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**(CIV. ACT. NO. 03-2006, DOCKET NO. 85, 9/7/06)**



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The Wildlife Advocacy Project is a non-profit advocacy group founded by Katherine Meyer and Eric Glitzenstein of the Washington, DC public interest law firm, Meyer Glitzenstein & Crystal. We advocate the recognition and respect for the innate wild nature of all animals—whether in confinement or in the wild.

We assist grassroots activists in achieving long-term protection of wildlife and the environment, and in stopping the abuse and exploitation of animals held in captivity.



The Project provides resources, and strategic and substantive advice and expertise, to organizations. We can achieve greater protection for wildlife in the courts, legislatures and the regulatory agencies, when the public is educated and mobilized to fight against the degradation of wildlife.

The Wildlife Advocacy Project

### CURRENT ACTIVITIES

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seeks to complement and supplement the efforts of grassroots activists. It uses the knowledge, experience, and expertise of its staff and Board members to help grassroots organizations pursue, support, and win long-lasting conservation benefits for animals and the planet.

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**Wildlife Advocacy Project**

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E-  
Mail: [\*\*WildInfo@WildlifeAdvocacy.org\*\*](mailto:WildInfo@WildlifeAdvocacy.org)



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## Mission Statement

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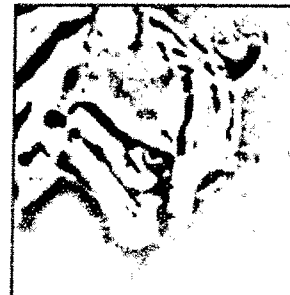
[Wild Horses &  
Burros](#)

The purpose of the Wildlife Advocacy Project is to advocate the conservation of the nation's and world's biodiversity resources, protection of wildlife, and curtailment of animal abuse and exploitation, by providing media, educational, legal, technical, and other forms of support and advocacy to grassroots activists. The Project has been created by the nationally-known public-interest law firm, [Meyer Glitzenstein & Crystal](#), which represents dozens of non-profit conservation, wildlife, and animal protection groups throughout the country.

- We are a small, but effective, group of experienced advocates who seek to level the playing field by infusing resources and broad-based support into campaigns to protect wildlife, captive-held animals, and biodiversity. We work independently and also in collaboration with other nonprofit organizations.
- We inform and educate the public through the media, internet, and publications, about significant issues and legal battles that need immediate attention and support, and we monitor, generate, and disseminate media coverage of important environmental and animal protection issues.
- We research, analyze, and write about controversial issues that the public needs to mobilize against to protect wildlife and other natural resources from further degradation and depletion.
- We help grassroots activists develop and implement legal, organizing, media, and lobbying strategies to achieve their goals.

How you can help:

Learn how to be a more effective advocate, and to join forces with others interested in protecting and fighting for animals and the environment. Write to



[WildInfo@WildlifeAdvocacy.org](mailto:WildInfo@WildlifeAdvocacy.org).

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# Who We Are

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## CURRENT ACTIVITIES

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Your voice is necessary to help protect manatees!



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### Eric Glitzenstein - President, Board of Directors

Mr. Glitzenstein has been practicing public interest law in Washington for more than 17 years. He worked for Ralph Nader's prestigious Public Citizen Litigation Group for many years, and in 1993, he and his colleague Katherine Meyer, started their own public interest firm Meyer Glitzenstein & Crystal -- recently identified by *Washingtonian Magazine* as "the most effective public-interest law firm in Washington."

Mr. Glitzenstein specializes in a wide variety of federal and state court litigation, including animal and wildlife protection, endangered species environmental law, and open-government issues, as well as safe environment issues, representing a broad spectrum of grassroots groups. He has testified before Senate and House Committees many times, on such issues as the Endangered Species Act, Superfund, and the Federal Land Management Committee Act.

He has taught Public Interest Advocacy and Civil Litigation as an adjunct professor at Georgetown University Law Center. Additionally, he has presented Litigation Strategy at the Annual Conference on the Freedom of Information Act and Privacy Act sponsored by the American Civil Liberties Union and been a visiting instructor at St. Petersburg Law School in Russia.

He has authored publications appearing in the Westview Press, and following law reviews and journals: *Endangered Species Update*, *Ecology Law Quarterly*, *American University Law Review*, *Cardozo Law Review*, *American Civil Liberties Union's Handbook on Open Government Law*, and *Animal Law*. He has appeared on CNBC, CNN, National Public Radio, and CBS News.

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### Katherine Meyer - Secretary, Board of Directors

Ms. Meyer has been practicing public interest law in Washington, D.C. for over 23 years. After working for Public Citizen Litigation Group for more than a decade, and then the public interest law firm, Harmon, Curran & Gallagher, she and Eric Glitzenstein started their own firm in 1993, Glitzenstein & Crystal.

Ms. Meyer specializes in a wide variety of federal and state court litigation including animal and wildlife protection, endangered species law, environmental law, and open-government laws, including the Freedom of Information Act. She represents a broad spectrum of grassroots animal protection, wildlife, and environmental groups as well as writers, historians, and journalists seeking access to government information.



She recently won a landmark victory for animals by obtaining a ruling from the *en banc* Court of Appeals for the D.C. Circuit on behalf of the Animal Legal Defense Fund that individuals have "standing" to sue over conditions which cause suffering to animals. *Animal Legal Defense Fund v. Glick*, 154 F.3d 426 (D.C. Cir. 1998), cert. denied, 119 S.Ct. 1454 (1999). Meyer was also instrumental in convincing the Fish and Wildlife Service to revoke the permit under which Bobby Berosini (an infamous Law & Order showman who forces Orangutans to perform tricks on stage) was permitted to purchase Orangutans.

Ms. Meyer has taught Civil Litigation and Public Interest Advocacy for the Public Interest Scholars Program at Georgetown University Law School and co-authors the Litigation Strategy Chapter for the American Civil Liberties Union's Freedom of Information Act and Privacy Act Handbook.

She is on the Board of Directors of Defenders of Wildlife and the Center for Auto Safety, and also serves on the Advisory Committee on Procedure for the U.S. Court of Appeals for the D.C. Circuit. She has testified before Congress on many occasions and has appeared on television and radio programs, including "Larry King Live," "Good Morning America," CNN's "Cross-Fire."

Mr. Glitzenstein and Ms. Meyer are extremely active in daily management and supervision of the Wildlife Advocacy Project.

Meyer Glitzenstein & Crystal is currently fighting in the courts to protect better standards for non-human primates used in research and end animal abuse and exploitation of captive Asian and African elephants, and to develop non-lethal methods for controlling populations of whitetailed deer and Canada geese, stop live pigeon shoots under state anti-cruelty laws protecting wild horses from neglect and slaughter. Other projects in litigation to win legal protections for the desperately rare Ocelot and Jaguarundi, Gray Whale, Fox Squirrel, Pygmy Owl, Atlantic Salmon, Bear, Canada Lynx, Queen Charlotte Goshawk, and Florida Manatee. To learn more about current cases and past victories, go to <http://web.archive.org/web/20060117184542/http://www.meyergl.com>

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### **Additional Members of the Board of Directors:**

#### **Drew Caputo**

Mr. Caputo is a senior attorney with the Natural Resources Defense Fund (NRDC), a nonprofit environmental organization with more than 400,000 members across the nation. His practice encompasses federal environmental, administrative and open government laws, and other areas of advocacy.

Mr. Caputo currently specializes in river-related work as part of NRDC's Western Water Project. He is also active in NRDC's Ocean Protection Initiative, where he works on fisheries and other matters relating to



California's coast. In the past at NRDC, he has worked on issues relating to air quality, weather quality, wetlands protection, and nuclear energy.

Prior to joining NRDC in 1993, Mr. Caputo worked as a litigator for the Sierra Club Legal Defense Fund in Denver, bringing lawsuits against agencies to protect public lands, endangered species, and rivers in the Rocky Mountain West.

To learn how you can help us in our work, please [Support the Wildlife Advocacy Project](#).

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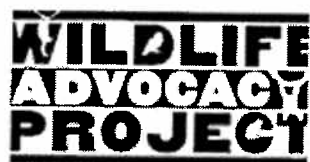
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# Support Your Wildlife

The Wildlife Advocacy Project will achieve enforceable protections and permanent results for wildlife, captive animals, and the Earth. We know that the opposition has power, influence, and financial support. Our goal is to level the playing field by raising resources, organizing the public, and demanding media attention for these important issues.



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Your contributions are tax deductible under I.R.S. Code 501(c)(3). **To support the Wildlife Advocacy Project, please [CLICK HERE](#) to make your donation using your credit card via a safe, secure on-line server (and please come back to our site using your back button once you're done!).**

## CURRENT ACTIVITIES

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Your voice is necessary to help protect manatees!



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The Wildlife Advocacy Project is a non-profit organization. Please ask the company you work for if it has a **matching gift program**. You could double or triple your donation!

Otherwise, please print out a membership form ([click for form](#)), fill it out, and mail it with your check to:

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"We now know what was unknown to all the preceding caravan of

generations:  
that [humans] are only fellow-  
voyagers with other creatures in the  
odyssey of evolution.

This new knowledge should have  
given us, by this time, a sense of  
kinship with fellow-creatures.

A wish to live and let live; a sense of  
wonder over the magnitude and  
duration of the biotic enterprise ."

~ Aldo Leopold, A Sand County Almanac,  
"On a monument to the pigeon" (1947),  
reflections on the extinction of the last  
passenger pigeon.

Thanks for caring and doing  
something to prove it!

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# Current Activities

## THE CAMPAIGN FOR THE PROTECTION AND RESTORATION OF BIG CYPRESS NATIONAL PRESERVE, FLORIDA

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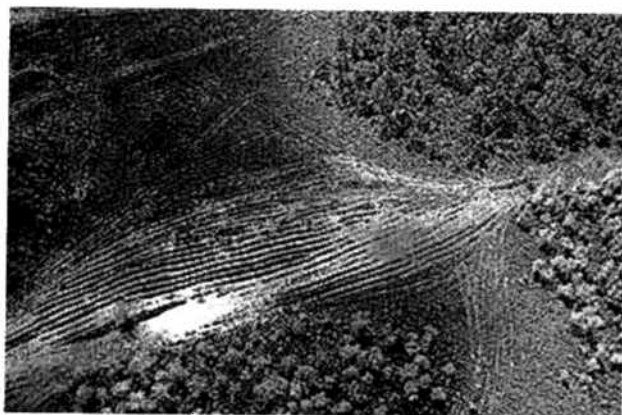
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### 1. The Off-Road Vehicle (ORV) Problem

Big Cypress National Preserve ("Big Cypress"), located in south Florida, is a vast, expansive wetlands area, which teems with cypress stands, hardwood swamps, mangroves, and pinelands. At about the size of Rhode Island, or 729,000 acres, Big Cypress slopes northeast to southwest into the Florida Everglades National Park and into the Florida Bay.

Congress established Big Cypress in 1974 to ensure a fresh water supply from its wetlands into the western half of the Everglades. Located in the midst of a booming south Florida human population and encroaching



development, the Preserve is a haven for wildlife, including great blue herons, anhingas, kingfishers, alligators, and at least 1,600 plant species. It is also habitat for 30 wildlife species and 60 plant species that are protected under federal or state law or international treaty, including the West Indian manatee, Cape Sable seaside sparrow, red-cockaded woodpecker, American alligator, and the critically imperiled Florida panther.

However, Big Cypress is also widely regarded as the worst example of off-road vehicle – or "ORV" – related environmental degradation in the National Park System. For almost three decades, the National Park Service has permitted thousands of ORVs virtually unrestricted access into the Preserve – including street legal 4 x 4s, airboats, all-terrain vehicles, and homemade swampbuggies – only rarely requiring the vehicles to stay on designated trails or meaningfully limiting Preserve access points.



Recent estimates put the total miles of ORV trails in Big Cypress at 23,000, or almost enough miles to encircle the planet, and 20 times more than the Park Service's own previous estimate of 1,240 miles. Widespread rutting, caused by repetitive and cumulative ORV use, inflicts havoc on basic Preserve ecological functions, including soil and vegetation degradation and surface water channelization. Hunters use ORVs to gain deep access into Big Cypress to hunt white-tailed deer and feral hogs, and, in so doing, reduce the prey base of the embattled Florida panther.

ORVs also harass Florida panthers, causing behavioral changes and triggering panthers' avoidance of Big Cypress during the annual hunting season in favor of neighboring lands – and recent increases in panther mortalities resulting from impacts with automobiles could indicate that young panthers are crossing busy roads in search of suitable habitat. Due to these environmental effects, the Preserve is widely considered to be the worst example of ORV abuse in the entire National Park System. Indeed, the National Parks Conservation Association included Big Cypress among the organization's 2001 list of the **Ten Most Endangered** park units in the National Park System.

## **2. The National Park Service's Management Plan for ORVs in Big Cypress**

To induce the Park Service to finally address its complete lack of meaningful management of ORVs in Big Cypress, the Florida Biodiversity Project – a grassroots environmental group which has been the leading advocate for environmental change in Big Cypress for a decade – sued the agency in 1995.

FBP argued that the Park Service, while promising to develop a comprehensive management plan for ORVs in Big Cypress in 1991, had failed to do so, and, thus, was in violation of federal environmental laws, regulations, and executive orders. The parties settled the lawsuit in October 1995 and the Park Service agreed to issue an ORV Management Plan by April 25, 1999.



To comply with the terms of the settlement agreement, the Park Service adopted an ORV Management Plan in September 2000 that, once implemented, will employ basic, common-sense restrictions on ORV use in the Preserve, including a comprehensive system for 400 miles of primary designated trails and access points, rules governing the operation of vehicles and enforcement of those rules, research, methods for monitoring of ORV-related impacts, and restoration of areas impacted by ORVs.

However, in January 2001, seeking to have the Plan declared unlawful, ORV users filed a lawsuit in federal district court in Florida seeking to have the Plan set aside, and there are indications that the Bush Administration is preparing to settle the lawsuit with ORV users by weakening the Plan.

The Plan is a major victory over an entrenched, laissez-faire management regime that has long favored ORV use over conservation and preservation of Big Cypress resources. Thus, the Plan is a hard won victory that is still in jeopardy from ORV interests with close ties to the Bush Administration.

At the same time, the Plan constitutes the bare minimum of what is truly necessary to protect Big Cypress from further ORV-related degradation and begin the Preserve's recovery from pre-existing damage.

Conserving Big Cypress, its natural resources, and endangered wildlife from further ORV-related degradation will require both defending the Plan from attempts to invalidate it or dilute its measures, and several more years of rigorous monitoring and oversight of the Park Service to ensure that agency's implementation of the Plan and enforcement of its terms.

Indeed, much more remains to be done in the coming years in order to guarantee that Big Cypress assumes its rightful place among the nation's natural treasures and ensure that the Preserve and its resources are enjoyed by generations to come, rather than managed as

a private playground for a few.

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[Press Release](#)

[A copy of the complaint \(PDF format, 1.9 megabytes\)](#)

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# Facts on Ringling Bros.' Treatment of Performance Elephants

## About Asian Elephants

Asian Elephants, the only elephant species used by Ringling Bros., are endangered in the wild, due to poaching, hunting, and the loss of their natural habitat. They are listed as "endangered" under the Endangered Species Act, which prohibits anyone from "killing," "harming," or "disturbing" them.

Asian elephants are extremely intelligent and social animals. In the wild, elephants form strong bonds with their family members. Young elephants are not usually weaned until they are about 4 years old and stay with their mothers for many years to learn important survival skills. Females remain with their mothers and other family members for their entire lives.

## About Ringling Bros. and Barnum & Bailey Circus

Ringling Bros. Has two traveling circuses — the "Red" and the "Blue." The Red Unit currently has about 10 elephants in its Blue Unit and about 10 in its Red Unit, including several babies. It has dozens more elephants at its "Center for Elephant Conservation" outside Tampa, Florida. Although Ringling Bros. touts this facility as a place where it breeds endangered species for future generations, the Center is not releasing elephants into the wild, but is merely providing Ringling Bros. with a supply of elephants for use in its circuses.

## What is a "Bullhook"?

A "bullhook," or "ankus," is a 2-3 foot long club or stick with a sharp hook attached at the top. It is used repeatedly to beat, hurt, and frighten animals, especially when they are young, to "train" and "control" them.



make sure that they perform as required. Although elephants have strong hides, their skin is extremely sensitive, particularly on the ears, on the trunk, and on the head — places where they are struck with the bullhook. The elephants' skin is so sensitive that they throw dust or mud on their backs to protect their skin from the sun. If the animals have been hit repeatedly throughout their lives, then the bullhook will often be enough to get them to act

## **Recent Accounts of Ringling Bros.' Mistreatment of Elephants**

**February 1999:** While conducting an unannounced inspection of the Ringling Bros.' "Center for Elephant Conservation" in Florida, inspectors from the U.S. Department of Agriculture, which has jurisdiction under the Animal Welfare Act over all animals used in entertainment, observed "large, deep, bloody wounds on the rear legs of two baby elephants, Doc and Angelica. The wounds were approximately 6 inches long and an inch wide. When the inspectors asked about these wounds, they were informed by Ringling Bros. employees that they were caused by rope burns during the "routine" separation of the babies' mothers. They were further informed that the wounds on Angelica, who is only 18 months old, had been forcibly torn away from her mother earlier, with the use of ropes around each leg and a chain. After convening a panel of elephant experts, the USDA inspectors informed Ringling Bros. in May 1999 that this treatment violates the Animal Welfare Act regulations and causes the animals "trauma, behavioral problems, and unnecessary discomfort."

**December 1998:** Two Ringling Bros.' employees, Glenn Strechon and Tom Rider, quit Ringling Bros. In sworn testimony provided to the U.S. Fish and Wildlife Service, they reported that elephants are often chained for most of the day, and that Ringling Bros.' employees have severely beat and hook elephants with bullhooks on the trunk and other parts of their bodies, and that they often draw blood. Tom Rider also testified that they saw the baby "Benjamin" severely beaten. The men also reported that at least one particularly severe beating of an older elephant took place in front of a high-level Ringling Bros. employee, but he did nothing to stop it.

**March 2000:** Tom Rider, who worked as a "barn man" for 2-1/2 years, left the circus. In sworn testimony presented to the U.S. Fish and Wildlife Service, Mr. Rider reported that elephants are often chained for as long as 23 hours a day, and that Ringling Bros. employees hit and hook the elephants, including the babies, with bullhooks.

reported that, at one point, he counted more than a dozen on each of two older elephants, "Zeena" and "Rebecca." Mr. Strechon, Mr. Rider also witnessed particularly severe baby Benjamin.

## **Recent Deaths of Baby Elephants.**

**January 1998:** A baby elephant named "Kenny" died with Ringling Bros. circus. Kenny, who was only 3-1/2 years old, performed on the day he died, even though he was extremely ill. The USDA, Ringling Bros. violated the Animal Welfare Act by performing "after determining that the elephant was ill and not examined by a veterinarian."

**July 1999:** Another baby, "Benjamin," who was an eyewitness to being beaten by Ringling Bros. trainers, died while purportedly performing. He was only 4 years old.

## **On the Federal Lawsuit Against Ringling Bros.**

On June 8, 2000, the American Society for the Prevention of Cruelty to Animals, the Fund for Animals, the Animal Welfare Institute, and a former Ringling Bros. elephant worker — brought a lawsuit against Ringling Bros.' mistreatment of Asian elephants. The case's plaintiffs are represented by the law firm Meyer & Glitzer (<http://web.archive.org/web/20050308052242/http://www.wildlifeadvocacy.org>)

"The greatness of a nation and its moral progress can be judged by the way its animals are treated." — *Mahatma Gandhi*

"There's a sucker born every minute." — *P.T. Barnum, for Ringling Bros. and Barnum & Bailey Circus*

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**For Immediate Release**  
March 22, 2001

**Contact:**  
Katherine Meyer, 202-588-5206 (attorney)  
Nancy Blaney, ASPCA 202-232-5020  
Christine Wolf, The Fund for Animals, 301-585-2591  
Cathy Liss, The Animal Welfare Institute, 202-337-2332

## Ringling Bros. Charged with Abusing Elephants

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(Washington, D.C.) – As Ringling Bros. and Barnum & Bailey Circus begins performing today in the Washington, D.C. area, several animal welfare organizations, including The Fund for Animals, the Animal Welfare Institute, and The American Society for the Prevention of Cruelty to Animals (ASPCA) – the country’s oldest animal welfare organization – are warning the public about the brutality circus staff routinely inflict on performing elephants. The groups charge that to “train” and “control” its elephants, Ringling Bros. routinely keeps the 6,000- to 10,000-pound animals in chains and regularly beats them with bullhooks – clubs with sharp metal hooks on the end. In support of these charges, the organizations presented eye-witness sworn accounts by former Ringling Bros.’ employees, a recent Department of Agriculture report that Ringling Bros. causes “physical harm” to its baby elephants, and recent video footage of Ringling Bros. employees hitting elephants.

“People go to the circus because they love animals,” according to Nancy Blaney, director of government affairs for the ASPCA, “not realizing that they are unwittingly perpetuating the abuse this circus inflicts on elephants. As long as people continue to buy tickets, Ringling will continue to torment elephants.”

The groups, joined by a former Ringling Bros. Elephant worker, have sued Ringling Bros. under the Endangered Species Act, which prohibits the “harming” of any animal that is listed as “endangered.” Ringling Bros. uses endangered Asian elephants in its circus. The case is pending in a federal district court in Washington, DC.

The reports of routine chaining and beatings are based on several recent eyewitness accounts by Ringling Bros. employees who recently left the circus and who have submitted sworn testimony to the U.S. Department of Agriculture that elephants are routinely kept in chains

for as long as 20 hours a day, and that, from the time they are babies, they are beaten and repeatedly hit and prodded with sharp bullhooks in order to “break” them and make them perform “tricks” in the circus.

The organizations also point to a recent USDA investigation which found that Ringling Bros. inflicted “large visible lesions” on baby elephants at its “Conservation Center” in Florida, when it forcibly separated the less than two-year-old babies from their mothers during what Ringling Bros. employees referred to as the “routine” separation process. After consulting an independent panel of elephant experts, in May 1999 the USDA informed Feld Entertainment, Ringling’s parent company, that this treatment of the babies caused them “trauma and physical harm,” and was completely “unnecessary.” In the wild, baby elephants learn important social and survival skills from their mothers and are not weaned until they are about four years old. Females stay with their mothers and the rest of their social units for their entire lives.

“All of this treatment violates the law,” said Katherine Meyer, attorney with Meyer & Glitzenstein, who is handling the case against Ringling Bros. “Both the Endangered Species Act and the Animal Welfare Act prohibit the abuse of these magnificent animals. It’s time to put an end to this archaic practice.”

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**AMERICAN SOCIETY FOR THE PREVENTION  
OF CRUELTY TO ANIMALS,**

1755 Massachusetts Ave. N.W.  
Washington, D.C. 20036,

**ANIMAL WELFARE INSTITUTE,**

1686 34th Street, N.W.  
Washington, D.C. 20007,

**THE FUND FOR ANIMALS,**

8121 Georgia Ave., N.W.  
Suite 301  
Silver Spring, Maryland 20910

**THOMAS RIDER,**

600 East Holland Street  
Washington, Illinois 61571,

Plaintiffs,

v.

**RINGLING BROTHERS AND BARNUM & BAILEY CIRCUS,**

8607 Westwood Center Drive  
Vienna, Va. 22182,

**FELD ENTERTAINMENT, INC.,**

8607 Westwood Center Drive  
Vienna, Va. 22182,

Defendants.

Civ. No. 00-1641  
(EGS)

**2D AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

1. This is a case under the Endangered Species Act ("ESA"), 16 U.S.C. § 1531 et seq., against Ringling Brothers and Barnum & Bailey Circus ("Ringling Bros.") for "taking" endangered elephants -- i.e. harming, harassing, and wounding endangered

elephants -- in violation of the ESA and the regulations implementing that statute. Ringling Bros. engages in these unlawful activities by routinely beating elephants to "train" them and keep them under control, chaining them for long periods of time, hitting them with sharp bull hooks, "breaking" baby elephants with force, and forcibly removing baby elephants from their mothers, before they are weaned, with the use of ropes and chains. These unlawful actions are done on a routine basis, throughout the country, for the purpose of commercially exploiting these magnificent animals in Ringling Bros.' circus performances.

#### Jurisdiction

2. This Court has jurisdiction over this case pursuant to 16 U.S.C. § 1540(g) and 28 U.S.C. § 1331.

#### Parties

3. Plaintiff American Society for the Prevention of Cruelty to Animals ("ASPCA") is a non-profit membership organization dedicated to eliminating the abuse, neglect, and exploitation of all animals, including animals used in entertainment. The ASPCA has approximately 500,000 members and supporters throughout the United States, including Washington, D.C. It brings this action on its own behalf and on behalf of its members.

4. The ASPCA spends substantial resources each year on advocating better treatment for animals held in captivity, including animals used for entertainment purposes. It routinely sends submissions to the federal government concerning the treatment of captive animals, and it responds to requests for public comment from the federal government concerning animal welfare issues. ASPCA's members also routinely comment on such

matters.

5. The ASPCA publishes a magazine, on a quarterly basis, which goes to all of its members, and it operates a website on the world wide web. The magazine and website report on animal welfare issues, including legislative and regulatory matters affecting animals used for entertainment, and they also inform the ASPCA's members about actions that can be taken to promote the protection and humane treatment of animals.

6. Defendants' unlawful actions in "taking" endangered elephants as described in this Complaint injure the ASPCA and its members. First, defendants' "taking" of elephants without permission from the Fish and Wildlife Service pursuant to the process created by section 10 of the Endangered Species Act violates the ASPCA's and its members' statutory right to obtain the information generated by the section 10 process, and to participate in that process. In particular, defendants' unlawful actions further cause the ASPCA and its members injury by depriving the ASPCA of its ability to obtain and disseminate through its newsletter and website information regarding defendants' treatment of endangered elephants who are commercially exploited. In addition, because defendants "take" elephants without permission from the FWS -- and hence without public notice and comment as required by the ESA -- the ASPCA must spend financial and other resources pursuing alternative sources of information about defendants' actions and treatment of elephants in order to obtain such information for use in its work, to disseminate to its members and the public, and to submit comments and other submissions to the agencies with jurisdiction over these matters.

7. If the ASPCA prevails in its claim for relief regarding forfeiture of the endangered elephants in defendants' possession, it will have a statutory right to a reward for



furnishing information that leads to such forfeiture, pursuant to the ESA, 16 U.S.C. § 1540(d).

8. Plaintiff Animal Welfare Institute ("AWI") is a non-profit membership organization dedicated to eliminating the sum total of pain and fear inflicted by people on animals, including animals used for entertainment purposes. AWI has approximately 20,000 constituents throughout the United States, including Washington, D.C. It brings this action on its on behalf and on behalf of its members and its board of directors.

9. AWI spends resources each year on advocating protection for endangered and threatened animals, including better treatment for animals used for entertainment purposes. It routinely sends submissions to the federal government concerning the treatment of captive animals, and it submits comments in response to the government's requests for public comment concerning animal welfare issues. AWI's constituents also routinely comment on such matters.

10. AWI publishes a newsletter, on a quarterly basis, which is disseminated to all of its constituents, and it operates a website on the world wide web. The newsletter and website report on animal welfare issues, including legislative and regulatory matters affecting endangered and threatened species, including animals used for entertainment purposes, and they also inform AWI's members about actions they can take to promote the protection and humane treatment of these animals.

11. Defendants' unlawful actions in "taking" endangered elephants as described in this Complaint injure AWI and its members. Defendants' "taking" of elephants without permission from the Fish and Wildlife Service pursuant to the process created by section 10

of the Endangered Species Act violates AWI's and its members' statutory right to obtain the information generated by the section 10 process, and to participate in that process. In particular, defendants' unlawful actions cause AWI and its members injury by depriving AWI of its ability to obtain and disseminate through its newsletter and website information regarding defendants' treatment of endangered elephants. In addition, because defendants take elephants without permission from the FWS -- and hence without public notice and comment as required by the ESA -- AWI has to spend financial and other resources pursuing alternative sources of information about defendants' actions and treatment of elephants in order to obtain such information for use in its work, to disseminate to its members and the public, and to submit comments and other submissions to the agencies with jurisdiction over these matters.

12. If AWI prevails in its claim for relief regarding forfeiture of the endangered elephants in defendants' possession, it will have a statutory right to a reward for furnishing information that leads to such forfeiture, pursuant to the ESA, 16 U.S.C. § 1540(d).

13. Plaintiff The Fund for Animals ("FFA") is a non-profit membership organization dedicated to eliminating the abuse, neglect, and exploitation of animals, including those used for entertainment purposes. FFA has approximately 200,000 members and supporters throughout the United States, including Washington, D.C. It brings this action on its own behalf and on behalf of its members.

14. FFA spends substantial resources each year on advocating better treatment for animals in the wild and in captivity, including those used in entertainment. It routinely sends submissions to both the United States Department of Agriculture and the Fish and Wildlife

Service concerning the treatment of animals, and it responds to requests for public comment from those agencies concerning animal welfare issues. FFA's members also routinely comment on such matters.

15. FFA publishes a newsletter, on a quarterly basis, which goes to all of its members, and it operates a website on the world wide web. The newsletter and website report on animal welfare issues, including legislative and regulatory matters affecting animals used in entertainment, including elephants, and they also inform FFA's members about actions they can take to promote the protection and humane treatment of these animals.

16. Defendants' unlawful actions in "taking" endangered elephants as described in this Complaint injure FFA and its members. Defendants' "taking" of elephants without permission from the Fish and Wildlife Service pursuant to the process created by section 10 of the Endangered Species Act violates FFA's and its members' statutory right to obtain the information generated by the section 10 process, and to participate in that process. In particular, defendants' unlawful actions further cause FFA and its members injury because they deprive FFA of its ability to obtain and disseminate, through its newsletter and website, information regarding defendants' treatment of endangered elephants. In addition, because defendants "take" elephants without permission from the FWS -- and hence without public notice and comment as required by the ESA -- FFA must spend financial and other resources pursuing alternative sources of information about defendants' actions and treatment of elephants in order to obtain such information for use in its work, to disseminate such information to its members and the public, and to submit comments and other submissions to the agencies with jurisdiction over these matters.

17. If FFA prevails in its claim for relief regarding forfeiture of the endangered elephants in defendants' possession, it will have a statutory right to a reward for furnishing information that leads to such forfeiture, pursuant to the ESA, 16 U.S.C. § 1540(d).

18. Plaintiff Thomas Rider worked for Ringling Bros. from June 1997 until November 1999, tending the barns where the elephants were kept and as a "handler" for the elephants. Mr. Rider spent many hours with the elephants, and knows all of the elephants he worked with by name. During his work with the elephants, he grew extremely fond of them, and formed a strong, personal attachment to these animals.

19. While working for Ringling Bros., Mr. Rider saw several of the other elephant handlers and "trainers" routinely beat the elephants, including the baby elephants, and he saw them routinely hit and wound the elephants with sharp bull hooks. These beatings were done throughout the country, wherever Ringling Bros. trained and performed, including in Washington, D.C. Mr. Rider saw and heard baby elephants cry in pain from their beatings. Mr. Rider also saw the elephants, including the baby elephants, confined and kept in chains each day, for most of the day, each day, throughout the country, including in Washington, D.C. He has seen both the baby elephants and the adult elephants engage in stressful "stereotypic" behavior as a result of defendants' mistreatment of them.

20. Mr. Rider has a personal and emotional attachment to these elephants, whom he refers to as his "girls." He has been aesthetically and emotionally injured by defendants' unlawful actions towards these animals, and continues to be so injured, knowing that this routine and unnecessary beating, wounding and other mistreatment of the animals continues almost every day.

21. Mr. Rider stopped working in the circus community because he could no longer tolerate the way the elephants were treated by defendants.

22. Mr. Rider would very much like to visit the elephants in defendants' possession so that he can continue his personal relationship with them, and enjoy observing them. He would also like to work with these animals again. However, he is unable to do so without suffering more aesthetic and emotional injury, unless and until these animals are placed in a different setting, or are otherwise no longer routinely beaten, chained for long periods of time, and otherwise mistreated. If these animals were relocated to a sanctuary or other place where they were no longer mistreated, Mr. Rider would visit them as often as possible, and would seek a position that would allow him to work with his "girls" again.

23. If Mr. Rider prevails in his claim for relief regarding forfeiture of the endangered elephants in defendants' possession, he will have a statutory right to a reward for furnishing information that leads to such forfeiture, pursuant to the ESA, 16 U.S.C. § 1540(d).

24. Defendant Ringling Brothers and Barnum & Bailey Circus ("Ringling Bros.") is a corporation organized under the laws of Delaware, with its corporate headquarters located in Vienna, Virginia. It is responsible for the unlawful acts described in this Complaint. The term "Ringling Bros." as used in this Complaint includes employees of Ringling Bros.

25. Defendant Feld Entertainment is a corporation organized under the laws of Delaware, with its corporate headquarters located in Vienna, Virginia. It owns defendant Ringling Bros. and is ultimately responsible for the unlawful acts described in this

Complaint.

26. Defendants regularly do business, solicit, and transact business in Washington, D.C., by planning, advertising, and holding their circus for several weeks every year in D.C. Thousands of D.C. residents attend the circuses, and defendants obtain substantial revenue from ticket sales and related concession sales for their circuses held in D.C.

27. Defendants rent space for their circuses in Washington, D.C., including the D.C. Armory and the MCI Center, and they sell tickets and concessions for their circuses at these locations.

28. To gain publicity for their circuses and to attract local residents, workers, and visitors, defendants hold parades through downtown Washington, D.C., which includes marching elephants down the streets of D.C. Defendants also participate in local D.C. community events, such as the National Zoo's "Kids to Kids" event, in which Ringling Brothers clowns participated.

29. Defendants advertise their circus annually in Washington, D.C., including in The Washington Post and Washington City Paper, inviting D.C. residents to buy tickets to and attend their circus in D.C.

30. Defendants maintain a web site on the Internet that is accessible in Washington, D.C. This web site provides D.C. residents information concerning the circus, when the circus will be arriving in D.C., how to buy tickets for the circus, and other related information. D.C. residents may also purchase circus souvenirs from defendants through defendants' web site.

31. Through its "Free Ticket For Newborns" program, defendants provide a free ticket to their circus to all newborn babies in Washington, D.C., as well as the rest of the country. These tickets can be requested in D.C. through the defendants' web site, and are shipped to residents in D.C. upon request.

32. In coordination with the Immigration and Naturalization Service, defendants host citizenship ceremonies at their circus in Washington, D.C. for children who have become recent U.S. citizens.

33. Defendants obtain permits from government agencies located in Washington, D.C., including permits from the Fish and Wildlife Service under the Endangered Species Act, and they file periodic reports with government agencies in Washington D.C., as required under the Endangered Species Act and Animal Welfare Act.

34. Defendants maintain the United States Corporation Company as their registered agent in Washington, DC.

**Statutory Framework and Facts Giving Rise  
To Plaintiffs' Claims For Relief**

**A. Statutory and Regulatory Framework**

35. In enacting the ESA, Congress declared that "the United States has pledged itself as a sovereign state in the international community to conserve to the extent practicable the various species of . . . wildlife . . . facing extinction." 16 U.S.C. § 1531(a)(4). One of the stated purposes of the Act is "to provide a program for the conservation of . . . endangered species and threatened species." 16 U.S.C. § 1531(b).

36. The ESA defines an "endangered species" as "any species which is in danger of extinction." 16 U.S.C. § 1532(6). A "threatened species" is one that is in danger of

becoming endangered within the foreseeable future. 16 U.S.C. § 1532(20).

37. Section 9 of the ESA prohibits the "taking" of any endangered species. 16 U.S.C. § 1538(a). The Act further provides that it is unlawful to "possess, sell, deliver, carry, transport, or ship" any endangered species that is unlawfully taken, and that it is unlawful to "deliver, receive, carry, transport, or ship in interstate commerce . . . in the course of a commercial activity" any endangered species. 16 U.S.C. § 1538(a). These prohibitions apply to endangered animals bred in captivity, as well as to those in the wild.

38. The ESA defines the term "take" to include "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." 16 U.S.C. § 1532(19). The term "harm" includes an act which "kills or injures" an endangered or threatened animal. 50 C.F.R. § 17.3. The term "harass" includes an "intentional or negligent act or omission which creates the likelihood of injury [to an endangered or threatened animal] by annoying it to such extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering." 50 C.F.R. § 17.3.

39. The ESA provides that all animals taken, possessed, transported, delivered, or received contrary to the provisions of the Act "shall be subject to forfeiture to the United States." 16 U.S.C. § 1540(e)(4)(A).

40. The Act further provides that the Secretary of the Department of the Interior "shall pay . . . a reward to any person who furnishes information which leads to . . . forfeiture of property for any violation of this [Act] . . ." 16 U.S.C. § 1540(d).



41. Section 10(a)(1)(A) of the ESA authorizes the FWS to issue a "permit" for any act that is otherwise prohibited by section 9, but only if such act is "for scientific purposes or to enhance the propagation or survival of the affected species." 16 U.S.C. § 1539(a)(1)(A).

42. The Act provides that the FWS "shall publish notice in the Federal Register of each application for an exemption or permit which is made under [section 10]." 16 U.S.C. § 1539(c). "Each notice shall invite the submission from interested persons, within thirty days after the date of the notice, of written data, views or arguments with respect to the application . . . ." Id.

43. The FWS may grant exceptions under section 10(a) "only if [it] finds and publishes . . . in the Federal Register that (1) such exceptions were applied for in good faith, (2) if granted and exercised will not operate to the disadvantage of such endangered species, and (3) will be consistent with the purposes and policy" of the Act. 16 U.S.C. § 1539(d).

44. The FWS has promulgated general regulations applicable to permits that are authorized by the ESA. Those regulations provide that captive wildlife subject to a permit must be maintained under "humane and healthful conditions," 50 C.F.R. § 13.41, and that "[a]ny person holding a permit . . . must comply with all conditions of the permit and with all applicable laws and regulations governing the permitted activity." 50 C.F.R. § 13.48. One such law is the Animal Welfare Act ("AWA"), 7 U.S.C. § 2131 et seq. The AWA and the regulations implementing that statute establish additional conditions under which all animals -- including those listed as endangered or threatened under the ESA -- may be used in entertainment. The AWA is administered by the United States Department of Agriculture ("USDA").

45. The AWA regulations state that "[p]hysical abuse shall not be used to train, work, or otherwise handle animals," that "[h]andling of all animals shall be done . . . in a manner that does not cause trauma, . . . behavioral stress, physical harm, or unnecessary discomfort," and that "[y]oung or immature animals shall not be exposed to rough or excessive public handling . . ." 9 C.F.R. § 2.131(a), (b).

46. The AWA regulations further provide that animals must be provided sufficient space "to make normal postural and social adjustments with adequate freedom of movement . . ." 9 C.F.R. § 3.128, 3.137(c).

**B. Facts Giving Rise To Plaintiffs' Claims**

47. Asian elephants are listed as endangered animals under the ESA. 50 C.F.R. § 17.11.

48. Adult Asian elephants weigh between 6,000 - 8,000 pounds, and live to be approximately 65 years old or older.

49. In the wild, asian elephants walk many miles each day.

50. In the wild, elephants forage for food for approximately 18 hours of each day.

51. In the wild, baby elephants are not usually weaned from their mothers until they are between 2-4 years old, or older, and, even after that, female elephants remain with their mothers and the other members of their herds for the rest of their lives, while males stay with their families until they are between 9-15 years old.

52. In the wild, elephants form strong bonds with their family unit. The elephant is one of the few species of ungulates known to live in permanent family groups. Baby elephants stay with their mothers for many years to learn social and other survival skills.

Female elephants remain for life with the family of their births.

53. Elephants are excellent natural swimmers.

54. Ringling Bros. uses Asian elephants in its circus performances that are held throughout this country, including Washington, D.C., and in other countries.

55. Ringling Bros. has a permit under the ESA from the Fish and Wildlife Service that allows it to possess, transport, breed, and exhibit Asian elephants.

56. Ringling Bros.' ESA permit does not allow it to beat elephants.

57. Ringling Bros.' ESA permit does not allow it to use sharp bull hooks on its elephants for the purpose of training or punishing them.

58. Ringling Bros.' permit does not allow it to forcibly remove baby elephants from their mothers with the use of ropes and chains.

59. Ringling Bros.' permit does not permit it to inflict wounds on its elephants for the purpose of training them, punishing them, or keeping them under control.

60. Ringling Bros.' permit does not permit it to keep its elephants in chains for up to 20 hours a day, and sometimes longer.

61. Despite the "taking" prohibitions of the ESA, and the prohibitions of the AWA regulations, Ringling Bros. regularly beats the adult elephants in its possession with sharp bull hooks to "train" them, to "control" them, to make them perform tricks, and to punish them. Ringling Bros. engages in this conduct throughout the country, including in Washington, D.C.

62. These beatings inflict physical injury and wounds on the animals.

63. These beatings inflict severe psychological injury on the elephants.

64. These beatings significantly disrupt the elephants' normal behavior patterns, including their social relationships with other elephants, and their reproductivity.

65. This treatment has negative impacts on the animals' behavior and demeanor, wherever they perform or are exhibited.

66. Despite the prohibitions of the ESA and the AWA regulations, Ringling Bros. beats its baby elephants, regularly, with sharp bull hooks to "train" them, to "control" them, to "break" them, to make them perform tricks, and to punish them. It engages in this conduct throughout the country, including in Washington, D.C.

67. These beatings inflict physical harm and wounds on the baby animals.

68. These beatings inflict severe psychological damage on the baby elephants.

69. One of the baby elephants who was routinely beaten by Ringling Bros., Benjamin, died in July 1999 while swimming in a pond. He was approximately 4 years old when he died.

70. On information and belief, the routine beatings of Benjamin were a contributing factor to his death.

71. In January 1998, another baby elephant in Ringling Bros.' possession, Kenny, died when he was only 3 1/2 years old.

72. Ringling Bros. made Kenny perform on the day that he died, even though it knew that he was ill.

73. On information and belief, Kenny, like other Ringling Bros.' baby elephants, was routinely beaten by Ringling Bros.

74. Despite the prohibitions of the ESA and the AWA regulations, Ringling Bros. keeps its elephants in chains for long periods of time, up to 20 hours a day, and longer when the elephants are traveling, throughout the country, including in Washington, D.C., and in other countries. It does so for the purpose of maintaining control and dominance over the animals to ensure that the elephants will perform as required by defendants throughout the country, including in Washington, D.C.

75. The chaining and confinement of elephants for so many hours each day causes them physical discomfort, behavioral stress, and severe psychological harm, and also interferes with their normal postural and social adjustments.

76. The chaining and confinement of elephants for so many hours each day causes them physical injury, including foot injuries, and significantly disrupts their normal behavioral patterns, including their social relationships with other elephants, and their need to walk long distances each day.

77. Despite the prohibitions of the ESA and the AWA regulations, Ringling Bros. forcibly removes baby elephants from their mothers with the use of ropes and chains before the animals are even 2 years old, *i.e.*, long before they could normally be weaned from their mothers in the wild. Ringling Bros. does this to establish dominance and control over the baby elephants in furtherance of its overall objective of ensuring that they will perform as required for the circus throughout the country, including in Washington, D.C.

78. Despite the prohibitions of the ESA and the AWA regulations, Ringling Bros. inflicts wounds on its baby elephants when it forcibly removes them from their mothers.

their family unit, which also has negative impacts on the animals' behavior and demeanor wherever they perform or are exhibited.

86. Baby elephants who die before they reach breeding age do not contribute to the gene pool for the long-term conservation of endangered elephants.

87. The forcible removal of baby elephants from their mothers causes the mothers severe emotional and psychological injury.

88. Such treatment of the mothers also significantly disrupts their normal behavioral patterns, especially their relationships with their offspring, their production of milk, and their normal reproductive cycles.

89. Ringling Bros. engages in many of the unlawful actions described in this Complaint throughout the country, including in Washington, D.C. It engages in all of the unlawful actions described in the Complaint for the purpose of making the animals perform in the circus throughout the country, including in Washington, D.C.

90. On December 21, 1998 and November 15, 1999, several of the plaintiffs sent letters to Ringling Bros., pursuant to the ESA, 16 U.S.C. § 1540(g), informing Ringling Bros. that its routine beatings of its elephants, its routine use of the bull hook, its chaining of elephants for long periods of time, and its forcible separation of baby elephants from their mothers all constitute the unlawful "taking" of elephants, and otherwise violate the ESA and that statute's implementing regulations. Letters identifying these violations of the ESA and its implementing regulations were also sent to Bruce Babbitt, Secretary of the Department of the Interior and Jamie Rappaport Clark, Director of the Fish and Wildlife Service, who administer the ESA.

**Plaintiffs' Claims For Relief**

91. Ringling Bros.' past and continuing routine beatings of its elephants, including its baby elephants; its routine use of bull hooks, whips, and other weapons, to train, control, and punish its elephants, including its baby elephants; its forcible removal of baby elephants from their mothers; and its chaining and confinement of elephants for many hours each day violate the "taking" prohibitions of section 9 of the ESA, 16 U.S.C. § 1538(a)(1)(B), the prohibition against the "possession" and "transportation" of an endangered species that has been unlawfully taken, *id.* § 1538(a)(1)(D), and the prohibitions against the transportation of endangered species in interstate commerce in the course of a commercial activity, except as permitted by the Fish and Wildlife Service, *id.* § 1538(a)(1)(E). Defendants' unlawful actions injure plaintiffs in the manner described in paragraphs 3-35.

92. Ringling Bros.' treatment of its elephants is inhumane and unhealthful for the animals, and violates the AWA regulations, and hence its treatment of the animals also violates the permit it was issued by the Fish and Wildlife Service, and the FWS's regulations implementing the ESA, 50 C.F.R. §§ 13.41, 13.48, which require any person holding a permit to comply with "all applicable laws and regulations governing the permitted activity." Defendants' unlawful actions injure plaintiffs in the manner described in paragraphs 3-35.

**WHEREFORE**, plaintiffs request that this Court enter an order:

1. Declaring that defendants' treatment of its elephants violates the ESA and that statute's implementing regulations;
2. Enjoining defendants from continuing to violate the ESA and that statute's implementing regulations with respect to the elephants in its possession;

3. Enjoining defendants from purchasing, receiving, transporting in interstate commerce, harming, harassing, and "taking" endangered elephants;

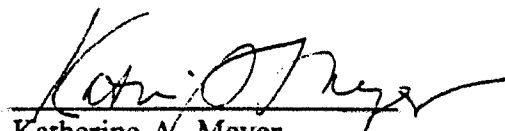
4. Enjoining defendants from beating, wounding and injuring endangered elephants, forcibly separating babies from their mothers, and keeping elephants on chains for most of the day, unless and until it obtains permission to do so from the FWS pursuant to the procedural and substantive requirements of section 10 of the ESA;


5. Directing defendants to forfeit possession of the endangered elephants in its possession;

6. Awarding plaintiffs their reasonable attorneys' fees and costs for this action;  
and

7. Granting plaintiffs such other and further relief as may be just and proper.

Respectfully submitted,

  
Katherine A. Meyer  
(D.C. Bar No. 244301)

  
Eric R. Glitzenstein  
(D.C. Bar No. 358287)

  
Daniel R. Vice  
(D.C. Bar No. 465905)

Meyer & Glitzenstein  
1601 Connecticut Ave., N.W.



Go to the [Ringling Bros. Treatment of Asian Elephants](#) main page

[We have reproduced the text of the USDA's documents surrounding the February 1999 inspection of Ringling Bros.' elephants Doc and Angelica, at the Florida "Center for Elephant Conservation." All text in orange has been highlighted by the Wildlife Advocacy Project, and is not original to the documents. We apologize for any errors caused by transcription, please inform us at [darcy@wildlifeadvocacy.org](mailto:darcy@wildlifeadvocacy.org) if you see a problem.]

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Narrative written for the USDA's files by Robert Brandes, DVM

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## Narrative

On February 9, 1999, Dr. Binkley and myself performed a routine inspection of Feld Entertainment-Center for Elephant Conservation (52-C-0136) located in Polk City, FL.

There were two baby elephants in the large female night holding barn named "Angelica" and "Doc." These elephants were chained on opposite front-rear legs. One of the front legs was chained with link type chain around the front leg at the ankle area. The other end of this chain was anchored to a metal ring that was embedded into the concrete flooring. The opposite rear leg had a wide piece of cloth material around the area of the knee joint. The ends of this cloth were attached to a rope, which was secured to the metal railing of the enclosure behind the animals. The animals' movements were restricted by this method of restraint. There was only some side to side swaying motions.

**Visible scars were readily observable.** Angelica's lesion appeared as a pink linear scar approximately 6" long x 1" wide. The left rear leg also had a scar directly below the cloth tie. These lesions appeared "greasy" and we were told by Mr. Williams that they were treated with an iodine-based ointment. This elephant also had 2 healing linear scars on the back of the right hind leg. Doc had a pink scar on the right rear mid leg area.

Dr. Binkley immediately upon observation of these scars asked Mr. Jim Williams and Gary Jacobson as to the origin of them, and why these elephants were tied up this way. Both men said that they were caused by rope burns due to the elephants' movements when tied, and that **this type of restraint was done routinely during the separation process from their mothers.** They indicated that these elephants have to be restrained this way during the separation process. They indicated that this was "industry standard," and a normal way of doing this.

After the walk through portions of the inspection we requested that we take photographs of these animals. Mr. Williams then became antagonistic and defensive. He questioned us as to why we wanted to take pictures. We said we had some concerns about these scars. He said he would have to get Mr. Jacobson to handle these animals, and he was not sure if Mr. Jacobson was still available. He also said he himself would not handle them so that we could take photographs. He also questioned the legality of us taking these photographs. As it was late in the day and the barn was dark, I thought that the only way to take a picture would be with the use of a flash. Mr. Williams said that he was not sure if he would allow a flash picture, as he was unsure of how the elephants would react to the flash.

Because it was late in the day for picture taking, Dr. Binkley decided to postpone the pictures until the following morning, February 10, 1999.

When we arrived the next morning we were first met by Mr. Jim Williams, in the parking area, who again became antagonistic and defensive when we asked to take photographs of Angelica and Doc. He also inquired as to Dr. Binkley's expertise in the management of elephants. Shortly afterwards he just walked away.

We then met Drs. Lindsey & West. Dr. Lindsey also questioned our authority to take photos, and to conduct unannounced inspections. We explained the regulations to him. Dr. Lindsey also indicated that this process of separating the babies from their mother was a normal "industry standard." He further questioned us as to why we wanted to take these pictures, and asked us of our concerns about these elephants. Dr. Binkley explained that we had some concerns about these scars which were caused by the method of restraining these animals. She also asked Dr. Lindsey if he agreed that they were scars. He did agree to that description of what we observed. He still could not understand our concerns.

He then informed us that the ropes and chains were removed prior to our arrival. These elephants were also moved to another area in the female high holding barn for the pictures. All the ointments were removed, and the animals appeared "cleaned up."

During the exit interview Dr. Lindsey, Jim Williams, and Gary Jacobson again reiterated their views. They appeared surprised about our concerns, and that we were making a big deal about this. Mr. Williams & Jacobson became loud and again indicated that this was alright, and that we did not know anything about separation procedures. Mr. Williams & Jacobson shortly walked away, and Drs. Lindsey & West were the only ones present for the rest of the exit interview.

Dr. Binkley spoke to Dr. Goldentyer by telephone, and expressed our great concerns over this handling issue, and the scars which we observed. Dr. Binkley informed me that she was informed by Dr. Goldentyer that we would cite our concerns only as a notation on the inspection report, and would not cite it as a non-compliance until a decision is reached by the Animal Care staff.

Dr. Lindsey was hesitant about signing the inspection report. He asked us if he must sign the report. We said that he did not have to sign the report, but if he did not, we would send it to him by certified mail. Dr. West confirmed the regulations and accuracy of our statements. Dr. Lindsey then wanted to put a statement on the inspection report, which Dr. Binkley agreed to.

We informed Drs. Lindsey & West that we are going to send the photos that we took to headquarters staff for review, and that they would be notified after that review.

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Memo for the USDA files by Miava Binkley, DVM

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To: File  
From: Miava Binkley, DVM  
Subject: Ringling Brothers – Polk City site inspection  
Date: February 16, 1999

On Tuesday, February 9, 1999, Dr. Robert Brandes and I began a routine inspection at Ringling Brothers' (Feld Entertainment) Center for Elephant Conservation (52-C-0136) in Polk City, FL.

We arrived in the morning about 10 am and met Jim Williams, who accompanied us throughout the inspection. At the end of the walk-thru inspection, we saw two young (**approx. 18 months old**) elephants restrained in the large female night holding barn. (Doc and Angelica). They were held by leg restraints on two legs, one fore and one rear. The front legs were held by plastic wrapped chains and the rear legs were held by wide cloth/cotton webbing. On first glance, it was obvious that there were lesions on the back legs of both elephants. Angelica's lesion on the anterior aspect of the right rear leg appeared very pink, moist, and about 6" by 1" in size, just below the rear leg restraint. She also had a smaller lesion on the left rear leg. Doc's lesion appeared more whitish and about the same size. We were told by Ringling personnel that the reddish color was due to the iodine-based ointment that was on the lesions. ("Biozide")

I asked what caused the lesions. Gary Jacobson said that Doc and Angelica were weaned from their mothers on January 6th and that the scars were from rope burns during this process. He described the process as putting a cotton rope around each leg, then a chain around the neck, and leading the baby off with another elephant. Jim Williams acknowledged that this is what caused the lesions.

Later, Dr. Brandes and I looked at the "Biozide" ointment that was used. It was an iodine based ointment that was dark orange colored like iodine, not really red. We reviewed records and attempted to contact Dr. Lindsay by phone, but he was unavailable. We left for lunch and said we would return later for the exit interview.

I attempted to contact Dr. Goldentyer when we arrived at a local restaurant, but was not able to reach her until later in the afternoon. I described what we had seen, and stated that Dr. Brandes and I felt it should be cited as a violation. She conferred with Dr. DeHaven and then instructed us not to write it as a violation, but to write it as a "note" on the inspection report, since Dr. DeHaven felt we should consult with others in the industry before taking action. He also wanted pictures of the lesions to review. After completing the inspection report as instructed, we returned to the Ringling facility at approx. 5 pm. There to meet us were Drs. Bill Lindsay and Gary West, Jim Williams and Gary Jacobson. Dr. Lindsay was very upset and asked repeatedly why we could not be more collegial and call him before we came. I explained to him that all our inspections are unannounced. We also asked at that time to take pictures of Doc and Angelica. All Ringling personnel were very reluctant to let us take pictures. Jim Williams said he would not help us take pictures and that it was a bad time since many of his staff had left for the day and it would interrupt the normal routine for the animals. In light of everything, I elected to come back the following day for the pictures and the final exit interview.

We returned to the facility the following day at about 10 am. We were met by Jim Williams who proceeded to interrogate me about what was happening. He asked if he could be involved in any violations – I answered it was possible. He then began badgering me about my qualifications to inspect elephants. I calmly answered that I had a right to inspect this facility. He then walked away in apparent disgust and told Dr. Lindsay to handle things. Dr. Lindsay was calm and helpful, as was Dr. West. We proceeded to the building to take pictures. They had placed the young elephants in a small pen. They said they did not want pictures taken of them on leg restraints. I said fine, since all I wanted was pictures of the lesions. Dr. West was videoing the two elephants and they had been cleaned of all medical ointment. The lesions appeared to be healing scars. Angelica's lesions looked less dramatic than the previous day, but Doc's actually looked more pink than the day before. In addition to what we saw the day before, we now also were able to see additional healed scars around each leg, including front legs. These were well-healed but clearly visible. Dr. Lindsay agreed the lesions were healing scars but did not feel it was anything important. Dr. Brandes took pictures and then we proceeded to do the exit interview. After the report was shown to Dr. Lindsay and Dr. West, Dr. Lindsay was reluctant to sign the report. I explained that he was only signing that he received a copy of the report, not that he agreed with it. He

was upset that we had even written a note about the scars and stated that we were “silly” for making such a big issue over a little thing. He did sign the report and wrote a short note about his concern.

As for the TB status of the herd, Dr. Lindsay confirmed that several animals remain untested at present (Doc, Angelica, Charlie, Casey, and Rajah). Vance, the breeding male who cultured TB positive, has not yet begun treatment. Mala is continuing her treatment with INH only via rectal slurry. They have not been successful in treating her orally and rifampin is not well absorbed rectally. He did say Ringling had decided to go ahead and attempt to treat Vance but they would have to make physical changes in the building to do it safely since he is not handled in free contact. He did not know when treatment would begin. Both Vance and Mala appeared in good body condition. Jim Williams did say that he was the one who collected the mucus from the floor when Vance coughed up very thick, viscous yellow material for 5-7 days. No other material has been seen since.

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Text of the inspection report filed by Drs. Binkley and Brandes following their visit to the Elephant Conservation Center

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USDA  
Animal and Plant Health Inspection Service  
Animal Care

## **INSPECTION REPORT**

Feld Entertainment  
Ringling Bros/Barnum & Bailey  
3607 Westwood Center Drive  
Vienna, VA 22182

Site 002  
Center for Elephant Conservation  
12850 Old Grade Road  
Polk City, FL 33868

52-C-0137

2/99-10/99, 9:45 am

Reinspection

## **NARRATIVE**

Current Inventory: 27 Asian Elephants

**CATEGORY I:** Non-compliant item(s) previously identified that have been corrected.

Veterinary Care 2.40

A new Program of Veterinary Care has been completed.

**CATEGORY III:** Non-compliant item(s) identified this inspection

Records 2.75

The TB test results of Jenny, which recently came from the Red unit on December 1, 1998, are not available for review. All records shall be readily available for review by any APHIS official.

To be corrected by: February 16, 1999

**NOTE:**

Culture results on Vance indicated a positive TB status, early January 1999. As of this date, no treatment has been instituted. This animal is owned by Roman Schmitt.

**There were large visible lesions on the rear legs of both Doc and Angelica.** When questioned as to the cause of these lesions, it was stated by Mr. Jim Williams & Mr. Gary Jacobson that these scars were caused by rope burns, resulting from the separation process from the mothers on January 6, 1999. Angelica's lesion appeared as a pink linear scar, approx 6" long x 1" wide on the right rear leg. The left rear leg also had a scar directly below the cloth leg tie. Both lesions appeared to have been treated with an iodine-based ointment (they were moist). Angelica also had two linear healing scars on the back of the right hind leg. Doc had a pink scar on the right rear mid-leg area.

All these lesions now appear to be healing scars. After removal of the medicated ointment on 2/10, they appeared much less pink.

This issue is of concern, and will be forwarded to Headquarters for review to determine if it is a violation of the AWA (per instructions by Dr. Betty Goldentyer). A formal determination will be made at a later date and forwarded to the facility.

Prepared by: [signature]. Robert Brandes, D.V.M. Veterinary Medical Officer, USDA, APHIS, Animal Care LARIS ID No. 2002

Date: 2/10/99

Copy Received by: [signature of Dr. Lindsay, D.V.M.]

Date: 2-10-99

[handwritten note by Dr. Lindsay] Please note our concern over the interpretation of these lesions. [Dr. Lindsay's initials]

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A copy of the letter from the Deputy Administrator of USDA APHIS Animal Care, to Ringling Bros., regarding the results of the inspection

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USDA  
Marketing and Regulatory Programs  
Animal and Plant Health Inspection Service  
4700 River Road  
Riverdale, MD 20737

May 11, 1999

Ms. Julie Strauss  
Feld Entertainment, Inc.  
Ringling Brothers & Barnum and Bailey Circus  
8607 Westwood Center Dr.  
Vienna, VA 22182

Dear Ms. Strauss:

We have completed our review of the lesions observed on two juvenile elephants, Doc and Angelica, during the inspection of the Center for Elephant Conservation in Polk City, Florida, on February 9, 1999 (copy enclosed). Without divulging the identity of the facility, we solicited several elephant experts to review the photographs and history of the situation. **After careful consideration of the issue, we find that the handling of these two elephants was not in compliance with the Animal Welfare Act regulations, specifically Section 2.131(a)(1) "Handling of animals" (Title 9, Code of Federal Regulations). We believe there is sufficient evidence to confirm the handling of these animals caused unnecessary trauma, behavioral stress, physical harm and discomfort to these two elephants.**

It was the opinion of several of the expert reviewers that there are other methods available to separate juvenile elephants from their mothers that would be less stressful and not cause lesions such as those observed on Doc and Angelica. While the method used may be traditional, it is incumbent on every licensee to review their handling practices to ensure they are compliant with Animal Welfare Act regulations and consistent with currently accepted standards. We appreciate that the management of Feld Entertainment is committed to full compliance with the Animal Welfare Act, and as such, feel certain you will address this situation to ensure that it does not reoccur.

On a separate matter, we have received Dr. Murray Fowler's report of his evaluation of the lameness observed in another elephant by the name of Lechamee. Based on Dr. Fowler's evaluation, we will consider Lechamee fit for continued travel and performing as explained in his evaluation. We appreciate Ringling's response regarding this concern.

If you have any questions regarding this letter or the Animal Welfare Act, please feel free to contact Dr. Elizabeth Goldentyer in our Eastern Regional Office or me.

Sincerely,

W. Ron DeHaven  
Deputy Administrator  
Animal Care

Cc:  
K. Vail, OGC, Washington, DC

E. Goldentyer, AC-ER, Raleigh, NC  
B. Kohn, AC, Riverdale, MD  
J. Rogers, LPA, Riverdale, MD



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## Endangered Florida Manatee

Location: marine habitats, Florida and Georgia

The Wildlife Advocacy Project is assisting a national coalition of conservation groups in their effort to protect and save from extinction the highly endangered Florida manatee, by providing information to the public and the media concerning the threats to this species and the importance of legal efforts to protect it from further decline. The coalition -- Save the Manatee Club, Defenders of Wildlife, Humane Society of the United States, Sierra Club, Animal Welfare Institute, International Wildlife Coalition, and Florida Defenders of the Environment -- recently brought a lawsuit, Save the Manatee Club, et al. v. Lt. General Joe N. Ballard, et al., Civ. No. 00-0076 (D.D.C. January 13, 2000), to force the Army Corps of Engineers and the Fish and Wildlife Service to take actions to reduce the number of manatees that are killed and maimed each year by motor boats and development in the state of Florida. The groups are being represented by Meyer & Glitzenstein.

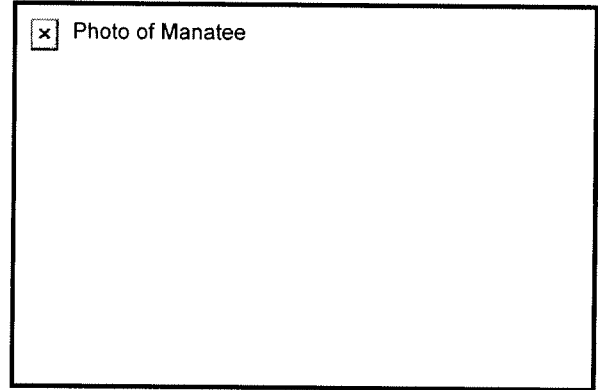
These federal agencies have never considered the cumulative impacts on manatees of their decisions to allow the construction of thousands of docks, marinas, and access ramps -- to facilitate increased use of watercraft that is harmful to the manatee. The lawsuit seeks to require the agencies to consider such impacts, as required by the Endangered Species Act, the Marine Mammal Protection Act, and the National Environmental Policy Act, and to limit the number and location of such activities.

## Some Facts About the Florida Manatee:

The Florida manatee is one of the most endangered marine mammals in coastal waters in the United States. It is a large animal with dark gray, wrinkled skin,



paddle-like forelimbs, no hind limbs, and a large flat tail. The slow-moving manatee lives in fresh, brackish and marine habitats, and prefers floating sea grasses and other vegetation. It has been listed as an endangered species since 1967. The major threats to the manatee are watercraft colliding with the animals, and destruction and degradation of habitat caused by widespread development throughout the species' Florida range. Although there are only about 2400 manatees



remaining, last year 268 manatees were killed in Florida waters, and 82 of those were killed by boat collisions. In addition, many more manatees are maimed each year by boats -- according to the Fish and Wildlife Service, "most living manatees bear scars or wounds from vessel strikes."

Despite these problems, the Army Corps of Engineers continues to approve numerous permits each year for new boat ramp and other watercraft access construction -- increasing the number of boats in manatee habitat. Neither it nor the Fish and Wildlife Service -- the federal agency charged with ensuring that the manatee does not become extinct -- make any effort to analyze the cumulative effects of these decisions, in violation of several federal laws. In addition, the State of Florida does not adequately enforce low speed limits on watercraft, designed to lessen the number of collisions with manatees each year.

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~ Immediate On-the-Water Protections for Manatees Needed Now!

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This comment period began on September 1, 2000 and closed on October 16, 2000. The draft rule is expected to be published in the Federal Register on April 2, 2001. At that time, it is likely that the agency will issue notice of public hearings in several areas throughout Florida.

Fish and Wildlife Services Sanctuaries and Refuges

### URGENT ACTION ALERT WITH DEADLINE

If you are with an organization, please take action on behalf of your organization. Please also pass this alert to your members so they, too, can take action. Many thanks.

We need your immediate help to obtain stronger protection for manatees. This is an opportunity we cannot afford to miss.

### THE ENDANGERED MANATEE:

There are only an estimated 2,400 manatees left in Florida's coastal waters. **Endangered manatees need a place to live and breed in peace without human disturbance.**

In 1999, more manatees were killed from human-related causes than ever before in recorded history. The majority of these animals were killed by boats. However, **the greatest overall threat to manatee survival is loss of their habitat to development.**

In part because of lawsuits that were filed earlier this year (see below for more information), the U.S. Fish and Wildlife Service is considering establishing refuges and sanctuaries for manatees, areas set aside with *minimal or no human activity allowed*. Manatees need protected areas where they are not dodging speeding boats or being harassed for such activities as feeding, breeding, and resting. They need protected areas not just for their survival, but also for their recovery as a species. Under the Federal Endangered Species Act, the Service is charged with the duty not only to protect endangered species like the manatees, but also to coordinate their recovery.

In addition, these areas would protect far more than manatees. **Many other endangered and threatened marine creatures would also be protected in these refuges and sanctuaries.** Shore birds and fish could all thrive in these areas.

To establish sanctuaries and refuges, the service must take comments from the public -- to find out how much support there is for setting aside these protected areas. **The deadline for their receiving the comments is October 16, 2000.**

Everyone needs to help. You can fax, or send a letter, send an email, or even fill out a postcard, saying that you support the proposal to designate manatee refuges and sanctuaries. Tell the Service that the future of the manatee depends on the adoption and implementation of a comprehensive system of sanctuaries and refuges throughout their range. Now's our chance, we can't afford to miss this opportunity for stronger manatee protection. Many thanks!

Comments should be addressed to:

Field Supervisor Dave Hankla  
Jacksonville Field Office  
U.S. Fish and Wildlife Service  
6620 Southpoint Dr. South, #310 Jacksonville, FL 32216-0958  
email: fw4\_\_es\_\_jacksonville@fws.gov

If you want more information about manatees, visit Save the Manatee Club's website, [www.savethemanatee.org](http://www.savethemanatee.org), or contact them: SMC, 500 N. Maitland Ave., Maitland, FL 32751-4458; phone 1-800-432-5646.

#### ADDITIONAL BACKGROUND ON THE LAWSUITS:

A coalition of 19 national, state, and local organizations have filed two major lawsuits -- one against the federal government and one against the state government -- charging that the Service, the U.S. Army Corps of Engineers, and the Florida Fish and Wildlife Conservation Commission have failed to enforce the laws protecting manatees. The suit attempts to make the agencies enforce the existing laws, already on the books.

The organizations filing the suits include Save the Manatee Club, The Humane Society of the United States, Defenders of Wildlife, International Wildlife Coalition, U.S. Public Interest Research Group, Sierra Club, Animal Welfare Institute, International Fund for Animal Welfare, Citizens Association of Bonita Beach, Responsible Growth Management Coalition, Environmental Confederation of Southwest Florida, Florida Audubon Society, Florida Public Interest Research Group, Sanibel-Captiva Audubon Society, Audubon Society of Southwest Florida, Biscayne Bay Foundation, Florida Defenders of the Environment (federal suit only), Florida Wildlife Federation (state suit only), and the Pegasus Foundation.

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## MANATEE REPORT FROM THE LAST DAYS OF THE 106th CON

### A Million for Manatees Update

The situation is urgent for these gentle salt- and fresh-water dwelling m The first three months of this year produced a record 100 manatee death overall ? the highest count of manatee mortality ever. The greatest hum threats are boating accidents that knock manatees unconscious, keeping from reaching the surface to breathe. According to state records, there a 800,000 registered boats in Florida, and an additional estimated 300,000 craft visit Florida each year.

In recent years, the Fish and Wildlife Service (FWS) has deployed a spe enforcement task force at high peak traffic times of the year in high risk the manatee. The patrols are critical in order to protect our manatees fro slaughtered by speeding and careless boaters. With U.S. Congressman I Young?s (R-10th, St. Petersburg & Largo) help, we have already been s in getting more funds for such ?on the water? enforcement in the House of next year?s interior budget. However, the Senate side of the budget d mention the increase. Bill Young needs your support! Please write thanl for increased financial support to protect manatees in their own habitat. copy that letter to Representative Regula, who is the chair of the subcor on the Interior.

- After thanking Congressman Young for getting the House Appro for Manatees, ask him to make sure that the ?Million for Manatee Appropriation? makes it to the FINAL VERSION of the budget.
- Also, respectfully ask the Congressman to clearly earmark such f ON THE WATER ENFORCEMENT in order to make sure the fi used to protect manatees immediately.

## MANATEE DEATHS AT RECORD HIGHS!

As boat collisions, habitat destruction from developments and natural d such as ?red tide? sink the endangered manatee further toward extinctio tracking population numbers report that manatee deaths are at record hi year, human use of the waterways killed 82 manatees, the highest numb recorded history! (Ofentimes, manatees are rendered unconscious durir collisions and are later found drowned.)

Alarmingly, experts are seeing an even higher number this year of man deaths from boats -- thirty one manatees in just the first three months of according to an unconfirmed report provided by the Florida Fish & Wil Conservation Commission. This is a matter of the utmost urgency. With

Senator Bob Graham's help, manatee protectionists have already been successful in getting the Service's budget for manatee protection increased this fiscal year. This money is intended to go toward on-water enforcement, to assess the viability of new sanctuaries and reserves, and to ensure the stability of manatee winter refuges. However, this money was necessary before the urgency of manatee mortality numbers were known. And although the proposed budget of \$10 million might look impressive to citizens, it is not large enough to address the immediate problem of manatee extinction.

What we need to do now is to DOUBLE the ADD-ON APPROPRIATION TO THE government's budget for manatee protection for next fiscal year. One of the most powerful members of Congress is Florida's own, C.W. "Bill" Young, (11th District, Fla.). Representative Young is known throughout Congress for his expertise of wildlife - we need to educate him that the people of the nation are alarmed by the number of manatee deaths and immediate attention to the problem is needed. In recent years, the government has deployed a special enforcement force at high peak traffic times of the year in areas where manatees are most frequently killed. These patrols are crucial to the survival of the species and to protect our manatees from being slaughtered by speeding and careless boaters. Just a few months ago, the Florida papers reported that lobbyists for the boating interests are trying to accelerate boat access to manatee habitat without the necessary protection measures in place. It is our job to keep the waters safe and protect endangered manatees. WHAT YOU CAN DO: Please immediately contact the following list of U.S. Representatives and Senators. Let them know that the outrageously high manatee mortality from boat collisions constitutes an emergency situation. Let them know you support additional funding for the Service's manatee protection efforts in Florida, including more on-water enforcement. ASK FOR AN ADD-ON APPROPRIATION FOR MANATEE PROTECTION TO THE SERVICE'S BUDGET FOR THE FISCAL YEAR STARTING OCTOBER, 2000. The manatee population cannot possibly sustain this setting mortality for long without dire consequences to its future as a viable species in the wild. Please make your voice heard for our voiceless friend. Many, many thanks!

#### WHAT YOU CAN DO:

Representative Bill Young, Chairman of Appropriations  
2407 Rayburn House Office Building Washington, DC 20515-0910  
Phone: 202-225-5961  
Fax: 202-225-9764  
Email: You can email him at his web site:  
<http://web.archive.org/web/20050311095220/http://www.house.gov/billyoung>

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The Recovery Plan comment period began on November 30, 2000 and closed on January 30, 2001. The final Recovery Plan is expected to be issued at the end of February and this page will be updated at that time.

*Manatee Protectionists Alarmed by Potential Down- or De-Listing*

### LETTERS NEEDED TO IMPROVE PLAN TO RECOVER MANATEES

As boat collisions and habitat destruction cause the Florida manatee to sink further toward extinction, **the federal government appears to be embarking on a reckless plan to reclassify** (down-list, or even, de-list) the species while *overlooking the various separate and cumulative factors* that continue to imperil this gentle marine mammal.

The Endangered Species Act (ESA) protects the manatees? ecosystems and it directs the federal government (Fish and Wildlife Service FWS) to **design a Recovery Plan** with specific "objective, measurable criteria," and appropriate deadlines, **to bring the species back to such a healthy condition that the manatees no longer need the protections of the ESA.**

Instead of focusing on the specific threats facing manatees, including habitat loss and degradation, the FWS has gone out of out of its way to *create a totally arbitrary, and scientifically baseless, population target number* of at least 2,000 animals as sufficient for the future health of the species. However, **the most critical issue in protecting endangered species is not a "count" of the number of manatees at any particular moment in time but, rather, whether the threats facing manatees are being adequately addressed**, including habitat loss.

One particular "objective, measurable" criteria to recover the species that needs to be included in the Plan is site-specific needs and problems of manatee subpopulations. For example, the *FWS itself has acknowledged that survival of the Atlantic Coast subpopulation is a "case for concern" because of boat collisions and other factors, but the Plan does not address the threats to adult survival.* This Recovery Plan must include objective, measurable, site specific recommendations based upon the needs of subpopulations of the species.

Manatees are subject to legal, legislative and agency processes that

must be crafted and coordinated to restore the health of the species. The Recovery Plan needs to include a provision for a Manatee Coordinator to focus on obtaining all the goals of these various state and Federal programs and to make agencies accountable when programs do not obtain their goals.

**TAKE ACTION PLEASE WRITE TODAY!** Letters are officially **due by January 30, 2001**. Address your letter to President George W. Bush, [president@whitehouse.gov](mailto:president@whitehouse.gov), and copy your letters to the Federal Fish and Wildlife Service, [billy\\_brooks@fws.gov](mailto:billy_brooks@fws.gov). Please include your name and address and remind the President that his brother, Governor Jeb Bush has called the manatee his "favorite mammal."

1. Tell the Federal Government that the manatees deserve a recovery plan that lays out objective and measurable criteria, as the law requires, and includes site-specific plans based upon the needs of all subpopulations of manatees.
2. Demand that the FWS remove any arbitrary population target numbers as a basis for recovery and also delete any suggestions that the manatee will be reclassified until the FWS makes plans to address all the factors that caused the listing of the manatee under the ESA.
3. Request that the FWS include plans for a Manatee Coordinator that will focus on obtaining all the goals of these programs and to make agencies accountable when programs do not obtain their goals.
4. Urge the FWS to commit in the Recovery Plan to update the critical habitat designation for the manatee that the FWS has conceded is incomplete and out of date.

For more information on manatees, please contact the Save the Manatee Club at [SavetheManatee.org](http://SavetheManatee.org).

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### Endangered Delmarva Fox Squirrel

Location: The Delaware, Maryland & Virginia (Delmarva) Peninsula

The Wildlife Advocacy Project is educating the public, through media coverage, about the threats to the endangered Delmarva fox squirrel from intensive development on the Eastern Shore of Maryland. On behalf of a local grassroots activist and Defenders of Wildlife, Meyer & Glitzenstein has brought a lawsuit challenging the U.S. Fish and Wildlife Service's decision to allow increased private development of dwindling fox squirrel habitat, without following the requirements of either the Endangered Species Act or the National Environmental Policy Act. The Fish and Wildlife Service's handling of the fox squirrel will impact hundreds of other species throughout the country since the Service has announced it intends to use the fox squirrel project as a "model" for managing other endangered species on the East Coast.

### SOME FACTS ABOUT THE DELMARVA FOX SQUIRREL:

Rare squirrels, twice the size of the average grey squirrel and listed as endangered species since 1967, may be eradicated by proposed construction on Maryland's Eastern Shore in violation of the Federal Endangered Species Act. The Delmarva fox squirrel, formerly found throughout the Delaware, Maryland and Virginia ("Delmarva") Peninsula, now is found almost exclusively in four counties of the Eastern Shore (Queen Anne's, Dorchester, Kent and Talbot Counties) where increased development, construction, and suburban sprawl are displacing this slow moving animal. The fox squirrel -- which plays an important role in its ecosystem by distributing tree and other plant seeds -- is at greatest risk from cars and other vehicles.

The challenged development has been in dispute since 1997 when Meyer & Glitzenstein successfully sued the FWS for allowing construction without even requiring the developer to apply for an "Incidental Take Permit" (ITP) under the ESA, although the FWS acknowledged that the new development would require new roads which, in turn, would result in increased deaths of fox squirrels. Such ITPs may only be granted if the developer prepares a "Habitat Conservation Plan" (HCP) that will make up for the loss of individual members of the species by providing new protection for the species as a whole -- such as the preservation of additional habitat. After suit was filed, the FWS agreed that the developer must apply for an ITP and prepare an HCP. However, the government then had private meetings with the developer to produce a HCP -- the first of its kind in this region of the country and one that, according to the FWS, will be used as a "model" for other HCPs in the future. The final HCP purports to protect the species by requiring the developer to post "squirrel crossing signs" on roads.

Under the permit, the FWS is allowing the developer to kill as many as fifteen squirrels during the lifetime of the permit, when current population estimates range as low as between ten and forty squirrels. The FWS has also allowed the developer to use habitat which is immediately adjacent to the busiest highway in the area for a "mitigation" area, although the world's leading fox squirrel expert, Dr. Vagn Flyger, submitted an affidavit explaining that this site "is inadequate to support a healthy, viable fox squirrel population," and is "of no conservation benefit" to the squirrel.

This is the first HCP being legally challenged on the East Coast. Throughout the Western United States, HCPs have been described by conservationists as "sweetheart deals" that do little to protect endangered species and much to lessen the liability of developers who kill or otherwise "take" endangered wildlife. Public opposition to this, and similar projects, is absolutely critical to stemming the tide of such deals at the expense of endangered and threatened wildlife throughout the country.

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# Current Activities

## Ocelot & Jaguarundi

### CURRENT ACTIVITIES

[Endangered Florida Panther in Big Cypress Natl Preserve](#)

[Ringling Bros.' treatment of Endangered elephants](#)

[Endangered Florida Manatee](#)

[Endangered Delmarva fox squirrel](#)

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Location: Border of Texas and Mexico, The Rio Grande

The Wildlife Advocacy Project is helping to educate the public about a project by the Immigration and Naturalization's Border Patrol along the Rio Grande in south Texas, which threatens the extinction of two extremely rare members of the cat family: the ocelot and jaguarundi. This massive project, called "Operation Rio Grande," is intended to keep illegal immigrants from entering our country. It consists of over 200 stadium lights covering 25 miles along the Rio Grande, fences, boat ramps and other intrusions in critical wildlife habitat for jaguarundis, ocelots, and other



wildlife. On behalf of a coalition of groups, including Defenders of Wildlife, the Sierra Club, and the Frontera Audubon Society, as well as several individuals who live and work in the area, Meyer

& Glitzenstein is seeking to force the Border Patrol to engage in "formal consultation" with the Fish and Wildlife Service, as required by the Endangered Species Act, to ensure that these activities do not jeopardize the continued existence of these magnificent cats. They also want the INS to prepare an Environmental Impact Statement, as required under the National Environmental Policy Act, to force the agency to consider the location and habitats of these species, when planning these Border Patrol activities. The Wildlife Advocacy Project is working with local, regional, national, and Mexican media to educate the public about these activities, and to explain that the objectives of the INS can be achieved in ways that will not harm

these rare species.

### **SOME FACTS ABOUT THE OCELOT & JAGUARUNDI CAMPAIGN:**

Before settlers arrived in Texas, many species of big cats ranged throughout the dense, luxuriant and thorny brush of the Lower Rio Grande Valley. The endangered ocelot and jaguarundi, two nocturnal species, are now protected by federal laws. Two other large cat species, the jaguar and the margay, formerly native to Texas, are extinct in that region. Since 1979, tens of millions of tax dollars have been spent to establish a wildlife corridor to protect these species as well as 86 other rare species around the Lower Rio Grande River. That wildlife corridor, which was to have been completed by 1990, is still not completed, and the project is languishing due to the lack of funding. Therefore, any use by the INS which includes stadium lights, boat ramps, and fencing, effectively undermines the enormous investment taxpayers have made for this purpose. Furthermore, the dense, thorny foliage -- while suitable for cats and other wildlife -- is impenetrable by humans, and acts as a natural barrier along the border.

This natural barrier of dense vegetation is being leveled in violation of federal environmental laws in an ill-conceived attempt to slow down illegal immigration along the Rio Grande River. Wildlife, and especially endangered nocturnal predators, such as the ocelot and jaguarundi, are jeopardized by this construction, which includes 25 miles of stadium lighting, boat ramps and ten-foot high fences being placed along the border. Particularly concerned about the effect of huge stadium lights on endangered nocturnal predators, environmentalists have sued to force the immigration agency to comply with laws mandating an environmental impact statement and consultation with the Fish and Wildlife Service.

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# Current Activities

## Wild Horses and Wild Burros

### CURRENT ACTIVITIES

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[Ringling Bros.' treatment of Endangered elephants](#)

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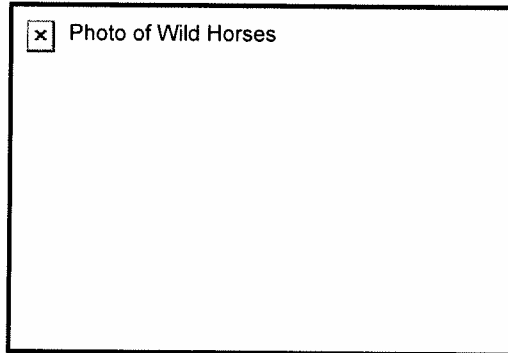
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Location: Southwest States, especially New Mexico

As a result of a lawsuit filed by [Meyer & Glitzenstein](#) on behalf of the Fund for Animals, the Bureau of Land Management agreed -- for the first time in the history of the Wild Horse and Burro Adoption program -- to require prospective adopters to swear, under penalty of perjury, that they are not adopting animals for slaughter or other commercial use. ***Fund for Animals v. Babbitt, Case No. CV-R-85-365-HDM (D. Nev.***



**settlement approved, Oct. 14, 1997).** As a result, any adopter who violates this pledge is liable for criminal penalties, including fines and imprisonment. The Wildlife Advocacy

Project is helping to educate the public to monitor the activities of those who adopt these animals, and to put the pressure on law enforcement officials to prosecute violators of the new law. Without such public involvement, the government will continue to be lax in protecting these wondrous animals from slaughter.

### Some Facts about Wild Horses and Wild Burros:

Wild Horses are legendary symbols of the American Old West. In 1971, Congress passed the Wild Horses and Burros Act to protect from branding and slaughter "all unbranded and unclaimed horses and burros on public land." To maintain a natural balance on the range, Congress authorized the Bureau of Land Management to allow wild horses to be "adopted" pursuant to an "adopt-a-horse" program. Under the program, BLM provides animals to private individuals for a one-year

probationary period, and then, if the adaptor is "qualified," and treated the animals humanely, BLM grants the adopter title of the animals. No adopted horse may be sold for use in any commercial product, including pet or human food.

Despite this prohibition, by 1985, it had become clear that many adopted horses were ending up in commercial slaughterhouses. This led to protracted litigation by the Animal Protection Institute and The Fund for Animals, which concluded with a ruling that BLM may not allow horses or burros to be adopted by anyone who BLM knows or intends to sell them for commercial purposes, and more recently, the imposition of criminal liability should an adopter violate the mandatory pledge not to so use the animals.

To learn how you can help wildlife, please click here and [Support the Work of the Wildlife Advocacy Project.](#)

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