have one minute left.

Dr. Martin Haulena: Okay. So several concerns: One is a very non-specific set of guidelines, not taking into account species differences—a harbour porpoise is not a blue whale; just adjusting numbers for no apparent reason; a system that's never been implemented anywhere; a system that's 30 years old—again, never implemented anywhere—based on bottlenose dolphins, and not applicable by any stretch to belugas; creating an almost vertical cylinder, which is a very poor environment; not taking into account, again, species differences, individual differences, medical needs, and enrichment needs.

The CCAC guidelines are much more tailored toward an overarching umbrella type of criteria for the welfare of the animal, developed more recently, of course, and in conjunction with industry—

The Chair (Mr. Peter Tabuns): I'm afraid to say that your time is up. We'll go the next questioner. Ms. French.

Ms. Jennifer K. French: Thank you, and welcome to Queen's Park. I appreciated your submission and I also have some questions for you.

In your comments, you said: "Absent evidence of a current or imminent marine mammal welfare crisis in this province...." Can you expand on that?

Mr. Bruce Dougan: Well, there doesn't seem to be anything that's of imminent danger to the orca that is in Ontario at this particular time. We wonder why this is not being given sufficient time to study the proper method of doing this, using modern science and international best practices, rather than adopting just this one set of standards from the UK, which is very old.

This animal is in good health. It's in good care. It's in a CAZA-accredited facility. We don't see any imminent danger there.

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Ms. Jennifer K. French: Thank you. Actually, to that point, the UK model has never been implemented before. Do you have any insight as to why this is the model that the government has chosen?

Dr. Martin Haulena: No idea. Certainly it was not recommended in the report that was given to the committee. So it's difficult to say why Canadian experts

weren't involved and Canadian criteria were not involved.

Ms. Jennifer K. French: Thank you. Could you further expand on—you've used the term "such a rigid approach." In what ways is this too rigid? Do you have comments there?

Dr. Martin Haulena: You know, I think the problem here is that everyone is looking for a number that someone with a ruler can measure a tank and go, "This is good; this is bad." This is not an easy solution. I've been doing this for about 22 years. I've been involved with saving a lot of cetaceans and other marine mammals around the world, including Canada, and this is not the approach. I mean, it's not easy. You can't just put a ruler and a depth gauge and go, "This is great."

The Chair (Mr. Peter Tabuns): You have a minute left.

Dr. Martin Haulena: For belugas especially—again, substrate topography; this is a species that likes shallow water, that needs to rub. To create this kind of vertical cylinder kind of approach without taking into account the specific needs of the animal—and also to not account for stranded animals and finding homes for stranded animals. Right now, we have false killer whale. One day a killer whale is going to strand and need a home. We need to sort of be flexible and account for these differences. We don't know what kinds of species are going to come down the pipe. You can't just have a one-size-fits-all solution. It's not going to work for any problem.

Ms. Jennifer K. French: Thank you. Do I still have time?

The Chair (Mr. Peter Tabuns): You have 20 seconds.

Ms. Jennifer K. French: Great. Would you like to comment on your involvement as part of the technical advisory group? Was that a positive experience? Did you feel it was a great back and forth?

Dr. Martin Haulena: I don't believe I was involved that deeply.

Mr. Bruce Dougan: I was not either. My understanding was, though, that they came here for a meeting and an hour after they arrived, from all over the country and all over the United States, they were told the meeting was cancelled.

The Chair (Mr. Peter Tabuns): I'm sorry to say, your time is up.

Mr. Bruce Dougan: Sorry.

The Chair (Mr. Peter Tabuns): I'm going to go to the government: Mr. Balkissoon. It goes quickly.

Mr. Bruce Dougan: Yes, it does.

Mr. Bas Balkissoon: Thank you both for being here. You mentioned a lot about the standards of care, but the main thrust of the bill that's in front of us is the ban that's going to be put in place so we prevent orcas from coming into the province in the future. There are the standards of care that are needed for the other mammals. You mentioned that the UK model is flawed, but you haven't mentioned that there is an existing model that works. Can you shed some light?

Mr. Bruce Dougan: Well, yes, there is a model that was just finalized in September 2014, in collaboration with Canada's Accredited Zoos and Aquariums and the CCAC, the Canadian Council on Animal Care. It was adopted by CAZA in February of this year.

So there is a model there that is much more detailed, has a lot more specifics in it, and speaks a lot more to the needs of marine mammals than does the one that is 30-years old from the UK. That's the model I think we should look seriously at. That model has been in the works for about eight years. It's involved a lot of the very best marine mammal experts in Canada and the United States in forming the specifics for that.

Mr. Bas Balkissoon: Can you highlight some of the major differences between the two?

Mr. Bruce Dougan: I'll leave that to you, Marty.

Dr. Martin Haulena: Sure. First of all, I think I mentioned that kind of one-size-fits-all approach. So developing a standard for a bottlenose dolphin that now has to be, just with the mathematical model, expanded to a beluga whale or to a porpoise or to any other species is just impractical, unreasonable, unscientific and, from all we know, impossible.

To say that we don't have a model that works is a complete falsehood. We know that animals thrive in our care and they do very, very well—animals of a large number of species. I think the very worrisome part—

The Chair (Mr. Peter Tabuns): One minute left.

Dr. Martin Haulena: —is the second part of this bill, which all of a sudden addresses all animals everywhere in Ontario.

Mr. Bas Balkissoon: Okay. The minister is going to bring in several pieces of regulation. Do you have any suggestions that that's where we could enhance the process?

Mr. Bruce Dougan: We'd be happy to work with you on that. It's just that it doesn't seem that we've been afforded the opportunity to be at the table. I know we were asked to be with the TAG group, but that didn't ever eventuate. So when I talk about the work that has been done in New Brunswick on an issue that was a lot further along than this issue is, it has taken us nine months and a lot of meetings and a lot of work to just identify gaps and weaknesses in a system that's already there. To develop a program for the care of marine mammals in captivity here in the province of Ontario, I think there's a lot of work to be done, and I'm sure that CAZA would—

The Chair (Mr. Peter Tabuns): I'm afraid you've run out of time. Thank you very much for your presentation.

Mr. Bruce Dougan: Thank you.

MARINELAND OF CANADA INC.

The Chair (Mr. Peter Tabuns): Our next presentation: Marineland of Canada Inc. Gentlemen, as you've heard, you have five minutes to present, and then there will be nine minutes of questions. One minute before the

end of your speaking time I'll just remind you that you have a minute left. So if you'd introduce yourselves for Hansard.

Mr. John Holer: John Holer, Marineland.

Mr. Andrew Burns: I'm Andrew Burns, counsel for Marineland.

Marineland's two beluga and killer whale pools are larger than the largest pools in Africa, the National Aquarium in the US and the largest pools in Europe, the Middle East and Asia, and comparable to the largest single pool in the world. It is because of Marineland's commitment to animal welfare that Marineland must express its very strong reservations regarding the proposed legislation and the proposed imposition of unscientific and financially unachievable standards in relation, in particular, to pool sizes.

First, in relation to the proposed prohibition on killer whales, which Marineland opposes, Kiska is too old to move and it is entirely reasonable, achievable and appropriate to provide for her, on loan from another facility, an age-appropriate companion. This bill, in its present form, precludes that.

This bill also denies any injured orca the opportunity to be rehabilitated at Marineland and returned to the wild. Marineland suggests that a ministerial exemption from the prohibition, with appropriate conditions, should be considered by amendment to this bill.

There is another serious issue with this legislation. On January 27, the government publicly committed to following the advice of Dr. Rosen as set out in his report, stating, that standards of care are based on recommendations made in a report commissioned by the Ontario government and prepared by Dr. Rosen. Dr. Rosen's report recommended expressly adoption of the CCAC standards on marine mammal care.

Despite the foregoing, the proposal before this government is to use the power under the legislation to put in place standards of care modelled on those in the United Kingdom, and those standards will include the size of pools used to house marine mammals. The only use of the UK model in the proposed standards is in relation to facility pool size. All other government standards that are proposed are based on or derivative of the CCAC standards, which Marineland supports.

Dr. Rosen clarified his recommendations by letter dated May 7 to this committee, in which he clearly states, at page 3, that a specific recommendation on pool size was outside the scope of his report and insufficient research has been undertaken to make such decisions on a scientific basis.

It is clear that in 343 facilities in 63 countries, not one country or facility presently uses the UK model. It is not even used in the UK as all remaining facilities have been closed because of the financial impossibility of implementation. The UK model is based on a 1986 report, which is now 30 years out of date. The report did not consider beluga whales. The UK report expressly states, "There is no research evidence whatsoever on the question of pool size or other pool requirements."

The current proposal to utilize a UK model requires an average pool depth and volume, a cylinder or box-like pool which is so deep that no tank anywhere in the world achieves that depth or volume. The UK model report did not recommend an average depth or volume. In fact it said, and I quote again, "A reasonable proportion of each pool should therefore be at least twice adult body length deep."

The Chair (Mr. Peter Tabuns): You have one minute left.

Mr. Andrew Burns: All modern facilities constructed since 1986, including Marineland, have variable depth pools with multiple shapes, making accomplishment of an average pool depth impossible technically. The UK model mandates a pool design that is rejected by the entire world.

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The estimated cost of compliance with the proposed standard is at least \$1.5 billion. It has been suggested that a drastic reduction in the number of marine mammals at Marineland will result in an achievable space requirement. That is not correct.

In conclusion, this government will, if the pool size standards that are proposed are adopted, force the closure of Marineland and throw thousands of people out of work at Marineland and in the Niagara region. We ask this committee to take such steps as it considers necessary to direct that any standards imposed under this legislation conform to the recommendations of Dr. Rosen, and that any standard related to pool size be made only after an appropriate—

The Chair (Mr. Peter Tabuns): I'm sorry, sir, but your time has come to an end.

Mr. Andrew Burns: —scientific consultation process. Thank you.

The Chair (Mr. Peter Tabuns): The first question is to Ms. French.

Ms. Jennifer K. French: Thank you. I appreciate you coming to Queen's Park today. Did you finish all that you wanted to share?

Mr. Andrew Burns: Yes, thank you.

Ms. Jennifer K. French: Okay, I was going to give you the chance there.

You had made a comment about—and I missed it because I don't have that page in front of me—mandates of pool design rejected by the entire world. Can you give us a bit more about that?

Mr. Andrew Burns: Yes. There are 63 countries—with 343 facilities around the world. Presently, the most modern facility in the world is Ocean Kingdom in China, which opened at a cost of US\$800 million. That facility, which represents the most modern, advanced pool design, does not meet the UK model standard. It does meet the standards that have been developed over the last 30 years with variable pool depths, appropriate training areas, swim-out areas for medical purposes, and it does not conform with the UK model.

Ms. Jennifer K. French: And did I understand correctly that with the depth and volume—some of the spe-

cific requirements, I guess, or standards for the pools—that with that exception, everything else has to do with the CCAC recommendations? So there's this one exception? Was I—

Mr. Andrew Burns: That's correct. The government sought the recommendation of a scientist, which Marineland fully supports. The report has been released and Dr. Rosen expressly recommended in his report adoption of the CCAC guidelines. It is recommendation number 3. Marineland, and I believe the scientific community, fully supports that recommendation. We just do not support adoption of the UK model—

The Chair (Mr. Peter Tabuns): You have a minute left.

Mr. Andrew Burns: —on facility pool size that did not form part of his recommendations, and which he has clarified in his letter to the committee he did not recommend.

Ms. Jennifer K. French: And do you have any insight as to why that one recommendation would differ from the bulk of the others?

Mr. Andrew Burns: No, though noting that Marineland is quite willing to engage in a consultative process, a scientific process, which would examine that very issue. But to impose it now, as part of a standard, is not appropriate, and would have the result of forcing the closure of Marineland.

Ms. Jennifer K. French: Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Ms. French. Mr. Balkissoon?

Mr. Bas Balkissoon: Thank you very much for being here and sharing your thoughts with us. You opened by saying that the piece of legislation precludes any opportunity for rehabilitation of a mammal. If it was determined that the orca that you have currently is healthy enough to be moved, would Marineland consider moving it to another facility or a sanctuary with another orca so that you would provide it—

Mr. Andrew Burns: It's not possible to move the orca, and I think the bill reflects that fact. That's the reason it's grandfathered under the bill. I think it is very—

Mr. Bas Balkissoon: Can you tell us why it's not possible?

Mr. Andrew Burns: She's very elderly, so it's the equivalent of taking someone who is 80 years old or 90 years old in an old folks' home and moving them into an apartment in the Village in New York. It's going to be terrible for her and she wouldn't survive the trip, which is a hugely stressful event for an animal. To be moved, she'd have to be moved by airplane, and it would kill her.

Mr. Bas Balkissoon: Okay. Thank you very much, Mr. Chair.

The Chair (Mr. Peter Tabuns): Okay, thank you. To the Conservatives: Mr. Nicholls.

Mr. Rick Nicholls: Gentlemen, thank you for coming today. I appreciate it.

I've spoken extensively on this in the Legislature. One of the concerns I have as well are jobs and the economy. Of course, I certainly don't want to see Marineland being forced to shut down. I think there's some ground here

where we can certainly work together, perhaps with the government, to ensure that that doesn't happen.

I do have a few questions for you. First of all, can you elaborate a little bit more, Andrew, on Marineland's pools in terms of that which is currently used for Kiska regarding its size? How big is that pool? Is it large enough? Does it exceed standards, those types of things? Maybe you can give me a comparison of the pool size at other aquariums, such as the one maybe that SeaWorld uses?

Mr. Andrew Burns: The pool which houses Kiska is actually the largest pool housing a killer whale in the world. SeaWorld is proposing a development to expand the size of its pools. Even if that development is completed, Kiska will have five and a half times more space than the whales at SeaWorld. We have provided you with our materials a comparison chart which shows you the volume comparison of the pools at the largest and most modern facilities in the world. Marineland's Arctic Cove and Friendship Cove are larger collectively than the largest pool in the world at the Georgia Aquarium and larger than the largest pool in Asia at Ocean Kingdom, which just opened at a cost of over US\$800 million. These facilities are actually enormous.

Mr. Rick Nicholls: Okay. Thank you. We've heard a lot about the UK model, so I don't want to spend time on that right now.

The Chair (Mr. Peter Tabuns): You have one minute left.

Mr. Rick Nicholls: But Marineland was investigated by both CAZA and the OSPCA for alleged animal abuse. Was Marineland ever charged and what were the findings of that investigation?

Mr. Andrew Burns: Marineland was never charged. It is the most thoroughly investigated facility in the world. All its marine mammals have been investigated—its vet records—and staff have been interviewed. All its technical records have been reviewed. The inspections included a complete independent review by expert veterinarians on behalf of the OSPCA, an independent review by two expert veterinarians, one the head veterinarian at the Vancouver Aquarium and the other the head of the Calgary Zoo; an independent investigation by the College of Veterinarians; a review by the experts appointed by the Ontario government to provide advice with respect to this legislation; examinations by up to 14 outside expert veterinarians, by Marineland vets and by independent academic scientists—

The Chair (Mr. Peter Tabuns): I'm sorry to say, but your time is up. I thank you for your presentation. We'll call the next presenter.

Mr. Rick Nicholls: No charges?

Mr. Andrew Burns: No charges.

NIAGARA FALLS TOURISM

NIAGARA FALLS CITY COUNCIL

The Chair (Mr. Peter Tabuns): The next presenter is Niagara Falls Tourism, Mr. Wayne Thomson. Mr.

Thomson, if you'll introduce yourself for Hansard. As you've seen, you have five minutes to speak and I let people know when they've got a minute left.

Mr. Wayne Thomson: Thank you. My name is Wayne Thomson, from the city of Niagara Falls. First of all, thank you for the opportunity to be here. This is extremely important to our municipality.

I'd like to, first of all, draw your attention to correspondence from the mayor and members of city council. Everyone on council has signed that letter indicating their support and how important Marineland is to the city of Niagara Falls as a whole.

Also, I'd like to draw your attention to a letter from Niagara Falls Tourism, signed by me, also supporting Marineland in making sure their voice is heard at this particular hearing and the concerns about the economic effect anything happening to Marineland would have on our municipality.

I should introduce myself and say what Wayne Thomson is doing here today. Well, I was mayor of the city of Niagara Falls for 17 years. I'm in my 18th year on city council at the present time. I have been involved in watching Marineland grow and develop under the operation of John Holer, whom I have a tremendous amount of respect and admiration for and what he's done for our municipality. I'm also chair of Niagara Falls Tourism and co-chair of the regional tourist organization that exists in the region.

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I'd just like to give you an idea of what has transpired in the past many years with respect to tourism in the city of Niagara Falls. Of course, people come there to see the Falls, but certainly Marineland, as a major attraction in our city, has had a tremendous impact on bringing people and creating jobs in the city of Niagara Falls.

I can recall many, many years ago talking about the magic 100 days where tourism began at the May 24 weekend and, after Labour Day, everybody would shut up: The hotels and motels would close up, jobs would be lost and everybody would be home. It was extremely difficult for many people in our community.

In 1969, as a new council member, I chose to be involved in tourism, and I'm here today because for the last 35 or 40 years, I have been on the tourism board and working to make things happen. We had a very vibrant industrial base in our community for over 100 years, but because of hydro costs, because of industry moving out, what we have left is tourism. It's our lifeblood.

A report to the council a couple of weeks ago indicated that 2.7% of our assessment is the industrial base, so that tells you a little bit about it.

We're talking about 700 jobs at Marineland. Anybody would put up their hand in a second in the municipality to make sure they protected that, but those 700 jobs precipitate, if you can imagine, 36,000 jobs not only in Niagara Falls but in the entire region. Hotels send buses up to Port Colborne and Welland and other municipalities to bring people down to work in jobs in the city of Niagara Falls. Nobody who is going to school, nobody who wants

a summer job ever had to worry about it in the Niagara region because the jobs were there because of Marineland, because of the attractions, because of the hotels. It's just unbelievable what has been accomplished.

The Chair (Mr. Peter Tabuns): Mr. Thomson, I'm sorry to say that your time is up. The first question will go to the government side: Mr. Balkissoon.

Mr. Bas Balkissoon: Thank you very much for being here and sharing your thoughts with us.

When we're talking about an attraction that displays, houses and cares for animals, particularly these very complex mammals, would you agree with me that public confidence in the well-being of those animals should be a critical issue for the government and, therefore, be part of some kind of firm legislation?

Mr. Wayne Thomson: Well, first of all, I've been actively involved in hearing the concerns about Marineland for at least the last 20 years. It's been there for 52 years; that's when it started. I can tell you that Marineland, from my personal knowledge, wants nothing but the best standards put into place. I think the only concern they have—and you've seen and I've seen the chart that shows the size of the tanks. Marineland is, without exception, one of the leaders in the world with respect to the size of tanks. They are in favour of proper legislation to make sure that the care of these animals is nothing but first-class.

Mr. Bas Balkissoon: I don't disagree with you, but my point was, do you see the necessity for government to put the regulations on standards of care for these mammals in some form of legislation so that it builds public confidence and gives the public the assurance that the government is administering whatever it needs to in enforcing that this facility meets the standards you were talking about?

Mr. Wayne Thomson: Absolutely. I don't think you can argue with that.

The Chair (Mr. Peter Tabuns): You have a minute left.

Mr. Wayne Thomson: We certainly wouldn't want anything to happen to the animals, and I find it preposterous that I listened to some of the people who are concerned about this suggesting that somebody who is in the animal business would be doing something that is negative toward the animals. I've watched this operation for many, many years, and it's first-class. The operation is without criticism, in my opinion.

Mr. Bas Balkissoon: Thank you very much, and thank you again for being here.

Mr. Wayne Thomson: Thank you.

The Chair (Mr. Peter Tabuns): We go to the opposition. Mr. Nicholls.

Mr. Rick Nicholls: Mr. Thomson, thank you for being here this afternoon. I've heard you say that tourism is the lifeblood in the Niagara region. I firmly support that. I've also heard you say that Marineland has been around for 52 years. It's been around for a long time. I've been an advocate of saying simply this: People who are doing the job, and are well trained to do the job, are the

ones who best know how to do the job. So when I look at that, I certainly—you know, we worry and care about the well-being of mammals, but now, because you mentioned earlier that tourism is the lifeblood, I look at it and I go, “Well, what about the well-being of the people and the jobs that could be lost?”

If Marineland shuts down, it’s 700 jobs. What impact does that have on the economic growth of the Niagara region? Perhaps you could elaborate a little more on what the overall economic impact would be.

Mr. Wayne Thomson: Well, first of all, Marineland is unique because it is a theme park, it has expanded over the years, and people spend a full day there, which puts them into an overnight stay to see the other attractions. At one point, 58% of the people visiting Niagara Falls would have overnight stays because of Marineland specifically. So taking that away would be a disaster for us. One of the things that I didn’t mention is the fact that Marineland spends \$4.5 million a year on marketing. Show me somebody who has a grandchild or a child that doesn’t know, “Everyone loves Marineland.” That’s \$4.5 million featuring the Falls and bringing people there and maintaining those 36,000 tourism jobs. Take that away, affect it negatively—

The Chair (Mr. Peter Tabuns): One minute left.

Mr. Wayne Thomson: —and that’s what’s going to happen.

Mr. Rick Nicholls: Thank you. So we talked about the jobs. What would you say would be the impact on the hotel and motel industry if it were to be—the unintended consequences of Marineland shutting down?

Mr. Wayne Thomson: Well, I think it would have a snowballing effect by affecting other attractions and hotels, restaurants, because once it starts and you lose those 700 jobs—the 700 jobs is just Marineland; the 36,000 in the restaurants, in the hotels and motels, that’s what really is the spinoff of Marineland. It’s the one that keeps them overnight and makes them stay longer. So this is really critical, crucial, and why I’m here today and why a municipality, a council, would sign a letter without anybody—

The Chair (Mr. Peter Tabuns): Mr. Thomson, I’m sorry to say that we have to move you on to the last questioner.

Ms. French.

Ms. Jennifer K. French: Thank you, Mr. Thomson, for coming to speak with us today. My colleague Wayne Gates is also a very enthusiastic supporter of the tourism industry in the Niagara region—

Mr. Wayne Thomson: I sat on the council with him.

Ms. Jennifer K. French: —so I’ve heard some of these things before.

Actually, I think I’m going to be repeating some of what my opposition colleagues have been asking you, but in terms of what could happen if Marineland, well, was no longer Marineland, the 36,000 jobs in the region, could you explain that a little more?

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Mr. Wayne Thomson: Well, first of all, in Niagara Falls, people come there to see the Falls. We’ve ex-

panded on that over the years. In fact, initially, people used to come to see the wonderful beauty of the Falls, pull over to the side of the road, jump out of the car, take a picture and then go off to Toronto, Buffalo or wherever else they were going. Now, we have year-round tourism. The government has invested millions of dollars in the city of Niagara Falls: in casinos, in attractions, in all kinds of different things which create jobs. But it’s an investment, because every time they put \$1 million into the convention centre, it returns tenfold in the HST to the government.

This is a win-win for everybody. If Niagara Falls suffers, everybody in the province suffers.

The Chair (Mr. Peter Tabuns): One minute left, Ms. French.

Ms. Jennifer K. French: Thank you. Just so that I’m clear, are you here in support of the goals of this bill, or are there specific things that you’re concerned about? I missed that part, which part you’re—

Mr. Wayne Thomson: I’m here to show the municipality’s concern and support for Marineland. We certainly can’t suggest that we’re not in favour of stringent rules to protect the mammals and the animals in Marineland, but we don’t want it to be so restrictive as to put them out of business or cause them difficulty.

In 52 years, a man builds a business. What an unbelievable entrepreneur he has been. It’s all one man. There are no investors here. After 52 years, we’re going to suggest that we put them out of business? Where’s the idea about grandfathering something—

The Chair (Mr. Peter Tabuns): Mr. Thomson, I’m very sorry to say that you’re out of time and we have to go to our next presenter.

Mr. Wayne Thomson: Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much.

WORLD ANIMAL PROTECTION

The Chair (Mr. Peter Tabuns): Next we have World Animal Protection. Ms. Kavanagh, you’ve seen how we work. You have five minutes; you’ll get a one-minute warning. There will be questions from each party.

Ms. Lynn Kavanagh: Yes, it’s Lynn Kavanagh, World Animal Protection. Thank you.

The Chair (Mr. Peter Tabuns): Please proceed.

Ms. Lynn Kavanagh: Good afternoon, everyone. Thank you, Chair and honourable members, for allowing me the opportunity to speak about an issue that is of utmost importance to World Animal Protection, Ontario citizens and Canadians.

World Animal Protection Canada is based in Toronto and is a registered Canadian charity with more than 70,000 supporters across the country and hundreds of thousands of supporters worldwide.

For more than 30 years and in more than 50 countries, World Animal Protection has been preventing animal cruelty and inspiring people to change animals’ lives for the better. Today, we’re working on projects with local

partners, governments and businesses to find practical ways to prevent animal suffering worldwide. We also collaborate with the UN and other international bodies to make sure animals are part of the global agenda, because animal protection is a fundamental part of a sustainable future.

We applaud the Minister of Community Safety and Correctional Services in putting forward Bill 80 to prohibit the keeping of orcas and for establishing standards of care for marine mammals in captivity in Ontario. Decades of research have shown us that orcas don't belong in captivity. As Minister Naqvi has said, for far-ranging, fast-moving and deep-diving predators, captive environments cannot even come close to meeting their needs.

Like orcas, other small cetaceans, such as belugas and dolphins, also have vast home ranges and, like orcas, are highly intelligent, extraordinarily social and behaviourally complex. These qualities and their corresponding needs mean these animals become stressed and suffer in captivity.

Thus, World Animal Protection joins Zoocheck and the Canadian Federation of Humane Societies in the opinion that Bill 80 does not go far enough in its protection of marine mammals. We ask that the importation of wild-caught individuals of other cetacean species also be prohibited. We also urge the committee to include Kiska, Ontario's sole surviving orca, in the proposed ban.

In captivity, the natural hunting and foraging behaviours of cetaceans are thwarted, and boredom is a serious concern. Whales and dolphins are sentient, intelligent creatures who want and need to live in complex social groups. In captivity, they will usually have been separated from their families and often live in unnatural social groupings. In the case of Kiska, she lives in isolation—an impoverished life for a highly social being.

Our report *The Case Against Marine Mammals in Captivity* contains ample evidence of why cetaceans should not be kept in captivity from a public health and safety and animal welfare perspective.

It is well known the public has a growing distaste for marine mammal displays, particularly after the 2012 Toronto Star investigative series on Marineland and the documentary *Blackfish*, which shows the painful and harmful impact of captivity on marine mammals.

The government has the potential to demonstrate itself to be a leader in animal welfare by acknowledging the similarity of belugas and dolphins to orcas, recognizing the logical inconsistency of protecting one species of cetaceans but not others and revising Bill 80 to prohibit the importation of all new wild-caught cetaceans into Ontario.

If Ontario were to ban the importation of all wild cetaceans for public display purposes, it would be a very strong decision that would positively impact the welfare of marine mammals in North America. You would be a leader in advancing the protection and welfare of whales and dolphins, and you would not be alone. In fact, some countries have gone even further. India, Costa Rica,

Hungary, Mexico, Croatia, Cyprus, Slovenia and Chile have all banned the keeping of cetaceans in captivity. It's a trend that's only going to continue as public opposition to caging wild animals grows. Thank you.

The Chair (Mr. Peter Tabuns): Thank you. Okay. To the opposition: Mr. Nicholls.

Mr. Rick Nicholls: Ms. Kavanagh, thank you so much for coming here today. Yes, I did see *Blackfish*, as a matter of fact, and I believe that was trainer error, from what I understand. You also talked about captivity and Kiska being kept alone. I guess a question I might have is: What happens if, in fact, an orca gets washed up onshore and it needs to be rehabilitated? Where would that go? Of course, I would think there's a good possibility that that orca could, in fact, go to Marineland to join Kiska.

I agree that they are social animals, but here's the question I have for you. You previously made the claim over your social media that animals being kept for entertainment is a form of cruelty. In your opinion, is there ever an instance where it's okay to keep an animal captive for the purposes of entertainment, provided the animal is kept in adequate living conditions?

Ms. Lynn Kavanagh: In this case, do you mean marine mammals or animals in general?

Mr. Rick Nicholls: Well, the question is, is there ever an instance where you think it's okay to keep an animal captive for the purposes of entertainment?

Ms. Lynn Kavanagh: For the purposes of entertainment?

Mr. Rick Nicholls: Of entertainment, provided that the living conditions are adequate for the animal.

Ms. Lynn Kavanagh: We have a position against marine mammals in captivity as an organization. That's what we're here today to speak about. So, in general, we don't support animals in entertainment, when they're used in performance situations.

Mr. Rick Nicholls: So if that animal, though—that mammal—is receiving proper medical care, the water conditions are above average and the size of the pool is adequate, the food is monitored—everything is monitored and everything is okay, and the mammal seems to be all right.

The Chair (Mr. Peter Tabuns): You have a minute left, Mr. Nicholls.

Mr. Rick Nicholls: I guess my question to you is: Would you think that that would be all right?

Ms. Lynn Kavanagh: Well, really I would like to stick to the topic at hand, which is Bill 80. However—

Mr. Rick Nicholls: Mammals, orcas, Kiska.

Ms. Lynn Kavanagh: We don't believe that Kiska's needs or the needs of cetaceans can be met adequately in captivity. As I mentioned, I have a report that I've provided a copy of to everyone on a USB stick. There's a multitude of citations in that report that provide evidence to show that.

Mr. Rick Nicholls: I see; okay. How much time do I have, Chair?

The Chair (Mr. Peter Tabuns): Thirty seconds.

Mr. Rick Nicholls: All right. Again, I go back to Kiska; I go back to—this mammal is being cared for extremely well. What would your thoughts, then, be if suddenly they were able to provide another orca for Kiska because she's a social animal, in the same living conditions? Would that be all right?

Ms. Lynn Kavanagh: Well, no. What I'm asking here today is that cetaceans—

The Chair (Mr. Peter Tabuns): I'm afraid you're out of time. My apologies.

Ms. Lynn Kavanagh: Okay.

The Chair (Mr. Peter Tabuns): Ms. French.

Ms. Jennifer K. French: If you wanted to finish that thought, you may.

Ms. Lynn Kavanagh: Yes. As I said in my statement, our position is that we would like to see the end of cetaceans in captivity. So, no, because as I also mentioned, we don't believe their needs can be adequately met in a captive environment. Even if they're well cared for to the best of people's ability, the environment itself is not satisfactory.

1450

Ms. Jennifer K. French: Just for my own clarification, because obviously we're hearing from different voices on this issue in terms of better models for standards and some of that—just so that I'm clear on your position, it's not necessarily the standards; it's just captivity in general?

Ms. Lynn Kavanagh: Well, I'm speaking about Bill 80, which states about banning orcas. What I'm asking today is that that be expanded to other cetacean species because they are so similar in their needs and nature. Based on what Minister Naqvi has said and the reason he put forward the bill in the first place, as I'm saying, it applies to other cetaceans.

Now I've forgotten part of your question.

Ms. Jennifer K. French: That's okay. I'm totally on to the next one. You had mentioned that wild-caught cetaceans should also be banned. Just for my own understanding, if you could list what those would be.

Ms. Lynn Kavanagh: Anything that falls under that biological classification, so generally whales and dolphins and porpoises.

Ms. Jennifer K. French: Okay. Earlier in your submission, you said that your organization works on a number of projects. I've met with different groups and had different opinions come in. This bill is a very specific issue, but would there be another project that perhaps this ministry might have prioritized over this?

Ms. Lynn Kavanagh: Do you mean related to marine mammals or—marine mammals in general?

Ms. Jennifer K. French: Just in general.

The Chair (Mr. Peter Tabuns): You have a minute left.

Ms. Jennifer K. French: This ministry brought forward this bill, and you're right; it's specific to marine mammals. But is there a direction you would—

Ms. Lynn Kavanagh: You know, I can't answer that right now. I'm sorry. This particular issue isn't one of our

main issues right now, but we have, in the past, worked quite a lot on and given input into the revised OSPCA Act when that came about. Right now, we're not working, generally, as a main issue, on captive animals in zoos and aquariums, but because of our strong position against it we want to have a say.

Ms. Jennifer K. French: Okay. Do we have any time?

The Chair (Mr. Peter Tabuns): You have 20 seconds.

Ms. Jennifer K. French: If you wanted to make any further comments on the complex needs and perhaps depth or width or size or volume or tank constraints.

Ms. Lynn Kavanagh: That pertains to the standards of care, and we have given input into that. For sure, we would like to see improved standards of care where marine mammals are going to be living in captive environments, absolutely.

The Chair (Mr. Peter Tabuns): I'm afraid you're out of time. We'll go to the government: Mr. Anderson.

Mr. Granville Anderson: Thank you very much for coming here to present this afternoon. I guess your position is clear that there is no type of social activity for animals that you would support—it doesn't matter how large the facility or how adequate it is.

Specifically in Kiska's situation, I heard earlier that the animal is old and it would be too dangerous to remove the animal from its current environment. Do you have any position on that? Do you think it would be in the best interests to remove the animal at this point to a separate location?

Ms. Lynn Kavanagh: I would like to see an assessment of her health state and mental health state to know if she can safely be moved. I think that it is in her best interests to not live alone. Right now she lives in social isolation. That is not in the best interests of an orca, who is a highly social being. But to say that she cannot be moved would need, I think, several expert opinions.

You had another question before you asked that one.

Mr. Granville Anderson: Finish your thought.

Ms. Lynn Kavanagh: I've finished on that point. You had another question?

Mr. Granville Anderson: Okay. Say the assessment is done and it's proven that it's too dangerous to remove the animal. Would you be in agreement that a companion be found if there is one suitable to join the animal at this point?

Ms. Lynn Kavanagh: That would defeat the purpose. I would prefer that that not occur, because that would then be meaning there are more animals—we want to see the end of cetaceans in captive environments, so no.

Mr. Granville Anderson: Okay. My colleague—

Ms. Lynn Kavanagh: I think you had another question about enrichment and social—

Mr. Granville Anderson: Yes.

The Chair (Mr. Peter Tabuns): You have a minute left.

Ms. Lynn Kavanagh: Okay. Of course we want to see improved conditions and as good conditions as

possible that can be made for these animals. But in the case of cetaceans and even in other marine mammal species, really no matter how good—bigger tanks or how good a level of care and enrichment, these animals are so complex and their lives in the wild are so vastly different that they cannot be met adequately in captivity. That's our position. As I said, there's more evidence in the report, and I hope you'll have a look at that.

Mr. Granville Anderson: Okay. Thank you. Any time left?

The Chair (Mr. Peter Tabuns): You have 15 seconds.

Mr. Granville Anderson: Okay. Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much, Ms. Kavanagh.

Ms. Lynn Kavanagh: Okay. Thanks.

ANIMAL ALLIANCE OF CANADA

The Chair (Mr. Peter Tabuns): We now have a presenter on the line from Animal Alliance of Canada. You may have been listening in. You have five minutes to present and then there will be three minutes of questions from each party, and I'll remind you at the 60-second mark that you have a minute left.

So, Ms. Rose, would you introduce yourself for Hansard.

Dr. Naomi Rose: Sure. Can you hear me?

The Chair (Mr. Peter Tabuns): Yes, clearly.

Dr. Naomi Rose: All right. This is Dr. Naomi Rose. I'm a marine mammal biologist. I actually work for the Animal Welfare Institute, but I am here today representing Animal Alliance. I'd like to thank you very much for having me on teleconference. I understand that's a rather difficult technical matter.

I am an orca biologist. My PhD dissertation was on orca behaviour in the wild, so I am an orca expert. I consider this proposal before you to be very progressive. You would be a leader in North America, certainly, on this issue if you passed this bill.

I do have two concerns regarding it. One is that it is limited to orcas. I know that the previous speaker was asking about expanding it to include other cetaceans, and I second that request.

The second aspect of the bill that I think is problematic is that it excludes Kiska. Again, I know that previous speakers have addressed this, so I will simply say I agree that Kiska's situation is untenable. As somebody else pointed out, killer whales, orcas, are amongst the most social animals in the world. As I said, I studied them in the wild, and you do not see solitary orcas. Certainly you don't see them when they are fish eaters, as Kiska is. They are highly social animals, and her situation is unique in the world. There are three orcas that live without other orcas, but they have dolphins with them—the other two have dolphins with them. The one in Argentina and the one in Miami have dolphins living in the tank with them.

Kiska is completely solitary, and that is really unimaginable, from my standpoint. Having studied these

animals for so many years in the wild, I can't even comprehend what it must be like for Kiska being in that plain, barren tank without other companions of any sort in her taxon. It's just inconceivable to me.

So I think, regardless of her age, if her health is good, she should be moved. Whatever risk is inherent in transporting these animals, and there is risk, it is justified by trying to improve her social situation, which is irremediable in its current incarnation. There's no way to improve her situation.

I know that somebody suggested in the previous question and answer that perhaps another orca could be brought in to be a companion to Kiska. That was tried. That was Ikaika. It didn't work out well, and he was returned to his original facility. So I don't think that's really an option for Kiska. I think she needs to be moved entirely to a separate, well-run facility in another place. Ideally, closest to her would be Orlando or San Antonio, Texas. There are two orca facilities in those locations.

I am not in favour of keeping orcas in captivity, but when it comes to the welfare of an individual animal whose welfare is currently being compromised, I'm willing to settle for a compromise. In this case, it would be to send Kiska to another facility.

So I do agree with expanding Bill 80 to encompass belugas, bottle-nosed dolphins and other cetaceans, and I do agree that Kiska's situation needs to be improved to the point where she's moved to another facility with other orcas.

That concludes my remarks, and I'm happy to take any questions from the committee.

The Chair (Mr. Peter Tabuns): Thank you, Dr. Rose. The first question is to Ms. French from the third party.

Ms. Jennifer K. French: Thank you very much. I appreciate your remarks. I think it's appreciated to hear from someone who has worked with them in the wild.

To your earlier point that there are other orcas in facilities or who historically have had companions that were not orcas—you had said dolphins: Is there an opportunity for that here if she can't be moved?

1500

Dr. Naomi Rose: I could be wrong, so you need to ask Marineland about this, but my understanding is that Kiska was not compatible with any animals they tried to put in there with her, whether they were belugas or bottlenose dolphins. This is an individual thing with her, apparently—and these are individual animals with individual personalities; what may be doable or feasible with one animal may not be with another. Apparently, with Kiska it's another orca or nothing.

Ms. Jennifer K. French: You had referenced some of the earlier speakers. I'm not sure if you heard at the beginning when we were talking about specific standards—in this case, the UK standards versus the CCAC recommendations. Do you have opinions on that, in terms of the tank constraints, for lack of a better word?

Dr. Naomi Rose: Yes, I do have opinions about that. I have been involved in the United States on a negotiated

rule-making panel where we discussed the standards here in the US. That process is ongoing, and I've been part of that process, believe it or not, for 20 years. We are still trying to improve the tank dimensions, the standards for water quality and so on here in the United States.

I've also been involved in discussing standards in the Caribbean and in the European Union. It's one of the things I do as part of my job, so yes, I'm very interested in helping with those standards if that is one way of going forward.

Ms. Jennifer K. French: Were you involved in the technical advisory group?

Dr. Naomi Rose: I am consulting with Zoocheck on that, and I'll leave them to respond to that.

Ms. Jennifer K. French: Okay. So in terms of adopting the proposed UK standards as the model—do you have thoughts on that?

Dr. Naomi Rose: They are currently the best in the world. I think that they can be improved even beyond that, but they are currently the best in the world.

Ms. Jennifer K. French: As opposed to the CCAC standards?

Dr. Naomi Rose: Yes. The CCAC standards, as far as I could tell from what I saw when I looked at them, were not specific enough. The US standards are poor; they shouldn't be used. The UK standards are currently the best in the world.

Ms. Jennifer K. French: Okay. Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much, Ms. French. Mr. Balkissoon.

Mr. Bas Balkissoon: Thank you, Dr. Rose, for being with us. I listened to you carefully. You're suggesting that Kiska should be moved, but you also said Kiska is an individual and it would be a special circumstance. Why are you so confident that if they move Kiska, it will work?

Dr. Naomi Rose: Oh, I'm not confident at all, sir. I just think that the known risk of her remaining in her current inhumane situation is clearly untenable. I think the risk of moving her to a situation where there are other orcas is real—there is a risk—but I think it's doable and must be pursued, because her current situation, which is known, is inhumane.

Mr. Bas Balkissoon: I don't know if you paid attention to the folks from Marineland when they presented—

Dr. Naomi Rose: I'm sorry; I wasn't on the phone at that point.

Mr. Bas Balkissoon: They made it very clear that Kiska is very old and taking a chance to move her at this time is very dangerous. So that's why I was concerned you felt confident that moving the mammal at this time was the best thing to do.

Dr. Naomi Rose: Their confidence that she would be harmed is baseless, just as if I were confident that there would be no harm would also be baseless. I'm just talking about risk assessment. I think the known risk of leaving her where she is is untenable and inhumane; I think the known risk of moving her is worthwhile. I think

it is in her best interests to make the attempt to move her to a facility with other orcas.

Their evaluation of her as old—well, I can just tell you that she isn't old, at least not from the perspective of wild orcas. Wild orcas live to be 50, 60, 70, 80 or 90 years old. Kiska is not even 40 yet, therefore she would be middle-aged. I do think the risk is worth her well-being.

The Chair (Mr. Peter Tabuns): You have a minute left, Mr. Balkissoon.

Mr. Bas Balkissoon: Therefore, really, you understand that this is really up to Marineland to voluntarily move the mammal.

Dr. Naomi Rose: I don't really know how it works in Canada; I'm an American. My whole point, I thought, was that this is something that outside experts and the government can determine is in the best interests of this animal; that it shouldn't be left up to Marineland, quite frankly.

They have a conflict of interest in doing what's best for her, because she doesn't even perform anymore. She is simply there. I've been to see her several times, and she's simply floating there. She doesn't do anything. Her life must be really quite unbearable for her internally, just in her mind, and I just don't think it should be left up to Marineland. They have a conflict of interest in making decisions about her future.

Mr. Bas Balkissoon: Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you. Now to the opposition. Mr. Nicholls?

Mr. Rick Nicholls: Thank you very much, Chair. Good afternoon, Dr. Rose.

Dr. Naomi Rose: Hello.

Mr. Rick Nicholls: You've made some statements that I found were a little bit—well, let me just simply say this. You talked about the UK standards being the best in the world. Well, if they're the best in the world, perhaps you can share with us as to why no countries have ever implemented these standards.

Dr. Naomi Rose: Because they are apparently economically difficult for facilities to meet and still make a profit, which is one of the reasons why I believe these animals shouldn't be held in captivity unless they're in non-profit facilities. When you start exploiting wildlife for profit, you start making decisions that aren't necessarily in their best interests, or in the best interests of their long-term welfare. As long as you are making a profit, you are going to do what you're going to do.

In the case of the UK standards, they in fact did close down all the facilities in the UK, because they decided it wasn't worth operating under those standards, and their profit margins shrank to the point where they didn't think it was worth operating. So if the best you can do for the animals is economically unfeasible from a for-profit standpoint, then you shouldn't be holding the animals in the first place.

Mr. Rick Nicholls: Well, I know that here in Ontario we have the CCAC standards and they seem to be doing just fine. But I have a question for you.

Animal Alliance has a long history of being active in the animal rights movement, and of course you've fought many valiant causes. However, at times your organization has advocated for policies that would drastically hurt the communities involved. So in your opinion, has there ever been an instance where captive animals, provided they are cared for in an adequate and appropriate manner, could be used to serve the interests of a community, whether it be economically or socially?

Dr. Naomi Rose: I am a marine mammal biologist and I do not address other captive wildlife. I leave that to the experts. I am an expert on marine mammals—

The Chair (Mr. Peter Tabuns): You have one minute left.

Dr. Naomi Rose:—so what I will tell you is that I believe there are ways to educate people about these animals, to serve the community with information about these animals, that don't require living animals to be held in captivity. I believe that technology has advanced to the point where we can do a great deal for communities and for local economies with high-tech displays that are cutting-edge and bring in tourists from miles around to see something that they wouldn't see anywhere else. Dolphinariums are everywhere. If you want something that nobody can see anywhere else, then you need to come into the 21st century.

Mr. Rick Nicholls: I guess I'm concerned, Doctor, because you talk about how this bill doesn't go far enough and you want to see dolphins banned; you want to see all kinds of wildlife banned. And yet you've got a community that employs over 700 at one facility but also touches upon several thousands of other jobs in the community which in fact would be impacted by the shutting down of Marineland, in this particular case. So I have a concern in that regard—

The Chair (Mr. Peter Tabuns): Mr. Nicholls, I'm sorry to say that you're out of time.

Dr. Rose, thank you very much for your attendance today. We have to go on to our next presenter.

Dr. Naomi Rose: Thank you.

ZOOCHECK

The Chair (Mr. Peter Tabuns): Our next presenter is Rob Laidlaw. Have a seat. You've seen the procedure. I'll give you your one-minute warning when you get close to the end of your time.

Mr. Rob Laidlaw: Okay. Thank you very much. Good afternoon, committee.

I was very pleased when Minister Madeleine Meilleur, followed by Minister Yasir Naqvi and then the Ontario government, decided to put the proverbial final nail in the coffin of killer whale keeping in Ontario, and I would like to congratulate the government of Ontario for moving in that direction. I think it's a great direction to move in.

As you know, during the past several years, thousands of Ontarians have expressed their opposition to, or concern about, the keeping of marine mammals in captivity,

particularly the whales and dolphins that we've been discussing today. In fact, not that long ago, I was present in the Legislature when an 85,000-person petition on this issue was delivered to former Premier Dalton McGuinty. So I think it's safe to say that public sentiment about the captivity of marine mammals, and indeed about other animals, is changing. If it weren't, I don't think any of us would be in this room today having this discussion.

Because I've only got a few minutes, I only have a few points to make. I'll be reiterating a couple that others have made, and then one that I think is a little different.

First, we certainly endorse the call to expand this prohibition. Minister Naqvi identified several killer whale characteristics that were mentioned previously—the wide-ranging, deep-diving, highly social nature of these animals—and they were used as the government's basis for banning orcas in the province. Well, we believe that prohibition should also extend to Kiska, the sole surviving killer whale at Marineland, because she shares all those characteristics with her wild counterparts and deserves the same consideration. She shouldn't, as a highly social animal, be left to live the rest of her life—and she is only middle-aged—in complete social isolation. As well, we believe the prohibition should be extended to other whales and dolphins because those characteristics identified by the minister are also shared by other cetacean species.

1510

A key recommendation of the government's expert report was the regulation of the importation of wild-caught marine mammals, and I think this is a very important thing that has to be done here. At present, Ontario is the only North American jurisdiction with captive whales and dolphins that does not regulate the import of marine mammals. Even cruelly captured animals, such as the belugas in Russia and the Solomon Islands dolphins, can be imported in an unfettered way into the province.

The US regulates marine mammal imports through the Marine Mammal Protection Act, which involves a very extensive public consultation process. In fact, in 2013, after just such a process, the administering agency, the National Oceanic and Atmospheric Administration, turned down an application from a number of major US aquariums to import 18 wild-caught belugas from Russia.

Mexico also has a marine mammal protection act, and here in Canada, the Vancouver Aquarium, the only other facility in the country with whales and dolphins, is regulated through a park board bylaw, which mandates that no wild-caught cetaceans that were caught after 1996 can come to the aquarium.

Federally, whales and dolphins cannot be captured for public display purposes in Canadian waters. Ontario currently stands alone in allowing the import of whales and dolphins from anywhere for public display.

While we would prefer a complete phase-out of cetacean captivity for the reasons stated by previous speakers, we think at the least the Ontario government should end the import of wild-caught cetaceans.

My last point is that even though the Ontario SPCA Act is concerned about animal protection and welfare—and that's what we're here to talk about, not economics—I do want to make a comment about economics. I think it's important to remember that this entire process today, at this point in time at least, is dealing with a single private business. There's no real marine mammal industry in the province; it's one private business.

Marineland currently has 40 belugas, more than all US aquaria combined—the largest single collection of captive belugas in the world. If imports of wild-caught whales and dolphins were to stop today, it is likely that Marineland would still have a viable display of belugas 10, perhaps 15, even 20 years from now. That's because the beluga deaths will be somewhat compensated for by births. If you banned wild imports they would still have their animals, if they stay here.

Marineland also would have the option of acquiring other animals already captive in other aquaria and marine parks. It's a very generous and lengthy transition period. They can transition to other types of animals: to sharks, to pinniped displays. They won't go out of business. Many zoos all over the world have evolved and changed their format over the years to change with the times, and Marineland could do that. The suggestion that prohibiting wild-caught whales and dolphins or having standards in place would adversely affect Marineland's business I think is an erroneous suggestion.

Therefore, I urge the committee to move forward with the recommendation to prohibit the importation of wild-caught whales and dolphins, and to include Kiska in the orca prohibition.

The Chair (Mr. Peter Tabuns): I'm afraid you're out of time. We'll go to the government. Mr. Balkissoon?

Mr. Bas Balkissoon: I just want to say thank you very much for being here and making your presentation. I have no questions. Thanks.

The Chair (Mr. Peter Tabuns): Okay. To the opposition. Mr. Nicholls?

Mr. Rick Nicholls: Thank you, Mr. Laidlaw, for coming. I realize you're waving the company flag in stating the opinions of Zoocheck, and I respect that, but I think we need to look at the total picture here, which is not just the animal's well-being, which I admire and I support, but also, there are regional economics that we also need to look at in this entire thing.

Some questions for you very quickly: During the OSPCA and CAZA investigation of Marineland, Zoocheck, your organization, criticized the social isolation of Kiska, the orca whale. Would you support actions taken by Marineland to bring in a partner for Kiska?

Mr. Rob Laidlaw: Absolutely not. I think the time is right for ending this practice in Ontario. We've got one whale left; we don't want to prolong the problem. What if one of those whales dies? You'll be faced with the same situation. Do we then bring in another whale, and then another whale, as they die off? I don't think that's the answer to anything.

I think we have to say to ourselves, "Let's make a tough decision. Let's get this through and let's force

Marineland to move that orca to a better situation where Kiska's complete social isolation is mitigated, and let's be done with it." That's what the public wants; that's what Ontarians have said—

Mr. Rick Nicholls: No, I think that's what you want, Mr. Laidlaw. I would challenge you: We've already heard from Marineland that Kiska is not well enough to travel. Okay? You'd be putting her health in danger, period—bottom line. The previous speaker also said that she should be moved and perhaps taken to maybe SeaWorld or someplace in Texas, that type of thing. Well, let's go on the premise that she can't be moved. Zoocheck has also criticized CAZA's investigation into Marineland, stating just how ineffective the organization is and how remarkably low their standards are. Yet CAZA's standards—

The Chair (Mr. Peter Tabuns): You have a minute left, Mr. Nicholls.

Mr. Rick Nicholls: —have, in fact, been recognized as the benchmark of Canada. This is where we live. So what in particular do you find unsatisfactory about CAZA?

Mr. Rob Laidlaw: CAZA's standards are very brief. They're vague. They're not species-specific. We don't feel, based on history, that CAZA has the capacity to properly monitor their member institutions or to ensure compliance with their own regulations. In fact—

Mr. Rick Nicholls: Do you support the UK?

Mr. Rob Laidlaw: We feel that the UK standards are a good starting point for the discussion for standards in Ontario, but it's premature to really comment on the standards, because they're not yet developed. With regard to Kiska being moved, it's like Dr. Rose said: The potential return in terms of welfare enhancement for Kiska by being moved is well worth the risk.

We moved the Toronto Zoo elephants. We've moved entire zoos full of animals. We've moved big cats across countries. Every single time zoos and aquariums said they're too sick to be moved—

The Chair (Mr. Peter Tabuns): I'm sorry to say that you're out of time. We'll go to the last questioner, Ms. French.

Ms. Jennifer K. French: If you wanted to finish that thought, you could go ahead.

Mr. Rob Laidlaw: I would say that you have to consider that zoos and aquariums are saying these things because it's in their own interest to say these things; it's not necessarily in the best interests of the animals.

We've moved many animals of a whole range of species, from sea turtles to elephants. Every single time zoos and aquariums have said, "They're too sick to move; they're too old to move; they'll die in transport," we've never had that happen. The people who we work with who transport animals—we just had a team in Mexico looking at transporting a polar bear to the UK—have never had that experience either.

Yes, there's a risk. But to believe that a 40-year-old orca, a middle-aged orca, doesn't deserve the chance to have its social isolation mitigated is ridiculous. It's absolutely ridiculous. She should be moved.

Ms. Jennifer K. French: We've now heard that she's middle-aged. We've also heard that she's old. Why are we hearing those two different—

Mr. Rob Laidlaw: Because if you look at what zoos and aquariums often do—they often say that elephants that are in their forties are elderly elephants. In fact, that was the case in Seattle recently. They moved two elephants called Chai and Bamboo to the Oklahoma City Zoo. During that debate, they said their elephants were old. Well, the oldest African elephants are over 70. The oldest documented Asian elephant was 86 years old. There are two elephants in the Panna Tiger Reserve who are 95. You'll find that they really downplay the age because it suits their own purposes.

If you look at orcas, there were 103-year-old orcas sighted off the coast of BC just recently. There are documented orcas that are exceeding 90 years of age. So she's not old; she's middle-aged. The science shows that.

Ms. Jennifer K. French: Thank you. You had made an earlier point suggesting that there might be opportunities for transition.

Mr. Rob Laidlaw: Yes.

Ms. Jennifer K. French: One of the things that you mentioned was about sharks. I have what I consider a basic understanding of the difference.

The Chair (Mr. Peter Tabuns): You have a minute left, Ms. French.

Ms. Jennifer K. French: The tanks that are currently in existence and meeting the standards now, why are those appropriate for sharks, but not—

Mr. Rob Laidlaw: Well, there are no standards now. But I think that you can look at the infrastructure of any facility—whether it's a zoo for terrestrial animals or an aquatic zoo, like Marineland—and adapt what you've got there in terms of infrastructure for other creatures.

Lots of facilities do that. The Minnesota Zoo transitioned from an exotic species zoo to a cold-weather animal zoo. You see this all over the world, and I've seen zoos all over the world and aquariums all over the world. I think there's a tremendous opportunity.

Personally, I don't like what's at Marineland, but I think they're missing an opportunity to evolve with the times. I think they could have a much better facility that would attract more people if they just evolved and went with the times and saw that this is all coming anyway.

The Chair (Mr. Peter Tabuns): I'm sorry to say you're out of time. Thank you very much.

Mr. Rob Laidlaw: Thank you.

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ANIMAL JUSTICE

The Chair (Mr. Peter Tabuns): Our next presenter, then, is Animal Justice: Camille Labchuk. As you've seen, you have up to five minutes to talk. I'll give you a warning when you're running out of time. If you'll introduce yourself for Hansard.

Ms. Camille Labchuk: Thank you. I'll just grab some water.

The Chair (Mr. Peter Tabuns): Sure.

Ms. Camille Labchuk: Good afternoon. I'm Camille Labchuk. I'm a lawyer with Animal Justice, where I serve as director of legal advocacy. We're a national organization using the law and legal skills to help animals and advocate for stronger protections for their interests. We're the only organization in Canada focused specifically on animal law.

The thrust of my comments today is that while we welcome with open arms the ban on the future acquisition and breeding of orcas in Ontario, this barely even touches the tip of the iceberg of marine mammal welfare in Ontario. Without addressing some of the more fundamental problems, Ontario will continue to fail animals in this province.

I'm going to touch on some points in the submission—I believe you have paper copies that you can access as well, which I provided to the Clerk—but the first three points are ones that have been made by Mr. Laidlaw and some other presenters.

(1) Extend protections for orcas to Kiska. The government has already acknowledged that orcas are inappropriate for captivity due to their large size, their ability to dive deeply and swim up to 100 miles per day and their inherently social nature. No mere change in the standards of care for Kiska will compensate for the fact that she is kept in isolation and is afforded no opportunity to socialize and interact with members of her own species. If she's not included in the ban, she will be doomed to die in isolation.

(2) Extend the prohibition on breeding and importation to other cetaceans. The rationale for prohibiting the captivity of orcas extends equally to other species, like belugas and dolphins, which are also wide-ranging, deep-diving, very social creatures. They're equally deserving of protection.

(3) Prohibit the importation of wild-caught cetaceans and pinnipeds. I don't propose to expand on this too much more as Mr. Laidlaw has already done so, but obviously, Ontario is the only province that still permits this practice.

(4) It's critically important to establish a licensing regime for zoos and aquariums in Ontario. Right now our province is the Wild West, frankly. We don't protect animals by requiring that zoos and aquariums be licensed, and wild animal owners should be required to seek permits.

Licensing these facilities, in my view, is quite fundamental to protecting animals from abuse and neglect and protecting public safety. At present, the government does not have the authority to stop a zoo or aquarium from operating despite standards that could be quite poor. We don't have comprehensive, enforceable standards for animal care in zoos and aquariums and we don't require record-keeping for zoo and aquarium animals. There's no degree of any appropriate education, expertise or financial ability on the part of animal owners, handlers, custodians and facility operators.

In our view, this is essential to addressing the interests of marine mammals and it's a critical component of what should be in Bill 80.

(5) We believe that there should be regular, mandatory, unannounced inspections provided for in Bill 80. Complaint-based enforcement of animal welfare concerns is inappropriate for zoos and aquariums as the model doesn't work. Complaint-based enforcement relies on complaints from the public, and when much of these animals' lives takes place away from public view, unless we have a whistle-blowing employee, the public and authorities are often kept in the dark respecting animal welfare issues.

We would counsel regular, vigorous, unannounced inspections of captive animal facilities, with the assistance of vets and other personnel with expertise in marine mammal welfare.

(6) We need to ensure veterinary records for marine mammals, inspection reports of facilities and details of enforcement action will all be made public.

Obviously, the welfare of marine mammals is an issue of deep concern to all Ontarians; we've seen that. But currently, transparency around animal welfare concerns is sorely lacking. Greater transparency will help ensure accountability and public confidence.

Finally, any standards of care that are promulgated should have a five-year sunset clause so that after five years—

The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Camille Labchuk: Thank you—the standards are reviewed to reflect the state of marine mammal science. Our understanding of the physiological and psychological needs and welfare of marine mammals is constantly growing as a result of the research that's being conducted on these animals on an ongoing basis. The standards of care must be regularly updated to reflect that.

In conclusion, we're asking you to not forget that you govern not simply for the people, but for animals as well. I thank you for the opportunity to comment today on the proposed changes in Bill 80.

The Chair (Mr. Peter Tabuns): Thank you very much. We go first to the opposition. Mr. Nicholls.

Interjection.

The Chair (Mr. Peter Tabuns): Have you been subdued in, Mr. Hudak?

Mr. Tim Hudak: I can still ask questions.

The Chair (Mr. Peter Tabuns): Okay.

Mr. Tim Hudak: Thanks very much for the presentation.

I know that Animal Justice said that circuses should be shut down in the province, that they're considered an act of cruelty. Are you of the same view of Marineland's mammal show, that it should be shut down entirely?

Ms. Camille Labchuk: We have a problem with marine mammal exhibition and performance. Certainly, the state of the science shows us that marine mammals can't be kept in captivity without raising serious concerns for their welfare. They're simply not appropriate candidates for captivity.

Mr. Tim Hudak: Yes, but you guys want circuses closed down. I just think that Animal Justice's view is

outside of the mainstream when it comes to the approach. I appreciate it—I think you're sincere about your beliefs—but you would like to see Marineland close down altogether, I would imagine, when it comes to the sea mammals.

Ms. Camille Labchuk: I've never actually said I'd like to see Marineland close down altogether. I think what we know and what science tells us is that marine mammals, particularly cetaceans, are inappropriate as candidates for captive animals. They simply don't do well in captivity, and we shouldn't be keeping them in that position.

That said, I think I would agree with Mr. Laidlaw in his remarks. Marineland is missing an opportunity to transition to an alternate business model that removes some of the worst forms of cruelty to marine mammals.

Mr. Tim Hudak: I know the views of your group are more on the fringe side, from time to time, when it comes to shutting down acts altogether. I appreciate the views that you have, but almost a million people every year enjoy going to Marineland. They enjoy taking their kids there. They enjoy the entertainment side, learning more about the animals. The concern I've expressed is that the government's approach may be a backdoor way to try to close the park down, and I think we should be very, very careful about that.

We support high standards. As we've heard from CAZA today, the CCAC approach—I just worry that some of the groups that have come before us today are actually looking to close the park down entirely and deny the opportunity for the jobs and for local families to benefit, subject to high standards.

We share the view that the government's approach, which would condemn Kiska to a life in solitary confinement, is the wrong approach. There should be a common-sense amendment to allow companionship for Kiska. We've heard scientific evidence that Kiska being moved at the current age would currently kill her. We don't think euthanizing a killer whale is the proper approach. That's why we're proposing an amendment to ensure that Kiska can have companionship. We just feel that permanent sentence of isolation is a very bad aspect of Bill 80.

Ms. Camille Labchuk: I agree with you that permanent isolation isn't appropriate for Kiska, and that's why we advocate that she be moved. I think the only scientific evidence we heard today—we heard from a lawyer for Marineland, but the scientist, Dr. Naomi Rose, certainly didn't share his view that she would necessarily die.

The Chair (Mr. Peter Tabuns): I'm sorry to say, Ms. Labchuk, that your time is up on this question.

I go to Ms. French, for the third party.

Ms. Jennifer K. French: Actually, you brought up a point that we've heard earlier as well: that Ontario is the only jurisdiction that still allows the importation of wild-caught cetaceans. Could you give me a little bit more of an understanding there, please?

Ms. Camille Labchuk: Absolutely. The federal government of Canada prohibits the wild capture of cetaceans in Canadian waters, but unfortunately there's a

massive loophole at the federal level that still allows for the importation of cetaceans and other marine mammals that have been captured elsewhere.

Currently, there are two facilities that house cetaceans in Canada: Marineland is one, and the Vancouver Aquarium is the other. The aquarium, as Mr. Laidlaw explained, has had a bylaw imposed upon it by the parks board of Vancouver that it not capture wild animals and import them into its facility. It not only has had that imposed, but it has also agreed to do so, because the aquarium believes that doing so is inappropriate. That really leaves Ontario as the only province with a marine mammal facility operating that allows for the importation of wild-caught marine mammals into that facility.

Ms. Jennifer K. French: To your point earlier, you had said it was like the Wild West, that currently the government doesn't have the authority to shut down or address—I missed what you had said. Was it unlicensed zoos and aquariums?

Ms. Camille Labchuk: Well, the problem is that there is no licensing regime for zoos and aquariums, so in theory the government does not have the authority to shut down a facility that's operating. It doesn't have to operate pursuant to a licence. Any private individual in this province could go and obtain an exotic animal if he or she wished to do so and display that exotic animal for commercial purposes. In our view, this is something that absolutely needs to be regulated. The only way that the government can have effective oversight—

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The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Camille Labchuk: —over such operations is to regulate and license and permit zoos and aquariums.

Ms. Jennifer K. French: You had also made the point, when you were talking about complaint-based enforcement, of relying on other whistle-blowers or public complaints and the need for greater transparency. What would that greater transparency, generally speaking, have to look like?

Ms. Camille Labchuk: In many jurisdictions, inspection reports done by authorities of captive animal facilities are made public and the public has the right to access those documents so that they can effectively oversee what's happening in their backyards as well. We believe pretty strongly that that would enhance public confidence in the system.

Ms. Jennifer K. French: Okay. Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Ms. French. To the government: Mr. Balkissoon.

Mr. Bas Balkissoon: Thank you very much for being here. I listened to you very carefully and I'm glad my colleague asked a question about the licensing regime. But you also made a comment about mandatory enforcement and regular visits. I'm wondering if you had spent any time to read Bill 80, because I'm looking at section 4(1), subsection 11.4—section 1 and section 1.1 of that—and also 11.4.1, and it covers all the inspection processes. I'm wondering if you had a chance to read this and

realize that there are inspections and there are regular visits. There's also the requirement that an inspector is able to take in a veterinarian with them and there is a requirement to produce the records that you mentioned in your comments. So I'm wondering if you actually had a chance to read Bill 80.

Ms. Camille Labchuk: Yes, thank you. I have. What's critically important is that inspections be regular and unannounced and random. I'm glad that you brought up the point about licensed and qualified individuals being brought in, because that's critically important. There are very few veterinarians with actual expertise in marine mammal welfare, and that is an important point. I think it's equally important that the results of those inspections, the results of any enforcement orders that may be levied by the OSPCA, be made public so that not only is the OSPCA overseeing this process, but the public has the right to access that information as well.

Mr. Bas Balkissoon: So what is your concern about section 4.1? When you say "regular," what do you mean by regular? Because to me, this covers what you're asking for.

Ms. Camille Labchuk: I don't have a copy of the bill in front of me, but in my view it needs to be set out on a specific schedule.

Mr. Bas Balkissoon: But if you have a schedule, how does that satisfy your requirement to visit unannounced?

The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Camille Labchuk: Well, obviously you would not give advance notice to a facility that's being inspected that the inspectors are going to show up.

Mr. Bas Balkissoon: But anybody who has a schedule will give advance notice, so you're contradicting yourself.

Ms. Camille Labchuk: I trust that there are ways of, while still providing regularity, introducing a degree of randomness as well to ensure that the visits truly are unannounced.

Mr. Bas Balkissoon: Thank you, Mr. Chair.

The Chair (Mr. Peter Tabuns): Okay. Thank you, Ms. Labchuk.

DR. LANNY CORNELL

The Chair (Mr. Peter Tabuns): Our next speaker is Lanny Cornell, who is joining us by teleconference. As you probably heard, you'll have up to five minutes to speak and then we'll go through questions, with three minutes to each party. When you have 60 seconds left, I'll give you notice. Would you introduce yourself, please, for Hansard.

Dr. Lanny Cornell: Good afternoon. My name is Dr. Lanny Cornell. I have been working with and studying and caring for marine animals as a veterinarian for over 40 years. I have experience with dolphins, seals, sea lions, whales and many marine birds and sharks.

During my experiences with marine mammals, I have personally removed bullets from at least three killer

whales and several other types of marine mammals which were shot and wounded in the wild. Most of this occurred in the 1970s and 1980s, but, to me, it's interesting to note that since killer whales have been displayed in facilities such as Marineland, the number of animals that have been killed and shot in the wild has decreased considerably.

The female killer whale Kiska lives at Marineland and has been there since the mid-1970s. During that time, she has been observed by and has taught approximately 30 million people about killer whales and marine life in general at Marineland. That you are here today discussing marine mammals in aquariums and zoos is a tribute to the success of Marineland in educating the public and making them aware of these magnificent animals.

At this time, Kiska has been at Marineland for more than 30 years. I have had the privilege of studying her for all of that time. She is among the older of many killer whales in zoos and aquariums across the world. She is currently housed in a facility at Marineland which technologically and physically is amongst the best and largest in the world. She is well adapted, receives considerable attention from her caretakers, and is well fed with quality fish fit for human consumption.

While we would prefer to see her housed with at least one other killer whale, consider that she receives constant attention from her caretakers and that the other whales in the facility, while not killer whales, do allow her communication with other whales.

Consider that she is one of the oldest whales in zoos and aquariums in the world, along with a female killer whale at Miami Seaquarium in Florida and another in California, all of which have been in an aquarium environment for from 30 to 50 years. This means she and the others have been alive as long or longer than any other killer whales not only in the zoological environment but also in the wild.

Consider that some of those animals have been or had been maintained in facilities far smaller and less technologically advanced than Marineland's pools are today.

Consider that Keiko, a large male killer whale, lived over 15 years in a Mexican facility before he was moved to new, modern facilities, and that the pool he was in in Mexico was only 12 feet deep. It was really considered a small dolphin pool.

Consider that other whales have lived or are living in pools 1/10th the size of Marineland's and that they have lived for as long as wild whales.

What, then, is or are the factors which allow these whales to thrive for so many lifetimes in such facilities? Obviously, it's not the size of the facility.

The water quality and food sources are paramount to the long-term health and longevity of killer whales. Even small facilities can have very good water quality. Some are provided with seawater directly from the ocean. Some, like Marineland, are provided man-made seawater. The factors influencing health are the perfect quality of the water, the quality of the food and psychological care, which are most important.

Most of the time, such man-made facilities provide water quality better than that of natural sea water when considering bacterial contamination and environmental pollution as is found in the Pacific northwest today.

The other most important environmental factor is food quality. Whales in aquariums are provided food from sources—

The Chair (Mr. Peter Tabuns): You have one minute left.

Dr. Lanny Cornell: —which are the same as fish food for humans. Food fit for human consumption in modern countries is tested for bacterial contamination.

Thus, we see that outside of great psychological care, the physical factors influencing whales are the most important, not the size of the facilities.

There are those who say a whale or dolphin must be able to swim up to 100 miles a day. The fact is, no whale swims such a distance without a motive, because it would be a waste of precious calories in a hostile and competitive environment.

There are proposals in some countries to enlarge whale and dolphin facilities to great sizes to make them impossible financially for anyone to afford. Such size increases are not necessary for the long-term well-being of killer whales. These are "feel good" proposals only, and have no scientific basis. They are solely designed to eliminate zoological facilities altogether.

Kiska—

The Chair (Mr. Peter Tabuns): Dr. Cornell, I'm sorry to say that you've run out of time for presentation. We're going to the question phase. We'll start with Ms. French in the third party.

Dr. Lanny Cornell: Very well.

Ms. Jennifer K. French: Thank you very much, Dr. Cornell. I appreciate your call and your input.

Just in reading through some of your notes that you were talking about, there's a part here: "This means she and the others have been alive as long or longer than any other killer whales not only in the zoological environment but also in the wild." So some of what we've heard today—we've heard about orcas that have lived about 100 years. What are your thoughts on that?

Dr. Lanny Cornell: Well, I don't know how anybody would know that an orca has been alive for 100 years, because we only started studying them and taking pictures and photographs of them in Puget Sound and that area about 40 years ago. Some of those were sub-adult animals when those photographs started being taken. So that's a pretty good guess, that some of these animals lived 100 years, but it's a speculation.

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Ms. Jennifer K. French: Okay. To further that point, though, do you think that living in captivity versus in the wild would make a difference on life expectancy?

Dr. Lanny Cornell: No, I don't think so in this day and age. I don't think so any longer, no. I think there was a time when that could have occurred when animals were originally kept in captivity and nobody knew anything about them, but the scientific data has been so complete

and so enormous on behalf of marine animals that it's not a factor any longer.

Ms. Jennifer K. French: Okay. You've asked us to consider Keiko, a large male killer whale that had lived for a number of years in a Mexican facility, as you said, in a pool about 12 feet deep, considered a dolphin pool. A few points later, you had asked what the factors might be that would allow these whales to thrive for so long in such facilities.

The Chair (Mr. Peter Tabuns): You have one minute left, Ms. French.

Ms. Jennifer K. French: Your use of the word "thrive" there, would you recommend different environments rather than that—12-feet deep? Would you consider that to be living or to be thriving?

Dr. Lanny Cornell: Well, I think that would be living. I didn't indicate that he thrived in Mexico, but he certainly thrived after he left Mexico in a facility that was approximately the size that Marineland is currently, that was built just for him to recover in.

However, the facilities that Kiska is in and also the facilities at other places around the world—the modern facilities are certainly adequate. I helped design a number of those facilities, and I'm very proud of the fact that we've increased the longevity. Not only that, but we have had killer whale babies born in captivity, which had never happened—

The Chair (Mr. Peter Tabuns): I'm sorry to say, Dr. Cornell, you're out of time with this questioner.

Ms. Jennifer K. French: Thank you.

The Chair (Mr. Peter Tabuns): We'll go to the government. Mr. Balkissoon.

Mr. Bas Balkissoon: I just want to say, Dr. Cornell, thank you very much for joining us today, and thank you for your comments.

I just have a question: Do you believe that the development and implementation of an enhanced standard of care, which does not exist in Ontario today, will actually help us improve public confidence in these facilities and the care of these mammals?

Dr. Lanny Cornell: I was instrumental in some of the programming originally that went into the USDA promulgation of rules and regulations for marine animals in the United States. I definitely think that some of these regulations and rules are very important. But when you start talking about building pools that are a city-block wide and 40 or 50 feet deep for maintaining a killer whale, it begins to sound to me like somebody's just trying to make sure that no one can afford it.

Mr. Bas Balkissoon: Thank you very much. Earlier we had a deputant, Dr. Rose, who also claims to have the same credentials as yourself, but her testimony was completely opposite. Have you had an opportunity to listen to her, or are you familiar with her work?

Dr. Lanny Cornell: Well, I'm familiar with her work as a bureaucrat, yes. As a practising veterinarian for caring for whales and dolphins and killer whales in captivity, I'm not aware that she's ever done any of that.

Mr. Bas Balkissoon: Thank you very much.

The Chair (Mr. Peter Tabuns): We'll go to the third party. Mr. Hudak.

Mr. Tim Hudak: Dr. Cornell, thank you very much. Tim Hudak is my name. Thanks for being part of this—appreciate the depth of your experiences. Has Dr. Rose, to your knowledge, treated Kiska? Has she been alongside you over your decades of treatment of Kiska?

Dr. Lanny Cornell: No.

Mr. Tim Hudak: I've got a couple of quick questions for you. We've seen before our committee a number of groups that I think are pursuing more of a vendetta, a political mandate as opposed to truly animal welfare. I think it's animal rights politics trumping animal welfare. For example, Animal Justice basically called Marineland "a house of horrors." I think it's a fringe viewpoint. When I asked if they wanted Kiska to be moved, they basically said it's worth taking a chance. Is that good advice, to just haul Kiska out of Marineland and put her somewhere else?

Dr. Lanny Cornell: Absolutely not. That's almost absurd.

Mr. Tim Hudak: I thought it was cavalier, not absurd. What would happen if Kiska were suddenly moved?

Dr. Lanny Cornell: Well, it would depend on who was able to move her. I would say that there's probably only one or two or three people in the world today who could supervise something like that that could have a good chance of getting away with it. But the average moving environment for a killer whale that size, with her history of illness in the wild—she was terribly ill when she first came to Marineland, and the fact that she's at Marineland is the reason she's alive. She would have died in the wild many years ago.

Mr. Tim Hudak: Would you support a humane amendment to this bill which would allow the minister to permit an additional orca to keep as Kiska's companion and avoid this notion of a life sentence of solitary confinement to the animal?

Dr. Lanny Cornell: If that was something that could be done, I would absolutely say that she would be better off with a companion animal with her, of course. I think we'd all like to see that. Barring the obtaining of an animal for her as a companion, she's doing very well as she is.

Mr. Tim Hudak: A last quick question in the interests of time—

The Chair (Mr. Peter Tabuns): You have one minute left.

Mr. Tim Hudak: Thank you, Chair. I'm respectful of that.

The government has talked about UK standards for tanks. I understand that they've never actually been implemented anywhere in the world. Would you care to comment on that?

Dr. Lanny Cornell: I've never seen anything for whales or dolphins anywhere in the world that's the size of what they're talking about. The facilities at Marineland are actually probably about the largest that there are

in the world today. They cost in the tens of millions of dollars to build. If you start building something a square block big or two square blocks big and 50 feet deep, you're talking about billions of dollars in construction.

The Chair (Mr. Peter Tabuns): Thank you very much, Dr. Cornell.

MS. CARLY FERGUSON

The Chair (Mr. Peter Tabuns): We go to our next presenter: Carly Ferguson. You're familiar with how we operate. I'll give you a minute's notice when you're out of time. Please introduce yourself for Hansard.

Ms. Carly Ferguson: My name is Carly Ferguson. I'm just a mom, just an ordinary person. Thank you for giving me the time.

I'm here today on behalf of Kiska, Ontario's last captive orca. If Kiska is not included in Bill 80, it will ensure that she spends the rest of her life in solitary confinement, never to see another member of her species again. Obviously, Kiska cannot speak for herself, so I am here to speak for her.

Something must be said for what experts have described as "the world's loneliest orca," who has been an unwitting tourist attraction for almost 40 years. I appreciate the time I've been given to do that.

All experts, including those I have consulted and the government's own, agree that no new standards, no bigger tank, no amount of rubber balls, tires on a rope or interaction with trainers could compensate for Kiska's isolation. Dr. David Rosen, the government's expert, states in his report, "Social isolation has been demonstrated to result in adverse behavioural and physiological consequences.... For many species, social isolation is clearly a stressful condition.... Most curators have recognized that social groupings can improve the well-being of animals in their care." Why is the government ignoring this?

Through the decades, her tank mates have been moved from her or have died. More devastating is that Kiska has a 100% infant mortality rate. I would ask you to think about that, especially if you're a parent. Kiska has lost five babies. Her first was of unknown name; her second, Kanuck; then, Nova, Hudson and, finally, Athena.

I've spent much time observing Kiska, but not once have I heard her vocalize. What's the point when the only answer would be her own voice bouncing back at her from a concrete wall?

Former senior SeaWorld trainer and bestselling author John Hargrove said, "Kiska ... just breaks my heart. I have to be honest and just say that I often consciously find myself blocking her out of my mind because it's just so horrific, the condition she lives in as a solitary animal. It is the height of cruelty." Every Ontarian should be ashamed to hear that statement.

The Minister of Community Safety and Correctional Services office informs me that most of their phone calls and emails are from people concerned for Kiska. So I ask you to listen to your constituents and the over 28,000

signatures on her petition who are pleading with you to help Kiska.

I would like to read to you a recommendation from Dr. Naomi Rose, who you heard from today: "Kiska's situation is unique in the world—she is the only captive orca being held entirely isolated from other marine mammals. Lolita in the US and Kshamenk in Argentina have other dolphins to interact with—Kiska has no one. She spends endless hours floating listlessly, neurotically circling ... inside her own head in a way we can only liken to prisoners in solitary confinement. Except she has no understanding of why this is her life. It is imperative the government do something to improve her welfare—it is inhumane in the extreme to leave her as she is. She should be transferred to another facility with other orcas."

Our current OSPCA act standards of care for captive wildlife states, "Wildlife kept in captivity must be kept in compatible social groups to ensure the general welfare of the individual animals...."

This provision has been in effect since 2009, so why has Kiska been kept in isolation since 2011? That's over four years now.

As well, CAZA, who we heard from today, state in their accreditation standards, "Animals must be displayed in exhibits and in numbers sufficient to meet their social and behavioural needs. Display of single specimens should be avoided unless biologically or behaviourally correct for the species or individual involved."

1550

Dr. Jeff Ventre, a veteran SeaWorld trainer has sent me this statement to read to you.

"To Parliament:

"Orcas are known to be more social than humans. Within that context, it has become clear that Kiska's situation at Marineland amounts to cruelty. Years of being bored or alone has left her with no viable teeth from chewing on concrete and parts of her facility. Science has demonstrated that captivity is detrimental for killer whales, but Kiska's situation is amplified by the fact she is not only confined, but alone."

Dr. Ventre has said that Kiska has arguably the worst set of teeth of any captive orca. No place else in the world keeps a captive orca in total seclusion. In fact, most countries have laws expressly against it. Only the province of Ontario holds that dubious distinction. I repeat: There is nowhere else in the world that keeps an orca in solitary confinement besides right here in Ontario.

In closing, I urge you to include Kiska in Bill 80's prohibition on orca whales so that she may be transferred to a facility with superior vet care and other orcas. It is the humane thing to do. The decision that you're making today could potentially affect Kiska for the next 30 to 40 years—

The Chair (Mr. Peter Tabuns): Ms. Ferguson, I'm sorry to say that you're out of time for your presentation, and—

Ms. Carly Ferguson: Do not let your legacy be that the last orca in Canada died alone.

The Chair (Mr. Peter Tabuns): We'll go to questions. Mr. Balkissoon?

Mr. Bas Balkissoon: Thank you very much for being here. You're suggesting that we change the legislation and allow Kiska to be moved.

Ms. Carly Ferguson: Yes.

Mr. Bas Balkissoon: You've heard from Dr. Cornell and you've heard from the people at Marineland that the facility at Marineland is the best among all that are available around. Can you clarify? Where would you suggest that Kiska be moved to?

Ms. Carly Ferguson: I've based my opinion off of experts' opinion—and you've heard from Dr. Naomi Rose. She would suggest that no tank, no matter how big it is and no matter how much they say they have superior vet care, can compensate for a killer whale's isolation.

Mr. Bas Balkissoon: So you're suggesting we return her to the wild?

Ms. Carly Ferguson: No, I would suggest that she be moved to another facility that has other orcas, such as San Antonio.

Mr. Bas Balkissoon: Are you sure that they're a willing receiver?

Ms. Carly Ferguson: No, but that would be a step that the government would have to take to recognize that Kiska should not be in isolation.

Mr. Bas Balkissoon: You see that as the government's responsibility to arrange that move?

Ms. Carly Ferguson: I feel that Kiska should not be alone. It also goes against our current OSPCA Act that she's alone. So I feel that, yes, the government needs to step in and do something.

Mr. Bas Balkissoon: Thank you very much, Mr. Chair.

Ms. Carly Ferguson: Also, in your folder there is a transfer recommendation and a transfer plan.

The Chair (Mr. Peter Tabuns): Ms. Ferguson, we're going to go on now to the opposition. Mr. Hudak.

Mr. Tim Hudak: Thank you, Chair. I'll be glad to share my time with Mr. Nicholls, if he wants. I just have one question.

Thank you for the presentation and the obvious passion you feel for Kiska and marine mammals. My daughter's first big kid movie, the first one that wasn't a cartoon, was *Dolphin Tale 2*, and she was very moved by the story about how the dolphin there was in a similar situation—isolated—and they brought in a younger dolphin to give her companionship.

If we're concerned—and we all are, I think—about Kiska's health and well-being, wouldn't it be better to move another currently captive orca that's younger and healthier to be Kiska's companion, as opposed to taking the risk and moving Kiska out of Marineland?

Ms. Carly Ferguson: Well, for two reasons: In 2011, the last orca that Kiska was with—I can't remember his actual name, but we'll call him Ike as a short form. From what I heard from newspaper articles and stuff, Ike and Kiska did not get along because he was much younger

than Kiska, so he ended up being transferred back to SeaWorld.

The other main reason, which Mr. Laidlaw pointed out, is that say Kiska were to die, and then we have another lone orca on our hands here. I don't think that's the solution at all.

Mr. Tim Hudak: It seemed Dr. Cornell was very clear, and I think the government, by Mr. Balkissoon's questions, hopefully will be sympathetic to Mr. Nicholls' amendment, which would be a humane amendment to allow Kiska to have a companion under prescriptions by the minister and to watch out for the situation that you described. I just thought that Animal Justice was very cavalier on saying it's worth taking a chance on whether Kiska would survive the move or not—

Ms. Carly Ferguson: Well, Dr. Lanny—

Mr. Tim Hudak: We all agree that companionship is a first prerogative for Kiska in how many more years Kiska lives. It just seems more sensible to try to find a way to bring a younger orca here than take the risk with Kiska—

The Chair (Mr. Peter Tabuns): Mr. Hudak, you have a minute left.

Mr. Tim Hudak: —because otherwise it strikes me as this is more about being anti-Marineland or—

Ms. Carly Ferguson: Absolutely not.

Mr. Tim Hudak: —a vendetta as opposed to what's in the best interest for Kiska.

Ms. Carly Ferguson: Dr. Lanny Cornell was quoted last year regarding Kiska's health because her health was put in question. He stated, "It's laughable to say that, quite frankly, regarding her health because all I see is a very nice-looking whale." Again he was quoted, "She's not losing weight. She's eating between 100 and 150 pounds a day, and she looks as robust as she has at any time."

Mr. Tim Hudak: So, despite his experience and the length of his resumé, you think Dr. Cornell's out to lunch?

Ms. Carly Ferguson: I'm not saying he's out to lunch at all. But if she's a healthy whale from his standpoint, why can't we—

Mr. Tim Hudak: He was very clear. He said it would be absurd to put Kiska's life at risk if Kiska—

Ms. Carly Ferguson: But why would her life be at risk? That's what I don't understand. If he's stating here that she's healthy and robust, the best she's ever been—

Mr. Tim Hudak: Well, you were in the room when I asked that question directly. So if you believe Dr. Cornell is an expert, you believe that he's got the best interests—

Ms. Carly Ferguson: I'm going to go with Dr. Naomi Rose's—

The Chair (Mr. Peter Tabuns): Mr. Hudak and Ms. Ferguson—I'm afraid you're both out of time. I go to Ms. French from the third party.

Ms. Jennifer K. French: Thank you very much. I would echo Mr. Hudak's point that we certainly appreciate your passion on this.

One of the things that I'll give you an opportunity to expand on is, you had said that in our packets there's a

relocation plan for Kiska. I hadn't seen this or heard about this. Can you maybe expand a bit on what we've got in front of us, please?

Ms. Carly Ferguson: Right. So it's in the package there. There is a relocation plan. You've heard us speak of Lolita, the orca at Miami Seaquarium. She does live with dolphins, though. Kiska is the only one entirely isolated. They would prepare Kiska for transport. She's obviously not trained to do that because she's been at Marineland for a long time. So she would be trained to do that. A crate can be found and built for her. Upon arrival at her chosen facility, Kiska would be integrated with other orcas slowly, one at a time, to determine who is the most compatible.

This is something that goes on all the time in this industry. Orcas are transferred all the time. This is nothing new that the province of Ontario would be doing. This happens all the time. Again, Dr. Naomi Rose says, "The plan is simple—she should be transferred to another facility with orcas where she will be among conspecifics. San Antonio would actually be the best idea, but Orlando is also a possibility. SeaWorld would obviously have to agree, but they took Shouka, who was alone, just like Kiska, at Discovery Kingdom ... I don't see why they wouldn't take Kiska. This is not complicated—this kind of thing happens all the time...."

Ms. Jennifer K. French: Okay. Thank you. I don't think I have any further questions. If you had anything further to add?

Ms. Carly Ferguson: No.

The Chair (Mr. Peter Tabuns): Okay. Thank you very much for your presentation.

MS. LYNDA SMITH

The Chair (Mr. Peter Tabuns): We have another person on teleconference, Lynda Smith. Ms. Smith, you have five minutes to present and then up to three minutes per party for questions. I'll give you notice when you have 60 seconds left. If you'd like to start and introduce yourself for Hansard.

Ms. Lynda Smith: My name is Lynda Smith. I live in the Grey Highlands in Ontario. Should I begin now, sir?

The Chair (Mr. Peter Tabuns): Yes, please.

Ms. Lynda Smith: Thank you, committee. I'm presenting my statement to you. The OSPCA is a private corporation and yet has been given the right by the provincial government to use public funds in the offices of the Attorney General to prosecute people whom the OSPCA has charged. I know of no other private charitable corporation that receives such government funding and support. This puts those rightly or wrongly accused at an incredible disadvantage. This is an absolute abuse of power and a violation of our rights under the Canadian Charter of Rights and Freedoms, among other things.

The OSPCA in this bill is demanding that fines now be increased from \$60,000 to \$250,000.

In the province of Saskatchewan, the SSPCA has now been disbanded and, to my knowledge, are under two

separate investigations by the RCMP for alleged criminal activities. The president of the board of directors, Constance Roussel, announced on March 31, 2015, that the SSPCA would no longer be enforcing the Animal Protection Act. She said, "As a charitable organization, the Saskatchewan SPCA is not the proper body to be enforcing the legislation."

The province of Newfoundland has now brought legislation that the SPCA can no longer do seizures. They can run shelters, but can no longer lay charges, nor do they have any police powers.

1600

The late Dr. Henneke, in his paper on misuse of the body condition score, which I have included—his report and his letter—explains how the misuse of the body condition scoring has been used by rescue groups and the ASPCA and HSUS to seize alleged neglected horses. He says, "Removing any horse from its familiar environment, drastically changing its diet, and exposing it to a new set of handlers will usually result in stress and a further loss of body condition." He recommends they stay at their place.

The OSPCA and their agents have no one to answer to and no government oversight, and their records are unreachable by anyone, even under the Privacy Act. This unavailability of access to information denies an accused the right to a full answer in defense.

"Innocent until proven guilty" is the most abused legal standard today due to biased press coverage. Most trials are conducted before the accused ever has a chance to answer the charges. If they are later proved innocent, the public has already painted them in a negative picture, and this should not happen.

On March 6, 2013, my property was invaded by a group of animal activists.

I requested an investigation of the possible criminal offence activities of the OSPCA, in particular Inspector Jennifer Bluhm, for alleged perjury, witness intimidation, abuse of power, among other things.

I would like to also add that Inspector Jennifer Bluhm ordered me to give two of my horses to the OSPCA vet Dr. Hill and sent many of my horses to Whispering Hearts Horse Rescue, owned by former OSPCA agent Brenda Thompson, also known as Brenda Armstrong.

When my witness testified at my trial, her farm was raided by the OSPCA. This was unconscionable.

The OSPCA has ordered and directed others to send their horses to Whispering Hearts Horse Rescue, even though the rescue was between five and seven hours' distance.

My question is, exactly how many horses have the OSPCA sent to their former agent's rescue, and what are the financial and other arrangements between the OSPCA and Whispering Hearts? These questions need to be investigated before any further powers are given to the OSPCA.

Linda Ross, known as Ellie Ross, who conducted the illegal entry to my property on the 6th of March 2013, is also a former OSPCA agent.

I have no doubt that the minute the OSPCA have the chance—

The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Lynda Smith: —they will come in to my property and take the rest of my beloved horses. They will take them from the only home they've ever known and send them to their death or some other place they will justify. This will be done in spite of the fact that I'm under vet care and in spite of the fact that I've always cared for my horses for years, and they are happy and all are well.

My horses are over the age of 18. They are my beloved Arabians. Jennifer Bluhm and her ilk will find any excuse to deprive us of our life together. These horses are like my children. I have owned them since before they were born.

The OSPCA can and do walk onto any property without restrictions, tracking potential diseases such as PED and H1N1 from one property to another. They do not follow buyer security protocols. It is about the systematic abrogation of the rights of the people of Ontario, and the overwhelming power now to be granted by the Wynne government to this hateful, cruel and gluttonous corporation.

I respectfully request that you do not approve this bill, and I require as a citizen of Canada and a resident of Ontario that you, as the governing body in power in this province of Ontario, conduct a thorough investigation of the OSPCA and their affiliates.

The Chair (Mr. Peter Tabuns): Ms. Smith, I'm sorry to say that you're out of time.

We'll go the first questioner: Mr. MacLaren.

Mr. Jack MacLaren: Hello, Ms. Smith. It's Jack MacLaren.

Your experience that you just told us about has nothing to do with whales or marine mammals or Marineland, but would it be fair to say that what you're trying to tell us is that the motivation behind some of the people who are here today speaking in support of this bill is suspect?

Ms. Lynda Smith: Yes, sir, and I point out a case particularly. It was in the United States. Feld Entertainment won a suit against the ASPCA, the Humane Society of the United States and their animal activist supporters, who were ordered by the court to pay approximately \$25 million to Feld Entertainment Inc. It's my understanding that a request for an investigation of the ASPCA and the Humane Society of the United States under the RICO act has now been brought to the United States Senate. It was confirmed that the ASPCA and the Humane Society of the United States were working in conjunction with animal activists to get funding, pay witnesses and corrupt the courts.

Mr. Jack MacLaren: Would you say, from your experience, that animal rights activists have been successful in influencing, if not infiltrating, the OSPCA and some of the organizations that are speaking to us today in support of Bill 80, for motives other than strictly the welfare of Kiska the whale?

Ms. Lynda Smith: Absolutely. I will note that in Australia there is a party called the Animal Justice Party. They have now begun a political party and a political movement in Australia.

These people have an agenda. It's not the animals they're looking after; it's their own particular slant on animal ownership—

The Chair (Mr. Peter Tabuns): One minute left.

Ms. Lynda Smith: —and they don't believe in it. They have their own agenda and they will do whatever they need to, even if it's getting rid of the OSPCA if they have to. It's about funding, and it's about what they want, and not about the welfare of the animals.

Mr. Jack MacLaren: In your experience, have you encountered so-called experts who were not qualified to offer an opinion on animal welfare and, in fact, had other motivations?

Ms. Lynda Smith: Yes, sir. In my trial, in particular, we have people who have quoted the body condition scoring as a reason to seize animals. Dr. Henneke himself states that this is improper use. I will note that the equine standards of care that was just published is based on an erroneous interpretation of Dr. Henneke's body condition scoring.

The Chair (Mr. Peter Tabuns): Ms. Smith, I'm afraid you're out of time with this questioner.

Third party: Ms. French.

Ms. Jennifer K. French: Thank you, Ms. Smith, for calling in. We appreciate your voice on this and certainly appreciate that you have a very personal background to share with us.

To your point about the welfare of the animals, what do you think it should look like? What should the government take from this in terms of how to best provide for the welfare of animals?

Ms. Lynda Smith: I think that the government of Ontario, for one thing, can follow the lead of Saskatchewan and Newfoundland, where they have removed the police powers. This is a terrible way to conduct any kind of organization. A private organization that is supposed to be a charity should not have police powers.

The OSPCA was well aware of the fact that I was under vet care. They had come to my property on the 13th of February. It was not suitable to the animal activists that they weren't progressing because I was under vet care, so the animal activists invaded my property, with CTV cameras. They have their own agenda. There was nothing about the welfare of horses. I was under vet care—there was a metabolic issue with my animals—but the animal activists broke in with a CTV camera crew, into my property, and I now have them under investigation. I also have litigation against them.

Ms. Jennifer K. French: As I said earlier, I think we all appreciate your personal story and giving that voice. Certainly, your submission is very thorough and full of new information, and I appreciate that. I don't have any further questions, if there's anything else you wanted to expand on.

The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Lynda Smith: The only thing I can say, ma'am, is that the government needs to get this under control. This is a private corporation that lives off government funding, in part, and has millions of dollars in donations. From what I've read, approximately 1% actually goes to the animals in shelters. This needs to get under control. This trampling of our charter rights and the way they conduct themselves with the animals, taking them out of their long-term, loved homes, is unconscionable. It shouldn't be happening, especially in Canada.

The Chair (Mr. Peter Tabuns): To the government: Mr. Balkissoon.

Mr. Bas Balkissoon: I just want to thank Ms. Smith for joining us today and giving her opinion on the bill in front of us, but at this time I have no questions.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Smith. We're going to go on to our next presenter.

Ms. Lynda Smith: Thank you very much. I thank the committee.

DR. MICHAEL NOONAN

The Chair (Mr. Peter Tabuns): Our next presenter: Michael Noonan, Canisius College. Sir, as you've seen, you have up to five minutes to present. There will be questions by the parties. I will give you notice when you're running out of time. If you would introduce yourself for Hansard.

1610

Dr. Michael Noonan: I'm Michael Noonan. I'm professor of animal behaviour at Canisius College in Buffalo, New York. As an academic biologist, I have been conducting research at the Marineland facility since 1998. I do so as an independent academic and only as a guest at Marineland. I'm not employed there.

I'm here to talk specifically only on the topic of the welfare and status of the beluga whales that are held at Marineland, in particular as it pertains to the possible imposition of the UK standards regarding space.

My input centres on two general themes. First, the welfare of the belugas specifically under their present circumstances in the present pools: I have four things to say about that. I have data that indicates that their behavioural indices of stress are very low. Second, their high reproductive rates suggest good welfare and psychological well-being. Third, the belugas are able to express much of their natural behaviour repertoire in their present circumstances. Fourth, the high incidence of their playful behaviour suggests positive affect is predominant.

The second point that I can speak to is a lack of evidence regarding the effects of additional space. If the UK standards were to be adopted—it's my opinion that there's a lack of evidence to support that.

I don't question the general notion that adequate space is an important consideration. It's nevertheless important that the imposition of any standards should be evidence-based. In this regard, I know of no studies that address

the relationship between pool size and beluga welfare in captivity. I also offer the following considerations.

First, as a general rule, larger space does not always equate to improved animal welfare in captive animal management. Second, within this aquarium industry, the existing Marineland pools are already at the upper end in terms of space allotted to the animals. Third, in terms of animal welfare, it's questionable to emphasize the importance of space over other considerations such as environmental complexity, social composition and enrichment programs.

I thereby yield back the remainder of my time.

The Chair (Mr. Peter Tabuns): Thank you very much. We'll start with the third party. Ms. French.

Ms. Jennifer K. French: Thank you very much. We appreciate your joining us here at Queen's Park to weigh in on this. You had mentioned that you can comment on the state of the belugas at Marineland.

Dr. Michael Noonan: Yes.

Ms. Jennifer K. French: Okay. I would like to ask you about the additional space. We have heard it suggested that there be a companion, possibly, brought into the Marineland environment, into the space, to share space with Kiska. One thing that I haven't heard is whether there would even be room for such a companion. So while it's outside of the beluga conversation, you've been there, and you've seen the size of the tanks. Is that even an option—for space? I don't know.

Dr. Michael Noonan: Well, that's a matter of opinion. Actually, I'm here with evidence specifically to the space and the welfare of the belugas at Marineland.

Ms. Jennifer K. French: Okay.

Dr. Michael Noonan: But in the past, Marineland has housed many killer whales. One could argue that there is sufficient space for more killer whales at Marineland.

Ms. Jennifer K. French: Okay. Thank you. Back to the belugas then, you said that the behavioural indices of stress are low. What are some of those indices? I don't know much about belugas.

Dr. Michael Noonan: In zoo animal welfare, in zoo animal management, one looks for stereotypy, whether or not animals engage in repetitive behaviours over and over again. That's an index of stress. The belugas at Marineland do not do that. Another index of stress is inappropriate behaviours comparable to human—

The Chair (Mr. Peter Tabuns): One minute left.

Dr. Michael Noonan: —like human thumb-sucking, things like that. The belugas do not have behaviours like that.

That's a minimal standard, isn't it? The absence of stress is the absence of a negative. I hope that welfare goes beyond that and talks about positives.

Ms. Jennifer K. French: And I appreciate being a member of this committee, because we're here to learn. I'm learning a lot today about belugas and orcas.

One of the things that I did hear—and again, I respect that you've said you're here in a capacity to comment on the belugas, but we did hear a comment, as you said, that

Kiska is doing circles or demonstrating repetitive behaviours. Could you comment on that?

Dr. Michael Noonan: No, I'm sorry. I haven't been taking data on Kiska. I don't have data pertaining to Kiska's behaviour—

The Chair (Mr. Peter Tabuns): I'm sorry to say that you're out of time with this questioner. We'll go to the government: Mr. Balkissoon.

Mr. Bas Balkissoon: Thank you very much for being here. I heard you comment that you're not here to speak a lot about Kiska, but in terms of what the government is doing with Bill 80 and the regulations that will follow, do you support the development and implementation of standards of care for marine mammals in Ontario, which currently don't exist?

Dr. Michael Noonan: Certainly. I have read and have looked at the CCAC standards, and they're reasonable and admirable. Certainly every municipality, including every province, should have high standards of care, for sure.

Mr. Bas Balkissoon: In all the years that you've been doing your academic work at Marineland, is there anything else that you suggest the government should be doing in terms of the mammals at Marineland?

Dr. Michael Noonan: Well, I don't have an informed opinion about Bill 80 specifically. It's always been difficult for me to know how to single out a single species when it comes to legislation pertaining to captivity. That this bill specifies one particular species puzzles me, but beyond that, no, I don't have any additional advice.

Mr. Bas Balkissoon: Okay. Thank you very much. Thank you, Mr. Chair.

The Chair (Mr. Peter Tabuns): Thank you. We go to Mr. Hudak.

Mr. Tim Hudak: Dr. Noonan, thank you very much for taking the time to join us. I'm going to split my time with Mr. Nicholls.

You present your views on the belugas as being—you seem confident in the level of their care at Marineland. I think what I want to say is that it's based on science. I'm worried that some of the evidence we heard earlier was based more on political activism and personal vendettas than science. Your presentation is refreshing.

I won't get a chance today, but I think that during clause-by-clause—Dr. Rosen, one of your colleagues from the University of British Columbia, has a written submission. Dr. Rosen, of course, did the original report on Marineland, where he gives us a very cautionary tale about prescribing pool size standards. The second part of your presentation is about the UK model, also a very cautionary measure.

How would you recommend that the government approach standards of care when it comes to pool sizes?

Dr. Michael Noonan: It would be great in all captive animal management, but specifically for belugas or killer whales or any other animals, to have evidence-based

standards. Before we would be able to produce those, we would have to do the studies that would relate any two variables to one another.

Imagine a pool size just being chosen. There are variable pool sizes that hold belugas, for example. One could initiate a study that looked at indices of welfare across those pools. In the absence of those, an imposition of a standard would be, in my opinion, arbitrary.

Mr. Tim Hudak: You'd be concerned if we arbitrarily, in knee-jerk fashion, just picked the UK standards from the 1980s.

Dr. Michael Noonan: It would be arbitrary and, I believe, unfair. It would be in the absence of evidence.

The Chair (Mr. Peter Tabuns): You have a minute left. Mr. Nicholls.

Mr. Rick Nicholls: Thank you. I appreciate the response to my colleague Mr. Hudak because my question, again, was tied into those UK standards. Obviously, if I understand you correctly, you're suggesting that you wouldn't support those UK standards. Is that correct?

Dr. Michael Noonan: I wouldn't support their imposition without evidence.

Mr. Rick Nicholls: Without evidence. So what would you—

Dr. Michael Noonan: And ordinarily, just choosing space as a variable to emphasize is inappropriate. Social composition, I would think, would be more appropriate. Enrichment programs would be more appropriate. I'm not denying that space is an appropriate consideration; it just isn't the first one that would come to my mind.

Mr. Rick Nicholls: So when you talk about being evidence-based—and I fully respect that—is there anything further, then, in those UK standards, where you would say, “Listen, we need to know more specifically about A, B and C”? Would you have any thoughts as to what that might be?

Dr. Michael Noonan: Sure. One could initiate a study that related pool size to the welfare indices. There are a number of them that could be studied.

The Chair (Mr. Peter Tabuns): Mr. Noonan, I'm sorry to say that we've run out of time.

Dr. Michael Noonan: Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you very much for your presentation.

Members of the committee, I'd like to ask if you would like the research officer to prepare a summary of presentations on Bill 80. If so, I propose that we have it by Wednesday, May 13, at 12 noon. Are members in agreement? I see no disagreement. Okay.

A reminder then to you, as committee members: Pursuant to the order of the House, the deadline to file amendments to the bill with the committee Clerk is at 2 p.m. on Thursday, May 14, 2015.

The committee stands adjourned until 2 p.m. on Monday, May 25, 2015.

The committee adjourned at 1620.

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