

AMERICAN
 HUMANE
 ASSOCIATION

15366 Dickens St., Sherman Oaks, CA 91403
 Telephone: 888-301-3541 • 818-501-0123
 Fax: 818-501-8725 • AHAWest@aol.com

VIA FACSIMILE

November 15, 2001

Mr. Neil Wells, Barrister, Trustee
 Animal Welfare Institute of New Zealand (AWINZ)
 P.O. Box 60-208 Titirangi, Waitakere City
 1007 New Zealand

Lord Of The Rings – Unauthorized End Credit

Dear Neil:

I recently learned from New Line Cinema, that the production company, Three Foot Six Ltd. has included on *Lord of the Rings* an end credit stating, "No animal was abused, ill treated or neglected in the making of the movie. Animal action was monitored by the Animal Welfare Institute of New Zealand."

This is of serious concern to American Humane Association (AHA). We have informed New Line Cinema of our concerns and that American Humane Association is prepared to publicly state that the disclaimer is unauthorized, inappropriate and misleading. In response, New Line Cinema has committed to making an effort to remove the end credit from the theatrical release. Further, they have assured us that such a credit will not be included on the DVD, video and future releases. New Line Cinema has also assured us that such a credit will not appear on the upcoming sequels to *Lord of the Rings*.

I realize that AWINZ representatives were on set, but they did not cover the majority of the action since your work didn't commence until the feature was well into production. Although I don't have exact dates of when animal preparation and training started, we have enough information to know that it started early in 1999 and AWINZ didn't commence activity until August 30, 2000. This is well over a year from when Production started. In addition, there are some unanswered questions in the report you issued in April 26, 2001 in response to allegations that AHA sent to you on January 20, 2001. Neither the limited coverage by your representatives nor your investigation into allegations satisfies the requirements necessary to provide assurances that "no animal was abused, ill treated or neglected."

Let me stress that neither you nor your staff have been trained by AHA. Further, AHA was not consulted in the film monitoring process to provide guidance on implementing AHA's *Guidelines for the Safe Use of Animals in Filmed Media*. Your action to provide such an end credit clearly demonstrates a lack of understanding and

Western Regional Office and Film & TV Unit



November 15, 2001
AWINZ - Neil Wells
Lord Of The Rings - Unauthorized End Credit
Page 2 of 3

appreciation for American Humane's strict requirements for issuing an end credit attesting to the humane treatment of animals during filming. Your investigative report contains information that demonstrates that Production was not in compliance with AHA Guidelines. Therefore, the end credit is misleading to the public. Additionally, it is disconcerting that your investigative reports omits your field representative reports or statements and omits signed statements from those that have spoken out on animal welfare concerns.

I did not contact you about the unresolved items because AHA could not rate the film anything other than Questionable based on the amount of uncovered action. I did not anticipate that you would even contemplate issuing an end credit since it appeared that you covered less than 25% of the animal action. I also would have expected to be consulted before you issued an end credit since this was a U.S. financed production with Screen Actor Guild (SAG) actors and you were seeking acceptance into American Humane's International Humane Partnership program.

American Humane's International Humane Partnership Program covers all productions that include American/SAG actors, is U.S. financed/produced, or has other significant connections to the U.S. film industry. Both the Screen Actors Guild (SAG) and Alliance of Motion Pictures and Television Producers (AMPTP) have agreed that American Humane Association is the only organization authorized to provide the famous "no animal was harmed" end credit disclaimer. According to SAG's Rule One "U.S. market" is defined as:

"The membership obligations as set forth in Rule One of the Guild's Rules and Regulations shall be fully applicable to a member working or who makes an agreement to work as a performer with any producer, whether a United States entity or an entity controlled by a United States entity, or an entity exclusively established in a country outside of the United States, covering all United States and foreign locations." (Emphasis added). "This change in policy would ensure that every SAG member takes the protection of the SAG contract wherever they go in the world."

"U.S. market" also encompasses situations: in which productions fall under the SAG-AMPTP Codified Agreement; where there exists an SAG-AMPTP personal service agreement; or where the prominent actors are current members of SAG. *Lord Of The Rings* stars Elijah Wood, Liv Tyler, Viggo, Mortensen, and Sean Astin, which are all SAG actors. In addition, it has been well publicized that *Lord Of The Rings* was U.S. financed.

Although we encourage our Humane Partners to engage in film monitoring projects in their own jurisdiction, *Lord Of The Rings* clearly falls within the purview of the

November 15, 2001
AWNZ - Neil Wells
Lord Of The Rings - Unauthorized End Credit
Page 3 of 3

above, and would have required a cooperative partnership for the production to be eligible for an end credit in the U.S. marketplace.

Attached is a summary of our most serious concerns and why an end credit is unauthorized, inappropriate and misleading.

American Humane Association has earned the respect and commitment of the U.S. entertainment industry and U.S. audiences in requiring the highest standard of care for animals used in entertainment in order to earn the coveted "no animal was harmed" end credit disclaimer. To earn this end credit Production must demonstrate a level of humane treatment that is far stricter than all federal, state and local animal welfare laws and regulations. Unfortunately *Lord Of The Rings* has not only fallen short of the AHA requirement but has engaged in practices that we consider questionable. Since AHA has not yet screened the film, we do not know whether any additional concerns may arise.

In AHA's public statement that the end credit is unauthorized and misleading, we will paraphrase information from the report that supports our conclusion, similar to attached Summary of Animal Welfare Concerns. We will continue to keep the physical report confidential and will not copy it. It is our understanding that the MAF reports are not restricted since they were obtained under the Official Information Act

If you have any questions or additional information please promptly contact Karen Rosa or myself. We are planning to issue our press release very soon.

Sincerely,



Karen H. Goschen
Vice President, Western Regional Office
kgoschen@americanhumane.org

Encl: Summary of Animal Welfare Concerns

CC: Emily Glatter, VP Production Administration, New Line Cinema, Inc.
Barrie Osborne, Producer, Three Foot Six Ltd.
E.T. Culham, Senior Advisor, MAF
Marilyn Bright, Administrator, International League for Protection of Horses
Anthea Black, Veterinary Council of New Zealand
Peter Mason, President, RNZSPCA
Peter Blomkamp CEO, RNZSPCA

**Lord Of The Rings
Summary of Animal Welfare Concerns**

Item	Concern
Timeline of Animal Action	
<ul style="list-style-type: none"> • Spring 1999, start animal preparation / training • Oct 1999, start principal photography • Early 1999, Production invited RNZSPCA on set, but no commitment • July 1999, production horses stabled at Te Horo • Aug 30, 2000, AWINZ commenced monitoring. Total days supervised was 48 days. • Jan 2001, AWINZ starts investigation • Dec 2000, wrap principal photography • Jan 2001, re-shoots using horses 	<ul style="list-style-type: none"> • No substantiation of monitoring during preparation / training. • No substantiation of monitoring of all intense animal action. • AWINZ representatives did not monitor the majority of the animal action. Less than 25% of the animal action, covering approximately 18 months from Spring 1999 to Aug 30, 2000 was not monitored • AWINZ representative have not been trained by AHA in film monitoring • AHA received no field reports by AWINZ representatives.
Animal Injury/Deaths – Substantiated	
Summary: 1 sick, 4 dead, 3 seriously injured	
<ul style="list-style-type: none"> • Demero – treated for cancerous lesions, lesion ulcerated • Mooney – unfit to work for Production, sent to slaughter • Stampede – 4 horses seriously injured, one eventually euthanized • Big Dan – sent to killers or euthanized for cracked pelvis • Jimmy Dash – died of torsion/euthanized • Everon – died of heart attack 	<ul style="list-style-type: none"> • Worked without release from Vet; MAF issued instruction for treatment • Unacceptable disposition • Insufficient information on safety precautions • Concern about fitness for work before diagnosis • Appears to be unpredictable event • Insufficient information on horse history, appears to be unpredictable
<ul style="list-style-type: none"> • Demero (Domero) – Concern over fitness for work. Company horse purchased April 1999 with melanoma condition (cancer). Vet Graham Carthew, found him in sound condition at that time. July 1999, company vet Ray Lenaghan no different condition. • Late November lesion ulcerated and started to exudate. Per Graham Carthew "At the time Demero has the ulcerated lesion he should not have been used until treated. I base this on both the aesthetics and the comfort of the animal." 	<ul style="list-style-type: none"> • A fitness for work concern is raised for the period of late November until Dec 14 when the MAF issued an instruction to prevent or mitigate suffering by treating lesions.

Item	Concern
<ul style="list-style-type: none"> • Dec 5, 2000 MAF (Culham) notes indicate that Dr. Lenaghan stated "Demero is a lot worse than it was 6 weeks ago when Ray last saw the horse... Demero is bad enough to need treatment and not be used on the set" • Dec 12, 2000 MAF (Culham) phone call to Dr. Lenaghan, "Demero was put back in work without his consent, the other white horse has a sore back." • Dec 13, 2000, independent vet Graham Kirker, examined him at request of MAF "stallion was affected with advanced multiple melanomas [cancer] of the anus, perineum, tail and prepuce... suffering mild to moderate discomfort... necrotic lesion described should be immediately partially debulked and subjected to cryosurgery. Other lesions are likely to require similar treatment in the medium term future." • Dec 14, 2000 MAF issued instruction to prevent or mitigate suffering by treating lesions • Dec 15, 2000 treatment started. 	<ul style="list-style-type: none"> • A fitness for work concern is raised for the period of the 6 weeks prior to examination by Dr. Lenaghan. • Report does not indicate how much Demero worked during late November until Dec 14, but statement from Dr. Lenaghan indicates he was taken to set against his instructions. • It is concerning that the situation got to the point where MAF issued an instruction.
<ul style="list-style-type: none"> • Mooney (Moon) - Unacceptable disposition of a horse not fit for work. Company horse purchased June 1999 and found to have a non-specific problem with his front legs. Mooney was deemed not fit for training and sold July 1999 to Booths Pet Foods. 	<ul style="list-style-type: none"> • Any animal purchased by Production is required to be returned in same condition to the seller, or sold to an acceptable home, or if a vet determines that the illness cannot be treated, then the animal can be humanely euthanized. AHA does not condone Production sending an animal to the killers simply because it is not fit for work required by Production.
<ul style="list-style-type: none"> • Stampede at Mt. Potts - Sept 2000. Four horses seriously injured, 3 required surgical attention, of which two were transferred to Equine Clinic, one was later euthanized when injury didn't respond to treatment. 4-5 other horses had minor injuries. (Per Dr. Lenaghan) • The weather report predicted a snow. There was concern about the weight of snow on the roofs of the stable so 	<ul style="list-style-type: none"> • There is no mention of AWINZ rep conducting a facilities check, including anticipated risks, such as weather conditions, and inquiring into the basis for grouping of animals. There was no statement nor report by AWINZ rep. • Concern over adequate safety precautions in time to prepare for the snow.

Item	Concern
<p>wranglers were moving horses out to the trucks and horseboxes. There was disagreement over the appropriate use of electric fencing, however, the report concludes that it was non-contributory because the incident involved regular fencing.</p> <ul style="list-style-type: none"> A bossy horse knocked another horse into a fence and the fence broke. 14-15 horses panicked and broke through a sheep yard into another paddock where the gate was opened because an extra was moving a horse float. The horses escaped. All but 4 horses were recovered that night. One of the extras chased the horses in a 4x4 trying to cut them off. 	<ul style="list-style-type: none"> Concern over which horses and the number of horses that could be safely housed together and the basis for making such a determination. Unacceptable to chase horses with a 4x4
<ul style="list-style-type: none"> Big Dan - Owned by David Johnson. Johnson sent him to knackers late 1999 (Lenaghan states horse was euthanized) due to a cracked pelvis. Concern over fitness for work due to lameness. Purchase date unknown, he had been lame and wrangler was having trouble doing his teeth. Dr. Lenaghan, vet gave general anesthesia because wrangler had problems trying to do his teeth. When he came round he had a poor recovery. Lenaghan did an anal examination and found a cracked pelvis. It is possible that the injury was aggravated when the horse went down. 	<ul style="list-style-type: none"> Concern that no information is provided on the time frame that the horse was used by production and how the horse was used, other than a general statement used in pre-training.
<ul style="list-style-type: none"> Jimmy Dash - Owned by David Johnson. Horse was euthanized due to torsion of intestines early in 1999. There was diagnosis and treatment. 	<ul style="list-style-type: none"> Report does not indicate whether there could have been any external factors that brought on the torsion, such as activity level, change in feed or feeding schedule or other factors.
<ul style="list-style-type: none"> Environ (Everon) - Company horse. Horse died of heart attack at the end of training. Dr. Lenaghan was present at the time. Statement by David Johnson indicates they were getting horses used to walking in crowds and to sword action. 	<ul style="list-style-type: none"> Report does not indicate history of animal nor history of activity level nor prior observations of horse.

Item	Concern
Safety Issues	
<ul style="list-style-type: none"> Rabbit Holes – Most of the set locations on the South Island would have rabbit holes. Extras were given the option of pulling out if they were unsure and some did. 	<ul style="list-style-type: none"> Concern over thoroughness of checking field for rabbit holes. Report does not address when the scenes were filmed, number of takes per scene, number of field checks in between takes and whether a AWINZ representative was present for all scenes where rabbit holes are likely to present a risk. The fact that some extras would not ride their horses through the field is of concern.
<ul style="list-style-type: none"> Statement by Don Reynolds indicates that Demero had stepped on a nail that was underwater. 	<ul style="list-style-type: none"> Report did not address incident and whether safety precautions, such as checking underwater areas had been performed.
Questionable Practices	
<p>Inappropriate training techniques</p> <ul style="list-style-type: none"> Dec 5, 2000 MAF Report – Harley Young dismissed following a complaint by vet and concerns of head wrangler Dave Johnson for use of prescription drugs without vet approval, hobbling technique involving all four feet, use of electric collar. Also, generally not equipped with necessary skills to do job, especially liberty work. 	<ul style="list-style-type: none"> MAF concluded that "The electric dog training collar allegation against Harley Young has some substance..." and that "electrical devices to be unsuitable for use in this situation." These items violate AHA Guidelines.
<p>Electric shock collars</p> <ul style="list-style-type: none"> Statement by Don Reynolds that he uses it to get the horse's attention and with a command to make it whoa. Both AWINZ representatives and the company veterinarian have tested the collar at various times and found a setting of 3 acceptable. A setting of 3 was a strong local sensation. AWINZ concludes that there may be grounds for including minimum standards on its use, but there are no grounds for it being a prohibited device in terms of the Animal Welfare Act. 	<ul style="list-style-type: none"> AHA's Guidelines are stricter than any federal, state or local laws. AHA considers the general use of electric shock collars to be unacceptable. Research indicates that horses are more sensitive to shock than other animals, and that a sensation that is barely noticeable by a human, is easily noticeable by a horse. Since there are well-known skilled liberty trainers that do not use electric shock, any use of such a technique would rarely be approved and would require complete supervision. AHA does not believe it is acceptable to use negative reinforcement or other coercive methods for teaching an animal a specific action/trick or for the purpose of obtaining a faster response to a command/cue.

Item	Concern
<p>Actions by Production</p> <ul style="list-style-type: none"> Crew members were forced to sign a secrecy contract and were concerned that if they spoke out they would not ever work again in the budding film industry in New Zealand. May 17, 2000, Barrie Osborne, Producer, wrote letter to staff regarding allegations and to contact him with concerns. He further stated " I am not interested in dealing with anonymous complaints...have no place in this business!" 	<ul style="list-style-type: none"> Confidentiality is crucial to identifying abuse and neglect and is a fundamental part of any investigation. AHA maintains a confidential animal abuse hotline, and MAF states that confidentiality is part of the statutory function of the Ministry. Production doesn't embrace the value of confidentiality and ignores the unbalanced power that production has over crew members.
<ul style="list-style-type: none"> Oct 19, 2000 MAF Report includes statement from Production Company that they follow AHA's Guidelines. 	<ul style="list-style-type: none"> Although AHA Guidelines can be downloaded from our website (shafilm.org) it requires training to properly implement AHA Guidelines. Production has never contacted AHA for assistance in implementing our Guidelines. AHA-approved field reps require extensive training and access to AHA experts for proper implementation of Guidelines. It is not reasonable to assume that Production could appropriately apply AHA Guidelines without support and oversight from an AHA-approved field rep.

RELEASED UNDER OFFICIAL INFORMATION ACT

52

From: Mark Neeson
To: Bayvel, David; Burdon, Bruce; Culham, Earl; Jensen, Jockey; Kettle, Peter; O'Neil, Barry; Teoh, Lin Da
Date: 06/12/2000 09:06:11
Subject: Ministerial: AWINZ/SPCA and "Lord of the Rings"

This is a somewhat lengthy memo but is necessary in order to outline the "problem".

Request

I would appreciate your comments on a potentially significant issue for our future relationship with, and oversight of, approved organisations under the AWA.

Issue

We have received a Ministerial in which Felix Marwick of Newstalk ZB in Christchurch seeks information on AWINZ (Neil Wells's organisation). Apparently AWINZ has been involved in the "Lord of the Rings" film, presumably in the Canterbury area. His letter (actually an e-mail) says that he is "checking out some allegations regarding AWINZ in relation to its role" with the film.

He is also seeking factual info on AWINZ: approval, communication between the Minister and AWINZ etc.

I asked the EU if it could shed any light on AWINZ's involvement in the film. I am aware that Ross Burnell inspected the set's horses and was working with film producers mid-year.

Results to date

1 The answers to the factual questions are that AWINZ is not an approved organisation and therefore it has no powers under the Animal Welfare Act. AWINZ has applied to the Minister to be an approved organisation and consequently the Minister has communicated with AWINZ in considering the application.

2. The factual material is scarce. The EU (Earl) has spoken to Neil Wells and has been able to elicit some info but there line of questioning was not direct. Earl reports that Neil confirmed that Virginia PINE was working on LoR as part of the AWINZ contract, also confirmed that Sarah ELLIOTT has been working on LoR in the Wellington area as part of the contract. She has been involved when ever there has been shooting and will be back in Wellington next week.

3 Earl has spoken to Sarah, she confirmed she is there as part of the contract, it would be interesting to check if she has a warrant. When Earl phoned her she was working at UNITEC, so if she has a warrant under which organisation was it issued.

4 There is no incident that he is aware of that would have triggered media interest.

5 Virginia Pine is a warranted inspector with the Otago SPCA. Earl also advises that Virginia was using an SPCA vehicle while at the LoR.

Comment

This appears to be a very messy situation. It would appear that AWINZ has a contract with LoR but in what guise, did it hold itself out as having a role under the AWA or purely as an animal welfare specialist? What is its role?

There seems to be no info on what has given rise to the radio reporters interest. Was there an incident of some sort? I would like some hard info so we can give the Minister a good briefing. He is likely to have a real interest because it is close to his electorate.

There appears to be a very unusual relationship between the SPCA and AWINZ. If the SPCA has "lent", for reward, a warranted inspector to AWINZ and that inspector was present in order to exercise powers under the AWA, then in my view the arrangement is against the spirit of the AWA.

Earl and Jockey discussed the issue of warrants and are of the view that a warrant ceases to exist when it is being used outside of the organisation where it was issued ie the SPCA and being used for

the purposes of AWINZ. The issue is, have either Virginia Pine or Sarah Elliott used any powers under the Act? If so, then there is an issue from the EU's point of view under s 160 of the AWA.

Where to from here

The reply is due on 14 Dec. I propose the following:

1 A cover briefing explaining the situation as best we are able. However, there is a paucity of hard info. The best way to achieve this is to approach AWINZ and the SPCA directly and explain the issue and our needs. I believe we have a duty to take this approach as we are the Ministers advisers on approved organisations. We need to show that we can effectively monitor their performance. We also need to show that we are objective and prepared to ask the "hard questions".

I propose that:

1 I contact both organisations (Neil and Peter Blomkamp).

2 the Ministerial reply only respond to the specific questions.

3 If the Minister signs the letter, and the research identifies a problem, then Barry writes to AWINZ and SPCA, attaching a copy of the Minister's reply expressing his concern and seeking an explanation from them. I believe we need to be firm, fair and active. This does not appear to be an issue we should treat lightly.

I would appreciate views on the above: both on "the problem" and the proposed course of action by the end of today (Wed. 6 Dec).

Thanks

Mark.

CC: Ricketts, Wayne; Taylor, Emma

RELEASED UNDER THE OFFICIAL INFORMATION ACT