

DISSECTING BLACKFISH

An analysis of editorial choices utilized
in the film *Blackfish*
and the book *Death at SeaWorld*
and their relationship to
the animal rights movement

By Joe Kleiman

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ABOUT THE AUTHOR

Joe Kleiman has been involved in sales, marketing, and management of film-based attractions since 1997. Most recently, he oversaw final stages of construction and the opening of an IMAX theater and simulator attractions for the \$100 million National Infantry Museum at Fort Benning Georgia. The museum was a recipient of a Thea Award from the Themed Entertainment Association.

Kleiman's relationship with SeaWorld extends to before his birth. During the 1960's and '70's, his grandparents were shareholders of the original San Diego park and maintained their stock during the period additional parks opened in Ohio, Valencia, CA, and Orlando. Growing up in Southern California, he spent his youth attending summer camps at Sea World, the San Diego Zoo and its Wild Animal Park, and the Scripps Aquarium. An annual passholder, he visited each park at least twice a month throughout the year, as well as other Southern California zoological parks such as Hanna Barbera's Marineland, the Los Angeles Zoo, and Busch Gardens in Van Nuys.

In the summer of 1987, he interned at Sea World of California in the Aviculture department. During this time, he had the opportunity to meet and chat with a number of marine mammal pioneers of the day, including trainer Randy Brill and Dr. Lanny Cornell.

In the early 1990's, while studying in Galveston, he volunteered with the Texas Marine Mammal Stranding Network. His role in the organization was to collect deceased dolphins that washed up on shore and transport them back to the lab, where he assisted NMFS and Texas A&M scientists on necropsies and toxicology studies. During this period, Sea World of Texas in San Antonio became an important partner to the Stranding Network, providing facilities along with keepers and veterinary staff to assist with rehabilitation and re-release of live strandings along the Texas coast and in Galveston Bay.

Since 1999, Kleiman has been a freelance writer contributing to a number of attraction industry periodicals and websites and is a contributor to the *Season Pass* and *Micechat* podcasts. He is also News Editor for *InPark Magazine*, a leading themed entertainment trade publication that features extensive coverage of the SeaWorld and Busch Gardens family of parks.

DISCLAIMER

Dissecting Blackfish is an independent report. SeaWorld Parks & Entertainment and its associated companies had no role in its creation and did not influence the content of this report. SeaWorld and its representatives were never contacted by the author during any stage of the report's research, writing, or editing. All content within this report, with the exception of the author's personal experiences, is currently publicly available. The author's professional relationship with SeaWorld remains that of an attractions industry journalist covering theme parks and attractions around the world.

INTRODUCTION

On October 24, 2013 I received an email from Judy Rubin, one of my editors at *InPark Magazine*:

“There's the CNN special on killer whales tonight, and I suppose you have seen that as a result the SeaWorld trainer's death is being revisited in the news. What ripples is this having in the industry, I wonder. Anyone see anything?”

I had known about the film *Blackfish*, directed by Gabriela Cowperthwaite, since Chris Palmer of American University had brought the production to my attention in 2012. Palmer is a former IMAX film producer I had met while he was making films on *Bears* and *Wolves* and *Dolphins*. He would later have an epiphany and decry the very style of filmmaking he had been practicing as duplicitous and would found the University's Center for Environmental Filmmaking.

Chris has a close association with David Kirby. It was through Chris that I also became aware of Kirby's book *Death at SeaWorld*. Kirby's previous book had been on the horrors of the meat industry. But I hadn't read either book and I hadn't seen the film.

I had briefly discussed *Blackfish* with Doug Barnes of *The Season Pass Podcast* just a few weeks prior while we were recording a podcast episode in another marine life park – Six Flags Discovery Kingdom. Doug pointed out, “What I've heard is that it's a very well made film.”

I don't have cable by choice, so I couldn't watch the film on CNN, and it wasn't playing theatrically in my market. So I did the next best thing - I went to my local bookstore the day of the broadcast and purchased Kirby's book. The next morning, I called Magnolia Pictures and they were kind enough to send me a press screener DVD of the film.

The evening of the CNN broadcast, I sat at my computer and monitored both SeaWorld Orlando's facebook and twitter pages. I was astounded by what I saw – a barrage of hateful and harassing comments being posted by the hundreds. I wondered what could cause such sudden hate on such a huge scale.

After completing the book and watching the film, I wrote three pieces on my blog, *ThemedReality*, which often uses a somewhat sarcastic tone to look at the themed attractions industry – “Can a Beluga Make Jokes About a Blackfish?”, “I’m an Advocate of Peta and Take Issue with SeaWorld . . . and Vice Versa”, and “Retraction (of sorts) of Comments About CNN”.¹ “Can a Beluga Make Jokes About a Blackfish?” was re-edited to remove the sarcasm and references to an unrelated circumstance at another theme park and appeared with SeaWorld's letter regarding its orcas on the *InPark Magazine* website.²

In addition, an open letter titled *10 Things to Know About Blackfish* was submitted to a select group of theme park bloggers and appears on some of their websites.³

Over a two month period, I read and viewed hundreds of articles, videos, blog posts, tweets, and comments from both SeaWorld supporters and detractors. I am not a scientist by trade, but I read through numerous scientific papers. I am not a lawyer, but I read through numerous court filings, including *Tilikum v SeaWorld* and *Marineland v SeaWorld*.

No representative of the AZA, AAMPA, AAZK, or IMATA appears directly in the film or book. None of these organizations are mentioned in the film. The AZA and AAMPA are both mentioned in the book, however both are mentioned in an ominous tone utilizing historical documentation acquired from third parties.

One item of concern to me is that Kirby leads his audience to believe that an established zoological care practice used with all animals is unique to the orcas.

¹ All three blog posts can be found at <http://themedreality.wordpress.com>

² “EDITORIAL: Before You Jump on the SeaWorld Bashing Bandwagon, Read This” *InParkMagazine.com* 12/20/13

³ The letter in its entirety can be found under the post “On the Topic of SeaWorld and Blackfish” on the *Insanity Lurks Inside* blog, <http://insanitylurksinside.blogspot.com> 12/18/13

As he states in one of his many speaking engagements, “I wrote a chapter called ‘Breakfast at SeaWorld,’ where the trainers describe how they would stuff the gills of the fish with antibiotics and antacids and vitamins . . .”⁴ During my internship, I did the same in the penguin kitchen and the bird house with Sea World’s aviculture collection. And the sharks, whose diet was prepared in the penguin kitchen, received meds in their food as well. In addition, I’ve been a kennel attendant for a veterinary hospital. We would hide medication in wet food and prescribe our patients’ owners to do the same at home. I volunteered at the San Francisco Zoo. We applied meds to the animal collection’s food there as well. Any zookeeper or veterinarian will tell you that this is a common, accepted, and beneficial practice used with animals across the board.

Both the book and the film are presented as investigations into a workplace death, yet they both come to the same conclusion – not that humans shouldn’t be working in close proximity to orcas, but rather that orcas do not belong in captivity in the first place. This makes both works animal advocacy media. Both the book and the film conclude in the very same way – with the core group of former SeaWorld trainers on a boat enjoying orcas in the wild.

As Kirby has said, “I quickly learned that whether trainers should be in the water with killer whales or not is not really the question at hand. It’s huge for the Federal government, but for me, the real question became, should killer whales be in this environment in the first place? So my subject matter – it didn’t change – it grew from the death of Dawn Brancheau, the investigation, the allegations of cover up, to the dangers of whales in captivity, to what are whales doing in captivity in the first place? . . . My point of view is that captivity is wrong.”⁵

Blackfish’s director, Gabriela Cowperthwaite, has stated that she heard about Dawn Brancheau’s death and wanted to investigate it “as a SeaWorld mom,” who had taken her kids to the park numerous times. Cowperthwaite attests to not being an animal activist. She explicitly stated so in an October 28, 2013 op-ed on CNN.com.⁶ Yet the film concludes with an animal rights stance, featuring footage of protesters at SeaWorld’s gates.

I also find it interesting that with Cowperthwaite’s pedigree, she decided to place the financing of the film in the hands of two stay-at-home moms turned first-time

⁴ “Death at SeaWorld Panel Discussion: Author David Kirby, Dr Naomi Rose, and Dr Lori Marino” *YouTube.com* 9/19/12

⁵ “Death at SeaWorld Panel Discussion: Author David Kirby, Dr Naomi Rose, and Dr Lori Marino” *YouTube.com* 9/19/12

⁶ Cowperthwaite, Gabriela, “Filmmaker: Why I Made *Blackfish*” *CNN.com* 10/28/13

documentary producers, rather than pursue funding through traditional avenues. Cowperthwaite's description of the film's funding varies. In the official production notes, she states: "I wrote a treatment and we were funded three months later by first-time executive producers Judy Bart and Erica Kahn."⁷ However, in a Dec 20, 2013 interview in Studio System News, she says: "I was fortunate enough to meet [Judy Bart and Erica Kahn] who were looking to start a production company and this would be their first film. They financed it in chunks. For the next few years those were our only investors . . ."⁸

Regarding the whole *Blackfish* phenomenon, I am often asked two questions: "Don't you think Dawn would have wanted those whales freed?" and "Do you want these whales to remain in captivity?"

Regarding Dawn Brancheau, in 2006 and 2007, I was a volunteer at the San Francisco Zoo, assisting the keepers in caring for the animal collection. It was during this time that Tatiana, a Siberian tiger, attacked and mauled keeper Lori Komejan, permanently injuring her arm. While Lori was recuperating, she kept in constant contact with the zoo's keepers and daily checked on the well being of her cats, including Tatiana. Lori wanted to return to work with the cats as soon as she was able.

I believe the same would have happened with Dawn had she only been injured and survived. There is a bond between animal and keeper that is created over time and it obviously existed between Dawn and Tilikum.

Regarding freeing the orcas, I was contacted by Candace Calloway Whiting, an animal rights blogger who appears on the *seattlepi* website. She had difficulty understanding how someone like me could have done so much research on both sides of the question and not want to see these animals freed. She questioned if I had seen orcas in the wild, which indeed I have on numerous occasions in Monterey Bay. But there is a difference between seeing at a distance and seeing up close. Each allows for its own unique perspective.

Having studied Keiko's release and the releases of other cetaceans into the wild,⁹ having dealt with feral cats and dogs, and having studied Luna's case¹⁰ and the

⁷ This statement appears only in the UK version of the production notes, which is available for download at blackfishmovie.com. It does not appear in either the US or international versions.

⁸ Gachman, Dina "Awards Spotlight: 'Blackfish' Director Gabriela Cowperthwaite Talks Sundance, CNN Premiere & SeaWorld's PR Machine" *studiosystemnews.com* 12/20/13

⁹ Gales, Nick et al. "The Rehabilitation and Release of Bottlenose Dolphins from Atlantis Marine Park, Western Australia" *Aquatic Mammals* 1993

¹⁰ Parfit, Michael et al. *The Lost Whale: The True Story of an Orca Named Luna* St. Martin's Press 2013

attributes of other wild animals, such as the Yellowstone bears,¹¹ that become addicted to human contact, I am of the belief that releasing SeaWorld's orcas, all of which have either been in long-term or lifetime captivity, would be detrimental to their wellbeing.

As profiled in my blog, Dr. Naomi Rose has suggested the use of sea pens, allowing the whales to act naturally while still under human care, an expansion of an idea proposed by animal activist Ric O'Barry for bottlenose dolphins.¹² On a special feature on the *Blackfish* DVD titled "The Truth About Wild Whales," she states that "quite frankly, if they're in a sea pen, you can have it open to the public. You know, people can buy tickets to go see that. So the facilities don't even have to lose out financially."

But SeaWorld is a business that has invested millions of dollars into its orcas, its "core product."¹³ Animal collections in zoological parks, both for profit and nonprofit, have a monetary value attached to them. In a recent interview I conducted with Six Flags Discovery Kingdom President Don McCoy,¹⁴ he referred to his park's animals as "assets."

I can't see any way the current proposals for relocation to a sea pen would make an appropriate return on investment on SeaWorld's orcas. The pens, as proposed by animal rights activists, such as Dr. Rose, would be near their natural habitats, away from heavily trafficked tourist zones, and encompass entire coves. As the AZA's Senior Vice President for Conservation and Education, Dr. Paul Boyle, stated on a Martin Savidge report that aired prior to the network's broadcast of *Blackfish*,¹⁵ "People can't see them. They won't see them, they won't know about them. They will lose the compelling reason for protecting the oceans and the environment around us."

If a proposal is presented that protects SeaWorld's financial interests, the desires of the ticket paying public, and the animals' welfare, I will give it my full backing.

I make special note that the CNN piece mentioned in the above paragraph ran prior to *Blackfish*'s airing. Martin Savidge's stories on SeaWorld prior to the film's

¹¹ Craighead, John et al. "Grizzly Bear-Man Relationships in Yellowstone National Park" *Bioscience* 8/15/71

¹² O'Barry, Richard "Releasing Captive Dolphins: Protocol for the Rehabilitation and Release of Captive Atlantic Bottlenose Dolphins (*Tursiops truncatus*)" dolphinproject.org

¹³ Davis, Susan G. *Spectacular Nature: Corporate Culture and the SeaWorld Experience* University of California Press 1997

¹⁴ *The Season Pass Podcast* Episode 248 10/15/13

¹⁵ Savidge, Martin "Can Killer Whales Be In Captivity Safely?" cnn.com 10/21/13

broadcast approached both sides of the issue and included interviews with representatives of such organizations as the Georgia Aquarium and the AZA. After the *Blackfish* broadcast, he began issuing stories on the ramifications of CNN airing the film, such as school protests and band cancellations, rather than the actual issue at hand. An analysis of CNN's use of *Blackfish* to drive ratings and ad revenue can be found on the *ThemedReality* blog.¹⁶

I wrote about my concern with sea pens on my blog. I wrote about my concerns with the high potential for the net being cut and the orcas being freed and how a concern like this was the very reason Sealand's owners placed Tilikum and the two female orcas in a 20 x 30 ft module each night. Calloway Whiting seems to have mistaken my mention of this (the reason for night storage in it is spoken of in the film) as an endorsement for the module, which it certainly is not. She wrote "Had that happened and the whales escaped, three humans would not have been killed and the whales would not have to suffer miserable lives."

There is a false romantic fantasy notion we have as humans that if a habituated animal is set free, it will automatically return to its natural ways.¹⁷ As for orcas, this misconception was made worse in the public conscience by the release of the *Free Willy* film.

I am the proud owner of a coy dog – half border collie, half coyote – that I adopted from a rescue organization. Except for his first few days, he has been exclusively in human care.

When he was three years old, my grandmother passed away. I had to leave the country for her funeral, but due to timing was unable to drop him off at a kennel. I made arrangements for my neighbors to do so and left him in the backyard. When they attempted to attach his leash, he scaled a seven-foot high fence and ran into the woods. The neighbors reported that he returned to the house each night, but would run off when they approached him.

The mythology of the freed animal would tell us that he would automatically revert to his genetic coyote ways and begin hunting small prey. But that's a myth. When I returned a week later, he began scratching at the back door shortly after nightfall. His fur was littered with foxtails and he had lost fifteen pounds, but was in relatively good health. There was no indication of any hunting skills having developed, certainly none that he showcased after returning home. There were

¹⁶ Readers should be aware that the *ThemedReality* blog utilizes sarcasm and sardonicism to make its points.

¹⁷ "Keeping Wild Animals – Unsafe, Illegal and Inhumane" paws.org

indications that he had scavenged for scat in order to survive, which is quite the opposite of what genetics says he should have done.

That said, I do believe the days of choreographed shows should be behind us. What I would like to see SeaWorld do is take the next evolutionary step, following that of the mid-1980's, when larger tanks were constructed and shows changed from corny stage productions where Shamu went to college and fought in the Revolutionary War to ones with an educational and environmental slant.

I would like to see SeaWorld transition the orcas from a show environment to a groundbreaking exhibit/attraction. I look at recent developments such as Antarctica, TurtleTrek, and Manta at SeaWorld and Jungala and Cheetah Hunt/Cheetah Run at Busch Gardens as examples.

SeaWorld's architectural partner PGAV Destinations has a successful history of designing animal enclosures with built-in behavioural stimuli. Guest retention at these exhibits often equals the show length of an orca show at SeaWorld.

Enclosures with greater depth are also possible thanks to newer aquarium construction techniques used in Georgia and Asia for tanks housing whale sharks. And greater surface area for the enclosure can also be accomplished. The land area allocated to the Manta attraction in San Diego is approximately three times the surface enclosure space at that park's Shamu Stadium.

Two things led me to write this document. The first was the ever increasing number of comments found throughout the web attributing facts to the *Blackfish* film. A large number of these "facts" never appear in the film, and many are completely unfounded.

Two things have changed over the past decade to alter the way information is disseminated. The first is the rise of social media. If you take a look at PETA's webpage, it has altered over the years to the point it now resembles a tabloid with talking points designed to be copied and used over twitter, facebook, and other social networks.

The second is the spread of digital imaging technology, with smaller cameras and cellular devices. A video or photo can now be taken onsite and within minutes be online, go viral, and appear on the news that very day. The recent video of a dolphin outside its tank in San Antonio is an example.¹⁸

¹⁸ "SeaWorld Taking Heat Over Captivity" *cnn.com* 8/1/13

In this age of technology-based media and news, errors abound. Even at CNN, whose coverage of *Blackfish* has been the centerpiece of my blog pieces, Martin Savidge recently shared grossly inaccurate information to an interviewee based on a misunderstanding of the facts, likely found by his researchers online.¹⁹

The other thing that led me to write this document is Chris Palmer's book *Shooting in the Wild*²⁰ and the accompanying video with Chris and Alexandra Cousteau.²¹ Much like Chris did with wildlife films, I wanted to look at the editorial and creative choices made by Cowperthwaite and Kirby that aided them in making their arguments and arriving at their conclusions.

What follows is an examination of edits, inclusions, and omissions from both works designed to sway the audience in a certain direction. I then expand upon these elements to show relationships with the wider picture of the free orca and animal rights movements.

This document is not intended to discredit *Blackfish*, *Death at SeaWorld*, their authors, or the documentation or testimony within. I have and continue to encourage those interested in the matter to see the film, read the book, and carry out an investigation of their own using resources available from both sides of the issue.

There are individuals mentioned within this document that I hold in the highest regard who appear in the film and/or the book. Allegations lobbied towards these individuals are from other sources and are not a reflection of my beliefs.

Finally, this document will not attempt to refudiate SeaWorld's statements on its animal care policies. Such attempts can be found elsewhere on the internet.

Joe Kleiman
13 January 2014

¹⁹ Stableford, Dylan "Store Owner Told She'll Get \$1M For Selling Winning Mega Millions Ticket, Only She Isn't" *news.yahoo.com* 12/18/13

²⁰ Palmer, Chris *Shooting in the Wild: An Insider's Account of Making Movies in the Animal Kingdom* Sierra Club Books 2010

²¹ Biemfohr, Ed(prod/dir) *Shooting in the Wild* (video) American University School of Communications 2013

TILIKUM

A comment appearing on the *ThemedReality* blog post “Can a Beluga Make Jokes about a Blackfish?”:[Chelsea](#)

daniel mederos

December 13, 2013 at 8:37 pm

tell that to tilikum who was separated as they killed her family WAKE UP

Where would this individual come up with such an idea that Tilikum’s family was killed during his capture? This assertion appears on numerous other comments throughout the web posted by others and to find its source, I began a close examination of both *Death at SeaWorld* and *Blackfish*. The entire third chapter of Kirby’s book dramatizes Tilikum’s capture from the viewpoint of the orca. It makes no mention of any orcas dying during the capture process. Nor does the film.

But the film does utilize an editing technique which can easily create misconception among viewers both about orca deaths during Tilikum’s capture and SeaWorld’s participation in the event. There is a segment of the film discussing the early Sea World captures in Puget Sound and the deaths of three orcas that members of the capture crew were allegedly instructed to slit open, fill their carcasses with stones, and drown. The film then states that Sea World moved its operations to Iceland and then immediately cuts to the capture of Tilikum in November, 1983, which can give the impression that SeaWorld was involved. On screen, text reads “They named him Tilikum,” though the film does not disclose who “they” are.

By 1983, Icelandic fishermen had created an industry of capturing young orcas and selling them to marine life parks throughout the world.²² In that year, three orcas were caught off the coast of Iceland.²³ One, Tilikum, was sent to Sealand of the Pacific in Victoria, British Columbia, while the other two were sold to Acuarama in Sao Paulo, Brazil. According to Ceta-Base, one of the Brazilian orcas died at the Sao Paulo park and the other was transferred to Sea World of Ohio. SeaWorld

²² Sigurjónsson, Jóhann et al. “The Icelandic Live-Capture Fishery for Killer Whales, 1976-1988” *Journal of the Marine Research Institute* 1988

²³ “Iceland. Progress Report on Cetacean Research, June 1983 to May 1984” *Report of the International Whaling Commission* 1985

was not involved in these captures, although two of the three animals were later transferred to SeaWorld parks.

It should be noted that Tilikum and his two female companions were not the first orcas at Sealand. The park had housed performing orcas since 1969. Tilikum had also sired a calf at Sealand, a fact mentioned briefly in parentheses only halfway through Kirby's book and never in the film.

This strategy of linking Tilikum's capture in Iceland directly with SeaWorld's wild orca captures has been utilized numerous times by the animal advocacy group People for the Ethical Treatment of Animals (PETA). On the PETA-owned website *SeaWorld of Hurt*, an article titled "Ten Things You Don't Know About SeaWorld" states:

"Orcas that were at SeaWorld before 1972 were likely kidnapped from their ocean homes. For example, Tilikum, a 32-year old orca, was captured at the age of 2 by a marine 'cowboy.' Tilikum wasn't taken from his natural environment because he was injured – instead he was torn away from his family against his will and confined to a small concrete tank for hefty profit."

PETA fails to mention that Tilikum was captured for Sealand, lived there for close to a decade, and that the Canadian park did not utilize a concrete tank, but rather a sea pen. The paragraph is designed to associate all aspects of Tilikum's captivity with SeaWorld. The remainder of the article is full of inaccurate or misleading information, including this statement: "Shamu, like Tilikum, was kidnapped before the Marine Mammal Protection Act was enacted in 1972." Again, Tilikum was caught in 1983, but the statement can easily be misconstrued.

In the Plaintiff's complaint for *Tilikum et al v SeaWorld Parks & Entertainment*, filed by PETA to release the company's five orcas caught in the wild, the following statement is used regarding wild capture and Tilikum's circumstances:

"Orca hunters initially focused on Puget Sound and British Columbia, where Plaintiff Corky was captured. A series of incidents, however, turned public sentiment against the hunters. In 1970, the bodies of three young orcas – their bellies slit, their tails weighed down with anchor chains – washed ashore in the Northwest. Six years later, an assistant to Washington State's governor witnessed a trader hunting orcas with aircraft and seal bombs – small explosive devices used to frighten and corral marine mammals – on SeaWorld's behalf. The state sued the hunter, settling only after he and SeaWorld agreed to let the orcas go and never to hunt them again in Puget Sound.

“With Puget Sound and British Columbian waters closed to hunters, they began looking for alternatives. Antarctica was rejected as too logistically difficult. Public sentiment was strongly against hunting in Alaska. Finally, they turned their sights to Iceland, where Plaintiffs Tilikum, Katina, Kasatka, and Ulises were captured.”

Again, the wording is designed for misleading the reader to infer that SeaWorld was directly involved in the capture of these orcas. Tilikum left Iceland for Sealand of the Pacific, Katina for Marineland in Niagara Falls, and Ulises lived in a couple of parks in Spain. Corky was captured for Marineland of the Pacific and lived there until the closure of the park by HBJ. Kasatka is the only orca in the filing to have been captured directly on SeaWorld’s behalf.

Later in the film, footage is shown of Tilikum being delivered in a sling to SeaWorld Orlando. On the DVD commentary track, Cowperthwaite states over the footage of the sling:

“Ay,ay,ay. So someone told me about this. When they’re transported from one park to another, this is incredibly traumatic with them. Nobody seems to realize that, but being taken out of the water, being put in a sling is really traumatizing to them. They’ve never felt their own weight before, and so it’s, uh, and they vocalize and it’s just really not a good thing. And also they’re trying to establish themselves with a little pod of orcas and a family so you continually rip them away from that and pop them into another park for entertainment purposes. It can’t be good.”

However, the orca in the footage is not Tilikum. It is actually footage of another unrelated orca, Keiko from the *Free Willy* film, being removed from his Mexico City tank for shipment to Oregon in preparation for release to the wild.²⁴ The Reino Aventura theme park logo can be seen on the left of the frame. This is neither a whale that has lived in captivity with other orcas nor one that is being sent to “another park for entertainment purposes.”

There is another purposefully misleading edit in *Blackfish*. The film’s conclusion follows this sequence:

Former trainers, including one in tears, and the film’s experts discuss Tilikum’s living conditions and hypothesize on why he lashed out and killed – the film’s core group of former trainers appear on tv protesting SeaWorld’s continued use of the

²⁴ “Lopez Santos Transportamos a Keiko” [youtube.com 5/12/12](https://www.youtube.com/watch?v=5/12/12)

shows and advocating for the orcas to be released in the wild or into sea pens, interspersed with footage of animal rights activists protesting at the SeaWorld entrance – text stating that “SeaWorld repeatedly declined to be interviewed for this film” appears – the OSHA ruling is explained via text – very brief footage of Dawn with Tilikum is shown – text that “SeaWorld has appealed” is displayed – footage of a charity run for the Dawn Brancheau Foundation is shown – an interview takes place with Dawn’s sister Diane stating “Dawn Brancheau, DB, Dream Big. Dawn was the most loving, giving person you’ve ever met. Her smile just radiated” – text appears on screen telling the audience, “The Dawn Brancheau Foundation 5K Run is one of many events that raise money for Dawn’s favorite charities” – the film returns to the interview with Diane, where she states about Dawn, “She fulfilled her life” – cut to the final scene showing the core former trainers getting on a boat to see orcas in the wild.

Placement of the Dawn Brancheau Foundation charity run and the interview with her sister Diane in the midst of the other material gives the impression that Dawn would have been in league with the former trainers in the film and would have promoted freeing the orcas. This edit also implies that the Foundation holds those beliefs as well as the family. In actuality, Dawn’s charities of choice help children and domestic animals in need. The Dawn Brancheau Foundation is not involved at all with the animal rights or free the orcas movements and has maintained an affiliation with SeaWorld and Busch Gardens.

The edit is compounded by the inclusion of The Dawn Brancheau Foundation in the “Special Thanks” section of the film’s credits, listed second, just after Jim and Irma Cowperthwaite. The edit and credit together are a deliberate effort to imply a false sense that the Foundation participated in the production of the film.

In the commentary track on the DVD, Cowperthwaite states, “I wish I could have interviewed more of her family. Dawn could have had more of a voice in this film. I think it’s a testament to what a good friend, daughter, sister, wife she was that people just want to protect her and have her be remembered for her life, not this one incident.”

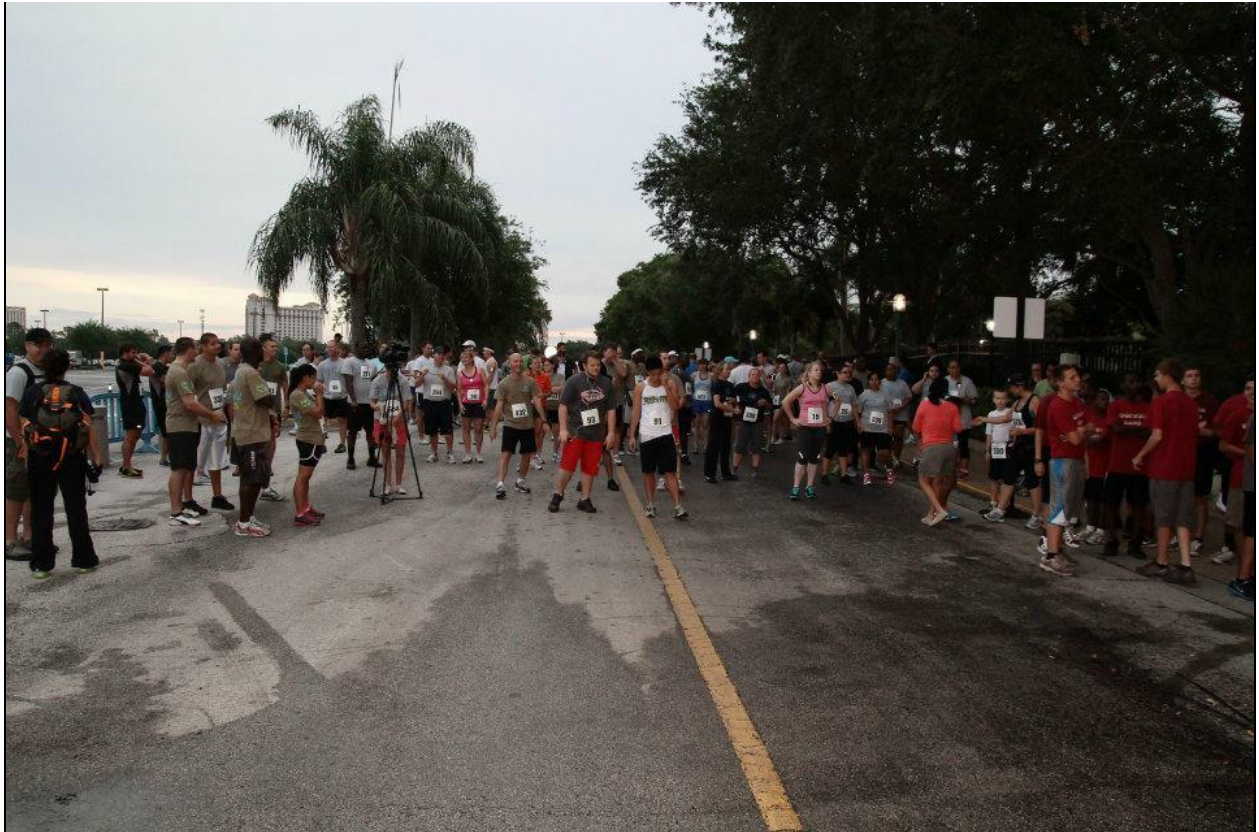
Rather than the Foundation participating in the film, the filmmakers participated in a Foundation event in an effort to gain access to the Foundation and the family. In the following photos, taken at The Dawn Brancheau Foundation’s 2012 Dream Big 5K/Family Fun Walk within the SeaWorld Orlando park, Gabriela Cowperthwaite

and the film's producer Manny Oteyza, can be seen registering for the event and standing at the sidelines.²⁵



²⁵ The photos appear on the facebook page of The Dawn Brancheau Foundation. Also appearing with the two in the photos is *Blackfish*'s Orlando camera operator Sara Hoff. A fourth member of the group, a man wearing a cap, was unable to be positively identified by time of publication.





The interview with Diane is the only one in the film that does not take place in a controlled environment. Based on her demeanor, it appears Cowperthwaite approached Diane with her handheld camera (seen in the photos) as a participant in the race and asked her about Dawn without disclosing the fact she was making a film about the circumstances surrounding Dawn's death.

Cowperthwaite appears to have established a personal relationship with either Dawn or the idea of Dawn. Whether or not this is actual or composed for the benefit of the film's narrative is unknown, but she wants the audience to know it exists. About halfway into Diane speaking, a photo of Dawn being pushed by an orca is shown on the side of a walkway, with people in jeans and sweatshirts walking by (they appear to be tourists headed into the park, not participants in the race). Suddenly, a female hand reaches out to touch the portrait. The hand belongs to Gabriela Cowperthwaite.



CORKY

Lori Marino is the Emory University neurologist featured in *Blackfish* through whom we learn that orcas have a highly emotive brain and are ticking timebombs in captivity. In *Death at SeaWorld*, David Kirby introduces Marino when she is about to testify at the April 2010 Congressional hearings on marine mammals in captivity:

“Joining Naomi [Rose] on the same side would be Lori Marino, PhD, an old friend and colleague and veteran of the anti-captivity wars. A senior lecturer in neuroscience and behavioural biology at Emory University and faculty member of the Emory Center for Ethics, Lori had also served as research associate at the Smithsonian Institution National Museum of Natural History.

“. . . The scientist had also declared her opposition to captivity for all marine mammals, making her more ‘radical’ than Naomi and HSUS [Humane Society of the United States] . . .”

Aiding in this ‘radical’ approach is Marino’s endorsement of the controversial research of Dr. Hal Whitehead²⁶, who claims to have discovered “cultural traditions” in sperm whale pods.

What is not mentioned in the book, nor in the *Blackfish* film and its production notes, is that Marino currently serves as Science Director for the Nonhuman Rights Project. Although this is a recent development, she was a science advisor to the organization at the time both the book and film were being composed.

The Nonhuman Rights Project has one purpose – “. . . to attain legal personhood for nonhuman animals by operating within the reigning legal paradigms.”²⁷

The recent loss of Peta’s *Tilikum v SeaWorld* case, where the animal rights group attempted to free SeaWorld’s five orcas caught in the wild, including Tilikum and Corky, the chain’s oldest, actually may have harmed the Nonhuman Rights Project’s efforts by setting Federal precedent.

The group’s President and lead lawyer, Stephen M. Wright, has stated that “We hope PETA will realize that it embarked on a fool’s errand. PETA wrongly believed it did not need to prove that an orca was a legal person, so it failed to be

²⁶ Lunau, Kate “Why Whales and Dolphins Should Qualify as Non-Human People” mcleans.ca 2/20/12

²⁷ “Mission, Goals, & Values” nonhumanrightsproject.org

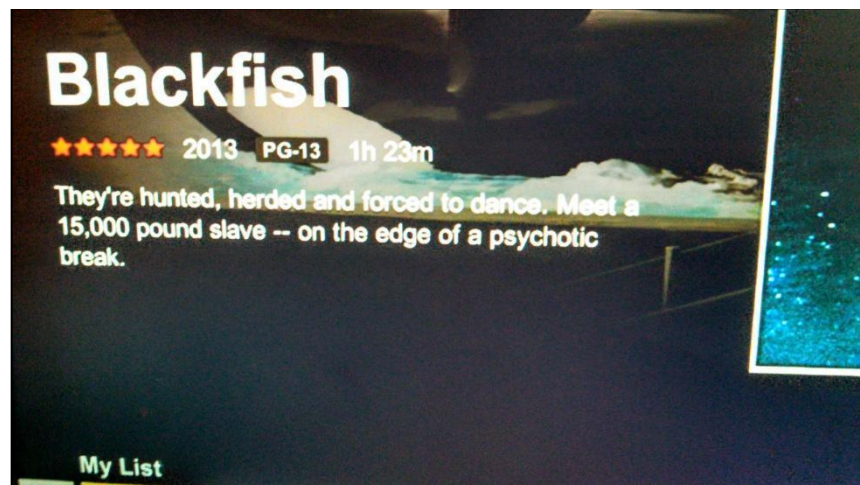
ready to prove that an orca is a ‘person.’ Worse, it actually opposed our legal arguments that an orca is indeed a ‘person’, thus creating a roadblock that we will have to overcome in the future.”²⁸

Instead of taking their cases through the Federal court system, the Nonhuman Rights Project plans to approach the matter as advocates for gay marriage or abortion have – start with states that are more lenient or friendly to their case, set precedent, and then once laws have been established in enough states, file in the most lenient state where SeaWorld owns parks, most likely California.²⁹

The Nonhuman Rights Project has already begun its first case in New York, involving two chimpanzees in private ownership and two more used for research at Stony Brook University. According to the organization, “The lawsuits asked the judges to grant the chimpanzees the right to bodily liberty and to order that they be moved to a sanctuary that’s part of the North American Primate Sanctuary Alliance (NAPSA)”³⁰

All three lower court judges denied the petitions and the Nonhuman Rights Project is now taking their cases to the New York State Court of Appeals.

Meanwhile, PETA’s concept of orca slavery has hit mainstream, with a homepage ad for *Blackfish* on NETFLIX proclaiming: “They’re hunted, herded, and forced to dance. Meet a 15,000 pound slave – on the edge of a psychotic break.”



²⁸ “As Judge Dismisses PETA’s Case against SeaWorld, NhRP Weighs the Damage” nonhumanrightsproject.org

²⁹ Author’s observation based on state-by-state analysis of habeas corpus laws listed on nonhumanrightsproject.org

³⁰ “Press Release on NY Judges’ Decisions” nonhumanrightsproject.org

LUNA

The assertion made by the book and the film that there have been no documented cases of orcas attacking humans in the wild is true. Early in the film, we are told that orcas in the wild are friendly and non-aggressive to humans, while footage of children and a dog playing with a wild orca are shown, an action that in the United States would be illegal.

The reason no wild attack on humans exists on record is disputed, depending on what source one looks at. I've seen reasons ranging from orcas don't like the taste of human flesh to the whales avoid shorelines populated by humans to attacks do occur, but are not documented because they happen in isolated areas.

Although there may be no recorded attack on humans in the wild, orcas are apex predators. They have been known to attack boats, cetaceans, including larger whales³¹, and like species throughout the taxonomic scale, including humans and other primates³², they appear to practice cannibalism.³³

The footage used in the film to show the friendly nature of orcas with the children and the dog is of an abnormality. The orca in the footage was named Luna, a wild calf that was separated from its family and, in British Columbia, became addicted to human contact. The exact same footage is also used in *The Whale*,³⁴ a documentary film about Luna, but is used in the appropriate context.

Canadian officials became so concerned with Luna's safety and the safety of humans around the orca that they devised a plan to capture and relocate him. The plan was thwarted when the local First Nations tribe declared Luna to be the reincarnation of their chief. Luna remained in the waters of Nootka Sound, often spending time around tugboats. There are reports that he was unable to distinguish humans from their boats and began mimicking the sound of boat engines.³⁵ In 2006, while rubbing up next to a tug in order to get attention, he was sucked into the boat's propeller and chopped up.

³¹ Fimrite, Peter "Orcas Feast on Grey Whale Calves Off Monterey" *sfgate.com* 5/5/13

³² Goodall, Jane *Infant Killing and Cannibalism in Free-living Chimpanzees* 1977

³³ Hoyt, Erich "The Whale Called 'Killer'" *Canadian Geographic* April/May 1978

³⁴ The film is available on DVD and NETFLIX

³⁵ "Killer Whale Luna Mimics Boat Sounds" *huffingtonpost.com* 10/9/11

SeaWorld states that it was involved in the relocation plan for Luna.³⁶ Regarding SeaWorld's role in the proposed rescue effort, Kirby writes online, "... my sources told me about documents showing that SeaWorld was interested in exploring the possibility of sending Luna into a life of captivity. Sadly, Luna was killed by a tugboat propeller before he could be returned to his family, or sent to a marine park."³⁷

A similar case took place in Puget Sound with the orca known as Springer. Again, SeaWorld's participation in his rescue is mentioned in Fred Jacobs' responses to CNN's questions.³⁸ David Kirby online has claimed that SeaWorld's participation in the rescue of Springer was also an attempt to acquire the orca for its parks. He states: "According to my sources, SeaWorld wanted to see Springer taken captive. 'The SeaWorld vet tried his best to find something wrong with Springer that would dictate that she be moved to a SeaWorld tank,' Howard Garrett of the Orca Network told me this week. He and his wife Susan Berta spent time with Springer in Washington."³⁹

However, a 148 page document from the Orca Conservancy never mentions this assertion and includes the veterinary report from SeaWorld veterinarian Jim McBain and its references of lab tests being done at SeaWorld's San Diego Animal Care Laboratory.⁴⁰

In an interview with Scientific American, Brad Hanson of the NMFS recalled that during his involvement with the rescue and relocation of Springer, "I had the unique experience of working with a killer whale orphan. Her mother was dead and she had ended up swimming into Puget Sound. She was about three years old and a little over 1,000 pounds. We went out and did health assessments on her every week. We tried collecting various types of data and soon veterinarians were saying we needed a blood sample—we thought we'd done well enough getting a breath sample. So we basically had to develop a bond with the animal in terms of socializing with it. But we were warned by one of the veterinarians at SeaWorld that you had to be extremely cautious going down that road with the animal. In order to make sure she didn't freak out during the sampling we did a bit of scratching her [with a scratching stick and our hands]. She then started rubbing on the bottom of the boat, so we had started on that slippery slope. They do want to

³⁶ "SeaWorld Responds to Questions About Captive Orcas, 'Blackfish' Film" *cnn.com* 10/28/13

³⁷ Kirby, David "CNN Responds to CNN on Blackfish – and Fails" *deathatseaworld.com* 10/22/13

³⁸ "SeaWorld Responds to Questions About Captive Orcas, 'Blackfish' Film" *cnn.com* 10/28/13

³⁹ Kirby, David "The War Between CNN and SeaWorld Over 'Blackfish' Escalates" *takepart.com* 10/24/13

⁴⁰ *The Springer File: A Comprehensive News Archive on the A73 Rescue and Reintroduction Project* Orca Conservancy 2013

bond. Obviously they're programmed to bond with members of their own species, but they can form a bond with other animals like humans.”⁴¹

⁴¹ Harmon, Katherine “Why Would a Trained Orca Kill a Human?”

KEIKO

The story of Keiko, star of the *Free Willy* film, is well documented and therefore I will not discuss the history of this orca in captivity nor its rehabilitation at the Oregon Aquarium. I will discuss the release in the wild as there are varying reports as to the circumstances that took place and the whale's behaviour.

In his book *Death at SeaWorld*, David Kirby early on vilifies SeaWorld for not rescuing Keiko from his home in Mexico. The book's second chapter ends:

“SeaWorld began looking at the options. One possibility was a pathetic, lesion-covered whale owned by a Mexico City amusement park, Reino Aventura. His name was Keiko, and he was about to star in some Warner Bros. picture called *Free Willy*. The other candidate was an eleven-year-old male in Victoria, Canada. He didn't have lesions, but he did come with a bad rap sheet – along with his tankmates, Haida II and Notka IV.

“His name, of course, was Tilikum, and SeaLand of the Pacific was ready to unload him.”

Kirby, in the book, later accuses the AAMPA of being deceptive in its communications with Ken Balcomb, an orca researcher from Washington state. According to Kirby, AAMPA originally stated that “All institutions holding killer whales in North America have pledged to work together to solve the problem of providing better living conditions for Keiko immediately.” He asserts that SeaWorld and the Alliance then discontinued its association with the Free Willy group, and dealt directly with Parques Reunidos for the intention of bringing the orca to a North American park. The accusation is similar to that he has posted online about Luna and Springer – the alleged attempt to acquire orcas through false pretenses.

This concept is further exemplified by Kirby's account of two former SeaWorld trainers being brought onto the Free Keiko project – Robin Friday and Mark Simmons. He quotes an email from Howard Garrett [an orca researcher who is also an interviewee in *Blackfish*] to Naomi Rose:

“I have some inside information about the new managers of the project. I can't give you my sources, but their names are Robin Friday and Mark Simmons and

they are 100% veterans of SeaWorld⁴². They consider the entire Keiko project to be a misbegotten movie-inspired fantasy by Craig Mcaw and an amateur attempt to do the impossible.

“. . . So in effect, SeaWorld has taken over the Keiko project. I don't think they take direct orders from Brad Andrews, but they are still his apostles. Under his influence, Keiko will never see the open ocean again unless he breaks out . . .”

A few pages later, Kirby writes: “. . . Naomi learned that Robin Friday, Mark Simmons, and others would grow nervous whenever Keiko demonstrated too much independence on his ‘walks.’ If he wandered too far from the tracking boat, they would call him back with underwater tones . . .

“Naomi now suspected that Keiko's trainers did not want him going off on his own. Howie had been prescient in the warning. This was a subtle form of sabotage. . .”

Kirby never mentions in the book if the alleged actions of SeaWorld's former trainers were to prepare Keiko for relocation to the parks or to discredit the effort to return the orca to the wild. But although his account of Keiko's time outside the sea pen is much more accurate and factual than that released by the Free Willy-Keiko Foundation,⁴³ it excludes data which not only shows the effort to have been a failure, but also questions the validity of releasing cetaceans from long-term capture into the wild.

Marlene Simon of the Greenland Institute of Natural Sciences and the University of Aarhus in Denmark led a research team in tracking Keiko in the wild.⁴⁴ Among the authors was Brad Hanson of NMFS⁴⁵, who had been one of the leaders in the project to relocate Springer.

The paper's abstract states: “As a rule, the animals released successfully into the wild had been captive for relatively short periods of time, were held in sea pens rather than concrete tanks, and some were released in the company of conspecifics [same species].”

⁴² As was Dr. Lanny Cornell, Keiko's veterinarian. But, as is mentioned later, this correlation does not appear in the book.

⁴³ “Keiko's Story: The Timeline” keiko.com/history

⁴⁴ Simone, Marlene “From Captivity to the Wild and Back: an Attempt to Release Keiko the Killer Whale” *Marine Mammal Science* July 2009

⁴⁵ Hanson is credited as one of the leading forces behind the Southern community of orcas being granted endangered status in 2005. He is not mentioned or appear in either *Blackfish* or *Death at SeaWorld*.

Keiko is the only orca in long-term captivity to have been reintroduced to the wild. A number of explanations have been given for his death of pneumonia a year after his release, including temperatures in Norway being too cold for him to withstand and the loss of funding from McCaw. New Zealand cetologist Paul Spong gives another reason:

“My belief is that Keiko would have needed direct contact with members of his immediate family and community in order to fully integrate back into a life in the wild. That did not happen in Iceland, and it is very unlikely that it would have happened in Norway. However, this does not mean that it could not happen, given the appropriate circumstances. The story of Springer, an orphan baby orca who wandered far from her community’s range, and was eventually reunited with her family, demonstrates what is possible. Had more been known about Keiko’s social background, it would have been far easier to put him in contact with members of his family. I do not believe he met his mother, or any siblings or close cousins while he was swimming freely in Icelandic waters. He did meet and interact with other orcas, but they were not his kin, so he did not join them permanently.”

The use of Springer, a wild orca only kept in a captive environment for the duration of the relocation process, as an example for Keiko’s potential survival, is countered by claims in the the Simon paper. However, Kirby concurs with Springer’s argument, writing online:

“Currently, active efforts are afoot to release at least three wild-caught orcas currently being held in tanks: Corky, a Northern Resident killer whale caught in British Columbia, at SeaWorld, San Diego; Lolita, a Southern Resident killer whale caught in Washington State, at the Miami Seaquarium; and Morgan, who was taken off the coast of the Netherlands and now resides at Loro Parque, in Spain.

“. . . In the case of Corky and Lolita, we know who and where their pods are. Reuniting them with their families would be a happier ending than any Hollywood screenwriter could conceive.”⁴⁶

That opens up the question of the offspring born in captivity – hybrids bred from differing geographic groups of orcas. The final sentence in *Death at SeaWorld* is a quote from former trainer Samantha Berg as she views a pod of orcas in the wild: “SeaWorld whales are not real whales; they’re *facsimiles* of whales.”

⁴⁶ Kirby, David “‘Free Willy’ for Real: The Whale Featured in the Hit Movie Gets His Own Documentary” *takepart.com* 8/17/13

If acceptance by an orca's genetic family in the wild is a prerequisite to survival, how will wild orcas react to ones that have never lived in the wild and do not come from a specific gene pool? Different families have different vocalizations.⁴⁷ What are the captive-bred orcas speaking? These are questions that neither the film nor the book address.

A press release from Aarhus University on the Simon paper states: "The fact that the Keiko project failed does not necessarily mean that it is impossible to set a whale free after being in captivity. "If Keiko had been younger and used to being with other killer whales instead of being so attached to humans, giving him a new life in the wild would possibly have succeeded," says Marlene Simon. In her opinion, the most important conclusion in the report, however, is that for this type of project to be in the best interest of the animal, funds must be allocated to monitoring it once it has been set free, to enable intervention if any difficulties arise. "Without the data we received via Keiko's monitoring equipment, we would not have known that he did not follow a normal pattern of behaviour when diving for food," she says. "If it is impossible to allocate sufficient resources for monitoring, a better alternative can be to let the animals remain in captivity."⁴⁸

This assertion counters those of Naomi Rose, one of the biggest proponents for freeing all captive orcas, and who is listed in the Simon paper's acknowledgements for having "... encouraged the writing of this work and offered valuable comments to an earlier draft ..."

⁴⁷ <http://www.nmfs.noaa.gov/pr/species/mammals/cetaceans/killerwhale.htm>

⁴⁸ *Danish Scientist: Keiko the Killer Whale Never Really Became Free* Science and Technology, Aarhus University 7/5/09

LANNY

There is no doubt that Dr. Lanny Cornell is a pioneer in veterinary medicine for marine animals, first at Marineland of the Pacific and then at SeaWorld. His employment was terminated by SeaWorld in 1987, following an injury to an orca trainer earlier in the year.⁴⁹

During the Summer of 1987, at the time of my internship at Sea World of California, protestors appeared daily in response to the closure of Marineland and the deaths of seven animals that allegedly resulted from the move of the collection from Palos Verdes to San Diego.⁵⁰

The protesters laid much of the blame on Cornell, as did many animal rights activists, who also placed responsibility on him for what they considered controversial procedures – the captures in Iceland, purchasing animals from Japan’s drive fisheries, and the live birthing program for orcas.

These issues are examined in a 1997 episode of the PBS series *FRONTLINE*,⁵¹ in which accusations are made regarding Cornell’s involvement. Cornell, at the time acting as veterinarian for Keiko, refused to comment and referred the investigation back to SeaWorld.

Kirby used the episode as research for his book, remarking: “The PBS program, and especially its accompanying website, was an enormous resource for me while researching and writing *Death At SeaWorld*. Not only did I quote extensively from the show, I also quoted from the published transcripts of interviews with SeaWorld officials, which did not actually make it on the air.”⁵²

But not once during the three pages of his book allocated to the *FRONTLINE* episode does the veterinarian appear. In fact, there are two Lanny Cornell’s in *Death at Sea World*, and neither is directly connected to the other.

The first version is Sea World’s Vice President and Zoological Director. Kirby writes: “In the fall [1987], it was announced that Gudrun would be transferred to

⁴⁹ Hill, John “The Show Goes On at Sea World” *Orlando Sentinel* 12/5/87

⁵⁰ Easton, Nina “The Death of Marineland: When Orky and Corky Moved to Sea World, It Meant the Whale Show Could Go On. For Marineland, the Show Is Over.” *Los Angeles Times Magazine* 9/9/87

⁵¹ Docherty, Neil & Renata Simone (producers) “A Whale of A Business” *Frontline* 11/11/97. An official posting of the complete episode can be found on YouTube.

⁵² Batt, Elizabeth “Op-Ed: Frontline’s ‘A Whale Of a Business’ Finally Airs on YouTube” *Digital Journal*.1/5/13

Florida on a 'breeding loan.' The director of Dolfinarium Harderwijk, F.B. den Herder had contacted SeaWorld vice president and zoological director Dr. Lanny Cornell, informing him that Gudrun, who was captured in a joint operation between SeaWorld and the Dutch aquarium, had reached 'reproductive age.' At this point in nature, den Herder added, most females would already be impregnated by males." Gudrun would become part of SeaWorld's breeding program, and would eventually mate with Tilikum.

Cornell is next mentioned briefly making a statement regarding the death of Winston, one of the bulls in SeaWorld's orca collection. "'He was showing signs of age, as any animal would,' Lanny Cornell, SeaWorld's zoological director, told the media."

The final mention of Cornell at SeaWorld is a single sentence about his termination. From that point on, Lanny Cornell only appears as Keiko's veterinarian and there is no further mention of his past employment at SeaWorld nor of his involvement in the chain's controversial activities. For a book that examines the physical and psychological health of captive orcas, the minimization of Dr. Cornell's role at SeaWorld leads to a simple question:

Why would Kirby take this approach? And it's not just Kirby. Since Keiko, the defamation of Cornell by animal rights activists has become harder to come by. Kenneth Brower, author of *Freeing Keiko: The Journey of a Killer Whale from Free Willy to the Wild* has come up with one possible answer:

"Most of what I know about the care of killer whales in captivity, and many of my insights into the culture at SeaWorld, I learned in interviews with Dr. Lanny Cornell, Keiko's physician. Back then, at the turn of the millennium, Cornell was in his mid-50s. For 14 years he had worked at SeaWorld, beginning as a veterinarian and rising through the ranks to senior vice president and zoological director, with responsibility for the entire animal collection in all of SeaWorld's parks. At the time, SeaWorld owned half the captive killer whales on the planet, and Cornell, until his departure in 1987, ministered to that flock. It was Cornell who, by intuition and experiment, had discovered the conditions and circumstances that would persuade orcas to breed in captivity, and he was obstetrician for the first birth. It was Cornell who had supervised SeaWorld's capture of orcas in Iceland.

"Cornell had no love for the press, which swarmed all big Keiko events. No reporter's question irritated him more than a recurrent one: the suggestion that Cornell, as veterinarian, in restoring Keiko's health and fitness for a return to the

wild, was doing some kind of penance. Was he making up, the reporter would ask, for all the orcas he had captured, all the orca families he had broken up? Cornell's features would freeze, and he would curtly dismiss this penance possibility and call for the next question.

“But I wonder if it wasn't true. I can testify from listening to the deliberations of the Free Willy-Keiko Foundation that no one was more dedicated to the goal of returning Keiko to the wild than Dr. Lanny Cornell. . .”⁵³

As animal rights authors, including Kirby,⁵⁴ cover the allegations regarding animal abuse at Canada's Marineland,⁵⁵ one major factor is often left out: Lanny Cornell's relationship with the park. “. . . Marineland has veterinarians on 24-hour call. We also consult with Dr. Lanny Cornell, of California, who is considered to be one of the world's foremost experts on marine mammals. Our marine mammal supervisor has regular telephone conversations with Dr. Cornell who makes personal visits to Marineland and who will come to Marineland at a moment's notice if required. . .”⁵⁶

Dr. Cornell's relationship with Marineland has included involvement with the breeding of captive orcas at the park. In the recent case of *Marineland of Canada, Inc. v SeaWorld Parks & Entertainment LLC*, the Niagara Falls park sued to prevent SeaWorld from reclaiming Ikaika, a male orca that had been on a long-term breeding loan. In the Plaintiff's complaint, the following statement appears:

“Since Ike arrived at Marineland in 2006, Dr.Cornell has been actively involved in his care and treatment. As Dr.Cornell explains in his declaration, ‘Ike is just now reaching sexual maturity, appearing to be capable of breeding, as indicated by his blood work and sexual interest in his female companion, Kiska. In fact, since approximately February 2011, there has been, for the first time, considerable sexual activity between the two.’”

Kirby writes about “Ike” online: “Tilikum also sired Nakai's half-brother, Ikaika, who recently returned to San Diego after a misbegotten ‘breeding loan’ exchange with Marineland Ontario. SeaWorld successfully sued to get ‘Ike’ back from Canada, claiming that inadequate conditions at Marineland were failing to

⁵³ Brower, Kenneth “Opinion: SeaWorld vs. The Whale That Killed Its Trainer” *nationalgeographic.com* 8/3/13

⁵⁴ Kirby, David “Canada's Marineland Sues Former Trainer for Publicizing Orca Neglect” *takepart.com* 12/17/12

⁵⁵ <http://www.thestar.com/news/investigations/marineland.html>

⁵⁶ http://www.marineland.ca/education/caregivers/marine_mammal

‘ensure his ongoing physical and psychological health.’”⁵⁷ Again, there is no mention of Dr. Cornell’s involvement as veterinarian at the Canadian park.

⁵⁷ Kirby, David “Baby Orca Born Into Troubled ‘Family’ at SeaWorld” *huffingtonpost.com* 2/14/13

EPILOGUE

In 2000, I was invited to fly with US Customs officials in a UH-60 Blackhawk helicopter over Biscayne Bay. As we went airborne, an AWACS plane picked up the signal of a single propellor aircraft headed towards the Bay with packages of cocaine. The drug smugglers dropped the packages into the water, where they were picked up by a cigarette boat. We located the boat and used the propellers to create swells and slow it down, allowing other Customs officials to come in by boat and arrest the smugglers.

This is true. It all appeared documented in an IMAX film.⁵⁸ What the viewer didn't realize is that, conditions being virtually impossible to film with IMAX cameras in real life, the entire thing was staged over two long days, using two boats, three helicopters, two airplanes, and a lot of fake bricks of cocaine. It was a conceit required by the very nature of filming in IMAX.

But when a book or a film is built around testimony and archival material, should this approach of sleight of hand, smoke and mirrors be used?

In a 2009 American University study on documentary filmmaking,⁵⁹ researchers found: "Filmmakers admitted to not telling the whole truth or concealing their motivation or their film's 'true politics' to get access to a subject or to 'get the scene you want to get.' In one case, a filmmaker hid the fact from a political candidate that his film was about the opposing candidate. He justified it by the result: 'Ultimately there is a story to be told, you may have to make these compromises. Hopefully you do it in a way that ultimately, with the finished product that I had a clear conscience. I may get in by a sneaky way but hold up standards in the final product.' Another gained access to someone in prison by writing on BBC letterhead stationery, although he was not working for the BBC. He said, 'I didn't have a [moral] dilemma. I had to do it.' While some said that they would never lie to a subject about what they were doing in the film, many believed that the decision needed to be taken on a case-by-case basis, considering the goal of the film and the relationship with the viewer. They had fewer qualms about lying to public officials or to representatives of institutions than about lying to subjects.

⁵⁸ Douglas, David (director) *Straight Up: Helicopters in Action* SK Films 2002

⁵⁹ Aufderheide, Pat et al. *Honest Truths: Documentary Filmmakers on Ethical Challenges in Their Work* American University School of Communications, Center for Media & Social Impact Sept. 2009

“... Filmmakers accepted significant manipulation of the situation in filming without regarding it as a betrayal of viewer expectations. They were fully aware that their choices of angles, shots, and characters were personal and subjective (a ‘POV,’ or point of view, was repeatedly referenced as a desirable feature of a documentary), and justified their decisions by reference to the concept ‘the truth.’ This concept was unanchored by validity tests, definitions, or norms. Rather the opposite, in fact: faced with evidence of or a decision for inaccuracy or manipulation, they often moved ‘the truth’ to a higher conceptual level, that of ‘higher truth.’

“This ‘higher truth’ or a ‘sociological truth’ inadvertently invoked documentary pioneer John Grierson’s description of documentary as a ‘creative treatment of actuality.’ Grierson used this flexible term to permit a wide range of actions and approaches ranging from re-enactment to highly selective storytelling—indeed, even outright government propaganda. His promotion of the term has been criticized, by scholar Brian Winston, among others, for allowing ethical choices to go unexamined. For Grierson, who incessantly strategized to garner government resources for documentary film, the phrase had strategic advantages. For today’s documentary filmmakers, it appears to grace a set of choices about narrative and purpose in the documentary. It appears to justify the overall goal of communicating the important themes, processes, or messages within the (required) entertaining narrative frame, while still permitting the necessary distortions to fit within that frame and the flexibility to deal with production exigencies.”

For Cowperthwaite and Kirby to meet their agendas, they felt it necessary to include distortions – their editorial decisions – to make their arguments and conclusions viable.

Paul Hirsch (Oscar winning editor for *Star Wars*) responded to Godard’s famous claim that “Photography is truth, and film is truth twenty-four times a second” thus: “Film is truth, but it’s all an illusion. It’s fake. Film is deceptive truth! When you cut back in forth between two characters having a conversation, one of them may have been shot in the morning, the other in the afternoon. And every line spoken by each of the characters might have come from a different take. Film is not true twenty-four times a second because by joining two pieces of film shot at different times, you’re implying that they happen consecutively, in the instant it takes to see them, when in fact they may have been shot months apart. One of the old definitions of art is deception. The Artful Dodger – it’s all about deceit. All a fakery. When you see close-ups of Meryl Streep and Robert DeNiro in a scene, it looks as if they’re talking to each other at that moment, but it is all an illusion. So

the shooting of the movie is the truth part and the editing of the movie is the lying part, the deceit part.”⁶⁰

⁶⁰ Oldham, Gabriela, editor *First Cut: Conversations with Film Editors* University of California Press 1992