

June 11, 2025

Melanie Milczynski, Chief Animal Welfare Inspector
Dane Minns, Deputy Director, Compliance and Enforcement
Animal Welfare Services
6711 Mississauga Rd
Mississauga, ON L5N 2W3

Via Email

Dear Ms. Milczynski and Mr. Minns:

Re: Request to investigate unlawful distress and suffering experienced by dolphins at Marineland

I write to you on behalf of Animal Justice—Canada’s leading national organization focused on using the law to protect animals— to urge animal welfare services (“AWS”) to take immediate action to protect the health and wellbeing of whales and dolphins at Marineland. In particular, I am writing to draw your attention to disturbing footage of the facility taken on June 1, 2025 showing conditions that appear to be causing unlawful distress to cetaceans held at the facility.

Based on media reports, we are aware that Marineland has been inspected by AWS hundreds of times over the past several years. Despite these numerous visits, which indicate an apparent need for substantial governmental supervision at the facility, and the particularly high level of public interest and concern regarding the well-being of animals held at this facility, AWS has not shared any of the results of its enforcement actions related to cetaceans held at Marineland and no charges appear to have laid against the aquarium in relation to these animals. As you know, since 2019, approximately 18 belugas, one killer whale and one dolphin have died at Marineland.

1. Urgent need to relieve cetaceans’ distress

Drone footage taken on June 1, 2025 and shared with Animal Justice shows the stage set of Marineland’s show stadium pool being demolished, with animals still confined inside deteriorating tanks nearby.¹ In particular, approximately four dolphins appear to be confined in a cramped tank, circling repeatedly next to the demolition of the concrete stadium pool. The facility’s remaining belugas are also confined in tanks nearby.

¹ Publicly available link to footage here:

https://www.instagram.com/reel/DKaWMYdJRCV/?utm_source=ig_web_copy_link&igsh=MzRIODBiNWFlZA==.

Please note that if you would like additional footage taken this day we would be pleased to request any additional footage that may exist from the individual who took it.

We shared this footage with several marine mammal welfare experts to get their opinion on whether this loud and disruptive demolition is likely to contribute significantly to the dolphins' and belugas' already high levels of stress. These experts confirmed that the cetaceans are almost certainly suffering from increased stress. They are at risk of significant and increased distress due to the noise of the dismantling and equipment used for the work, but also from the changes in their routine.

The experts we spoke to also explained that dolphins and belugas are highly intelligent animals who are aware of everything around them. This demolition activity is different and well out of the ordinary for them. Added stressors they may be subject to at this time as the park closes and sells off its assets include: lack of stimulation, limited or no interaction with trainers, changes in pool conditions, likely changes in time of feeding, possibly changes in diet, and the boredom of having nothing to do. These are all cumulative.

The dolphins shown in this footage circling in the small barren tank are very likely to be suffering unlawful distress requiring urgent action, as are the nearby beluga whales. Due to the cumulative stressors they have been forced to endure over many years, coupled with this more recent anticipatory anxiety of significant changes going on around them over which they have no control, their mental states are likely to be highly unstable.

2. Legal Basis

The *PAWS Act* prohibits causing distress to animals or exposing an animal to undue risk of distress. Section 15 states:

- (1) No person shall cause an animal to be in distress.
- (2) No owner or custodian of an animal shall permit the animal to be in distress.
- (3) No person shall knowingly or recklessly cause an animal to be exposed to an undue risk of distress.

This prohibition is aimed at protecting animals not merely from physical pain and distress, but also against experiencing psychological suffering. Section 1 of the *PAWS Act* defines “distress” as the state of being:

- (a) in need of proper care, water, food or shelter,
- (b) injured sick, in pain or suffering, or
- (c) abused or subject to undue physical or psychological hardship, privation or neglect [emphasis added]

The *Criminal Code* also imposes significant duties on the custodians of animals in an effort to protect animals from suffering. It is an offence pursuant to section 445.1 to both permit an

animal to experience unnecessary pain, suffering or injury, and to fail to provide suitable shelter or care for an animal:

Every one commits an offence who wilfully causes or, being the owner, wilfully ***permits to be caused*** unnecessary ***pain, suffering or injury*** to an animal or a bird. [***emphasis added***]

Furthermore, section 446(1)(b) of the *Criminal Code* states as follows:

Every one commits an offence who: being the owner or the person having the custody or control of a domestic animal or a bird or an animal or a bird wild by nature that is in captivity, abandons it in distress or ***wilfully neglects or fails to provide suitable and adequate food, water, shelter and care for it.*** [***emphasis added***]

The enclosed footage suggests that the basic needs of the remaining dolphins and belugas at Marineland are not being met due to the conditions at the facility and the new demolition activities taking place next to the tanks they are held in. We request that your agency work with relevant law enforcement officials to investigate whether Marineland is in breach of sections 445.1 and 446 of the *Criminal Code* in addition to the *PAWS Act* provisions noted above.

We note that when Bill S-203, the *Ending the Captivity of Whales and Dolphins Act*,² was passed by Parliament in 2019, it amended the *Criminal Code* to outlaw cetacean captivity, and marked a national turning point in how the law treats cetaceans. It is now illegal to confine whales and dolphins in captivity in Canada because these animals' social, behavioural, and psychological needs cannot be met in captivity.

The very act of keeping these dolphins and whales in captivity would be an offence had they not been grandfathered in under the new law. This decision to grandfather in cetaceans already held captive in Canada was purely a practical consideration, and not acknowledgment that it is morally acceptable to continue to confine them in captivity. Importantly, no legislature has ever exempted the treatment of cetaceans at Marineland from the purview of other general animal protection laws. Federal and provincial laws prohibiting causing distress and suffering continue to apply to all animals held at Marineland.

Continuing to visit Marineland to test water quality is not enough to protect the animals held at this deteriorating facility. AWS should take urgent steps to provide veterinary care and improve the cetaceans' living conditions. AWS should also require Marineland to pay for the costs associated with those steps necessary to relieve animals' unlawful distress as contemplated in sections 33 and 35 of the *PAWS Act*. With Marineland in the process of selling its assets and

² Bill S-203, the *Ending the Captivity of Whales and Dolphins Act*, Statute of Canada: [2019, c. 11](#)

alluding to plans to “expeditiously” sell all remaining animals to other facilities there is an urgent need to have independent health assessments done for all remaining animals, and for caregivers and/or veterinarians to be brought in to care for the belugas and dolphins in particular until they can be moved to facilities that can provide a higher quality of life, including the Whale Sanctuary Project in Nova Scotia when it is ready.

3. Conclusion

As the agency responsible for overseeing and enforcing the *PAWS Act*, you have the ability as well as the responsibility to undertake enforcement action where an animal may be in distress and to take steps necessary to relieve their distress. This includes not only attending Marineland to test water quality but also taking active steps to relieve animals’ distress and improve their living conditions and send Marineland the bill for those costs. These actions should be publicly communicated so that Ontarians can have confidence in animal welfare oversight in the province.

Please note that in communications with Ontario and Canada’s Minister of Fisheries and Oceans, the Whale Sanctuary Project has indicated that its team of veterinarians and marine mammal experts is prepared to care for the belugas at Marineland until such time as their sanctuary is ready to receive those whales who are healthy and fit enough to relocate to the sanctuary. I would be pleased to connect you with representatives of the Whale Sanctuary Project in order to discuss this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Kaitlyn Mitchell". The signature is fluid and cursive, with the first name "Kaitlyn" being more prominent than the last name "Mitchell".

Kaitlyn Mitchell
Director of Legal Advocacy
kmitchell@animaljustice.ca