



ANIMAL  
PROTECTION  
INSTITUTE

July 22, 2005

Sent by Certified Mail

Mr. Kenneth Feld, President  
Ringling Brothers and Barnum & Bailey Circus  
8607 Westwood Center Drive  
Vienna, VA 22182

**Re: Notice of Continuing Violations of the Endangered Species Act**

Dear Mr. Feld:

This letter is written pursuant to the Endangered Species Act ("ESA"), 16 U.S.C. § 1540 (g), on behalf of the Animal Protection Institute to provide you notice of continuing violations of the ESA by Ringling Brothers and Barnum & Bailey Circus ("Ringling Bros.") because of its "taking" of endangered Asian elephants used in the circus, 16 U.S.C. § 1538 (a), since its elephant trainers and handlers routinely chain and confine their elephants, use the bullhook on their elephants, and forcibly separate baby elephants from their mothers.

First, Ringling Bros. elephants are routinely chained hour after hour, each day, and are generally allowed off their chains, with very few exceptions, only when they perform. This is evidenced by the eye-witness accounts of former Ringling Bros. employees Tom Rider and Frank Hagan, as well as video footage that has been taken over the years by many individuals throughout the country. Indeed, photographs taken as recently as January 26, 2005 show that within seconds of the elephants completing their walk from the train station to the arena where they were to perform, chains were placed on the elephants. In addition, when the elephants are traveling from location to location, the elephants remain chained in the stock cars for as long as 2-3 days consecutively, and are not provided any opportunity to walk around, or otherwise exercise. This continual use of chains on these animals violates the provisions of the ESA that prohibits individuals from engaging in conduct that "takes" these endangered animals by "harming" and "harassing" them, in clear violation of the ESA and that statute's implementing regulations. 16 U.S.C. § 1538.

Second, Ringling Bros.' trainers and handlers routinely use the bullhook on their elephants, as both Mr. Rider and Mr. Hagen have confirmed, and as has also been recorded on videotape throughout the country. For example, on September 3, 2004 a CBS affiliate in San Francisco aired footage of one of your handlers using the bullhook on a Ringling elephant. The use of the bullhook to train, "discipline," control, and dominate the elephants also "takes" these endangered animals by "wounding," "harming" and "harassing" them, in clear violation of the ESA and that statute's implementing regulations. 16 U.S.C. § 1538.

Third, Ringling Bros. forcibly separates baby elephants from their mothers at its "Center for Elephant Conservation" in Polk City, Florida, long before the animals are naturally weaned from their mothers. The process of removing the baby elephants

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Case 1:03-cv-02006-EGS Document 57-1 Filed 11/21/05 Page 2 of 11


inflicts both physical and psychological harm on the baby elephants, and also harms the mothers. The physical harm to the baby elephants caused by this separation process was evidenced by the February 1999 incident where USDA inspectors observed "large visible lesions" on the rear legs of two Ringling Bros. baby elephants, Doc and Angelica. At that time, Ringling employees candidly admitted that this was part of its "routine" separation practice. Since Ringling Bros. continues to produce baby elephants at the "CEC" for use in its circus, and does not allow those animals to be naturally weaned from their mothers or to stay with their mothers, as they would in the wild, we have every reason to believe that this practice of forcibly removing baby elephants from their mothers continues. This again is evidence that Ringling Bros. "takes" these endangered animals by "harming" and "harassing" them, in violation of the ESA and its implementing regulations. 16 U.S.C. § 1538.

The continual practices of chaining, using the bullhook, and forcibly removing baby elephants from their mothers also violate the Animal Welfare Act ("AWA") and its implementing regulations and policies. Specifically, the practice of chaining elephants for extended periods of time each day violates 9 C.F.R. § 3.128 and United States Department of Agriculture Policy #6; the use of the bullhook to train, "discipline," control and dominate the elephants violates 9 C.F.R. § 2.131; and the forcible separation of baby elephants from their mothers violates 9 C.F.R. § 2.131 and 9 C.F.R. § 3.137. Accordingly, Ringling Bros. ongoing practices of engaging in these activities constitutes additional violations of the Endangered Species Act and that statute's implementing regulations, since 50 C.F.R. § 13.48 provides that any person holding a permit under Section 10 of the ESA "must comply...with all applicable laws and regulations governing the permitted activity," including applicable AWA regulations.

You have previously been put on notice by other animal protection groups of evidence of violations of the ESA concerning your treatment of Asian elephants, by letters dated December 21, 1998, November 15, 1999, and April 12, 2001, which are all hereby incorporated by reference. Copies of those letters are also enclosed.

Accordingly, by this letter, you are on notice of Ringling Bros.' continuing violations of the law.

Sincerely,



Nicole G. Paquette, Esq.  
General Counsel

enc.

Meyer & Glitzenstein  
1601 Connecticut Avenue, N.W.  
Suite 700  
Washington, D.C. 20009-1035

Katherine A. Meyer  
Eric R. Glitzenstein  
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December 21, 1998

Sent By Certified Mail

Mr. Kenneth Feld, President  
Ringling Brothers and Barnum & Bailey Circus  
8607 Westwood Center Drive  
Vienna, Va. 22182

Re: Violations of the Endangered Species Act  
Notice of Intent To Sue

Dear Mr. Feld:

This letter is written pursuant to the Endangered Species Act ("ESA"), 16 U.S.C. § 1540(g), on behalf of the Performing Animal Welfare Society ("PAWS"), its officers, Pat Derby and Ed Stewart, and ex-Ringling Brothers' employee Glenn Ewell to provide you notice of violations of the ESA. As more fully described below, Ringling Brothers is in violation of the prohibition against the "taking" of endangered Asian elephants, 16 U.S.C. § 1538(a), since its elephant trainers and handlers routinely beat elephants, including baby elephants, in order to make them perform or behave in a particular way, and Ringling Brothers also keeps the elephants chained for extremely long periods of time. Ringling Brothers is also in violation of 16 U.S.C. § 1538 because, for the same reasons, it is in possession of animals that have been unlawfully "taken" and because it continues to transport those animals in interstate commerce.

1. Elephants Are Severely Beaten With Bull Hooks.

Enclosed is a videotape of sworn deposition testimony of two recent employees of Ringling Brothers who worked on the animal crew for Ringling Brothers' Blue Unit between September and December, 1998, Glen Ewell and James Stechcon. Exhibit A. Transcripts of the depositions are also enclosed as Exhibits B and C. Both individuals were assigned primarily to the care of the elephant herd.

Both individuals provide sworn testimony that on many occasions they witnessed Ringling Brothers' elephant handlers and trainers beat elephants severely with an instrument called a "bull hook" which is a hard club made of fiber glass, wood, or metal, with a sharp hook on the end of it. They explain that on several occasions, these employees used bull hooks to beat elephants repeatedly on the head, ankles, and other parts of their bodies to make them behave in a particular way or to punish them for not performing as desired.

Both men also testified that the Ringling Brothers' elephant handlers and trainers use the sharp end of the bull hook to make the elephants do as they wish, by hooking it onto their ears, their ankles, and other parts of their hides and then pulling on the bull hook. These men also testified that these beatings and stabbings with the bull hooks cause the elephants much distress and pain, as evidenced by the animals' cries and other distressful verbal reactions, and that the elephant handlers often draw blood from the animals when they use the bull hooks.

Although the trainers use the bull hooks on many of these animals, Mr. Ewell and Mr. Stechcon testified that particular elephants are beaten more frequently, including an Asian elephant named "Nicole," and a baby elephant named "Benjamin." The men testified that they have seen Randy and Adam beat Nicole on several occasions, and that Randy beat her so hard once that he shattered a bull hook on her. Mr. Stechcon testified that he saw three of the handlers and trainers, Randy, Adam, and Pat, beating Nicole at one time.

The men also testified that they also witnessed Pat beat the baby elephant Benjamin many times. Both men testified that beatings occurred throughout the country where the Blue Unit performed, including Denver, Colorado, Cleveland, Ohio, and the Rosemont Arena, outside Chicago, Illinois. They also testified that the beatings were completely unprovoked by the animals, who are extremely gentle and cooperative.

Both men further testified that Jeffrey Steele, who is the Executive Manager of the "Blue Unit" was present during at least one severe beating of Nicole -- that this vicious beating with a bull hook took place in Rosemont, Illinois, outside of Chicago, after "Randy" made Nicole lay down on the ground, that this beating lasted for several minutes, and that it was conducted within full view of Mr. Steele. When asked whether it was possible that Mr. Steele did not see this beating and therefore was unaware of it, one of the deponents, Mr. Stechcon, testified that while he did not believe that Mr. Steele could have avoided seeing the beating, he certainly could not have missed hearing the repeated "whacking" sound of the bull hook on Nicole as well as Nicole's cries of distress.

Despite this abusive and clearly unlawful treatment toward this animal, Mr. Steele neither said nor did anything to stop it, nor did he take any action whatsoever to reprimand the Ringling Brothers' employee who was engaging in this conduct. Rather, according to both Mr. Ewell and Mr. Stehcon, Mr. Steele -- the top executive officer of the Blue Unit -- simply ignored this conduct and went on about his business. This incident alone, and Mr. Steele's cavalier reaction to it, suggests that such treatment of elephants in Ringling Brothers' circus is by no means aberrational, but, rather, is business as usual for this exhibitor.

All of this conduct violates the provision of the ESA that prohibits individuals from engaging in conduct that "takes" an endangered species. 16 U.S.C. § 1538. The term "take" is defined to include "harass" or "harm." 16 U.S.C. § 1532(19).

2. Elephants, Including Babies, Are Left Chained For Days.

Both deponents also testified that elephants are left chained hour after hour, each day, and that, with few exceptions, they are allowed off their chains only when they perform. In addition, when the circus is traveling, the elephants remain chained in the stock cars for as long as 2-3 days consecutively, and not provided any opportunity, whatsoever, to walk around, or otherwise exercise.

These conditions, which are completely at odds with the natural biological needs of these magnificent animals, also constitute the unlawful "taking" of endangered elephants.

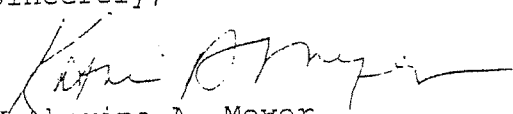
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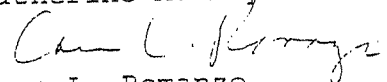
\*

The above constitutes notice of violations of the ESA. Unless Ringling Brothers takes immediate actions to stop these violations of the statute, please be advised that our clients intend to bring a lawsuit pursuant to the citizen suit provision of the ESA to compel it to do so.

Sincerely,



Katherine A. Meyer



Cara L. Romanzo

cc: Bruce Babbitt, Secretary of the  
Department of the Interior  
Jamie Rappaport Clark, Director,  
Fish and Wildlife Service

Meyer & Glitzenstein  
1601 Connecticut Avenue, N.W.  
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November 15, 1999

**Sent By Certified Mail**

Mr. Kenneth Feld, President  
Ringling Brothers and Barnum & Bailey Circus  
8607 Westwood Center Drive  
Vienna, Va. 22182

**Re: Violations of the Endangered Species Act  
Notice of Intent To Sue**

Dear Mr. Feld:

The purpose of this letter is to supplement the previous notice letter sent to you on December 21, 1998, on behalf of Pat Derby and Ed Stewart regarding violations of the Endangered Species Act, 16 U.S.C. § 1538, because of the unlawful "taking" of endangered Asian elephants, including baby elephants. I have attached a copy of our previous notice letter for your convenience.

Through the Freedom of Information Act, we recently received copies of inspection report documents from the U.S. Department of Agriculture concerning Ringling Brothers' care and treatment of baby elephants at its "Center for Elephant Conservation" in Polk City, Florida. One of those reports shows that, in February, 1999, the USDA inspector observed "large visible lesions" on the rear legs of two baby Asian elephants, Doc and Angelica, and that Ringling Brothers' employees explained that these lesions "were caused by rope burns, resulting from the separation process from the mothers on January 6, 1999." See Attachment. These elephants were born on May 8, 1997, and June 23, 1997, respectively. Accordingly, they were less than 2 years old when they were forcibly removed from their mothers by Ringling Brothers.

The treatment of these elephants, which we can only presume is part of Ringling Bros.' routine "separation process," also constitutes an unlawful "taking" of endangered elephants, in

violation of section 9 of the Endangered Species Act, 16 U.S.C. § 1538, and the agency's implementing regulations, because it "harms" and "harasses" the babies, and also "harasses" their mothers, by seriously disrupting the natural relationship between the adult females and their children. Indeed, it is well established that, in the wild, baby elephants are not usually weaned until they are between 2-4 years old, or older, and that, even after that, female elephants remain with their mothers and the rest of their herd for the rest of their lives, while males stay with their families until they are between 9-15 years old. See, e.g., V. Taylor, "Captive Breeding and Infant Mortality in Asian Elephants," Zoo Biology 17:311-332 (1998); P. Lee, National Geographic Research (1986) at 388-401.

Accordingly, this treatment -- along with the other treatment outlined in our previous letter -- is unlawful under the ESA. It also violates the conditions under which Ringling Brothers holds a captive-bred wildlife registration -- a separate violation of the ESA. For these reasons, we are requesting an investigation by the Fish and Wildlife Service, and we are also requesting that the agency revoke Ringling Brothers' registration and permits under the ESA with respect to its possession and use of endangered and threatened elephants. Please be advised that we may also bring a lawsuit directly against Ringling Brothers for this unconscionable and illegal conduct.

Sincerely,



Katherine A. Meyer

cc: Bruce Babbitt, Secretary,  
Department of the Interior  
Jamie Clark, Director,  
Fish and Wildlife Service

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April 12, 2001

Sent By Certified Mail

Mr. Kenneth Feld, President  
Ringling Brothers and Barnum & Bailey Circus  
8607 Westwood Center Drive  
Vienna, Va. 22182

Re: Notice of Continuing Violations of the Endangered  
Species Act

Dear Mr. Feld:

This letter is written pursuant to the Endangered Species Act ("ESA"), 16 U.S.C. § 1540(g), on behalf of the American Society for the Prevention of Cruelty to Animals, the Fund for Animals, the Animal Welfare Institute, and Tom Rider to provide you notice of additional and continuing violations of the ESA by Ringling Brothers and Barnum & Bailey Circus ("Ringling Bros.") because of its "taking" of endangered Asian elephants used in the circus.

First, enclosed is a videotape that shows young elephants being struck with bullhooks or clubs and other instruments, and, in one case, being clipped with a sharp instrument we believe is called a "leatherman." This footage was recorded just months ago, in the summer of 2000 in California. The footage further shows that the elephants are being struck without any verbal command first being given, and without any provocation by the animals whatsoever, and that the animals are clearly reacting to this physical mistreatment. The videotape also shows a young chained elephant exhibiting stereotypical behavior as it tries to get out of its chains, over and over again.

Additional footage on the tape, taken in the summer of 1998 in California, shows Ringling Bros.' employees hitting adult elephants under their chins with what appears to be a bullhook or



club, in an apparent effort to make the animals hold their heads up higher. Again, this is done without giving the elephants any verbal command and with no provocation on the part of the animals. This videotape provides graphic evidence that Ringling Bros. "takes" these endangered animals by "harming" and "harassing" them, in clear violation of the ESA and that statute's implementing regulations.

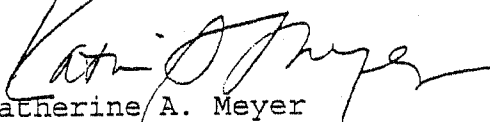
Second, we understand from eye-witnesses who attended performances of the circus during Ringling Bros.' recent visit to the Baltimore/Washington, D.C. area, that the circus used the elephant "Karen" in the pre-show activities, during which she was brought out and displayed in extremely close proximity to members of the audience, including very young children. However, according to several former Ringling Bros.' employees, including Tom Rider, Glen Ewell, and James Strechon, due to years of beatings at the hands of Ringling Bros.' trainers, Karen is an extremely dangerous animal, who is considered so dangerous by Ringling Bros. itself that the members of the elephant crew have been warned by the animal's trainers not to go anywhere near her or they risk being killed. For this reason, members of the crew have been instructed not to feed Karen directly or to bathe her without a trainer being present to maintain control over her.


Use of this extremely dangerous animal, particularly in the pre-show activities -- when she is in close proximity to children -- violates Animal Welfare Act regulations, 9 C.F.R. § 2.131(b), which prohibit animals from being exhibited if they pose a risk to the safety of the public. Accordingly, use of this animal in this way also violates your duties under the ESA and that statute's implementing regulations, 50 C.F.R. § 13.41, which provide that any person holding a permit under section 10 of the ESA "must comply . . . with all applicable laws and regulations governing the permitted activity," including applicable Animal Welfare Act regulations.

You have previously been put on notice of evidence of violations of the ESA concerning your treatment of Asian elephants, by letters dated December 21, 1998 and November 15, 1999, which is hereby incorporated by reference. The new evidence presented here demonstrates that Ringling Bros. continues to engage in this unlawful conduct.

Accordingly, by this letter, you are on notice of Ringling Bros.' additional and continuing violations of the law. As required by the ESA, we are providing copies of this letter to the Secretary of the Department of the Interior, and to the Director of the Fish and Wildlife Service. Because this matter is also currently in litigation, we are also providing a copy of this letter to your attorneys.

Sincerely,

  
Katherine A. Meyer

  
Daniel R. Vice

cc: Gale Norton, Secretary of the  
Department of the Interior  
Marshall Jones, Acting Director,  
Fish and Wildlife Service  
Congressman Sam Farr  
Jeannie Perron

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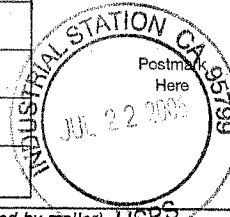
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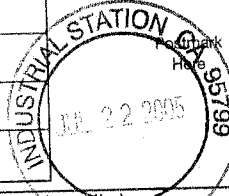
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City, State, ZIP+4

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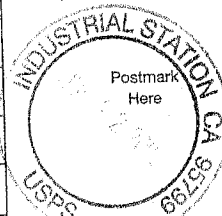
MR MATTHEW J HOGAN

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U.S. FISH &amp; WILDLIFE SERVICE

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WASHINGTON DC 20240-2

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