



# Whales Alive!

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## U.S. Disappoints Whales Again

*By Jessica Dickens and Heather Rockwell*

On July 19, 2011, the U.S. Secretary of Commerce Gary Locke issued a certification stating that Iceland's policy of permitting commercial whaling and exporting endangered fin whale meat has diminished the effectiveness of the moratorium on commercial whaling, which the International Whaling Commission (IWC) adopted in 1986. Iceland has been escalating their fin whale hunt in recent years, killing 125 fin whales in 2009 and 148 fin whales in 2010.

This initial move by Secretary Locke was seen as a step in the right direction by the Obama administration on taking actions against those countries who undermine the work of the IWC and the moratorium on commercial whaling. In the sixty days leading up to the President's response to the certification, non-governmental organizations (NGOs) working to protect whales urged President Obama to take the strongest stance possible against Iceland, which would include trade and economic sanctions against those companies in Iceland who hunt and export whale meat.

Since the IWC has been powerless to stop Iceland's fin whaling, NGOs here and abroad were hoping for a positive announcement from President Obama. It seems the only way to stop Iceland from continuing whaling would be to hit them where it hurts - and that would be in their pockets.

But on September 20, 2011, the President responded with a very disappointing and watered down response to the certification. Rather than

impose trade sanctions, the President expressed the U.S. government's displeasure with Iceland by directing federal agencies to take diplomatic actions to encourage Iceland to change its whaling policy.

How can this toothless response possibly be effective when Iceland has continued to kill whales in defiance of the IWC and world pressure for twenty-five years? How can diplomatic pressure make a difference? It takes action. Action that would have made an impact, not just words that allow the hunting to continue.

Immediately following the release of this executive order by President Obama, Jon Bjarnason, Iceland's Minister of Fisheries, responded to the announcement by stating that there is no legal or scientific justification for any actions to be taken against Iceland's whaling activities. And, Iceland's whaling and exporting activities are in accordance with their international laws and their reservation to the international ban on whaling.

Furthermore, officials in Iceland state that their fin whale hunt is sustainable and compared it to the bowhead whale hunt by Alaska Natives in the U.S., which is an IWC-approved subsistence hunt.

In speaking with NGOs from other countries, most expressed disappointment, but not surprise, that the U.S. was unwilling to take concrete action against Iceland. The U.S. does not want to upset the whalers given the upcoming aboriginal subsistence whaling quotas that the U.S. needs to secure in 2012 for the Alaska Natives.

How can the IWC maintain its effectiveness, while its policies and regulations are continually undermined by whaling countries like Iceland and Japan? What can NGOs do if they do not have the support of their own

governments to help strengthen the IWC and its policies? The U.S. really dropped the ball this time for the whales.

It is with sadness that we report the passing of Alexandre De Lichtervelde, the Belgian Commissioner to the IWC. Alexandre was a positive voice

for whales and the environment at the IWC, as well as a strong supporter of NGOs working to protect whales. He will be missed.

## Captivity Revisited

*By William Rossiter*

**If you've ever enjoyed watching a dolphin or whale show** you're just the person we hope will read this article. We hope even more that you'll tell us what you think of our words and the captive display industry when you've finished.

**This is Tilikum**, an adult male orca kept at SeaWorld in Orlando, Florida. Tilikum is unaware that he may be the most significant catalyst for change to



Photo by Naomi Rose

the captive display industry since it began. Tilikum killed trainer Dawn Brancheau during a show in February, 2010. SeaWorld acted immedi-

ately and characteristically to limit public knowledge and official responses while simply isolating Tilikum from public view. While the big ticket-seller was returned to the daily "Believe" show in March, now replaced by "One Ocean", 18 months after Brancheau's death SeaWorld still has not completed changes that might enhance trainer safety, or their incident report analyzing the event!

"SeaWorld and OSHA" in CSI's *Whales Alive!* last October reported briefly on the tragic event, noting how SeaWorld may spend more on lawyers than on animal care, and for decades has eluded justice by hiding or obfuscating "events" out of the public eye. That article is archived on CSI's website, <http://csiwhalesalive.org/>, and includes some background information we won't repeat here for space.

Within days that February, SeaWorld had managed to sweep everything out of the public's view and lock it up. From limited media reports we suspected that SeaWorld was obstructing and delaying the Occupational Health and Safety Administration's (OSHA's) safety investigation of SeaWorld following the event. We hoped the result would not be like a similar event

### *Whales Alive!*

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Editor: Brent S. Hall

CSI is an all-volunteer, non-profit, tax-exempt conservation, education, and research organization with contacts in over 25 countries. Our goal is the "optimum utilization of the whale resources," as called for in the 1946 Treaty of the International Whaling Commission, through the protection of viable habitat and the cessation of all killing and captive display of whales, dolphins, and porpoises. We support and promote benign activities such as regulated whale watching, nonlethal and humane research, and widespread educational, environmental and observation programs relating to free-roaming cetaceans internationally. Our ultimate objective is the global acceptance of peaceful coexistence and mutual enrichment for both humans and cetaceans.

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in 2007 (see below).

But the days promoting the SeaWorld myth at the expense of reality may be over, thanks to the people of OSHA. We have been amazed and invigorated by OSHA's admirable tenacity and skill with their response to Dawn Brancheau's death and SeaWorld's history of safety issues. Despite the obscene delays, political pressures and legal tricks by a crack team of SeaWorld's high-priced legal eagles, OSHA persevered and pressed home decisions and citations for violations which triggered the public hearing that began in Sanford, Florida in mid-September.

The hearing between SeaWorld and OSHA began before the independent Occupational Safety and Health Review Commission, overseen by an administrative law judge. SeaWorld's purpose was to challenge OSHA's findings in their investigation, particularly OSHA's citation for "willful" safety violations that SeaWorld had not adequately protected the trainers who work with its killer whales. "Willful" is OSHA's most severe category and, while SeaWorld's fine is a pittance, directly affects their reputation and hopefully their future.

OSHA has recommended that trainers not be permitted in the water or close enough to be grabbed by the animals without significant, and potentially unfeasible, safety improvements. Nevertheless, driven by the demands for the in-water spectacle that ticket buyers pay for, SeaWorld is working on at least two emergency measures for trainers who are caught by orcas. One is a small scuba apparatus that a trainer would be expected to use for survival while being thrashed about or pinned to the bottom. As orcas are known to pull on things, trainers may suspect that the tank or hose would be the thing grabbed by the orca and, while it may have a quick release, the image-conscious deciders at SeaWorld are so concerned that the paying public might be distressed by seeing the emergency gear, it may be securely covered up! The second emergency idea suspends belief; requiring that the entire floor of the pool be raised very quickly, leaving the orca and victim high and dry. Don't some of these pools have millions of gallons of water, at eight pounds per gallon? Where will it go? And why would the orca let go then? Without graphic reminders, did Tilikum let go of Dawn Brancheau?

CSI applauds and congratulates OSHA for their actions. We believe that various public and media releases

of the graphic videos and data were unwarranted, unless directly required by the investigation or hearing. Brancheau's family's wishes were violated, causing them undue grief. More to the point, anyone who willingly watched videos of that young woman dying should be ashamed.

The hearing lasted the scheduled week but had to be postponed to a later date to give SeaWorld a chance to finish their case. No matter how long it takes it is apparent to everyone involved that SeaWorld's past is being dragged into the light. CSI's goal is to help their paying public see the sham for what it really is, exploiting cetaceans for human entertainment. We believe the whales suffer for it, and occasionally people suffer too.

To understand suffering in captive cetaceans is to understand the extreme stress some are likely to suffer because of their situation. Stress is clinically proven to lead to many physical and emotional problems that may cause death. Official reports of causes of deaths at SeaWorld are obscure and generic, like "pneumonia" or "infection". Underlying causes are rarely given even to government agencies, much less the public. At the same time SeaWorld declares that their veterinary and maintenance procedures are the best in the world, but who knows? Talk is cheap; they keep their protocols secret. Also secret are the details of why specific animals die, which is one reason all SeaWorld orcas were known as "Shamu". Is it true or rumor that "Shamu" died and was buried in the San Diego parking lot one night, and the next morning "Shamu" was ready for show time?

SeaWorld has been involved in several "interesting" international situations regarding orcas and other cetaceans. Some were obtained from the infamous drives in Taiji, Japan. In Iceland, a SeaWorld executive stood proudly for a picture with his foot on a young orca in the bottom of a boat, while SeaWorld denied being involved directly with captures of Icelandic orcas. SeaWorld almost broke Mexican law by exporting a stranded orca calf to San Diego, until stopped hours before the flight by direct intervention by senior government officials.

SeaWorld also has been involved in the struggle over Morgan, a young Norwegian orca that has languished for over a year in a tiny tank at Harderwijk Dolfinarium in Holland. Harderwijk had only been



permitted to capture her for rehabilitation and release, but instead trained her for a life of captive display while waging a legal battle against her freedom. Fighting for her

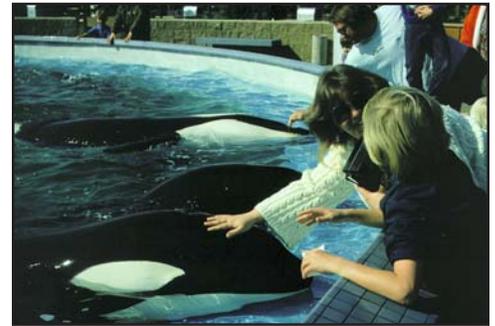
freedom in court, the Orca Coalition worked on behalf of the rehabilitation and release project operated by the Free Morgan Foundation. For details of how and where that would be done see <http://www.freemorgan.org/>. Once there see the “Free Morgan PSA”, or just search for that title on YouTube. CSI’s Bill Rossiter has been on the expert board almost a year, assisting the Free Morgan Foundation (FMF) to develop and fund the professional and realistic project to rehabilitate and release Morgan to the wild.

However, just before this *Whales Alive!* went to press in October Henk Bleker, Junior environment minister and state secretary charged with economic affairs, announced that Morgan would be sent to Loro Parque, Canary Islands because, he said: “We do not know with certainty if she will be able to hunt for food by herself”. Nonsense! His government just didn’t want to be held responsible. It’s no coincidence that Loro Parque has four rented SeaWorld orcas performing daily. One of them had killed a trainer there before the death of Dawn Brancheau at SeaWorld, Orlando.

How close was SeaWorld to the struggle over Morgan? A SeaWorld spokesperson was quoted as saying that “One of our former veterinarians, Jim McBain, was on the scientific panel that recommended against any attempt to return Morgan to the wild,” and “We are working with Dolfinarium Harderwijk and Loro Parque on the transfer of Morgan”. It has been estimated that Morgan is worth ten million dollars to the display industry, anticipating that her Norwegian genes strengthen the current gene pool of captive orcas as she produces calves until she dies.

Led by the SeaWorld example, the display industry exploits the worst in some of us: the belief that all life on Earth is here to serve human needs; the thrill of seeing some awesome creature subdued and humiliated; the potential for witnessing something going tragically wrong, and the demand to be entertained without guilt. Why is it that people believe that watching captive dolphins and whales doing tricks is educating? What is educational about a 12,000 pound predator

bowing to some human with a whistle? What is this child learning at the touch-tank at San Diego? Only that cute and



puppy-like killer whales want to be petted, eat dead fish and feel like wet rubber. While two of these whales may have died since this photo was taken, one may have been a very young Kasatka.

In 2006 a trainer was injured by Kasatka. The same man had been injured by Kasatka in 1999! The official investigation of the 2006 “event” suggested the very experienced trainer had tried to control, perhaps dominate the misbehaving orca, rather than escape directly. These and many other “events” are usually deeply buried or obscured, and were uncovered only with diligent work by CSI and other organizations and individuals, originally nicknamed the “Gadflys” by SeaWorld and now known as the Cetacean Freedom Network (CFN). Even now there is no single, objective account of all that SeaWorld has done, partly because the mind numbing list is so long, but a tell-all book is due to be published soon. Keep watch for David Kirby’s *Death at SeaWorld - Shamu and the Dark Side of Killer Whales in Captivity* (St. Martin’s Press).

CSI monitored closely the 2006 investigation of Kasatka’s attack and, when SeaWorld’s interference became critical, authored a 2007 letter co-signed by 39 organizations that urged the District Manager of Cal/OSHA not to give in to pressure by officials and politicians to allow a humiliating edit of the “February 27th Division of Occupational Safety and Health (Cal/OSHA) Information Memorandum and Narrative Summary of the occupational injury event at Sea World, San Diego, on November 29th, 2006”. As one example of the edits literally written by SeaWorld attorneys, they removed Cal/OSHA’s statement that, without changes at SeaWorld, the next tragedy was “only a matter of time.”

Cal/OSHA was sadly prophetic, as were we, with our letter emphasizing that “There are no contingency plans or training regimens that can adequately minimize risk to humans while interacting with whales or

dolphins, nor can any remedial action on the part of the owners or trainers of these animals reduce the risk of injury to a level which would conform to Cal/OSHA safety standards. However, the entire safety issue can be solved simply by keeping humans out of the water with orcas.” ... ”The essential question is, why permit the potential for such catastrophe in the first place?” ... ”it must be pointed out that there is little similarity between a circus elephant becoming a public danger by ‘running amok’ and an orca intentionally acting with what it considers to be self-constraint. No one can refute that an orca could kill a human very quickly if desired. Without attempting to define an attacking orca’s motive, but assuming that orcas are not trying to kill, the human deaths and injuries may be caused by orcas simply not recognizing how fragile and vulnerable humans are. Many examples suggest that orcas may not have intended the degree of injury that resulted.” Our effort to support Cal/OSHA failed, and with SeaWorld lawyers reportedly sitting on Cal/OSHA desks and the Governor’s office calling about lost jobs, the offensive truth was blotted out of Cal/OSHA’s final report.

Then it happened again, and this time someone died. It would be irresponsible to say that that 2007 win by SeaWorld contributed to Dawn Brancheau’s death, but the recent hearing illuminated the primary strategy even now employed by SeaWorld to prevent animals from harming trainers; it is up to the trainer to know enough not to expose themselves, primarily by recognizing visual cues that an orca might become aggressive. SeaWorld is saying that Dawn Brancheau had the primary responsibility to keep herself safe, not the corporation!

Humans have always worked in hazardous situations, and accidents happen, but in any modern society today workers have a right to be protected from harm by every possible means. It cannot be said that SeaWorld and other facilities do all they can to protect trainers, because an appropriate level of protection would interfere with the spectacle. To be adequately safe no one could work within reach of an orca!

Has SeaWorld had enough experience with the dangers faced by trainers? For just a few examples, consider that Tilikum came to SeaWorld from Sealand of the Pacific after Nootka 4, Haida 2 and Tilikum in 1991 had drowned a trainer and prevented recovery of her

body for several hours. By 1987 Sea World San Diego alone had produced a “white paper” describing least 14 trainer-injury events during a five-month period! One of them is available on YouTube by searching for “Killer Whales Don’t See Too Well While Flying”. Near the end it shows Orky 2 breaching on a trainer who was riding another whale. “Accident”, SeaWorld called it, but judge for yourself. Orky 2 looks like she knew what she was doing, and the only mystery is why the trainer wasn’t killed. The trainer’s lawsuit was settled out of court, with a rumored settlement of millions of dollars, but SeaWorld avoided the humiliating exposure of their inadequate safety protocols and preparations. One of the best exposures to date was the Frontline investigation, “Whale of a Business”, <http://www.pbs.org/wgbh/pages/frontline/shows/whales/>, still the best summary even if it’s from 1997. That program and the current hearing present what SeaWorld fears most; exposure!

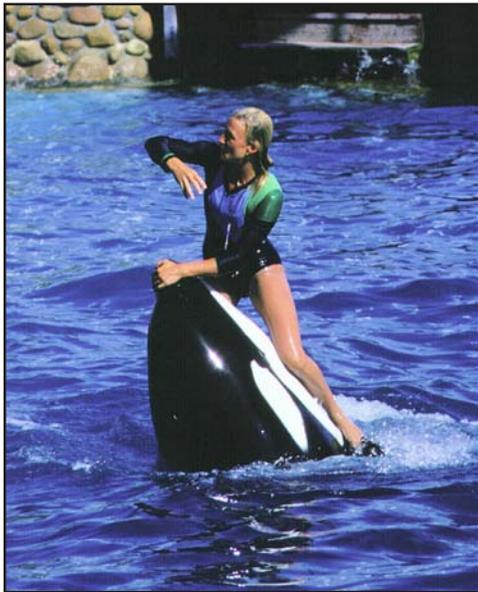
Many dangerous occupations suffer losses of very experienced people who didn’t expect to die, but for whatever reason their guard was down. We believe that the hands-on people at SeaWorld’s parks truly love and relate to “their” animals. We lay full responsibility on SeaWorld’s corporate management. They have no excuse for not accepting responsibility for keeping trainers out of harm’s way.

To be clear, every trainer at SeaWorld Orlando, certainly including Dawn Brancheau, knew not to get in the water with Tilikum. That was one of the entertainment park’s special procedures for him. But everyone apparently ignored the potential for Tilikum or any orca to grab a trainer who was near enough. There’s always a first time, but no excuse for the second. The first record CSI has of a person being pulled into the water by an orca occurred at SeaWorld San Diego in 1971, when a woman was grabbed by her leg. In 1986 an orca at Marineland, Canada was reported to have “often” leapt out of the pool to strike trainers in the chest. SeaWorld documents prohibited trainers from being in the water with Ulises, Kyuquot and others, but rarely explained the events that caused those restrictions. It was not enough to keep trainers out of the water with Tilikum, but still within his space.

Why has SeaWorld been blind to 20/20 hindsight? SeaWorld’s corporate perspective on this was evident in a comment at the Florida hearing by Chuck

Tompkins, corporate curator of zoological operations for SeaWorld Parks & Entertainment, the parent company of the Orlando, San Diego and San Antonio SeaWorld marine parks. Tompkins was reported to have said: “Mistakes are made. But we have a process by which we learn from those mistakes, not only the animals but the people.” After all these years of learning lessons SeaWorld still isn’t motivated enough to provide a safe working environment.

And there it is, the real reason Dawn Brancheau died; the SeaWorld method didn’t work. Brancheau was not the first person to be killed by a captive orca, and in fact Tilikum has been involved with the death of two other people during his captive show business career, but the September hearing might have been the first time the public heard testimony about these and many other “events” at SeaWorld’s entertainment parks, and solely because of the tenacity and skill of OSHA. If you want to read media reports of the initial hearings we’d suggest Jason Garcia’s objective work online at the Orlando Sentinel.



It appears, however, that the line in the sand between OSHA and SeaWorld is all about trainers and orcas together in the water. To SeaWorld it is an economic necessity, as the public who pay to see the shows want to see people riding orcas. For example, here the audience is being enthralled by a talented, athletic, personable young woman commanding a few tons of top-predator to dance, which in SeaWorldese is called “education”.

To be fair let’s give some space to another facility; they all have problems to choose from. Here’s a glimpse of Lolita, and the kind of tricks the Miami Seaquarium has demanded of her for 41 years! What is educational about the experience those little children in the back-

ground are having?

Lolita was born about 43 years ago into the L25 matriline of the “L” pod of what we know now as the Southern Resident orca community.

Her mother, Ocean Sun, is still free, alive and well at 83, and may remember the day when Lolita and many others were captured, August 8th, 1970, at the infamous Penn Cove massacre. At least 13 members of Lolita’s family were killed during those captures, their bodies cut open at night, filled with rocks, and weighed down with anchors to sink to the bottom and be hidden. At least 49 orcas were taken from that wild population, which continues to suffer today from prey depletion, harassment from boats, and so much pollution that the toxic load in the tissues of these orcas makes them hazardous waste.

Once Lolita was dumped in the Miami Seaquarium she was kept separate from the previously captured male orca, Hugo, for over eight months. They performed together for nine years until 1980, when Hugo may have killed himself by repeatedly bashing his head into the walls of the pool. His body was trashed in the Miami dump. Lolita has not seen another orca in 31 years.



Photo by Jeff Friedman

According to Jeff Friedman, “Lolita is approximately 21 feet long and 7,000 pounds. Her tank is 20 feet deep at its deepest point and only 12 feet deep along the edges. The tank measures 80 feet wide by 35 feet across with an additional 25 feet behind the trainer platform that sits in the middle of the tank.” The facility has been cited for safety violations, and does not meet



Photo by Jeff Friedman

U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) Regulations. While rust and decay are not evident in this photo, note the very small audience, which is normal except for summer camps. Lolita is not even the Seaquarium's main money maker.

Try this: go to a small room, turn the light on, shut the door, and wait for your cat to decide it's time for you to earn your keep (it's OK to borrow or imagine that you have a cat). Try to understand what the cat wants as it gestures or makes strange noises, knowing that unless you follow instructions even the cat may not visit, except to leave even stranger food. Even if you learn quickly and follow the cat's commands as it sits on your back, the routine will become numbing well before you've been there 41 years. There will always be more cats, but you will never see or hear another human again.

Several people have worked tirelessly on behalf of Lolita, and CSI especially wishes to thank Howard Garrett, Susan Berta, Jeff Friedman and others who have fought constantly for her freedom. If you want to help Lolita see: <http://www.savelolita.com/>, and <http://www.orcanetwork.org/captivity/lolitatoday.html>. Only Corky at SeaWorld San Diego has been in captivity longer, since 1969, and her champions are Paul Spong and Helena Symonds, at <http://www.orcalab.org/>.

Lolita's family of Southern Resident orcas are easily the best studied and understood group of wild orcas in the world, with documented dialects, ceremonies, culture and great-grandmothers. "Granny", J2, is esti-

mated to be 100! Here she swims with her assumed son, Ruffles, J1, born about 1951. Until 1970 both swam with the young Lolita. What do they remember of that time? We suspect they remember most clearly the Penn Cove Massacre.



Photo by Sandy Buckley

The Southern Resident Community may share a common culture as well as genetic history but modern science has shown that they differ from orca societies in different parts of the world, even orca groups like the "Transients" that share the same habitat. As with human societies, these communities have different foods, survival strategies, and communication styles. If you've toured foreign countries you recall the accents and ways people conducted their lives. We all have human needs, but meet them in different ways. So it is with orca populations, and over time they also come to look different from each other. For example, these images were taken in the 70's by Dr. Charles Werner, showing orcas (l-r) from the Ross Sea, Indian Ocean and Antarctica. They differ in many ways besides appearance.



Captive display facilities mix and match orcas from different cultures strictly for reasons of efficiency, and in general the orcas seem to learn to get along. It would be interesting to compare them with how well a group of people might get along if they were mixed from very different cultures and forced to live shoulder to shoulder in a very small room.

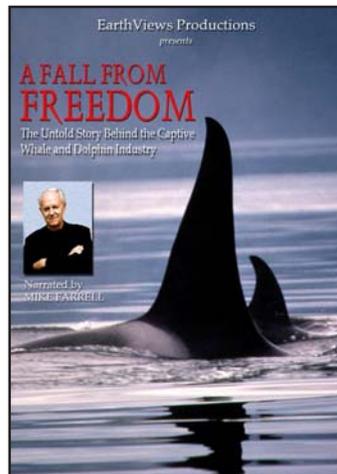
**"Killer Controversy: Why Orcas Should No Longer Be Kept in Captivity"** is a newly released

report, available at <http://www.humanesociety.org/>, that will answer any rational, caring person's questions about why so much is at stake with the SeaWorld hearings. A broader scale resource from HSUS, also available from <http://www.wspa-usa.org/> is "The Case Against Marine Mammals in Captivity".

Many other resources are at: <http://www.wdcs.org/stop/captivity/index.php>. For updated information SeaWorld doesn't want you to know CSI recommends

that you visit: <http://theorcaproject.wordpress.com/>. For a truly remarkable series of videos search You Tube for “Marineland FYI”. In this video you will see and hear Dr. Jane Goodall express her views on captive display. Then check out the 26 other videos posted by this same “delphinusdelphis”, a truly gifted and dedicated human being! Some of these videos expose the darkest side of captive display, sourcing dolphins and whales for sale from the infamous and disgraceful dolphin drives and slaughters at Taiji, Japan, <http://www.savejapandolphins.org/>. YouTube has many resources, of course, including pro-captivity videos and blatant promotions of display facilities. They unintentionally amplify our point about inadequate safety practices! For the fun of it search out some of the videos of trainers doing silly tricks with dolphins and whales and notice how many times they make themselves vulnerable.

***A Fall From Freedom*** is an 82 minute film guaranteed to affect even the most ardent supporter of captive display. Stan Minasian, EarthViews Productions, has created a penetrating message exposing “the long and sordid history of the captive whale and dolphin industry”, and if we can get captivity-supporters to see it, it will help change the future of the industry. Narrated by actor Mike Farrell, *A Fall From Freedom* includes interviews with former Sea World trainers, biologists, conservationists, and more. The film digs deep into the history of the captive whale and dolphin business, revealing the culpability of marine parks around the world for the continuing killing of thousands of dolphins in the Japanese drive fisheries; a practice abandoned by the Japanese until Sea World secretly negotiated to bring it back to maintain a steady supply of dolphins to their parks. *A Fall From Freedom* is free to watch on its website: <http://www.afallfromfreedom.com/>, but the film can be downloaded for a nominal charge and DVDs are available for purchase.



Now consider this: In all the videos and resources above, whenever a wild whale or dolphin is being at-

tacked, abused, captured or killed does the creature *ever* try to bite the people? If you can, look again at the many underwater scenes of captures and slaughters. They may struggle violently to escape but do they ever fight back? Snapping jaws and tail swipes may be more from panic than aggression. The same behavior can be seen during strandings. Notice as well the apparent submission of whales and dolphins once they are in slings or in very shallow water. If these reactions weren't normal for cetaceans, if instead they reacted as humans might, people would rarely dare to get close enough to touch them. It is this “normal” cetacean behavior to confusing, stressful, life-threatening situations that SeaWorld trainers, and Taiji and Faroe Islands whale killers depend upon to keep their blood out of the water. But it is the absolutely abnormal environment of captivity that makes cetaceans react abnormally, injuring and killing each other and people who believe that captivity is “normal”.

For decades SeaWorld and their kind have masqueraded as educational facilities, fought to hide the truth, and profited from the exploitation of orcas and other cetaceans. While the SeaWorld myth is being exposed in the hearings, the “Killer Controversy” report argues with truth that “we should realize that nothing – not profit, not education, not conservation – can justify keeping this large, social, intelligent predator in a small box.”

Authored by Naomi Rose, PhD, the report shows that:

- captive orcas have higher mortality rates than wild orcas;
- captive female orcas give birth too young and too often, leading to both high adult and high infant mortality;
- the most common cause of death for captive orcas is infection. Chronic stress may be an important factor in weakening the animals' immune response;
- captive orcas have poor dental health compared to wild whales, which may be another factor in their susceptibility to fatal infections;
- orcas in captivity are more aggressive toward each other than in the wild. Females also behave abnormally toward their calves more often than in the wild;
- since captive orcas have been publicly displayed, they have seriously threatened the lives and safety of dozens of people, and four people have been killed. How-

ever, wild orcas have injured only a handful of people – none seriously – and there are no records, at any time in history, of them killing anyone.

The report recommends a phasing out of the practice of maintaining orcas in captivity and rebuts several specific claims and statements made by SeaWorld Parks and Entertainment, which owns the largest number of captive orcas in the world.

**The U.S. Marine Mammal Inventory** is a government-managed resource that should be kept current and available to the public, by authority of the 1972 Marine Mammal Protection Act (MMPA). It is neither, being notoriously difficult to pry from the National Marine Fisheries Service (NMFS) and always containing gaps or questionable data. Nevertheless, we thank South Florida's Sun-Sentinel for making the inventory up to March 24, 2010 available online in a searchable database at <http://www.sun-sentinel.com/>. Captive marine mammals, whether alive or dead, can be found by name, state and facility.

There now are many websites with exhaustive lists of events, injuries, media reports and lawsuits involving the captive cetacean display industry, leaving one to wonder why the business hasn't been shut down? The reason is that the people who pay to see the show don't want the facts; they want to be entertained. Until that demand for demeaning spectacle drops below the profit line the fight to stop this ugly business will continue. We have to find ways to get the right message to the ticket-buyers, that they are the reason orcas are captured, displayed, suffer and die. Can we get these people to care?

Do you want to help CSI and other organizations to get the message out? We need people who enjoy using all the social media available today, such as Facebook, people who want to turn their pastime and passion into real advocacy. If you are a budding genius in social media and wish to make a difference in the lives of marine mammals contact us at [csiwhalesalive@yahoo.com](mailto:csiwhalesalive@yahoo.com). You will be associated with CSI and our nearly 40 years of volunteer effort to make a worldwide difference. We might want you to find, for example, organizations or groups on Facebook that do not support captive cetacean display programs. A good place to start is CSI's page "CSI Whalelovers".

**CSI's Position on Captive Display** has been un-

changed since 1995: "It is the position of the Cetacean Society International that it is no longer justifiable for cetaceans to be captured or maintained in captivity for purposes of exhibition, research, or education. There exists a moral imperative for cetaceans in captivity to be maintained in optimal conditions for their physical and social well-being and for efforts to be made for their rehabilitation and release".

It follows that display facilities have a moral obligation and responsibility to maintain a safe work environment for staff directly associated with cetaceans. We are appalled with testimony from the SeaWorld / OSHA hearing that declares, after decades of consistent experiences, that the responsibility still rests with the employee.

On a personal note, I can't apologize for the subjective nature of this article, because our science and society are still far short of presenting a truly objective understanding of orcas. We have so much to learn about them, and from them about ourselves. My awareness



began to sharpen in 1978, when I happened to speak with Jill Stratton, here rubbing Orky's

chin, on her first day back from leave at Marineland of the Pacific after being drowned by him! Her clear perspective from many days spent reflecting on that moment was that Orky was simply trying to get people to stay out of his world, the tiny tank he shared with Corky. Jill accepted that she was alive because Orky couldn't have known she couldn't survive four minutes underwater and, seemingly embarrassed, had stopped pinning her to the bottom of the pool when he sensed she had drowned. I was so impressed to hear this young woman speak of purposely relaxing, trying to conserve energy, remembering clearly the trainers' discussion about what to do if the orcas endangered them. All had agreed it was stupid to fight back. She became unconscious and reflexively inhaled water. Her wetsuit buoyed her to the surface, where she was hauled out of the pool and successfully resuscitated.

At Ken Balcomb's whale school in 1981 I soaked up every moment with J, K, and L pods, and recall being awakened after midnight by their calls from the

always-on speaker connected to hydrophones offshore, then amazed as someone described, from familiarity with their individual calls, how Ruffles seemed to be chewing out a youngster, maybe Everett, as J Pod passed by. In 1983 I spent a little eye-to-eye time with Elsa, a young female orca that came into Provincetown harbor with a large fishing boat needing repairs, and left a month later when the boat did. In between she attracted enormous attention, from aquariums to kayakers, even an Australian film crew I took out to get good footage. Amply fed by the harbor's bounty she took to parading around the crowded docks with a fish in her



mouth, as here, in a photo I took by leaning over the side of my Zodiac. I'm convinced she was trying to stop people from throwing food into the water for her, even hotdogs!

Then, through CSI's early small grant program, I met Tiu Similä of Norway and Ingrid Visser of New Zealand, and as the decades brought many new orca specialists, CSI more recently supported Argentina's Andrea Paula Capurro to study the vocal behavior of the orcas known for surging onshore to catch Southern sea lions at Punta Norte. I'm hoping Andrea's team will help us to understand the complex acoustical cues that coordinate a very complicated and dangerous foraging culture. Ingrid has spent the summer bouncing between New Zealand to help stranded orcas and Holland, where she has dedicated herself to Morgan's rehabilitation to freedom. A truly remarkable woman and scientist, she isn't hesitant to describe why she cares so much about orcas, as you will have seen if you watched the Free Morgan PSA noted above.

The reality of orcas challenges anyone who believes that humans are superior to every living thing. To some that reality is disturbing, if not frightening, so they find comfort in myths. It is the myth that places like SeaWorld exploit and sustain, locking up orcas for fun and profit. But the reality of orcas is our bridge to understanding our true relationship to life on Earth, and like it or not they have a lot to teach us, if we can learn.

## Sign A Petition

**Hotel room at a Singapore resort: \$253** Discounted tickets to watch wild dolphins suffer in captivity: **Priceless.** CSI asks you to join well over 100,000 people who have signed an online petition demanding that Mastercard stop offering discounted tickets to the infamous Resorts World Sentosa, a resort in Singapore that recently kidnapped 27 wild dolphins for an exhibit that is not even finished! Two

of those dolphins have already died, and the 25 survivors are being held in brutal conditions until construction of the exhibit is complete. These risks of illness and death increase with each day of captivity for these 25 dolphins.

Go to <http://www.change.org/>, search the petitions for Resorts World Sentosa, sign the petition and hope to be in time.

## The WTO/Free Trade, Iceland and Whales

*By Taffy Lee Williams*

Alarms sounded recently when the WTO ruled against the U.S. Dolphin Safe Tuna labeling process, saying it violated international free trade policy. Likewise, cetacean advocates were soundly defeated when Obama failed to impose economic sanctions against

Iceland in accordance with the Pelly Amendment for its continued commercial whaling.

Established to promote free trade, the WTO creates the rules that govern international trade. Essentially, its mission is to lower trade barriers. Regular

and fervent protests against the WTO call attention to policies which appear to serve big business and multinational corporations ahead of consumer interests: member nations must modify environmental, public health and safety rules if these are found to impede trade. In the same week as the Dolphin Safe-Tuna label ruling, the WTO ruled that country of origin labeling on beef also violated WTO trade law. This was followed by a direct blow to health and consumer protection when the WTO used its Technical Barriers to Trade Agreement to find that U.S. measures to reduce teenage smoking also violated Free Trade policy.

“Nothing new,” so says Public Citizen, who reports that the WTO rules against environmental, health and other national policies 90% of the time.

“This severe blow to consumer protection comes on the heels of two other WTO rulings against America’s **dolphin-safe tuna** (<http://citizen.typepad.com/eyesontrade/2011/05/us-dolphin-safe-tuna-labeling-rule-deemed-a-wto-violation.html>) and **beef country-of-origin** (<http://citizen.typepad.com/eyesontrade/2011/05/for-the-second-time-in-a-week-reports-have-surfaced-about-the-wto-clobbering-a-us-consumer-labeling-policy-last-week-th.html>) labels, and are likely to put a significant damper on the Obama administration’s efforts to pass trade deals with South Korea, Colombia and Panama that contain similar anti-consumer rules.” (Public Citizen. <http://citizen.typepad.com/eyesontrade/2011/09/wto-opens-door-to-teen-tobacco-addiction.html>)

Oddly, even as the WTO found that the reasons for the dolphin-tuna labeling reflected legitimate, dolphin-saving fishing methods, the panel still voted against it. What does this mean for wildlife protection in general? Friends of the Earth analysis finds the prospects troubling:

If this [dolphin-safe tuna labeling] decision is allowed to stand, the U.S. will be forced to roll back its labeling system or face retaliatory sanctions such as higher tariffs that worsen unemployment. The U.S. may choose to appeal the decision, but **why did the United States agree in the first place to an international trade pact that allows corpo-**

**rate-dominated tribunals to decide U.S. environmental policy?** (<http://www.foe.org/wto-rules-%E2%80%99dolphin-safe-tuna%E2%80%99-labels-are-illegal>)

Now the question becomes, will the U.S. implement the WTO decision, or will it appear “politically correct” and appeal as expected, full-well knowing the WTO anti-environment record. As a party to the WTO, if the U.S. doesn’t implement the Dolphin-Safe Tuna labeling decision, will it face economic trade sanctions? Hefty fines? Actually, laws do not have to be changed but penalties can be assessed as long as a nation is in non-compliance.

The WTO agreement requires participating nations to conform their laws to comply with WTO rulings. This language clearly defines the ruling of the WTO to be superior to laws passed by Congress. How can this situation not be a loss of national sovereignty? Fines imposed by the WTO are not the slap-on-the-wrist variety. The U.S. said no to British Petroleum’s wish to ship gasoline with the additive MTBE into the United States. The WTO said this is a violation of their rules and slapped the U.S. with a \$360 million fine, according to Congressman Bart Stupak (D-MI). “When the WTO kicks in, sovereignty is kicked out,” Stupak says. (<http://www.sweetliberty.org/sovereigntywto.htm>)

Does the U.S. have a choice beyond tossing its Dolphin Safe Tuna labeling system? How will Congress react to these latest anti-consumer, anti-environment WTO rulings? Congressman Ron Paul (R-TX) believes our participation in the WTO results in an “erosion of national sovereignty” and has proposed that the U.S. withdraw from the WTO. (*ibid.*) The International Forum on Globalizations (IFG) sheds light on the WTO’s appeal process:

Eighty years of World Trade Organization (WTO) decisions have demonstrated that the WTO views environmental, public health and human rights protections as obstacles to trade that should be eliminated. The WTO’s Dispute Settlement Body has the strongest enforcement procedures of any

international agreement now in force. WTO panel rulings are automatically binding. Once a WTO tribunal has declared a country's law WTO-illegal, the country must change the law or face trade sanctions. Dispute panels operate in secret, documents are restricted to the countries in the dispute, due process and citizen participation are absent and no outside appeal is available. The tribunals are composed of three to five trade experts chosen by the WTO secretariat without meaningful protections against conflicts of interest. Given that the WTO uses unelected and unaccountable trade experts to decide in secret if domestic laws are acceptable under WTO trade rules, the resulting tidal wave of rulings against public interest laws is not particularly surprising. <http://www.ifg.org/pdf/cancun/issues-WTOvsEnv.pdf>

The Colombia, Panama and Korean Free Trade Agreements each contain tariff schedules in which live cetaceans, their meat products and even whalebone are classified for trade. With respect to whales, trade measures (or restrictions) by MEAs (Multilateral Environmental Agreements) such as CITES and the IWC could be found in violation of WTO policy. However, parties involved in MEA/WTO disputes are urged to resolve problems within the MEA itself; i.e., whaling issues would be resolved at CITES or the IWC.

WTO law does not adequately address the role of other relevant rules of international law in adjudicating dispute on trade and environment. In addition the WTO dispute settlement mechanism is not structured appropriately to address environmental disputes. ([http://ecologic.eu/download/projekte/1800-1849/1800/4\\_1800\\_cate\\_wto\\_dispute\\_settlement.pdf](http://ecologic.eu/download/projekte/1800-1849/1800/4_1800_cate_wto_dispute_settlement.pdf))

It remains to be seen how the WTO with its broad power over member nations will respond to the Dolphin Tuna Labeling appeal, if there is one, or what the U.S. faces if not compliant. One could easily suppose the WTO will uphold its ruling. The WTO's Committee on Trade and Environment (CTE) has been examining the relationship between MEAs and the WTO since 1995, yet has failed to reach any real conclusion. (<http://www.worldtradelaw.net/articles/>

[graymeawto.pdf](#)) Needless to say, the complexity of the issue does not readily encourage analysis.

The Federal Fisheries Protective Act, aka, the Pelly Amendment, authorizes economic sanctions (i.e., import embargoes) against any country whose fishing practices reduce the effectiveness of international marine or endangered (or threatened) species conservation programs. Both Norway and Iceland have openly defied the IWC's moratorium on commercial whaling. (Japan uses the "scientific research" loophole under the IWC regulations.) In March, 2011, a coalition of anti-whaling nations issued a public statement opposing Iceland's whale harvest of over 200 whales last season. Their catch included 148 endangered fin whales in 2010 and 125 in 2009. A 2006 Gallup poll found that only 1.1% of Icelanders consume whale meat more than once a week, while 82% of 16-24-year-olds never eat whale meat. (<http://www.idw.org/html/conservation.html>) Without a national market for cetacean meat, Iceland has pursued Japan to sell its product. Yet, we remember that in January, 2011, Japan's stockpile of frozen, unsold whale meat hit record levels of over 6000 tons! The Japanese market has dried up for Icelandic whale meat, yet Iceland increased its catch-quota for whales! Meanwhile, fin whale populations have dropped over 70% since 1927, according to the World Conservation Union Red Book:

In 2009, Iceland dramatically increased its fin whale quota to 150 animals a year – more than three times the catch limit that would be recommended by the IWC's approved quota calculation method if the commercial whaling moratorium was not in place. In December 2010, as Iceland's self-allocated whaling quotas and exports reached record levels, 19 U.S. NGOs, representing tens of millions of U.S. citizens, filed a "Pelly petition" urging the Secretaries of Commerce and Interior to certify Iceland pursuant to the Pelly Amendment and encouraging the President to impose trade sanctions against Iceland and specifically against fisheries-related businesses linked to its whaling industry. (<http://www.nrdc.org/media/2011/110720a.asp>)

While Iceland was certified under Pelly, and Obama agreed that Iceland's hunts were thwarting whale conservation efforts, in the end he refused to impose sanc-

tions. Sound familiar? Like the WTO panel which agreed that dolphin-safe tuna standards were protecting dolphins and reducing bycatch death, but ruled against the labels anyway, the Obama decision not to impose sanctions against Iceland is sending yet another message of disappointment to environmentalists who grieve the ongoing losses in the struggle to maintain whale populations.

“Iceland’s actions threaten the conservation status of an endangered species and undermine multilateral efforts to ensure greater worldwide protection for whales,” said Obama in a message to Congress. “Iceland’s increased commercial whaling and recent trade in whale products diminish the effectiveness of the (International Whaling Commission) conservation program.” ...But Obama said in the message that “I am not directing the Secretary of the Treasury to impose trade measures on Icelandic products for the whaling activities that led to the certification by the Secretary of Commerce.” Instead, Obama directed U.S. government officials to consider the appropriateness of traveling to Ice-

land, to raise the whaling issue with officials when they are there and to keep the situation under review. (<http://news.yahoo.com/obama-waives-sanctions-iceland-whaling-210322293.html>)

Is it likely Obama’s remedy will be enough to stop Icelandic whaling? Or is his sorry lack of action again exposing a not-so-new precedent? After all, the U.S. has threatened sanctions under Pelly several times for whaling activities on both Norway and Japan, but as the whalers know, sanctions have never been imposed. Could it be the risk of retaliations inhibit U.S. imposition of sanctions? For example, a sanctioned nation could impose tariffs on U.S. products, or even halt U.S. imports, possibly leading to job loss. Iceland has been incensed over the threatened sanctions, stating that their fin whale harvest is “no less sustainable than the U.S. bowhead whaling”, which is approved by 3/4 of IWC members. ([http://www.qffintl.com/news/readnews\\_test.cfm?article=2721](http://www.qffintl.com/news/readnews_test.cfm?article=2721)) Yet what is the value of Pelly if it will never be implemented? Whales need more than agreements that look good on paper.

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## Japan Dolphin Day, NYC

*By Taffy Lee Williams*

Despite bitter international condemnation and exposure by the Academy Award-winning documentary, *The Cove*, the Japanese Dolphin Drive Fishery resumed off the coast of Japan. Not even Japan’s slow recovery from the devastating March tsunami and ensuing nuclear disaster could avert the small fleet from its annual routine which kills over 20,000 dolphins and small cetaceans each year. While the few fishing boats prepared for the dolphin hunt, dolphin freedom-activist Ric O’Barry and SaveJapanDolphins.org responded to the dolphin hunt by organizing the 2011 Japan Dolphin Day.

In 52 locations from Stockholm to Manila, and from London to Miami, global protests coincided with the official start of the dolphin drive fishery season,

September 1, 2011.

In New York City, 27 activists gathered at the Japanese Consulate to voice our ongoing dismay with Japanese government policies that allow both the dolphin slaughter and removal of this vital keystone species and top predator from the seas around Japan. Although repeatedly proven laden with toxins, dolphin meat is still offered for sale in Japanese markets. Sensitive to the disasters that have traumatized the Japanese people, the 2011 Japan Dolphin Day was called “Celebrate Japan Dolphins Day”. Activists were long on sympathy for Japan’s nuclear nightmare, yet blasted the aquarium industry’s role in supporting the slaughters, as the drive fisheries provide dolphin specimens for the profit-driven industry.

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## Adopt-A-Humpback Whale Program on DVD

This October, CSI is launching an exciting and unique Whale Adoption Program. You may adopt *Salt*, the first

humpback whale to be named and a known grandmother, or *Colt*, a male who is 30 years old and is by all accounts the friendliest whale in the world.

We consider Salt and Colt “ambassadors for all the whales.” The adoption program highlights the special nature of each individual. When you watch Salt interact with different calves near the boat and see her nursing her son Wasabi, you’ll understand why we work so hard to protect whales. Colt’s DVD shows his intense curiosity in boats and people. You’ll feel like you are there when Colt and three other humpbacks sing right beside the boat!

The \$30 standard adoption includes the extraordinary DVD of your adopted whale and a booklet with facts and family trees! It sounds unbelievable, but you will meet your adopted whale and see for yourself what makes him or her so special. You’ll spend 20 minutes watching your adopted whale feeding on schools of fish, breaching, flipping, other common behaviors and close to the boat antics.

More information will be available soon at <http://www.csiwhalesalive.org/> or <http://www.whalevideo.com/>.

## Len Brown: A Life Well Lived

*By Dan Knaub, CSI Board Member:*

Len Brown, a friend of mine and a friend of the whales will be missed. His enthusiasm for whales was always evident on the boats and Lea gave permission to share his excitement through a special YouTube clip. Just search for “Len Brown Whales”.

Many years ago prior to the start of a new whale watch season, Len called and related the story of how whales saved his life. At that time we were recording about 1,000 hours of new video every year and I shared these unbelievable behaviors by producing a new volume in my series “Wonderful Whales”.

I always sent Len the first copy because I knew no one else would enjoy it more. Excitement was in his voice as he said, “Your tape saved my life”.

Len said he was very ill and spent a lot of time on the couch that week. Lea came in and said “Hey, Dan sent you the new Wonderful Whales”. He said that she put it in the VCR but he was lying down and not really interested. Now, I can’t quote him but it went something like this:

“I was lying there and all of a sudden, BAM a big breach off the bow. Then another and another. Then a huge open mouth feeding shot. Now I’m sitting up watching a finback cruise along about 20 feet away with a pod of dolphins. WOW! After a minute or so, humpbacks a few inches from the side blowing on people and rolling over. WOOOO! Now I’m sitting on the edge of the couch! More feeding and breaching and its all getting closer to the boat. HA HA HA

HA. It doesn’t get any better than this. Then by the end of the tape, the best feeding and breaching captured during the whole season. WOOOO WOOOO!”

Then Len said, “Dan, earlier I was thinking this could be the end, but ‘the whales saved me’. I started feeling better that day.”

Note: Upon review by Lea Brown she said that this story captured the very essence of Len.

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*By Paul Knapp, Jr., CSI Board Member:*

I am always grateful to Len (and of course Lea) for his encouragement to me to continue recording humpback whales.

I remember when Len ‘out of the blue’ just handed me a \$100 bill to help my early efforts.

He quietly put the bill in my hand; looked at me and smiled, and told me something encouraging, but I don’t remember exactly. That’s it, he wanted no more in return.

Though I did thank him more than once, and over the years. It was especially meaningful to me because it was so unexpected and genuine.

And I really don’t think he had a lot of money since he worked in the produce department of a supermarket.

Len is part of the inspiration that keeps me listening and recording and making CDs.

## Book Review

By William Rossiter

*Climate Change - Geophysical Foundations and Ecological Effects* is an open access book that CSI is pleased to recommend to help overwhelm the skeptics, if you're not overwhelmed reading it. Climate change is not a topic many of us are prepared to address, but climate change skeptics refuse to listen to facts they don't want to hear, and with the issue bandied about so often by so many people, someone has to know the facts. It's not beach reading, but downloaded as a PDF file it is searchable. The book came to our attention from Christian Salvadeo, of Mexico, one of the many Latin American marine mammal specialists CSI has given grants to. He was one of four authors of Chapter 11, "Review of Long Term Macro-Fauna Movemeby Multi-Decadal Warming Trends in the Northeastern Pacific".

This book offers an interdisciplinary view of the biophysical issues related to climate change, a phenomenon by which the long-term averages of weather events (i.e. temperature, precipitation, wind speed, etc.) that

define the climate of a region are not constant but change over time. There have been a series of past periods of climatic change, registered in historical or paleoecological records. In the first section of this book, a series of state-of-the-art research projects explore the biophysical causes for climate change and the techniques currently being used and developed for its detection in several regions of the world. The second section of the book explores the effects that have been reported already on the flora and fauna in different ecosystems around the globe. Among them, the ecosystems and landscapes in arctic and alpine regions are expected to be among the most affected by the change in climate, as they will suffer the more intense changes. The final section of this book explores in detail those issues.

<http://www.intechopen.com/books/show/title/climate-change-geophysical-foundations-and-ecological-effects>

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## Shift My Gift

Looking for a meaningful way to celebrate the next special occasion in your life? Tired of receiving gifts you may not want or



need? Help to support Cetacean Society International! Now you can celebrate any event in your life by shifting the money which would have been spent on gifts you don't want or need to a cause you love and support. You celebrate in a way which is meaningful to you, your friends get a tax deduction, and the earth thanks you for eliminating all the wrapping paper and other waste for gifts you don't want anyway.

Simply go to <http://www.shiftmygift.com/c105/help-save-the-whales/> and click the "create an occasion" link to quickly create an occasion page, and celebrate your occasion by shifting gifts you don't need to a cause you support. You'll be able to share your link with your friends and family through e-mail, Facebook,

and Twitter. They'll be delighted to know that this year they don't have to slog through malls and spend tons on gifts, gas and wrapping paper, and can instead, quickly and easily donate a small sum to CSI.

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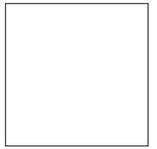
• **If you are currently receiving *Whales Alive!* by post, please let us know if you would prefer to receive it by email (as a PDF file).** Send an email to [bshall@csiwhalesalive.org](mailto:bshall@csiwhalesalive.org), and please include your name, address, and the email address you would like us to use.

• Current and previous issues of *Whales Alive!* as well as our Photo Gallery and other features can be found on CSI's web site. Check it out at:

**[csiwhalesalive.org](http://csiwhalesalive.org)**

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