

Live Export 'Al Kuwait' Cruelty Complaint

Following is a brief outline of the various developments in this case over the past two years.

December 17th 2003

Animals Australia lodges a historic complaint with the Western Australian police alleging that a shipment of 103,222 sheep aboard the MV Al Kuwait which departed Fremantle on 11th November 2003 bound for the Middle East breached Section 19 (3) of the Western Australian Animal Welfare Act 2002.

Evidence to support the complaint was provided through a joint investigation in Kuwait City in November 2003 by Animals Australia's Communication Director Lyn White and a British investigator working for UK based Compassion in World Farming (CIWF). The investigators met the Al Kuwait when it docked in Kuwait City 16 days after leaving Fremantle.

The investigation provided evidence to support an allegation that sheep exported from WA are being "transported in a way that causes or is likely to cause them unnecessary harm, in breach of Section 19 (1) (3) of the WA Animal Welfare Act. In conjunction with 20 years of industry research as to the cause of death aboard live export vessels, this evidence supported Animals Australia's expert legal advice – that every live sheep export vessel leaving Fremantle potentially breached the WA Animal Welfare Act.

Animals Australia initially lodged this complaint with WA police, believing that they had both the resources and expertise needed to investigate this complaint. Importantly, it was also believed that police had the independence from government and rural influences required, to ensure that this matter was fully investigated on its merits.

March 24th 2004

Animals Australia is advised by WA Police that a policy decision had been made that the RSPCA was the more appropriate body to investigate the complaint.

The file, whilst with the police, had been examined by the Police Legal Services Section.

There was no indication that there was not a sound basis of evidence needed to undertake an investigation.

Animals Australia then lodged the file with the West Australian RSPCA.

June 22nd 2004

The ABC 4 Corners program 'Blind Eye' reveals alleged conflicts of interest within RSPCA WA that questioned the will of certain office bearers and Council members to forward Animals Australia's complaint.

As a result of this information and acting on legal advice – Animals Australia took the unprecedented step of requesting the RSPCA to not 'investigate' the complaint on behalf of Animals Australia.

Animals Australia then formally lodged the complaint with the office of the Director General of the Department of Local Government and Regional Development. The Director General Cheryl Gwilliam is empowered under the act to instigate proceedings and also has the ultimate responsibility of ensuring the Animal Welfare Act is enforced.

LIVE ANIMAL EXPORT: INDEFENSIBLE.

June - November 2004

Complaint is sent by Ms Gwilliam to the WA State Solicitor for assessment regarding jurisdictional issues. Information is provided to Animals Australia that the State Solicitor has not found any jurisdictional impediment to the matter being fully investigated.

Ms Gwilliam advises Animals Australia that she has decided to send the file to the Federal Attorney General's office for his assessment of the jurisdictional issues.

January 24th 2005

Leading WA legal identity Martin Bennett acting on behalf of Animals Australia lodges an application for a Writ of Mandamus in the WA Supreme Court . The Writ is a rarely used legal remedy whereby the Supreme Court has the power to make an order in circumstances where there is a public duty to act and there has been a failure to perform that public duty.

January 28th 2005

The WA Supreme Court grants an order nisi – finding that there is a case to answer. The Court grants a request to have the matter expedited and a July hearing is scheduled.

April 2005

The WA State Solicitor advises Animals Australia that the Government is now investigating the complaint. Animals Australia welcomes this development.

July 2005

The State Solicitor appoints an experienced WA Police detective to investigate the complaint in cooperation with the government and State Solicitor's office.

October 2005

Animals Australia meets with the investigation team and provides exhibits to police.

November 2005 (two years after the alleged offence was committed)

The WA Government advised national animal protection body Animals Australia that charges have been laid against Emanuel Pty Ltd and two directors which allege that the company between the 10th and 14th November 2003 breached Section 19 (1) and 19 (3) (a) (b) (d) and 80 of the WA Animal Welfare Act

The offences allege that the exporter breached Section 19 (1) of the WA Animal Welfare Act ; a person must not be cruel to an animal, S.19 (3) (a) transporting an animal in a way that is likely to cause it harm; (3) (b) confining an animal in a way that is likely to cause it unnecessary harm and (3) (d) not providing proper food.

February 2007

The Emanuel's trial is scheduled to commence on February 5th 2007 in the Perth Magistrates Court. The court has set aside 8 days for the trial.

Further Information: see our Kuwait Investigation Report