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Fish and Wildlife Service
MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

Re: Yerkes Permit Application
PRT - 69024B
Docket No. FWS-HG-IA-0149

To the Fish and Wildlife Service:

These comments concern the above-referenced Permit Application by Yerkes National Primate Research Center in Atlanta, Georgia (“Yerkes”) to export eight chimpanzees – Lucas, Fritz, Agatha, Abby, Tara, Faye, Georgia, and Elvira – to the Wingham Wildlife Park (“Wingham”) in Kent, England. The comments are submitted on behalf of several individuals and organizations including Theodora Capaldo, Ed.D., President, New England Anti-Vivisection Society; Mary Lee Jensvold, Ph.D., Board of Directors, Friends of Washoe, Board of Directors, Fauna Foundation; Gloria Grow, Founder and Director, Fauna Foundation; April Truitt, Founder and Director, Primate Rescue Center; Leslie Day, President, Chimps, Inc.; Kari Bagnall, Founder and Director, Jungle Friends Primate Sanctuary; Michelle Thew, CEO, Cruelty Free International; and Nancy Megna and Terri Hunnicutt, Laboratory Primate Advocacy Group and former care technicians at Yerkes. All of these individuals and organizations oppose the granting of the requested permit.

As explained in detail below, Yerkes’ permit application does not meet *any* of the requirements of either the Convention on International Trade in Endangered Species of Flora and Fauna (“CITES”), 27 U.S.T. 1087 (March 3, 1973), or Section 10 of the Endangered Species Act, 16 U.S.C. § 1539. As further explained, because the permit application implicates an endangered species, and will set a dangerous precedent for how the recently listed captive members of the species are treated in the future, the Fish and Wildlife Service (“FWS”) may not



issue any such permit without also complying with the requirements of both the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, and the consultation requirements of Section 7 of the ESA, 16 U.S.C. § 1535(a)(1)(2).

Further, because there are several U.S. sanctuaries – accredited by the Global Federation of Animal Sanctuaries (“GFAS”) or eligible for such accreditation – that are willing to take all eight of the chimpanzees, there is no legal or ethical justification for granting a permit that will result in packing these animals in crates, shipping them as air cargo in an overseas flight to Europe, putting them on display in an unaccredited zoo, and breeding them to make more surplus chimpanzees that can be commercially exploited in the future. Accordingly, the requested permit should be denied.

I. RELEVANT BACKGROUND

After decades of being afforded absolutely *no* protection under the Endangered Species Act (“ESA”) – despite the fact that *wild* chimpanzees have been listed under the statute as “threatened” since 1976, and “endangered” since 1990 – on June 16, 2015, the FWS finally issued a final rule making clear that the *captive* members of this species must be included within the “endangered” designation that applies to *all* members of the species. 80 Fed. Reg. 34500 (June 16, 2015) (hereinafter “Final Listing Rule”). As the agency explained in the Final Listing Rule, “[w]e have determined that *the Act does not allow for captive chimpanzees to be assigned separate legal status from their wild counterparts on the basis of their captive state.*” *Id.* (emphasis added). As Director Ashe explained at the press conference announcing this decision, the agency’s previous treatment of captive chimpanzees – under which they received *no* protection under the ESA – “was a mistake” that “encourage[d] a culture that *treats these animals as a commodity.*” *See Science News* (June 12, 2015) (emphasis added).¹

Although the Final listing Rule was issued on June 16, 2015, the FWS announced that the decision to treat the captive chimpanzees as “endangered” would not take effect until September 14, 2015, which would afford those entities in possession of captive chimpanzees an opportunity to apply for and obtain permits to continue to use these animals in ways that otherwise violate the ESA. *See* 80 Fed. Reg. at 34500; *see also* 16 U.S.C. § 1539 (the standards that apply to obtaining a permit to engage in otherwise unlawful activities with respect to an endangered species). However, rather than using that time to apply for a permit to transfer eight chimpanzees to a facility that would provide them the highest level of care and protection, the record shows that Yerkes instead attempted to export these chimpanzees *before* September 14, 2015 to Wingham – an unaccredited zoo in the United Kingdom with absolutely no prior experience caring for chimpanzees. *See e.g.*, Email from Kay Lee Summerville, Yerkes, to Emma Nelson, FWS (Aug. 28, 2015), Permit Application (“Permit App.”) pdf 184 (remarking

¹ D Grimm, *Research chimps to be listed as endangered*, SCIENCE NEWS (June 12, 2015), available at <http://news.sciencemag.org/people-events/2015/06/research-chimps-be-listed-endangered>.

that it is “so sad” that Yerkes “can’t send [the chimps] out prior to September 14 so now the application will appear in the Federal Register”).² In other words, Yerkes was hoping to export these chimpanzees to Wingham *without having to apply for a Section 10 permit* as required for an endangered species and subject to public notice and comment. *See* 16 U.S.C. § 1538(a)(1)(A) (providing that it is unlawful to “export” any endangered species from the United States without a permit from the FWS); *see also* 16 U.S.C. § 1539 (Section 10 requirements for obtaining a permit to export an endangered species, including that the FWS “shall publish notice in the Federal Register of each application for an exemption or permit”).

However, because the facility in which Wingham plans to house the eight chimpanzees would not be completed before September 14, 2015, and the FWS could not issue a permit to Yerkes to export the chimpanzees before that facility was ready to receive them, Yerkes had no choice but to submit a formal application to the agency for permission to export these chimpanzees under both CITES and Section 10 of the ESA. Thus, although it had submitted a request for a CITES export permit on June 12, 2015, on September 28, 2015 Yerkes supplemented that application with materials intended to satisfy the criteria for a Section 10 permit under the ESA. Those materials reflect that Yerkes intends to export to Wingham eight chimpanzees, all of breeding age, including two males (Lucas and Fritz) and six females (Agatha, Abby, Tara, Faye, Georgia, and Elvira). *See* Permit App. pdf 6.

However, that Yerkes approached this process as one of mere form over substance is reflected throughout its permit application, which is not only riddled with incorrect and misleading representations – and fails to disclose *other* information that should be material to whether the permit application may be granted – but also completely fails to meet *any* of the standards that apply to either CITES or Section 10 permits under the ESA.

II. YERKES’ PERMIT MUST BE DENIED.

A. Yerkes Failed to Disclose Material Information and Made False Statements Concerning Material Information In Connection With Its Application.

The FWS’s implementing regulations provide that a permit will not be issued to any applicant that “has failed to disclose material information . . . or has made false statements as to any material fact, in connection with [its] application.” 50 C.F.R. § 13.21(b)(2); *see also* 50 C.F.R. § 13.12(a) (5) (the applicant must certify that all information provided to the FWS in support of its application is “*complete and accurate*”) (emphasis added). Here, Yerkes has made *several* misrepresentations of extremely relevant facts concerning its application *and* failed

² Because the permit application materials provided to the public do not contain Bates Labels or any other consecutive numbering, we herein cite to the pdf pages in the order that the materials were presented to the public on-line.

to disclose other material information. Hence, for this reason alone, Yerkes' permit application must be denied.

1. Wingham Is Not An Accredited Zoo.

Although Yerkes represents that Wingham is a “licensed” facility in the UK, *see* pdf 99, it failed to mention that Wingham is *not* accredited by the British and Irish Association of Zoos and Aquariums (“BIAZA”) or the European Association of Zoos and Aquariums (EAZA)³ – the European equivalent of the U.S. Association of Zoos and Aquariums (“AZA”), and hence the organizations that insure that British zoos meet the bare minimum standards for the humane treatment of the animals in their care as set by the Secretary of State’s Standards of Modern Zoo Practice (Department for Environment, Food, and Rural Affairs, 2012, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69596/standards-of-zoo-practice.pdf). Thus, if the FWS grants the requested permit, it will allow Yerkes to send these eight endangered chimpanzees to be displayed at an *unaccredited* zoo in the United Kingdom.

2. Wingham Is Not A Non-Profit Entity.

Also contrary to the implication in its application materials, Permit App. pdf 117, Wingham is *not* a non-profit organization. Rather, apparently in connection with Yerkes' plan to give Wingham these eight chimpanzees, Wingham very recently established a charity “arm,” *id.* – perhaps because it believed this would assist Yerkes in its efforts to demonstrate that the chimpanzees would not be used for commercial activities at odds with the conservation purposes of the ESA and CITES. *See infra.* However, that “arm” of Wingham is a separate entity and *not* the intended recipient of the chimpanzees. Further, because this entity was only recently created, it has no track record demonstrating any ability to actually assist in the conservation of chimpanzees in the wild.

3. Wingham Is Not A Member Of the EEP Which Opposes The Proposed Transfer Of The Eight Chimpanzees.

Yerkes represents that the export of the chimpanzees to Wingham will “enhance the survival or propagation” of the chimpanzee species – the substantive standard that governs Section 10 permits, 16 U.S.C. 1539(a)(1)(A) – because Wingham will only breed these chimpanzees in close association with the European Endangered Species Program (“EEP”) – the European equivalent of the U.S. Species Survival Plan, which, like its U.S. counterpart, oversees the breeding of endangered species by European zoos to insure against inbreeding and the loss of

³ *See* Map of BIAZA Collections, available at https://www.google.com/maps/d/viewer?mid=zTdMV59DW3_w.kNbNahkztmSQ; European Association of Zoos and Aquaria, EAZA Member List, *available at* <http://eaza.portal.isis.org/membership/Pages/Zoos%20and%20Aquariums.aspx>.

genetic viability. Thus, Yerkes stated in its permit application that “[t]he current plan is to breed this species *only if required to help improve the genetic diversity of the chimpanzee population in Europe*,” and that “[i]f Wingham is to breed chimpanzees for this purpose, the park *would plan to move the progeny to other zoos working with chimpanzees within the EEP* (European Endangered Species Program), which is the European studbook for this species.” Yerkes App. pdf 100.

However, Wingham is *not* a member of the EEP for chimpanzees and, in fact, because the chimpanzees slated for transfer are regarded as “generic” by that organization, the EEP has made clear that it “*does not support the proposed transfer*,” because the breeding of these chimpanzees could contribute to “subspecies hybridization” which is in “direct contrast” to the goals of the EEP. See Letter from Frands Carlsen and Tom de Jongh, EEP Coordinators *Pan troglodytes* (Nov. 2, 2015) (attached as Exhibit A) (emphasis added); see also *id.* (explaining that all chimpanzees other than the subspecies *Pan troglodytes verus* “are now on a breeding moratorium to avoid further hybridization,” and that “[t]he proposed transfer of ‘generic’ chimpanzees from YNPRC [Yerkes] to WWP [Wingham] and plans to breed with this group is of course *in direct contrast to the efforts*” of the EEP) (emphasis added). Therefore, because Wingham is not a member of the EEP and that organization is very much opposed to the proposed transfer, Wingham’s “plan” to breed these chimpanzees will *not* enhance the propagation of this species – in direct contravention of representations made by Yerkes to the FWS. Moreover, as further demonstrated, *infra* at 16-17, these chimpanzees are all closely genetically related to each other, and therefore particularly ill-suited for any legitimate breeding program.

In fact, Yerkes has also either submitted erroneous information about the subspecies of each of the eight chimpanzees or omitted that information altogether in its application. For example, in some places in the application it represents that certain of the eight chimpanzees belong to the *verus* subspecies, while in other places in those materials, it makes contrary representations, and, with respect to some of the chimpanzees, it provided *no* information about their subspecies. Compare, e.g., Chart, pdf 6 (identifying Fritz as belonging to the *verus* subspecies and Agatha listed without any subspecies identification) with Chart, pdf 50 (*not* identifying Fritz as belonging to the *verus* subspecies, but identifying Agatha as a member of that subspecies).

Moreover, while Yerkes erroneously informed the FWS that Wingham plans only to breed these chimpanzees in accordance with the EEP, it clearly knows that Wingham has definite plans to breed these animals – ***regardless of whether the EEP approves of such breeding*** – because (a) Wingham is *not* an EEP member; (b) based on the ages and sexes of the animals, they were clearly chosen for their breeding potential; and (c) Wingham has publicly touted its plans to breed these chimpanzees to create baby chimpanzees for display. See, e.g., Declaration of Theo Capaldo, Exhibit B, ¶ 13 (stating that in June 2015 she and others who

visited Wingham were informed by Wingham employees that everyone there was “excited the chimpanzees were coming and hoping they would have babies soon”).⁴

4. The Purported Recipients Of The Money Being Used To Demonstrate That The Export Will “Enhance The Survival Of The Species” Do Not Want This Money And Oppose The Export Of The Chimpanzees.

Yerkes also represents in its application that the export of these chimpanzees will “enhance the survival” of the species in the wild because (a) Wingham will be contributing approximately \$1,790 a year for five years to the Kibale Chimpanzee Project’s Snare Removal Program, and (b) Yerkes will be contributing \$2,000 a year for five years to the Wildlife Conservation Society (“WCS”) for its patrolling and eco-guard activities in Central Africa. *See* Permit App. pdf 188.

However, as the FWS now knows, not only was the Kibale Chimpanzee Project not even *informed* of Yerkes’ plan to use it as “leverage” to obtain the requested permit, but that Project has absolutely no interest in being so used, and is vehemently *against* the export of these chimpanzees to Wingham. *See* Letter to Wingham Wildlife Park from Officials of the Kibale Chimpanzee Project Snare Removal Project (Oct. 24, 2015) (Exhibit C) at 1. Indeed, as explained in the letter to Wingham from that Project’s three top officials, “[t]he use of us in this context without our knowledge is *a complete overstepping of boundaries, demonstrates a misuse of our organization, and promotes a high level of mistrust.*” *Id.* at 1 (emphasis added). Thus, that organization made clear in that letter – a copy of which has now been filed with the FWS – that based on everything it knows about Wingham, the Kibale Project is “*advocating for the Yerkes chimpanzees to stay in the USA and be transferred to a volunteering chimpanzee sanctuary when the necessary arrangements can be made,*” which “*would be best not just for the eight chimpanzees proposed for exportation to WWP [Wingham], but also for the treatment, welfare, and conservation of chimpanzees in general.*” *Id.* at 3 (emphasis added).

⁴ Indeed, in the past, Wingham has claimed that endangered gibbons of different subspecies – purportedly kept in *separate* enclosures – accidentally reproduced, producing a “triple-hybrid” baby gibbon named Pickle, who is a huge draw for the zoo. *See* Wingham, *Timeline Photos*, Wingham Facebook website (May 21, 2013), *available at* <https://www.facebook.com/WinghamWildlifePark/photos/a.10150687984345935.451976.337013825934/10151613512805935/?type=3&theater>; Wingham, *Timeline Photos*, Wingham Facebook website (September 18, 2013), *available at* <https://www.facebook.com/WinghamWildlifePark/photos/a.10150687984345935.451976.337013825934/10151850818080935/?type=3&theater>; mhale, *News from Wingham Wildlife Park*, ZooChat website (November 29, 2010), *available at* <http://www.zoochat.com/38/new-arrivals-ingham-wildlife-park-185680>; Wingham, *Posts*, Wingham Facebook website (May 20, 2013), *available at* <https://www.facebook.com/WinghamWildlifePark/posts/10151612087000935>.

Similarly, we understand that WCS also is not interested in the \$2,000 a year Yerkes has pledged to give that organization in exchange for the permit, and that it is also opposed to the transfer of these chimpanzees to Wingham.

5. Yerkes Misrepresented the Experience of Wingham’s Personnel.

Yerkes also misrepresented the experience of Wingham’s staff and its ability to care for these eight chimpanzees once there. In support of its application it submitted the resume of Leo Patten, who – unlike the majority of Wingham’s staff – actually *does* have experience caring for great apes. *See* Permit App. pdf 108. However, Mr. Patten left the employ of Wingham in July 2015, and hence can no longer be relied on by Yerkes to demonstrate that it has animal caretakers experienced in working with great apes. Although Yerkes knew – or should have known – that Mr. Patten was no longer employed at Wingham when Yerkes submitted its ESA permit application materials in September 2015, it failed to so inform the FWS.

6. Yerkes’ Application Materials Contain Discrepancies Regarding the Eight Chimpanzees Slated for Export.

There also are several discrepancies regarding the ages, subspecies, and genealogy of the eight chimpanzees slated for export to Wingham. For example, in one place in its application, Yerkes lists Georgia’s birth date as August 27, 1980, *see* Permit App. pdf 21, but in another place Yerkes lists her birth date as November 28, 1976, *see* Permit App. pdf 6. Likewise, as mentioned above, at one point in the application materials list Fritz as being of the *verus* subspecies, *see* Permit App. pdf 6, while in other places Yerkes includes him among the chimpanzees that are of generic subspecies, even though other chimpanzees are listed as belonging to the *verus* subspecies. *See* Permit App. pdf 50. Similarly, while Agatha is listed as belonging to the *verus* subspecies, pdf 50, she is *not* so listed at pdf 6.⁵

These discrepancies are clearly material since, as discussed above, the European Species Survival Program is currently *only* interested in breeding proven members of the *verus* subspecies. *See* Exhibit A. Thus, either Yerkes does not *know* to which subspecies each chimpanzee belongs and/or has misrepresented this information – perhaps in an attempt to give more credence to its assertion that the chimpanzees will only be bred in strict compliance with EEP requirements.

In addition, although Agatha’s Specimen Report lists her mother as Melinda, Permit App. pdf 61, the parental chart provided by Yerkes at pdf 51 lists Agatha’s mother as Bo.⁶

⁵ Moreover, precisely determining a chimpanzee’s subspecies requires genomic testing – results of which were not included in Yerkes’ application materials.

⁶ There are also discrepancies concerning the Identification Numbers provided for the eight chimpanzees. While all of the chimpanzees are listed with ID numbers beginning with “CO” on the chart at pdf 51, many of them –

7. **The Dimensions for the Transport Crates Do Not Meet International Transport Standards.**

The dimensions provided for the transportation carts also appear to have been misrepresented. Although Yerkes' application materials state that Yerkes will abide by the standards used by the International Air and Transportation Association ("IATA"), Permit App. pdf 127, it appears that the actual space that will be available to each chimpanzee within each crate falls below those standards. Thus, IATA provides that the dimensions used "must allow the animal to turn around *completely and easily*," and that "[t]he height of the container must allow the animal to *stand fully upright with its head extended and the length of the container must allow it to lie down in the fully prone position*." International Air Transport Association, Live Animals Regulations, 41st Edition (January 2015) at 286 (emphasis added). Although Yerkes represents that the crates that will be used to transport the chimpanzees measure 60" x 60" x 52" (5 feet x 5 feet x 3.5 feet), these are the *overall* dimensions of the crates, as detailed in the blueprint documents included in the permit materials. See Permit App. pdf 127. However, the *actual* animal space dimensions, which are also detailed in the blueprints, are considerably smaller – measuring 56" (length) x 46 1/8" (height) x 33" (width) (or 4.67 feet x 3.84 feet x 2.75 feet). See pdf 128-129. Therefore, given that the average adult chimpanzee is 3 to 5 feet tall, these dimensions are *not* sufficiently large enough to meet IATA standards. See AZA Ape TAG, *Chimpanzee* (Pan troglodytes) *Care Manual*, Association of Zoos and Aquariums 6 (2010) ("AZA Care Manual"), *available at*, https://www.aza.org/uploadedFiles/Animal_Care_and_Management/Husbandry,_Health,_and_Welfare/Husbandry_and_Animal_Care/ChimpanzeeCareManual2010.pdf.

IATA standards further provide that there should be ventilation holes on top of primate transport containers, see IATA Standards at 287, and the Animal Welfare Act standards promulgated by the United States Department of Agriculture ("USDA") further provide that "if ventilation openings are located on all four walls of the primary enclosure" – which is the case with Yerkes' proposed crates – "the openings on every wall must be at least 8 percent of the total surface area of each such wall." See Animal Welfare Act and Animal Welfare Regulations, https://www.aphis.usda.gov/animal_welfare/downloads/Animal%20Care%20Blue%20Book%20-%202013%20-%20FINAL. However, the crate blueprints provided by Yerkes do not meet these criteria. Rather, the plans depict forty-eight (48) 1"- diameter ventilation holes on each of the front and back sides and seventy-two (72) 1"- diameter ventilation holes on each side of the long sides, which means that, using the *actual* space available to the animals versus the overall

Lucas, Fritz, Agatha, Abby, Faye and Elvira – are listed elsewhere *without* those ID numbers, but with *different* ID numbers. See Permit App. pdf 6.

space, there is *only 2 percent ventilation on each of the four sides* – far less than the 8 percent required.⁷

Therefore, because Yerkes' application fails to disclose important information and misrepresents other extremely material information, it may not be granted. *See* 50 C.F.R. § 13.21(b)(2).

B. The Permit Does Not Satisfy The Standards That Apply Under CITES.

The requested permit should also be denied because Yerkes has failed to satisfy the standards that apply under CITES – the international treaty enacted to protect wildlife by regulating international trade in endangered and threatened animals and plants. CITES obligates its member parties, including the United States and United Kingdom to control wildlife exports and imports by taking “appropriate measures” to enforce CITES and prohibit violations of its provisions. CITES, Article III.

Chimpanzees are listed on CITES as an Appendix I species, which are ordinarily provided the highest level of protection under the Treaty. However, because, according to Yerkes the eight chimpanzees that are the subject of the permit application were all bred in captivity, they are treated under CITES as Appendix II species. *See* CITES, Article VII. Nevertheless, before an export permit may be granted for an Appendix II species, the FWS must make certain findings, which, as discussed below, are not warranted here.⁸

⁷ Nor is there any mention of the bedding or substrate that will be included in the crates, despite the fact that the AZA recommends 4-6" of bedding or substrate provided on the bottom of the container. *See* AZA Care Manual, *available at* https://www.aza.org/uploadedFiles/Animal_Care_and_Management/Husbandry_Health_and_Welfare/Husbandry_and_Animal_Care/ChimpanzeeCareManual2010.pdf. In addition, the application contains a computer-generated image of how the Wingham chimpanzee facility will eventually look, but not a floor plan – making it difficult to understand (a) how the areas connect to one another, (b) the security of the building, and (c) other specifics relevant to chimpanzee and human safety and well-being. Information is also lacking on the types of doors the chimpanzees will use to access various areas, and there is no explanation of the mechanisms that will be used to lock and operate these doors. Nor is there any information on the drainage system, making it difficult to understand how the areas will be cleaned. Without such information, it is impossible to assess if the Wingham facility will adequately provide for the chimpanzees' well-being, especially when, as discussed *infra*, introducing laboratory chimpanzees to a new setting is inherently fraught with unique problems, including the need to separate the animals should they become aggressive towards each other because of the trauma and stress of the overall situation.

⁸ The European Union's implementing regulations for CITES also require a demonstration that the animals were all “*born and bred in captivity*” before they may be afforded lesser protection under what the EU refers to as “Annex B” – generally the equivalent of CITES Appendix II. *See* Council Regulation 338/97, art/ 7(1)(a), 1997 O.J. (L61) 8 (EC). To make such a showing, the applicant must be able to demonstrate not only that the particular specimens involved were “produced in a controlled environment,” but that their *parents* were also both produced in a “controlled environment,” i.e., that none of the parents were taken from the wild, *see* Commission Regulation 865/2006, art. 54, 2006 O.J. (L 166) 1 (EC) – a showing that Yerkes has not made here, and hence also cannot be made by Wingham. Accordingly, for this and other reasons, Wingham also does not qualify for a valid *import*

1. Exportation Of The Chimpanzees Will Be Detrimental To The Survival Of Both The Captive Chimpanzees At Issue And Chimpanzees In The Wild.

Even for an Appendix II species, the FWS must find that the export of the animals “will not be detrimental” to their survival. CITES, Article IV. However, the FWS cannot make this requisite finding with respect to either the eight chimpanzees who are the subject of the export (and any progeny that will be produced as a result of this export), *or* the chimpanzee species as a whole.

a. The export of the eight chimpanzees will be extremely detrimental to their health and well-being.

For several reasons, the requested export will be extremely detrimental to the well-being and survival of the eight chimpanzees who are the subject of the permit application.

First, because these eight chimpanzees have already been separated from their social groups in preparation for the intended export, they have already been traumatized.⁹ Chimpanzees are extremely social animals and become emotionally and psychologically dependent on their social groups.¹⁰ Therefore, Yerkes’ actions in removing chimpanzees from their established social groups in order to reconfigure them for transport to Wingham is detrimental to the physical and psychological well-being of these chimpanzees, as will be the process of *re-socializing* them once they arrive at Wingham.

Removing chimpanzees from their established social groups and attempting to make them form new social groups can also result in additional *physical* harm to the chimps who may attack or otherwise harm each other as they try to deal with the trauma, stress, and disorientation involved in such restructuring. Because this group is newly formed, there is a high risk of social conflict within the group, particularly in a new environment with new caretakers and the constant presence of unfamiliar humans to which these chimps will now be exposed as a result of being

permit from the appropriate U.K. authority.

⁹ See, e.g., MA Bloomsmith, SJ Schapiro & EA Stobert, *Preparing Chimpanzees for Laboratory Research*, 47 INSTITUTE FOR LABORATORY ANIMAL RESEARCH JOURNAL 316 (2006); DB Elmore, *Quality management for the international transportation of non-human primates*, 44 VET ITAL 141 (2008); J Panksepp, *AFFECTIVE NEUROSCIENCE: THE FOUNDATIONS OF HUMAN AND ANIMAL EMOTIONS*, New York: Oxford University Press (2008); L Brent, *THE CARE AND MANAGEMENT OF CAPTIVE CHIMPANZEES*, San Antonio, TX: American Society of Primatologists (2008).

¹⁰ See, e.g., COMM. ON THE USE OF CHIMPANZEES IN BIOMEDICAL AND BEHAVIORAL RESEARCH, CHIMPANZEES IN BIOMEDICAL AND BEHAVIORAL RESEARCH: ASSESSING THE NECESSITY (Bruce M. Altevogt et al. eds., 2011), available at http://www.nap.edu/openbook.php?record_id=13257.

placed on daily display for the first time in their lives.¹¹ Indeed, even long-existing social groups are known to become disrupted when moved to a new location.¹²

For example, the AZA Species Survival Plan for chimpanzees recommends that hierarchy battles be allowed to run their course during chimp (re)introductions, even though “fighting is often robust, and injuries ranging from minor scratches to serious wounds can occur.”¹³ Chimpanzees in social groups who are separated for even just a few hours may exhibit severe aggression when reintroduced,¹⁴ and the stress inherent in transport circumstances may lead to even “friends” fighting with each other.¹⁵

Second, the export of these chimpanzees to the United Kingdom is also detrimental to these animals because Yerkes will be undertaking various additional activities in connection with the planned export that will certainly harm these animals, including subjecting them to successive “knock downs,” i.e., physically restraining them and darting them to render them unconscious, packing them for shipment overseas, and subjecting them to many hours of transatlantic air and land transport entailed in transporting them to England – i.e., from Yerkes to the U.S. airport, from the U.S. to England, and from the U.K. airport to Wingham. All of these activities will cause the chimpanzees to suffer extreme harm to their psychological and physical well-being, which can even result in death. See Declaration of Dr. Theodora Capaldo, Exhibit D

¹¹ For additional information on the difficulties of chimpanzee introductions, see A Fultz, *A Primer on Chimpanzee Introductions at Chimp Haven*, NORTH AMERICAN PRIMATE SANCTUARY ALLIANCE VIRTUAL MEETING 2015 (August 6, 2015), available at <https://www.youtube.com/watch?v=wh50Cl4mXX4>; for additional information concerning the unique preparations and considerations that attend acceptance of chimpanzees from laboratory environments see R Jackson-Jewett, *Animal Acquisition Procedures*, NORTH AMERICAN PRIMATE SANCTUARY ALLIANCE VIRTUAL MEETING 2015 (August 6, 2015), available at <https://www.youtube.com/watch?v=HsIIeAhEdZM>.

¹² It is well known that placing laboratory chimpanzees in new settings with new social groups inevitably causes inordinate adjustment problems, and may result in some of the chimpanzees attacking others. See, e.g., MA Bloomsmith, SJ Schapiro & EA Strobert, *Preparing Chimpanzees for Laboratory Research*, 47 INSTITUTE FOR LABORATORY ANIMAL RESEARCH JOURNAL 316 (2006). However, although the materials submitted for the Wingham facility indicate that in such event the large room could be divided by a third or two-thirds, see Permit App. pdf 118, the materials do not address how such a division would actually occur, or what other precautions will be taken to allow for separate housing of the chimpanzees should this be necessary to protect them from harming each other.

¹³ AZA Ape TAG, *Chimpanzee (Pan troglodytes) Care Manual*, ASSOCIATION OF ZOOS AND AQUARIUMS 30 (2010), available at https://www.aza.org/uploadedFiles/Animal_Care_and_Management/Husbandry,_Health,_and_Welfare/Husbandry_and_Animal_Care/ChimpanzeeCareManual2010.pdf.

¹⁴ MA Bloomsmith, SJ Schapiro & EA Strobert, *Preparing Chimpanzees for Laboratory Research*, 47 INSTITUTE FOR LABORATORY ANIMAL RESEARCH JOURNAL 316 (2006).

¹⁵ DB Elmore, *Quality management for the international transportation of non-human primates*, 44 VET ITAL 141 (2008).

¶¶ 5- 8; Declaration of Dr. Marylee Jensvold, Exhibit E ¶¶ 4-6; *see also* Attachment to Dr. Capaldo's Declaration, Exhibit D (detailing the detrimental impacts of transporting chimpanzees overseas); *see also infra* at 18-21 (further describing the problems with overseas transportation).

Third, export of these chimpanzees will be detrimental to their health and survival because they are being transported to an unaccredited zoo with *no experience in the care of chimpanzees, and particularly the care of chimpanzees who have been born and raised in a laboratory setting*. Thus, as demonstrated by Yerkes' own permit application materials, to date Wingham has *never* displayed chimpanzees, Permit App. pdf 120, and, therefore, not surprisingly, its staff has very little experience caring for this species. *See* Permit App. pdf 100 (list of personnel provided in response to FWS requirement for details of the "experience of each animal caretaker working with the species"); *see also id.*, pdf 104-111 (information provided on each such caretaker).¹⁶

However, as discussed above, chimpanzees are highly territorial, and, accordingly, introductions and formulations of new social groups require experienced chimpanzee behavior experts. Thus, for example, the AZA explains that a "well-trained staff that is knowledgeable in species-specific and typical chimpanzee behavior patterns is a prerequisite for accurate observations and daily monitoring, and especially for data collection during the process of introductions and group formation," and that "[s]taff should have a good working knowledge of chimpanzee behavior to be able to articulate and track the progress of introductions and social interactions before, during, and following the initial introduction and group formation period." AZA Care Manual, *supra*, Sect. 8.4, p.66.

Indeed, many sanctuaries have been specifically designed to handle group conflicts and the varying needs of individual chimpanzees for (a) solitary space; (b) the ability to choose the animals with whom they wish to interact; and (c) the ability of care-providers to intercede and separate animals when altercations become serious or even life-threatening to an animal. However, in contrast to U.S. sanctuaries that have extensive experience acclimating laboratory chimpanzees to new surroundings, *none* of the Wingham personnel have any such experience.

¹⁶ Curator Markus Wilder has worked with gibbons and lemurs, but not chimpanzees; Rebecca Johnson has worked with other primate species but not chimpanzees; Hollie Weatherhill has some experience with great apes and other primate species, but none specifically with chimpanzees; Nadine Tamburini has experience caring for gibbons, macaques, mandrills, vervet monkeys, and capuchins, but no experience caring for chimpanzees; Karl Schroeffer likewise has experience with various primate species, but no experience caring for chimpanzees; the veterinarian listed, Jeremy Statterfield, has experience treating gorillas, but not chimpanzees, as is the case with veterinary nurse, Leasa Neame. Indeed, the only two individuals listed in the permit application materials with *any* chimpanzee experience are Ruth Wilder, who took a two-week training program about chimpanzee husbandry and apparently also visited Yerkes for a short time, and Robert Kennett, who did a month-long volunteer internship working at the Chimfushi Wildlife Orphanage & Chimpanzee Sanctuary, *see* Permit App. pdf 241.

It is also well established that chimpanzees raised in research laboratories often have special physical, psychological, and behavioral needs that must be met in order to successfully integrate them into a new setting and adequately provide for their life-time cognitive, behavioral, and medical needs. Chimpanzees raised in laboratories – as is the case with all eight of the animals at issue here – often demonstrate serious behavioral abnormalities, such as self-injury, stereotypies, coprophagia, and dysfunctional reproductive behaviors¹⁷ – indeed, some former subjects of biomedical experimentation exhibit symptoms of complex post-traumatic stress disorder (“PTSD”).¹⁸ This is not surprising given the species’ high social and emotional intelligence and the fact that many laboratory chimpanzees are used in repeated experiments due to the limited availability of the species, thereby serving as “controls” against themselves.¹⁹

Further, chimpanzees who have experienced early social disruption such as removal from their mothers and/or hand-rearing by humans – as is the case with several of the Yerkes’ chimpanzees²⁰ – typically display heightened sensitivity to stress and exhibit more abnormal and aggressive behaviors.²¹ Many former lab chimps will also experience a range of debilitating health and behavioral problems for the rest of their lives.²²

However, as Yerkes’ application demonstrates, ***none of the Wingham staff has the necessary training to handle any of these problems.*** Thus, the mere fact that two of the listed personnel (Ms. Wilder and Mr. Kennett) have had some extremely nominal training in chimpanzee care, *see note supra*, simply does not suffice. For example, in sharp contrast to Wingham’s meager chimpanzee experience, individuals who worked directly with chimpanzees at the Chimpanzee & Human Communication Institute at Washington University from 1980 to 2013 received at least 170 hours of training distributed over approximately six months before they were even able to safely serve meals and interact with the chimpanzees. Higher levels of

¹⁷ See LP Birkett & NE Newton-Fisher, *How Abnormal Is the Behavior of Captive, Zoo-Living Chimpanzees?*, 6 PLOS ONE e20101 (2011).

¹⁸ See GA Bradshaw, T Capaldo, L Lindner & G Grow, *Building an Inner Sanctuary: Complex PTSD in Chimpanzees*, 9 JOURNAL OF TRAUMA & DISSOCIATION 9 (2008).

¹⁹ See MA Bloomsmith, SJ Schapiro & EA Strobart, *Preparing Chimpanzees for Laboratory Research*, 47 INSTITUTE FOR LABORATORY ANIMAL RESEARCH JOURNAL 316 (2006).

²⁰ According to the specimen reports, Lucas, Fritz, and Faye were all “hand” raised, and whether Georgia was also is “unknown.” See Permit App. pdf 11-41.

²¹ See, e.g., G Kranendonk & EP Schippers, *A pilot study on the effects of a change in behavioural management on the behaviour of captive chimpanzees* (Pan troglodytes), 160 APPLIED ANIMAL BEHAVIOR SCIENCE 127 (2014); see also EJC van Leeuwen, IC Mulenga & DL Chidester, *Early social deprivation negatively affects social skill acquisition in chimpanzees* (Pan troglodytes), 17 ANIMAL COGNITION 407 (2014).

²² See, e.g., C Adams, *Some lab chimps left with poor health, shortened lives*, MCCLATCHYDC (April 24, 2011), available at <http://www.mcclatchydc.com/news/nation-world/national/article24624646.html>.

care, such as moving chimpanzees, unlocking enclosures, and making decisions about health and well-being, required an additional 330 hours of training distributed over an additional year.²³

Moreover, the behaviors and training of the staff greatly affect the psychological environment of chimpanzees. Caregivers that understand this employ chimpanzee interactions that are positive and relaxed,²⁴ while those that lack an understanding of chimpanzee behaviors – such as those that will be providing the care involved here – often resort to more aggressive interactions, which would be severely detrimental to the well-being of these eight chimpanzees.²⁵ Accordingly, Wingham’s lack of chimpanzee expertise will be extremely detrimental to the well-being of these eight chimpanzees.

Fourth, notably, neither the Transfer Agreement between Yerkes and Wingham, nor the standards that will apply to the chimpanzees once they leave the United States, provide for any protection of the *psychological well-being of these primates* – despite the fact that it is well recognized that this aspect of a chimpanzee’s care is paramount to insuring its humane treatment – precisely why the U.S. Congress amended the Animal Welfare Act in 1985 to require that standards for non-human primates used in exhibitions and research promote their “psychological well-being.” See Animal Welfare Act (“AWA”), 7 U.S.C. § 2143 (a)(2) (providing that entities that exhibit primates in *this country* must adhere to “minimum requirements” for a “*physical environment adequate to promote [their] psychological well-being*”) (emphasis added); *but see* Transfer Agreement, Permit App. pdf. 113-116, ¶ 4 (providing only that Wingham shall provide for the “housing, feeding, and cleaning” of the chimpanzees, “maintain facilities and grounds occupied by the animals in good condition and repair,” provide for “their health and veterinary care,” and “ensure the animals’ complete safety”).

Indeed, it is well established that nonhuman primates, including chimpanzees, possess sophisticated psychological capacities such as maternal behavior, facial recognition, moral

²³ This included vigilance and protocols to avoid being grabbed or bitten by a chimpanzee, or to allow an escape. See, e.g., RS Fouts, ML Abshire Jensvold, MD Bodamer & DH Fouts, *Signs of enrichment: Toward the psychological well-being of chimpanzees*, HOUSING CARE AND PSYCHOLOGICAL WELLBEING OF CAPTIVE AND LABORATORY PRIMATES 376 (EF Segal ed., 1989); ML Jensvold, A Field, J Cranford, RS Fouts & DH Fouts, *Incidence of wounding within a group of five signing chimpanzees (Pan troglodytes)*, 44 LABORATORY PRIMATE NEWSLETTER 5 (2005); ML Jensvold & RS Fouts, *Learning from chimpanzees: Internships at the Chimpanzee & Human Communication Institute*, DEVELOPING, PROMOTING, & SUSTAINING THE UNDERGRADUATE RESEARCH EXPERIENCE IN PSYCHOLOGY 172 (RL Miller et al. eds., 2008), available at <http://teachpsych.org/resources/e-books/ur2008/ur2008.php>.

²⁴ See, e.g., ML Jensvold, *Chimpanzee (Pan troglodytes) Responses to Caregiver Use of Chimpanzee Behaviors*, 27 ZOO BIOLOGY 345 (2008); ML Jensvold et al., *Caregiver-Chimpanzee Interactions with Species Specific Behaviors*, 11 INTERACTION STUD. 396 (2010).

²⁵ See, e.g., ML Jensvold, SA Baeckler, RS Fouts & DH Fouts, *Their own terms: Techniques in humane caregiving of captive chimpanzees*, Poster presented at the INTERNATIONAL SOCIETY OF ANTHROZOOLOGY, Glasgow, Scotland, UK (October 2004).

development, play, fear, stress and emotion regulation, empathy, compassion, and grief.²⁶ Extensive research has also demonstrated similarities in brain structures and processes governing consciousness, cognition, emotions, and sense of self across species.²⁷ Given this body of evidence, in 2011 NIH's Institute of Medicine discussed the importance of providing for the social and psychological well-being of chimpanzees:

chimpanzees live in complex social groups characterized by considerable inter-individual cooperation, altruism, deception, and cultural transmission of learned behavior (including tool use). Furthermore, laboratory research has demonstrated that chimpanzees can master the rudiments of symbolic language and numericity, that they have the capacity for empathy and self-recognition, and that they have the human-like ability to attribute mental states to themselves and others (known as the "theory of mind"). Finally, in appropriate circumstances, chimpanzees display grief and signs of depression that are reminiscent of human responses to similar situations."²⁸

With such robust knowledge as to the richness of chimpanzees' emotional lives, as well as the explicit mention of chimpanzee psychological well-being in the AWA, it is particularly disturbing that there is no mention in Yerkes' permit application of plans to ensure the *psychological* health of these eight chimpanzees.

b. *The export of these chimpanzees will also be detrimental to the survival of chimpanzees in the wild.*

The export of these chimpanzees – and consequent breeding of the animals to produce *baby* chimps – will also be detrimental to the survival of the chimpanzee species in the wild.

As discussed above, Wingham clearly intends to breed these chimpanzees – as Yerkes surely knows, since it (a) purposefully selected eight individuals of breeding age; (b) did not prohibit breeding as part of its Transfer Agreement with Wingham; and (c) has not insured that the two males, Lucas and Fritz, have vasectomies before they are transferred to Wingham.

²⁶ See, e.g., D Narvaez, J Panksepp, A Schore, T Gleason, *The value of the environment of evolutionary adaptedness for gauging children's well-being*, EVOLUTION, EARLY EXPERIENCE AND HUMAN DEVELOPMENT FROM RESEARCH TO PRACTICE AND POLICY, New York: Oxford University Press (2012). See also J Panksepp, *AFFECTIVE NEUROSCIENCE: THE FOUNDATIONS OF HUMAN AND ANIMAL EMOTIONS*, New York: Oxford University Press (1998).

²⁷ See, e.g., G Bradshaw & R Sapolsky, *Mirror, mirror*, AMERICAN SCIENTIST 487 (2006); see also T Capaldo & G Bradshaw, *The bioethics of great ape well-being: Psychiatric injury and duty of care*, ANIMALS AND SOCIETY INSTITUTE, POLICY PAPER, available at <http://www.animalsandsociety.org/pages/the-bioethics-of-great-ape-well-being>.

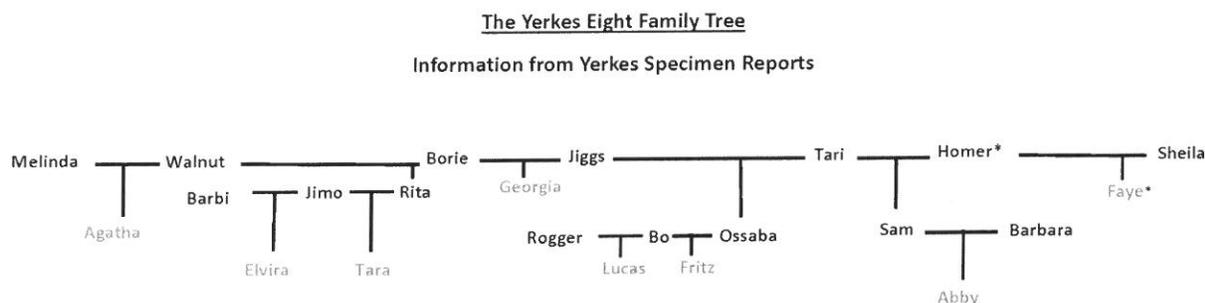
²⁸ Comm. on the Use of Chimpanzees in Biomedical and Behavioral Research, CHIMPANZEES IN BIOMEDICAL AND BEHAVIORAL RESEARCH: ASSESSING THE NECESSITY (Bruce M. Altevogt et al. eds., 2011), available at http://www.nap.edu/openbook.php?record_id=13257.

Further, despite Yerkes' representation that any such breeding will occur only in strict compliance with the requirements of the EEP, as also demonstrated, Wingham is *not* a member of the EEP and, for that reason and because neither Yerkes nor Wingham can guarantee that *any* – let alone *all* – of these animals are of the *verus* subspecies, the EEP would not allow them to be included in its current breeding program, and is therefore adamantly opposed to the export. See Letter from Frands Carlsen, Exhibit A.

Therefore, given all of the circumstances here, and the fact that Wingham has been publicly touting its plans to breed these chimpanzees to make baby chimps, at an absolute minimum export of these chimpanzees will contribute directly to the generation of more surplus hybrid chimpanzees in the U.K., which is completely *contrary* to the objectives of the EEP.

Moreover, according to the Specimen Reports submitted to the FWS by Yerkes, most of these eight chimpanzees are *directly related to each other* – and for this additional reason, their genetic integrity is severely compromised for purposes of using them in a species survival program whose objective is to insure such genetic integrity should the progeny of any such animals be needed in the future to replenish populations that are extirpated from the wild. See, e.g., 44 Fed. Reg. 30044-45 (May 23, 1979) (FWS explaining to the public that the ESA *applies to both wild and captive populations of a species*, because “[c]aptive propagation and other uses of captive wildlife can benefit wild populations” by “[i]ncreasing the likelihood that captive breeding populations will be established as a *source of known genetic stock to bolster or reestablish populations in the wild [and] [r]educing the need to take stock from the wild for scientific or other purposes*”) (emphasis added).

As the chart included below demonstrates, four of the chimpanzees identified for export – Tara and Elvira, and Lucas and Fritz – are half siblings, i.e., Tara and Elvira share the same father (Jimoh) and Lucas and Fritz share the same mother (Bo).



*This assumes that Homer is Faye's father. No sire was listed in Faye's specimen report, however Homer was the alpha male of that social group so it is assumed that he is the father. However, her father could also be Sam.

In addition, *all* of the chimpanzees are closely related cousins – *e.g.*, Tara and Agatha, Tara and Georgia, Fritz and Abby, Georgia and Fritz, Faye and Elvira (assuming Faye’s father is Homer), and Agatha and Abby. *See id.* Accordingly, these chimpanzees will be of no use to the conservation of the species in the wild, and instead, any breeding of these animals will only contribute to an already burgeoning supply of genetically compromised surplus captive chimpanzees in Europe. *See* Exhibit A.

Further, the breeding of these animals – which, again, given all of the attendant circumstances, is clearly what is intended by both Yerkes and Wingham – will be extremely detrimental to the survival of the species in the wild, because it will create captive baby chimpanzees used for display and perhaps other commercial ventures, serving to foster the black market in baby chimpanzees *taken from the wild for the international pet and entertainment industries.*

Indeed, as explained by the Listing Petition submitted in February 2010 to achieve endangered status for the captive members of the species, citing the Declaration of Dr. Jane Goodall – the world’s leading expert on chimpanzees – “*illegal trafficking of live chimpanzees, primarily for the pet and entertainment trades . . . is a major threat to the survival of the species.*” Petition to Upgrade Captive Chimpanzees from Threatened to Endangered Status Pursuant to the Endangered Species Act (March 2010) at 115.²⁹

As Dr. Goodall further explained in her Declaration submitted with that Petition (and attached hereto as Exhibit F):

There is little meat on an infant, so those seized from their dead mothers’ arms are dragged into a harsh and bitter new life in the pet and entertainment trades. *In some markets, poachers can make money selling these live infants, and in this way the demand for pet and entertainment chimpanzees fuels further poaching.* If this destructive and unsustainable cycle does not stop, chimpanzees could become all but extinct within our children’s lifetimes. (¶ 6)

Chimpanzees used in entertainment are almost always infants and juveniles, *leading viewers into the mistaken belief that a cute infant bought by them as a pet will never become a large and potentially dangerous adult, and that this wild, non-domesticated species makes a good companion animal.* (¶ 10)

Not only is exploitation of chimpanzees as pets and for entertainment purposes a horrible sentence for individual captive chimpanzees, it also both *indirectly*

²⁹ The Petition, which is cited in FWS’s Final Listing Rule, is hereby incorporated by reference in its entirety. *See* http://www.releasechimps.org/photos-and-pics/fws_chimp_endangered_petition%202010.pdf

threatens wild populations and undermines conservation efforts. For example, it is clear that the use of chimpanzees in entertainment is a significant driver for the demand for pet chimpanzees. *This demand may be met, especially in the Middle East and parts of Africa., by buying infants whose mothers have been illegally killed . . .* (¶11)

Thus, *exploitation of captive chimpanzees . . . can increase the demand for pet chimpanzees in parts of the world where such demand would be met by capturing wild chimpanzees, providing a financial incentive for local people to hunt chimpanzees for the live animal trade.* (¶12).³⁰

Accordingly, in its Final Listing Rule, the FWS noted that “[w]idespread poaching, capture for the pet trade, and outbreaks of disease are removing individuals needed to sustain viable populations.” See 80 Fed. Reg. at 34508 (emphasis added); see also *id.* at 34510 (“Capture of live chimpanzees for the pet trade has been one of the major causes of the decline in chimpanzees”); *id.* (linking the commercial exploitation of baby chimps to this problem).

Therefore, in light of the fact that Wingham clearly intends to breed these eight chimpanzees to produce baby chimps, and the further fact that, in addition to public display for profit, Wingham has a long-history of engaging in various other commercial activities with respect to the animals at its facility,³¹ the FWS – which will have *no authority over Wingham or these chimpanzees once the export occurs* – simply cannot find that the export of these chimpanzees will “not be detrimental to the survival” of chimpanzee species within the meaning of Article II of CITES.

2. The FWS Cannot Find That The Chimpanzees Will Be “Prepared And Shipped As To Minimize The Risk Of Injury, Damage To Health, Or Cruel Treatment.”

Nor can the FWS make the *additional* finding required by CITES to approve the export of an Appendix II species – i.e., that the eight chimpanzees will be “so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.” CITES, Article IV.

As discussed above – and in the attached Declarations of Dr. Capaldo and Dr. Jensvold – the overseas transportation of these chimpanzees is fraught with problems that pose serious risks

³⁰ See also, e.g., Declaration of Stephen Ross, Chair, Chimpanzee Species Survival Plan (attached as Exhibit G), at ¶¶ 9-12 (making the same points); Declaration of Dr. Richard Wrangham (attached as Exhibit H), ¶ 8 (“To eliminate the demand for live chimpanzees taken out of the wild, which has devastating effects not only on the individual orphans but on the species’ survival as well, it is imperative to address the underlying causes of the demand”).

³¹ See, e.g., Wingham Wildlife Park, *Commercial Filming*, Wingham Wildlife Park website, available at <http://winghamwildlifepark.co.uk/about-us/commercial-filming/>. (detailing the various commercial activities it offers, including use of its animals in films, advertising, and human-animal interactions.)

to the health and well-being of these animals. See Declaration of Dr. Capaldo, Exhibit D, Declaration of Dr. Jensvold, Exhibit E. As Dr. Capaldo explains:

the air and transcontinental transfer of chimpanzees, particularly when U.S. options are available for their lifetime and ethical care, is unacceptable.

Physical well-being during the transfer is of particular concern. *Chimpanzees generally must be anesthetized [prior] to enter[ing] the transport cage. Each chimpanzee reacts differently to anesthesia and the drugs involved – all of which present risks to the animal's health, and even life.* For example, even under the optimal conditions of chartered flight – where the chimpanzees were accompanied by a key lifelong caregiver from the originating facility, as well as a veterinarian with nearly two decades of experience with hundreds of chimpanzees retired or rescued from research, one of the chimpanzees vomited for most of the journey and had to be suctioned and monitored constantly for the full six hours of the flight by the veterinarian. *Another chimpanzee nearly died during the pre-transfer procedure.*

Capaldo Dec. ¶ 6 (emphasis added).

As Dr. Capaldo further explains, the trans-Atlantic transport of these chimpanzees will take an “enormous toll” on them, including an approximate 8.5 hour flight, one hour drive after departure and four hour drive upon arrival, with multiple hours in between those activities. *Id.* ¶ 7. As she further explains, “[t]he shipment of these chimpanzees to England will undoubtedly carry more risk of injury and death to [the animals'] health and well-being than if the chimpanzees were transferred to a sanctuary of high standing within the U.S. and preferably close proximity to [Yerkes].” *Id.* ¶ 8 (emphasis added); see also Attachment to Dr. Capaldo's Declaration (providing additional details and citations concerning the hazards of air transport of chimpanzees); Declaration of Dr. Jensvold, Exhibit E ¶¶ 4 -5 (detailing concerns about the proposed transport of the chimps); *id.* ¶ 6 (“[t]he enormous toll a trans-Atlantic transport will take on these chimpanzees leads me to strongly voice my professional opinion that the transfer should NOT be permitted) (emphasis in original).

Indeed, in light of the inherent dangers posed by transatlantic shipment of these animals, the permit application conspicuously fails to provide information as to how many people will be caring for the chimps during the journey, and the qualifications of such personnel. However, transporting chimpanzees can be so challenging that the AZA recommends that three people travel with each individual animal – two who are familiar with the chimpanzee's personality and history, and a veterinarian – and that each chimpanzee be closely monitored throughout the transport. See AZA Ape TAG, *Chimpanzee (Pan troglodytes) Care Manual*, Association of

Zoos and Aquariums 25 (2010), *available at*, https://www.aza.org/uploadedFiles/Animal_Care_and_Management/Husbandry,_Health,_and_Welfare/Husbandry_and_Animal_Care/ChimpanzeeCareManual2010.pdf. In the case of the requested permit, this would require Yerkes to insure that at least 24 people, including eight veterinarians specializing in primate care, accompany these eight chimpanzees to Wingham. However, again, Yerkes' application contains no information about this extremely important aspect of the requested export.³²

Overseas air transit will be inordinately stressful for these chimpanzees. The intense stimuli commonly encountered in air travel – including rapid or extreme temperature changes, loud and unfamiliar noises (e.g., from the plane's engines), vibrations and gravitational forces of flight, take-off and landing, unfamiliar odors (e.g., jet fumes), and changes in the light cycles to which the animals are accustomed – can traumatize chimpanzees.

As also demonstrated, *see supra* at 8-9, the crates that Yerkes intends to use to transport the chimpanzees do not even meet the basic standards set by the International Air and Transportation Association. Indeed, we note that in the past Yerkes was responsible for the death of at least one chimpanzee, Dover, who, according to the USDA died after being transported in an enclosure that became overheated due to a lack of ventilation. *See* USDA Inspection Report (Aug. 25, 2004), Exhibit I; *see also id.* (further noting that the way in which Yerkes had packaged four rhesus monkeys for transport “inhibit[ed] adequate ventilation of the transport enclosures” in violation of USDA standards).³³

³² Further, although Yerkes states that Wingham will bear the cost of transporting the chimpanzees with “an experienced animal transporter,” Permit App. pdf 112, the application does not specify *which* animal transporter or airline will be used. This is a significant omission however, because if these chimpanzees are forced to endure a transatlantic journey the safest course of action would be to use a chartered cargo plane staffed with multiple veterinarians and caretakers with whom the chimpanzees are familiar. According to personnel for the Live Animal Transport division at FedEx, an international chartered flight to transport zoological animals would likely involve multiple airline transporters and cost at least \$200,000. Another well-known animal transporter, Mitchell Kalmanson, estimates that a chartered cargo flight from the U.S. to the U.K. to ship eight adult chimpanzees would cost between \$275,000-\$400,000. However it does not appear from the permit application materials that either Yerkes or Wingham is undertaking such arrangements.

³³ We also note that Yerkes states that:

[e]specially if the weather is hot, water is to be provided in the bowl; however as a precaution to stop the animals soaking themselves or being covered in water in case of a spillage (especially during the initial transport and transfer to airplane phase of the move water is to be replaced by ice. This will melt slowly giving a gradual and spill proof release of water at the beginning of the journey.

Permit App. pdf 127. However, hoping that some ice will melt at a rate fast enough to provide water if needed by the animals, but not so fast that it will spill, hardly constitutes a viable plan to keep the animals properly hydrated. Moreover, regardless of *weather* conditions, temperature control *during* the flight is especially challenging – i.e., due to changes in altitude, the cargo area can become extremely cold. Yet, without more information concerning the actual carrier and conditions of the overseas flight planned here, it is impossible to assess whether such contingencies will be dealt with adequately.

The limited ability to address unforeseeable emergencies presents additional dangers for chimpanzees transported by air. Based on the collective experience of the individuals and organizations represented here, things can and do go terribly wrong. Therefore, to consign these endangered animals to the limited medical care that would be available on an overseas flight, as opposed to the expert veterinary care that could be employed if these animals were transported by land to a U.S. sanctuary, is simply untenable.

The AZA Chimpanzee Care Manual notes several *additional* kinds of emergencies that may arise during chimpanzee transport:

- Two chimpanzees are crated together and one injures the other;
- An overly sedated chimpanzee suffocates because of his/her position in crate and/or an item in crate;
- A chimpanzee becomes extremely agitated during transport, and collapses and/or injures itself.³⁴

Clearly, any such situation could be better handled during ground, rather than air, transport. Thus, as a Charles River Lab employee has cautioned, for the air transit of chimpanzees “a plan for emergency response at each step” is needed.³⁵

However, Yerkes has presented nothing in its application materials indicating that it has the slightest inkling of these extremely important considerations. Accordingly, the FWS simply cannot find that the transport of these chimpanzees will be done in a manner that will “minimize the risk of injury, damage to health or cruel treatment” of these chimpanzees as required by CITES. CITES, Article IV.

C. Yerkes Has Failed To Meet The Standards That Apply Under Section 10 of the Endangered Species Act.

The requested permit must also be denied because Yerkes has failed to meet the additional standards that apply to the exportation of an endangered species under Section 10 of the ESA, and, for similar reasons, the FWS also cannot make the necessary “findings” that govern such permits. Thus, as demonstrated below, Yerkes has failed to demonstrate that the export of the eight chimpanzees will “enhance the propagation or survival” of the chimpanzee, 16 U.S.C. 1539(a)(1)(A), and the agency cannot find that the permit (a) was “applied for in good faith;” (b) if granted, “will not operate to the disadvantage” of the chimpanzees or their wild counterparts; and (c) will be “consistent” with the conservation purposes of the statute, *id.* 1539(d).

³⁴ See AZA Care Manual at 26.

³⁵ See Elmore (2008), *supra*.

1. Yerkes Has Failed To Demonstrate That The Export Of These Eight Chimpanzees Will “Enhance The Survival Or Propagation Of The Species” Within The Meaning Of Section 10 Of The ESA.

Yerkes has failed to demonstrate that the export of these eight chimpanzees will “enhance the propagation or survival” of the chimpanzee species.

a. Granting the export permit will not “enhance the propagation” of the species.

As demonstrated above, because (a) Yerkes is not a member of the EEP, (b) the EEP is *opposed* to the transfer of these chimpanzees, (c) Yerkes has not demonstrated that each of the chimpanzees belongs to the *verus* subspecies, and (d) *all* of the chimpanzees are closely related genetically, the export of these animals for breeding purposes will certainly *not* “enhance the propagation” of the chimpanzee species in the wild. On the contrary, as discussed *supra*, the exportation of these animals – whom Wingham clearly intends to breed for exhibition and perhaps *other* commercial purposes – will only serve to *undermine* the propagation of the species by creating hybrid and genetically impaired surplus chimpanzees that will not be of any use for stocking depleted wild populations in the future.

b. Wingham’s “educational” materials will not “enhance the survival” of the species.

Yerkes has also failed to demonstrate that the export of the chimpanzees will “enhance the survival” of the species within the meaning of Section 10 based solely on its purported “educational” activities. Indeed, although Yerkes’ application mentioned *several* such activities – including “production of a chimpanzee lesson plan for school grades from first years of primary education through to the final years of secondary school or college” which is “printed in book form and accompanied by a PowerPoint presentation full of activities about chimpanzees and how they compare to people,” Permit App. pdf 99 – no such materials were included with the permit application. Hence it is impossible for the public to comment on these materials, as required by Section 10(c) of the ESA, 16 U.S.C. § 1539(c). *See also Gerber v. Norton*, 294 F.3d 173, 179-82 (D.C. Cir. 2002) (invalidating a Section 10 permit because the materials relied upon by the applicant were not made available for public comment).

Rather, although Yerkes has been working on this application since at least June 2015, the *only* so-called educational materials included in its application was some signage for the Aldabra Giant Tortoise and Red pandas, Permit App. at pdf 102-103 – two species *not* at issue here – and a single page of signage regarding the chimpanzee, *id.* pdf 101. However, this single page of signage is wholly inadequate to demonstrate that the export of these particular eight chimpanzees will “enhance the survival” of the chimpanzee species as a whole – not only because it is extremely limited in content, but also because, as the EEP letter makes clear, there are plenty of surplus chimpanzees available for display in Europe that can be used by Wingham. *See Exhibit A at 2* (explaining that “[u]nder the right circumstances there would be plenty of

chimpanzees in Europe for such a transfer”). Hence, Wingham does not need these particular chimpanzees to exhibit chimpanzees at its facility or to display its proposed signage.

Moreover, the FWS long ago concluded that the use of such materials as the *sole* justification for a Section 10 permit is extremely tenuous in light of the fact that “[i]n most cases, a cause and effect relationship between education of the . . . public and any significant impact on the survival of non-native species in the wild cannot be determined.” 57 Fed. Reg. 548, 551 (Jan. 7, 1992) (emphasis added); *see also id.* (“[e]ven with good material and a good faith effort at delivery by the exhibitor, there may be a limit to the amount of educational content a public which came (and paid) to be entertained will absorb”) (emphasis added).

Indeed, as the agency emphasized in the preamble to the Final Listing Rule, “when considering whether a permit can be issued to authorize activities that would otherwise be prohibited with an endangered species, the purposes of the activity must be for either scientific purposes or for enhancement purposes, *not solely for educational or exhibition purposes.*” 80 Fed. Reg. at 3415 (emphasis added). Accordingly, Wingham’s single page of material about the chimpanzee that was included with Yerkes’ application simply fails to demonstrate that the export of these endangered animals will “enhance the survival” of this species.

Further, Wingham’s proposed signage contains several glaring mistakes, *see* Permit App. pdf 101:

- Habitat and Distribution – Wingham’s description of chimp habitat and distribution is demonstrably incorrect. Wingham states that chimpanzees are distributed across the countries of Gabon, Cameroon, and DR Congo, when in fact they also range across most of Guinea, Sierra Leone, Liberia, Cote d’Ivoire, Equatorial Guinea, and Republic of Congo, as well as parts of Central African Republic, Nigeria, Senegal, and Mali. *See* http://wwf.panda.org/what_we_do/endangered_species/great_apes/chimpanzees/.
- Threats and Conservation – Wingham conspicuously omitted both the exotic pet trade as a threat to the species, as well as poaching for the bush meat – both of which are major threats to the survival of this species.. *See, e.g.,* Final Listing Rule, 80 Fed. Reg. at 34510 .

Indeed, the fact that Wingham very recently referred to the Yerkes’ chimpanzees as “monkeys” on its public website, completely undercuts any notion that this unaccredited zoo is capable of “enhancing the survival” of the species by educating the public about the biology and conservation needs of this Great Ape species, which most certainly is *not* a member of the primate species commonly referred to as “monkeys.” *See* Exhibit J (telling the public that Wingham is “bringing chimps back to kent,” and that it is “*Time To Monkey Around*”) (emphasis added).³⁶

³⁶ Wingham’s current poster concerning the export of the chimpanzees also wrongly asserts that there is “not

- c. *Yerkes' representations concerning money that will be donated to conservation programs also fail to demonstrate that the proposed export will "enhance the survival" of the species.*

Nor, for several reasons, can the mere fact that both Yerkes and Wingham have promised to provide money to chimpanzee conservation programs satisfy the relevant statutory requirement. To begin with, as demonstrated above, the Kibale Chimpanzee Project – which Yerkes represented would be the recipient of such funds – does not want any such money, precisely because it does not want to be used as “leverage” to support Yerkes’ effort to export these eight chimpanzees to this unaccredited zoo. *See* Exhibit C. We understand that the Wildlife Conservation Society has also made clear that it does not want any such funds, and that it is *also* opposed to the proposed export.

Second, any notion that this kind of “pay to play” arrangement “enhances the survival” of the species within the meaning of Section 10 of the statute is seriously misplaced, and violates the plain language of the statute as well as the overall purpose of Section 10. Thus, Section 10 specifically provides that the FWS “may permit” “*any act otherwise prohibited by section 1538 of this title for scientific purposes or to enhance the propagation or survival of the species.*” 16 U.S.C. § 1539(a)(1)(A) (emphasis added). Therefore, under the plain language of the statute, the FWS must determine that the *permitted activity* that would otherwise be unlawful – here, the exportation of an endangered species – will “enhance the survival” of this species.

Here, however, Yerkes seeks permission to export the endangered chimpanzees *not* because such exportation is needed to “enhance the survival” of the species, by, for example, releasing genetically pure chimpanzees back into the wild and thereby assisting in the recovery of this seriously depleted species. Rather, it seeks to export these chimpanzees to allow Wingham to display them to the public for a fee, and, if allowed to export them for *that* purpose, has promised to make some financial contributions to some on-going conservation programs for the species *in exchange* for being allowed to engage in this otherwise prohibited activity. However, because nothing in the ESA *prohibits* either Yerkes or Wingham from making such financial contributions – even assuming that the attendant beneficiaries were interested in receiving them – Yerkes does not need a *permit* for *that* activity. Rather, it needs a permit to *export* the chimpanzees, and, under the plain language of the statute, it must demonstrate that *this* activity – divorced from any other *non-prohibited* activities in which it also may wish to engage – will “enhance the survival” of the chimpanzee species.

Indeed, as mentioned above, in the Final Listing Rule the agency itself explained that “when considering whether a permit can be issued to authorize activities that would otherwise be prohibited with an endangered species, ***the purposes of the activity must be for either scientific purposes or for enhancement purposes***, not solely for educational or exhibition purposes.” 80 Fed. Reg. at 3415 (emphasis added). Therefore, because Yerkes simply cannot make this

enough room” for these chimps in any U.S. sanctuary. *See* Exhibit K. As demonstrated below, *infra* at 30, this self-serving proclamation is simply incorrect.

showing, the FWS may not grant the requested permit under Section 10. *See also* 50 C.F.R. § 17.22(a)(1)(vii) (requiring applicants for enhancement permits to provide “[a] full statement of the reasons why the applicant is justified in obtaining a permit including the details of *the activities sought to be authorized by the permit*”) (emphasis added).

The ESA’s legislative history demonstrates that the “enhancement” requirement of Section 10 was intended to be extremely limited in scope and would only be used where allowing the otherwise strictly *prohibited* activity was necessary to *benefit* the species in the wild – for example, where a population had become so low that the species’ only chance of survival and recovery was to remove individuals from the wild to be bred in captivity so that their progeny could be *returned* to the wild, or experimentation on the species was necessary to find a cure for a disease that would otherwise extirpate the wild population. Thus, Congress explained that:

[a]ny *such activities to encourage propagation or survival may take place in captivity*, in a controlled habitat or even in an uncontrolled habitat so long as *this* is found to provide the most practicable and realistic opportunity to encourage the development of the species concerned.

H. Rep. No. 412, 93d Cong., 1st Sess. 17 (July 27, 1973)) (reprinted in “A Legislative History of the Endangered Species Act of 1973” (“Legislative History”), 97th Cong., 2d Sess. (February 1982) at 156 (emphasis added); *see also id.* at 396 (Senator Tunney, who proposed the enhancement requirement, explaining that “[t]his is a needed management tool recommended by all wildlife biologists . . . for example, *where a species is destroying its habitat or where the species is diseased*”) (emphasis added).

The legislative history also demonstrates that the intent of Congress in drafting Section 10 was “to *limit substantially the number of exemptions that may be granted under the act.*” Legislative History at 156 (emphasis added). However, this purpose would be completely undermined by allowing any entity seeking to engage in an otherwise prohibited activity under the statute to do so simply by offering to contribute some money to an organization in exchange for such permission, as Yerkes seeks to do here.

Further, even if the FWS were to sanction this completely unlawful arrangement, the amount of money being pledged for conservation here is a mere pittance compared to (a) the value Yerkes has received during the decades it has used these animals in research completely unrelated to preserving this species in the wild; (b) the amount of money Yerkes will save from no longer having to bear the cost of care for the eight chimpanzees; and (c) the amount of money Wingham will make from exhibiting these chimpanzees – and their progeny, which it clearly intends to produce – over the life-time of these animals.

For example, the NIH has estimated that the average cost of care for a chimpanzee per day for a research laboratory is \$37.37/day, or \$13,640.05 per year (\$37.37 x 365 days).³⁷

³⁷ *See* ORIP Division of Comparative Medicine, Costs for Maintaining Humane Care and Welfare of Chimpanzees, NATIONAL INSTITUTES OF HEALTH (October 21, 2015), *available at*

Given that the average life expectancy for a chimpanzee in captivity is approximately 30 years for males and 45 years for females,³⁸ this means that these eight chimps – with the youngest (Tara) being only 20 years old, and the oldest (Georgia) being 38 years old – have a total of ~81 years left in their collective lives. Therefore, if Yerkes were required to continue to care for them, it would need to spend approximately \$1,104,844.05 (\$13,640.05 x 81) – considerably more than the \$10,000 it is offering to provide WCS for conservation purposes

Even more striking is the amount of money that Wingham will make from displaying these chimpanzees, whose arrival it is aggressively marketing to the public.³⁹ Indeed, even using an extremely conservative estimate for the amount of additional ticket sales Wingham stands to garner as a result of this new exhibit, this unaccredited zoo could make \$2.7 million *more* in sales *each year the chimps are there* – or *hundreds of millions of dollars over the lifetime of these chimpanzees, and even more if it breeds them and displays their progeny for years to come.*⁴⁰ Thus, the less than \$9,000 (\$1790 x 5) that Wingham is offering to donate for chimpanzee conservation is infinitesimal compared to the amount of money it stands to make from this extremely lucrative transaction.

http://dpcpsi.nih.gov/orip/cm/chimpanzee_maintenance.

³⁸ See, e.g. J Cohen, *The Endangered Lab Chimp*, 315 SCIENCE (2007); EN Videan et. al., *Effects of Aging on Hematology and Serum Clinical Chemistry in Chimpanzees* (Pan troglodytes), 70 AMERICAN JOURNAL OF PRIMATOLOGY 327 (2008).

³⁹ See, e.g. Wingham Wildlife Park homepage, available at <http://winghamwildlifepark.co.uk> (the upcoming arrival of the chimpanzees is the top headline on Wingham's website); Wingham Wildlife Park, *Chimpanzee Fund Raiser – 15th May 2015*, Wingham Wildlife Park website, available at <http://winghamwildlife.co.uk/chimpanzee-fund-raiser-15th-may-2015>; Wingham Wildlife Park, Research Center Chimpanzee Move, gofundme, available at <https://www.gofundme.com/llrf2c>; Wingham Wildlife Park Facebook page, available at <https://www.facebook.com/WinghamWildlifePark>; Margate Football Club, *Interview with Tony Binskin* (January 22, 2015), available at <https://www.youtube.com/watch?v=cyu1nys5zEA>.

⁴⁰ For example, between 2010 and 2013, the number of annual visitors to Wingham increased 67% from 120,000 a year to 200,000, concurrent with Wingham adding other charismatic species (penguins and tigers) to its collection. WWP's Public Relations Manager, *Comment*, TRIP ADVISOR (September 1, 2013), available at http://www.tripadvisor.com/ShowUserReviews-g1166690-d2099723-r172250757-Wingham_Wildlife_Park-Wingham_Kent_England.html#. In light of the hype it is generating around the arrival of the chimpanzees – which it claims it is rescuing from a U.S. laboratory, see Poster (Exhibit J) – it is reasonable to assume that Wingham will experience at least as much of an additional visitor increase, if not more, likely bringing the total visitors to approximately 334,000. Given that the ticket prices for adults and children are £ 15.00 and £ 12.00, respectively (or approximately \$ 22.80 and \$ 18.25 in U.S. dollars), see Wingham Wildlife Park, *Ticket Prices*, Wingham Wildlife Park webpage, available at <http://wingham.wildlifepark.co.uk/visitor-information/ticket-prices/>, this means that Wingham stands to make at least \$ 2.7 million *more* each year from the display of these chimpanzees. This does *not* include the sales of chimp-related gifts and concessions, or the *additional* money Wingham will make from adding chimpanzees to the animal “experiences,” VIP tours, and “Keeper for the Day” opportunities it offers the public, or should it offer the chimpanzees and their progeny for any of the *other* commercial activities in which it is engaged. See Wingham Wildlife Park, *Experiences*, Wingham Wildlife Park webpage, available at <http://winghamwildlifepark.co.uk/experiences/>; see also *supra* note 31.

Therefore, should the FWS decide that despite the plain language of the statute and its legislative history, it may permit the export of these chimpanzees in exchange for contributions to conservation programs, it should insure that *all* money made from the display or other commercial use of these animals – minus the actual cost of their care – be donated to chimpanzee conservation in the wild. *See* 16 U.S.C. § 1539(a)(1)(A) (the FWS may issue such permits “under such terms and conditions” as it shall prescribe).

2. The FWS Cannot Make The Other Findings Required By Section 10.

The FWS also cannot make the other “findings” required by Section 10 of the ESA. *See* 16 U.S.C. § 1539(d).

Thus, in light of all the misrepresentations and material omissions in Yerkes’ application, discussed above, the agency cannot possibly find that this permit was “applied for in good faith.” *Id.* § 1539(d)(1).

For all of the additional reasons discussed above, the FWS also cannot find that the export of these chimpanzees “will not operate to the disadvantage of such endangered species,” *id.* § 1539(d)(2), or that the requested export “will be consistent” with the conservation policies of the ESA, *id.* § 1539(d)(3). On the contrary, as demonstrated above, allowing this export will be extremely *detrimental* to the captive chimpanzees who have already been separated from their social groups, will be knocked down, packaged in crates, shipped overseas to an unaccredited zoo with no experience caring for chimpanzees, let alone those that have lived their entire lives in a laboratory setting, and who will live the remainder of their days being displayed to the public for commercial gain, and bred to create *more* chimpanzees for such purposes.

As further demonstrated, allowing the export may also prove injurious to the remaining dwindling populations of *wild* chimpanzees by contributing to the already devastating black-market in baby chimps taken from the wild for the pet and entertainment industries. Thus, rather than being “consistent” with the ESA, allowing this export under all of these circumstances would be *anathema* to the purposes of the ESA – “*the most comprehensive legislation for the preservation of endangered species ever enacted by any nation.*” *Tenn. Valley Auth. v. Hill*, 437 U.S. 153, 180 (1978) (emphasis added).

III. THE FWS MUST COMPLY WITH THE REQUIREMENTS OF THE NATIONAL ENVIRONMENTAL POLICY ACT IN CONNECTION WITH DECIDING WHETHER TO GRANT THE REQUESTED PERMIT.

The FWS also may not grant the requested permit without complying with the requirements of the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4321 *et seq.*, and the implementing regulations promulgated by the Council on Environmental Quality (“CEQ”).

NEPA's purposes are to "help public officials make decisions that are based on [an] understanding of environmental consequences," and to "insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken." 40 C.F.R. § 1500.1(b)-(c) (emphasis added). To accomplish these purposes, NEPA requires all agencies of the federal government to prepare an Environmental Impact Statement ("EIS") regarding all "major federal actions significantly affecting the quality of the human environment." 42 U.S.C. § 4332(C). Where an agency is not sure whether the effects of the proposed action may be significant, it must prepare an Environmental Assessment ("EA") for that determination. 40 C.F.R. § 1501.4(b). The EA must analyze both "direct" impacts of the proposed action, i.e., those that result immediately from the proposed management action, as well as the "indirect" impacts, which are those caused by the action later in time but "still *reasonably foreseeable*." *Id.* § 1508.8(a)-(b) (emphasis added).

In determining whether an action is "significant," the agency must consider the degree to which the action "may adversely affect an endangered or threatened species," "[t]he degree to which the effects on the quality of the human environment are likely to be highly controversial," "[t]he degree to which the action may establish a precedent for future actions with significant effects," and "[w]hether the action threatens a violation of Federal . . . law or requirements imposed for the protection of the environment." 40 C.F.R. § 1508.27(b). Courts have found that "the presence of one or more of [the CEQ significance] factors should result in an agency decision to prepare an EIS." *Fund for Animals v. Norton*, 281 F. Supp. 2d 209, 218 (D.D.C. 2003) (additional citations omitted).

Here, granting the requested permit would implicate *several* of the CEQ significance factors. As demonstrated above, it "may adversely affect" both the captive endangered chimpanzees at issue as well as the wild chimpanzee populations. 40 C.F.R. § 1508.27(b). As also demonstrated – and as further evidenced by the letters from both the EEP and officials of the Kibale Chimpanzee Research Project, Exhs. A, C – the proposed permit is "highly controversial." 40 C.F.R. § 1508.27(b); *see also, e.g., Anderson v. Evans*, 314 F.3d 1006, 1018 – 1019 (9th Cir. 2003) (effects are "highly controversial" when the scientific community raises serious concerns about the proposed action).

As further demonstrated above, and particularly because this is the first permit of its kind to be requested in the immediate wake of the FWS's determination to list the captive members of this species as endangered, granting the requested permit "*may establish a precedent for future actions with significant effects*." 40 C.F.R. § 1508.27(b) (emphasis added) – i.e., it will undoubtedly be cited by others in possession of endangered captive chimpanzees who will seek to relieve themselves of any ESA liability by likewise seeking permission to send *their* animals to unaccredited zoos around the world.

For similar reasons, and because the FWS is being asked to grant an export permit based principally upon Yerkes' and Wingham's promises to provide money to other organizations, and hence in violation of the plain language of Section 10 of the ESA – i.e., the export itself will *not* "enhance the survival" of the chimpanzee species – granting the permit also "threatens a violation

of Federal . . . law.” *Id.* Hence, certainly an EA is required here, and, given the number of significance factors present, an EIS is also required.

For the same reasons, the FWS is required by NEPA to “rigorously explore and objectively evaluate all reasonable alternatives” to the proposed action. 40 C.F.R. § 1502.14(a). Here, as mentioned above, and as more thoroughly discussed below, there is one over-arching alternative available here – i.e., that Yerkes’ permit application be denied and the eight chimpanzees instead be transferred to a U.S. sanctuary. This solution will afford these animals the opportunity to live out their lives in a setting with the highest standard of care for chimpanzees that mimics their natural habitat to the greatest extent possible, in compatible social groups, and without being bred for commercial exploitation. It would also avoid the physical and psychological toll that accompanies overseas travel, and, at the same time eliminate any possibility that the export of these chimpanzees will have any negative impact on the species in the wild.⁴¹

IV. THE FWS MAY NOT ISSUE THE REQUESTED PERMIT WITHOUT COMPLYING WITH THE SECTION 7 CONSULTATION PROCESS.

For similar reasons, the FWS also may not issue the requested permit without complying with its separate obligation under Section 7 of the ESA to “insure” that issuing the permit is “not likely to jeopardize the continued existence of any endangered species.” 16 U.S.C. § 1539(b)(3)(A). This is particularly true in light of the evidence showing that Wingham intends to breed these chimpanzees outside the requirements and oversight of the EEP, and that such breeding, and the resultant exhibition and other commercial exploitation of baby chimpanzees, may contribute to the black-market in baby chimpanzees taken from the wild for the pet and entertainment trade.

As demonstrated above, *see supra* at 17-18, world renowned chimpanzee experts have already warned the agency that the commercial exploitation of baby captive chimpanzees fuels this black-market – a major factor contributing to the continuing decline of the species in the wild. Indeed, as the agency itself noted in the Final Listing Rule, “[w]idespread poaching, [and] capture for the pet trade . . . are removing individuals needed to sustain viable populations; recovery from the loss of individuals is more difficult given the slow reproductive rates of chimpanzees.” 80 Fed. Reg. at 34508 (emphasis added); *see also id.* at 34510 (“[c]apture of live chimpanzees for the pet trade has been one of the major causes of the decline in chimpanzees”) (emphasis added); *id.* (“[t]he effects of the pet trade are particularly devastating to wild populations because the mother and other family members may be killed to capture an infant. Researchers estimate that as many as 10 chimpanzees may be killed for every infant that enters the pet trade”) (emphasis added).

⁴¹ As demonstrated by the EEP letter, Exhibit A, there are also plenty of surplus chimpanzees already in Europe that can be used by Wingham at its new facility. *See also, e.g.*, International Zoo Services, available at <http://zoo-services.com/> (demonstrating that there are additional chimpanzees much closer to the Wingham facility available for placement.)

Accordingly, the FWS must comply with its Section 7 consultation obligations before issuing the requested permit.

V. THE CHIMPANZEES SHOULD BE TRANSFERRED TO AN ACCREDITED SANCTUARY IN THE UNITED STATES.

As discussed above, there are several sanctuaries in the United States that are willing to take these eight chimpanzees, including four that are USDA-licensed and GFAS accredited or eligible, including several located in the southeastern part of the country in close proximity to Yerkes, including but not limited to Primate Rescue Center, (KY), Center for Great Apes, (FL), Chimpanzee Sanctuary Northwest, (WA), Black Beauty Ranch, (TX), and Chimp Haven (LA). Obviously, sending these eight chimpanzees to a U.S. sanctuary that is subject to much higher standards of care than Wingham – an unaccredited zoo – would provide these endangered chimpanzees far superior care, as well as continued U.S. oversight. *See, e.g.,* Exhibit L (outlining standards that apply to these sanctuaries).

Denying Yerkes' permit application would surely facilitate such a transfer because Yerkes would be prohibited by federal law to export the chimpanzees to Wingham *without* authorization from the FWS, and Yerkes also could not continue to maintain these chimpanzees without "taking" them in violation of Section 9 of the ESA. *See* 16 U.S.C. § 1532(c) (the definition of "take" is broadly defined to include both actions that "harm" and "harass" endangered animals). Denying the permit application would also afford these chimpanzees an opportunity for much better lives than they and their progeny will have at Wingham, and, at the same time, avoid all adverse implications for the wild chimpanzee populations. Accordingly, this alternative solution is the far better course of action here.

VI. CONCLUSION

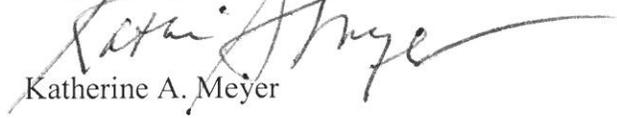
For all of the above reasons, the requested permit must be denied. Moreover, because Yerkes' present permit application contains many misstatements, discrepancies, and material omissions, the application may not be stayed or supplemented pending further consideration. Rather, the present permit application must be denied, and, any *new* permit application would have to both comply with all of the relevant permit requirements and be subjected to a new round of public comment before it could be approved. *See* 16 U.S.C. §1539(c); *Gerber v. Norton, supra*.

Whatever action the FWS takes, it should honor Director Ashe's June 2015 acknowledgment that captive chimpanzees, including Lucas, Fritz, Agatha, Abby, Tara, Faye, Georgia, and Elvira – who have lived their entire lives as the subjects of research for the benefit of *our* species – should no longer be treated "as a commodity," but rather, deserve the highest

degree of respect and protection now that they have finally been listed as "endangered" under the ESA.

Should the FWS nevertheless grant the requested permit, despite all of the evidence and arguments discussed above, we request immediate notice of that decision so that we may have an opportunity to seek judicial review before any of the chimpanzees leave the country.

Respectfully submitted,

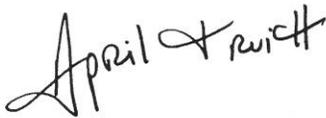


Katherine A. Meyer

On behalf of:



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Project R&R: Release and Restitution for Chimpanzees in U.S. Labs



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Terri Hunnicutt
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** Laboratory Primate Advocacy Group of former and current laboratory technicians/caregivers

EXHIBIT A

**COMMENTS ON YERKES' APPLICATION FOR A PERMIT TO EXPORT EIGHT
ENDANGERED CHIMPANZEES TO THE WINGHAM WILDLIFE PARK**

BY NEW ENGLAND ANTI-VIVISECTION SOCIETY ET AL.

(NOVEMBER 2015)



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Copenhagen, 2 November 2015

Re: ESA PRT-69024B / Yerkes National Primate Research Center

TO WHOM IT MAY CONCERN

The European Association of Zoos and Aquaria (EAZA) Chimpanzee EEP (European Endangered Species Program) has been made aware of the Yerkes National Primate Research Center's (YNPRC) plan to donate a breeding group of chimpanzees, not assigned to subspecies, to Wingham Wildlife Park (WWP) in the UK.

The EEP does not support the proposed transfer.

Before the mid 1990s the European chimpanzee population was not managed as a program. As a result, there was no overview of how subspecies founders had been mixed at the institutional level and the consequent extent of subspecies hybridization. In 1995 it was decided to pursue efforts to manage the population at the subspecies level, emphasizing the necessity of definitive, scientific testing as alleged geographic origin and/or port of embarkation is not sufficient information when assigning subspecies.

Thanks to a thorough analysis of the extant population, it was possible to initiate a breeding program for the western subspecies (*Pan troglodytes verus*) in 2002. Due to the development of more complex and precise testing methods, recently it has also been possible to identify a smaller group of central chimpanzees (*P. t. troglodytes*) for which a breeding effort has now been started.

The testing also revealed an extensive level of subspecies hybridization in the population and as a consequence all other chimpanzees in the EEP are now on a breeding moratorium to avoid further hybridization unless there are urgent welfare issues involved, which pull in another direction. To avoid the latter the population is managed in mixed taxon groups with a core of breeding individuals mixed with non-breeding individuals.

Lately the EEP has started a collaboration with the Association of Zoos and Aquariums (AZA) Species Survival Plan (SSP) for chimpanzees to test the SSP population (hopefully eventually also looking at the larger North American chimpanzee population) and the EEP also collaborates with other regions (Japan, Austral-Asia and Latin America) in this regard. The proposed transfer of “generic” chimpanzees from YNPRC to WWP and plans to breed with this group is of course in direct contrast to the efforts outlined above.

Despite the fact, that WWP are neither a member of EAZA nor the British and Irish Association of Zoos and Aquariums (BIAZA), the EEP on earlier occasions discussed the possibility of a chimpanzee facility in WWP. WWP asked for and received advice in this regard. Despite concerns, especially about WWP's lack of experience with the species, the EEP decided to look into the possibilities of placing a bachelor group at WWP in collaboration with the AAP Foundation in The Netherlands. By then WWP appeared to be on another track and did not respond to further correspondence. The EEP has not been contacted by WWP or YNPRC regarding the proposed transfer.

Under the right circumstances there would be plenty of chimpanzees in Europe for such a transfer, and the EEP is prepared to enter into new discussions with WWP in this regard. As there is already a serious issue with surplus of “generic” chimpanzees in Europe, it does not make sense to import more to the region, nor to initiate a new breeding group. There are still many chimpanzees in Europe that need outplacement and not enough good places to place them.

The EEP therefore sincerely hopes that both YNPRC and WWP will reconsider this transfer.

Sincerely,

The image shows two handwritten signatures in blue ink. The first signature on the left is 'F.C.' and the second signature on the right is 'T.J.'.

*Frands Carlsen and Tom de Jongh
EEP Coordinators Pan troglodytes*

EXHIBIT B

**COMMENTS ON YERKES' APPLICATION FOR A PERMIT TO EXPORT EIGHT
ENDANGERED CHIMPANZEES TO THE WINGHAM WILDLIFE PARK**

BY NEW ENGLAND ANTI-VIVISECTION SOCIETY ET AL.

(NOVEMBER 2015)

BEFORE THE FEDERAL FISH AND WILDLIFE SERVICE

In Re: Application by Yerkes National Primate Research Center to export)
eight chimpanzees to Wingham Wildlife Park in Kent, England)
PRT - 69024B)
Docket No. FWS-HG-IA-0149)

DECLARATION OF THEODORA CAPALDO

1. I am President and Executive Director of the New England Anti-Vivisection Society (NEAVS), Boston, MA, and am submitting this declaration in support of comments by NEAVS and others opposing the above referenced permit application BY Yerkes National Primate Research Center (“Yerkes”) to export eight chimpanzees to the Wingham Wildlife Park (“Wingham”) in England.

2. At the end of June, 2015 I had NEAVS business in the UK and included in that itinerary a day-long visit to Wingham Wildlife Park. My purpose was to see firsthand the facility, animal care standards, and the planned new chimpanzee building for a proposed transfer of chimpanzees from Yerkes, and to speak with staff about the transfer.

3. Michelle Thew, CEO of Cruelty Free International, UK, and I made the approximate 3 ½ to 4 hour drive from London to Kent, where Wingham is located. It is located in a rural area of some distance from both the major city of London and Kent proper. We arrived just after lunch, paid our admission fees and visited the various exhibits. We left sometime around 4 or 4:30 PM.

4. I was immediately struck by the general disrepair of the facility – e.g. sections with visible trash such as wire, broken structures, structures left empty and in need of significant repair, as well as structures in use by animals with inadequate repair, etc., and observed other conditions that caused me concern, such as:

the placement of rat traps in unsecured locations within animal enclosures where non-target species could get to them;

monkey enclosures in which half to a third of the ropes were unusable for climbing as they were unattached at one end or both, (while most of the rope was heavy, there was also three instances of thinner cords of a frayed blue nylon hanging vertically, presenting a great danger to young animals in the enclosures who have been known in play to strangle themselves with rope which easily bends on itself and is unsecured at both end;

the ease with which some animals (e.g. penguins and parrots) could be accessed by visitors via topless enclosures and the close proximity of the railing surrounding the enclosures from which the visitors can view and reach the animals;

the general lack of enrichment for the animals, including some enclosures being entirely barren (without even grass and instead just worn down dirt) except for an empty water bowl;

the minimal safety precautions even with large species such as pumas and cheetahs;

the rust and sharp edges of some of the enclosures;

the apparent lack of water within close proximity to the enclosures as I witnessed staff carrying blue buckets full of water from what appeared to be the operations and kitchen building some distance from most of the enclosures; and

even the disrepair of the children's outside playground including chipped paint on animal-like structures for them to "ride."

5. I also saw a lone young gibbon sitting in the corner on the ground of her enclosure surrounded by grass that was as tall as or taller than the gibbon in her sitting position, clutching a stuffed animal.

6. It was a typically hot day in England and I noted several animals panting and without access to shade and with empty water bowls – in fact, the majority of the enclosures I visited had overturned water bowls.

7. Some enclosures provided shade via trees and or extended roofs, others only provided incidental shade from what was cast by a small shed like building in their enclosure.

8. The pool for the penguins held dirty water with film and droppings which had piled up along the edges, and the penguins remained in a small cave-like structure at the pool's edge behind a short wall --none entered the water during my observations of them.

9. The lynx was inside and panting heavily, even given the small enclosure she/he had. She had a sign noting she was injured – a sign that another colleague, Abbie Parker from Cruelty Free International, U.K., had noted was there in April 2015. I saw that the lynx had an unhealed wound on the top of her paw and a banded dark scar less than an inch from it that ran the circumference of her leg.

10. I was also struck at how few animals were outside that day, again especially given the small, box-like inside enclosures they had access to.

11. In sharp contrast to all of this I saw a brand new entrance and exit building with an abundant supply of typical zoo souvenirs to purchase, and next to it and behind, the beginning foundation of a building which I learned was intended to house the chimpanzees that would be imported from Yerkes.

12. I read the exhibited posters regarding the chimpanzee transfer and was struck by its message to the public that there was no room for the chimpanzees within the U.S., and hence that Wingham was “rescuing” the Yerkes’ chimps. I have firsthand knowledge of several accredited sanctuaries willing to take the Yerkes chimpanzees.

13. I spoke to one of the Zoo care-givers who proudly informed me that everyone was “excited the chimpanzees were coming and hoping they would have babies soon.”

14. It was obvious that the Zoo had an intensive breeding program underway, as many of the enclosures had young animals, including a very large number of young lemurs.

15. After visiting and photographing what in my opinion is a Zoo that under US standards would be considered substandard in its hygiene, safety, and animal care, and in particular with regard to its lack of environmental enhancement, Wingham is a far cry from my experience with US Global Federal of Sanctuary accredited facilities’ standards.

16. I asked in the entry and gift shop if I could speak to the “head animal care giver” as I had some questions about the pending transfer from the U.S., and was directed to a man, whose name I believe is Marcus, who stated that Wingham hoped to get the chimps by early to late fall, but that there were some construction “slowdowns.”

17. When asked specifically if Wingham planned to have baby chimps, he responded: “Yes we do. They will arrive on birth control and then as soon as we are ready we will take them off as we hope they will breed.”

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.



Theodora Capaldo

Date: 10/27/2015

EXHIBIT C

**COMMENTS ON YERKES' APPLICATION FOR A PERMIT TO EXPORT EIGHT
ENDANGERED CHIMPANZEES TO THE WINGHAM WILDLIFE PARK**

BY NEW ENGLAND ANTI-VIVISECTION SOCIETY ET AL.

(NOVEMBER 2015)



Makerere University Biological Field Station • PO Box 409 • Fort Portal, Uganda • Phone: +256 779 074 593

Web: www.kibalechimpanzees.wordpress.com/snare-removal-program

Wingham Wildlife Park Animal Welfare
Rusham Road
Wingham, Kent, CT3 1JL

Dear Markus Wilder and WWP Board of Trustees,

Recently some concerning news regarding the Yerkes chimpanzees and their transport to Wingham Wildlife Park (WWP) has been brought to our attention. I will outline our areas of concern below:

1. WWP is an unaccredited facility and not part of the species survival plan for chimpanzees. We were unaware of this until recently and now have some major concern about the long-term regulation and care of the Yerkes chimpanzees if they are transferred to your facility.
2. Upon closer investigation of WWP, we have also learned that you allow human-animal contact interactions with some of your exotic species. While WWP has established a new animal welfare charity, we do not think these types of human-animal interactions are in the best interest of the animals and can potentially hurt the conservation of species. Allowing these types of interactions can send very mixed signals to the general public about species-typical behaviors and we would be worried that WWP might have similar plans for the chimpanzees that could ultimately impede on their welfare and species conservation.
3. We have also just learned that WWP has not already secured the necessary permits for the exportation of the Yerkes chimpanzees. We were under the impression that all permits had already been obtained and that all necessary steps had been legally taken. Most disturbingly, we have recently learned that we are listed on the Yerkes-WWP joint permit application to the US Fish and Wildlife Services as one of the in-situ chimpanzee conservation organizations to satisfy the 'enhancement requirement' for the Final Chimpanzee Rule. In this case, we are unknowingly being used as leverage to help you obtain your permit and are completely uncomfortable with this relationship and thereby cannot endorse this letter written by Joyce Cohen from Emory on page 187-188 of the application. We see that this letter listing us as your 'chimpanzee conservation donation' was written and dated only six days after you first established with us, and only two days after we expressed interest in exploring collaboration. The use of us in this context without our knowledge is a complete overstepping of boundaries, demonstrates a misuse of our organization, and promotes a high level of mistrust.



KIBALE CHIMPANZEE PROJECT

SNARE REMOVAL PROGRAM

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4. We are now aware that there are sanctuaries in the USA that have agreed to give the Yerkes chimpanzees a permanent home and provide for their full care. Given the difficulties and dangers associated with transporting chimpanzees, especially over long distances, minimizing transport distance is extremely important in managing and caring for the chimpanzees' health, stress, and overall well-being. This alone provides a good argument for the chimpanzees to stay within the USA and find a new home at a volunteering sanctuary. If WWP is truly concerned with animal welfare, on this point, I think we can then agree.
5. Yerkes may be more interested in transferring their chimpanzees to WWP because they would be relieved of any financial obligation to their long-term care. Sanctuaries taking on the responsibility of the chimpanzees would likely and justifiably ask for a financial contribution from Yerkes for the chimpanzees' retirement. Avoiding caregiver financial responsibilities is not a good argument for transferring the chimpanzees overseas, and it is only fair that Yerkes invest in the retirement of the chimpanzees they have used in their research for decades.
6. We have learned that many chimpanzee welfare organizations in the USA are not supporting the transfer of the Yerkes chimpanzees to WWP. This includes, but is not limited to the Chimpanzee Species Survival Plan, AZA/EAZA, New England Anti-Vivisection Society, Release and Restitution for Chimpanzees, and Jane Goodall Institute USA. We highly value the evaluations and opinions of these organizations, knowing that they always have chimpanzees' best interest in mind. We are also funded and advised by several branches of the world-renowned Jane Goodall Institute and we unquestionably support their stance on this situation.

Having just learned the above information, unfortunately we are no longer comfortable moving forward in partnership with WWP/WWPAW as a partial funder of the Kibale Chimpanzee Project's snare removal program or displaying any of our media (photographs, videos, logos, etc.) on WWP property. Please do not use any of the media, including our mini-documentary as shared by Jane Goodall Institute in Netherlands, which we have already shared with you at your facility, on your website, or any of your social media platforms. If you have already posted information, please remove it immediately upon receipt of this letter. We do not feel that continuing our relationship with WWP would be in the best interest of our organization or wild chimpanzee conservation. Since no money or services have been exchanged at this point, this letter should suffice as reasonable notification of the termination of our potential partnership and collaboration.



**KIBALE
CHIMPANZEE
PROJECT**
SNARE REMOVAL PROGRAM

Makerere University Biological Field Station • PO Box 409 • Fort Portal, Uganda • Phone: +256 779 074 593

Web: www.kibalechimpanzees.wordpress.com/snare-removal-program

We have also copied US Fish and Wildlife Services on this correspondence to notify them of our concerns and to make it clear that we were unaware that WWP and Yerkes were using

us as leverage for obtaining a chimpanzee exportation and transfer permit. We want to make it clear that given all of the information we have gathered we are now advocating for the Yerkes chimpanzees to stay in the USA and be transferred to a volunteering chimpanzee sanctuary when the necessary arrangements can be made. We think this would be best not just for the eight chimpanzees proposed for exportation to WWP, but also for the treatment, welfare, and conservation of chimpanzees in general.

Thank you for respecting our decision. Moving forward, we hope you will seek certification with the EAZA and reconsider your chimpanzee exportation permit application and take into account that a sanctuary within the USA would actually be a better placement for the Yerkes' chimpanzees' welfare.

Sincerely,



Jessica A. Hartel, Ph.D.
Director, Kibale Snare Removal Program, Kibale Chimpanzee Project
Postdoc, Centre for Biocultural History, Aarhus University, Denmark



Richard Wrangham, Ph.D.
Moore Professor of Human Evolutionary Biology, Harvard University
Co-Director, Kibale Chimpanzee Project



Emily Otali, Ph.D.
Field Manager, Kibale Chimpanzee Project

EXHIBIT D

**COMMENTS ON YERKES' APPLICATION FOR A PERMIT TO EXPORT EIGHT
ENDANGERED CHIMPANZEES TO THE WINGHAM WILDLIFE PARK**

BY NEW ENGLAND ANTI-VIVISECTION SOCIETY ET AL.

(NOVEMBER 2015)

BEFORE THE FEDERAL FISH AND WILDLIFE SERVICE

In Re: Application for Export Permit By Yerkes National Primate Research Center, Emory University, To Export Captive Chimpanzees, and Appendix II Species, to The Wingham Wildlife Park in England

DECLARATION OF THEODORA CAPALDO, Ed.D.

1. I am a Massachusetts licensed psychologist with more than 30 years of experience treating patients with a variety of psychological disorders, including Post Traumatic Stress Disorders (PTSD), Anxiety Disorders, and Depression as well as the challenges of severe physical illnesses. As such, I am experienced in understanding the detrimental effects of stress on one's physical and psychological well-being. Included in my professional affiliations is membership in the American Psychological Association. Among other publications, I have co-authored several papers on various psychological components of humane care of chimpanzees in laboratories, including the first paper to be published regarding PTSD in chimpanzees. The clinical case studies were published in the *Journal of Trauma and Dissociation*, *Building an Inner Sanctuary: Complex PTSD in Chimpanzees* and in *Developmental Psychology*, *Developmental Context Effects on Bicultural Post-Trauma Self Repair In Chimpanzees*—both esteemed journals within the field of psychiatry and psychology. Further, I co-authored a Policy Paper, *The Bioethics of Great Ape Wellbeing: Psychiatric Injury and Duty of Care for the Animals in Society* Institute. I have served for the past 18 years as President and Executive Director of the New England Anti-Vivisection Society, (NEAVS) a 120-year-old animal protection organization dedicated exclusively to helping animals in labs. Under my tenure, the

Board of Directors is committed to taking a science-based approach to our arguments in support of our ethical and humane concerns. We believe we are at a point in protecting animals in labs where scientific progress in the development and validation of alternatives, as well as the growing lack of necessity and scientific understanding of the limitations of the animal model make our work on behalf of animals in labs progressive and promising. I offer this by way of explanation for why we have focused on ending the use of chimpanzees in research and retiring them to sanctuaries, since around 2004. A copy of my curriculum vitae is attached.

2. My experience since the launch of our focused chimpanzee campaign, Project R&R: Release and Restitution for Chimpanzees in U.S. Laboratories, includes hundreds of hours with sanctuary founders, staff and chimpanzee residents at both the Fauna Foundation, Quebec, CA and Save the Chimps, Fort Pierce, FL. I have had close collegial relationships with most of the founding members of the North American Primate Sanctuary Alliance, committed to standards of excellence in captive primate care. They include: Gloria Grow, April Truitt, and Patti Ragan. In addition, I was mentored by the late Dr. Carole Noon, founder of Save the Chimps, to date the largest chimpanzee sanctuary in the world. We had weekly calls and I had multiple yearly visits to Save the Chimps as well as the Coulston Foundation -- a former biomedical research and holding facility from which Dr. Noon rescued some 166 chimpanzees and many monkeys. We worked closely together during her start of the Fort Pierce sanctuary (with NEAVS being a major funder at the time) and throughout the transfer of the Coulston chimpanzees from Alamogordo New Mexico to Fort Pierce, FL. I was on sanctuary grounds for two of the transfer arrivals.

3. Further, NEAVS rescued two young chimpanzees, Arthur and Phoenix, from a roadside zoo in Greenville NH, in cooperation with inspectors from the United States Department of Agriculture (“USDA”), and successfully transferred both to the Save the Chimps sanctuary. Along with their rescue, NEAVS also rescued and placed some 100 other animals each requiring specific transport needs to sanctuaries throughout the U.S., including baby tigers, a camel, caviars, cougars, a De Brazza monkey and others. All of the transportation services were organized and paid for by NEAVS.
4. I have had significant exposure to the effects, responsibility, and demands associated with the transfer of animals to meet relevant regulations and secure or minimize risks to their physical and psychological well-being. Further, I have consulted with the Fauna Sanctuary for more than ten years regarding their chimpanzee residents, specifically with regard to their persistent psycho-social and behavioral symptoms resulting from their years of laboratory confinement and trauma. Along with Board certified human and animal pathologists and a co-author, I published a report on the autopsy results from chimpanzees who had died in laboratories or spent significant portions of their lives there.
5. It is my opinion that the air and transcontinental transfer of chimpanzees, particularly when U.S. options are available for their lifetime and ethical care, is unacceptable.
6. Physical well-being during the transfer is of particular concern. Chimpanzees generally must be anesthetized to enter the transport cage. Each chimpanzee reacts differently to anesthesia and the drugs involved – all of which present risks to the animal’s health, and even life. For example, even under the optimal conditions of chartered flight – where the chimpanzees were accompanied by a key lifelong caregiver from the

originating facility, as well as a veterinarian with nearly two decades of experience with hundreds of chimpanzees retired or rescued from research, one of the chimpanzees vomited for most of the journey and had to be suctioned and monitored constantly for the full six hours of the flight by the veterinarian. Another chimpanzee nearly died during the pre-transfer medical procedure.

7. The enormous toll a trans- Atlantic commercial live cargo transport will take from Atlanta GA to London, UK would take no less than approximately 24 hours -- including an approximate 8.5 hour flight, one hour drive upon departure and four hour drive upon arrival, with multiple hours between those activities. This combined air and ground travel will add further stressors on the chimpanzees between departure and final destiny.
8. Based on all of the above, in my professional opinion this transfer should not be permitted. The shipment of these chimpanzees to England will undoubtedly carry more risk of injury and damage to their health and well-being than if the chimpanzees were transferred to a sanctuary of high standing within the U.S. and preferably close proximity to Emory. Ground transport of eight chimpanzees could be carried out with the highest level of care for them. The Yerkes attending vet, as well as known caregivers, could and should accompany the animals and be in close proximity to them. Frequent stops to check on their well-being could be made. A veterinarian could and should be in transport with the chimps to closely monitor any signs of concerns and risks, and once boarded on to the ground transport vehicle, the chimpanzees would not have to be subjected to any other transfers until arrival at their sanctuary destination. With such ground transportation, the health and well-

being of the chimpanzees could be much more closely monitored than if the chimps are sent by commercial transport. Closer and essential monitoring of factors such as temperature, access to nourishment or water (depending on the length of the trip), could take place, and, the chimps could more adequately be provided the comforting presence of humans with whom they are familiar and bonded, versus unknown and threatening airline personnel. Commercial cargo air transportation will afford the chimpanzees none of these comparable protections.

9. This summer upon learning of the intended transfer, I visited the chimpanzees proposed destination, the Wingham Wildlife Park, Kent, UK. Prior to that, NEAVS asked animal protection colleagues (including a primatologist) from a UK-based animal protection organization to visit, photograph, and assess Wingham. After my visit, reports from others, and a thorough review of information about Wingham from its website, blog, and Face Book, and research into its financial obligations and income, I am of the strong opinion that a transfer to such an unaccredited facility in the UK would further strip the chimpanzees from Yerkes National Primate Center of the protections and U.S. oversight which they deserve. Wingham is comparable to what we refer to as a “roadside zoo” in the U.S., despite its project for a new and modern designed chimpanzee enclosure. It subscribes to general policies that include “pay to play,” renting animals to entertainment, large breeding programs, non-SSP status, and what in the U.S., if not under EU standards, would be considered substandard enclosures, sanitation, and enrichment.
10. Only by denying the export permit to the UK can the Fish and Wildlife Service (FWS) secure the best possible protection for U.S. chimpanzees and the proper

oversight that a USDA licensed, Global Federation of Animal Sanctuaries accredited, and NAPSA member or eligible US sanctuary, could and would provide. Only through denying Yerkes permits for transport to anywhere other than an AZA approved zoo in the U.S. or qualified U.S. sanctuary would the FWS be showing true due diligence in ensuring that these chimpanzees receive the full protections meant to be afforded endangered species under the ESA.

11. Attached, and hereby incorporated by reference, is a summary of key concerns about air transport, including referenced studies, which further support the inherent dangers of air transporting chimpanzees and need to deny their exportation.

Pursuant to 28 U.S.C. §1746, I declare that the foregoing is true and correct based on my professional opinion and experience.



Theodora Capaldo, Ed.D.

9/13/15
Date

Air Transportation Hazards

The information below applies to chimpanzees in any transport situation, and since air travel to the UK would be lengthy, the impacts detailed below would be exacerbated.

Knock Downs:

Chimpanzees typically need to be “knocked down,” or put under anesthesia, for overseas travel as well as other forms of transport. Knock downs always put chimpanzees at high risk, and often entail extremely stressful circumstances, as it is difficult to successfully dart or inject the chimpanzee. While some present their arms for injections, more typically injections are vehemently resisted.

Confinement:

When transported by air, non-human primates (NHPs) are typically moved into transport cages, usually smaller than required cage sizes for captive chimpanzees living quarters. Transport cages allow minimal opportunity to stand fully erect or move freely. Further, in large part because of the expense involved in transporting such a large animal, the chimpanzees are typically sent as live cargo.

Duration of Transit:

In addition to the actual travel time involved from departure to destination, which in the case of travel from the U.S. to Europe would on average be at least 8-10 hours, the flights may include, depending on departure airport, multiple airport connections, the need to be unloaded on the tarmac, delays/layovers and weather related flight difficulties. Further, air travel requires moving the chimpanzees into trucks or other ground transport at either end of their flights, adding further to the stress of handling and change. All of these factors take a tremendous toll on the physical and psychological well-being of chimpanzees.

Reactions:

As with humans, physical reactions to the inherent stressors of air travel, can occur: specifically fear and agitation, and temperatures and air pressure fluctuations, that can result in inner ear problems, bloat (build up and expansion of gas in the gastro-intestinal tract) and in extreme cases, psychological reaction/shock.

Inadequate Care and Handling:

Flying live animals in cargo also entails contact with strangers and untrained people, inspectors, cage loaders, etc., and risks increase during air transport when multiple legs of a flight become necessary, subjecting a chimpanzee to greater likelihood of contagion or injury with improper handling. In non-privately chartered transport, veterinarians and caregivers with whom the chimpanzees are familiar may be unable to keep close and persistent vigilance over their care and condition, as would be required in the event of illness (life threatening vomiting from air or motion sickness or administered sedations with its accompanying possibility of an anesthetized

chimpanzee aspirating on his or her own vomit during flight, injury from dropping temperatures, etc.).

Technical Hazards:

Cargo and charter flights carry an increased risk from technical hazards associated with altitude and flying in general. For example, inadequate ventilation, improper temperature control or fluctuations (too hot or too cold), excessive and frightening noise, potential altitude drops, or other weather related turbulences.

Illness:

Regardless of the credentials of origin and destination labs, it is impossible to protect animals from infection when transporting them internationally by commercial or charter airlines over long distances, and doing so may result in serious illness or even death upon arrival.

Ref. Chimpanzee Travels: The Journey of the OSU Primates. *Satya* (June/July 2007)
<http://www.satyamag.com/jun07/osu.html>

Psychological Effects:

The heightened levels of stress incurred by airline travel weaken the immune system and may render the NHP critically ill upon arrival, regardless of a previously clean bill of health. Studies have concluded that significant psychological impacts, measured by changes in behavioral patterns and social hierarchy occur. Oftentimes such effects remain long-term.

Inadequate Standards for Transportation

Even when minimal airline and other transport standards are met, NHPs are highly susceptible to aforementioned risks. These risks increase with monetary incentives to cut costs.

Specific Incidents:

- In October 2013, a shipment of 840 cynomolgus monkeys from Cambodia to Texas resulted in the deaths of 25 monkeys shortly before or during transport.

(Nile, A. "Complaint filed over deaths of Everett lab's monkeys." August 26, 2014. *Herald Net*.
<http://www.heraldnet.com/article/20140826/NEWS01/140829167>)

- Incidents reported in documents for the U.S. Center for Disease Control obtained by Cruelty Free International following a request under the Freedom of Information Act graphically illustrate the trauma experienced by the animals during their transportation on airlines:
 - 'On uncrating, he was found in moribund condition. Part of the wooden crate had been chewed away and no food was present in the crate. Technicians attempted to administer IV fluids, but the monkey died while treatment was being started.' (The NHP was imported from China)

- ‘One animal died during transport from Vietnam. This animal was removed in Paris at the airport; the cause of death was reportedly bloat... [build up of gas in the gastro-intestinal tract]’
- ‘One animal was dead on arrival.’ (The animal was imported from Mauritius)
- FROM THIRDAAMENDMENT.COM (“AIRLINE ANIMAL INCIDENT REPORTS”, <http://www.thirdamendment.com/AnimalReports.pdf>):
 - AWA docket no. 90-0028 – This proceeding consolidated fifteen complaints against Delta, according to a complaint dated April 23, 1990.
 - On September 7, 1987, a primate was accepted for transportation at Raleigh/Durham without proper documentation regarding food and water requirements or enclosure labeling.
 - On April 29, 1987, two primates were transported from Albuquerque to Dallas/Ft. Worth in an inadequate enclosure.
 - AWA docket no. 363 – This proceeding consolidated six complaints against Emory, according to a complaint dated October 18, 1985.
 - On November 19, 1984, a primate was transported in an inadequate enclosure and without proper documentation regarding food and water requirements and enclosure labeling.
 - On December 3, 1984, the safety and comfort of two primates was not ensured during transport.
 - On February 7, 1985, a primate was injured during transport.
 - On February 7, 1985, two primates died of hypothermia and the safety and comfort of six others was not ensured during transport.

According to the Department of Transportation’s website, such reports by airlines are voluntary only – accordingly these examples *understate* the problems inherent in transporting chimpanzees by air.

Transportation risks in general:

“Most studies suggest that animal responses to transportation stress include activation of the brain, changes in behavior, neuroendocrine and peripheral endocrine responses, and activation of homeostatic mechanisms.” (National Research Council (US) Committee on Guidelines for the Humane Transportation of Laboratory Animals. Washington (DC): National Academies Press (US); 2006)

“Captive animals generally live in a uniform, familiar environment. During transport, almost every aspect of their environment changes. The transportation enclosure, motion, human handling, temperature, light, and perhaps social group mates, odors, sounds, floor surface, food and water availability, vibrations, unusual gravitational forces (such as during acceleration, braking, or turning of vehicles), and other factors all change from moment to moment. That change in multiple sensory experiences will be perceived as stressful, even under the best of conditions, for two major psychological reasons: the transportation experience is not part of the normal routine, and the animal has no control of the situation.” (National Research Council (US)

Committee on Guidelines for the Humane Transportation of Laboratory Animals. Washington (DC): National Academies Press (US); 2006).

“Even mild manipulations such as moving an animal from one room to another in the same animal facility have been shown to increase corti-costerone levels and result in transient but marked changes in endocrine, serological, and hematological measures.” (Gartner K, Buttner D, Dohler K, Friedel R, Lindena J, Trautschold I. Stress response of rats to handling and experimental procedures. *Laboratory Animals*. 1980;14(3):267–74.)

In May of 2015, Harvard University New England Primate Research Center shipped a group of cotton-top tamarins to the Oregon Zoo. Six of these monkeys died two days after arrival in Oregon. Although no conclusion was made as to a definitive cause of death, a post-mortem pathology exam revealed evidence of systemic shock and stress-related changes in muscle and adrenal gland tissues. (Johnson, C. “US probes Harvard primate facility: Answers sought in 2014 zoo deaths.” *Boston Globe*, April 10, 2015. <http://www.bostonglobe.com/metro/2015/04/10/harvard-primate-center-under-investigation-for-deaths-shipped-monkeys/gSbwyj1vmedS14PwUij4gJ/story.html>)

A study involving 43 cynomolgus macaques found that the animals showed clear signs of stress (in the form of stereotypies and increased urinary cortisol levels) after 24 hours of transport via truck, even when moved in pairs rather than singly. (Fernstrom, AL ; Sutian, W ; Royo, F ; Westlund, K ; Nilsson, T ; Carlsson, He ; Paramastri, Y ; Pamungkas, J ; Sajuthi, D ; Schapiro, SJ ; Hau, J. “Stress in cynomolgus monkeys (*Macaca fascicularis*) subjected to long-distance transport and simulated transport housing conditions.” *Stress-The International Journal On The Biology Of Stress*, 2008, Vol.11(6), pp.467-476.)

EXHIBIT E

**COMMENTS ON YERKES' APPLICATION FOR A PERMIT TO EXPORT EIGHT
ENDANGERED CHIMPANZEES TO THE WINGHAM WILDLIFE PARK**

BY NEW ENGLAND ANTI-VIVISECTION SOCIETY ET AL.

(NOVEMBER 2015)

BEFORE THE FEDERAL FISH AND WILDLIFE SERVICE

In Re: Application for Export Permit By Yerkes National Primate Research Center, Emory University, To Export Captive Chimpanzees, and Appendix II Species, to The Wingham Wildlife Park in England

DECLARATION OF MARY LEE JENSVOLD

I, Mary Lee Jensvold, hereby declare as follows:

1. I am the former Director of the Chimpanzee and Human Communications Institute (CHCI) at Central Washington University, a behavioral research center dedicated to studying chimpanzee communications and American Sign Language in chimpanzees. Further, I am an officer on the board of Friends of Washoe, a US based non-profit organization located in Ellensburg, Washington whose mission is dedicated to establishing peace between the human species and all the other members of creation. Friends of Washoe's immediate responsibility is to care for the chimpanzee Washoe's family; Tatu and Loulis. Friends of Washoe believes that we should expand our circle of compassion to all apes. Beyond the circle of Washoe's family, Friends of Washoe strives to improve captive conditions for our fellow apes and to provide them sanctuary from exploitation and abuse, to protect free-living chimpanzees from extinction, to educate the general public about the dire plight of chimpanzees and our responsibility to help them, and to work toward the day when our fellow apes will take their rightful place in our society's laws. Friends of Washoe owns the chimpanzees that were living at the CHCI building, Tatu and Loulis.

2. Currently I serve as Primate Communication Scientist at Fauna Sanctuary in Quebec, Canada, the only chimpanzee sanctuary Canada and the first to rescue HIV infected chimpanzees from the US Laboratory for Experimental Medicine and Surgery in Primates

(LEMSIP), formerly at the New York University. When LEMSIP closed, approximately 120 chimpanzees were sent to sanctuary. Those remaining were sent into further biomedical research. Fauna is also home to two chimpanzee rescues from the Quebec zoo when it closed. One other chimpanzee also rescued from a zoo also resides at Fauna. I was part of the decision-making to move two CHCI chimpanzees, named Tatu and Loulis to Fauna -- when, because of the deaths of their other family group members, they were the only two remaining chimpanzees at CHCI, and the University was unwilling to commit the funds to renovate the CHCI building to allow introduction of more chimpanzees. I and Friends of Washoe Board Members researched our several options at the time and decided FAUNA was our sanctuary of choice because of its exiting residents, space availability, and philosophy of care that closely paralleled that which CHCI had, and Tatu and Loulis had known all their lives. FAUNA is also a Global Federation of Sanctuaries accredited and a member of the North American Primate Sanctuary Alliance and holds all relevant Canadian permits and license to operate as a sanctuary.

3. Of further relevance is the fact that Friends of Washoe has retained its ethical and financial responsibility to Tatu and Loulis which is in large part the reason for my transfer to Canada to remain a part of their daily lives. Friends of Washoe on behalf of Tatu and Loulis are providing Fauna Sanctuary with lifetime care funding, in either direct, or in kind services to the existing sanctuary and its residents. In 14 months of now working at FAUNA, which followed an ongoing relationship with its Founder and Director Gloria Grow for nearly 20 years previous to my move, I have found FAUNAS' physical and psychosocial care as well as the ethics and philosophy toward respecting each individual chimpanzee to not only have met but exceeded our expectations and assessment when we chose them as our placement.

4. I have served in other capacities to testify on behalf of chimpanzees, presented at professional conferences, and taught a significant number of both graduate and undergraduate students as well as those interested in a career in chimpanzee caregiving. I am a Senior Lecturer, formerly a tenured Associate Professor in Central Washington University's Primate Behavior M.S. & B.S programs. I have submitted an affidavit in the Nonhuman Rights Project. I routinely send submissions to the federal government concerning the treatment of captive nonhuman primates, offer expert testimony in cases concerning captive chimpanzee needs and mistreatment, review NIH grants, and have a total of 29 years of hands on face-to-face working with chimpanzees in captivity. I have seen chimpanzees in laboratories and worked in zoo settings. My main areas of expertise lie in the areas of their behavioral needs as well as chimpanzee to chimpanzee, and chimpanzee to human and vice versa communications. I am also a well-known speaker on the subject of chimpanzee care and management, and have presented at both National and international conferences including American Society of Primatologists, North American Primate Sanctuary Association, Detroit Zoological Society, Universities Federation of Animal Welfare, International Congress of Zookeepers, American Association of Zookeepers, Humane University: Incorporating Animal Issues and Humane Education in Academic Institutions, Centre for Philosophy of Science of the University of Lisbon. International Colloquium, and Washington Association of Foreign Language Teachers. I was a Distinguished Lecturer for Sigma Xi.

1. I am a member of Sigma Xi and Phi Kappa Phi. I am a board member for Friends of Washoe, Fauna Foundation, and the Animal Welfare Institute.

2. Friends of Washoe's unanimous decision to move Tatu and Louis was based on serious consideration of several factors. First we were aware of the move outside of the US, but felt while chimpanzees still held a threatened status that the move would not interfere with the one day hoped for protections afforded them with an up-listed status. This has now happened and goes into effect on Sept 14, 2015. Second, the transfer was happening within continental North America and to a sanctuary that is a member of the respected alliance for chimpanzee care, NAPSA. All other NAPSA members are US sanctuaries. Fauna again offered us the unique experience of Gloria Grow's own training with CHCI, as well as her continuation of all of the principles of chimpanzee care which CHCI and Friends of Washoe espouse. As such, there was no doubt that FAUNA, even though it was in Canada, was our sanctuary of choice. We easily obtained all needed permits and proceeded to execute our decision.

3. By August 2013 all necessary preparations were made, including our decision to avoid the extreme stress associated with commercial live cargo transport, and instead, at the cost of about \$46,000, to charter a jet for the transport of the chimps. We did so for the obvious safety reason to the chimps' wellbeing and most importantly so that myself and a chimpanzee vet, Dr. Jocelyn Bezner with experience caring for over 200 chimpanzees and assisting with on-the-ground transportation of some 166 chimpanzees, could accompany Tatu and Louis to provide added safety to their journey.

4. The concerns as to the transport of chimps include but are not limited to: (1) the time the entire activity takes – e.g., transporting chimps from Atlanta to Kent UK would involve approximately 24 hours, including an approximate 8.5 hour flight, a 4 hour drive, and

then multiple hours between those activities; (2) in typical zoo transfers, commercial companies require the chimpanzees to be inspected on the tarmac which creates additional stress and fear on the part of the chimpanzees, and they are unaccompanied during the travel; and (3) the toll the entire process takes on the physical and psychological well-being of the chimps..

5. Physical well-being during the transfer is of particular concern. Chimpanzees generally must be anesthetized to enter the transport cage. Each chimpanzee reacts differently to anesthesia and the drugs involved. For example, in my experience one of the chimpanzees vomited for most of the journey and had to be suctioned and monitored constantly for about 6 hours by the vet. Another chimpanzee nearly died during the pre-transfer medical procedure because of a short airway and difficulty breathing. Neither of these reactions could be predicted. Indeed, a transfer of chimpanzees from the University of Ohio to Primarily Primates in Texas in 2006 resulted in the death of two of the chimpanzees during the transfer process.

6. I have examined information about Wingham Wildlife Park from its website, Face Book, blog, as well as information from visits, photographs, and financial research by the New England Anti-Vivisection Society and others. I have reached the conclusion that, in my professional opinion, this is a poor placement for chimpanzees from a laboratory environment. I know full well the difficulties chimpanzees experience adjusting to a new environment under the best of circumstances in the case of Tatu and Loulis, who were accompanied by me and are now living with continual access to me as well as prime caregivers being sent from CHCI to Fauna for a year to transition them. The thought of chimpanzees from a research lab now being housed in a zoo-like enclosure and on exhibit defies all good practice and understanding of chimpanzee needs. The enormous toll a trans-Atlantic transport will take on these chimpanzees leads me to strongly voice my professional opinion that

this transfer should NOT be permitted.

Pursuant to 28 U.S.C. §1746, I declare that the foregoing is true and correct based on my professional opinion and experience.

A handwritten signature in black ink, appearing to read "Mary Lee Jensvold", with a horizontal line extending to the right from the end of the signature.

Mary Lee Jensvold

9/12/15

Date

EXHIBIT F

**COMMENTS ON YERKES' APPLICATION FOR A PERMIT TO EXPORT EIGHT
ENDANGERED CHIMPANZEES TO THE WINGHAM WILDLIFE PARK**

BY NEW ENGLAND ANTI-VIVISECTION SOCIETY ET AL.

(NOVEMBER 2015)

**Declaration of Jane Goodall, Ph.D., DBE
Founder, the Jane Goodall Institute & UN Messenger of Peace**

England)
)
County of Dorset)

I, Jane Goodall, hereby declare as follows:

1. I reside in Bournemouth, England.

2. I received my Ph.D. in ethology from Cambridge University in 1965 and since then have held several academic appointments, including serving as a professor at Stanford University, University of Southern California, Cornell University (Andrew D. White Professor at Large), and the University of Dar Es Salaam. I began studying the behavior of wild chimpanzees in what is now known as Gombe National Park, Tanzania, in 1960. In 1977, I founded the Jane Goodall Institute (www.janegoodall.org), in the programs of which I am actively involved, and which supports and manages the ongoing research at the Gombe Stream Research Centre. The study of the Gombe chimpanzees is one of the longest running studies of any wild animal species – nearly 50 years long. Through the Jane Goodall Institute, I and the Institute staff have developed a broad-based program to apply scientific research to solving the wide range of threats to chimpanzees. I have published 14 books, plus 10 children’s books, many of them drawing upon my knowledge of chimpanzees and conservation, and have co-authored more than 80 research papers that have been published in peer-reviewed scientific journals. In addition to my duties with the Institute, I currently serve in an advisory capacity in more than 70 organizations, including the Humane Society of the United States, the Primate Specialist Group of the International Union for Conservation of Nature’s (IUCN’s) Species Survival Commission, and the International Primatological Society. A copy of my C.V. is attached to this declaration.

3. I was the first person to establish a long-term study of chimpanzees in the wild and made significant discoveries regarding the behavior of chimpanzees in Gombe, including the use and making of tools, hunting and meat sharing, food preferences, ranging patterns, mother-offspring and sibling relationships, communication patterns, reproductive behavior, social dominance, personality differences, and the cultural traditions of a chimpanzee community. In addition to studying wild chimpanzees in order to develop a better

understanding of the species (and throw new light on human evolution), for over 20 years I have been actively involved in conservation efforts to save chimpanzees from extinction, including raising global awareness of the chimpanzees' plight and working with government officials to protect their habitat.

4. I have also spent many hours watching captive chimpanzees in the United States and around the globe. I have personally visited chimpanzees held used in entertainment, as well as chimpanzees in medical laboratories. In addition, I have noted the extensive use of chimpanzees in the entertainment media. And I have seen film footage of chimpanzees held in medical laboratories that included graphic scenes of the abusive treatment they may receive.

5. Based on my personal knowledge of both wild chimpanzee populations and captive chimpanzees, and for the following reasons, I support this administrative petition to extend the protections of the Endangered Species Act to captive chimpanzees in the United States.

6. It is absolutely clear that chimpanzees are at greater risk of extinction today than they were in 1990 when the U.S. Fish and Wildlife Service first recognized *Pan troglodytes* as an endangered species. At the turn of the last century, it is estimated that there were between one and two million chimpanzees living in the wild. Today it is estimated that there are only between 172,000 and 300,000 chimpanzees living in increasingly fragmented populations in 21 countries across Equatorial Africa, with 95% of the remaining populations being found in only 10 of these 21 countries. Chimpanzees are increasingly critically endangered by the interrelated threats of habitat loss and poaching. Across Africa, especially in the Congo Basin, the last stronghold of chimpanzee habitat, extractive industries, such as logging and mining, are destroying vast tracts of tropical forests at an alarming rate and building roads into the heart of the last great rainforests on the continent. Expanding human populations settle along these roads, making use of forest resources for subsistence and commercial purposes, converting forest into agricultural land, and introducing human diseases that are easily transferred to our closest genetic relatives, the great apes. An even greater concern is that these roads, along with industry trucks, provide a mechanism for hunters to go deep into the forests where chimpanzees are often among the species killed. Adult chimpanzees are killed for the illegal commercial bushmeat trade (including for use in "traditional" medicines). There is little meat on an infant, so these are seized from their dead mothers' arms and are dragged into a harsh and bitter new life in the pet and entertainment trades. In some markets, poachers can make money selling

these live infants, and in this way the demand for pet and entertainment chimpanzees fuels further poaching. If this destructive and unsustainable cycle does not stop, chimpanzees could become all but extinct within our children's lifetimes.

7. The whole sickening business of capturing infant chimpanzees is not only cruel but also horribly wasteful: it is estimated that at least 6-8 chimpanzees will die for every infant that survives to the end of the first year at its ultimate destination. This is partly because chimpanzees live in groups and infants stay with their mothers for more than 5 years. The loss of breeding females and juveniles of the next generation has devastating long-term impacts on wild chimpanzee populations. Chimpanzees typically do not have any offspring until approximately 13 years of age and then only every 5 to 8 years. The poachers' weapons are, for the most part, old and unreliable. Some mothers escape, wounded, only to die later of their injuries, and their infants, deprived of essential maternal care, will almost certainly die as well. Often youngsters are hit along with their mothers by the hunters' shots, particularly when the weapons are old flintlocks stuffed with nails or bits of metal that cause injuries from shrapnel. If other chimpanzees in the vicinity respond to calls of distress, rushing to the defense of the mother and her child – as they often do – then they are also shot. It is likely that poachers kill and capture hundreds of chimpanzees every year, an utterly unsustainable rate for this slowly reproducing species.

8. For most young chimpanzees, the death of the mother brings their life in the forest to an abrupt end and leads to a succession of terrifying new experiences. After the brutal separation of mother and child, the infant must first endure a nightmare journey to a local village or a dealer's camp. The captive, with rope around his or her feet and hands or with a chain around the waist or neck, is crammed into a tiny box or pushed into a suffocating sack. A chimpanzee will suffer emotionally in almost exactly the same way as a small human child would in the same circumstances. Many youngsters do not survive these journeys for they receive little if any attention and care en route. Those that do make it are often wounded. All are dehydrated, starving, and suffering from shock. As they await transport to their final destinations, whether local or international, still more infants will die. The survivors are sold to owners both within and outside of Africa, who either keep them as pets or use them for entertainment purposes.

9. Chimpanzees that are kept as pets, whether born in the wild or in captivity, often develop psychological abnormalities as their lives are vastly different from

that of a chimpanzee reared by his or her mother in a healthy social group. Pet chimpanzees are suspended between the chimpanzee and human worlds. At first these youngsters are relatively easy to look after in the home, often dressed in clothing and diapers like living dolls – docile, affectionate, and cute. As they grow older, however, they become harder to manage and by the time they are four or five years of age they have often become a nuisance and liability. Chimpanzees are strong, curious and highly intelligent. They want to explore their environment, and they become gradually less docile – increasingly they must be disciplined and they resent punishment. Juvenile and adolescent chimpanzees may throw violent tantrums and bite, often injuring humans in the process. Then, if they are kept, they must spend more and more time locked up. If these pets are “kept” until they are older, an attack may be so violent that the chimpanzee may be killed—as was the case earlier this year in Connecticut, when a 14-year-old male, Travis, severely mauled a friend of his owner. Sometimes the owners of adolescent chimpanzees may try to send them to a zoo. But all their lives these “pet” chimpanzees have been taught to behave like humans so they do not know how to behave like a chimpanzee and seldom integrate successfully into a normal chimpanzee social group. Sanctuaries have been established to cater to the needs of chimpanzees exploited as pets or in entertainment, but there are not enough to cope with the number of privately owned chimpanzees needing a place to go. This has led to a welfare crisis among captive chimpanzees.

10. Because of their strength, curiosity and intelligence, chimpanzee performers may frequently be subjected to abuse by their trainers to enforce obedience when exploited for circus acts, television shows, movies and advertisements. It is telling that trainers do not typically allow the public to witness their training sessions and never allow them to witness their “pre-training” sessions. However, instances of abuse behind the scenes have been documented on a number of occasions, and I have been told verbally about such incidents, as well. In addition, chimpanzee performers are nearly always clothed in inappropriate and sometimes ill-fitting human dress, including shoes not adapted to the chimpanzee foot that is shaped more like a hand. Chimpanzees used in entertainment are almost always infants and juveniles, leading viewers into the mistaken belief that a cute infant bought by them as a pet will never become a large and potentially dangerous adult, and that this wild, non-domesticated species makes a good companion animal.

11. Not only is exploitation of chimpanzees as pets and for entertainment purposes a horrible sentence for individual captive chimpanzees, it also both

indirectly and directly threatens wild populations and undermines conservation efforts. For example, it is clear that the use of chimpanzees in entertainment is a significant driver for the demand for pet chimpanzees. This demand may be met, especially in the Middle East and parts of Africa, by buying infants whose mothers have been illegally killed as discussed above. Moreover, in addition to the misrepresentation of basic chimpanzee biology, prevalent media depictions of chimpanzees acting as frivolous sub-humans has led viewers into the misconception that the species is not endangered in the wild. When the public does not have an understanding of the severity of the threat of extinction to a species, it may be difficult to garner the required public support for conservation measures. Thus, commercial exploitation of *Pan troglodytes* contributes to the species' decline, regardless of whether the exploited chimpanzee is born in captivity or in the wild.

12. Exploitation of captive chimpanzees in U.S. media, facilitated by the lack of adequate legal protection for these individuals, has a global audience. When chimpanzees are portrayed alongside Hollywood stars, people around the world may be more inclined to acquire a chimpanzee in order to emulate the behavior of these wealthy American celebrities. Thus, exploitation of captive chimpanzees in the United States can increase the demand for pet chimpanzees in parts of the world where such demand would be met by capturing wild chimpanzees, providing a financial incentive for local people to hunt chimpanzees for the live animal trade. Thus, the use of chimpanzees in U.S. media can indirectly contribute to increased poaching and trafficking of chimpanzees in Africa.

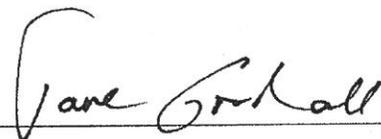
13. Another area of captive exploitation that undermines conservation of wild chimpanzees is biomedical research. The United States is the only country actively involved in invasive biomedical research on captive chimpanzees. Scientists use chimpanzees in an attempt to learn more about human diseases and develop treatments to save human lives. Unfortunately for both species, a great many of such experiments have proven largely ineffective and have not led to advances in human medicine. While the close genetic and cognitive relationship of chimpanzees and humans is what motivates most of these studies, individual chimpanzees kept in biomedical research laboratories are not treated with the respect that this intelligent and social being deserves, but are instead maintained in barren, isolated conditions, such as a small steel cage. Moreover, chimpanzees in laboratories live in a constant state of stress, under the relentless threat of physically invasive research protocols. It is ironic that much of this research involves investigation of diseases of the immune

system, such as HIV/AIDS. Yet, the response of the immune system to a particular treatment may be skewed if the system is stressed. This experimentation, when our closest living relatives are often treated as nothing more than inconveniently strong and potentially aggressive guinea pigs, certainly does not foster respect for the chimpanzee species and as such does not promote conservation.

14. Instead of keeping chimpanzees captive in stark research laboratories, science can benefit greatly from obtaining data in a non-invasive manner from wild chimpanzees living in protected areas and sanctuaries across Africa. For example, a recent long-term study conducted at Gombe National Park discovered, through urine and fecal samples and necropsy results collected from chimpanzees identified by behavioral researchers, that *Pan troglodytes schweinfurthii* naturally infected with a strain of simian immunodeficiency virus suffer from an AIDS-like illness, a finding that promises to shed light on the pathogenicity and cross-species transmission of immunodeficiency viruses, such as HIV. This demonstrates that non-invasive research done in wild populations, closely monitored by scientists and conservationists, can benefit not only human medicine but chimpanzee well-being, as well. Moreover, a long-term research presence helps chimpanzee conservation by providing protection from poachers and drawing attention to the plight of particular populations. In addition, when staff are employed and supplies purchased from surrounding communities, local economies are boosted, especially if tourists have the opportunity to view the chimpanzees in their natural habitat.

15. The lack of protection for captive chimpanzees in the United States sanctions and facilitates the exploitation of a species teetering on the edge of extinction in the wild. The United States Fish and Wildlife Service should accordingly reclassify all captive chimpanzees as endangered and afford all individuals of the species the protections they so desperately need and deserve.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is, in my professional opinion, true and correct.



Dr. Jane Goodall

Executed on 13 November 2009



the Jane Goodall Institute

Curriculum Vitae

Jane Goodall, Ph.D., DBE

Founder, the Jane Goodall Institute

UN Messenger of Peace

www.janegoodall.org

Personal

Date of Birth: 3rd April 1934

Nationality: British

Marital Status: Married to Baron Hugo van Lawick, 1964 (divorced)

Married to Hon. Derek Bryceson, M.P., 1975 (widowed)

Children: Hugo Eric Louis Van Lawick (1967 -)

Education

1950 School Certificate (London) with Matriculation Exemption

1952 Higher Certificate (London)

1962 Entered Cambridge University, England, as Ph.D. candidate in Ethology under Professor Robert Hinde

Ph.D. in Ethology, Cambridge University, England

Research

From 1960 Behavior of free-living chimpanzees in the Gombe National Park, Tanzania

1968-1969 Social behavior of the Spotted Hyena, *Crocutta crocutta*, Ngorongoro Conservation Area

1967-2003 Scientific Director of the Gombe Stream Research Centre, Tanzania

EXHIBIT G

**COMMENTS ON YERKES' APPLICATION FOR A PERMIT TO EXPORT EIGHT
ENDANGERED CHIMPANZEES TO THE WINGHAM WILDLIFE PARK**

BY NEW ENGLAND ANTI-VIVISECTION SOCIETY ET AL.

(NOVEMBER 2015)

Declaration of Stephen Ross, Chair, Chimpanzee Species Survival Plan

State of Illinois)
)
County of Cook)

I, Stephen Ross, hereby declare as follows:

1. I reside in Evanston, Illinois.
2. Since 2002, I have served as the Chair of the Association of Zoos and Aquarium's (AZA¹) Chimpanzee Species Survival Plan, described in more detail below. Since 2004, I have served as the Supervisor of Behavior and Cognitive

¹ The AZA is a network of more than 6,000 committed zoo and aquarium professionals and organizations world-wide.

Research at the Lester E. Fisher Center for the Study and Conservation of Apes at the Lincoln Park Zoo. I also am a board member of Chimp Haven, the National Chimpanzee Sanctuary, and a member of the AZA's Animal Welfare Committee. I have co-authored dozens of research papers published in peer-reviewed scientific journals, on subjects including chimpanzee behavior and great ape welfare and conservation. A copy of my C.V. is attached to this declaration.

3. I have over twelve years of experience working with chimpanzees in many captive settings in the U.S., including zoos, research laboratories, and sanctuaries. I have also made numerous site visits to observe chimpanzees that are privately owned as pets or for entertainment purposes, and I have seen chimpanzees used in many different entertainment mediums over the years. This wealth of experience has allowed me to develop an in-depth knowledge of the status of captive chimpanzees in the U.S., the ways in which captive chimpanzees are exploited, and the impacts of inappropriate captive use of chimpanzees on the species' conservation.

4. Based on my personal knowledge of the conservation and welfare impacts of captive exploitation of chimpanzees in the U.S., and for the following reasons, I strongly support this administrative petition to classify all captive chimpanzees as endangered.

5. Formed in 1989, the Chimpanzee Species Survival Plan (SSP) primarily aims to manage the 264 captive chimpanzees that currently live in 35 AZA-accredited zoos to maintain genetic integrity of the population as a hedge against extinction of the species. Not only does the SSP serve to guide captive breeding of the species, it also seeks to promote the conservation, health, and well-being of all chimpanzees, including those living outside of AZA-accredited zoos and in the wild. To this end, the SSP strives to meet the following goals: (1) to promote the preservation of chimpanzee habitats and conservation of extant populations; (2) to improve the husbandry of chimpanzees in zoos; (3) to provide quality space for chimpanzees living in AZA institutions; (4) to provide advice on the design of chimpanzee housing and exhibit facilities; (5) to develop educational materials and programs about chimpanzees; (6) to facilitate research on topics deemed critical to chimpanzee conservation and population management; and (7) to develop relationships with sanctuaries caring for chimpanzees in the U.S. and Africa.

6. Therefore, because the SSP maintains a genetically viable population (as a hedge against the extinction of wild populations), supports research essential

to conservation efforts, and helps educate the public on the need for conservation, captive chimpanzees within the SSP population contribute to conservation of the species. The goals of the SSP program and the expertise of the individuals in charge of managing that chimpanzee population distinguish the SSP population from other captive chimpanzees in the U.S., such as those kept as pets, or for entertainment purposes.

7. Because captive chimpanzees in the U.S. are not protected under the Endangered Species Act (ESA), private ownership of chimpanzees in the U.S. is prevalent, as interstate commerce in this species is allowed. According to my research, there are approximately 2,200 chimpanzees living in the United States today, but only 264 live in accredited zoological parks in which there are regulated standards of care and carefully managed breeding. Approximately 1,100 chimpanzees live in biomedical research laboratories, half of which are owned by the federal government, and the other half of which are owned by state universities and for-profit corporations. About 600 chimpanzees formerly kept as pets, for entertainment purposes, or as biomedical research subjects now reside in sanctuaries, while at least another 250 chimpanzees are currently held as pets, for entertainment purposes, and at substandard "roadside" zoos. These numbers are best estimates, as chimpanzees outside of AZA zoos remain difficult to identify and track.

8. Unfortunately, captive chimpanzees outside of AZA-accredited institutions rarely, if ever, contribute to the conservation of the species, and, in fact, more often actively undermine conservation efforts.

9. Chimpanzees privately owned for pet or entertainment purposes have particularly negative conservation impacts. Individuals purchase these chimpanzees for \$45,000 - \$65,000 each from one of several private breeders in the U.S., or engage in interstate commerce with other owners. The breeding in these facilities is not properly managed to maintain genetic integrity, and infants are separated from their mothers soon after birth to be hand-reared, which serves the twin purposes of preparing the young chimp for a life unnaturally close to humans and more quickly readying the mother for another birth. Once sold to private owners, who often lack the knowledge and ability to adequately care for the species, these chimpanzees are treated as pets and/or exploited in the entertainment industry.

10. Chimpanzees used for entertainment purposes are often depicted as human caricatures, performing tricks and behaviors that often require physically abusive training. Such displays create a public misperception of

chimpanzee biology and conservation status, which has negative impacts on the species. For example, a study [included in Appendix G of the petition] conducted at AZA-accredited zoos shows that the general public is significantly less aware of the endangered status of wild chimpanzees than that of gorillas and orangutans, and the primary reason given for believing that chimpanzees are not endangered is that they are so prevalently used in the media. While this study was done in the U.S., there is no reason to believe that the results would be any different if Africans, or any other societies, were similarly surveyed. It is common knowledge that U.S. print and film media is seen in Africa, as well as the rest of the world; therefore, the use of chimpanzees in U.S. entertainment is likely having negative conservation impacts worldwide.

11. Experts agree that chimpanzees portrayed in the media, whether in print or film, as frivolous sub-humans, creates important misperceptions of the species. The most appropriate portrayal of chimpanzees in media is that portraying chimpanzees in naturalistic settings, which stirs interest in and respect for the species, and in turn benefits conservation efforts. In fact, the widespread commercial exploitation of chimpanzees for entertainment – in comedic movies, in commercials, on greeting cards, as rental fare for parties – undermines the very conservation message that the AZA is trying to promote for the species: that the chimpanzee continues to decline precipitously in the wild, and that it is an intelligent, social primate that deserves to be protected throughout the world.

12. The exploitation of chimpanzees as pets and in entertainment are inextricably related. Private owners often put their so-called pets to work, profiting from their use in television shows, commercials, movies, posters, etc. In addition, it is very likely that the use of young chimpanzees in entertainment contributes to increased demand for pet chimpanzees – nearly all chimpanzees used in media are pre-adolescent, as adult chimpanzees are too strong for trainers to handle, and so the public develops a misunderstanding of normal chimpanzee age, development, size, and behavior. When people continuously see manageable infant chimpanzees, they are more inclined to want to acquire these animals, not realizing how large and aggressive normal adult chimpanzees are. Again, there is no reason to believe that the public perceptions of pet and entertainment chimpanzees would differ between Americans or any other society where such exploitation is on display. While in the U.S. increased demand for pet chimpanzees may be met by increased captive breeding, in Africa, increased demand for pet chimpanzees could be met through increased poaching and trafficking of wild chimpanzees.

Therefore, to promote conservation of the species as a whole, chimpanzees should not be kept as pets or for entertainment purposes.

13. In the aforementioned ways, pet and entertainment owners, reinforce each other and undermine conservation efforts through improper management, inappropriate care and promoting inaccurate perceptions of the species which impact public conservation values. In order to protect the chimpanzee from extinction, it is imperative that all captive members of the species be managed to promote conservation.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.



Stephen Ross

Executed on 10-6-09

Curriculum Vitae

STEPHEN REINERTSEN ROSS

(formerly Stephen Kenneth Ross)

Current Positions:

Supervisor of Behavioral and Cognitive Research (2000-present)

Lincoln Park Zoo, Chicago, Illinois 60614

312-742-7263, ross@LPZoo.org

Chair, Chimpanzee Species Survival Plan (2002-present)

Board Member, Chimp Haven, Inc. (2006-present)

Member, AZA Animal Welfare Committee (2008-present)

EXHIBIT H

**COMMENTS ON YERKES' APPLICATION FOR A PERMIT TO EXPORT EIGHT
ENDANGERED CHIMPANZEES TO THE WINGHAM WILDLIFE PARK**

BY NEW ENGLAND ANTI-VIVISECTION SOCIETY ET AL.

(NOVEMBER 2015)

journals, on topics including chimpanzee cognition and conservation. A copy of my C.V. is attached to this declaration.

4. I have over thirty years of personal experience studying chimpanzees in the wild, which has allowed me to develop an in-depth knowledge of the behavioral needs of the species and the threats to the species' survival. Based on my personal knowledge of the impacts on wild chimpanzee populations from rampant exploitation of captive chimpanzees, and for the following reasons, I am in support of this administrative petition to extend the protections of the Endangered Species Act to all chimpanzees, both wild and captive.

5. There is no doubt that chimpanzee populations in Africa are at greater risk of extinction today than they were in 1990, when the wild population was first listed as endangered. While the estimated total population size has not dramatically changed, this is due to the inadequacy of census data, and should not be interpreted to mean that the threats this species faces have been alleviated. On the contrary, all of those threats have greatly intensified during the last nineteen years, and today we are losing chimpanzees at an extremely fast rate.

6. There are multiple reasons for the rapid decline of this species, and these threats are often interrelated. Currently there is a tidal wave of forest destruction across equatorial Africa, resulting in dramatic loss of chimpanzee habitat. Increasing human populations, and the demand for resources necessary to meet the needs of these populations not only for subsistence but for a desired quality of life akin to developed nations, puts immense pressure on these tropical forests and the natural resources they contain. Even pristine forests that are already legally protected are threatened by economic interests, and African governments often struggle to protect this wilderness when many of their constituents suffer from poverty. Thus, chimpanzee habitat is extremely vulnerable to logging and mining by international companies. When roads are built to extract forest resources, chimpanzee habitat is further fragmented, which has negative consequences for the long-term survival of the species. More immediately, these roads open access to previously impenetrable forests, which facilitates poaching and trafficking of chimpanzees, one of the most dire threats to the species' survival.

7. Not only are hundreds of chimpanzees killed every year for bushmeat, both for local consumption (including by foreign logging company employees) and for trade (both domestically and internationally), but they are captured alive for

sale. When poachers approach a chimpanzee family group the adults are killed for bushmeat and the juveniles, often clinging to their mothers' dead bodies, are captured, primarily for the pet and entertainment trades. If this species is to be saved from extinction, the demand for bushmeat and live chimpanzees must be curtailed. Eliminating the demand for bushmeat will necessarily involve addressing cultural values surrounding this practice; however, this should not be viewed as an impossible task – it is time to abandon the practice of eating a species that has a very high cognitive capacity similar to our own.

8. To eliminate the demand for live chimpanzees taken out of the wild, which has devastating effects not only on the individual orphans but on the species' survival as well, it is imperative to address the underlying causes of that demand. Selling live chimpanzees can be even more profitable for poachers than selling bushmeat: a single chimpanzee can be worth hundreds of dollars in African markets (and thousands more abroad), and that money is often used to support further poaching efforts. Today, poachers primarily sell wild chimpanzees to local private owners (most of whom are expatriates who illegally keep them as pets), or smuggle them internationally for sale to private owners and exhibitors outside of chimpanzee range countries. It is well established that wild chimpanzees are frequently smuggled into the Middle East and Europe, and it is very possible that some make it into the U.S. illegally as well.

9. The demand for chimpanzees as pets or for entertainment purposes is directly fueled by the species' commercial exploitation in the United States. The U.S. is the primary country involved in exploiting chimpanzees for entertainment purposes: American media floods the world with long-lasting images (both in film and print) of young chimpanzees in television shows, movies, and advertisements, dressed as humans and frivolously depicted. Such images mislead viewers around the globe into believing that chimpanzees make good pets (as adorable, easily handled infants are prominently featured while the large, alarmingly strong adults are rarely shown). These images also mislead viewers into believing that chimpanzees are well protected in the wild, as they imply that since the species is prevalent on the screen it must also be prevalent in the wild. In addition to increasing demand for pet and entertainment chimpanzees, both domestically and internationally, American media broadcasts the commercial use of this imperiled species and increases international commercial interest in trading the species. Thus, exploitation of captive chimpanzees in the U.S. negatively impacts wild populations by fueling poaching and trafficking of the species.

10. Commercial exploitation of chimpanzees in the U.S. not only directly threatens wild populations, but it also threatens the species indirectly by damaging the relationships and credibility essential for successful conservation efforts. In my experience, people in Africa are shocked to discover that in America it is legal to buy and sell chimpanzees, while it is illegal in African range countries. This perceived inequity creates a substantial obstacle for western conservationists such as myself when we approach countries where the species survives in the wild, teetering in many cases on the edge of extinction, and ask communities and government officials to do even more to protect chimpanzees. Such requests are often met with suspicion, and even antagonism, in light of the fact that the U.S. offers almost no protection for chimpanzees living within its own territory and allows rampant commercial exploitation of the species for private profit. The problem of moral consistency is a very real one – it is extremely awkward to be an advocate for conservation of this species when coming from a country that is arguably the most powerful in the world, and has many captive chimpanzees, but does not have the same high legal standards as chimpanzee range countries. The value and importance of personal relationships between conservationists, communities, and land managers cannot be underestimated.

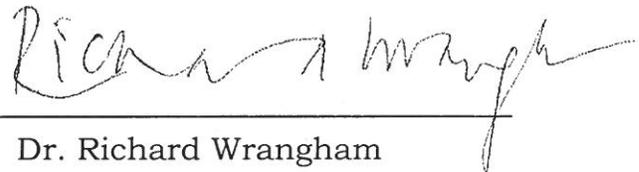
11. To save the chimpanzee from extinction, there must be an integrated international commitment to protect this species – our closest living relative. This includes not only preserving intact chimpanzee habitat and eliminating poaching and trafficking, but also ensuring that all captive uses of the species further conservation goals. The lack of legal protection of chimpanzees in the United States seriously undermines these efforts. Current U.S. laws that allow for private ownership and exploitation of chimpanzees, as pets and for entertainment and biomedical research purposes, promote disrespect of the species and cast doubt on the future of this great ape.

12. In the near future, I look forward to a national and international synthesis between ensuring the welfare of captive chimpanzees and providing for conservation of the species. Perhaps the most egregious welfare issues regarding treatment of captive chimpanzees concern those held in biomedical research laboratories. Such research has proven to be scientifically ineffective, and even research in laboratories that aims to provide information on chimpanzees need not be conducted in these settings. There is tremendous opportunity to conduct non-invasive research on wild chimpanzees in both African sanctuaries and at research stations for wild chimpanzees (for example

by collecting urine and fecal samples from wild populations that may even provide information relevant to human medicine and performing behavioral experiments on chimpanzees in sanctuaries). Establishing long-term field studies also benefits conservation – biological data not only help improve wildlife management, but there are indirect benefits to conservation as well, such as improved community relationships, improved economic conditions (i.e. through eco-tourism), and training future generations of stewards.

13. The lack of protection for captive chimpanzees in the United States sanctions and facilitates the deplorable exploitation of chimpanzees for commercial use. As a result, not only do hundreds of individual chimpanzees suffer, but conservation of the species as a whole is undermined. The United States Fish and Wildlife Service should accordingly reclassify all captive chimpanzees as endangered and afford the entire species the protections it so desperately needs and deserves.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.



Dr. Richard Wrangham

Executed on

September 13, 2009.

EXHIBIT I

**COMMENTS ON YERKES' APPLICATION FOR A PERMIT TO EXPORT EIGHT
ENDANGERED CHIMPANZEES TO THE WINGHAM WILDLIFE PARK**

BY NEW ENGLAND ANTI-VIVISECTION SOCIETY ET AL.

(NOVEMBER 2015)



INSPECTION REPORT

OCT 18 2004

EMORY UNIVERSITY

Customer ID: 896

Certificate: 57-R-0003

Site: 002

EMORY UNIVERSITY

Inspection

Type: ROUTINE INSPECTION

Date: AUG-25-2004

**WHITEHEAD BIOMEDICAL RESEARCH BLDG
615 MICHAEL STREET SUITE G02
ATLANTA, GA 30322**

3.87 (c)

3.87 (f)

PRIMARY ENCLOSURES USED TO TRANSPORT NONHUMAN PRIMATES.

(c) Ventilation.

(1) If the primary enclosure is movable, ventilation openings must be constructed in one of the following ways:

(i) If ventilation openings are located on two opposite walls of the primary enclosure, the openings on each wall must be at least 16 percent of the total surface area of each such wall and be located above the midline of the enclosure; or

(ii) If ventilation openings are located on all four walls of the primary enclosure, the openings on every wall must be at least 8 percent of the total surface area of each such wall and be located above the midline of the enclosure.

(2) Unless the primary enclosure is permanently affixed to the conveyance, projecting rims or similar devices must be located on the exterior of each enclosure wall having a ventilation opening, in order to prevent obstruction of the openings. The projecting rims or similar devices must be large enough to provide a minimum air circulation space of 0.75 inches (1.9 centimeters) between the primary enclosure and anything the enclosure is placed against.

***Transport of 4 rhesus macaques was observed at time of visit. Animals were contained in individual transport enclosures.

The enclosures had ventilation openings on only one side of the enclosure. Enclosures were positioned on floor of vehicle with ventilation openings in contact with driver partition. There is no projecting rim present to maintain the minimum air circulation space of 0.75 inches. This inhibits adequate ventilation of the transport enclosures. Primary enclosures for non-human primates must be constructed in a manner to provide adequate ventilation as described in (c)(1) of this section. Correct by: 30 Nov 04.

***The type of transport enclosure utilized for transport of chimpanzees was inspected. The enclosure consists of a stainless steel box with solid flooring, roof, rear, and sides. Ventilation openings are present only on the front of the enclosure. Upon review of circumstances surrounding death of chimpanzee "Dover", it was noted that the ambient temperature of the transport vehicle with air conditioning functioning was 84 degrees Fahrenheit. Ambient temperatures for non-human primates in transit must remain below 85 degrees Fahrenheit. While the temperature on the inside of the primary enclosure at the time of transport is unknown, poor ventilation contributes to increasing temperatures within primary enclosures. Ventilatory openings present on one aspect of the enclosure do not meet minimum requirements for non-permanently affixed transport enclosures as described in (c)(1) of this section. Correct by: 30 Nov 04.

Prepared By: *Amy Bartholomew*
AMY BARTHOLOMEW, D V M , USDA, APHIS, Animal Care

Date:
AUG-25-2004

Title: INSPECTOR, Inspector ID: 1051

Received By: [Redacted]

Date:
AUG-25-2004

Title: [Redacted]



INSPECTION REPORT OCT 1 8 2004

(f) Marking and labeling. Primary enclosures, other than those that are permanently affixed to a conveyance, must be clearly marked in English on the top and on one or more sides with the words "Wild Animals," or "Live Animals," in letters at least 1 inch (2.5 cm.) high, and with arrows or other markings to indicate the correct upright position of the primary enclosure. Permanently affixed primary enclosures must be clearly marked in English with the words "Wild Animals" or "Live Animals," in the same manner.

***4 rhesus macaques were observed in transit at time of inspection. Transport enclosures are not properly labeled with "live animal" signs or arrows indicating "up". These labels must be affixed to both the top and at least one side of transport enclosures used for vehicle transportation. 01 Sep 04.

Reviewed:

- 1.) Individual employee training records
- 2.) Facility animal incident reports (2)
- 3.) Preliminary necropsy report for "Dover"
- 4.) Standard Operating Procedure 4.19

***Discussed securing of enclosures while in transit

***Although rodent control has been improving, there is continuing need for rodent control measures.

FOCUSED INSPECTION OF FIELD STATION CONDUCTED 25 AUG 04.

Previously cited non-compliant items in areas BC-2, M3, T-1, T-4, G-12, M2B, and G-1 have been corrected.

Prepared By: *Amy Bartholomew, DVM*
AMY BARTHLOMEW, D V M , USDA, APHIS, Animal Care

Date:
AUG-25-2004

Title: [REDACTED] ER , Inspector ID: 1051

Received By: [REDACTED]

Date:
AUG-25-2004

Title: [REDACTED]

EXHIBIT J

**COMMENTS ON YERKES' APPLICATION FOR A PERMIT TO EXPORT EIGHT
ENDANGERED CHIMPANZEES TO THE WINGHAM WILDLIFE PARK**

BY NEW ENGLAND ANTI-VIVISECTION SOCIETY ET AL.

(NOVEMBER 2015)



Kent's Fastest Growing Zoo



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- ABOUT US
- ANIMALS
- VISITOR INFO
- EXPERIENCES
- EDUCATION
- GALLERY

bringing chimps back to kent!



CHIMPANZEE PROJECT

Wingham Wildlife Park are preparing to fly 8 chimpanzees to the UK from the Yerkes National Primate Research Center in the USA. Please click on **read more below** to find out how you can help us.

[Read More](#)



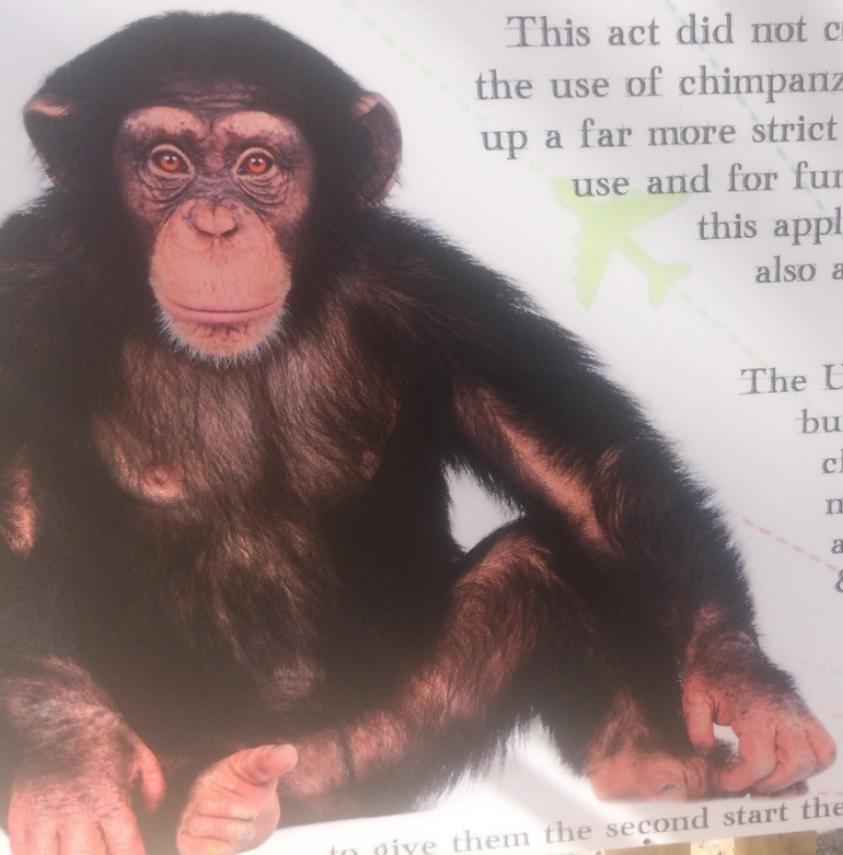
EXHIBIT K

**COMMENTS ON YERKES' APPLICATION FOR A PERMIT TO EXPORT EIGHT
ENDANGERED CHIMPANZEES TO THE WINGHAM WILDLIFE PARK**

BY NEW ENGLAND ANTI-VIVISECTION SOCIETY ET AL.

(NOVEMBER 2015)

...ce and Improvement Act paved the way for all but 50 NIH owned chimps to be moved out of laboratories and into sanctuaries by 2020.



This act did not constitute a blanket ban on the use of chimpanzees in research, but made up a far more strict set of guidelines for their use and for funding applications. Whilst this applied to NIH chimps only it also applied pressure to private companies to follow suit.

The USA has some sanctuaries, but with an estimated 1,200 chimps in US labs, there is not enough room for them all. We have the expertise & facilities to give at least a group of 8 of them a home for life. The question of whether we should, was a no brainer! ...But we need your help

to give them the second start they deserve - here with us!

EXHIBIT L

**COMMENTS ON YERKES' APPLICATION FOR A PERMIT TO EXPORT EIGHT
ENDANGERED CHIMPANZEES TO THE WINGHAM WILDLIFE PARK**

BY NEW ENGLAND ANTI-VIVISECTION SOCIETY ET AL.

(NOVEMBER 2015)

Global Federation of Animal Sanctuaries — Standards for Great Ape Sanctuaries

Staff Training

- The sanctuary has a sufficient number of staff and volunteers, adequately supervised, to provide humane care, with clear job duties and equitable compensation.¹
- Staff is available at all times to respond to emergencies.²
- Volunteers and Interns are appropriately supervised, and those playing an integral role in the sanctuary receive the manuals, training and safety protocols.³
- The sanctuary has a current employee manual, standard operating procedure manual, and, if applicable, manuals for volunteer and internship programs. Manuals are reviewed and updated regularly.⁴
- Training and supervision are carried out in a manner to ensure the highest and safest level of care for the apes, including during unforeseen changes in personnel.⁵

Safety Measures

- Great ape caregivers have a thorough understanding of the potential risks of working with apes and are appropriately trained in safety procedures.⁶
- The sanctuary has a reliable communication system in place.⁷
- The sanctuary has appropriate written disaster preparedness plans in place, needed information is posted, and appropriate coordination takes place with community emergency services.⁸
- A detailed and appropriate written escaped ape protocol is in place and understood by staff and local emergency services; and any escapes are detailed in reports.⁹
- Staff participates in ongoing training for emergency response, and drills are conducted regularly.
- The sanctuary has a written firearm policy, including identified personnel, and covering proper care and storage of firearms.¹⁰
- If the sanctuary has firearms, appropriate staff are identified for weapons training, and receive documented and up-to-date training.¹¹
- The sanctuary has a written chemical restraint policy, which covers appropriate use, maintenance and storage of chemical restraint equipment and attendant drugs.¹²
- An appropriate written first-aid plan is in place, staff (and volunteers where appropriate) is informed when a zoonotic disease occurs at the sanctuary, and training is provided to staff and, as appropriate, volunteers.¹³

¹ **GENERAL STAFFING**, S-1. *General Staffing Considerations*. (p.40)

² S-2. *Security and Emergency Coverage*. (p.41)

³ S-1(a). (p.40)

⁴ S-4. *Manuals*. (p.42)

⁵ S-5. *Employee Training and Continuing Education*. (p.42)

⁶ **SAFETY PROTOCOLS, POLICIES AND TRAINING**, S-6. *General Staff Safety*. (p.43)

⁷ S-7. *Communication System* (p.44)

⁸ S-8. *Emergency Response Plans and Protocols*. (p.44)

⁹ S-9. *Escaped Ape Protocol*. (p. 45)

¹⁰ S-11. *Firearm Policy*. (p.46)

¹¹ S-12. *Firearm Training*. (p. 46) note: this standard may be waived when firearms are not needed or used

¹² S-13. *Chemical Restraint*. (p. 46)

¹³ S-14. *First Aid and Zoonotic Disease Training and Staff First Aid*. (p. 47)

- Controlled Access Settings¹⁷
 - While not as extensive as an open space setting, in controlled access areas ideally three enclosures are also provided: outdoor enclosures as the primary living space; indoor day/night rooms; and a shift yard or lock out.
- Indoor Housing¹⁸
 - Indoor housing provides year-round protection from the elements. For sanctuaries located in northern climates (where freezing temperatures occur regularly during any part of the year), indoor space is large enough to allow for all forms of species-specific behavior (running, climbing, etc.).
- Mixed Species Enclosures¹⁹
 - When an additional species is housed with great apes, the enclosure dimensions are adjusted accordingly. Additional space reflects that required for both species if housed separately.
 - For new construction, separate transfer doors are included for each species to be housed.
 - For existing facilities, efforts are made to retrofit the facility with a separate transfer door to indoor areas and outdoor enclosures from the shift yard.
- Dimensions²⁰
 - Many factors influence the minimum space required for a group of great apes, including, but not limited to: group size, group composition, and enclosure complexity. The following are minimum requirements. Facilities should provide as much space as is possible and/or practical.
 - Sanctuaries meeting only the minimum requirements for enclosure space employ additional environmental enrichment, focusing on physical and mental exercise rather than food, to compensate for reduced space and complexity.
 - Outdoor enclosures for great apes are a minimum of 5,000 sq. ft. (464.5 sq. m) per 5 great apes, with an additional 250 sq. ft. (23.22 sq. m) for each additional individual. Enclosure shape may be variable to take in natural features in the landscape such as rock formations, hills and trees, and for roofed enclosures there should be a minimum vertical dimension of 20 ft. (6 m). Space includes a minimum of one (1) animal transfer door leading to the indoor enclosure.
 - Indoor day/night rooms for great apes have a minimum of two 'rooms' or one indoor room and one shift yard per group of compatible apes. Room dimension is dependent on intended purpose and/or duration of confinement. One room with a minimum dimension of 200 sq. ft. (18.6 sq. m) per compatible pair, with an additional 50 sq. ft. (4.6 sq. m) per additional animal. A minimum vertical height of 15 ft. (4.6 m) is recommended, with furniture and/or catwalks that allow use of vertical space. Rooms interconnect without creating 'dead ends' to allow for freedom of movement for subordinate individuals. Rooms include a minimum of one transfer door to an outdoor enclosure. Whenever possible, separated great apes have visual and tactile access to group members to facilitate reintroduction.
 - Shift yards for great apes should have a minimum of 200 sq. ft. (18.6m) per compatible pair, with an additional 50 sq. ft. (4.6 sq. m) per additional animal. The minimum vertical

¹⁷ H-1(k). *Controlled Access Settings*. (p.4)

¹⁸ H-1(l). *Indoor Housing*. (p.5)

¹⁹ H-1(m). *Mixed Species Enclosures*. (p.5)

²⁰ H-1(n)-(r). *Dimensions*. (p.5,6)

Veterinary Care

- There is a written veterinary medical program, overseen by a veterinarian, with adequate support staff at the sanctuary, with 24/7 veterinary care available on call.²⁵
- Veterinary facilities are appropriately located, designed and equipped.²⁶
- The sanctuary has a complete preventative medicine program.²⁷
- Clinical pathology, surgical facilities and services, medical treatment for sanctuary apes and necropsy are all high quality, humane, professional, legal, and safe.²⁸
- Appropriate quarantine and isolation policies and accommodations are in place and utilized.²⁹
- Complete medical records and appropriate statistics are maintained, apes have permanent identification, and controlled substances are prescribed and stored legally.³⁰
- The sanctuary has a contraception program in place, overseen by a licensed veterinarian, so that apes do not reproduce.³¹
- The staff and sanctuary veterinarian are knowledgeable about zoonotic diseases that may affect apes at the sanctuary, and implement appropriate policies and procedures as needed to mitigate risk and deal with any exposures that occur.³²

Enrichment

- The behavioral/psychological well-being of each ape is evaluated and addressed, appropriate enrichment is provided, and where appropriate a welfare plan and report is part of each ape's file.³³
- There is a formal, written enrichment program that promotes species-appropriate behavioral opportunities and ensures the captive great apes' psychological well-being. A complete environmental enrichment program includes the following:³⁴
 - Structural enrichment - Enclosure design and furniture that add complexity to the environment and promote species-specific behavior (e.g., climbing, perching). Examples include benches, climbing structures, ropes and fire hoses, and hammocks.
 - Object enrichment – Objects that encourage inspection and manipulation and promote species-specific behavior (e.g., nesting, tool-use). Examples include straw, hay, blankets, branches, acrylic mirrors, dolls, and toys.
 - Food enrichment - Varying food choices and food presentation, including the use of puzzles that increase food procurement time. Examples include treat dipping, raisin logs, and smearing peanut butter in hard-to-reach areas.
 - Social enrichment - Affiliative interactions between caregivers and apes (e.g., grooming and playing chase) may be appropriate in some instances. The decision to include social

²⁵ **VETERINARY CARE.** V-1. *General Medical Program and Staffing.* (p.27)

²⁶ V-2. *Onsite and Offsite Veterinary Facilities.* (p.28)

²⁷ V-3. *Preventative Medicine Program.* (p.28)

²⁸ V-4. *Clinical Pathology, Surgical Treatment and Necropsy Facilities.* (p.29)

²⁹ V-5. *Quarantine and Isolation of Great Apes.* (p.31)

³⁰ V-6. *Medical Records and Controlled Substances.* (p.31,32)

³¹ V-7. *Contraception.* (p.32)

³² V-8. *Zoonotic Disease Program.* (p.33, 34)

³³ **WELL BEING AND HANDLING OF GREAT APES.** W-4. *Behavioral/Psychological Well-Being.* (p.38)

³⁴ W-4(a). (p.38)

- No intentional ape breeding occurs, and sound practices are in place to prevent propagation. An exception may be made for rehabilitation and release centers engaged in a bona fide breeding-for-release-program with available release sites within the state/province, conducted with specific conservation goals, in accordance with local, state/province, national, and international law and regulations.
- The sanctuary has ape-appropriate contraceptive programs in place. If females arrive at the facility pregnant, the sanctuary provides necessary care and the female is allowed to deliver unless there are valid health reasons for terminating the pregnancy, or unless the attending veterinarian feels the pregnancy is in such an early stage that aborting the fetus is an option, if so desired by the sanctuary. After delivery, reproductive control methods are applied after allowing adequate time for weaning as appropriate for that ape, provided there is no further opportunity for breeding during this period of time.
- Infants born at the sanctuary remain with the mother and social group as appropriate for natural rearing, provided there is no further opportunity for breeding during this period of time.
- Infants are only removed from parents for hand-rearing if there is a threat to the life of the infant or the mother.

Public Contact

Contact between apes and the public is not allowed or is restricted appropriately.⁴²

- No unescorted public visitation occurs. This is not to exclude discrete, nonintrusive observation by a carefully evaluated person, such as a wildlife student, as allowed by the appropriate decision-making body of the sanctuary.
- No direct contact between the public and apes occurs. In certain rehabilitation/ reintroduction programs, with young orphaned apes, volunteers who are suitably trained and part of the sanctuary's structured volunteer program may assist staff in carefully structured programs that ensure the safety and well-being of both the apes and the volunteers.
- Non-guided tours are prohibited, and tour groups are of a size that allows for close monitoring and vary based on the size and staff of the sanctuary. Education programs are thoughtfully designed and overseen to promote a humane ethic, with careful respect and protection of all aspects of the individual welfare of the apes involved, and ensuring public safety. Any tours are monitored and conducted in a careful manner that minimizes the impact on the apes and their environment, does not cause them stress, and gives them the ability to seek undisturbed privacy and quiet.
- Sanctuary staff are appropriate advocates for ape protection and welfare, and work cooperatively with other sanctuaries and the community

Record Keeping

Records are maintained appropriately as required by local, state and national regulations and as necessary for good husbandry, management and veterinary care.⁴³

- Acquisition contracts are clear, with ultimate responsibility for acquisitions clearly defined.

⁴² P-7(a)-(c). *Public Contact*. (p.59)

⁴³ PF-9. *Record Keeping*. (p.21)

North American Primate Sanctuary Alliance (NAPSA)

<http://www.primatesanctuaries.org/>

The following are shared features of the current NAPSA member sanctuaries:

- Each sanctuary is a non-profit organization. In the U.S. they are recognized as a 501(c)(3) charitable organization by the IRS.
- Each U.S. sanctuary is licensed and inspected by the USDA. The Canadian sanctuary is permitted and inspected by the Minister of Agriculture and the Department of Parks and Fisheries – the Canadian equivalents to the USDA and USFWS respectively.
- Each sanctuary is governed by a Board of Directors, and abides by all applicable federal, state/provincial and local regulations and ordinances.
- NAPSA member sanctuaries represent 80% of the 600+ chimpanzees cared for by North American sanctuaries, including chimpanzees from the pet trade, the entertainment industry, and the research industry.
- The Directors, board and staff of the member sanctuaries have a combined total of more than 900 years of experience in caring for chimpanzees.
- Each member sanctuary provides emergency and preventive veterinary care to their chimpanzees, either through experienced consulting veterinarian agreements or staff veterinarians.
- NAPSA member sanctuaries are working with the Global Federation of Animal Sanctuaries to develop standards of accreditation for chimpanzee sanctuaries.
- Each member sanctuary has experienced measurable improvements in physical and psychological health of their chimpanzees retired from research or the pet and entertainment industries.
- In order to increase their effectiveness, the member sanctuaries cooperate with a wide range of professionals to augment their programs in veterinary care, financial management, human resources, public affairs, behavioral management and fundraising.

In addition to the requirements set by GFAS, members must abide by the NAPSA Code of Conduct:

CODE OF CONDUCT

1. Abide by, uphold and promote NAPSA membership requirements
2. Act within and uphold applicable laws
3. Be vigilant and aware of potential for misconduct
4. Maintain high standards
5. Operate within an ethic of continuous improvement
6. Interact with other members in a respectful and professional way
7. Abide by NAPSA Conflict of Interest Policy

8. Act with fairness in relations with staff, volunteers, vendors and partners
9. Place a strong emphasis on safety and security for the well-being of primate residents, staff and visitors
10. Demonstrate a commitment to the welfare of captive primates
11. Maintain the integrity and reputation of NAPSA
12. Provide procedures for receiving, investigating and addressing complaints, grievances, or other feedback
13. Transfer primate residents only if in their best interest and only to another NAPSA sanctuary.