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August 17, 2009

Jon E. Budelmann, District Attorney
Cayuga County
95 Genesee Street
Auburn, New York 13021

**RE: Petition for Enforcement of New York Cruelty to Animals Statutes at
Willet Dairy**

Dear District Attorney Budelmann:

I am writing today on behalf of Mercy For Animals (“MFA”), a national, non-profit animal advocacy organization, to direct your attention to recent conduct in Locke, New York, located in Cayuga County, which appears to violate New York’s Animal Cruelty Laws.

INTRODUCTION

From December 29, 2008 to February 7, 2009, ####, while serving as an investigator for Mercy For Animals, worked at Willet Dairy, LLC, (“Willet”), a dairy facility located at 379 State Route 34 in Locke, New York. While employed at the facility as a maintenance worker, #### documented an ongoing pattern of cruelty to animals, including neglect, amputation without painkillers, downed cows, cows with pus-filled injuries and swellings left to suffer for weeks, newborn calves callously dragged across the ground by one or two legs, and a prolapsed uterus – a medical emergency – left untreated for almost two weeks. His findings, consisting of daily observations with detailed written reports as well as extensive video documentation, are summarized in this letter. Proof of date, location and employment is included at the end of the enclosed Conditions at Willet Dairy: Incident Report Edit DVD.¹

The evidence that follows indicates a pervasive pattern of abuse, and potentially affects thousands of animals given that Willet’s property houses more than seven thousand cows at any

¹ Attachment A. ####’s unedited footage is a complete and accurate representation of the abusive and neglectful business methods at Willet. MFA is happy to provide the unedited footage immediately upon request.

given time. As ##### was hired as a maintenance employee, his duties did not include animal handling or welfare. He never received an employee manual and was never given any training on animal welfare or handling either verbally or in writing. When ##### inquired about what he should do if he encountered injured, sick or downed cows, he was told to leave them alone as the other employees would handle these situations. ##### never witnessed any member of Willet management reprimand employees for improper handling or intervene to end the daily neglect and other cruelties committed against the cows. Nor did management instruct employees to handle the cows humanely. As you will see from the following documentation, employees at Willet left sick and injured cows to endure prolonged suffering, and some employees subjected cows to egregious animal cruelty, yet Willet management did nothing about it. Although ##### was never instructed by Willet management or staff to alert anyone about any animals in need, he did so on numerous occasions, but to no avail.

Willet's grounds consist of the Office, a Maintenance Shop, Main Farm which houses approximately 1500 dairy cows who are milked at the rate of about 500 cows an hour (each milking session lasting about five minutes with 40 cows per session), Belltown with 3,200 dairy cows, ##### Farm with replacement heifers and calves used for veal, and West Cory, which also houses replacement heifers.

Willet apparently has a total of approximately 7,500 mature dairy cows. Main Farm supplies milk for HP Hood, LLC. Belltown is allegedly inspected by three rabbis and sells to kosher customers in New York City.

At Willet, ##### typically worked ten and a half hour days and worked in all of the farm's facilities. He is thus familiar with conditions in each facility. ##### estimates that the stalls for the cows are 30 inches wide and almost 72 inches long. Each stall is separated by a metal railing. The stall floors are composed of concrete, elevating the "bed" from the center aisle, where the manure scrapers push the top layers of feces from the aisle, but leave a slippery brown fecal film on the floor.

After reviewing extensive video footage and detailed daily note log evidence from #####, MFA concludes, and animal welfare experts agree, that Willet employees used improper handling methods that directly caused the cows pain and suffering, and disregarded the animals' welfare. Willet's facility houses more than seven thousand cows, and as dairy cows are sent to slaughter when their milk production becomes less profitable (usually at the age of five) and are then replaced, a huge number of animals are at risk of suffering the cruel treatment documented below.

At Willet Dairy, ##### witnessed and documented the following:

- Workers cutting off the tails of cows without any painkillers, an unjustifiable procedure with no human, animal welfare or health value;
- Workers electrically shocking, hitting, yanking, pushing and yelling at animals;

- Non-ambulatory, “downed” cows, some in distress and trying to get up, left to suffer for almost two weeks;
- Workers leaving sick or injured newborn calves to suffer and die with apparently no pain medication or medical attention;
- Workers improperly restraining young calves for dehorning, when, according to experts, the calves were far too old for the procedure.² Methods of restraint included shoving fingers into the calves’ eyes, while burning off their horns without any painkillers;
- A worker kicking and yanking calves up on a rope that was tied to their faces and by their tails to force the animals to stand, including calves who are in such distress that they are losing control of their legs and are hanging by their heads, which were tied to gates;
- A cow with a prolapsed uterus, an urgent medical emergency, left to suffer for at least 22 days;
- Workers dragging newborn calves across the ground by one or two legs;
- An employee deliberately smacking a calf in the head with a wrench;
- Cows suffering from grossly swollen injuries;
- Cows suffering from open wounds and pus-oozing infections, none of which appear to have been treated and many caked with wet and/or dry feces;
- Severely emaciated cows;
- Cows forced to live on liquid-manure and feces-covered floors;
- Cows forced to stand or lie down in stalls with little to no bedding that are too small for the animals to even stand comfortably without their hind legs protruding into the middle aisle where the automated manure scooping machine scrapes;
- Workers forcing cows to leave transport vehicles and run across the slippery, feces-covered floors, resulting in many cows slipping in the manure and falling to the concrete floor, sometimes face first;
- Workers kicking and yelling at injured cows to force them to stand up in the milk parlor; and
- An employee bragging about egregious cruelty to animals, including kicking animals in the testicles and breaking two by four boards over the heads of restrained cows.

As discussed in more detail below, these cows are afforded protections under New York’s Animal Cruelty Laws. These laws are intended to protect all animals from harm and do not exempt farm animals or “common” or “normal” industry practices. Therefore, under New York’s Animal Cruelty Laws, an entity following common industry practices would not be exempt from prosecution for mistreating or neglecting the animals in its care.

Regardless, in many instances the conditions documented at Willet failed to even conform to common industry practice. Independent, nationally and internationally renowned experts in the field of animal husbandry, veterinary medicine and dairy science, who reviewed the evidence and whose statements are attached, unequivocally found that the conduct documented herein falls far outside the parameters of usual and accepted industry standards.³ Moreover, the experts

² See Expert Statements by Ball, Buyukmihci, Cheever, Grandin, and Rollin *et al.* Attachments C, D, E, F and H.

³ The expert statements are attached hereto as Exhibits C - I. Please note that several of the experts who reviewed the footage provided additional references in their statements for your convenience.

are unanimous in their opinion that the treatment of these cows was abusive and cruel. The persistent cruelty and neglect constitutes multiple violations of the animal cruelty law as well as a workplace culture lacking any regard for animal welfare.

Enclosed are excerpts of video footage documenting apparent violations of New York law. The complete raw video footage is available immediately on request. ##### is also available immediately to answer questions or provide further information.

Pursuant to New York Law, MFA respectfully requests that your office promptly investigate the claims and evidence presented here and initiate animal cruelty charges against Willet, its owner, management supervisors, and employees. We are confident that you share our concerns about the abuse of animals and will take the appropriate and necessary actions in order to end these practices. Willet does not appear to implement meaningful animal welfare training or policies for its employees or managers, causing, and encouraging, much of the egregious cruelty that ##### documented at Willet, and that is no doubt continuing today. We trust that you will hold all culpable parties, including Willet, responsible for any violations of state law.

Our complaints against the acts and omissions of Willet, its owner, and its management, through the actions of its employees, are detailed below.

NEW YORK LAW

CRUELTY PROVISIONS UNDER ARTICLE 26 OF NEW YORK'S AGRICULTURE AND MARKETS LAW

New York's animal cruelty laws are codified in Article 26 of the Agriculture and Markets Law ("AGM") which sets out a comprehensive scheme prohibiting unnecessary cruelty to all animals, including farmed animals. Relevant sections of the law include §§ 350, 353, 359, 371, and 372 (collectively referred to as "Animal Cruelty Laws" or "Cruelty Laws").

§ 353. Overdriving, torturing and injuring animals; failure to provide proper sustenance

A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, or who wilfully [sic] sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal, or

any act tending to produce such cruelty, is guilty of a class A misdemeanor and for purposes of paragraph (b) of subdivision one of section 160.10 of the criminal procedure law, shall be treated as a misdemeanor defined in the penal law.

Moreover, under section 350, “Animal” is defined as “every living creature except a human being.” AGM § 350. Thus, it is clear that the cows at Willet are considered animals under New York Law, and are entitled to humane and proper treatment. These laws clearly provide that a violation occurs even with respect to a single animal.

The Animal Cruelty Law further prohibits carrying animals in a cruel manner. Specifically, AGM § 359 (1) states:

A person who carries or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhuman [sic] manner, or so as to produce torture, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

Agriculture and Markets Section 371 requires that the police investigate and enforce New York’s Animal Cruelty Laws. There is no requirement that law enforcement actually witness the cruelty. Section 371 states:

§ 371. Powers of peace officers

A constable or police officer must, and any agent or officer of any duly incorporated society for the prevention of cruelty to animals may issue an appearance ticket pursuant to section 150.20 of the criminal procedure law, summon or arrest, and bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of article twenty-six of the agriculture and markets law [emphasis added].

OTHER APPLICABLE SECTIONS OF THE AGRICULTURE AND MARKETS LAW

Section 47 of the Agriculture and Markets Law states that:

No person shall keep cows, for the production of milk for market or for sale or exchange, or for manufacturing the milk or cream from the same into any article of food, in a crowded or unhealthy condition or in unhealthful or unsanitary surroundings ... nor shall any such cows be fed on any substance that is in a state of putrefaction or fermentation, or upon any food that is unhealthful or that produces or may produce impure, unhealthful, diseased or unwholesome milk ...

Under Agriculture and Markets Law, §41,

Except as otherwise provided by the penal law, a person who by himself or another violates any of the provisions of this chapter [Chapter 69 of the Agriculture and Markets Law which encompasses §47 above] . . . is guilty of a misdemeanor.

...

Corporate Liability

The Cruelty Laws clearly impose a duty on owners and keepers to care for their animals and not allow them to become subject to cruelty and neglect. In all documented instances at Willet, that duty has clearly been breached by Willet through the acts of its employees. Willet knowingly permitted: inhumane methods of disbudding and tail docking of calves; non-ambulatory animals to suffer for nearly two weeks; the dragging of newborn calves across the floor by one or two legs; inadequate bedding in stalls that were too small for the animals; animals to live in liquid feces and unsanitary conditions and to drink contaminated and therefore non-potable water; and the grossly insufficient treatment of infected wounds and emergency conditions. Intent and knowledge on the part of Willet's employees and agents was documented, as described below. For these reasons, Willet appears to be culpable for the cruelty and neglect described herein under the cruelty laws.

SPECIFIC VIOLATIONS OF NEW YORK'S ANIMAL CRUELTY LAWS

A. Tail Docking and Disbudding

obtained over nine minutes of video footage documenting the methods employed at Willet for tail docking and disbudding of calves without anesthesia. These methods are apparent violations of AGM §353 in that they constitute torture to the animals and result in unjustifiable injury.

Evidence of the methods used by Willet to cut off tails and sear off horns greatly concerned the experts who reviewed the footage as is reflected in their expert statements. Experts agree that no pain medications were given to the cows,⁴ and assert that pain medications should have been used.⁵

Tail docking is a painful action that is apparently done to almost all of the more than seven thousand cows at Willet and causes profound distress and pain that lasts long after the procedure. Further, experts agree that the practice of tail docking serves no useful purpose and is therefore

⁴ See Buyukmihci and Teachout.

⁵ See Buyukmihci and Cheever.

unjustifiable.⁶ Tail docking is entirely unnecessary and serves absolutely no benefit for the animals' or the workers' health or wellbeing, nor does it serve any legitimate hygienic purpose.

The same purported goal of tail docking – avoiding having the feces that the cows are forced to live in flung up on workers – can be achieved by trimming the cows' switch (the hairs on their tails). Not only is the procedure of tail docking extremely painful, but as experts explain below, tail docking can have long-lasting effects, causing extreme pain and discomfort that lasts throughout the cows' lives.

Disbudding is the dehorning of the calves by burning the horns off of the skull and is recommended only when the animals are very young and before their horns have grown.

An example of the excessively painful and unnecessary methods involved was carried out by a Willet employee named ##### (last name unknown) who has apparently worked at the facility for nine years. ##### documented ##### using an electric cauterizer to “disbud” the horns of calves whose horns were, according to experts, already too grown-in for the procedure to be performed. ##### used a burdizzo to slice and yank off the calves' tails.

Numerous other violations involving tail docking and disbudding include the following:

Incident 1: January 25, 2009

(last name unknown) sticks his thumb in the left eye of a calf (ear tag # 32631)⁷ while he burns her left horn before sticking a finger in her right eye as he burns her right horn. The calf then pulls against a rope tethering her face to a metal gate and jerks her body to her left. ##### steps out of the way, and grabs the calf by her tail to pull her body back into position. The calf moans loudly before ##### sticks a finger back into her right eye as he continues burning her right horn.

Incident 2: January 25, 2009

(last name unknown) uses a hot iron to burn the left horn of a calf (ear tag # 32616)⁸ sticking a finger in the calf's right eye as the calf struggles and makes a gurgling noise while tethered with a rope to a metal gate. ##### then burns the calf's right horn while sticking his thumb in the calf's left eye before going back to burning the calf's right horn as he sticks a finger in the calf's right eye. The calf steps back and forth while taking heavy, labored breaths. ##### then cuts off part of the calf's tail and then burns the wound closed.

⁶ See Ball, Buyukmihci, Cheever, Grandin, Teachout and Rollin *et al.*

⁷ There are four different calves in the Expert Video edit showing three incidents of disbudding and tail docking. Calf with ear tag #32631 is the 2nd calf in the Expert Video edit. She is the second incidence of disbudding in the edit.

⁸ Calf with ear tag #32616 is the 3rd calf in the Expert Video edit. She is the third incidence of tail docking in the edit.

Incident 3: January 25, 2009

(last name unknown) tightly pulls on a rope to tether a calf's face (ear tag #32624)⁹ to a metal gate before he burns her left horn while sticking his thumb in the calf's left eye, before burning the calf's right horn as he sticks a finger in the calf's right eye. The calf steps back and forth and pulls against a rope tethering the calf's face to a metal gate while moaning and taking heavy breaths. ##### then cuts off part of the calf's tail, at which point the calf pulls back and steps to the side, before ##### burns the tail wound closed.

Incident 4: January 25, 2009

(last name unknown) sticks his thumb into a calf's left eye while burning her left horn as the calf pulls against a rope tethering her to a metal gate and kicks her legs up as she sways back and forth. ##### then sticks his fingers in the calf's right eye while burning her right horn. Afterwards, ##### cuts off part of her tail and burns the wound closed.

Incident 5: January 25, 2009

(last name unknown) kicks a calf (ear tag # 32615)¹⁰ lying on the ground in the right side of her face, at which point she jumps up, and ##### pulls against a rope tethering her face to a metal gate, yet the calf falls back down to the ground. ##### then kicks her in her hindquarters to make her stand up. He then uses a hot iron to burn her left horn, sticking his thumb in her left eye as the calf struggles and pulls against her tether before falling to the ground dangling by her head which is still tied to the gate, her face held up and neck stretched out by the rope tether. ##### resumes burning her left horn, sticking his thumb back in her left eye as the calf begins taking heavy breaths and moans.

then pulls with both hands on the calf's tail to stand her back up before immediately beginning to burn her right horn while sticking his finger in her right eye. Within seconds, she begins jerking against the tether while stepping back and forth before falling to the ground. ##### then sticks two fingers in the calf's right eye and resumes burning the calf's right horn, her neck stretched out against her tether. Grabbing her tail with both hands, ##### then lifts the calf to her feet. He then cuts off part of the calf's tail, at which point she pulls against her tether and steps from side to side, after which ##### burns the tail wound closed.

⁹ Calf with ear tag #32624 is the 4th calf in the Expert Video edit. She is the third incidence of both tail docking and disbudding.

¹⁰ Calf with ear tag #32615 is the first calf in the Expert Video edit. She is the first incidence of both tail docking and disbudding.

i. Tail Docking

Scientists, veterinarians and even industry organizations agree that tail docking causes great suffering and is entirely unnecessary.¹¹

EXPERT OPINIONS

Bernard Rollin, Ph.D., and his colleagues at the University of Colorado's Department of Animal Sciences (Rollin *et al.*),¹² including Temple Grandin, Ph.D., P.A.S., explain that the "tail docking done with an emasculator is brutal and unnecessary." According to them, even the "conservative AVMA ... has condemned this practice as useless and unnecessary," and point out that one "can trim the tail switch to achieve the same result without hurting the animals, leaving a wound prone to infection, and depriving the cow of the ability to chase off flies."¹³

Dr. Grandin, who is perhaps the world's leading expert on farmed-animal welfare, and an animal welfare advisor to the U.S. Department of Agriculture and the meat industry, sent a letter to MFA in support of Dr. Rollin *et al.*'s statement: "I agree with and support the statements that were made by Bernard Rollin concerning atrocious treatment [of] dairy animals," condemning both the tail docking and disbudding at Willet.¹⁴

Nedim Buyukmihci, V.M.D.,¹⁵ explains that the "tail docking was done without anesthesia and the cows reacted with violent struggles to escape as this sensitive tissue was clamped and twisted off. Not only did this treatment of the cows cause extreme pain," he states, "removal of the outer portion of the tail causes considerable welfare problems for the cow later on. The tail, particularly the flared, hairy end (the switch), is important in insect control and keeping the hide

¹¹ See Balcombe, Ball, Buyukmihci, Cheever, Grandin, Teachout and Rollin *et al.*

¹² Bernard Rollin, Ph.D., distinguished professor of animal science at Colorado State University, is internationally recognized for his 30 years of work in animal welfare. He has been a major architect of federal laws protecting laboratory animals, and has written two books on farmed animal welfare. He serves on the Pew commission examining confined animal feeding operations and is an expert witness on animal welfare issues in the U.S. and abroad. Dr. Rollin co-authored his letter attached herein with three colleagues from the Colorado State University Department of Animal Sciences, including William Wailes, the department chair and internationally renowned dairy expert and dairy farmer; Terry Engle, Ph.D., associate professor and authority on cattle used by the beef industry; and Kurt Vogel, Ph.D., candidate in animal welfare and behavior specializing in dairy, who grew up on a dairy farm. Dr. Rollin *et al.* states in their letter that the letter "reflect[s] a consensus in which we all share."

¹³ Statement from Dr. Bernard Rollin, Ph.D., university distinguished professor, Colorado State University; William Wailes, professor and chairman of animal sciences, Colorado State University; Dr. Terry Engle, Ph.D., associate professor, Colorado State University; Kurt Vogel, Ph.D. candidate, Colorado State University, to MFA (June 14, 2009), Attach C.

¹⁴ Statement of Dr. Temple Grandin, Ph.D., P.A.S., Attach D.

¹⁵ Nedim Buyukmihci, V.M.D., is emeritus professor of veterinary medicine at the University of California, Davis, has over 34 years of veterinary experience, including in large animal practice. Early in his career, he worked primarily with cattle used in the dairy industry.

cleared of irritants.” Dr. Buyukmihci continues by explaining that “[a]lthough tail docking in cows is defended by some as improving milk quality by reducing udder contamination, scientists at the University of California found this to be untrue and the negative welfare implications led them to conclude that this practice should not be done.”¹⁶

Jonathan Balcombe, Ph.D.,¹⁷ agrees, noting that having “had the distal portion of their tails removed, effectively remov[ed] their built-in fly-swatters.” He pointedly states that “[a]s an ethologist, I consider this mutilation a severe punishment for these animals. Flies inevitably enter and breed in livestock operations, and they are visible in several of these clips.”¹⁸ Because their fly-removers are being painfully removed, these cows will live their lives unable to remove a consistent irritant from their hindquarters.

Geoff Ball, D.V.M., points out that studies have shown tail docking “not only [is of] no benefit” in decreasing the spread of disease to cows or workers, “but add to the amount of flies on the animals. Cows normally use their tails to repel flying nuisances, and without the end of their tail are more hindered by these pest[s], leading to more stress.” He adds that “[t]he practice of tail docking . . . is a painful and stressful procedure that has no direct benefit to the cow, or the workers. Complications with this procedure can lead to a long term source of pain for the animal.”¹⁹

Holly Cheever, D.V.M.,²⁰ states that “there is no justification for removing the distal portion of any animal’s spinal column.”²¹

The American Veterinary Medical Association’s (AVMA) policy opposes the tail docking of cattle. In its *Welfare Implications of Tail Docking of Dairy Cattle*, the AVMA dispels all of the flawed arguments in support of tail docking and raises the concern that cows with docked tails are incapable of “dislodg[ing] biting flies . . . almost twice as many flies were observed on the rear limbs of docked cows” than on cows with their natural ability to remove the flies, and discusses “potential long-term adverse behavioral effects.”²²

Additionally, the American Association of Bovine Practitioners (AABP) cites no sufficient scientific evidence in the literature to support tail docking in cattle. Numerous countries,

¹⁶ Statement of Dr. Nedim Buyukmihci, V.M.D., Attach E.

¹⁷ Jonathan Balcombe, Ph.D., is an ethologist with a Masters degree in Biology and a Doctorate in Animal Behavior, and is the author of four books and more than 40 book chapters and peer-reviewed journal papers.

¹⁸ Statement of Dr. Jonathan Balcombe, Ph.D., Attach I.

¹⁹ Statement of Dr. Geoff Ball, D.V.M., Attach H.

²⁰ Holly Cheever, D.V.M., is a veterinarian licensed in New York who grew up with two family dairies. After graduating first in her class from Cornell’s School of Veterinary Medicine, Dr. Cheever practiced for two years at a busy dairy. She milked cows during the summers between her veterinary school years and currently assists local and state law enforcement in cruelty to animals cases, and is “frequently sought for assistance involving dairy cattle due to [her] considerable expertise in this area.” See Cheever.

²¹ Statement of Dr. Holly Cheever, D.V.M., Attach F.

²² American Veterinary Medical Association, Attach J.

including the United Kingdom, Germany, Denmark, Scotland and Sweden, have banned this cruel practice altogether.

The Dairy Farmers of Canada and the National Farm Animal Care Council agrees with the AVMA stance on tail docking and bans it entirely: "Dairy cattle must not be tail docked unless medically necessary," concluding:

[R]esearch has not identified any differences in udder or leg hygiene, somatic cell count, or prevalence of intramammary pathogens that could be attributed to tail docking. Tail docking of calves or adults causes pain and discomfort. Docked heifers show signs of chronic pain as indicated by greater sensitivity to heat and cold of the tail stump. Neuroma formation, risk of post-operative infections and loss of the switch for fly control are welfare considerations associated with tail docking.²³

Canadian authorities also recommend trimming the switch and simply keeping clean facilities, in contrast to the extreme filth documented at Willet.

ii. Disbudding

Scientists and veterinarians also agree that the five calves whom ##### documented ##### disbud were too old for the procedure. All ten experts agree that disbudding at this late age is extremely painful.²⁴

EXPERT OPINIONS

Rollin *et al.* explain that disbudding should be done to younger animals than those disbudded by the Willet employee, and notes the man burning out these calves' horns "clearly does not possess" the handling skills necessary.²⁵

Dr. Cheever describes what cows experience having their horns burned out as the "extreme pain of having two sections of the skull (horns grow from the skull) seared off."²⁶

Dr. Balcombe is of the opinion that the calves being disbudded at such a late age can be "in intense pain,"²⁷ as evidenced by the outward behaviors of the second calf²⁸ on MFA's video edit

²³ Dairy Farmers of Canada and the National Farm Animal Care Council, Attach K.

²⁴ See Balcombe, Ball, Buyukmihci, Cheever, Grandin, Rollin *et al.* and Teachout.

²⁵ Rollin *et al.*, *supra* note 13; Grandin, *supra* note 14.

²⁶ Cheever, *supra* note 21.

²⁷ Balcombe, *supra* note 18.

²⁸ Incident #1: January 25, 2009 (cow tag # 32631)

provided for experts and attached for your review.²⁹ Dr. Balcombe also notes that it “is well documented that disbudding without anesthesia is painful for cattle” and explains that a “combination of local anesthetics, analgesics and tranquilizers has been shown to substantially reduce the pain and stress of dehorning.” Yet, at Willet, no consideration appears to have been given to the cows’ suffering. He adds, “It doesn’t take much imagination to guess that severing the tail without anesthesia is painful. In addition to the acute pain inflicted at the time of the docking, there is the potential for chronic pain due to neuroma (a tumor composed of nerve tissue that forms at the injury site) formation in the docked stump,” and points out that tail-docking is banned in the Netherlands, Sweden, Switzerland, and the United Kingdom, among other countries, for welfare reasons.³⁰

Dr. Cheever states that the calves older ages provided “more time for horn growth and require[d] more force and trauma to remove [the horns].” She describes how the young animals “show clear evidence of extreme excruciating pain and fear by their vocalizations (bawling and gurgling), their tail wringing, their dilated eyes, [and] their stamping and jumping to attempt to free themselves from their head ties.”³¹ Dr. Cheever notes how ##### kicks and yanks on the calves to force them to stand. She notes that “[a] second calf collapses during the procedure from the shock and pain and is raised by hauling her up by her tail, which can damage tail innervations,”³² and how the “third” calf,³³ as included in our video edit for experts, “struggles in her fear and pain by the worker’s inserting his fingers in her right eye socket.”³⁴ In fact, ##### puts his finger in the eye sockets of all five of the calves that ##### documented his disbudding.

Dr. Cheever explains that as a dairy veterinarian, “who performed dehorning and handled countless calves, it is my professional opinion that the handlers depicted herein are unnecessarily rough and abusive in the way they move and restrain these young animals, and that in this day and age, there is no excuse for not providing dehorning patients with analgesia in the form of cornual nerve blocks at the very least.”³⁵

Dr. Buyukmihci agrees that disbudding “should be done when a cow is less than a month old, before the horn starts to grow. The cows being done in [MFA’s investigative] video were much older, making restraint and horn bud destruction more difficult and resulting in more distress than if done earlier. Most importantly,” he continues, “from the violent struggles of the cows, and their bellowing, it was clear that no anesthesia was being used. This is unconscionable at any age, but particularly so at the age of these cows. Intense pain and suffering was being inflicted on

²⁹ See Conditions at Willet Dairy: Expert Review Edit DVD, Attach B.

³⁰ Balcombe, *supra* note 18.

³¹ Cheever, *supra* note 21.

³² Incident #5: January 25, 2009, Cow tagged # 32615

³³ This calf is actually the fourth calf in the Expert Video edit, as two calves were shown only being either disbudded or tail docked. Dr. Cheever is here referring to the calf with ear tag #32624 who is the calf in Incident #3: January 25, 2009.

³⁴ Cheever, *supra* note 21.

³⁵ *Id.*

the cows as a result. There is ample evidence that a local nerve block and systemic analgesic can reduce signs of pain and suffering.”³⁶

Dr. Deb Teachout, D.V.M., M.V.Sc., observes that ##### “repeatedly forces his finger deeply into the eye socket of each calf to gain a finger hold while gripping the face with the rest of his hand in an attempt to hold the struggling, vocalizing calf in place so that he can destroy the horn bud of the animal.” She continues that the “[p]ressure applied to the eye in this fashion is extremely painful.” One section of her expert statement is entitled “Medical negligence,” and in it she explains that the “distressed behavior, extreme struggle, and loud vocalizations of the calves as they endure the painful procedures of tail docking and disbudding” lead her to believe that the tail docking and disbudding are being done “without the benefit of any anesthesia or pain medications,” describing the calves as “bellow[ing]” and “strugg[ling] in pain.”³⁷ She explains that “[o]ne calf is seen to totally collapse and hang by a rope around her neck; but, the employee lifts her by her tail and continues with the second horn,” and concludes that as the tail is docked and “falls off” that the calf “bellows and struggles in pain.”^{38 39}

Dr. Teachout explains in reference to another calf,⁴⁰ “it is evident that the whites of her eyes increase significantly which correlates with increased anxiety and frustration.” She emphasizes how tail docking and disbudding are “unnecessary, extremely painful procedures” done “without the benefit of anesthesia and pain control.” She explains that the AVMA opposes tail docking “as it provides no benefit to the animal and it can lead to distress during fly season” and how the AVMA “considers hot-iron disbudding to be extremely painful and recommends preemptive analgesia and pre and post operative administration of nonsteroidal anti-inflammatories be used to mitigate pain.”⁴¹

Dr. Geoff Ball, D.V.M., agrees that the cows are “much older” than the recommended age maximum for the disbudding procedure, “greatly increas[ing] the stress put on the animal.”⁴²

Additionally, the Dairy Farmers of Canada and the National Farm Animal Care Council define disbudding as a procedure that should be done prior to three weeks of age. They state in their Requirements section that “Pain control must be used when dehorning or disbudding.” And that “[b]leeding control must be used when dehorning,” and recommend that dairies:

- a. disbud calves before three weeks of age
- b. adequately restrain the calf
- c. use a method that is appropriate for the size of horn and/or age of animal
- d. ensure only trained persons carry out disbudding/dehorning procedures

³⁶ Buyukmihci, *supra* note 16.

³⁷ Statement from Dr. Deb Teachout, D.V.M., M.V.Sc., Attach G.

³⁸ Incident #5: January 25, 2009, Cow tagged # 32615

³⁹ Teachout, *supra* note 37.

⁴⁰ Incident #2: January 25, 2009, Cow tagged # 32616

⁴¹ Teachout, *supra* note 37.

⁴² Ball, *supra* note 19.

- e. use a combination of sedatives, local anesthetics and analgesics
- f. isolate calves following the use of caustic paste (to avoid accidental caustic burns to other animals)

None of these best practices were followed at Willet. (*See Code of Practice: For the Care and Handling of Dairy Cattle.*)

Dr. Rollin *et al.* also explain that ##### restraint of the calves is “improper,” using a “rope halter allowing the animal too much side to side movement and resulting in her hanging in a manner allowing for injury of head and neck. To make matters worse, the worker steadies the animal’s head by putting his fingers in her eye socket, an egregiously cruel act.”⁴³

Dr. Buyukmihci summarizes that “the manner in which the cows at this facility were disbudded and tail docked demonstrated a complete disregard for the well-being of these individuals.”⁴⁴

Dr. Rollin *et al.* explain that disbudding an older animal, such as the cows seen in #####’s video footage, is “more dangerous, and requires handling skills the worker clearly does not possess.”⁴⁵

Based on the documented evidence, video footage and sworn statements and expert opinions enclosed, we request that you file animal cruelty charges against Willet with regard to the grossly improper disbudding and tail docking procedures that inflicted unnecessary pain and suffering on these cows.

B. Downed Cows

On a daily basis, ##### witnessed animals who were non-ambulatory, or “downed.” These animals were unable to get up on their own and had likely reached this condition as a result of being systematically overdriven and overloaded in violation of the cruelty law in that they were repeatedly impregnated in order to produce unnatural quantities of milk, and were deprived of opportunities to recover from this strain, to exercise natural behaviors or to escape slipping from the manure-coated, concrete flooring.

Once they had become non-ambulatory as a result of such mistreatment, many of these cows were left to languish for weeks. As described below, veterinary experts conclude that cows in this situation endure extreme pain and suffering. This neglect violates AGM §§ 353, and 47.

Over the course of his employment, ##### documented a number of these cows.

⁴³Rollin *et al.*, *supra* note 13; Grandin *supra* note 14.

⁴⁴Buyukmihci, *supra* note 16.

⁴⁵Rollin *et al.*, *supra* note 13; Grandin *supra* note 14.

Incident 6: January 16, 2009

Workers herd the sick cows to the milking parlor. One of the cows is visibly lame and limping. On her way into the parlor, she collapses. Phil and two of the parlor workers try to get her to stand by kicking, slapping, and jabbing her with keys. She lay there for a while before attempting to stand, whereupon she collapses. She tries again and is finally able to get her footing and limps into the parlor where she is milked.

Incident 7: January 24, 2009

A cow lies immobile and barely breathing.

Incident 8: January 24, 2009 (Cow #29128)

Cow # 29128 lies prostrate on her side, her legs sticking out. She is immobile and barely breathing.

Incident 9: January 26, 2009 (ID # Unknown)

At 08:30 a.m., ##### walks by the sick pen where he notices a severely injured, downed cow. She lies prostrate on her side, with her eyes rolled back in her head. She wears hobbles on her rear leg, has a swollen hock, and is moaning as she breathes out. The straw is noticeably pushed clear around her legs from her attempts to get up.

At 4:38 p.m., this cow lies in the same place, not moving and unable to stand.

Incident 10: January 27, 2009 (Cow #23943)

Cow #23943 is lying, downed on the ground. She is clearly unable to eat or drink of her own free will, let alone move her head or stand up. The hay is pushed away from her legs from her attempts to rise to her feet.

January 30, 2009 (Cow #23943) - 3 days later

Cow #23943 is still lying in the sick pen.

informed #####,⁴⁶ wife of owner ##### and a manager at Belltown, of the cow's predicament.

⁴⁶ ##### is a Caucasian female who had shoulder-length brown hair at the time of the investigation, is in her mid-50s and is approximately 5'6" tall and weighs about 130 lbs.

Incident 11: January 26, 2009 (Cow #27315)

Cow #27315 is one of seven downed cows in the area.⁴⁷ She sits on the ground with her head up, but is otherwise immobile.

February 5, 2009 (Cow #27315) - 9 days later

Cow #27315 is emaciated and still lying on the ground without moving, nine days later.

February 6, 2009 (Cow #27315) - 10 days later

Cow #27315 remains immobile on the ground ten days after ##### first documented that she was downed.

Incident 12: January 26, 2009 (Cow #18811)

Cow #18811 sits on the ground of the sick pen.

January 27, 2009 (Cow #18811) - 1 day later

The cow with ear tag #18811 is still sitting on the ground of the sick pen.

January 30, 2009 (Cow #18811) - 4 days later

Four days after ##### first documented downed cow #18811, she is lying immobile in the sick pen.

Incident 13: January 26, 2009 (Cow #20404)

Cow #20404 lies on her side with her head up, but makes no attempt to move or stand when prompted by the investigator.

February 3, 2009 (Cow #20404) - 8 days later

Eight days later, cow #20404 continues to lie on her side with her head bent back and her front right leg stretched out and shaking.

February 5, 2009 (Cow #20404) - 10 days later

⁴⁷ In addition, cow numbers 20404, 18811, 23736, 25160, 21556, 21227 were downed and at the location. ##### attempted to rouse the cows, but only one of them attempted to get up, #23736; however, she was unable to stand.

Cow #20404 is still in the state she has been. She is lying on her right side with her rear legs tied together. ##### watches as she raises her head up in the air and extends her front left leg before laying her head back down again, which appears to be the limit of her ability to move.

February 6, 2009 (Cow #20404) - 11 days later

Cow #20404 lies on her side, not moving.

February 7, 2009 (Cow #20404) - 12 days later

Cow #20404 lies on her side with her rear legs tied together and her front left leg stretches out and shakes.

Incident 14: January 27, 2009 (Cows #20814, #27291, #23532)

(last name unknown), a manager, herds cows out of the sick pen with another worker. Three of the cows, ##20814, 27291 and 23532, are too sick to walk. ##### backs up the bedding layer through the gate and spreads straw all over the barn, partially burying the three downed cows. They are unable to stand or shake off the straw.

Incident 15: January 27, 2009 (Cow #24191)

Cow #24191 lies on the ground, vocalizing, with her rear legs tied together and bones protruding.

Incident 16: January 27, 2009 (Cow #12625)

Cow #12625 lies on the ground, vocalizing.

Note that although experts consider “downed,” recumbent or non-ambulatory cows an urgent situation requiring immediate attention,⁴⁸ ##### documented cows at the Willet facility downed for long periods of time, at least up to twelve days. These cows may have been down for even longer, but #####’s employment at the facility ended before he could document the resolution of the situations.

EXPERT OPINIONS

⁴⁸ Buyukmichci, *supra* note 16; Cheever, *supra* note 21.

Dr. Cheever asserts that “[o]nce a cow is ‘down’ for more than a few days, she experiences myopathy (muscle degeneration) due to the effect of her body’s heavy weight compromising the circulation through her limbs’ muscle tissue, and becomes progressively unable to use her limbs.”⁴⁹

Dr. Buyukmihci, in his expert statement, explains that a “downed cow is an urgent situation, particularly if she cannot assume a sterna position. If these cows were left like this without immediate attention and resolution, this would compromise their welfare substantially. It could also make a potentially resolvable situation unresolvable.”⁵⁰

Dr. Cheever notes that in the video presented to experts “[o]ne cow expresses her fear and pain with her repeated low vocalizations, which are not normal for a comfortably reclining cow. A second one evinces that she has lain there for a long period since she has pushed away all her bedding with her repeated attempts to rise and by her distressed demeanor.” Dr. Cheever explains that these cows “cannot rise physically.” Dr. Cheever describes how “the handler shouts, kicks, slaps, and twists the tail”⁵¹ to force a cow who went down in the milking parlor to stand up so that she could be milked without concern for her well-being or suffering.

Dr. Buyukmihci also notes that one of the cows in the video “had clearly been struggling to get up as evidenced by the disturbance of the straw, the pattern of which suggested she had dug the straw away with her feet.”⁵²

Dr. Balcombe explains the meanings behind the cows’ motions: “The demeanor and behavior of the first cow⁵³ in this sequence – the extension of her left hind leg and the exertion of her efforts – suggest that she is distressed and that she may be in great pain. The second downer appears also to be in pain based on her immobility and the moan-like character of her vocalizations. The limping of the third animal is a clear indication of pain.”⁵⁴

Dr. Teachout believes that these cows were not receiving proper or adequate medical attention. In her statement, she explains that there is no evidence “that the cows are being treated medically. They are lying in lateral recumbence; some struggling in vain to get up while others lie quite still appearing to be near death.” Dr. Teachout states that leaving cows to suffer for nearly two weeks as was documented at Willet “presents a serious welfare problem, especially if these animals are not being medically treated,”⁵⁵ – lack of proper medical treatment is the consensus of the veterinary experts who have reviewed the evidence.⁵⁶

⁴⁹ Cheever, *supra* note 21.

⁵⁰ Buyukmihci, *supra* note 16.

⁵¹ Cheever, *supra* note 21.

⁵² Buyukmichi, *supra* note 16.

⁵³ Calf with ear tag #32615 who is in Incident #5: January 25, 2009.

⁵⁴ Balcombe, *supra* note 18.

⁵⁵ Teachout, *supra* note 37.

⁵⁶ See Ball, Buyukmihci, Cheever and Teachout.

Dr. Ball states that the length of time that downed cows were left to suffer at Willet, at least twelve days as documented by #####, is “at best unacceptable and leads to extreme suffering of these animals.”⁵⁷

Dr. Cheever made a special note in her expert statement about the suffering downed cows endure. She states,

[A]n element of a ‘downer’s’ suffering that is rarely noted is that any cow, as a prey and not a predator species, experiences terror due to her immobility, which instinctively causes stress since she knows she is helpless to protect herself with her instinctive fight or flight response. These wild-prey-animal instincts are deeply ingrained, behaviorally, as to be resistant to the mitigation of a few thousand years of domestication.⁵⁸

Based on the documented evidence, video footage, sworn statements and expert opinions enclosed, we request that you file animal cruelty charges against Willet based on its failure to provide adequate medical assistance to these cows or otherwise properly relieve their pain and suffering.

C. Neglected Injuries and Illnesses

Untreated illnesses and injuries were a common sight at Willet for #####. The extent of filthy, apparently untreated wounds, injuries and ill animals violates NY AGM Law §§ 47 and 353, which requires that an animal be provided with proper sustenance, including adequate medical treatment, and requires sanitary, healthy conditions. Feces-caked sores and open wounds constitute violations of these laws.

The following facts establish Willet’s continued failure to adequately treat cows with injuries and illness:

Incident 17: January 5, 2009

Every day at Willet, ##### witnessed cows with protruding spines and hip bones, such as this one.

Incident 18: January 8, 2009 (Cow #23240)

⁵⁷ Ball, *supra* note 19.

⁵⁸ Cheever, *supra* note 21.

Cow #23240 has a prolapsed uterus and can be seen in the background of this clip. ##### directs her injury the attention of ##### (last name unknown),⁵⁹ who smiles and walks off. Later, ##### asks ##### what would happen to this cow. "She won't be having another cycle," he said, indicating that she wouldn't be re-impregnated, "so she'll probably be hamburger soon."

January 9, 2009 (Cow #23240) - 1 day later

A closer look at the prolapsed uterus of the cow #23240.

January 26, 2009 (Cow #23240) - 18 days later

Cow #23240 continues to be in the lanes. Her uteral prolapse remains untreated and has become increasingly severe. It began to decay and ##### states in his field notes that it "smelled," and because it hangs directly below her rectum, her prolapsed uterus is caked in manure.

January 29, 2009 (Cow #23240) - 21 days later

Cow #23240 continues to suffer from her prolapsed uterus.

The length of suffering for cow #23240 is unknown to MFA or #####; however, the documentation of this cow shows that she was suffering for *at least* 22 days total given that ##### documented her condition 21 days after the first day he documented her.

Incident 19: January 8, 2009

A cow's eyes bulge out of their sockets.

Incident 20: January 8, 2009

An infected, swollen hock.

Incident 21: January 9, 2009

Cow #24310 has a grossly swollen hock on her rear right leg.

Incident 22: January 9, 2009

The rear right leg of cow #26021 is badly infected.

⁵⁹ ##### was a temporary maintenance worker, approximately 6' tall and 200 lbs with brown hair and a beard (no moustache).

Incident 23: January 9, 2009

Cow #21611 appears to be down. She is extremely emaciated, with her spine and hip bones protruding. She has sores and bald patches along her back and spine. ##### tries to get her to stand, but she does not get up.

Incident 24: January 10, 2009

Swollen hock on the left rear leg of a cow.

Incident 25: January 10, 2009 (Cow #24655)

Cow #24655 has a prolapsed uterus.

Incident 26: January 13, 2009

This cow has a scraped and bloody wound on her lower left leg. Her hip is immensely swollen.

Incident 27: January 14, 2009

The following conversation regards moving an injured cow with a fork lift. Her leg was caught between a gate and a water vat, allegedly causing what ##### was told was a compound fracture.

(last name unknown): “Yeah, I almost [noise] I saw her, [inaudible – I thought?] she’s dead, I started walking by her and said wait a minute she just fuckin’ moved a little bit. But we got under her with the skid-loader here and lifted her. It’s the only way to get her out was to bring her up. But her legs are right, I mean, you can see the bone on her legs.”

Another worker: “#####.”

Incident 28: January 16, 2009

A cow with a swollen left rear leg.

Incident 29: January 24, 2009

A cow with a prolapsed uterus.

Incident 30: January 26, 2009

A cow with a swollen right rear hock.

Incident 31: January 26, 2009

Both rear hocks of this cow are swollen.

Incident 32: January 26, 2009

Two cows with infected rear hocks.

Incident 33: January 26, 2009

A cow's infected right rear hock that is punctured, oozing pus and coated in manure.

Incident 34: January 29, 2009

This cow has an abscessed wound about 1 ½" thick on her hock.

Incident 35: February 3, 2009

Cow with infected right rear hock that is punctured and bleeding.

Incident 36: February 3, 2009

Cow with swelling on both rear legs. Her right rear leg has severe swelling on the outside.

Incident 37: February 3, 2009

Cow with infected left rear hock.

Incident 38: February 4, 2009

Cow with a bleeding, open gash on her left rear leg.

Incident 39: February 4, 2009

Cow with open, bloody sores on her right rear leg and a pool of blood near her hindquarters.

Incident 40: February 4, 2009

Cow with an infected left rear hock.

Incident 41: February 4, 2009

Cow with an infected open wound on her left rear leg.

Incident 42: February 5, 2009

Bloody pus drips from the infected, open wound on this cow's right rear leg.

EXPERT OPINIONS

Dr. Rollin *et al.* declare that the “condition of some of the cows was appalling, and certainly causing major pain and distress. The severe abscesses were clearly of long duration and untreated.” The video edit provided to the experts included one of the cows who suffered from a prolapsed vagina. Rollin *et al.* state that “[t]he prolapsed vagina is severely painful” and also of “long duration, and should have been dealt with” or “the cow humanely euthanized,” adding that “[t]his alone is eloquent evidence of severe neglect.”⁶⁰

Dr. Buyukmihci observes that “[m]any of the adult cows had moderately to extremely swollen hocks (tibiotalar joints). Some of these swellings had openings from which fluid exuded. There is little question that at least some of these lesions were inflammatory in nature, some appearing to be abscesses. They would ... be a source of pain for the affected cow. In at least one case, the cow was repeatedly shifting her weight from one hind leg to the other, a sign of discomfort. From the appearance of these lesions, it was clear that some had been present for many days, perhaps weeks.” Dr. Buyukmihci explains that it was not clear that these wounds were being treated. He explains that there was “no evidence of staining of the skin surrounding the exudation points like there would be if something like povidone iodine was being used to flush the wounds. These conditions would have also required systemic medication in order to provide the best chance at favorable resolution.”⁶¹

Dr. Cheever concurs, stating that some cows “have deep, extensive penetrating wounds into the soft tissue (musculature), which are clearly very old, judging by the degree of dried and crusted tissue and blood and the excessive inflammation around the wounds.” She points out that “[a]ll of the wounds are packed with filth from their environment. From these images, it is *impossible* to believe that any of these wounds are receiving proper medical care” (emphasis added).⁶²

Dr. Cheever observes that the injuries are “serious untreated and badly infected, hence very painful wounds. The environment (flooring) ... is filthy, wet, full of manure, and lacks bedding to cushion the cattle when they lie down, so it provides the classic initiating factors for such injuries.” She expresses that “[s]everal cows have large swellings on the lateral aspect of their

⁶⁰ Rollin *et al.*, *supra* note 13; Grandin *supra* note 14.

⁶¹ Buyukmihci, *supra* note 16.

⁶² Cheever, *supra* note 21.

hocks, including one such swelling which drips clearly visible pus. These swellings are the typical manifestation of trauma and infection as is seen in settings with very poorly managed and badly maintained dairy husbandry.”⁶³

Of the prolapsed uterus, Dr. Cheever states that “the tissue bulging from her vulva is hemorrhagic, badly dried, crusted with filth, and infected.” Dr. Cheever concludes that “[s]uch lesions [in the overall injuries] are very painful, and some of the infections are severe enough to have the potential to have systematic repercussions, i.e. they could spread to other parts of the body—yet their milk is presumably sold to the public since the milking parlor footage also shows cows with similarly swollen hock joints.” She states that “It is my professional opinion that all the cattle shown in this footage are experiencing extreme pain.”⁶⁴

Dr. Cheever also points out that in one frame of the edit, “considerable bleeding onto the floor” can be seen, expressing that in her practice she did “not permit such hemorrhage.”⁶⁵

Dr. Buyukmihci says that “the tissue was inflamed and hemorrhagic and is likely to have been in this condition for many hours if not longer.”⁶⁶ In fact, ##### documented this particular cow with a prolapsed uterus for 22 consecutive days, and she remained in this painful condition at the end of his employment.

Dr. Buyukmihci states that the prolapsed uterus “would be a source of pain and would continue to deteriorate resulting in further pain, eventually leading to severe compromise. This individual should have been immediately removed from the herd and treated appropriately.” Delaying treatment of a prolapse, he explains, “could result in vascular compromise to the tissue resulting in necrosis (gangrene), further suffering and possibly death.”⁶⁷ Keeping cows with prolapses such as hers for such lengths of time is gross neglect.

Dr. Teachout points out that the “milking parlor is also dirty and wet with many cows showing draining and filthy infected wounds on their rear legs which are in close proximity to the milking machines.”⁶⁸ She also states that,

There are numerous swellings over joints, especially the hock joint, ranging in size from small to enormous. There are many examples of large draining lesions and open sores on the hind legs raising high suspicion for joint or bone infection. Draining lesions and swellings are typically caked with debris. Many cows are lame. The high prevalence and severity of these musculoskeletal diseases implies a lack of adequate veterinary care.⁶⁹

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ Buyukmihci, *supra* note 16.

⁶⁷ *Id.*

⁶⁸ Teachout, *supra* note 37.

⁶⁹ *Id.*

Dr. Teachout also explains that the “large vaginal prolapse ... deserves immediate veterinary attention.”⁷⁰

Dr. Ball states, “The worst and most pronounced violation seen in this video is the high frequency of chronic wounds and illnesses displayed. Injuries include seeping abscesses the size of oranges, chronic wounds with no signs of treatment, chronic joint injuries, decubital ulcers, emaciated animals and vaginal prolapse.” He declares that the “number of chronic injuries displayed is unacceptable and demonstrates very bad management techniques and shows a problem with the facility as a whole. When so many cuts, abscesses and decubital ulcers exist, a fault in the equipment and facility must be tracked down and fixed.” Yet, at Willet, nothing changed during the time of MFA’s investigation. Dr. Ball says that “[t]he number and chronicity of the injuries not only demonstrates a neglect of the animals, but shows a massive problem with the facility,” noting that the American Association of Bovine Practitioners guidelines were “not being followed.”⁷¹

Dr. Balcombe acknowledges that the injuries documented by ##### “appear to be untreated injuries, infections and inflamed joints on adult cattle.” He adds, “What appears to be pus drips from a large suppurating swelling on an animal’s hock. Several animals are afflicted with severe swelling on one or both hocks, causing the joint to be up to 3x normal diameter in some cases. Some of these also bear open wounds, some of which have draining blood and/or pus.” He also notes that “at least three animals have swollen hip (as distinguished from hock) joints.”⁷²

Dr. Balcombe summarizes that “[m]ost of the injuries depicted are chronic and appear to have gone largely or entirely untreated. Chronic pain is almost certain to accompany these symptoms.”⁷³

FAILURE TO PROVIDE MEDICAL CARE VIOLATES THE ANIMAL CRUELTY LAW

Precedent establishes that necessary “sustenance” under the Animal Cruelty Law includes providing animals with proper veterinary treatment. For example, the Appellate Term upheld a jury charge defining “sustenance to include veterinary care and adequate shelter to maintain the dog's health and comfort properly” and found that this charge properly “conveyed the appropriate law.” People v. Mahoney, 9 Misc.3d 101, 804 N.Y.S.2d 535 (App. Term. 9th and 10th Dist. 2005), leave to appeal denied 5 N.Y.3d 854, 806 N.Y.S.2d 173.

A New York City Criminal Court recently found that a complaint was facially sufficient as it alleged that the defendant knew his dog had a mass on her rear yet would not take her to the

⁷⁰ *Id.*

⁷¹ Ball, *supra* note 19.

⁷² Balcombe, *supra* note 18.

⁷³ *Id.*

veterinarian for medical attention. Since the matters alleged in the complaint constituted an omission or neglect permitting unjustifiable pain or suffering within meaning of the Agriculture and Markets Law definition of cruelty, the prosecution was permitted to go forward. People v. Curcio, 22 Misc.3d 907 (NY Crim. Ct. 2008).

In People v. O'Rourke, 83 Misc.2d 175, 369 N.Y.S.2d 335 (NYC Crim. Ct.1975), the Court found that a carriage horse owner violated section 353 of the Animal Cruelty Law by failing "to call a veterinarian in order that the horse might receive proper medical attention. By continuing to use the limping horse for commercial reasons without providing proper veterinary care, the defendant caused pain and neglected the horse under Section 353 of the Animal Cruelty Law." 83 Misc.2d at 180. It has been long established that the use of an animal for commercial purposes without properly treating injuries is a violation of the Animal Cruelty Law. People v. Koogan, 256 A.D. 1078, 11 N.Y.S.2d 49 (2nd Dept. 1939)

Based on the documented evidence, video footage, sworn statements and expert opinions enclosed, we request that you file animal cruelty charges against Willet based on its failure to provide medical assistance to these cows or otherwise relieve their pain and suffering.

D. Neglected, Dying Calves

On a number of occasions, ##### witnessed injured or sick calves left to die, apparently without medical attention, food or water. Many were held for days at a time in the middle of winter within metal-walled rooms that had no insulation, heating apparatus or bedding. On one occasion, ##### states that he was able to confirm that a calf had died of exposure in this manner.

Although we did not include these dying calves in our expert video edit, the suffering of the calves who were left to die by Willet employees should not be overlooked. This neglect is in violation of New York Law's prohibition against deprivation of necessary sustenance, food or drink, as are the unhealthy conditions in which the calves were kept. (See AGM §§ 47 and 353) (See discussion and cases cited in section entitled "Failure To Provide Medical Care Violates The Animal Cruelty Law" above).

Incident 43: January 26, 2009

A calf, buried under straw, moans weakly without attempting to stand or otherwise move at 8:30 a.m. At 11:30 a.m., the calf is still lying there unmoved. The calf is less lucid, with a growing grayness in her eyes, but she bleats when ##### comes near.

By 4:30 p.m., the dying calf is still where she was at 8:30 a.m. that morning. It takes ##### about a minute of looking at her to realize that she is alive, when he notices her throat is just barely expanding and contracting in slow breaths. Her

eyes are completely gray. ##### sits down beside her and strokes her hair. He does not get a response, but when he gets up to walk away, she lets out a weak bleat, so he returns and continues to pet her.

Incident 44: January 27, 2009

Two other calves are in a pen. One calf's head is bent backwards. The second calf is shivering from the cold. Her mother hovers over the pen, watching the calf and vocalizing.

Additionally, on January 17, 2009, ##### reports finding a frozen, dead calf lying near two other calves who he believed seemed to be close to death themselves. ##### told a worker about the dead calf. The worker examined the calf with ##### and agreed that the calf had died of the cold during the night, but insisted that the others would be fine. Not far from there, ##### found two other dead calves, buried in straw.

Based on the documented evidence, video footage, and sworn statement enclosed, we request that you file animal cruelty charges against Willet for its mistreatment of dying calves.

E. Dragging of Newborn Calves

documented workers dragging calves across the floor by one or two legs. This is in apparent violation of the laws' prohibition of unjustifiably injuring or maiming any animal, whether wild or tame, and whether belonging to himself or to another as well laws forbidding the carrying of an animal in a cruel manner. *See* NY AGM §§ 47, 359 and 353.

Incident 45: January 24, 2009

After the calf is born, the workers drag the animal away on his or her back by both hind legs. The mother cow follows, attempting to lick her young, and begins to vocalize in distress when the gate is closed between the mothers and the newborns. The calves call back, and the mother and calf continue the communication until ##### leaves. A worker explains to ##### that the mother cows "[be]come crazy when I take their babies" and spend days trying to find them.

Incident 46: January 24, 2009

A mother cow follows and licks her newborn calf which a worker pulls away from her by one hind leg across the ground as the calf twists his or her body to look at the mother. A second worker pulls another calf by one leg across the ground. The mothers vocalize as they are separated from the calves.

Incident 47: January 26, 2009

A worker drags a newborn calf across the ground on his or her back by both of the hind legs. When he opens the gate, he drops the calf's legs. He then grabs one hind leg and drags the calf behind the gate and drops the leg. He closes the gate, denying the vocalizing mother from getting to the calf. The mother cow paces back and forth, vocalizing for her young, and the calf would call back.⁷⁴

EXPERT OPINION

Dr. Rollin *et al.* note that the video excerpt of the worker separating the calf from the mother “by callously dragging the calf by one leg is emblematic of a total lack of empathy or common decency.”⁷⁵ Dr. Cheever strongly agrees, calling the footage “very disturbing.” She states that “the manner in which this dairy separates the new calves is unnecessary[ily] rough on the newborn, who is dragged away from his/her dam by one hind leg, which is painful.”⁷⁶ Dr. Buyukmihci also describes the workers as “dragging” the newborn calves.⁷⁷

Dr. Teachout explains that the “outward signs of distress suggest an extreme psychological traumatic experience for the mothers.”⁷⁸

Based on the documented evidence, video footage, sworn statements and expert opinions enclosed, we request that you file animal cruelty charges against Willet for its unwarranted infliction of pain and suffering upon newborn calves by cruelly dragging them.

F. Handling

Workers at Willet routinely use grossly inappropriate methods to handle and herd the animals in their keep, including inducing fear, panic, and physical pain in order to coerce their movement. Experts agree that the use of such methods is completely incompatible with good dairy practices, and should only be used in extreme circumstances where physical danger is an imminent risk. Willet and its employees appear to have violated NY AGM §§ 47, 359 and 353.

Incident 48: January 21, 2009

In an outdoor environment, a group of cows are loaded onto a transport truck. A male worker kicks a cow in the hock region, before repeatedly hitting another cow on her

⁷⁴ When ##### approached her, the cow walked away, presumably in fear of him, but she continued to vocalize for her calf.

⁷⁵ Rollin *et al.*, *supra* note 13; Grandin *supra* note 14.

⁷⁶ Cheever, *supra* note 21.

⁷⁷ Buyukmihci, *supra* note 16.

⁷⁸ Teachout, *supra* note 37.

hindquarters. This worker then proceeds to pull and twist the tail of a third cow before repeatedly striking this cow with his fist. A female worker yells at the cows, then kicks a cow in the hock region. The second male worker then approaches and proceeds to kick the cows in the rear leg ten times while attempting to load the animals onto the transport trailer.

Incident 49: February 2, 2009

Inside a feeding barn, a group of cows are moved toward a transport truck. One cow slips and falls on the manure-soaked flooring during the transport process. One worker carries a long, green handled electrical shocking prod in his hand. He uses the device excessively to move the cows – shocking them on the face, legs, and hips. The worker is shocking cows who have nowhere to move.

Incident 50: February 3, 2009

A group of cows is unloaded from an elevated transport truck. No ramp or walk way is provided. The floor of both the transport trailer and the barn floor are coated with manure. The cows frantically jump off of the transport trailers onto the floor below. As the cows jump from the transport trailer, numerous cows slip and fall as their hooves slide on the concrete flooring.

EXPERT OPINION

Dr. Rollin *et al.* explain, “In general, handling is far too aggressive for these gentle animals. The use of electric prods is far too common; presumably substituting for a lack of knowledge and feelings of inadequacy. The words that leapt to my mind were ‘cowards and bullies.’”⁷⁹

The Colorado State University Department of Animal Sciences explains that “these workers seem to despise the animals and treat them with brutality and contempt. From the callous mishandling of the older calf being dehorned, to the overtly sadistic worker bragging about abusing and striking animals, the clear message is that these workers are at best unforgivably ignorant, or at worst and most likely mean bullies who derive pleasure from hurting the animals.” They state, “These workers clearly enjoy cruelty.”⁸⁰

Dr. Cheever describes Willet employees’ methods of moving the cows at the facility as “beating, punching, yelling, and electric-shocking the cattle to move them to targeted areas,” adding that “[t]he cattle react with terror, as evinced by their rushing and slipping on the slippery and filthy surfaces and vocalizing from fear.” Dr. Cheever explains that these behaviors “increase the probability of injuries” given that cows have “a tendency to bolt through narrow spaces.” The

⁷⁹ Rollin *et al.*, *supra* note 13; Grandin *supra* note 13.

⁸⁰ *Id.*

electric shocks that Willet employees inflict on the cows “only increases the likelihood of” cows slipping and injuring themselves or others.⁸¹

Dr. Buyukmihci describes the abusive electric shocking of the cows during herding. “Even though they were moving in the direction desired, one of the people repeatedly used an electric prod on the cows. There was no need,” he exclaims, “to subject the cows to the sharp pain of the electric prod. The people should have been patient and allowed the cows to move as they become comfortable with the circumstances rather than adding to their fright and discomfort by administering painful shocks.”⁸²

Dr. Teachout entitles one of her expert statement’s sections as “Abusive animal handling.” In it, she states, “Employee animal handling is atrocious. There are numerous examples of kicking, hitting, and screaming at the cows.”⁸³

Regarding Willet employees electrically shocking the cows, Dr. Teachout writes, “The cows are vocalizing loudly, and running in a panicked manner while attempting to flee the prods. One cow at the end of the group can be seen to get multiple shots, but the cow has nowhere to run as she is boxed in between the prod and the cows directly in front of her. This action appears malevolent and malicious on the part of the employee using the prod.”⁸⁴

Dr. Teachout states that Willet employees are “caught physically abusing animals, and these incompetent individuals should never hold jobs handling or caring for livestock. Cows should come to expect positive interactions with their caretakers, not abuse.” Additionally, she explains, “When cows are moved they should not be dragged (as seen in removal of newborns from their mothers), nor should they vocalize loudly, fall, run, or be prodded with anything painful to make them move.”⁸⁵

Dr. Balcombe discusses that the cows “are packed together as closely as their bodies will allow” and that “[c]lose confinement is likely stressful for cattle, particularly ... in the noisy, indoor conditions depicted” in the expert video edit. In his review of Willet’s moving of cows, Dr. Balcombe states that “a worker inside the chute appears to be using [the electric prod to shock the cows] repeatedly even though the cattle are moving forward as fast as the cramped conditions allow.” He also notes that “[t]he conditions in which the cattle are being unloaded are treacherous and unacceptable for meeting the safety of these animals,” after describing how “cattle scramble off a truck onto a slippery floor. Several slip perilously, possibly injuring themselves.” He later discusses how “cows run and skid past a drain that is bubbling up with brown liquid,” which was liquefied feces. Dr. Balcombe calls this “unsanitary and unsafe for the cattle.”⁸⁶

⁸¹ Cheever, *supra* note 21.

⁸² Bukukmihci, *supra* note 16.

⁸³ Teachout, *supra* note 37.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Balcombe, *supra* note 18.

Indeed, Canadian authorities agree and prohibit the use of electric prods: “Electric cattle prods must only be used in extreme situations, such as when animal or human safety is at risk,” neither of which applied in the situations documented by ##### at Willet, where employees electrically shocked cows with nowhere to go.⁸⁷

Based on the documented evidence, video footage, and sworn statement enclosed, we request that you file animal cruelty charges against Willet for its abusive treatment of cows.

G. General Unsanitary and Inhumane Conditions

Willet’s cows are housed in facilities that are over-crowded and grossly unsanitary. Although the cows have individual “beds,” these areas are of an inadequate size and force the cows to lie side by side with no room to stretch their limbs. Their legs hang over the edges of the stalls and into the alley area, creating sores that are then exposed to the liquid manure that coats the ground. Many of the cows are largely covered in such manure. They are further kept in crowded group pens that prevent them from exercising, going outside, or engaging in other natural behaviors.

Further, according to #####, the communal water troughs that provide them with access to water are never drained or otherwise cleaned, as ##### stated, “not even in the summer.” ##### documented that many of these troughs harbored a thick sediment of putrefied manure and other waste products, and that the water was typically a dark shade of brown. ##### offered to clean some of the troughs, but was told by ##### that it was not necessary. ##### also documented ##### using these troughs to wash his tools after dropping them into the liquid manure that covers the ground.

The above conditions are in apparent violation of NY AGM §§ 47 and 353, which prohibits the keeping of dairy cattle in crowded or unhealthy conditions, or in unhealthful or unsanitary surroundings, and feeding them any substance that is in a state of putrefaction or fermentation. The law also requires proper sustenance.

EXPERT OPINION

The stalls are too small for the animals being housed in them. *Rollin et al.* state that the “location depicted is filthy, and even worse, the workers’ attitudes are nightmarish.”⁸⁸

Rollin et al. explain that the “flooring is smooth and conducive to the animals slipping and falling and being fearful and apprehensive.”⁸⁹ Dr. Cheever agrees, stating that the “floors are

⁸⁷ Dairy Farmers of Canada and the National Farm Animal Care Council, *supra* note 23.

⁸⁸ *Rollin et al.*, *supra* note 13; *Grandin supra* note 14.

visibly wet and dirty, providing an environment promoting slipping and injuries.”⁹⁰ Dr. Buyukmihci states that “cows were unloaded from a trailer onto a wet and slippery concrete floor. It appeared that, rather than allow the cows to slowly make the transition, workers frightened the cows into rapidly moving off the trailer. Many slipped and fell as a result. This kind of fall can lead to serious musculoskeletal injuries that would not only be painful, but render an individual incapable of rising,”⁹¹ thereby adding to the number of dangerously downed cows at the facility. As evidenced above, it appears that Willet and its employees would leave downed cows to suffer for weeks at a time.

In a similar situation, Dr. Buyukmihci observes that “the cows were exiting the [milking] parlor, they had to traverse a fecal-covered, wet and slippery concrete floor. In their haste to exit, the cows lost their footing.”⁹²

Dr. Teachout calls the facility “substandard.” She explains that the “floors are extremely wet and dirty to the point of being slushy throughout the alley ways, the stalls, and the milking parlor. This is a highly dangerous situation and promotes falling.” Cows who have “fallen have considerable trouble rising due to the inability of their feet to gain traction for stability. In transport activities cows are forced to jump from a trailer on to [sic] the wet slippery floor, and many slip, skid, or lose their footing.”⁹³

In her expert statement, Dr. Teachout also discusses the “improperly functioning drain that is forcefully discharging a geyser like spray of diluted fecal material into the air and onto the floor. This eruption of aerosolized fecal material creates panic in the cows forcing them to run on the slick, unsafe floor to avoid the spewing drain.”⁹⁴

In her conclusion, Dr. Teachout states that “The conditions at this dairy farm create both mental and physical suffering for the cows. Even the basic necessities of a suitable environment, comfortable resting area, humane treatment, and essential medical care are withheld.”⁹⁵

Dr. Cheever states that the “very thin substance for bedding” is insufficient. “[R]ather than” the “recommended sand or sawdust for comfort or cushioning,” this lack of appropriate bedding “goes far to explain the prevalence of serious injuries to [the cows’] extremities ... It also explains,” she adds, “why so many of the cows ... are so filthy with crusted manure on their coats. The flooring is wet and dirty with urine and manure, creating a slippery surface that also represents a significant source of injuries.” Dr. Cheever explains that “the density of [the cows’]

⁸⁹ *Id.*

⁹⁰ Cheever, *supra* note 21.

⁹¹ Buyukmihci, *supra* note 16.

⁹² *Id.*

⁹³ Teachout, *supra* note 37.

⁹⁴ This drain is not in the “Conditions at Willet Dairy: Incident Report Edit DVD,” but may be seen in “Conditions at Willet Dairy: Expert Review Edit DVD.” Attach B.

⁹⁵ Teachout, *supra* note 37.

grouping makes it hazardous for any cow who, due to lameness, other weakness, or slippery footing might go down in the press of the moving herd.”⁹⁶

Dr. Cheever declares that it is her professional opinion that “hygiene and attention to cow comfort—so essential to the well-run dairy operation—are entirely lacking in this operation ... Lying on this wet and filthy concrete, as depicted, is every bit as uncomfortable and unacceptable as it appears.” Because the bedding was so minimal, Dr. Cheever states that she is “willing to bet that there is a high incident of teat injuries due to the lack of bedding.”⁹⁷

Dr. Cheever also states that there are “visibly lame” cows being milked.⁹⁸

Dr. Teachout explains that the cows “appear to be too large for their stalls. They are evidenced ‘perching’ (placing their hind feet in the alley with their front feet in the stall). Perching is an indicator of uncomfortable stalls or lameness. Many cows do not have enough room to lie down without hitting the stall bars or another cow, and legs are seen to drape out into the alley.” She also notes that there “appears to be little to no bedding in the free stalls thus allowing the skin to be exposed to soil, manure and water during recumbency. A stall without bedding discourages lying down with the result of prolonged standing, discomfort, frustration, and more lameness.”⁹⁹

Dr. Teachout points out that “[i]n some holding areas the cows are so densely packed together that if one fell, it would not likely be able to regain a standing position.”¹⁰⁰

Dr. Balcombe states that the “conditions generally appeared filthy,” noting “what appears to be liquid feces on the ground and smeared across the animals’ legs and in some cases their hindquarters.” It was, in fact, liquid feces. “In some cases the cattle appear to be standing in an inch or more of liquid, which can be heard sloshing as the cameraman walks.”¹⁰¹

Based upon the enclosed video footage, sworn statements and expert opinions documenting the deplorable treatment of the cows at Willet, we urge you to prosecute Willet for violation of New York State’s animal cruelty laws.

H. ##### and Admissions of Overt Animal Cruelty at Willet

is a maintenance worker at Willet who can be seen abusing animals at Willet and bragging of his own cruelty to animals at the Dairy. According to #####, he has worked at Willet for over 19 years and has done every job at the facility, including being a “feeder” for nine years. MFA believes that at the time of the investigation Mr. ##### was 46 years of age. He is approximately

⁹⁶ Cheever, *supra* note 21.

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ Teachout, *supra* note 37.

¹⁰⁰ *Id.*

¹⁰¹ Balcombe, *supra* note 18.

5'8" tall with a slender build and at the time wore a thick moustache. ##### received his training from ##### and spent most of his time with #####.

Although the video footage speaks for itself, we have included the following transcript of the conversations. Our experts showed great concern over the fact that this individual was working around animals. ##### brutal acts of cruelty, as well as his boasts of egregious animal cruelty, need little explanation. #####, under the direct supervision of Willet Dairy for nineteen years, has repeatedly violated NY AGM §§ 47 and 353.

Incident 51: January 19, 2009

hits a curious cow with a wrench, which he then drops to the ground.

Below are transcript excerpts of #####'s conversations with #####. The unedited footage and/or transcripts are available immediately upon request.

Incident 52: January 28, 2009

#####: So, I was carrying a fuckin' two by four just because of that fuckin' bull...

#####: Uh huh.

#####: He come rippin' around the corner in there by the one end of the barn by the water vat, comes rippin' up that fuckin' alley, after me? That's bullshit, man.

#####: Uh huh.

#####: Stood right there just like fuckin' Babe Ruth waitin' for that motherfucker... he got up there and, "CRACK!" [demonstrates yelling noise and swings his arm in baseball bat motion] ...Sideways. Thin side.

#####: Uh huh.

#####: Broke that motherfucker in half.

#####: The board?

#####: Yeah.

#####: Holy shit.

#####: He went down right on his fucking face. Knocked out colder'n hell.

#####: [laughs slightly]

#####: So, while he was down in the cold, I walked around behind him and started kicking him in the balls. [makes walking motion toward #####] As hard as I fucking could. [walks back to original standing position]

#####: Cold-blooded.

#####: He woke up while I still kickin' him in the balls.

...

#####: We'd make up ice balls and start whipping them at the fuckin' heifers. [laughs]. All out. No, as hard as you could throw them. Smack! [mimics distressed cow]

vocalization] [laughs] And then durin' the summertime when the corn's growing, you grab fuckin' corn cobs.

####: Uh huh.

####: Fucking break em in half , they'd be about that long, and fucking whip them at the heifers. Cruel bastards, cruel.

...

####: [talking to cow] That's the fifth time. You're going to get the fist next time.

[talking to ####] That's probably why I've got arthritis big time in this hand.

Worker 2: From punching cows?

Worker 1: Probably.

####: I got up in front of her, and she couldn't go nowhere because she's locked up.

What do you think that wrench did to her?

####: What?

####: What do you think that wrench did to her?

####: I don't know. What did you do with it?

####: Cracked her right over the fuckin' skull.

####: With her head in a headlock?

####: Yep. Dropped her right down. [yells] Stupid bitch!

Incident 53: February 2, 2009

The following conversation occurred in a company truck. #### tells how when he was working in the newborn calf area, a calf got loose from her hutch. After a long chase, when the calf was caught, #### told #### that they tied up the calf and beat on her. #### explained to MFA that later a manager asked why the calf was so bruised and #### said that he did not know.

####: Fuckin' kickin' her, hittin' her. Fuckin' jumpin' off of the top of the goddamn gate and stompin' on her head and shit.

####: This is what happens when you fuck with us?

####: Awww, we were pissed. Hour and forty-five minutes catchin' that fucking bitch.

####: ####.

...

####: Then you get in front of her and grabbed her fuckin' head and grabbed her fuckin' nose and the back of her ear on one side and "Eeeeeee" and Wham on her side! Then just fuckin' hold her head and just start fuckin' punchin' the shit out of her.

#####: Jesus Christ.

#####: You stupid bitch! Buuhhh! Bam! Bam! Buh! Buuuuhhhh! [laughs]

...

#####: Oh, you can tell I have no love loss for these motherfuckers. [Inaudible] cows.

regularly struck animals and bragged about his abuses. He even intentionally contaminated the cows' only drinking water, which was already foul and allegedly never being changed, by dipping his feces-covered tools in the water troughs.

EXPERT OPINION

In discussing ##### behavior toward the animals Willet left in his charge, Dr. Cheever explains that there is "no reason to handle them with such brutality." ##### is "seen punching cattle to get them to move." Dr. Cheever points out that "all mammals have similar degrees of sensitivity in their gonads" in reference to ##### "boasting about kicking a bull in the balls."¹⁰²

Dr. Balcombe describes ##### acts captured on video as "viciously" hitting "a curious calf in the face with what appears to be a small tool," which was ##### wrench. Dr. Balcombe maintains that "[t]hese actions are self-explanatory and need no scientific opinion to condemn them. The worker ... should never have been permitted to work with or near animals."¹⁰³ Yet, as noted above, Willet has employed ##### and permitted him to handle its animals for over 19 years.

Dr. Ball states that ##### "should not be allowed to work with any sort of animal, as well as be evaluated for abusive patterns with people. It is well studied and documented that individuals capable of extreme violence to animals are often times able to enact those same behaviors on children, spouses or other human beings." Notably, he adds that on "any well run or [even] marginally run farm, such acts of violence towards animals are not tolerated and [are] reportable offenses."¹⁰⁴

Dr. Teachout describes ##### "forcefully smacking a calf on the nose with a wrench when the calf simply stands next to him with her head extended in a manner suggesting curiosity. This action is even more egregious when the docile and inquisitive nature of the Holstein is considered." She observes that ##### is later "overheard in conversation as he tells another employee how he used a wrench on a cow. He says, 'Cracked her right over the fuckin' skull.' Second employee says, 'With her head in a head lock?' First employee replies, laughing, 'Dropped her right down.' He follows that by yelling, 'Stupid bitch.'" Dr. Teachout notes how ##### "related a story of breaking a board over a bull and kicking him in the testicles. The fact

¹⁰² Cheever, *supra* note 21.

¹⁰³ Balcombe, *supra* note 18.

¹⁰⁴ Ball, *supra* note 19.

that these extraordinary abusive behaviors go on suggests a severe deficiency in supervision of personnel as well as very poor hiring and applicant screening practices.”¹⁰⁵

Dr. Rollin *et al.* declare that ##### “should be summarily fired and never be allowed near an animal.”¹⁰⁶

CONCLUSION

As the documented instances of cruelty, including neglect, show, Willet and its employees engaged in a pattern of mistreatment of a large number of the animals in its care, constituting multiple violations of New York’s Animal Cruelty Laws.

It is significant that Rollin *et al.*, state that “[t]his dairy presents at least as bad a picture of the industry as does Hallmark,” the California facility depicted in a 2008 undercover investigation where slaughter plant workers treated the animals in their care in a cruel and sadistic manner, as they repeatedly attempted to force downed animals onto their feet and into the human food chain. The Hallmark investigation resulted in the largest beef recall in U.S. history and the U.S. Department of Agriculture pulled its inspectors out, shutting down the facility. Rollin and his colleagues, including Dr. Temple Grandin, who herself designs slaughterhouses, “urge relevant authorities to make an example of this brutal operation and demonstrate to the public that such behavior will not be tolerated.”¹⁰⁷

Dr. Buyukmihci states that, in particular, the disbudding is “known to cause substantial suffering for cows.” He states that “handing issues, such as subjecting the cows to electric shocks or unsafe floor conditions, demonstrated a seeming lack of concern for the consequences to the cows.”¹⁰⁸

Dr. Cheever states that some of the injured and infected animals we documented in our expert video edit “are clearly underweight with a body condition score of 3.5 – 4 out of 9” where “a milking cow should score 5 out of 9.” Dr. Cheever feels that the “abuse that these cattle face in their routine handling is clearly depicted” in #####’s undercover footage, “as is the contempt and disregard that the handlers feel for the animals in their charge.”¹⁰⁹

Dr. Cheever concludes that it is her professional opinion that “the environment that this dairy provides as well as its cattle-handling techniques are improper, unhygienic, dangerous, and inhumane.”¹¹⁰

¹⁰⁵ Teachout, *supra* note 37.

¹⁰⁶ Rollin *et al.*, *supra* note 13; Grandin *supra* note 14.

¹⁰⁷ *Id.*

¹⁰⁸ Buyukmihci, *supra* note 16.

¹⁰⁹ Cheever, *supra* note 21.

¹¹⁰ *Id.*

Dr. Teachout states Willet “exposes numerous transgressions in the humane treatment of farm animals due to serious deficiencies in the facility itself, employee regard for animals, medical care, and in the overall management system.” She states that the “overall management” is “inadequate” and states that “This is a bad place to be a dairy cow. There is no doubt that these cows are physically and emotionally suffering as there is total disregard for their safety, comfort, and medical condition.” Dr. Teachout concludes that the “sheer number of leg sores and lame cattle attest to the poor management and inadequate stall design (too short, lack of bedding). Lameness severely compromises welfare, and is considered one of the most important causes of distress in dairy cattle.”¹¹¹

Dr. Balcombe explains that “avoiding and alleviating pain in the animals at this farm was not a concern.” He concludes his expert statement with, “My professional opinion is that these animals suffer chronically in the conditions depicted. Episodes of acute pain and stress are exacerbated by prolonged confinement, thwarting of natural behaviors, and for many the pain of long-term injury, infection and/or disability.” He states, “Conditions in which the animals are off-loaded from trucks are perilously dangerous to the animals, and may be contributing to the frequency of their injuries.”¹¹²

Dr. Ball states that Willet “is years behind in its farm management techniques,” noting “chronic untreated injuries,” poor “treatment of downed cows, as well as handling stressors and stories of abuse.” Dr. Ball believes that “many of the problems . . . are direct consequences of a poorly managed farm with inadequate facilities.” Dr. Ball concludes that the cruelty and neglect documented by ##### should be “investigated, fixed, or have the farm shut down.”¹¹³

In light of this evidence and these expert statements, we ask that you view the footage attached and immediately initiate animal cruelty charges against Willet, its owners, management and employees.

Willet is responsible for the care and treatment of the cows in its facility. The company is also liable for the acts of its employees in the performance of their duties. It is clear that Willet either failed to institute policies and procedures to ensure proper care of its animals or allowed its employees to utterly disregard any rules and regulations that might exist. In any event, the result has been egregious and sustained cruelty to animals that, as experts confirm, has caused the cows at Willet immense and unnecessary pain and suffering.

Indeed, Willet’s own “trainer” and employee of 19 years (#####) participated in and encouraged the abuse. ##### repeatedly brought his concerns about sick and injured animals to the attention of other employees. However, the abuse documented by the MFA investigator continued unchecked.

¹¹¹ Teachout, *supra* note 37.

¹¹² Balcombe, *supra* note 18.

¹¹³ Ball, *supra* note 19.

In fact, it appears that Willet provided no oral or written instruction about the humane treatment of animals to its employees. Indeed, ##### was told not to even alert other workers to instances of animal suffering, although he did so anyway. There was no attention given to the prohibitions of state law and certainly little attention paid to the welfare of the animals housed at the facility.

All of the preceding actions appear to be violations of the Animal Cruelty Laws and prosecutable by law.

It is imperative that the numerous acts of animal cruelty at Willet be prosecuted so as to end the suffering of the cows at the facility and deter future violations of New York's Animal Cruelty Laws. Mistreating and neglecting animals is not accepted by society and we are obliged by law to ensure that these animals are spared any and all unnecessary cruelty.

The unjustified and inexcusable cruel treatment of animals is the very evil the statute was designed to protect against. We respectfully request that you carry out your obligation to prosecute these violations of state law by initiating animal cruelty charges against Willet and appropriate individuals. In doing so, your office will carry out the legislature's intent to prevent animal cruelty and unnecessary suffering.

I am at your disposal to discuss the points detailed above. You may contact me directly via phone at 937-470-9454 or by email at NathanR@MercyForAnimals.org.

Sincerely,



Nathan Runkle
Executive Director

Enclosures:

- A. Conditions at Willet Dairy: Incident Report Edit DVD
- B. Conditions at Willet Dairy: Expert Review Edit DVD
- C. Statement of Dr. Bernard Rollin, Ph.D., Dr. Terry Engle, Ph.D., Kurt Vogel, Ph.D. candidate and William Wailes, B.S., Department of Animal Sciences, University of Colorado
- D. Statement of Dr. Temple Grandin, Ph.D., P.A.S.
- E. Statement of Dr. Nedim Buyukmihci, V.M.D.
- F. Statement of Dr. Holly Cheever, D.V.M.
- G. Statement of Dr. Deb Teachout, D.V.M., M.V.Sc.

- H. Statement of Dr. Geoff Ball, D.V.M.
- I. Statement of Dr. Jonathan Balcombe, Ph.D.
- J. American Veterinary Medical Association. "Welfare Implications of Tail Docking of Dairy Cattle" April 25, 2006.
- K. Dairy Farmers of Canada and the National Farm Animal Care Council. "Code of Practice: For the Care and Handling of Dairy Cattle" 2009.

cc: Jim Bender, Investigator, Cayuga County, New York, District Attorney's Office