



NEW YORK
CITY BAR

**COMMITTEE ON LEGAL ISSUES
PERTAINING TO ANIMALS**

JANE HOFFMAN

CHAIR

55 WEST 14TH STREET, SUITE 8D
NEW YORK, NY 10011
Phone: (212) 243-5423
Fax: (212) 675-4534
jehoffman@earthlink.net

KELLEY WIND

SECRETARY

440 KENT AVE, APT 18A
BROOKLYN, NY 11211
Phone: (914) 381-6177
kdwind@yahoo.com

June 3, 2009

Dr. Jane Lubchenco
Administrator of NOAA and Undersecretary of Commerce
1401 Constitution Avenue, NW
Room 5128
Washington, DC 20230

Dear Dr. Lubchenco:

We write on behalf of the Association of the Bar of the City of New York, Committee on Legal Issues Pertaining to Animals¹, to express our deep concern respecting ongoing efforts to dismantle the worldwide moratorium on commercial whaling at the International Whaling Commission (IWC).

The Association opposes the recent proposed agreement put forward by the Small Working Group (SWG) of the IWC. Under the proposed agreement, the IWC would sanction commercial whaling in Japanese coastal waters under the guise of a category called "coastal whaling," in exchange for a reduction but not the end of so-called "scientific whaling" in the Southern Ocean. If implemented, these proposals could well result in increased killing of whales, thereby further diminishing already depleted stocks.

¹ The New York City Bar Association (the "Association"), founded in 1870, is a private, non-profit organization of more than 22,000 attorneys, judges and law professors, and is one of the oldest bar associations in the United States. The Association's Committee on Legal Issues Pertaining to Animals ("LIPTA") regularly addresses legal, regulatory, and policy issues on a local, state and national level affecting non-human animals, both wild and domestic.

In 2008 the House of Representatives passed Resolution 350, introduced by Representative Nick Rahall, II, Chairman of the Committee on Natural Resources, which urged United States leadership to use all appropriate means to end commercial whaling worldwide. On February 3, 2009, Rep. Rahall wrote to Acting Commerce Secretary Otto Wolf regarding the continuing efforts to relax the moratorium on commercial whaling, setting forth his criticisms of the proposed agreement, which include the following:

- It legitimizes commercial whaling within the IWC;
- Any agreement to reduce scientific whaling will not be binding on Japan or any other country involved in this practice now and there is nothing to prevent other countries from engaging in such whaling in the future;
- Any reduction in the numbers of whales taken by Japan under the guise of scientific whaling could be offset by increases by other countries like Norway and Iceland which recently sold whale meat purportedly harvested for scientific research to Japan for commercial consumption;
- Commercial coastal whaling activities will not be limited only to Japan and could be undertaken by other countries once Japan is given approval to do so;
- Japan's proposal for coastal whaling will target the depleted population of "J stock" minke whales, thereby threatening an already at-risk species; and
- Undermining the moratorium will establish and stimulate a market for whale meat.

On February 26, 2009 Rep. Rahall and Rep. Raul M. Grijalva, along with 19 members of Congress, wrote to President Obama expressing their alarm about the developments at the IWC, which in their words, pose "an urgent danger to our international prestige and our ability to protect whales." Among other things, these members of Congress urged President Obama to consider the recommendations contained in a letter sent to the President by the Whales Need US Coalition on January 26, 2009. Those recommendations included the following:

- Immediately review and provide new instructions to the U.S. Commissioner and the United States delegation to the IWC;
- Explicitly rule out United States support for any initiative or policy in which the IWC or its scientific committee agrees to approve Special Permit catches or any version of "Coastal Whaling" or legitimize any other or new form of whaling not allowed under the existing IWC framework or through any modification of that framework, thereby legitimizing such catches and undermining the existing moratorium;
- Reaffirm the United States' commitment to uphold and strengthen the commercial whaling moratorium and delineate specific steps to accomplish this objective;
- Work together with other nations to modernize the IWC in line with other international conservation treaties by inter alia expanding participation by civil society, closing loopholes in the whaling convention currently being exploited by whaling nations, and adding meaningful enforcement mechanisms to the treaty;
- Use U.S. diplomatic, political, legal and economic influence to curb the escalation of whaling by Japan and the continued whaling by Norway and Iceland and to seek an urgent cessation of these activities; and
- Work constructively with other IWC member countries to support and encourage them to pursue non-lethal marine mammal research and economic activities – such as responsible whale watching – which offer greater benefits for coastal communities in the United States and worldwide.

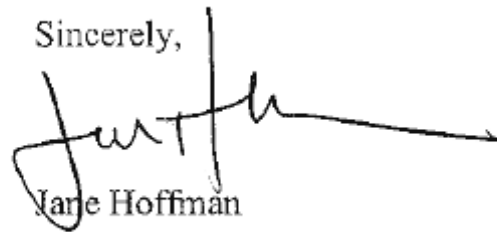
The pressure within the IWC to permit Japan to engage in commercial “coastal” or “community” whaling must be forcefully resisted, as this step might well encourage other whaling interests to seek the same treatment. By authorizing even limited commercial whaling, the IWC would risk triggering an uncontrolled erosion of the global ban on whaling. Moreover, the conducting of commercial whaling under the pretext of “science” should not be tolerated.

In addition to commercial whaling activities, other perils threaten the survival of these majestic creatures, including pollution, climate change, habitat disturbances, ship strikes and commercial fisheries bycatch. The United States should take a leadership role in ensuring that the IWC effectively addresses these threats, as well as the depredations of commercial whaling, as part of global conservation efforts.

Animal welfare is a legitimate and important concern that is undermined by the unnecessary killing of whales for commercial or other purposes; these intelligent animals should not experience the needless infliction of pain, suffering and death.

The upcoming IWC meeting in June may well prove critical in shaping the direction of the IWC and international legal protection for all the world’s whales. It is the view of the Association that the United States should be steadfast in support of the moratorium and resist all efforts to remove or weaken the global moratorium or to sanction commercial whaling in any form by any IWC member.

Sincerely,

A handwritten signature in black ink, appearing to read "Jare Hoffman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jare Hoffman