

88 SUNDAY, MAY 23, 2004

MARINE PARKS: BELOW THE SURFACE

THE MORNING CALL

Regulators slow to enforce laws helping marine life

Probe shows violators are allowed to continue operating for years.

By Sally Kestin
Special to The Morning Call

By November, it was too late. Four times in the previous 15 months, federal inspectors had cited Sea Life Park on the Hawaiian island of Oahu for not providing its aging and frail marine mammals with adequate veterinary care.

By the time of their fifth visit, Laukani, a pregnant 24-year-old dolphin, had died after three days of labor with no medical care, federal records say. Her calf was dead, too.

The calf was never completely expelled. Laukani continued to weaken and died. U.S. Department of Agriculture inspector Elizabeth Lyons wrote in a Nov. 19 report, "At no time during her travail did she receive any on-site veterinary examination or treatment. The egregious lack of concern for this animal's extended distress, pain and suffering does not constitute adequate veterinary care."

A South Florida Sun-Sentinel investigation found that the federal government is slow to enforce laws meant to protect marine mammals and has allowed violators to continue operating for years even after documenting contaminated water, starvation or deaths such as Laukani's.

Sea Life Park, according to its lawyer, had made an arrangement with a local vet before the dolphins died. He said Laukani "was under constant observation by experienced staff, including one veterinary technician" during her labor, and veterinary specialists the park consulted advised against removing the calf. The park would not provide records to the incident to the newspaper.

Records of the USDA, in charge of inspecting marine parks, show that the park for more than a year ignored the inspector's deadline to hire a vet on the island. USDA spokesman Jim Rogers says only that the agency is investigating. He could not say why it has taken so long.

The USDA's lack of follow-through is unacceptable," said Sea Life Park, said U.S. Rep. Adam Putnam, R-Bartow in central Florida.

"You lose calves. That happens," said Putnam, a cattleman and member of the House's Agriculture and Government Reform committees. "But if you have had actors out there who pretend to be in the marine sciences business and yet don't have marine scientists, don't have proper veterinary care, then they ought not be given the permission to have these animals."

More than three decades after Congress passed a landmark Marine Mammal Protection Act, finding that sea mammals are "resources of great international significance," the marine park industry has bent largely on its own to comply with regulations.

Overworked inspectors visit some marine parks and aquariums once in three years, rarely finding serious problems, or if they do, even more rarely following up to ensure they're fixed, records show.

U.S. Sen. Bill Nelson, D-Fla., said the federal government has been too lax.

"I'm going to direct our staff to look into this in order to find out what we need to do to have more frequent inspections and better enforcement and then through legislation," Nelson said.

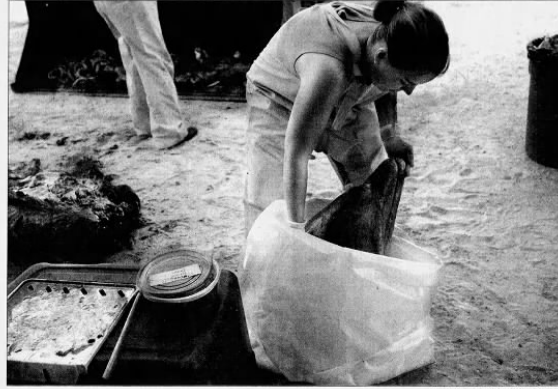
Fines are few

The USDA has authority to fine parks or revoke their licenses but has only done so twice since 2000, records show. The agency destroys records older than three years.

It took the death of an emaciated seal, sewage in the tank and public complaints before the government acted against the Westport Aquarium in Westport, Wash. For nearly two years, inspector Randall Ridemore reported on the slowly starving animals, the lack of veterinary care and the faulty water pumps.

Finally last year, the USDA shut the aquarium for a month, fined the owner \$50,000 and banned the facility from acquiring animals for five years.

The aquarium was listed for



MARINE BIOLOGIST LIU TZYH-SHEN bags the head of a dolphin for shipment to a lab for testing after performing a procedure on the animal at a suspected net tide outflow.

The animal was among more than 100 dolphins that washed ashore in February.

In a news release, the facility said baby and Tiny, their remaining "famous" harbor seals, were "planning to retire to the Rio Grande Zoo, in Albuquerque, N.M."

The government could have fined the Aquarium \$250,000, but agreed to a penalty of \$2,000. The nonprofit aquarium took in \$17 million in revenue that year, financial records show.

"Anything we go after we have to be able to prove in court," Rogers said. "If we don't have solid evidence, the judge could throw it out and we'd get nothing."

USDA Secretary Ann M. Veneman declined a request for an interview, Rogers said. Federal agencies responsible for overseeing marine parks have been unable or unwilling to enforce regulations.

"We strive to bring facilities into compliance with 100 percent compliance to compliance," said Barbara Kohn, USDA senior staff veterinarian for animal care. "We use education and cooperation. It's not, 'We're going to shut you down.'"

Unreported stillbirths

The National Marine Fisheries Service has maintained an inventory of captive marine mammals since 1972 but it relies on the parks to report information. Steve Leathery, head of marine mammal permitting for the agency, said the data allows the government and the public to find out "what's going on with this public trust resource."

Leathery said the service doesn't have the staff to inspect facilities to ensure accuracy and he realizes that an incomplete inventory is "much less useful."

The Sun-Sentinel discovered dozens of unreported births and deaths.

In 1994, in turning what had been Fisheries Service policy into law, Congress used wording that the parks have interpreted as reducing their reporting responsibilities.

"It is our policy that stillbirths be reported and some facilities feel that they are not required to do that," Leathery said.

In the decade before 1994, parks reported 168 stillbirths and newborn deaths. In the decade after, 24 were reported.

"A stillbirth is not part of a living collection so we do not report it to the government," said Roger Germain, spokesman for Chicago's John G. Shedd Aquarium. "Shedd does tell our birth stories — no matter the outcome — to the media and the public."

At least six unsuccessful dolphin births in the past decade that the Indianapolis Zoo told reporters about never showed up on the inventory. SeaWorld officials said they do not report stillbirths.

Dolphins Plus in Key Largo, Fla., reports all births because, said owner Rick Bongors, "It's only right." He said others do not because "it looks bad."

The Alliance of Marine

not because the oversight in the new location will be tougher," said U.S. Rep. Tom Lantos, D-San Mateo, Calif. He said he has planned to introduce legislation to regulate the movement of marine mammals between parks and facilities. "The USDA is not a friend of animals."

The USDA's 100 inspectors oversee 8,000 licenses, including breeders of farm animals, dealers and zoos as well as airlines and trucking companies that transport animals. Inspectors average one visit a year, said Kohn, the USDA veterinarian.

Inspectors "are generally overworked and there are not many of them," said David Cortright, executive director of the U.S. Marine Mammal Commission, an umbrella group Congress created to oversee protection of marine mammals across agencies.

"There are very few who are trained in marine mammal veterinary sciences," Lantos and Pallone believe that shifting oversight to the USDA was a mistake.

"I don't think Congress has done enough oversight to really know what the situation is with those various marine mammals," Pallone said.

The agency needs the industry for expertise.

When the USDA decided to update rules on the housing and care of marine mammals 10 years ago, it invited marine park representatives to help write the new requirements. When inspectors investigate questionable marine animal deaths, they turn to other parks and aquariums.

"We rely on people in the industry," Kohn said. "A lot of them are associated with a facility somewhere."

The inspectors are charged with enforcing Animal Welfare Act mandates on water quality levels, diet, medical care and space needed to house marine mammals.

Under the act, for example, a bottlenose dolphin known to swim up to 25 miles a day and maintain a weight of 1,000 pounds or more can be kept in a 6-foot-deep tank measuring 24 feet by 24 feet.

"It is designed to be a minimum standards act, not an ideal," Kohn said.

But inspectors are not enforcing even those minimums, the newspaper found.

USDA inspector Robert Brantley said the SeaWorld Orlando in June for allowing visitors at the dolphin petting pool to touch the marine mammals and blowholes. Brantley said the park's safety protocol was inadequate and that the park's safety protocol was inadequate and that the park's safety protocol was inadequate.

The USDA's Rogers said the newspaper could file a complaint. He would not review the video.

It took a complaint from an

LOOK — AND TOUCH, TOO

Fascination with dolphins and whales is worldwide. People want to see, touch, and in some countries, even eat them. Laws and attitudes toward the sea animals vary widely.

COMMON EFFORTS

Several governments — including Chile, Mexico, Canada and Queensland, Australia — no longer permit the capture of marine mammals for public display. Captures are still legal in the United States. Sentives to public opposition, American marine parks and aquariums have not applied for a permit in more than a decade — though they do not rule out the possibility.

AUSTRALIA

In 1988, the state of Victoria, Australia, became the first government to outlaw public display of whales and dolphins. Since then, at least three countries — Brazil, Nicaragua and Costa Rica — have adopted similar bans.

BRITAIN

After commissioning a study of marine mammals in parks and aquariums in 1990, the British government adopted stricter standards to improve conditions for the animals, said Cally Williamson, captivity campaigner for the Whale and Dolphin Conservation Society in England. Parks couldn't afford to make the changes and they closed down," she said. "We used to have over 40 facilities and now we have none."

UNITED STATES

At some locales within the United States, marine mammal exhibits are outlawed. South Carolina passed a law against displays in 1992, at a time when a developer had proposed a large marine park in Myrtle Beach. State law includes fines and jail time for violators.

In 2002, the county council in Maui, Hawaii, voted unanimously to ban the public display of marine mammals. "We have the ocean as our natural playground," said council member Jo Anne Johnson.

The measure declared that dolphins and whales are "highly intelligent" and highly sensitive. — The council also finds that the exhibition of captive oceanic leads to distress [and] living conditions for these animals."

CANADA

To ensure that "marine mammals in captivity are held in appropriate conditions," the Canadian government temporarily banned captures in 2001 and is developing the country's first standards on the care and maintenance of the animals following a study it commissioned.

"What do you learn from seeing a whale or seal in captivity, and what is the quality of life for the animal?" asked Lisa Lee, the study's author and a whale researcher at Memorial University in Newfoundland. "It is just to make money? Otherwise, that's it."

A committee Lien heads is working on standards, including regulations on the marine mammals, a practice Canadian activists call "whale laundering."

"You could buy a whale on the Internet or in Russia and bring it in and there were no government controls on that importation," Lee said. "That was being done. The public wants the assurance that they are managed from capture to housing in the best possible way."

RUSSIA/GEORGIA

Georgia, previously part of the Soviet Union and one of six countries on the Black Sea, wants a ban on trade in bottlenose dolphins and has support from Bulgaria and Romania. Russia, which exports dolphins, opposes a ban, however, maintaining that the wild dolphin population is not endangered.

Russia has sold at least 155 dolphins in the past five years to 15 countries including Argentina, Vietnam, China and Saudi Arabia, according to international marine mammal expert records. The Humane Society of the United States also has expressed concern about permits Russian authorities recently granted for the capture of killer whales in the Kamchatka district off the Pacific Coast.

ASIA

In Asia, a surge in the number of marine parks has not slowed demand for dolphin and whale meat. For centuries, Japanese fishermen have killed hundreds of marine mammals each year, selling them to fish markets and restaurants. The fishermen use a method called drive fisheries, herding the marine mammals toward a beach, mashing them in nets, then separating them with hooks and spears. The best specimens are spread and sent to marine parks and aquariums.

Sally Kestin
South Florida Sun-Sentinel



Angel Valentin South Florida Sun-Sentinel Peninsula State Park in the Florida Panhandle. The animal was among more than 100 dolphins that washed ashore in February.

In a news release, the facility said baby and Tiny, their remaining "famous" harbor seals, were "planning to retire to the Rio Grande Zoo, in Albuquerque, N.M."

The government could have fined the Aquarium \$250,000, but agreed to a penalty of \$2,000. The nonprofit aquarium took in \$17 million in revenue that year, financial records show.

"Anything we go after we have to be able to prove in court," Rogers said. "If we don't have solid evidence, the judge could throw it out and we'd get nothing."

USDA Secretary Ann M. Veneman declined a request for an interview, Rogers said. Federal agencies responsible for overseeing marine parks have been unable or unwilling to enforce regulations.

"We strive to bring facilities into compliance with 100 percent compliance to compliance," said Barbara Kohn, USDA senior staff veterinarian for animal care. "We use education and cooperation. It's not, 'We're going to shut you down.'"

Unreported stillbirths

The National Marine Fisheries Service has maintained an inventory of captive marine mammals since 1972 but it relies on the parks to report information. Steve Leathery, head of marine mammal permitting for the agency, said the data allows the government and the public to find out "what's going on with this public trust resource."

Leathery said the service doesn't have the staff to inspect facilities to ensure accuracy and he realizes that an incomplete inventory is "much less useful."

The Sun-Sentinel discovered dozens of unreported births and deaths.

In 1994, in turning what had been Fisheries Service policy into law, Congress used wording that the parks have interpreted as reducing their reporting responsibilities.

"It is our policy that stillbirths be reported and some facilities feel that they are not required to do that," Leathery said.

In the decade before 1994, parks reported 168 stillbirths and newborn deaths. In the decade after, 24 were reported.

"A stillbirth is not part of a living collection so we do not report it to the government," said Roger Germain, spokesman for Chicago's John G. Shedd Aquarium. "Shedd does tell our birth stories — no matter the outcome — to the media and the public."

At least six unsuccessful dolphin births in the past decade that the Indianapolis Zoo told reporters about never showed up on the inventory. SeaWorld officials said they do not report stillbirths.

Dolphins Plus in Key Largo, Fla., reports all births because, said owner Rick Bongors, "It's only right." He said others do not because "it looks bad."

The Alliance of Marine

not because the oversight in the new location will be tougher," said U.S. Rep. Tom Lantos, D-San Mateo, Calif. He said he has planned to introduce legislation to regulate the movement of marine mammals between parks and facilities. "The USDA is not a friend of animals."

The USDA's 100 inspectors oversee 8,000 licenses, including breeders of farm animals, dealers and zoos as well as airlines and trucking companies that transport animals. Inspectors average one visit a year, said Kohn, the USDA veterinarian.

Inspectors "are generally overworked and there are not many of them," said David Cortright, executive director of the U.S. Marine Mammal Commission, an umbrella group Congress created to oversee protection of marine mammals across agencies.

"There are very few who are trained in marine mammal veterinary sciences," Lantos and Pallone believe that shifting oversight to the USDA was a mistake.

"I don't think Congress has done enough oversight to really know what the situation is with those various marine mammals," Pallone said.

The agency needs the industry for expertise.

When the USDA decided to update rules on the housing and care of marine mammals 10 years ago, it invited marine park representatives to help write the new requirements. When inspectors investigate questionable marine animal deaths, they turn to other parks and aquariums.

"We rely on people in the industry," Kohn said. "A lot of them are associated with a facility somewhere."

The inspectors are charged with enforcing Animal Welfare Act mandates on water quality levels, diet, medical care and space needed to house marine mammals.

Under the act, for example, a bottlenose dolphin known to swim up to 25 miles a day and maintain a weight of 1,000 pounds or more can be kept in a 6-foot-deep tank measuring 24 feet by 24 feet.

"It is designed to be a minimum standards act, not an ideal," Kohn said.

But inspectors are not enforcing even those minimums, the newspaper found.

USDA inspector Robert Brantley said the SeaWorld Orlando in June for allowing visitors at the dolphin petting pool to touch the marine mammals and blowholes. Brantley said the park's safety protocol was inadequate and that the park's safety protocol was inadequate.

The USDA's Rogers said the newspaper could file a complaint. He would not review the video.

It took a complaint from an

ENFORCE PAGE A9