One of the two surviving beluga whales performs for visitors at Chicago's Shedd Aquarium. Using legal means, The HSUS had sought to prevent the facility's capture of four whales, but a permit for the capture was granted over our objections.

WILDLIFE

Whales Die at Shedd Aquarium
Disputed capture leads to tragedy for belugas

On September 22 two beluga whales died at Chicago's John G. Shedd Aquarium after reportedly being administered deworming medication (although the cause of death had not been determined as of November). The whales were among four captured in the Churchill, Manitoba, area of the Hudson Bay in August.

The HSUS had sought to prevent the capture ever since it became known that the aquarium planned to take four whales to display in its new oceanarium (see the Winter 1992 HSUS News). Marine mammals taken from the wild for public display in zoos, aquaria, and marine parks are subjected to brutal, stressful, rodeo-style hunts; once captured, whales frequently become ill and suffer high mortality rates. With other environmental and animal-protection organizations, we asked the National Marine Fisheries Service (NMFS) in the fall of 1991 to deny a permit for the capture and display of the whales. Despite our argument that such capture and display would be unwise, inhumane, and inappropriate, the permit was granted. In response The HSUS and other groups filed suit in U.S. district court in Washington, D.C., challenging the validity of the permit. Among other points, the suit charged that the permit was illegal and that the U.S. secretary of commerce had failed to meet standards under U.S. law for protecting marine mammals.

John Crosbie, Canadian minister of fisheries, pledged in a press release that Canada would not allow the whale capture until the lawsuit had been resolved. When the court's initial decision went against us, we immediately appealed. Although the appeal remains pending, Canada let the capture proceed. A month later two belugas were dead.

There is strong evidence that beluga whales cannot thrive in captivity. U.S. government statistics show that approximately 45 percent of belugas have died after five to seven years in captivity (the average life span for a beluga in the wild ranges from twenty-five to fifty years); only two successful captive births have been recorded. The Shedd Aquarium is widely considered one of the best in the captive-display industry, but the fact that the Shedd veterinarian who administered the deworming medication to the whales was not at the time licensed to practice in Illinois suggests that even at well-regarded facilities, management practices may fall short of what they should be. In our view such incidents demonstrate that beluga whales simply do not belong in captivity.

The HSUS continues to seek relief through our lawsuit and plans to submit
extensive comments to the NMFS upon review of the results of the necropsy performed on the two dead whales. We will submit additional formal testimony to the government urging a halt to the capture of beluga whales.

Belugas—intelligent, socially complex marine mammals—should not be removed from their families in the wild and forced into an artificial life of captivity. They belong in the wild, not on public display in zoos, aquaria, or marine parks.—Paula Jewell, program coordinator, Wildlife and Habitat Protection, HSUS

INVESTIGATIONS

HSUS Responds to Olympic Furor
Changes are needed in equestrian competition

The 1992 Summer Olympic Games in Barcelona, Spain, offered many Americans their first opportunity to see an equestrian competition known as the three-day event. One of three equestrian disciplines included in the Olympics, the three-day event turned out to be a disastrous introduction to equestrian sports. Horrified viewers of NBC’s television coverage saw almost a dozen horses fall after crashing into unyielding obstacles or refuse to jump them altogether.

HSUS members immediately flooded our offices with letters expressing their outrage and disbelief.

Our members’ collective plea called for The HSUS to stop the blatant cruelty in equestrian three-day-eventing. Within days of the Olympic competition in July, we had assembled an expert advisory group, headed by David K. Wills, HSUS vice president, Investigations. In letters to the Fédération Équestre Internationale (FEI), which oversees all Olympic equestrian competitions, and to the other organizations under whose auspices three-day competitions are conducted in this country, HSUS President Paul G. Irwin expressed our opposition to the current conduct of world-caliber events. He recommended, in the strongest terms, that the FEI implement new rules that will ensure the safety—and prevent the mistreatment—of the horses involved.

Eileen Thomas, former executive director of the U.S. Combined Training Association, the group most directly involved in U.S. eventing, has joined us as a consultant to our advisory group. Ms. Thomas believes that the sport “constantly treads a fine line between sport and exploitation on the one hand and abuse and exploitation on the other.”

The HSUS has presented a set of recommendations to the FEI and other equestrian bodies designed to reduce drastically the horse’s risk of stress, injury, and death. As of November the FEI had given no indication that it intended to consider changing its rules. The FEI’s lack of substantive response has not discouraged The HSUS from pursuing all reasonable means to prevent the continuing abuse of event horses.

In late October HSUS investigators monitored an international-level three-day competition in Fair Hill, Maryland. They wanted to get a closer look at the design of the courses and the severity of the obstacles and, more important, to be available if a horse was injured while competing. Because HSUS members residing near Fair Hill had expressed their concern about the event to their state’s attorney, a county deputy sheriff was on call.

The cool, dry weather experienced at Fair Hill was ideal for eventing. (Heat and humidity greatly increase the risk of harm to the horses on cross-country because they sap the strength of horses asked to put forth maximum physical effort.) Even so, a number of horses refused to jump specific obstacles; one horse fell.*

The history of the three-day event explains in part why it is so brutal. The com-

*Under cold, wet, and windy conditions in Badminton, England, last year, three horses lost their lives during what is considered the world’s most demanding annual three-day event.
petition is based on the European miliary, an equestrian triathlon that tests cavalry horses' suitability for military duties. When the three-day event first appeared in the Olympics in 1912, twenty-seven horses started the competition, but only fifteen finished. After viewing what took place in Barcelona, one can only conclude that the military's "survival-of-the-fittest" attitude and lack of consideration for the horse remain in the modern eventing community.

Three-day-eventing involves three activities, dressage, speed and endurance, and stadium jumping, over three consecutive days. The speed-and-endurance test, the most difficult and hazardous part of the contest, consists of four phases: two separate "roads and tracks," the steeplechase, and cross-country. The first roads-and-tracks phase is designed to prepare the horse for the rigorous tests ahead. Horses are ridden two to four miles at a recommended speed no faster than about eight miles per hour. The two-mile steeplechase course, lined with jumps, requires a speed of approximately twenty-six miles per hour. The second roads-and-tracks phase tests the horse's fitness and endurance and provides the cooling-down period needed for the horse to endure the most challenging and final phase. The purpose of this roads-and-tracks phase can be easily thwarted if the rider exceeds the recommended speed or if the course is uphill.

It is during the final, cross-country, phase that most accidents and injuries take place. Individual horses must traverse a hilly, twisting course four to five miles long with up to thirty complex obstacles—as high as three feet eleven inches and as wide as five feet eleven inches—within a specific time period. The obstacles—water jumps, banks, ditches, and drop fences—are solid and unyielding, built of stone, logs, railroad ties, and telephone poles. They present optical illusions and require multiple jumping efforts. Although many fences have less demanding, alternate routes for a rider to choose if he/she thinks the more difficult options are too much for his/her mount to negotiate, the less demanding routes are more time-consuming. Riders tend to take the riskiest routes in the hopes of finishing among the top placings.

Exhaustion, inexperience, and rider error can contribute to spectacular, even deadly, falls of both horse and rider. Even tired horses who manage to stagger to the finish may collapse in potentially fatal distress. Only heroic veterinary attention at the end of the course may save such animals. (U.S. competitor Todd Trewin jumped off his horse, Sandscript, in Barcelona, incurring elimination, as he felt the gelding about to collapse at the end of cross-country. He was criticized for over-riding a brave and willing animal to the point of exhaustion and has admitted the
COMPANION ANIMALS

Beware of Antifreeze Dangers
A new alternative could decrease risk to pets

The HSUS estimates that thousands of dogs, cats, and wild animals die each winter from antifreeze poisoning. Commercial antifreeze—the kind used by most car owners and mechanics—is 95 percent ethylene glycol, an extremely toxic, odorless liquid that is appealing to animals, especially young ones. They will lick up the deadly green liquid from the ground or, after stepping in it, lick it off their paws.

A teaspoonful of undiluted, ethylene glycol–based antifreeze can kill a seven-pound cat; one-and-a-half ounces can kill a twenty-pound dog. After ingestion the poison is rapidly absorbed from the digestive tract. Within a half hour, the animal exhibits symptoms such as vomiting, depression, lack of coordination, and weakness. If not treated immediately, the animal could suffer kidney failure, lapse into a coma, and die within twenty-four hours.

The HSUS has worked for years to educate the public about the dangers of antifreeze. We’re currently examining two potential solutions to the problem. One approach is to add bitter-tasting agents, called aversives, to antifreeze to make it taste bad to children and animals. It is unclear, however, how well aversives work and what concentrations are required to make antifreeze taste bitter to different species of animals. As a result, antifreeze manufacturers have been slow to incorporate aversives into their products.

This year Oregon will become the first state to require aversives in toxic household chemicals, including antifreeze. Although the concentration of the aversive Bitrex™ required by law is suitable to protect children, it may not be high enough to protect most pets and wild animals.

A more promising solution to the problem of antifreeze poisoning is an alternative to ethylene glycol–based antifreeze that manufacturers say works just as well: propylene glycol–based antifreeze. According to available data, propylene glycol is significantly less toxic than ethylene glycol; it has even been used as an additive in foods and cosmetics. Although antifreeze made with propylene glycol costs $2–3 more per gallon than its more toxic counterpart, for consumers who care about animals, the product’s safety is well worth the price. Propylene glycol–based antifreeze, though hard to find in some areas, is sold in many auto-supply stores.

Until alternative solutions are achieved, pet owners and others who use ethylene glycol–based antifreeze should be cautious. Carefully follow the antifreeze manufacturer’s instructions and never overfill the radiator. Clean up completely any spilled antifreeze, whether from the container or a leaky radiator. Keep containers tightly capped. And never dump used antifreeze down a storm drain, sink, or toilet (it’s against the law in most places) but take it to a proper disposal site, such as a service station.

If there’s a chance that a pet has had access to ethylene glycol–based antifreeze, contact a veterinarian at once. Quick action may save a life.
Lata was photographed last year chained to a wall at the Hawthorn Corporation facility in Richmond, Illinois. Hawthorn has been training her to perform circus tricks and may have begun using her for elephant rides in Canada last summer.

INVESTIGATIONS

Lota: The Battle Goes On
Successful appeal could protect circus animals

The HSUS is in the midst of perhaps the most important litigation ever involving animals in circuses. The Humane Society of the United States v. Manuel Lujan, Secretary of the United States Department of Interior, and Hawthorn Corporation was heard this fall in the U.S. District Court for the District of Columbia, Judge Norma Holloway Johnson presiding. In late October Judge Johnson issued her shocking opinion: Animals in circuses are not protected by the Endangered Species Act (ESA) because circuses do not engage in commercial activity. The decision, which has broad implications for animals, is being appealed by The HSUS.

The lawsuit arose from the story of Lota, an endangered Asian elephant, and her move in 1990 from the Milwaukee County Zoo to the Hawthorn Corporation in Illinois (see the Spring 1992 HSUS News). Hawthorn has been training Lota to perform circus tricks and may have begun using her in Canada for elephant rides.

The ESA prohibits using members of endangered species in commercial activity. It would seem logical that circuses, which exist solely for entertainment and commercial purposes, would be prohibited from exploiting endangered species. The U.S. Department of the Interior (DOI), however, has taken a different view. The DOI, which does not enforce the ESA in the case of circuses, has made three distinct arguments in its defense.

The DOI’s first argument was that its agency, the U.S. Fish and Wildlife Service (FWS), may choose not to enforce a law. In a memorandum filed in court, the DOI argued that government agencies have the absolute right not to enforce laws and that this right is not reviewable by courts. Some case law supports the proposition that an agency—on a case-specific basis—may choose not to institute enforcement actions for certain violations of law. However, when an agency is ignoring or misinterpreting a congressional mandate, court review is appropriate, as the recent case of Animal Legal Defense Fund v. Madigan affirmed. In that case animal-protection advocates sued the U.S. Department of Agriculture for excluding rats, birds, and mice from the definition of animal when interpreting the Animal Welfare Act (see the Spring 1992 HSUS News). The U.S. district court ruled that an agency’s “discretionary rights” do not allow it to blatantly misread its congressional mandate. In the Lota lawsuit, we expected Judge Johnson to rule that the FWS is also severely misreading its mandate to protect endangered species.

Based on a strange twist of language, the DOI’s second argument was that a circus’s use of an endangered species for profit is not commercial activity. The DOI argued in the Lota lawsuit that any monetary profit made by Hawthorn from its use of Lota is an incidental benefit. The DOI even stated in court that “the transfer of Lota from the zoo to Hawthorn was not made in the pursuit of profit.”

Judge Johnson apparently agreed with the DOI’s argument, even though the DOI’s defense of Hawthorn’s activities contradicted Hawthorn’s own pronouncements on the Lota situation. In court Hawthorn asserted its financial need to use Lota in performances. In a letter the circus sent to HSUS constituents, Hawthorn owner John Cuneo stated that Hawthorn provides “a good living for twenty-three people and their families. Commercial activity has never been a crime in America. Our elephants provide enjoyment for thousands of children giving rides and shows.”

The DOI’s third argument was based on another critical misinterpretation of the
At a circus in Ohio, one of a group of elephants chained in direct sunlight lies under another. Such animals are unprotected by the ESA under present interpretation of the law.

ESA, the “pre-act animal exemption.” This argument holds that any animal in captivity before the ESA was passed in 1973 is not protected by the ESA. But such an interpretation by the FWS is reviewable by the court because it clearly contradicts the language of the statute. While the ESA does stipulate that animals in captivity prior to 1973 in noncommercial settings are not protected by certain of its provisions, it makes clear that if any such animal is placed in a commercial situation, the protection provided by the ESA will apply. (Only certain protections of the ESA do not apply to “pre-act” animals. The provisions that The HSUS is seeking to enforce in the Lota lawsuit apply even to “pre-act” animals.)

Though the appeals process is slow, The HSUS is confident that we will win our case. We are grateful to the hundreds of HSUS constituents who have written asking how they can help Lota. Although our constituents cannot help with the lawsuit, they can take up the fight in their own communities.

Hollywood and Lauderdale Lakes, Florida, have passed legislation designed to prohibit exploitative animal shows in their jurisdictions. Toronto became the sixth Canadian municipality to ban performing exotic animal acts, including those in circuses. Many other communities have begun their own efforts to deal with the problem legislatively.

Local activists have forced the cancelations of performances by individual traveling circuses. Pennsylvania activists had great success last summer in having several performances of the Great American Circus canceled. Mississippi activists stopped a performance of the Great American Circus in one town and had elephants removed from a performance held in a second town. Such efforts were successful because they used education as a weapon: people were first told of an underlying abuse. Such awareness is critical in ensuring legal protection for the animals who have, to date, been failed by federal law.

When arguing locally against circuses, it is always helpful to propose an alternative. Ask your town or city to book one of the circuses that don’t use animal acts. The Pickle Family Circus, based in San Francisco; Le Cirque du Soleil, in Montreal, Canada; Nexus Circus, in Atlanta; Circus Smirkus, in Vermont; and Circus Oz, in New York City, are some such enterprises.

The HSUS is eager to help local efforts. Model legislation is available from the HSUS Wildlife and Habitat Protection section.—Michael Winikoff, HSUS legal investigator

**LEGISLATION**

**Action Alert Team Gets Results**

*HSUS network links activists helping animals*

I want to help animals, but I just don’t know what I can do.” “Lobbying is too difficult for me.” “I want to write my legislators, but I don’t know what to say.” “I don’t have time to do much, but I want to help.”

HSUS staff members frequently hear such laments from people who love animals and want to help them. It can be difficult to know how to have a direct impact on animals’ welfare (beyond becoming a member of The HSUS!).

That’s where the HSUS Action Alert Team comes in. A network of HSUS members willing to write a letter or make a phone call when critical issues affecting animals hang in the balance, the Action Alert Team has made a crucial difference—a real difference—for animals.

Thousands of HSUS members across the country have joined the Action Alert Team and helped influence the public officials who pass laws. In New Jersey use of the steel-jaw leghold trap is illegal, as is the importation of wild birds for the pet trade. Both Kansas and Missouri, where many of the nation’s most horrendous puppy mills are located, have enacted laws to protect dogs in commercial breeding facilities. Since 1975, forty-two states have
enacted laws making dogfighting a felony. West Virginia no longer allows shelter animals to be sent to medical facilities to be used in research. In South Carolina whales and dolphins cannot be taken from the wild and displayed in aquaria or water parks. In Louisiana bear wrestling is no longer a legal sport.

Being a member of the Action Alert Team has been rewarding for Ritchie Laymon of Columbus, Ohio. "I felt out of the mainstream. I wanted to help, but I didn't have accurate, up-to-the-minute information. It was hard to find out what was happening legislatively, especially on federal issues.

"Then one day I called my HSUS regional office for information on an issue. When the person I was talking to mentioned that the topic had been covered in a recent Action Alert, I immediately asked how I could receive such alerts. I signed up on the spot."

Action Alert Team members automatically receive Action Alerts, notices mailed to team members when quick action is needed on the legislative front. (Occasionally The HSUS sends Action Alerts to all HSUS members, when an issue is particularly urgent.) They don't arrive at scheduled intervals, only when something critical is happening. The alerts, now usually in postcard form, contain all the information team members need to get those all-important letters written or phone calls made in a hurry.

"When I receive an alert," says Ms. Laymon, "I just sit down at the computer and zip off a letter. The alerts are very concise. They summarize the major points and give guidance on the message letters need to convey. They also include the address for letters, so the entire process is quick and easy."

In California, State Assemblyman Jack O'Connell admits, "Letters from Action Alert Team members have helped me pass important animal-welfare measures, such as banning the use of the cruel and archaic nitrogen chamber to euthanize animals, prohibiting dogs from riding in the back of pickup trucks unless they are properly secured, and the Equine Protection Act of 1991."

His words are echoed on the other side of the United States by Nina Austenberg, HSUS Mid-Atlantic regional director. "I don't know what we would do without our Action Alert system," says Ms. Austenberg. "While our lobbying efforts are important to educate legislators on a particular issue, without the massive outpouring of support to back us up with elected officials, those efforts would be useless."

"I'm glad to know I'm helping animals, and I also like being current on bills before the legislature," says team member John Stewart of Arlington, Virginia. "Alerts tell me what can—and should—happen for animals, not just what the legislators want you to know.

"I was a little reluctant at first to join the team, because I thought writing letters would be a hassle. But now I really enjoy feeling 'in' on what's going on and knowing I can have a direct impact on animal welfare in my state."

All HSUS members in good standing are eligible to be part of the Action Alert Team; we ask, however, that team members pledge to make every effort to take the action described in the alerts they receive. That way, we make the most efficient use of HSUS resources, by sending alerts only to those people who know will respond. In return, members are kept up-to-date on late-breaking issues. Team members also receive a quarterly newsletter, the Animal Activist Alert, full of inside information.

Says Mr. Stewart, "I've really done such little things since I've joined the team: written a couple of letters, made a few phone calls. But it's those little things that can make such a big difference for the animals, isn't it?"