



August 31, 2016

Honorable Tom Vilsack, Secretary
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

***Re: Additional Information In Support of Petition to Prohibit
Public Contact with Dangerous Wild Animals
(Docket No. APHIS-2012-0107)***

Dear Secretary Vilsack,

The Humane Society of the United States (HSUS), World Wildlife Fund (WWF), The Detroit Zoological Society (DZS), The Global Federation of Animal Sanctuaries (GFAS), The International Fund for Animal Welfare (IFAW), Born Free USA (BFUSA), The Fund for Animals (“The Fund”), and Big Cat Rescue (BCR) (collectively “Petitioners”) submitted a rulemaking petition to the U.S. Department of Agriculture (USDA/APHIS) on October 18, 2012 (amended January 7, 2013) requesting amendment of the Animal Welfare Act (AWA) handling regulations pertaining to big cats, bears, and nonhuman primates. 9 C.F.R. § 2.131(a),(c); 9 CFR § 3.77(g); 9 CFR § 3.78(e); 9 CFR § 3.79(d). Through the Petition – as bolstered by expert declarations, Petitioners’ November 18, 2013 comments, Petitioners’ supplement dated December 2, 2014, and Petitioners’ letter dated March 31, 2015, all attached (Appendix A) and hereby incorporated by reference – Petitioners have presented

copious scientific evidence that it is unsafe and inhumane for AWA-licensed exhibitors, breeders, and dealers to allow members of the public to have direct contact (or unreasonably close contact) with dangerous wild animals, regardless of the age of the animal. *See* 81 Fed. Reg. 41257 (June 24, 2016); 78 Fed. Reg. 47215 (Aug. 5, 2013); 78 Fed. Reg. 63408 (Oct. 24, 2013).¹ Further, just since USDA reopened this comment period in June 2016, **over 190,000 members and constituents of Petitioners' organizations have voiced their support for the petitioned action.**

Petitioners greatly appreciate the USDA's preliminary response to the Petition from March 2016, making clear that it is a violation of the existing veterinary care and animal handling regulations (9 C.F.R. §§ 2.40, 2.131) to allow members of the public to have "any form of public contact, including public feeding and handling" with "newborn and infant nondomestic cats four weeks (28 days) of age or younger..." USDA-APHIS, *Handling and Husbandry of Neonatal Nondomestic Cats* (March 2016), at https://www.aphis.usda.gov/publications/animal_welfare/2016/tech-neonatal-nondomestic-cats.pdf. Immediately after USDA issued that Technical Note, at least one public contact exhibitor (Alabama Gulf Coast Zoo) discontinued its interactive experiences with tiger cubs. *See* John Sharp, *Alabama Gulf Coast Zoo ends baby tiger encounters in response to USDA crackdown*, Alabama Media Group (May 11, 2016), at http://www.al.com/news/mobile/index.ssf/2016/05/alabama_gulf_coast_zoo_ends_ba.html.

This example shows that the regulated community will respond to clear action by USDA and demonstrates that in order for USDA to ensure that animals in exhibition facilities are humanely treated – as statutorily mandated by the AWA, 7 U.S.C. § 2131(1) – USDA must unequivocally prohibit public contact, as opposed to continuing the status quo of inconsistent and insufficient enforcement under the existing performance standards.

Indeed, in 2015 and 2016 to date, while Petitioners have noticed an increase in the number of enforcement actions filed against public contact exhibitors for violating existing handling regulations, these enforcement cases take far too long to be resolved and very few of these actions have resulted in the discontinuation of public contact exhibition. *See, e.g.*, Doug Terranova, APHIS Dkt. No. 15-0058, 16-0037, 16-0038; John Basile, APHIS Dkt. No. 15-00162, 15-00163; Stearns Zoological Rescue & Rehab Center, Inc., APHIS Dkt. No. 15-0146; Woody's Menagerie, APHIS Dkt. 15-0147, 15-0148, 15-0149; Plumpton Park Zoo, APHIS Dkt. 14-0024; Animal Kingdom Zoo, APHIS Dkt. 15-0125; Nick Sculac, APHIS Dkt. No. 15-0119, 15-0120; Virginia Safari Park, APHIS Dkt. No. 15-0107; Cindy Bardin, APHIS Dkt. No. 16-0009; Arbuckle Adventures, APHIS Dkt. No. 16-0003; Jeffrey Ash, APHIS Dkt. No. 16-0010, 16-0011; The Mobile Zoo, APHIS Dkt. 15-0060, 15-0061; Tim Stark, APHIS Dkt. No. 16-00124, 16-00125; Bearizona Wildlife Park, APHIS Warning No. AZ160046 (Appendix E).

Similarly, Petitioners are dismayed that enforcement actions have not even been brought against some of the most notorious exhibitors involved in this prolific commercial use of

¹ Appendices of new primary source materials are submitted along with these comments; Petitioners presume that the primary source materials submitted to USDA in appendices attached to the Petition, Petitioners' 2013 Comments, and Petitioners' 2014 supplement remain in USDA's possession and will be considered following this reopened comment period. Similarly, Petitioners presume that USDA will continue to consider all comments submitted in 2013 as part of the administrative record for this Petition.

exotic animals, such as Joe Maldonado (formerly Schreibvogel, d/b/a/ Greater Wynnewood Exotic Animal Park), Bhagavan “Doc” Antle (d/b/a Myrtle Beach Safari, T.I.G.E.R.S., Jungle Island), William Meadows (d/b/a Tiger Safari), or Karl Mogensen (d/b/a Natural Bridge Zoo). As documented in conclusive undercover investigation evidence and requests for enforcement submitted to USDA by HSUS on May 15, 2012 and December 2, 2014, exotic animals are routinely bred and exploited for public contact exhibition at these facilities, resulting in unnecessary animal suffering and undermining public safety and the conservation of endangered species. In the years that USDA has had these facilities under investigation, animals continue to suffer unnecessarily and the public contact cycle of cruelty continues unabated.

Therefore, in order to comply with the statutory mandate of the AWA, USDA must immediately amend its regulations to explicitly prohibit any public contact with big cats, bears, nonhuman primates, and other dangerous wild animals.

As demonstrated in the below evidence collected since Petitioners submitted their December 2014 supplement, public contact exhibition continues to be popular and lucrative and animals continue to be frequently bred and transported in interstate commerce for such purposes. Further, new scientific data and expert opinions have added to the mountain of evidence compelling USDA to take action to prohibit public contact with dangerous wild animals.

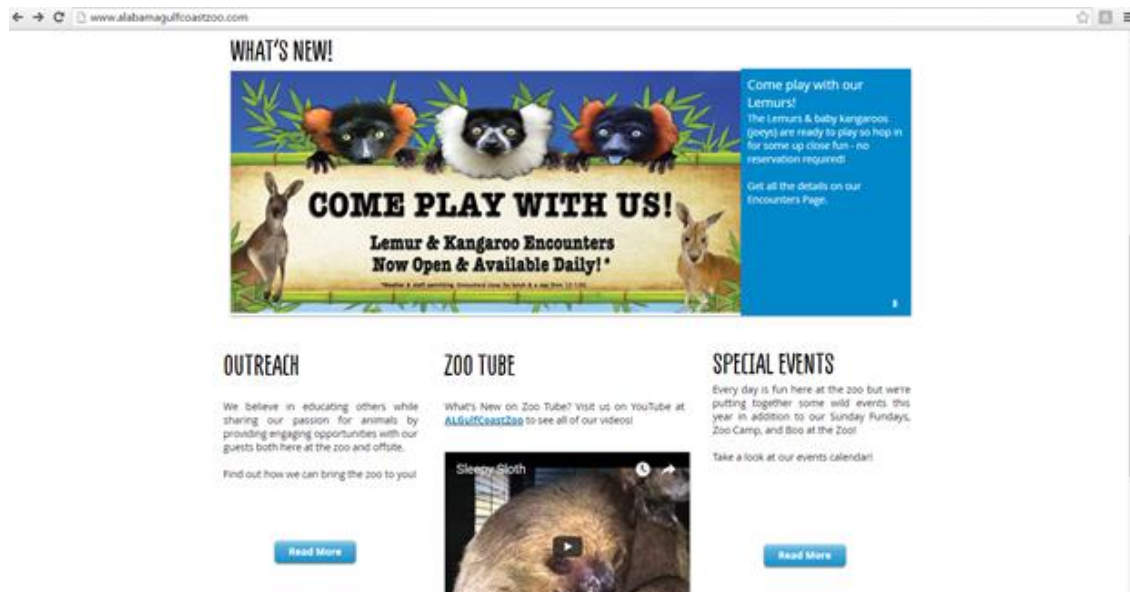
I. Recent Examples of Public Contact Exhibition

As detailed in Appendix B, researchers at New York University used software to search both online text and images between December 21, 2015 and January 26, 2016 and found 77 distinct facilities that allow human interactions with big cats, bears, and nonhuman primates. Similarly, as documented in the Petition and supporting materials, Petitioners have identified over 80 facilities that have engaged in public contact exhibition with big cats, bears, and nonhuman primates in recent years, and this list would no doubt be even larger if broadened to account for public contact with other dangerous exotic animals, such as elephants, smaller exotic cat species, wolves, and hyenas.

To illustrate, following are a few recent examples of unsafe and inhumane public contact with big cats, bears, and nonhuman primates readily available through a search of Facebook and facility websites in August 2016:

1) Alabama Gulf Coast Zoo (Gulf Shores, AL #64-C-0014)

This facility discontinued tiger cub petting after USDA issued the March 2016 Technical Note, but the facility continues to use lemurs for such purposes:



2) Animals of Montana (Bozeman, MT #81-C-0055)

This exhibitor advertises interactive experiences with a baby grizzly bear: <http://myemail.constantcontact.com/Baby-season-is-upon-us-.html?soid=1112251299204&aid=VZkLJ8tKnp4>

3) Antle, Bhagavan (d/b/a T.I.G.E.R.S., Myrtle Beach, SC #56-C-0116)

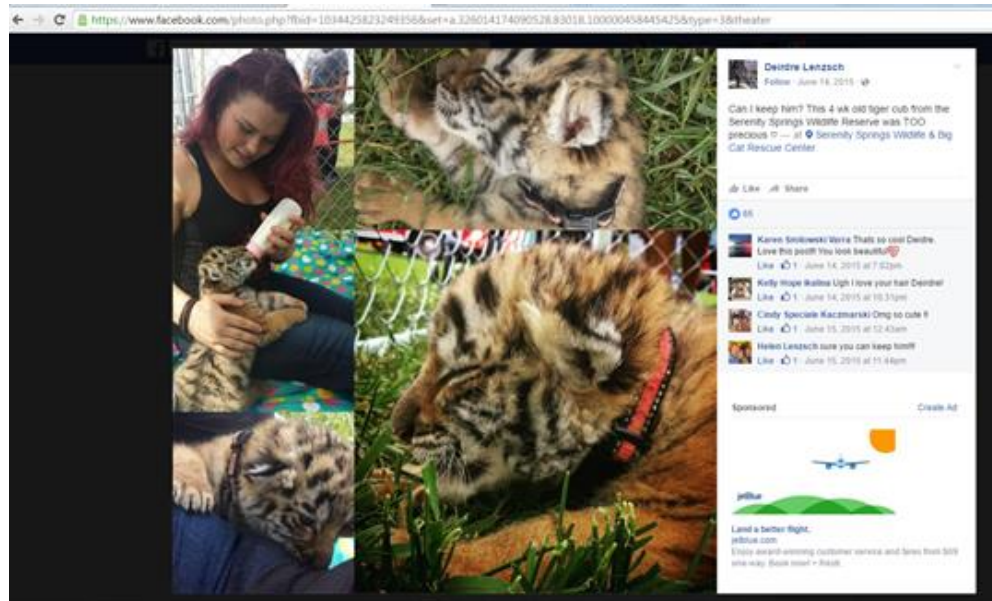
Antle continues to allow members of the public to interact with tigers, lions, orangutans, chimpanzees, and an elephant.



<https://www.facebook.com/photo.php?fbid=133459587073584&set=picfp.100012286308821.133459580406918&type=3&theater>

4) **Big Cats of Serenity Springs** (Calhan, CO #84-C-0069)

Despite repeated warnings from USDA, Nick Sculac has continued to subject infant tigers to public contact exhibition.



<https://www.facebook.com/pages/Serenity-Springs-Wildlife-Big-Cat-Rescue-Center/198704053615370>

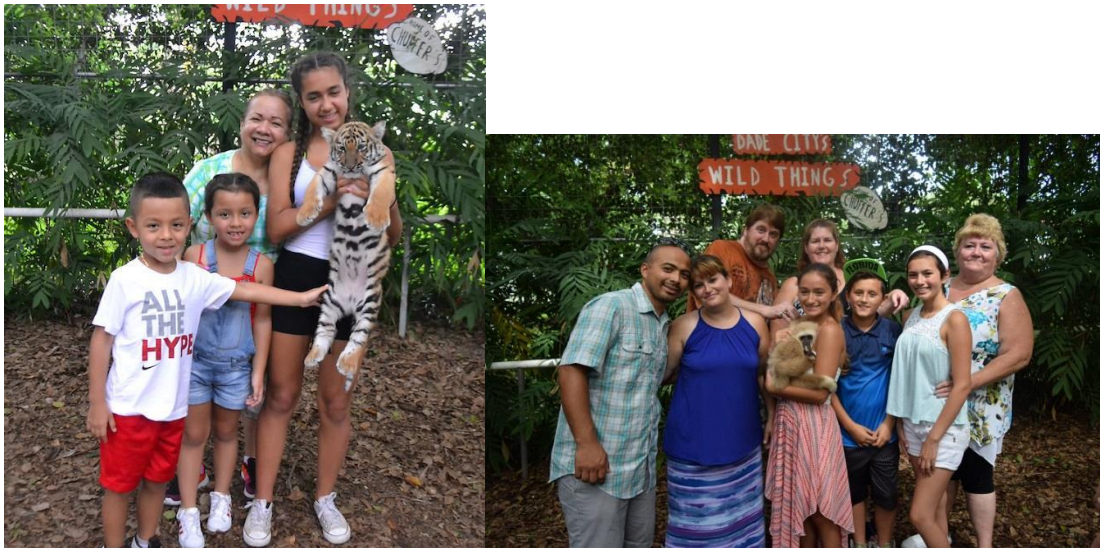
5) **Brown's Oakridge Exotics** (Smithfield, IL #33-C-0007)

According to the facility's Facebook page, "Remember we do home visits with any babies we have. Price is based on mileage. So PM me if interested in having the cougar cub come visit your home."

<https://www.facebook.com/Browns-Oakridge-Zoo-210795627844/?fref=ts>

6) **Dade City Wild Things** (aka Stearns Zoological Rescue and Rehab) (Dade City, FL, #58-C-0883)

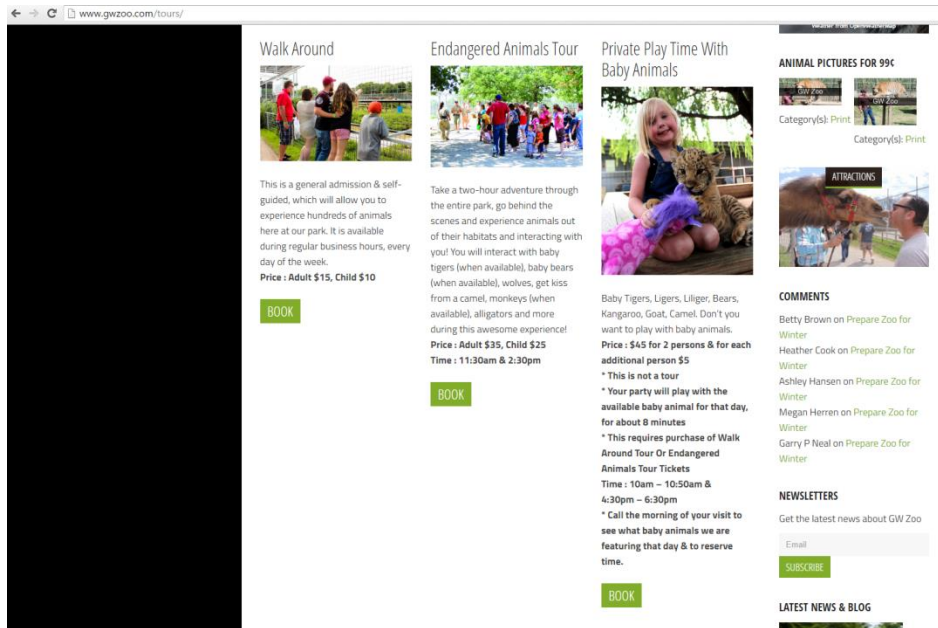
Dade City continues to allow public contact with endangered species like tigers and gibbons.



https://www.facebook.com/DCwildthings/?hc_ref=SEARCH

7) **G.W. Exotic Animal Park** (Wynnewood, OK, #73-C-0139)

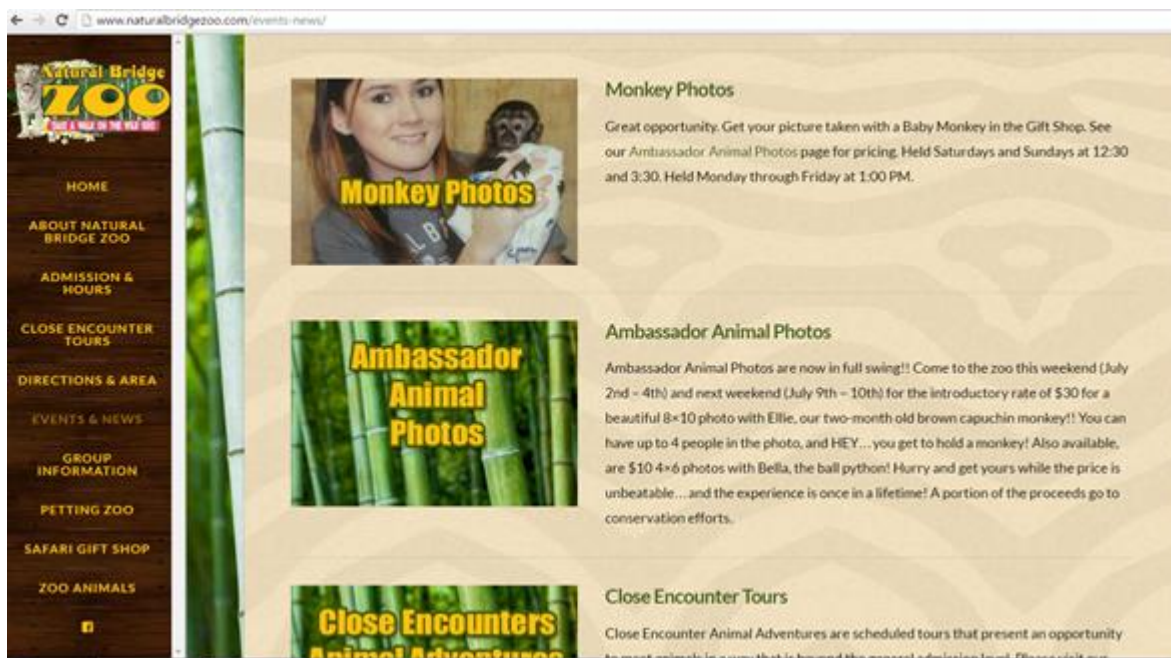
Despite multiple name changes and ongoing bankruptcy proceedings, this notorious Wynnewood, Oklahoma roadside zoo continues to breed big cat cubs for public contact exhibition locally and across the country.



<http://www.gwzoo.com/tours/>

8) **Mogensen, Karl** (d/b/a Natural Bridge Zoo) (Natural Bridge, VA #52-C-0035)

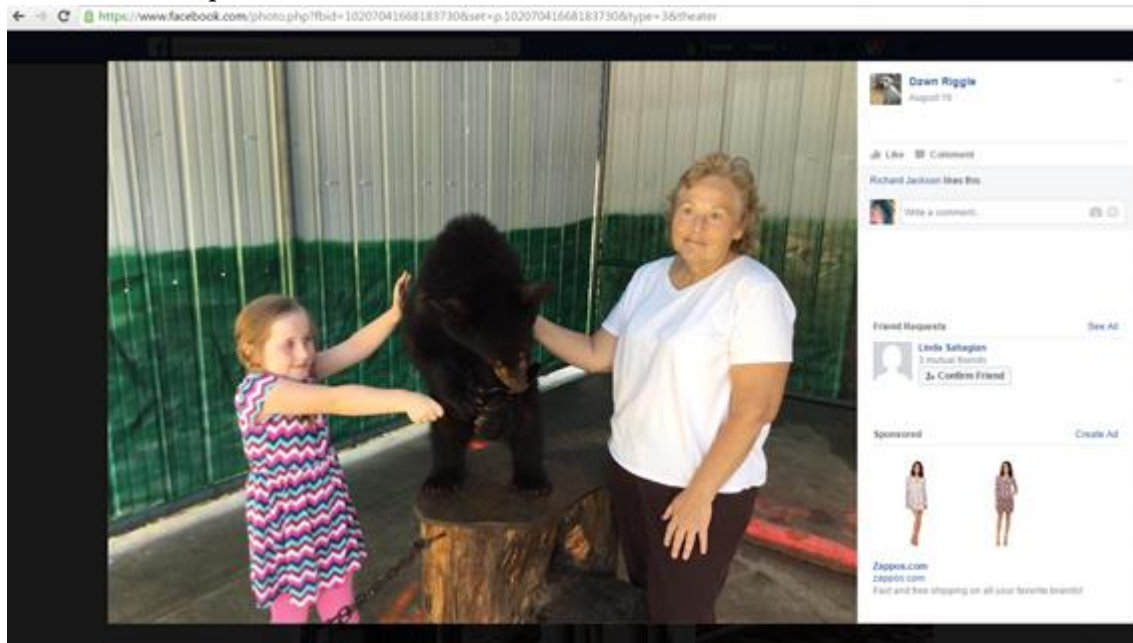
Following an HSUS undercover investigation that led the Virginia Department of Game and Inland Fisheries to suspend the facility's state exhibitor license, this private menagerie continues to allow members of the public to take pictures with infant primates that it breeds for exhibition and for sale in the exotic pet trade.



<http://www.naturalbridgezoo.com/zoo-animals/close-encounter-animal-adventure-tours/>

9) **Oswald's Bear Ranch** (Newberry, MI #34-C-0123)

This roadside zoo specializes in inhumane bear cub exhibition.



<https://www.facebook.com/Oswalds-Bear-Ranch-118140314881923/?fref=ts>

10) **Safari Wilderness** (Lakeland, FL #58-C-0952)

The facility's website advertises lemur feeding for \$20.



<http://safariwilderness.com/experiences/lemur-feeding/>

11) **Stark, Tim and Melisa** (d/b/a Wildlife in Need) (Charlestown, IN #32-C-0204)

As USDA is well aware, animals continue to suffer at this facility for public contact exhibition – as described in a recent USDA enforcement complaint and inspection report for Mr. Stark:

- Stark “euthanized” a juvenile female leopard by beating her to death with a baseball bat (Inspection Report from 6/25/13)
- USDA cited Stark for repeated failure to handle animals in a manner that does not cause harm or stress during “tiger baby playtime” sessions (Inspection Reports from 1/10/14, 1/14/14, 1/15/14, 1/17/14, 8/19/14, 9/13/15)
- Stark was observed to swing a capuchin monkey around by its tail, to swing a macaque by a belt around its hips, and to swing a nonhuman primate around by a belt and then toss the primate onto the lap of a customer (Inspection Report from 8/19/14)
- USDA cited Stark for not having the required distance or barriers between animals (tigers, kangaroo, primate) and the public, resulting in 6+ people being scratched or bitten by tigers (Inspection Reports from 1/10/14, 1/14/14, 1/15/14, 1/17/14, 8/19/14, 9/13/15)
- USDA cited Stark for exposing juvenile tigers and a kangaroo to rough or excessive public handling (Inspection Reports from 1/10/14, 1/14/14, 1/15/14, 1/17/14, 8/19/14, 9/13/15)
- USDA cited Stark for using physical abuse to handle juvenile tigers (slapped them and repeatedly hit them in the face with riding crops) and five primates (Inspection Reports from 1/14/14, 8/19/14, 9/13/15)
- USDA cited Stark for exhibiting tigers, a coatimundi, three primates and a kangaroo for periods of time and under conditions that were inconsistent with the animals’ health and wellbeing (Inspection Reports from 8/19/14, 9/13/15)
- USDA cited Stark for exhibiting four juvenile tigers in successive playtime and photo sessions without providing them an adequate rest period (Inspection Report from 9/13/15)

12) **Tiger World Inc.** (Rockwell, NC #55-C-0225)

In addition to continuing to allow members of the public to have direct contact with dangerous wild animals, Tiger World allows public feeding of animals, even where such interactions are known to cause the animals undue stress. See http://www.huffingtonpost.com/entry/baboon-poo_us_57b4ec6de4b0fd5a2f4137fd?section=&

13) **Tiger Safari** (Tuttle, OK #73-C-0122)

Although the two tiger cubs used for public contact exhibition at Tiger Safari during HSUS' undercover investigation have since died (both at less than two years of age), William Meadows continues to exploit tiger cubs for profit.

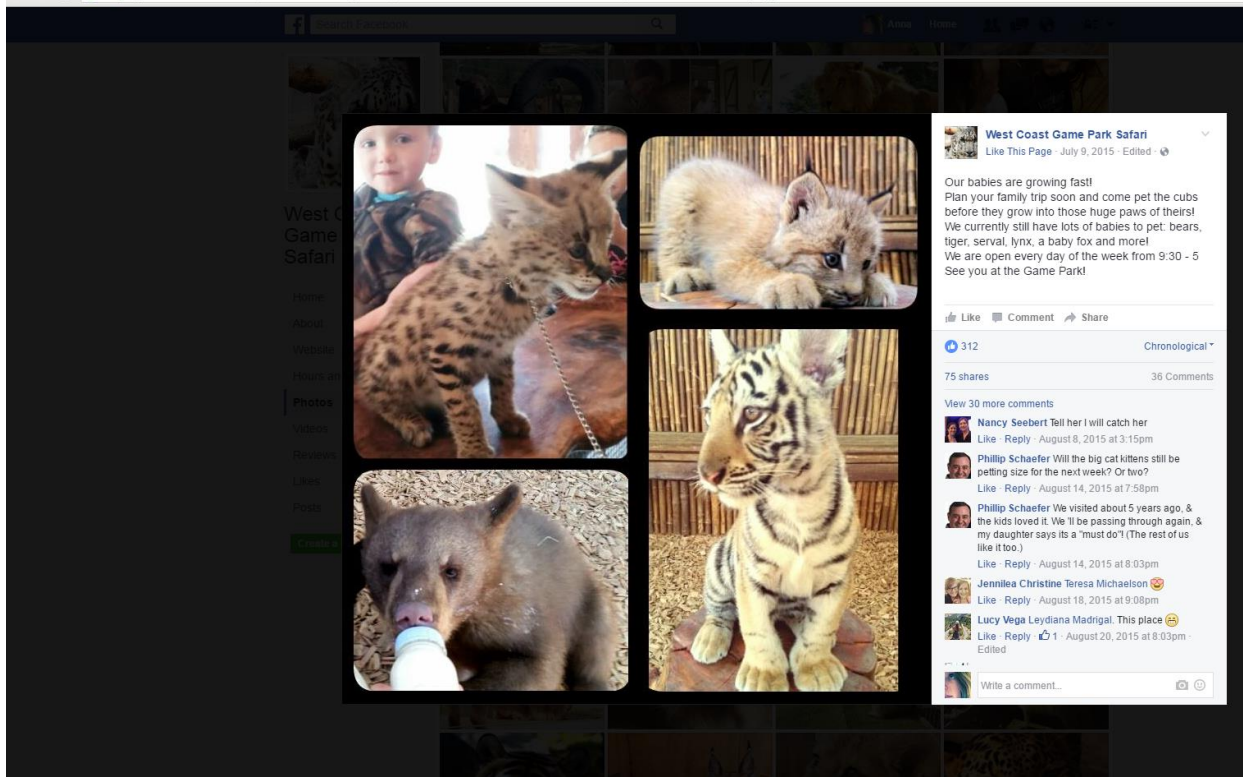


<https://www.facebook.com/171307689582287/photos/pcb.1020295764683471/1020295038016877/?type=3&theater>

14) West Coast Game Park (Bandon, OR #92-C-0013)

As advertised on the facility's Facebook page, visitors to this private menagerie can pay to interact with infant bears and exotic cats.

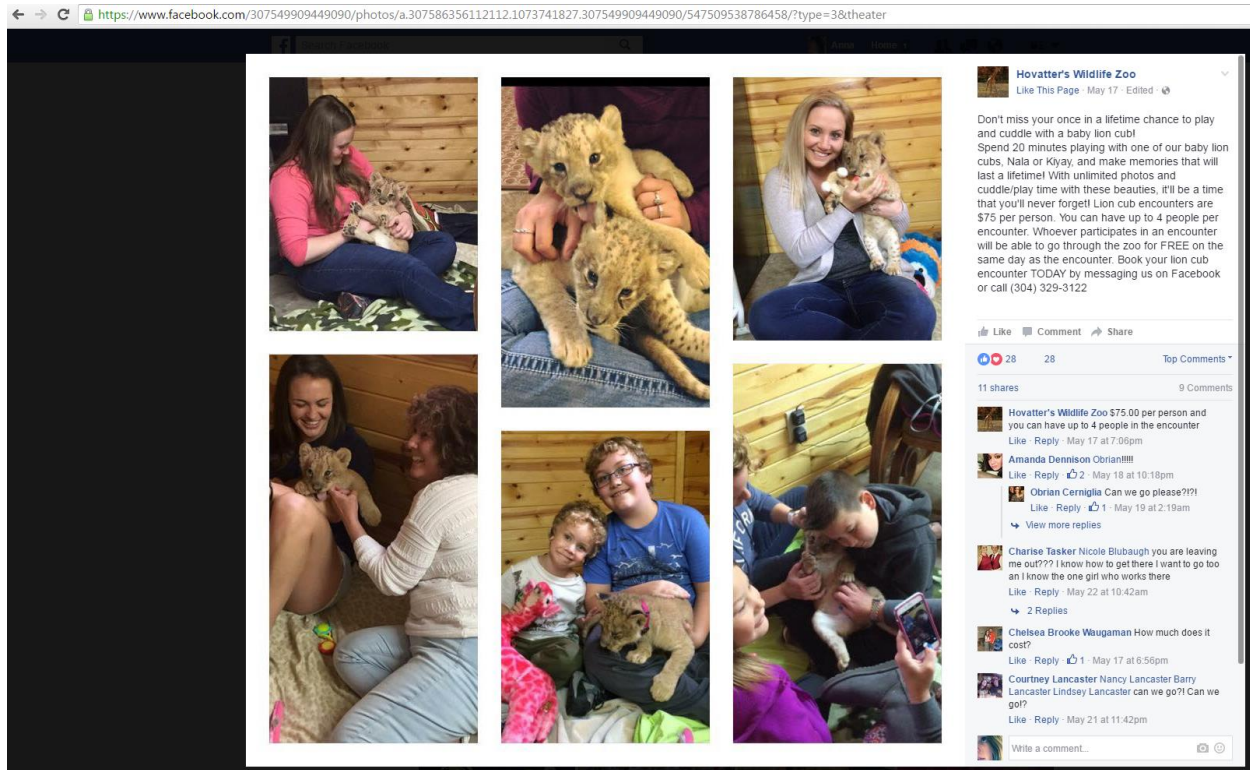
<https://www.facebook.com/106232668827/photos/a.110415758827.114870.106232668827/10153438213603828/?type=3&theater>



<https://www.facebook.com/West-Coast-Game-Park-Safari-106232668827/?ref=ts>

15) West Virginia Zoo aka Hovatter's Wildlife Zoo (Kingwood, WV #54-C-0119)

Despite recent citations for violations of the animal handling regulations (Appendix E), Hovatter's Wildlife Zoo continues to sell interactive experiences with big cat cubs.

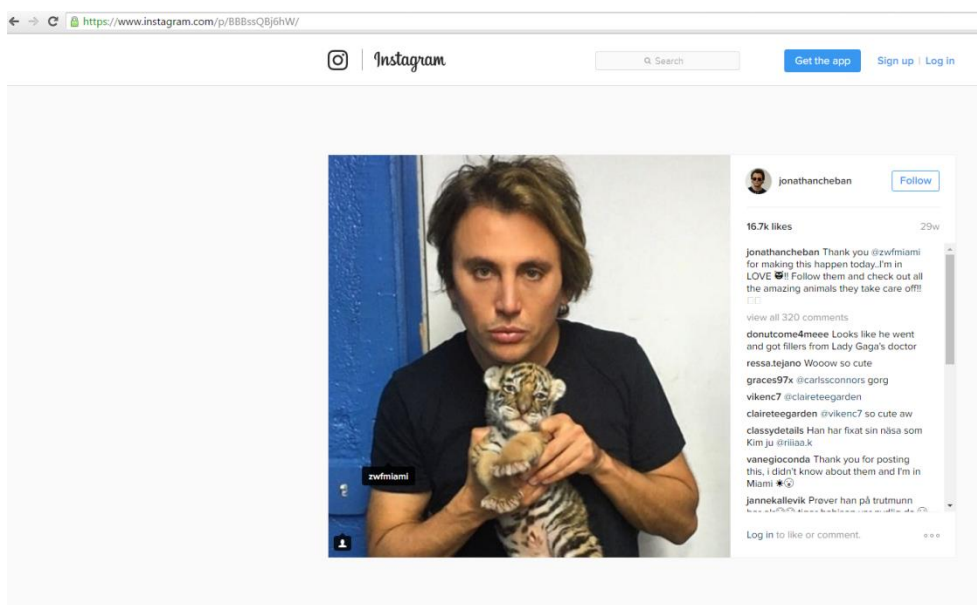


<https://www.facebook.com/Hovatters-Wildlife-Zoo-307549909449090/>

16) Zoological Wildlife Foundation (Miami, FL #58-B-0306)

This facility continues to allow members of the public to interact with infant big cats.

<https://www.instagram.com/p/BBBssQBj6hW/?taken-by=jonathancheban>



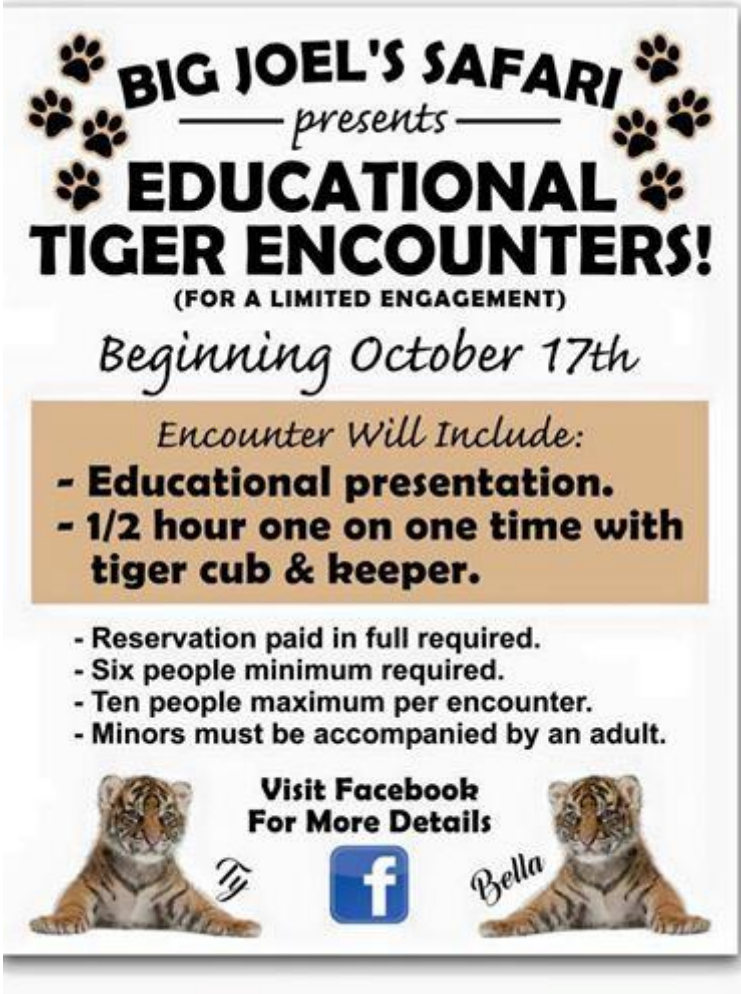
17) **Jungle Island** (a/k/a Parrot Jungle, Miami, FL #58-C-1060)

Jungle Island allows public contact with big cats and primates.



18) Big Joel's Safari (Wright City, Missouri)

This facility advertises public contact with tiger cubs on its Facebook page:



BIG JOEL'S SAFARI
— presents —
**EDUCATIONAL
TIGER ENCOUNTERS!**
(FOR A LIMITED ENGAGEMENT)




Beginning October 17th

Encounter Will Include:

- **Educational presentation.**
- **1/2 hour one on one time with tiger cub & keeper.**

- Reservation paid in full required.
- Six people minimum required.
- Ten people maximum per encounter.
- Minors must be accompanied by an adult.

**Visit Facebook
For More Details**

Ty *Bella*

<https://www.facebook.com/bigjoelsafari/events>

II. Examples of Trade in Animals for Public Contact Exhibition

According to news reports and certificates of veterinary inspection filed with states, dozens of big cats, bears, and nonhuman primates continue to be transported across state lines by public contact exhibitors, both to acquire new infants for this commercial use and to dispose of animals that are deemed no longer profitable for public contact exhibition. As detailed in Appendices C & D, following are examples of this trade, which are in addition to the large volume of trade demonstrated in the Petition (Appendix A).

According to a small sample of public records obtained since Petitioners last provided information on this subject, from May 2014 through January 2016, at least 42 big cats and bears 12 weeks of age and younger were transported to facilities known to engage in public contact exhibition. *See* Appendix C. The majority of these records are from the State of Oklahoma, where two of the most notorious public contact exhibitors – G.W. Exotic Animal Park and Tiger Safari – are located. Certificates of veterinary inspection filed with the State demonstrate that in addition to the numerous big cats bred for use on site at G.W. Exotic Animal Park, Joe Schreibvogel (aka Joe Maldonado, #73-C-0139) continues to be one of the biggest suppliers of infant exotic animals nationwide, having supplied at least 19 big cat cubs to other public contact exhibitors in just 20 months.

Further, records obtained from the Oklahoma Department of Agriculture reveal that between April 2014 and May 2016, Schreibvogel exported at least 47 tigers, lions, leopards, ligers, tiligers, and bears to substandard facilities. *See* Appendix D. Based on the age of these animals, it is likely that they were disposed of after Schreibvogel deemed them no longer profitable for public contact exhibition. The big cats and bears exported by Schreibvogel during this timeframe went to multiple USDA licensees in multiple states: Brown's Oakridge Zoo, Robert Engesser (d/b/a The Zoo/Jungle Safari), Greg Woody (d/b/a Woody's Menagerie), Joe Camp (d/b/a Jungle Exotics), Big Cats of Serenity Springs, Sharkarosa Wildlife Ranch, Stearns Zoological (d/b/a Dade City Wild Things), Cedar Cove Feline Education Center, Tiger Preservation Center, Jeff Lowe, Tiger World, Whitley Acres Exotic Ranch, and Special Memories Zoo. Thus, Schreibvogel's big cat breeding operation alone forms a web of interstate commercial activity that undermines animal welfare and public safety and unduly burdens state and federal law enforcement resources, especially when compounded by the dozens of other facilities engaged in this nationwide market.

In another example of the negative welfare and safety impacts of this trade, after being used for photo ops at Dade City Wild Things in Florida, a tiger cub named Bindi was transferred to a private citizen in Texas named Trisha Meyer on approximately 3/1/16. Within a month of acquiring Bindi, Meyer passed the cub on to another private party (Cody Tibbets) in Conroe, Texas. On 4/21/16 Bindi escaped from Tibbets and was found wandering the streets of Conroe – she was impounded by police and ultimately transferred to the Intl. Exotic Feline Sanctuary. *See* Letter from People for the Ethical Treatment of Animals, to Nick Wiley, Executive Director, Florida Fish and Wildlife Conservation Commission, May 3, 2016.

The U.S. Fish and Wildlife Service recently took action to increase oversight over the domestic trade in captive tigers to ensure that tigers are not bred and sold unless such activity enhances the survival of this endangered species in the wild. *See* 81 Fed. Reg. 19923 (April 6, 2016). Similarly, the Endangered Species Act *requires* that USDA “shall utilize [its] authorities in furtherance of” conservation (16 U.S.C. § 1531(c)(1)), and

amending the AWA animal handling regulations as requested in the Petition is essential to dismantle the destructive commercial use of tigers in the U.S. (and globally, as discussed *infra*).

APHIS specifically requested comment (Question #4) on “What are the best methods of permanent, usable animal identification for dangerous animals?” Without doubt, a microchip is the state of the art for identifying animals, and the constitutionality of laws requiring microchipping of privately-owned animals has been upheld by federal courts. *See Wilkins v. Daniels*, 744 F.3d 409 (6th Cir. 2014). If APHIS were to require that exhibitors microchip their animals and provide such information to APHIS, such requirement would be immensely useful in tracking the trade of animals bred and sold for use in public contact exhibition and would help ensure that endangered species used for public contact exhibition are not diverted into international wildlife trafficking.

III. New Scientific Evidence and Reports Supporting the Petition

As detailed at length in Petitioners’ prior submissions (Appendix A), in order for exhibitors to make infant big cats, bears, or nonhuman primates available for public contact, these babies are removed from their mothers’ care soon after birth to be hand-reared. As USDA has acknowledged (both through its March 2016 Technical Note on the care of neonatal felids and through veterinary care citations of exhibitors providing insufficient care for exotic animal infants, *see, e.g.*, Appendix E), newborn mammals must be housed with their mother for as long as possible after birth to promote good health. Indeed, recent studies further support Petitioners’ assertion that hand-rearing exotic animals for commercial entertainment is inhumane. *See* Appendix K.

When humans deprive primates, felids, and bears of essential maternal bonding, it is known to result in long-term negative behavioral and physical abnormalities. For example, a 2016 literature review of captive breeding facilities demonstrates that from 2000–2011, “hand-reared female Siberian tigers and hand-reared female and male cheetahs lived shorter lives than their parent-reared counterparts.” That study further concludes that when endangered species such as tigers, cheetahs, clouded leopards, and snow leopards are captive-bred for conservation purposes, “the differences in number of offspring and generational rearing patterns suggest that hand-rearing individuals that are part of the captive breeding programmes could be detrimental to the programmes’ integrity.” Maja Coulthard Hampson & Christopher Schwitzer, *Effects of Hand-Rearing on Reproductive Success in Captive Large Cats Panthera tigris, Uncia uncia, Acinonyx jubatus, and Neofelis nebulosa*, PLoS One 11(5) (2016), at <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0155992>. *See also* Jaimee Wheelhouse et al., *Congenital Vestibular Disease in Captive Sumatran Tigers (Panthera tigris ssp. sumatrae) in Australasia*, The Veterinary Journal Vol. 206(2), 178-182 (2015), at <http://www.sciencedirect.com/science/article/pii/S1090023315003585>. These studies highlight the need to ensure that captive endangered species are strictly managed for conservation purposes.

Indeed, when captive breeding is not properly managed, individual offspring often suffer. For example, as established in Petitioners' previous submissions and through HSUS undercover investigations, when exotic animals are bred for public contact exhibition, they often receive inadequate nutrition (e.g., big cats are fed an improper balance of meat and milk supplements). One recent study details the injuries suffered by a five month old tiger cub fed a meat-only diet. Charles Boucher & Gareth Zeiler, *Femur Fracture Repair of a Tiger Cub (Panthera tigris tigris) Suffering From Nutritional Secondary Hyperparathyroidism and Osteopenia*, Vet Rec. Case Rep. (2015), at <http://vetrecordcasereports.bmj.com/content/3/1/e000188.abstract>.

As described in the Petition, the negative impacts of maternal deprivation are most well studied with respect to primates. Additional detail about the importance of mother-rearing of primates is included in HSUS' petition to improve enforcement of the AWA primate psychological wellbeing regulations (9 C.F.R. § 3.81). See Appendix F; Appendix K. The expert declaration supporting that petition – from Dr. Debra Durham, published expert in nonhuman primate behavior and psychology – makes clear that “The single most significant factor for promoting a primate’s psychological wellbeing is to ensure that infant primates are reared by their mothers at least until the species-typical age of weaning.” Indeed, **APHIS itself has long acknowledged that “Infants should not be permanently removed from the care giving parent(s) before an age that approximates the age of infant independence in nature, except where necessary for the health and wellbeing of the infant or dam.”** 64 Fed. Reg. 38145, 38148 (July 15, 1999). Further, as demonstrated in the Petition, experts agree that this body of evidence pertaining to the importance of the mother-infant bond in primates is also applicable to captive large carnivores like bears and big cats.

Thus, in response to APHIS's Question #6 – “What scientific information (peer-reviewed journals preferred) is available that identifies the appropriate weaning ages for nondomestic felids, bears, elephants, wolves, nonhuman primates, and other dangerous animals?” – the sources that should be consulted are the best available scientific evidence for each species to determine the species-typical age of weaning in the wild. Establishing a standard weaning age for captive exotic animals that is less than standard weaning age for the species in the wild would be arbitrary and capricious and not in accordance with the AWA's mandate to promote animal welfare. 5 U.S.C. § 706.

As detailed in the Petition, weaning is normally a slow and gradual process, and the natural age of weaning for big cats, bears, and nonhuman primates ranges from several months to several years. See, e.g., Birute Galdikas & James Wood, *Birth Spacing Patterns in Humans and Apes*, American J. of Physical Anthropology Vol. 83(2), 185-191 (Oct. 1990) (natural age of weaning for orangutans is about 8 years, about 5 years for chimpanzees); Mark Prescott et al., *Laboratory macaques: When to wean?*, Applied Animal Behaviour Science (in press, accepted Nov. 3, 2011) (“It is preferable for young macaques to remain with their mothers until they have become behaviourally independent. Minimum weaning age should therefore not normally be less than 10-14 months old...”); Paul Garber & Steven Leigh, *Ontogenetic Variation in Small-Bodied New World Primates: Implications for Patterns of Reproduction and Infant Care*, Folia Primatologica Vol. 68, 1-22 (1997) (natural age of weaning for New World primates ranges about 3-8 months); Sunquist, M. and F.

(2002) *Wild Cats of The World*, The University of Chicago Press, Ltd., London (natural age of weaning for tigers is about 6 months); Sarah Haas et al, *Panthera leo*, Mammalian Species No. 762, 1-11 (July 15, 2005) (lion cubs naturally weaned by about 8 months); Kevin Seymour, *Panthera onca*, Mammalian Species No. 340, 1-9 (Oct. 26, 1989) (suckling continues until 5-6 months for jaguars); Paul Krausman & Susana Morales, *Acinonyx jubatus*, Mammalian Species No. 771, 1-6 (July 15, 2005) (cheetahs are weaned by 6 months); Maria Pasitschniak-Arts, *Ursus arctos*, Mammalian Species No. 439, 1-10 (April 23, 1993) (brown bears nurse for 1.5-2.5 years).

While dispersal patterns vary amongst these species and between the sexes, infant big cats, bears, and nonhuman primates naturally remain with their mothers for extended periods of time to develop essential survival skills, and this continued period of development should be considered as necessary for the animal's long-term wellbeing. See Erlend Nilsen et al, *The Cost of Maturing Early in a Solitary Carnivore*, *Oecologia* Vol. 164, 943-948 (2010). Big cat cubs remain with their mothers for about two years, bears remain for 2-3 years, and primates remain with their mothers for nearly a decade prior to dispersing from their natal groups. See *id.*; Viktor Reinhardt, *Artificial Weaning of Old World Monkeys: Benefits and Costs*, *J. of Applied Animal Welfare Science* Vol. 5(2), 151-156 (2002); Vratislav Mazak, *Panthera tigris*, Mammalian Species No. 152, 1-8 (May 8, 1981); Linda Sweanor et al., *Cougar Dispersal Patterns, Metapopulation Dynamics, and Conservation*, *Conservation Biology* Vol. 14(3), 798-808 (June 2000); Serge Lariviere, *Ursus americanus*, Mammalian Species No. 647, 1-11 (Jan. 23, 2001); Rebecca Snyder et al., *Consequences of Early Rearing on Socialization and Social Competence of the Giant Panda*, in *Giant Pandas: Biology, Veterinary Medicine and Management* (David Wildt et al, eds) ("Carnivore offspring are invariably altricial, that is highly dependent on parental care (although no other carnivore is so much so as the giant panda). The period of dependence of many large carnivores is long, and the age of independence is greatest in ursids. ... carnivores reared in socially deprived settings also exhibit later deficiencies in maternal behavior") (internal citations omitted).

APHIS has also solicited comment on "What animals may pose a public health risk and why? What risks does public contact with dangerous animals present to the individual animal and the species and why?" (Question #3). As meticulously documented in the Petition and supporting materials, the risk of zoonotic disease transfer to and from big cats, bears, and nonhuman primates used for public contact is of serious concern for the health of the animals and the visiting public. In addition to these disease issues, big cats, bears, and nonhuman primates pose a direct risk to the physical safety of members of the public allowed to interact with these powerful animals. For example, just since the beginning of 2015, there have been multiple reported incidents with animals used for public contact exhibition:

- January 23, 2015/Dade City, Florida: A woman was bitten and mauled by a 400-pound black bear at private menagerie called Wildlife Haven when she reached into the bear's cage to try to pet the animal. The woman was airlifted to a hospital where she received treatment for severe injuries to her arm. See WFLA, 400-pound bear bites woman in Pasco (January 23, 2015).
- July 3, 2015/Adams, Wisconsin: A business called "Monkey Mommy" was cited by the U.S. Department of Agriculture for failure to have a ring-tailed lemur under control after the lemur bit a person while being exhibited on public property in

Wisconsin. U.S. Department of Agriculture, Inspection Report, Melanie Nawrot, 35-B-0206 (July 14, 2015).

- August 17, 2015/Detroit, Michigan: Handlers with Animals of Montana lost control of a leashed tiger they brought to the abandoned Packard Plant for a photo shoot along with two wolves and a bobcat. Detroit police, who were at the scene, confirmed that a tiger had been loose and was recaptured. *See* Ian Thibodeau, Live tiger gets loose inside Detroit's Packard Plant, mlive.com (August 17, 2015).
- September 13, 2015/Charlestown, Indiana: During a playtime with 16-week-old tiger cubs weighing 35 to 40 pounds at Tim Stark's Wildlife in Need, a USDA inspector observed the cubs bite two members of the public. An 8- or 9-year-old girl was bitten on the arm and a woman also suffered a bite wound to the arm that broke the skin. The inspector wrote, "These cubs could easily have pounced on a younger child in the audience and caused serious injury or even death to the babies. Attendants repeatedly swatted the cubs with riding crops in failed attempts to control them, causing the tigers discomfort." U.S. Department of Agriculture, Inspection Report, Timothy Stark, 32-C-0204 (September 13, 2015).
- September 6, 2015/League City, Texas: A 4-year-old boy was bitten on the leg by a capuchin monkey at Ms. Monkeys Emporium, a gourmet popcorn shop that displays three monkeys and allows them to interact with the public. *See* KPRC, Community supports owner of monkeys quarantined after child bitten at shop (September 17, 2015).
- October 9, 2015/Perry County, Georgia: A lemur exhibited by Eudora Farms at a county fair escaped from a cage when an employee failed to secure a door, creating mayhem, and biting two bystanders. U.S. Department of Agriculture, Inspection Report, Eudora Farms, #56-C-0118 (October 16, 2015).
- May 19, 2016/Newberry, Michigan: A house guest was scratched by a bear cub who belonged to Oswald's Bear Ranch, resulting in an infection. *See* U.S. Department of Agriculture, Inspection Report, Oswald's Bear Ranch, 34-C-0123 (June 1, 2016).
- A woman was bitten by a 14-week-old African lion cub at Wild Wilderness Safari (71-C-0151) in Gentry, Arkansas, on October 22, 2014. Arkansas Incident Report, Benton County Sheriff's Office, Incident Number 14-10-0579 (October 22, 2014); U.S. Department of Agriculture, Inspection Report, Wild Wilderness Safari, 71-C-0151 (April 8, 2015).
- April 10, 2015/Springfield, Missouri: In between circus performances, the public had easy access to four tigers and a liger belonging to exhibitor Mitchel Kalmanson. APHIS witnessed six people breach the insufficient public barrier around the big cats in their transport cages and stop to take photos and reach their hands and arms close to the enclosures. U.S. Department of Agriculture Inspection Report, Mitchel Kalmanson, 58-C-0505 (April 10, 2015).
- February 10, 2015/Panama City Beach, Florida: An 8-year-old boy was scratched and bitten by a lemur who jumped onto him during a "hands on" program at Zooworld. The boy sustained two approximately 1-inch-long scratches on the back of his neck and a bite to his ear lobe. U.S. Department of Agriculture Inspection Report, Zooworld, 58-C-0460 (February 10, 2015).

These reported incidents are likely just the tip of the iceberg, and more incidents arise from keeping other dangerous animals – such as elephants – in substandard exhibition facilities.

See Appendix G (reported dangerous elephant incidents, demonstrating that allowing members of the public to come into contact with elephants through rides or otherwise is unsafe and should be prohibited).

APHIS has specifically inquired (Question #1), “What factors and characteristics should determine if a type of animal is suitable for public contact? When the Animal and Plant Health Inspection Service (APHIS) describes an animal as dangerous, there are certain characteristics we use to classify the animals, such as the size, strength, and instinctual behavior of an animal, risk of disease transmission between animals and humans (*i.e.*, zoonoses such as Herpes B), and ability to safely and humanely handle (or control) the animal in all situations.” Petitioners agree that these are relevant factors, but believe that the agency should draw a clear line that licensees may **not allow public contact with any species that are non-domesticated**. See, *e.g.*, Paul Koene et al., *Behavioral Ecology of Captive Species: Using Bibliographic Information to Assess Pet Suitability of Mammal Species*, Front. Vet. Sci. Vol. 3 (2016), at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4873507/>; C.A. Schuppli et al., *Welfare of Non-Traditional Pets*, Rev. Sci. Tech. Off. Int. Epiz Vol. 33(1), 221-231 (2014), at <http://www.oie.int/doc/ged/D13670.PDF>.

Similarly, APHIS solicited comment (Question #2) on “What animals should APHIS consider including under the definition of dangerous animals? For example, are all nonhuman primates dangerous? We currently identify some animals as dangerous, including, but not limited to, nondomestic felids (such as lions, tigers, jaguars, leopards, mountain lions, cheetahs, and any hybrids thereof), wolves, bears, certain nonhuman primates (such as gorillas, chimps, and macaques), elephants, hippopotamuses, rhinoceroses, moose, bison, camels, and common animals known to carry rabies.”

As established in the Petition, big cats, bears, and all nonhuman primates are inherently dangerous. For example, as detailed in the attached analysis of reported primate incidents (Appendix H), even smaller monkeys pose a significant threat to human health and safety:

- The primate species that have been reported as causing the most human injuries are macaques, capuchins, chimpanzees, lemurs, spider monkeys, gorillas, vervets, marmosets, squirrel monkeys, and unidentified primate species.
- Approximately 47 percent of all primate-related injuries to adults and children at both USDA-licensed and unlicensed facilities involve primates *other than* great apes and macaques.
- More than half (54 percent) of the injuries to children by primates at USDA-licensed facilities are caused by smaller primates that *exclude* great apes and macaques.

Similarly, while the Petition focuses on the largest felids (*i.e.*, tigers, lions, jaguars, leopards, cougars, and cheetahs), no felid other than a domestic cat is suitable for public contact exhibition, as the smaller exotic cat species often compensate for their size with increased ferocity.

Further, many states have adopted definitions of what constitutes a dangerous wild animal, which are instructive here (though Petitioners note that often these state law definitions are the result of political compromise and the exclusion of any species from a

particular list does not necessarily equate to a finding that such animal is not dangerous). For example:

Iowa Code Ann. § 717F.1

5. a. “Dangerous wild animal” means any of the following:

- (1) A member of the family canidae of the order carnivora, including but not limited to wolves, coyotes, and jackals. However, a dangerous wild animal does not include a domestic dog.
- (2) A member of the family hyaenidae of the order of carnivora, including but not limited to hyenas.
- (3) A member of the family felidae of the order carnivora, including but not limited to lions, tigers, cougars, leopards, cheetahs, ocelots, and servals. However, a dangerous wild animal does not include a domestic cat.
- (4) A member of the family ursidae of the order carnivora, including bears and pandas.
- (5) A member of the family rhinocerotidae order perissodactyla, which is a rhinoceros.
- (6) A member of the order proboscidea, which are any species of elephant.
- (7) A member of the order of primates other than humans, and including the following families: callitrichidae, cebidae, cercopithecidae, cheirogaleidae, daubentoniidae, galagonidae, hominidae, hylobatidae, indridae, lemuridae, loridae, megaladapidae, or tarsiidae. A member includes but is not limited to marmosets, tamarins, monkeys, lemurs, galagos, bushbabies, great apes, gibbons, lesser apes, indris, sifakas, and tarsiers.
- (8) A member of the order crocodilia, including but not limited to alligators, caimans, crocodiles, and gharials.
- (9) A member of the order squamata which is any of the following:
 - (a) A member of the family varanidae, which are limited to water monitors and crocodile monitors.
 - (b) A member of the family atractaspidae, including but not limited to mole vipers and burrowing asps.
 - (c) A member of the family helodermatidae, including but not limited to beaded lizards and gila monsters.
 - (d) A member of the family elapidae, viperidae, crotalidae, atractaspidae, or hydrophidae which are venomous, including but not limited to cobras, mambas, coral snakes, kraits, adders, vipers, rattlesnakes, copperheads, pit vipers, keelbacks, cottonmouths, and sea snakes.
 - (e) A member of the superfamily henophidia, which are limited to reticulated pythons, anacondas, and African rock pythons.
- (10) Swine which is a member of the species *sus scrofa linnaeus*, including but not limited to swine commonly known as Russian boar or European boar of either sex.

Wash. Rev. Code Ann. § 16.30.010

(2) “Potentially dangerous wild animal” means one of the following types of animals, whether bred in the wild or in captivity, and any or all hybrids thereof:

- (a) Class mammalia
 - (i) Order carnivora
 - (A) Family felidae, only lions, tigers, captive-bred cougars, jaguars, cheetahs, leopards, snow leopards, and clouded leopards;
 - (B) Family canidae, wolves, excluding wolf-hybrids;
 - (C) Family ursidae, all bears;

- (D) Family hyaenidae, such as hyenas;
- (ii) Order perissodactyla, only rhinoceroses;
- (iii) Order primates, all nonhuman primate species;
- (iv) Order proboscidae, all elephants [elephant] species;
- (b) Class reptilia
 - (i) Order squamata
 - (A) Family atractaspidae, all species;
 - (B) Family colubridae, only dispholidus typus;
 - (C) Family elapidae, all species, such as cobras, mambas, kraits, coral snakes, and Australian tiger snakes;
 - (D) Family hydrophiidae, all species, such as sea snakes;
 - (E) Family varanidae, only water monitors and crocodile monitors;
 - (F) Family viperidae, all species, such as rattlesnakes, cottonmouths, bushmasters, puff adders, and gaboon vipers;
 - (ii) Order crocodilia, all species, such as crocodiles, alligators, caimans, and gavials.

Miss. Code. Ann. § 49-8-5

The following wild animals are classed as animals inherently dangerous to humans:

- (a) Order Primates:
 - (i) Family Pongidae (gibbons, orangutan, chimpanzees, siamangs and gorillas) -- all species;
 - (ii) Family Cercopithecidae:
 - A. Genus Macaca (macaques) -- all species;
 - B. Genus Papio (mandrills, drills and baboons) -- all species;
 - C. Theropithecus Gelada (Gelada baboon);
- (b) Order Carnivora:
 - (i) Family Canidae:
 - A. Genus Canis (wolves, jackals and dingos; all species, including crosses between wolves and domestic animals);
 - B. Chrysocyon brachyurus (maned wolf);
 - C. Cuon alpinus (red dog);
 - D. Lycaon pictus (African hunting dog);
 - (ii) Family Ursidae (bears) -- all species;
 - (iii) Family Mustelidae -- Gulo gulo (wolverine);
 - (iv) Family Hyaenidae (hyenas) -- all species;
 - (v) Family Felidae:
 - A. Genus Leo or Panthera or Neofelis (lions, tigers, jaguars and leopards) -- all species;
 - B. Unica unica (snow leopard);
 - C. Acinonyx jubatus (cheetah);
 - D. Felis concolor (cougar) -- all subspecies;
- (c) Order Proboscidae: Family Elephantidae (elephants) -- all species;
- (d) Order Perissodactyla: Family Rhinocerotidae (rhinoceroses) -- all species;
- (e) Order Artiodactyla:
 - (ii) Family Hippopotamidae -- Hippopotamus amphibius (hippopotamus);
 - (ii) Family Bovidae: Syncerus caffer (African buffalo).

Mo. Ann. Stat. § 578.023

1. A person commits the offense of keeping a dangerous wild animal if he or she keeps any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, Canada lynx, bobcat, jaguarundi, hyena, wolf, bear, nonhuman primate, coyote, any deadly, dangerous, or

poisonous reptile, or any deadly or dangerous reptile over eight feet long, in any place other than a properly maintained zoological park, circus, scientific, or educational institution, research laboratory, veterinary hospital, or animal refuge, unless he or she has registered such animals with the local law enforcement agency in the county in which the animal is kept.

Kan. Stat. Ann. § 32-1301

(d) “Dangerous regulated animal” means a live or slaughtered parts of:

- (1) Lions, tigers, leopards, jaguars, cheetahs and mountain lions, or any hybrid thereof;
- (2) bears or any hybrid thereof; and
- (3) all non-native, venomous snakes.

W. Va. Code Ann. § 19-34-2

(2) “Dangerous wild animal” means a mammal, bird, reptile, amphibian or aquatic animal, including a hybrid, that is dangerous to humans, other animals or the environment due to its inherent nature and capability to do significant harm.

Tex. Health & Safety Code Ann. § 822.101

(4) “Dangerous wild animal” means:

- (A) a lion;
- (B) a tiger;
- (C) an ocelot;
- (D) a cougar;
- (E) a leopard;
- (F) a cheetah;
- (G) a jaguar;
- (H) a bobcat;
- (I) a lynx;
- (J) a serval;
- (K) a caracal;
- (L) a hyena;
- (M) a bear;
- (N) a coyote;
- (O) a jackal;
- (P) a baboon;
- (Q) a chimpanzee;
- (R) an orangutan;
- (S) a gorilla; or
- (T) any hybrid of an animal listed in this subdivision.

Ohio Rev. Code Ann. § 935.01

(C) “Dangerous wild animal” means any of the following, including hybrids unless otherwise specified:

- (1) Hyenas;
- (2) Gray wolves, excluding hybrids;
- (3) Lions;
- (4) Tigers;
- (5) Jaguars;
- (6) Leopards, including clouded leopards, Sunda clouded leopards, and snow leopards;

- (7) All of the following, including hybrids with domestic cats unless otherwise specified:
- (a) Cheetahs;
 - (b) Lynxes, including Canadian lynxes, Eurasian lynxes, and Iberian lynxes;
 - (c) Cougars, also known as pumas or mountain lions;
 - (d) Caracals;
 - (e) Serval, excluding hybrids with domestic cats commonly known as savannah cats.
- (8) Bears;
- (9) Elephants;
- (10) Rhinoceroses;
- (11) Hippopotamuses;
- (12) Cape buffaloes;
- (13) African wild dogs;
- (14) Komodo dragons;
- (15) Alligators;
- (16) Crocodiles;
- (17) Caimans, excluding dwarf caimans;
- (18) Gharials;
- (19) Nonhuman primates other than lemurs and the nonhuman primates specified in division (C)(20) of this section;
- (20) All of the following nonhuman primates:
- (a) Golden lion, black-faced lion, golden-rumped lion, cotton-top, emperor, saddlebacked, black-mantled, and Geoffroy's tamarins;
 - (b) Southern and northern night monkeys;
 - (c) Dusky titi and masked titi monkeys;
 - (d) Muriquis;
 - (e) Goeldi's monkeys;
 - (f) White-faced, black-bearded, white-nose bearded, and monk sakis;
 - (g) Bald and black uakaris;
 - (h) Black-handed, white-bellied, brown-headed, and black spider monkeys;
 - (i) Common woolly monkeys;
 - (j) Red, black, and mantled howler monkeys.

720 Ill. Comp. Stat. Ann. 5/48-10

“Dangerous animal” means a lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, lynx, bobcat, jaguarundi, bear, hyena, wolf or coyote.

Conn. Gen. Stat. Ann. § 26-40a

For the purposes of this section, the following wildlife, or any hybrid thereof, shall be considered potentially dangerous animals:

- (1) The felidae, including, but not limited to, the lion, leopard, cheetah, jaguar, ocelot, jaguarundi cat, puma, lynx and bobcat;
- (2) The canidae, including, but not limited to, the wolf, and coyote;
- (3) The ursidae, including, but not limited to, the black bear, grizzly bear and brown bear; and
- (4) The hominidae, including, but not limited to, the gorilla, chimpanzee and orangutan.

In any event, the regulatory amendment sought by Petitioners does not require USDA to define an exclusive list of species that are dangerous – the Petition seeks the following amendments:

§ 2.131 Handling of animals.

(a) (1) All licensees who maintain wild or exotic animals must demonstrate adequate experience and knowledge of the species they maintain.

(2) No licensee may allow any individual other than a trained full-time employee of the licensee or a licensed veterinarian (or accompanying veterinary student) to come into direct physical contact with any big cat (lion, tiger, leopard, jaguar, cheetah, cougar, or hybrid thereof), bear, or nonhuman primate, regardless of the age of the animal.

(b)(1) Handling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort.

(2)(i) Physical abuse shall not be used to train, work, or otherwise handle animals.

(ii) Deprivation of food or water shall not be used to train, work, or otherwise handle animals; Provided, however, That the short-term withholding of food or water from animals by exhibitors is allowed by these regulations as long as each of the animals affected receives its full dietary and nutrition requirements each day.

(c)(1) During public exhibition, any animal must be handled so there is minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between the animal and the general viewing public so as to assure the safety of animals and the public. For big cats, bears, and nonhuman primates, “sufficient distance” is at least 15 feet from members of the public, unless there is a permanent barrier that prevents public contact or risk of contact.

(2) Performing animals shall be allowed a rest period between performances at least equal to the time for one performance.

(3) Young or immature animals shall not be exposed to rough or excessive public handling or exhibited for periods of time which would be detrimental to their health or well-being. Young or immature big cats, bears, and nonhuman primates shall not be exposed to any public handling and shall not be separated from their dams before the species-typical age of weaning unless a licensed veterinarian confirms in writing that such separation is medically necessary.

(4) Drugs, such as tranquilizers, shall not be used to facilitate, allow, or provide for public handling of the animals.

- (d)(1) Animals shall be exhibited only for periods of time and under conditions consistent with their good health and well-being.
- (2) A responsible, knowledgeable, and readily identifiable employee or attendant must be present at all times during periods of public contact.
- (3) During public exhibition, dangerous animals such as lions, tigers, wolves, bears, or elephants must be under the direct control and supervision of a knowledgeable and experienced animal handler.
- (4) If public feeding of animals is allowed, the food must be provided by the animal facility and shall be appropriate to the type of animal and its nutritional needs and diet.
- (e) When climatic conditions present a threat to an animal's health or well-being, appropriate measures must be taken to alleviate the impact of those conditions. An animal may never be subjected to any combination of temperature, humidity, and time that is detrimental to the animal's health or well-being, taking into consideration such factors as the animal's age, species, breed, overall health status, and acclimation.

In addition to amending the general handling regulations as outlined above to prohibit direct contact and unsafe close contact with big cats, bears, and nonhuman primates of any age, the regulations specific to nonhuman primates will need to be amended as follows for consistency.

9 CFR § 3.77 (g) Public barriers. Fixed public exhibits housing nonhuman primates, such as zoos, must have a barrier between the primary enclosure and the public at any time the public is present, that restricts physical contact between the public and the nonhuman primates. ~~Nonhuman primates used in trained animal acts or in uncaged public exhibits must be under the direct control and supervision of an experienced handler or trainer at all times when the public is present. Trained nonhuman primates may be permitted physical contact with the public, as allowed under § 2.131, but only if they are under the direct control and supervision of an experienced handler or trainer at all times during the contact.~~

9 CFR § 3.78 (e) Public barriers. Fixed public exhibits housing nonhuman primates, such as zoos, must have a barrier between the primary enclosure and the public at any time the public is present, in order to restrict physical contact between the public and the nonhuman primates. ~~Nonhuman primates used in trained animal acts or in uncaged public exhibits must be under the direct control and supervision of an experienced handler or trainer at all times when the public is present. Trained nonhuman primates may be allowed physical contact with the public, but only if they are under the direct control and supervision of an experienced handler or trainer at all times during the contact.~~

9 CFR § 3.79 (d) Public barriers. There must be a barrier between a mobile or traveling housing facility and the public at any time the public is present,

in order to restrict physical contact between the nonhuman primates and the public. ~~Nonhuman primates used in traveling exhibits, trained animal acts, or in uncaged public exhibits must be under the direct control and supervision of an experienced handler or trainer at all times when the public is present. Trained nonhuman primates may be allowed physical contact with the public, but only if they are under the direct control and supervision of an experienced handler or trainer at all times during the contact.~~

As detailed in Petitioner's letter dated March 31, 2015 (Appendix A), and similar to the March 2016 Technical Note on neonatal felids, APHIS could also amend its animal care policies to make clear that existing animal handling and veterinary care regulations prohibit the actions inherent in allowing members of the public to interact with big cats, bears, or nonhuman primates.

IV. Responses to APHIS Questions Regarding Standards of Care

APHIS has specifically requested comment (Question #5) on "What are the most humane training techniques to use with dangerous animals?" As detailed in expert declarations previously submitted by Petitioners, behavior-based husbandry and operant conditioning (using positive reinforcement) are widely recognized as the most humane training techniques for captive animals. However, it is important to note that it is not possible to "train" captive wildlife to eliminate the risks posed by public contact exhibition.

For example, although exotic felids can certainly learn behaviors by positive reinforcement (such as presenting body parts for veterinary examination), these wild species are highly unlikely to reliably perform desired actions based on positive reinforcement. *See* Affidavit of Jennifer Ruszczyk (Appendix I). Thus, for example, because random performance of behaviors is not acceptable to exhibitors using big cats in live performances (since the cat's failure to perform may be perceived to bring ridicule to the human handler), these exhibitors often use physical punishment to ensure compliance with commands. While "physical abuse" is already prohibited under the existing animal handling regulations (9 C.F.R. § 2.131(b)(2)(i)), APHIS should not sanction the use of any negative reinforcement that causes fear or pain in the animal.

Further, because infant animals are the most popular for public contact exhibition, the concept of training becomes even more attenuated. For example, the natural behaviors of a big cat, bear, or nonhuman primate that is a few weeks or months old generally includes abundant sleep and exploration and play during waking hours. These infants do not have the attention span needed to learn through operant conditioning. Thus, the only way to get an infant to reliably perform a particular behavior is to use negative reinforcement so that the infant discontinues undesirable actions for fear of forthcoming pain from physical punishment (and even that method is not necessarily reliable). Indeed, as demonstrated by multiple HSUS undercover investigations, public contact exhibitors routinely punch, slap, whip, and otherwise reprimand big cat cubs who are merely exercising their species-typical

rambunctious nature.² The desired behaviors to facilitate public contact (e.g., sitting still for extended periods of time while being touched by unfamiliar individuals) are so counter to the instincts of these animals that it is not possible to achieve with positive reinforcement. Further, there is no evidence that the dozens of licensed exhibitors currently profiting off of public contact have the knowledge, desire, capacity, or resources to adopt an operant conditioning program.

Therefore, Petitioners do not think it is worth APHIS' effort to establish standards for training captive wildlife, as the agency should instead focus its limited resources on eliminating unsafe and inhumane public contact exhibition. In other words, there is no way to make public contact exhibition safe or humane simply by requiring a certain methodology of training the animals involved. Allowing public contact with big cats, bears, nonhuman primates, or other dangerous wild animals condemns these animals to having their instinctual behaviors discouraged by exhibitors through applying physical discomfort or pain.

APHIS also asked (Question #7) "What industry, organizational, or governmental standards have been published for the handling and care of dangerous animals?" As discussed in the Petition and supporting materials, the Association of Zoos and Aquariums (AZA) has adopted animal care manuals for certain species that provide detailed information about habitat design, ambient environment, social environment, nutrition, veterinary care, reproduction, and behavior management techniques for the covered species. See <https://www.aza.org/animal-care-manuals>.

Further, the Global Federation of Animal Sanctuaries (GFAS) has adopted detailed standards of care for the taxa at issue in the Petition:

- Felids
 - <http://www.sanctuaryfederation.org/gfas/wp-content/uploads/2016/01/FelidStandardsJuly2013HA.pdf>
- Bears
 - <http://www.sanctuaryfederation.org/gfas/wp-content/uploads/2016/01/Bear-StandardsJune2013HA.pdf>
- Primates (Great Apes, Old World Monkeys, New World Monkeys, and Prosimians)
 - http://www.sanctuaryfederation.org/gfas/wp-content/uploads/2016/07/GreatApeStandards_Dec2015.pdf
 - http://www.sanctuaryfederation.org/gfas/wp-content/uploads/2016/07/OldWorldMonkeyStandards_Dec2015.pdf
 - http://www.sanctuaryfederation.org/gfas/wp-content/uploads/2016/07/NewWorldMonkeyStandards_Dec2015.pdf

² Similarly, Big Cat Rescue has received numerous reports from visitors and employees of public contact facilities that physical punishment is used to handle exotic felids. But frequently employees who see these behaviors and even report them to BCR are unwilling to file complaints with USDA or otherwise go public. They either fear the exhibitor, cannot afford to lose their jobs, or are concerned that such a report would prevent them from getting employment at another exhibitor. Thus, enforcement of a training standard would be exceedingly difficult, as these actions often take place behind the scenes and when a USDA inspector is not present.

- http://www.sanctuaryfederation.org/gfas/wp-content/uploads/2016/07/ProsimianStandards_Dec2015.pdf

Notably, all of these manuals specifically prohibit allowing public contact with any of these species. GFAS standards have also been adopted for other taxa that are inherently dangerous, such as elephants. See <http://www.sanctuaryfederation.org/gfas/for-sanctuaries/standards/>.

Relatedly, the Detroit Zoological Society has proposed a Universal Animal Welfare Framework for Zoos, composed of four major components: institutional philosophy and policy, reflecting values, commitment, and capacity building; programmatic structure and resources; execution; and evaluation, all of which are necessary parts of an adaptive system that ensures excellent animal wellbeing. Ron Kagan, Scott Carter, Stephanie Allard, *A Universal Animal Welfare Framework for Zoos*, *Journal of Applied Animal Welfare Science* Vol. 18(Sup.1) (2015), at <http://www.tandfonline.com/doi/full/10.1080/10888705.2015.1075830>.

Additionally, recent published studies shed further light on proper captive management of big cats, bears, and nonhuman primates:

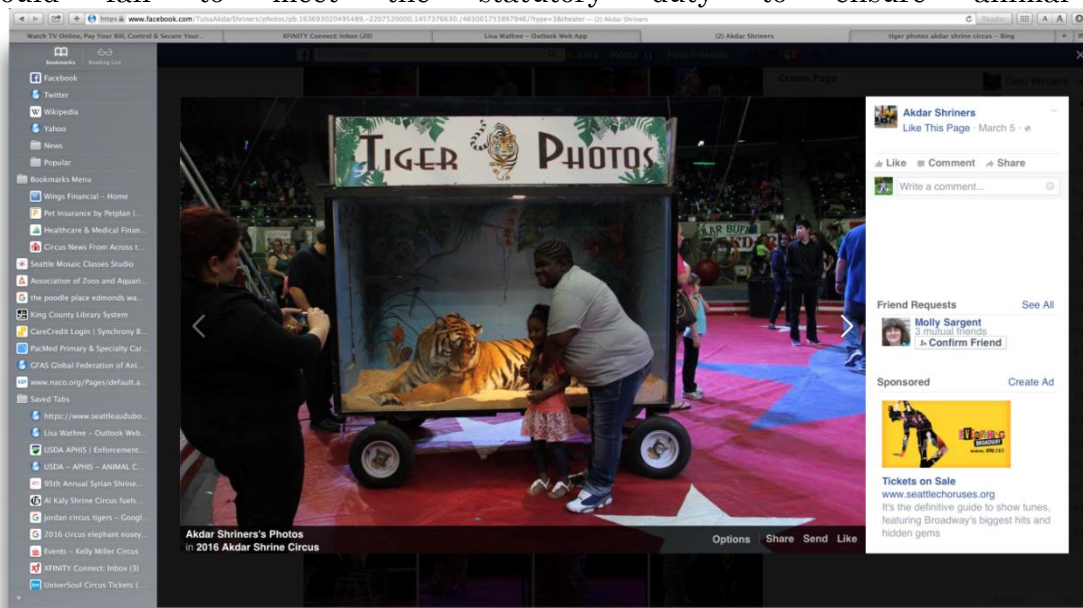
- “An essential feature that helped to enhance good animal welfare was a water pool in the enclosure containing clean water.” Cristina Biolatti et al., *Behavioural Analysis of Captive Tigers* (*Panthera tigris*): *A Water Pool Makes the Difference*, *Applied Animal Behaviour Science* Vol. 174, 173-180 (2016), at <http://www.sciencedirect.com/science/article/pii/S0168159115003214>.
- Marieke Cassia Gartner et al., *Comparison of Subjective Well-Being and Personality Assessments in the Clouded Leopard* (*Neofelis nebulosa*), *Snow Leopard* (*Panthera uncia*), and *African Lion* (*Panthera leo*), *J. of Applied Animal Welfare Science* Vol. 19(3) (2016), at <http://www.ncbi.nlm.nih.gov/pubmed/26983676> (demonstrating that subjective well-being is related to personality traits in captive felids, with implications for animal health and welfare outcomes).
- Sally L. Sherwen et al., *Effects of Visual Contact With Zoo Visitors on Black-Capped Capuchin Welfare*, *Applied Animal Behaviour Science* Vol. 167, 65-73 (2015), at <http://www.sciencedirect.com/science/article/pii/S0168159115000908> (finding that when given the choice capuchins avoid visual contact and proximity to human visitors, suggesting that enhancing the welfare of captive primates may require reducing zoo visitor’s viewing opportunities).
- Hao-Yu Shih et al., *Stereotypic Behavior in Bears*, *Taiwan Veterinary Journal* Vol. 42 (2016), at <http://www.worldscientific.com/doi/abs/10.1142/S168264851530004X> (finding that “Confined bears are deprived of natural stimulus, such as large roaming domains, active foraging and enriched habitats, making them vulnerable to develop stereotypic behaviors” and suggesting that captive bears may need to be medicated to cope with the stress of captivity).

Notably, the roadside zoos and private menageries involved with the inhumane practice of using exotic animals for public contact generally do not have the capacity or desire to publish meaningful standards of care for exotic animals; accordingly, there is no unified rulebook that this industry follows (just as there is no written industry standard for other illicit activity, such as wildlife trafficking or drug dealing). The closest thing that exists is the standards for the deceptively-named Zoological Association of America (ZAA) – a fringe

group with weak standards that endorses poorly run roadside zoos, travelling zoos, and private menageries and promotes private ownership of exotic pets and the commercialization of wildlife – which has asserted condemnation of public contact with primates and large carnivores (although many of its members clearly do not comply with these principles and ZAA does not take enforcement action to remedy noncompliance). See Appendix A.

APHIS also inquired (Question #8) as to “What constitutes sufficient barriers for enclosures around dangerous animals to keep members of the public away from the animals? What methods (structures, distance, attendants, etc.) are needed to prevent entry of the public into an enclosure and keep the animal safe while still allowing for meaningful viewing?” The existing AWA regulations contain minimum standards for barriers for multiple taxa, but most relevant here is the issue of how to define “sufficient distance and/or barriers” in 9 C.F.R. § 2.131(c)(1). As explained in the Petition, in order to ensure that public contact exhibitors do not, for example, allow members of the public to pose next to dangerous wild animals for photographs (without direct physical contact), APHIS should prohibit unsafe close public contact with big cats, bears, and nonhuman primates. The Petition proposes to prohibit the public from coming within 15 feet of the animal when there is no permanent barrier to protect the animal and the public. This recommendation is consistent, for example, with the implementation of AZA’s cheetah ambassador animal program – which Petitioners do not necessarily condone – where cheetahs are removed from their enclosures but are accompanied by two handlers that restrain the cheetah with double leads and remain within two feet of the cheetah while keeping the cheetah at least 15 feet away from members of the public.

As APHIS evaluates this request, we urge the agency to be mindful that it not allow inhumane treatment of animals as it takes steps to ensure public safety. For example, keeping a large carnivore contained in a transport enclosure for hours on end to facilitate greater public access (as depicted below in a photograph from the Akdar Shriner’s Circus) would fail to meet the statutory duty to ensure animal welfare.



V. Conservation Impacts

Over the last decade, there has been significant concern within the conservation and animal welfare communities that some captive tiger facilities, both in the U.S. and abroad, might be supplying the illegal trade in tiger parts and products. For example, it has long been thought that Thailand's Tiger Temple was engaged in illegal trade, and in June 2016, Thailand's wildlife department raided the temple. This enforcement action resulted in the seizure of 137 live tigers and the discovery of 40 tiger cubs in a freezer, 30 tiger cubs preserved in jars, and 1,000 amulets made from tiger skins. In addition, officials raided a home believed to be a butchering facility for the temple, that would allegedly prepare skins from temple tigers, as well as meat and bones either for consumption in local restaurants or for illegal export. See http://wwf.panda.org/wwf_news/?274510/Thailands-Tiger-Temple-Raid-Highlights-Need-to-Close-Tiger-Farms-in-Asia; <http://news.nationalgeographic.com/2016/06/tiger-temple-thailand-animal-abuse/>.

It is critical to ensure that captive tigers in the U.S. do not similarly contribute to international trafficking in tiger parts and products, and that the U.S. is fully implementing its obligations under the Endangered Species Act and the Convention on International Trade in Endangered Species (CITES). CITES Decision 14.69 provides that "Parties with intensive operations breeding tigers on a commercial scale shall implement measures to restrict the captive population to a level supportive only to conserving wild tigers; tigers should not be bred for trade in their parts and derivatives." Similarly, pursuant to Executive Order No. 13,648 (78 Fed. Reg. 40,621 (July 1, 2013)), "In order to enhance domestic efforts to combat wildlife trafficking, to assist foreign nations in building capacity to combat wildlife trafficking, and to assist in combating transnational organized crime, executive departments and agencies (agencies) shall take all appropriate actions within their authority, including the promulgation of rules and regulations and the provision of technical and financial assistance, to combat wildlife trafficking in accordance with the following objectives..." Thus, USDA is bound to use its rulemaking authority to ensure that licensees under its purview are not contributing to wildlife trafficking.

Further, the Endangered Species Act requires USDA to utilize its authorities in furtherance of the conservation purpose of the ESA (16 U.S.C. § 1531(c)(1)). USDA's current regulations – which facilitate a profitable industry based on breeding and exploiting endangered and threatened tigers, lions, leopards, cheetahs, jaguars, chimpanzees, orangutans, lemurs, and grizzly bears – fail to comply with this statutory mandate.

Indeed, it is well established that commercial entertainment use of endangered species has negative impacts on conservation (as detailed in the Petition and supporting materials), and additional studies have confirmed that public contact exhibition has the same negative impacts. For example, a 2015 study evaluating the impacts of public contact with monkeys shows that "Viewing the primate in an anthropomorphic setting while in contact with a person significantly increased their desirability as a pet, which also correlated with increased likelihood of believing the animal was not endangered." Katherine Leighty et al., *Impact of Visual Context on Public Perceptions of Non-Human Primate Performers*, PLoS ONE 10(2) (2015), at <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0118487>.

Not only does public contact exhibition in the U.S. negatively impact the welfare of the individual animals involved, but also threatens the conservation of imperiled species around the world. When Americans – who have become accustomed to interacting with captive wildlife because of their experiences across the U.S. – travel abroad, they may engage in similar activities overseas, including in places where animals are removed from the wild for such purposes. *See, e.g.,* Tom P. Moorhouse et al., *The Customer Isn't Always Right—Conservation and Animal Welfare Implications of the Increasing Demand for Wildlife Tourism*, PLoS ONE 10(10) (2015), at <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0138939>; Jan Schmidt-Burbach et al., *Asian Elephant (Elephas maximus), Pig-Tailed Macaque (Macaca nemestrina) and Tiger (Panthera tigris) Populations at Tourism Venues in Thailand and Aspects of Their Welfare*, PLoS ONE 10(9) (2015), at <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0139092>.

VI. Conclusion

For the reasons stated herein and in Petitioners' prior submissions on this issue, we strongly urge USDA to take immediate action to prohibit public contact with big cats, bears, and nonhuman primates, regardless of the age of the animal. Indeed, the administrative record clearly supports granting this Petition and Members of Congress have specifically called on the agency to take such action. *See* Appendix J.

Respectfully submitted,



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ii. Appendices

- A. Petition to Prohibit Public Contact (including November 18, 2013 Comments, December 2, 2014 Supplement, March 31, 2015 Letter, and October 27, 2015 Letter)
- B. Evidence of Public Contact Collected by New York University
- C. Evidence of Trade in Animals to Public Contact Facilities
- D. Evidence of Trade in Animals from Public Contact Facilities
- E. Relevant USDA Inspection Reports and Enforcement Actions
- F. HSUS Primate Psychological Wellbeing Petition and Supporting Information
- G. Dangerous Elephant Incidents
- H. Primate Incident Analysis
- I. Affidavit of Jennifer Ruszczyk
- J. Congressional Letters of Support for Petition
- K. New Scientific Sources Cited