

April 21, 2021

*Submitted via email*

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Dear Director Wiggins, Director Sapp, and Assistant State Attorney Filteau,

On behalf of Animal Outlook, I write to inform you of acts and omissions committed by the Miami-based aquaculture corporation Atlantic Sapphire in violation of Florida's Aquaculture Best Management Practices ("BMPs") as well as the state's animal cruelty law. Accordingly, we respectfully request that the Florida Department of Agriculture and Consumer Services ("FDACS") and the Miami-Dade State Attorney's Office ("MSAO") investigate Atlantic Sapphire and enforce these laws to the fullest extent allowable.

Animal Outlook is a national, non-profit animal protection organization dedicated to ending cruelty to farmed animals. As part of its mission to combat animal cruelty, Animal Outlook regularly investigates and exposes abuses occurring in industrial aquaculture.<sup>1</sup>

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<sup>1</sup> *Aquaculture: A Sea of Suffering*, ANIMAL OUTLOOK, <https://animaloutlook.org/investigations/aquaculture/> (last visited Apr. 11, 2021); *Muddying the Waters: Aquaculture's Plague on Welfare, Environment & Health*, ANIMAL OUTLOOK, <https://animaloutlook.org/muddying-the-waters-aquacultures-plague-on-welfare-environment-health/> (last visited Apr. 11, 2021).

Atlantic Sapphire is led by CEO Johan Andreassen<sup>2</sup> and touts itself as “the largest global onshore aquaculture company in the world.”<sup>3</sup> Although headquartered in Norway, Atlantic Sapphire established a massive 390,000 square foot facility in Miami-Dade County in 2019.<sup>4</sup> The facility—referred to as the “Bluehouse”—is located at 22275 SW 272<sup>nd</sup> Street, Homestead, Florida 33031.<sup>5</sup> The company possesses a FDACS Aquaculture Certificate of Registration for the facility valid through June 30, 2021.<sup>6</sup>

The number of animals confined at Atlantic Sapphire’s Miami-Dade facility is tremendous; the company projects producing 220,000 tons of salmon—or 1 billion servings—from the “Bluehouse” by the year 2031.<sup>7</sup> According to Atlantic Sapphire, “[t]he revolutionary bio-secure facility serves as the equivalent of a greenhouse, where fish are given *ideal conditions to thrive* with a 95 percent water-to-fish-ratio and a simulated environment allowing the salmon to swim against strong currents as they would in the wild.”<sup>8</sup>

But in stark contrast to Atlantic Sapphire’s idyllic representations, the “Bluehouse” bears no resemblance to the “wild” conditions in which salmon can “thrive.” In only the past nine months, Atlantic Sapphire’s failure to take actions it knew were essential to provide for the proper care of the animals confined at its facility has led to the suffering and death of 800,000 salmon in two separate “mass mortality events.”<sup>9</sup> Most disturbingly, these types of events have occurred before and—in Atlantic Sapphire’s very own words—were entirely preventable.<sup>10</sup> In fact, Atlantic

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<sup>2</sup> *Atlantic Sapphire makes management changes, COO Rajeswaran replaced*, SALMON BUSINESS (Mar. 29, 2021), <https://salmonbusiness.com/atlantic-sapphire-makes-management-changes-coo-rajeswaran-replaced/> (last visited Apr. 5, 2021).

<sup>3</sup> *Feeding the Future*, ATLANTIC SAPPHIRE, <https://atlanticsapphire.com/#:~:text=Atlantic%20Sapphire%20is%20the%20largest,the%20future%20with%20Blue%20house%20technology> (last visited Apr. 5, 2021).

<sup>4</sup> *Atlantic Sapphire building ‘largest aquaculture facility in the world*, MIAMI TODAY, (Dec. 17, 2019), <https://www.miamitodaynews.com/2019/12/17/atlantic-sapphire-building-largest-aquaculture-facility-in-world/> (last visited Apr. 5, 2021).

<sup>5</sup> *Get in touch with us*, ATLANTIC SAPPHIRE, <https://atlanticsapphire.com/contact/> (last visited Apr. 11, 2021).

<sup>6</sup> Appendix A - Aquaculture Certificate of Registration, Florida Department of Agriculture and Consumer Services, Expires June 30, 2021, Certificate Number AQ5623594.

<sup>7</sup> *Atlantic Sapphire ASA Joins OTCQX Financial Market*, CISION, PR NEWSWIRE (Jan. 15, 2021), <https://www.prnewswire.com/news-releases/atlantic-sapphire-asa-joins-otcqx-financial-market-301209149.html>

<sup>8</sup> *Q&A: A Greener Tomorrow Featuring Johan Andreassen, CEO, Atlantic Sapphire*, WORLD RED EYE, (Oct. 13, 2020), <https://worldredeye.com/2020/10/qa-a-greener-tomorrow-featuring-johan-andreassen-ceo-of-atlantic-sapphire/> (last visited Apr. 5, 2021) (emphasis added).

<sup>9</sup> See *Why is Atlantic Sapphire destroying 62.5% of its emergency harvest?*, SALMON BUSINESS (July 30, 2020), <https://salmonbusiness.com/why-is-atlantic-sapphire-destroying-62-5-of-its-emergency-harvest/> (last visited Apr. 5, 2021); C. White, *Atlantic Sapphire suffers mass salmon mortality at its Florida RAS farm*, SEAFOOD SOURCE, (Mar. 24, 2021), <https://www.seafoodsource.com/news/aquaculture/atlantic-sapphire-suffers-mass-salmon-mortality-at-its-florida-ras-farm> (last visited Apr. 6, 2021).

<sup>10</sup> See ATLANTIC SAPPHIRE, Interim Consolidated Financial Statements, p.15 (June 30, 2020) <https://atlanticsapphire.com/wp-content/uploads/2021/02/Atlantic-Sapphire-ASA-H1-2020-Group-Financial-Statements-28-August-2020.pdf> (last visited Apr. 5, 2021) (Admitting that it could have prevented the July 2020 incident: “The Group believes that the event would have likely been mitigated if the permanent fish movement system would have been fully commissioned.”); N. Arellano, *Atlantic Sapphire reports fish mortality in Florida RAS facility*, RASTECH, (Mar. 24, 2021), <https://www.rastechmagazine.com/atlantic-sapphire-reports-fish-mortality-in-florida-ras-facility/> (last visited Apr. 6, 2021) (Admitting it could have prevented the March 2021 incident: Atlantic Sapphire stated that “it was in the process of correcting the flaw just before the incident occurred” and “[h]ad the work been completed, the incident could have been prevented.”).

Sapphire knew that failures at the Miami-Dade facility would ultimately cause the suffering and death of hundreds of thousands of salmon **because it had happened before**. In 2017, the entire stock at Atlantic Sapphire’s Denmark facility was killed within 24 hours<sup>11</sup> and another 227,000 were killed in February 2020, both before the first incident at the company’s Florida facility.<sup>12</sup> After the February 2020 incident, Atlantic Sapphire recognized the problems with its method of operation, publicly stating that “[t]his incident demonstrates the importance and challenges of finishing commissioning of all Bluehouse systems while already in operation as well as the value of having multiple independent systems for biological risk diversification reasons.”<sup>13</sup> Yet instead of enacting the very measures it knew were necessary to prevent so much animal suffering, Atlantic Sapphire casually dismissed these incidents and pressed onward with its Florida operations, viewing the suffering and death of salmon as the cost of doing business.

In doing so, Atlantic Sapphire has flouted Florida’s BMPs and animal cruelty law, which plainly cover this type of cruelty. Florida’s laws are designed to protect against animal suffering and Atlantic Sapphire must not be allowed to cause such suffering with impunity behind the walls of its “Bluehouse.” Therefore, the FDACS and MSAO must take action against Atlantic Sapphire, including revocation of its Aquaculture Certificate of Registration, jail time for its CEO, and severe monetary penalties.

**I. Florida law tasks the FDACS with overseeing the welfare of fish in aquaculture facilities through enforcement of Best Management Practices (“BMPs”) that fully incorporate the state’s animal cruelty law.**

**A. The FDACS Aquaculture BMPs provide broad protections for fish kept in registered aquaculture facilities.**

As Florida’s “lead aquaculture agency,” the FDACS is explicitly charged with ensuring the welfare of fish in aquaculture facilities by enforcing Florida’s BMPs.<sup>14</sup> These BMPs are documented in the FDACS “Aquaculture Best Management Practices Manual” which is incorporated by reference into Fla. Admin. Code 5L-3.004.<sup>15</sup>

Although called “best practices,” these rules carry the full force of law. According to the BMPs, “[a]nyone conducting aquacultural activities not in compliance with this manual . . . is in violation of Florida Law, and is subject to the penalties described (herein).”<sup>16</sup> The BMPs apply to

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<sup>11</sup> Land farm’s entire grow-out stock wiped out, FISH FARMING EXPERT (July 2017), <https://www.fishfarmingexpert.com/article/land-farm-8217-s-entire-grow-out-stock-wiped-out/> (last visited Apr. 16, 2021).

<sup>12</sup> N. Arellano, *High nitrogen levels cause fish mortality at Atlantic Sapphire Denmark*, RASTECH, (Mar. 2, 2020), <https://www.rastechmagazine.com/atlantic-sapphire-land-based-salmon-farm-loses-227000-fish/> (last visited Apr. 6, 2021).

<sup>13</sup> *27,000 fish die in Atlantic Sapphire’s Denmark RAS*, FISH FARMING EXPERT, <https://www.fishfarmingexpert.com/article/227000-fish-die-in-atlantic-sapphires-denmark-ras/> (last visited Apr. 6, 2021).

<sup>14</sup> *Division of Aquaculture*, FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, <https://www.fdacs.gov/Divisions-Offices/Aquaculture> (last visited Apr. 11, 2021).

<sup>15</sup> Fla. Admin. Code 5L-3.004.

<sup>16</sup> FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, *Aquaculture Best Management Practices Manual* at p.2 (2016), <https://www.flrules.org/Gateway/reference.asp?No=Ref-07694> (last visited Apr. 6, 2021).

all registered aquaculture facilities and “must be implemented immediately and followed for the full term” of the Aquaculture Certificate of Registration.<sup>17</sup>

The BMPs conspicuously include an entire section devoted to animal welfare. The preamble to this section states:

Successful aquatic animal husbandry demands that animals be held in *optimal environments* and fed a high quality diet. Aquatic animals intended for human consumption shall be quickly prepared for rapid processing. Euthanasia, slaughter, or depopulation shall be performed quickly and in a manner to limit the stress to the animal. Aquatic animals reared for stocking in public waters shall be transported under optimal environmental conditions.<sup>18</sup>

The Animal Welfare section of the BMPs explicitly incorporates Florida’s animal cruelty laws by reference. The section states that aquaculture facilities must “[c]omply with the provisions of Cruelty to Animals, Section 828.12, F.S.”<sup>19</sup> Moreover, the BMPs state that “[u]nless authorized in statute the BMPs enumerated in this manual do not supersede other applicable federal or local authorities,” thus affirming the continued applicability of Florida’s animal cruelty law to aquaculture facilities within the state.<sup>20</sup>

B. Florida’s animal cruelty law affords meaningful protections to animals, including fish such as those confined at Atlantic Sapphire.

Florida’s robust animal cruelty law prohibits a wide range of conduct. The subsection relevant here, Fla. Stat. § 828.12(1), punishes:

A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner.<sup>21</sup>

Under the law, the word “torment,” includes “every act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused, except when done in the interest of medical science, permitted, or allowed to continue when there is reasonable remedy or relief.”<sup>22</sup> Importantly, the law applies to “every living dumb creature,”<sup>23</sup> a definition that unquestionably includes the salmon confined at Atlantic Sapphire.

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<sup>17</sup> *Id.* at p.3.

<sup>18</sup> *Ibid.* (emphasis added).

<sup>19</sup> *Id.* at p.69.

<sup>20</sup> *Id.* at p.1.

<sup>21</sup> Fla. Stat. § 828.12(1).

<sup>22</sup> Fla. Stat. § 828.02.

<sup>23</sup> Fla. Stat. § 828.02.

Violation of this subsection constitutes a misdemeanor of the first degree, punishable by a term of imprisonment not exceeding 1 year<sup>24</sup> or by a fine of not more than \$5,000, or both.<sup>25</sup> Importantly—and highly relevant in this case—the law provides that “[a] person who commits animal cruelty . . . against more than one animal may be charged with a separate offense for each animal such cruelty was committed upon.”<sup>26</sup>

In addition to allowing individual charges per animal subjected to cruelty, the law expressly provides for corporate liability. Under the statute, the word “person” includes “corporations” and moreover, “the knowledge and acts of agents and employees of corporations in regard to animals transported, owned, employed by or in the custody of a corporation, shall be held to be the knowledge and act of such corporation.”<sup>27</sup>

As the holder of an Aquaculture Certificate of Registration, Atlantic Sapphire is fully accountable for compliance with the BMPs and Florida’s animal cruelty law. These laws provide broad protections for animals—including fish used in aquaculture—offering protection from “every act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused.”<sup>28</sup> As outlined below, Atlantic Sapphire has committed multiple acts, omissions, and neglects that have caused unnecessary suffering to hundreds of thousands of salmon confined to its facility. As Florida law allows corporations to be held accountable for animal cruelty, the FDACS and MSAO should enforce these laws against Atlantic Sapphire to the fullest extent allowable, including revocation of the company’s Aquaculture Certificate of Registration, jail time for of the company’s CEO, Johan Andreassen, and the imposition of severe monetary penalties.

## **II. Atlantic Sapphire’s premature stocking of tanks before construction was complete led to the prolonged suffering and agonizing death of 200,000 salmon in July 2020, violating the BMPs and animal cruelty laws.**

### **A. In pursuit of profit, Atlantic Sapphire stocked its tanks with 200,000 salmon before the facility was complete, subjecting them to painful construction noise and vibrations that led to immense suffering and their ultimate and brutal killing.**

On July 28, 2020, Atlantic Sapphire killed 200,000 salmon—equivalent to 13 fully loaded trucks of fish<sup>29</sup>—as the result of improper planning.<sup>30</sup> According to the Oslo Stock Exchange, Atlantic Sapphire “was forced to initiate an emergency harvest from one of its growout systems, *that was recently stocked despite not being fully commissioned.*”<sup>31</sup>

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<sup>24</sup> Fla. Stat. § 775.082(4)(a).

<sup>25</sup> Fla. Stat. § 828.12(1).

<sup>26</sup> Fla. Stat. § 828.12.

<sup>27</sup> Fla. Stat. § 828.02.

<sup>28</sup> Fla. Stat. § 828.02.

<sup>29</sup> *Why is Atlantic Sapphire destroying 62.5% of its emergency harvest?*, SALMON BUSINESS (July 30, 2020), <https://salmonbusiness.com/why-is-atlantic-sapphire-destroying-62-5-of-its-emergency-harvest/> (last visited Apr. 5, 2021).

<sup>30</sup> *Atlantic Sapphire ASA: Incident in Atlantic Sapphire’s US Facility*, OSLO BORS, (Jul. 29, 2020) <https://newsweb.oslobors.no/message/510409> (last visited Apr. 6, 2021).

<sup>31</sup> *Ibid.* (emphasis added).

Although innocuously referred to as an “emergency harvest,” the event was in fact a gruesome, final end for hundreds of thousands of conscious, sentient animals who were undeniably capable of experiencing pain and suffering.<sup>32</sup> Records obtained through Florida’s Sunshine Law reveal the gory details of Atlantic Sapphire’s so-called “emergency harvest.”<sup>33</sup> According to the records, fish were “transported live to the harvest area” then “vacuum pumped . . . through an electrical stunner”<sup>34</sup> where they received an electrical shock intended to create unconsciousness.<sup>35</sup> The salmon were then received in the “bleeding area,” where a combination of machines and workers slit the blood vessels in their gill arch,<sup>36</sup> a process that is debatably lawful but unquestionably cruel.<sup>37</sup> One study of this method of killing noted that “[t]he time to death by gill cut is likely to be longer than the period of unconsciousness from electric stunning, and there is evidence that salmon can regain consciousness after having their gills cut following an electric stun.”<sup>38</sup> After cutting the salmon’s gills, Atlantic Sapphire then placed them in a tote with chilled water<sup>39</sup> where they were left to bleed out.<sup>40</sup>

In an August 2020 investor’s update, Atlantic Sapphire offered a post-mortem on the event’s causes, openly admitting that the fish suffered and were weakened by surrounding construction activity:

- “Event caused by combination of accumulated and sudden construction stressors related to delays”;

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<sup>32</sup> Donald M. Broom, *Fish Brains and Behaviour Indicate Capacity for Feeling Pain*, ANIMAL SENTIENCE (2016), <https://www.wellbeingintlstudiesrepository.org/cgi/viewcontent.cgi?article=1031&context=animsent>; Lynne U. Sneddon, *Evolution of Nociception and Pain: Evidence from Fish Models*, THE ROYAL SOC’Y. 374 (2019).

<sup>33</sup> Appendix B - Florida Sunshine Law Records, Atlantic Sapphire, *Hazard analysis for the harvesting, stunning and bleed of Atlantic Salmon*.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*

<sup>37</sup> A factual question exists whether Atlantic Sapphire’s method of performing the gill cut complied with Florida law on the euthanasia of animals, a law that is incorporated into the BMPs by reference. Even if the method complied with Florida law, the salmon undoubtedly suffered immensely as the time to death by gill cut likely exceeded the duration of the electrical stun. *See* Fla. Admin. Code 5C-25.001(2)(c) (Allowing for euthanasia of animals, including aquaculture species, by “[t]he simultaneous and instantaneous severance of the carotid arteries with a sharp instrument causing loss of consciousness by anemia); *see also Humane Slaughter: Atlantic salmon*, COMPASSION IN WORLD FARMING, <https://www.compassioninfoodbusiness.com/media/7434842/humane-slaughter-atlantic-salmon.pdf> (last visited Apr. 6, 2021) (“Atlantic salmon killed by gill cutting alone can take several minutes to lose consciousness; in one study loss of consciousness took as long as 7.5 minutes. The time to death by gill cut is likely to be longer than the period of unconsciousness from electric stunning, and there is evidence that salmon can regain consciousness after having their gills cut following an electric stun.”); M. Borthwick, *Welfare Issues in Farmed Atlantic Salmon*, MARK BORTHWICK, (Oct. 25, 2020), <https://mdborthwick.medium.com/welfare-issues-in-farmed-atlantic-salmon-7179415e32e4> (last visited Apr. 6, 2021) (“However, electroencephalographic imaging of salmon brains during stun-bleed suggests it takes between 148–440 seconds for brain activity to cease in a salmon’s brain following the gill cut. Some studies have identified fish species that, due to divergent biology, demonstrate brain activity more than an hour after having their gills cut.”).

<sup>38</sup> *Humane Slaughter: Atlantic salmon*, COMPASSION IN WORLD FARMING, <https://www.compassioninfoodbusiness.com/media/7434842/humane-slaughter-atlantic-salmon.pdf> (last visited Apr. 6, 2021).

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

- “Accumulation of stressors: frontrunner batches have over time been exposed to various construction-related stressors that have weakened the fish and elevated the risk of operations”;
- “Sudden stressors: high construction noise and vibration on the day stressed the fish, triggering the event”<sup>41</sup>

In addition to admitting that the fish suffered, Atlantic Sapphire has unequivocally admitted that the event was completely avoidable and that had it commissioned the proper equipment, the incident would never have happened. In various statements, including the August 2020 investor’s update and the Oslo Stock Exchange release, the company has stated:

- “The Group believes that the event would have likely been mitigated if the permanent fish movement system would have been fully commissioned.”<sup>42</sup>
- “Critical equipment that would have handled the initial mortality was not commissioned, causing a chain reaction.”<sup>43</sup>
- “The fact that some critical components and functionality of the farm are not yet operational limits the tools the Company has to deal with non-conformities such as quickly moving fish out of systems if needed.”<sup>44</sup>
- “The permanent fish movement system is planned to be operational shortly and would likely have mitigated this event.”<sup>45</sup>
- “This incident demonstrates the challenges of completing construction commissioning of all Bluehouse systems and support functions while in operation, but also the value and importance of having multiple independent systems to diversify biological risk.”<sup>46</sup>

Atlantic Sapphire knowingly placed 200,000 salmon in a facility that was not complete or remotely equipped to provide for their proper care. As a result, ongoing construction activity stressed and weakened the fish, causing tremendous suffering. Having failed to implement the systems necessary to care for these fish, Atlantic Sapphire decided to kill them, vacuum pumping them to be electrically shocked then have their gills slit until they were left to bleed out in a tote of chilled water with thousands likely regaining consciousness in their final, harrowing moments.

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<sup>41</sup> ATLANTIC SAPPHIRE, 1<sup>st</sup> Half Update 2020, p.7 (Aug. 28, 2020), <https://atlanticsapphire.com/wp-content/uploads/2021/02/Atlantic-Sapphire-ASA-H1-2020-Operational-and-Financial-Update-28-August-2020.pdf> (last visited Apr. 5, 2021); see also G. Moore, *Construction stress confirmed as cause of Atlantic Sapphire emergency*, FISH FARMING EXPERT, <https://www.fishfarmingexpert.com/article/construction-caused-emergency-harvest-in-miami-confirms-atlantic-sapphire/> (last visited Apr. 5, 2021) (“We have concluded our thorough investigation of the incident in Miami and the initial conclusion prevails. A combination of constant and sudden stressors related to construction delays caused the event,” said Atlantic Sapphire USA chairman, co-founder and chief executive John Andreassen in a post on Twitter last night.”).

<sup>42</sup> ATLANTIC SAPPHIRE, Interim Consolidated Financial Statements, p.15 (June 30, 2020) <https://atlanticsapphire.com/wp-content/uploads/2021/02/Atlantic-Sapphire-ASA-H1-2020-Group-Financial-Statements-28-August-2020.pdf> (last visited Apr. 5, 2021).

<sup>43</sup> ATLANTIC SAPPHIRE, 1<sup>st</sup> Half Update 2020, p.7 (Aug. 28, 2020), <https://atlanticsapphire.com/wp-content/uploads/2021/02/Atlantic-Sapphire-ASA-H1-2020-Operational-and-Financial-Update-28-August-2020.pdf> (last visited Apr. 5, 2021).

<sup>44</sup> *Atlantic Sapphire ASA: Incident in Atlantic Sapphire’s US Facility*, OSLO BORS, (Jul. 29, 2020) <https://newsweb.oslobors.no/message/510409> (last visited Apr. 6, 2021).

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

B. Atlantic Sapphire’s decision to stock 200,000 salmon in growout tanks before construction was complete caused “unnecessary” suffering and pain in violation of the BMPs and Florida’s animal cruelty law.

Atlantic Sapphire’s stocking of its growout systems with hundreds of thousands of salmon before construction necessary to ensure their well-being was complete amounts to animal cruelty under Florida law because it caused unnecessary suffering and pain. The FDACS and MSAO should pursue the maximum penalties allowable, including revocation of the company’s Certificate of Aquaculture Registration, jail time for the company’s CEO, and substantial monetary fines.

As stated above, Florida’s animal cruelty law—incorporated into the BMPs—punishes any person “who unnecessarily . . . torments or kills any animal.”<sup>47</sup> The word “torment” includes “every act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused, except when done in the interest of medical science, permitted, or allowed to continue when there is reasonable remedy or relief.”<sup>48</sup> Thus, any person who causes “unnecessary” pain or suffering to an animal—including fish<sup>49</sup>—is guilty of animal cruelty and is subject to a term of imprisonment not exceeding 1 year<sup>50</sup> or by a fine of not more than \$5,000<sup>51</sup> for *each animal* upon whom pain or suffering was inflicted.<sup>52</sup>

Although Florida courts have rarely opined on the meaning of the word “unnecessary” in the context of the animal cruelty statute, multiple cases support the conclusion that Atlantic Sapphire’s actions in prematurely stocking the growout tanks were “unnecessary.” In a 1981 case involving a constitutional vagueness challenge to an animal cruelty conviction for the beating and mutilation of a raccoon, the Florida Supreme Court stated that the word “unnecessarily” should be considered “with a view to effectuating the purpose of the act,”<sup>53</sup> in this case, to prevent animal suffering. In a separate case in which a defendant was convicted of cruelty for tying up his dog and beating him or her with a stick for urinating in the house, the First District Court of Appeal upheld the trial court’s conviction, finding that there was sufficient evidence for a jury to find the defendant’s alleged “discipline” was “unnecessary.”<sup>54</sup>

The scope of the term “unnecessary” can be further informed by Florida cases in other contexts. In the context of Florida labor laws, the Eleventh Circuit cited Merriam-Webster’s Dictionary to define the word “necessary” as meaning “of an inevitable nature: inescapable.”<sup>55</sup> In a separate case involving the Americans with Disabilities Act, the District Court for the Middle District of Florida quoted the Oxford English Dictionary to define the term “necessary” as meaning

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<sup>47</sup> Fla. Stat. § 828.12(1).

<sup>48</sup> Fla. Stat. § 828.02.

<sup>49</sup> See *Fisherman gets 10 days for dragging live shark behind boat*, SUN SENTINEL, Sep. 16, 2019, <https://www.sun-sentinel.com/news/florida/fl-ne-shark-dragging-sentencing-20190916-wbnmhdna4zdrposafomctlr6nq-story.html> (last visited Apr. 15, 2021).

<sup>50</sup> Fla. Stat. § 775.082(4)(a).

<sup>51</sup> Fla. Stat. § 828.12(1).

<sup>52</sup> Fla. Stat. § 828.12.

<sup>53</sup> *Wilkerson v. State*, 401 So. 2d 1110, 1112 (Fla. 1981) (quoting *Campbell v. State*, 240 So. 2d 298, 299 (Fla. 1970)).

<sup>54</sup> *Ibid.*

<sup>55</sup> *Arriaga v. Fla. Pac. Farms, L.L.C.*, 305 F.3d 1228, 1242 (11th Cir. 2002) (quoting Merriam-Webster’s Collegiate Dictionary 776 (10 ed. 1995)).



"indispensable; vital, essential; requisite."<sup>56</sup> Accordingly, in the context of the animal cruelty statute, the term "unnecessary" should be construed to mean "avoidable," "escapable," "unessential," or "dispensable" to effectuate the purpose of Florida's animal cruelty statute—to prevent the suffering of animals within the state.<sup>57</sup>

Here, Atlantic Sapphire's decision to stock growout tanks before construction was complete caused "unnecessary" pain and suffering for the 200,000 salmon who were subjected to an unknown period of "high construction noise and vibration"<sup>58</sup> then ultimately electrified and killed slowly by having their gills slit.<sup>59</sup> Numerous studies have shown that noise and vibrations are highly detrimental to fish. One study concluded that "[c]ontinuous loud noises cause stress responses in endocrine and other systems that can have long term health effects" and that "[p]roximity to extremely loud sound sources can result in hearing loss, bleeding, tissue damage, and even death."<sup>60</sup> Another study concluded that "[n]oise has the potential to induce physiological stress in marine fishes" and fish "exposed to intermittent noise exhibited an acute stress response."<sup>61</sup> The irregular nature of construction noises here made matters even worse: one study concluded that "fish exposed to a random pattern of noise showed significantly higher cortisol levels than for continuous noise or natural sounds."<sup>62</sup> A separate study on the effect of vibrations on marine life found that "[e]xposure to . . . vibration may elicit behavioral or physiological change, or even physical damage at high amplitudes or particular frequencies."<sup>63</sup> In light of the company's own statements and numerous studies, it seems undeniable that the salmon confined at Atlantic Sapphire suffered immensely, likely experiencing increased stress, hearing loss, bleeding, and tissue damage.

Making matters worse, the company has publicly and unequivocally admitted that the entire tragic event was completely avoidable, rendering it "unnecessary" under the animal cruelty law. Atlantic Sapphire stated that the implementation of a "permanent fish movement system . . . would likely have mitigated this event."<sup>64</sup> Moreover, the company lamented its lack of "tools" available "to deal with non-conformities such as quickly moving fish out of systems if needed"<sup>65</sup> and emphasized its own failure, observing that "[t]his incident demonstrates . . . the value and importance of having multiple independent systems to diversify biological risk."<sup>66</sup> These statements confirm not only that Atlantic Sapphire's decision to prematurely stock its growout

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<sup>56</sup> *Ault v. Walt Disney World Co.*, 2009 U.S. Dist. LEXIS 92911 at \*26 (M.D. Fl. 2009) (quoting Oxford English Dictionary (2d ed. 1989)).

<sup>57</sup> *Wilkerson*, 401 So. 2d at 1112.

<sup>58</sup> ATLANTIC SAPPHIRE, 1<sup>st</sup> Half Update 2020, p.7 (Aug. 28, 2020), <https://atlanticsapphire.com/wp-content/uploads/2021/02/Atlantic-Sapphire-ASA-H1-2020-Operational-and-Financial-Update-28-August-2020.pdf> (last visited Apr. 5, 2021).

<sup>59</sup> *Ibid.*

<sup>60</sup> M. Bates, *Noise pollution also threatens fish*, AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE, <https://www.aaas.org/noise-pollution-also-threatens-fish> (last visited Apr. 13, 2021).

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.*

<sup>63</sup> L. Roberts, *Good or bad vibrations? Impacts of anthropogenic vibration on the marine epibenthos*, 595 SCI. OF THE TOTAL ENV'T 255 (Apr. 2017).

<sup>64</sup> *Atlantic Sapphire ASA: Incident in Atlantic Sapphire's US Facility*, OSLO BORS, (Jul. 29, 2020) <https://newsweb.oslobors.no/message/510409> (last visited Apr. 6, 2021).

<sup>65</sup> *Ibid.*

<sup>66</sup> *Ibid.*

tanks caused the suffering of these 200,000 salmon but that their suffering was completely “unnecessary.” Thus, Atlantic Sapphire violated both the BMPs and the incorporated animal cruelty law.

In addition to violating the BMPs on animal welfare, Atlantic Sapphire potentially violated other BMPs related to aquaculture facility construction, and these violations may be interrelated. The FDACS Aquaculture Best Management Practices Manual contains Construction BMPs that state “[c]onstruction timelines should not exceed 12 months”<sup>67</sup> for both new farms and the expansion of existing facilities.<sup>68</sup> As noted above, the event discussed here occurred on July 28, 2020. News reports suggest that Atlantic Sapphire began construction on the facility no later than the summer of 2017.<sup>69</sup> Thus, at the time of the event, which was triggered by construction noises and vibrations, Atlantic Sapphire’s facility had been under construction for three years, far in excess of the 12-month term defined in the Construction BMPs.

By stocking growout tanks before construction was completed, Atlantic Sapphire unnecessarily inflicted pain and suffering on 200,000 salmon then ultimately electrocuted them and slit their gill arches, leaving them to bleed out and die. These actions plainly violate both the BMPs as well as the state’s animal cruelty law. Accordingly, the FDACS and MSAO should enforce these laws to the fullest extent possible.

**III. Atlantic Sapphire’s failure to remedy an issue with its filtration system—a problem the company knew existed—caused the unnecessary suffering and death of 600,000 salmon and violated the BMPs and animal cruelty law.**

**A. Less than a year after causing the unnecessary suffering and death of 200,000 salmon, Atlantic Sapphire caused 600,000 more to suffer and die by operating a faulty filtration system, which the company openly admitted it could have prevented.**

Only eight months after killing 200,000 salmon due to poorly planned construction and premature stocking, Atlantic Sapphire killed 600,000 more. Once more, the killing of these salmon resulted from Atlantic Sapphire’s admitted failures in design and construction and as such, violates the BMPs and animal cruelty law.

On March 23, 2021, Atlantic Sapphire reported via a press release that it “had an incident in one of its grow out systems at (the) Miami facility.”<sup>70</sup> The news later referred to this incident as “a

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<sup>67</sup> FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, Aquaculture Best Management Practices Manual, p.13 (Nov. 2016), <https://www.flrules.org/Gateway/reference.asp?No=Ref-07694> (last visited Apr. 6, 2021).

<sup>68</sup> *Ibid.*

<sup>69</sup> A. Berge, *Atlantic Sapphire: a pioneer of grand scale land-based aquaculture*, SALMON BUSINESS (July 10, 2017), <https://salmonbusiness.com/atlantic-sapphire-a-pioneer-of-grand-scale-land-based-aquaculture/> (last visited Apr. 6, 2021); *see also* N. Dahlberg, *Florida, the Salmon State? It could happen soon*, MIAMI HERALD (Mar. 18, 2018), <https://www.miamiherald.com/news/business/biz-monday/article205736704.html> (last visited Apr. 6, 2021).

<sup>70</sup> *Atlantic Sapphire ASA: Incident in Atlantic Sapphire’s US facility*, EURONEXT (Mar. 23, 2021), <https://live.euronext.com/en/node/4379863> (last visited Apr. 13, 2021).

mass mortality event.”<sup>71</sup> In its 2020 Annual Report, Atlantic Sapphire reported that “approximately 600,000 salmon (were) lost.”<sup>72</sup> Citing Atlantic Sapphire sources, one aquaculture industry report indicated that:

[A]n initial analysis has indicated a flaw in the design of the (Recirculating Aquaculture System) caused significant amounts of particles to flow from the drum filters (particle filtration systems) into the biofilters and trickling filters. This resulted in elevated turbidity and possibly gases, and caused abnormal fish behavior. Fish gathered at the bottom of the tanks, disrupting the flow of new water, causing increasing mortality.<sup>73</sup>

As with the July 2021 incident, this “mass mortality event” was entirely preventable. According to one report, Atlantic Sapphire said “it was in the process of correcting the flaw just before the incident occurred” and “[h]ad the work been completed, the incident could have been prevented.”<sup>74</sup> Another report stated that:

The Company has, from a previous incident, identified an opportunity to ensure undisrupted water flow by modifying the centre drain design in all of its grow-out tanks. This work had already started prior to this incident. The centre drain in the affected system had not yet been modified. Keeping an undisrupted water flow is critical to the operation of a RAS system.<sup>75</sup>

Once more, Atlantic Sapphire’s failure to ensure the well-being of salmon confined to its facilities led to a “mass mortality event.” Mere months after casually killing 200,000 fish due to another construction error, the company killed over half a million more in a continued parade of horrific errors.<sup>76</sup>

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<sup>71</sup> C. White, *Atlantic Sapphire suffers mass salmon mortality at its Florida RAS farm*, SEAFOOD SOURCE, (Mar. 24, 2021), <https://www.seafoodsource.com/news/aquaculture/atlantic-sapphire-suffers-mass-salmon-mortality-at-its-florida-ras-farm> (last visited Apr. 6, 2021).

<sup>72</sup> ATLANTIC SAPPHIRE, Annual Report 2020, p.105 (Apr. 15, 2021).

<sup>73</sup> *Ibid.* (internal quotations omitted).

<sup>74</sup> N. Arellano, *Atlantic Sapphire reports fish mortality in Florida RAS facility*, RASTECH, (Mar. 24, 2021), <https://www.rastechmagazine.com/atlantic-sapphire-reports-fish-mortality-in-florida-ras-facility/> (last visited Apr. 6, 2021).

<sup>75</sup> *Atlantic Sapphire blames RAS ‘design weakness’ for US fish die-off*, FISH FARMING EXPERT, <https://www.fishfarmingexpert.com/article/atlantic-sapphire-blames-ras-design-weakness-for-us-fish-die-off/> (last visited Apr. 6, 2021).

<sup>76</sup> While Atlantic Sapphire has attempted to shift the blame for the March 2021 event to Billund Aquaculture, the designer of the Recirculating Aquaculture System (“RAS”), Atlantic Sapphire is ultimately responsible for the care of the salmon in its facility.; See C. White, *Atlantic Sapphire stock price plunges after release of financial report*, SEAFOOD SOURCE (Apr. 15, 2021), <https://www.seafoodsource.com/news/business-finance/atlantic-sapphire-stock-price-plunges-after-release-of-financial-report> (last visited Apr. 16, 2021) (“But Billund Aquaculture will no longer be involved with the project after Atlantic Sapphire deemed it responsible for problems that led to a mass mortality at its Miami farm in March, as well as other biological issues.”); A. Berge, *Harvest volumes in Miami cut by 20 percent*, SALMON BUSINESS (Mar. 24, 2021) <https://salmonbusiness.com/harvest-volumes-in-miami-cut-by-20-per-cent/> (last visited Apr. 16, 2021) (“According to Atlantic Sapphire, this was down to ‘a design weakness from the company’s RAS supplier’ that caused significant amounts of particles to flow from the drum filters (particle filtration systems) into the biofilters and trickling filters. This resulted in elevated turbidity and possibly gasses and caused abnormal fish behavior. This, in turn, resulted in the mortality of 500 tonnes of salmon, with an average weight of approximately 1kg. The company’s RAS supplier is Danish Billund Aquaculture.”).

B. Atlantic Sapphire’s failure to ensure proper filtration caused the “unnecessary” suffering of 600,000 salmon and violated the BMPs and animal cruelty law.

Like the July 2020 incident, the March 2021 incident violated both the BMPs and the state’s animal cruelty law. To hold Atlantic Sapphire accountable for its repeated catastrophic actions that have caused so much suffering and to prevent future such events, the FDACS and MSAO should enforce these laws to the fullest extent possible.

As stated above, Florida’s animal cruelty law punishes any person “who unnecessarily . . . torments or kills any animal”<sup>77</sup> where the word “torment” includes “every act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused, except when done in the interest of medical science, permitted, or allowed to continue when there is reasonable remedy or relief.”<sup>78</sup> Under the statute, the word “person” includes “corporations.”<sup>79</sup> Thus, any corporation that causes unnecessary pain or suffering to an animal—including fish—is guilty of animal cruelty.

Although details of the March 2021 event are scarce, the available facts leave little doubt that once again, the salmon suffered terribly due to Atlantic Sapphire’s conduct. The company reported that problems with a filter “resulted in elevated turbidity and possibly gases, and caused abnormal fish behavior,” including fish gathering “at the bottom of the tanks, disrupting the flow of new water, causing increasing mortality.”<sup>80</sup> “Turbidity” is the measure of relative clarity of water.<sup>81</sup> Material that causes water to be turbid includes “clay, silt, very tiny inorganic and organic matter, algae, dissolved colored organic compounds, and plankton and other microscopic organisms.”<sup>82</sup> Turbidity in water “can have many negative effects on aquatic life.”<sup>83</sup> Studies on the effect of turbidity on salmon specifically have shown that it can cause a wide range of extremely adverse impacts.<sup>84</sup> One possible effect of turbidity is gill trauma, described as follows:

Fish gills are delicate and easily damaged by abrasive silt particles. As sediment begins to accumulate in the filaments, fish excessively open and close their gills to expunge the silt. If irritation continues, mucus is produced to protect the gill surface, which may impede the circulation of water over gills and interfere with fish respiration.<sup>85</sup>

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<sup>77</sup> Fla. Stat. § 828.12(1).

<sup>78</sup> Fla. Stat. § 828.02.

<sup>79</sup> *Ibid.*

<sup>80</sup> C. White, *Atlantic Sapphire suffers mass salmon mortality at its Florida RAS farm*, SEAFOOD SOURCE, (Mar. 24, 2021), <https://www.seafoodsource.com/news/aquaculture/atlantic-sapphire-suffers-mass-salmon-mortality-at-its-florida-ras-farm> (last visited Apr. 6, 2021) (internal quotations omitted).

<sup>81</sup> *Turbidity and Water*, UNITED STATES GEOLOGICAL SURVEY, [https://www.usgs.gov/special-topic/water-science-school/science/turbidity-and-water?qt-science\\_center\\_objects=0#qt-science\\_center\\_objects](https://www.usgs.gov/special-topic/water-science-school/science/turbidity-and-water?qt-science_center_objects=0#qt-science_center_objects) (last visited Apr. 13, 2021).

<sup>82</sup> *Ibid.*

<sup>83</sup> *Turbidity*, ENVIRONMENTAL MONITOR, (Aug. 12, 2010); <https://www.fondriest.com/news/turbidity.htm> (last visited Apr. 16, 2021).

<sup>84</sup> S. Bolton, *Effects of Turbidity and Suspended Solids on Salmonids*, UNIVERSITY OF WASHINGTON, <https://www.wsdot.wa.gov/research/reports/fullreports/526.1.pdf> (last visited Apr. 13, 2021).

<sup>85</sup> *Ibid.*

Other effects of turbidity on salmon include compromised immune systems, damage to reproductive systems, as well as increased aggression and territoriality.<sup>86</sup> In addition, Atlantic Salmon experiencing high turbidity can suffer from “major physiological stress” and ultimately death.<sup>87</sup>

Crammed in concrete tanks and subjected to filthy, sediment-laden waters and possibly gases, the 600,000 salmon killed in Atlantic Sapphire’s second “mass mortality event” likely suffered immensely for an unknown period of time. Crowded at the bottom of these tanks, these salmon likely suffered from a host of ailments, including damaged gills, respiratory issues, aggression from other fish, and extreme stress.

As with the July 2020 event, Atlantic Sapphire has admitted that this event was entirely avoidable, rendering it “unnecessary” and subject to the penalties of Florida’s animal cruelty law. One aquaculture industry source quoted Atlantic Sapphire as stating that “it was in the process of correcting the flaw just before the incident occurred” and “[h]ad the work been completed, the incident could have been prevented.”<sup>88</sup> Another industry source citing Atlantic Sapphire stated that, prior to the incident, the company had “identified an opportunity to ensure uninterrupted water flow by modifying the centre drain design in all of its grow-out tanks,”<sup>89</sup> an improvement that may have prevented this incident. Atlantic Sapphire knew it shouldn’t take the actions that caused this event because of its previous disasters, including those in Denmark. But even if it hadn’t known better, it would still be liable. While Florida’s animal cruelty law contains exceptions for medical science and veterinary practice,<sup>90</sup> it contains no such exception for incompetence, ignorance, and error.

It is clear from Atlantic Sapphire’s very own words that this incident constitutes a violation of the BMPs as well as Florida’s animal cruelty law. By once again failing to provide a habitable environment for the hundreds of thousands of salmon in its care—this time by failing to complete work on an adequate filtration system the company knew was faulty—Atlantic Sapphire caused immense suffering for hundreds of thousands of animals protected under Florida law. As such, the FDACS and MSAO must investigate and impose punishment.

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<sup>86</sup> *Ibid.*

<sup>87</sup> *Section 7 Effect Analysis: Turbidity in the Greater Atlantic Region*, NATIONAL OCEANIC ATMOSPHERIC ADMINISTRATION, <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-effect-analysis-turbidity-greater-atlantic-region> (last visited Apr. 13, 2021).

<sup>88</sup> N. Arellano, *Atlantic Sapphire reports fish mortality in Florida RAS facility*, RASTECH, (Mar. 24, 2021), <https://www.rastechmagazine.com/atlantic-sapphire-reports-fish-mortality-in-florida-ras-facility/> (last visited Apr. 6, 2021) (emphasis added).

<sup>89</sup> *Atlantic Sapphire blames RAS ‘design weakness’ for US fish die-off*, FISH FARMING EXPERT, <https://www.fishfarmingexpert.com/article/atlantic-sapphire-blames-ras-design-weakness-for-us-fish-die-off/> (last visited Apr. 6, 2021).

<sup>90</sup> Fla. Stat. § 828.02; Fla. Stat. § 828.12(4).

**IV. Atlantic Sapphire has repeatedly flouted Florida’s animal protection laws, treating hundreds of thousands of conscious, sentient animals as unprotected commodities; the FDACS and MAOS must enforce these laws to end this troubling pattern of criminal acts.**

In less than a year, Atlantic Sapphire’s failure to provide a habitable environment for salmon has caused suffering and death on a virtually unimaginable scale, yet the company continues operating without repercussion, regarding sentient animals as lifeless units in its vast production machine. Florida law contains explicit protections for animals used in aquaculture, “*demand[ing] that animals be held in optimal environments.*”<sup>91</sup> Far from the “optimal environment” demanded by law, Atlantic Sapphire has subjected salmon to an excruciating existence in concrete tanks filled with dangerous filth and debris and surrounded by painful and stressful construction noises and vibrations. Florida law requires more and the company must be subjected to meaningful punishment.

For Atlantic Sapphire, these incidents are business as usual, and the salmon—despite their undeniable protections under Florida law—are simply collateral to the company’s pursuit of profit. The company’s CEO, Johan Andreassen, referred to the March 2021 incident as “one-off,” and cited the company’s stock dip as a “clear overreaction.”<sup>92</sup> Emphasizing the company’s position that the salmon are mere commodities, Andreassen elaborated that “In all biological production, one must reckon that something unforeseen happens, but that such a large *proportion of production suddenly dies*, I hope and believe that they will avoid that in the future.”<sup>93</sup> The company has also dismissively referred to its problems as “temporary challenges due to maturation and contractor workmanship.”<sup>94</sup>

Perhaps unsurprisingly, the Florida incidents are not the first time that Atlantic Sapphire’s incompetence has led to the deaths of hundreds of thousands of salmon. In July 2017, the “entire grow-out stock” at the company’s Denmark facility died in under 24 hours after being hit by a ‘sudden and unexpected’ mortality” that the company indicated was the result of “contamination.”<sup>95</sup> On February 29, 2020, Atlantic Sapphire caused the death of 227,000 salmon at its Denmark facility, based on “higher than normal nitrogen levels in the system” attributable to a design defect.<sup>96</sup> At that time—just five months before the first Florida incident—Atlantic

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<sup>91</sup> FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, Aquaculture Best Management Practices Manual (Nov. 2016), <https://www.flrules.org/Gateway/reference.asp?No=Ref-07694>, p.69 (last visited Apr. 6, 2021) (emphasis added).

<sup>92</sup> A. Furuset, *Buy the dip? Atlantic Sapphire’s stock plunge a ‘clear overreaction’ says analyst*, INTRAFISH, (Mar. 26, 2021), <https://www.intrafish.com/finance/buy-the-dip-atlantic-sapphires-stock-plunge-a-clear-overreaction-says-analyst/2-1-987685> (last visited Apr. 6, 2021).

<sup>93</sup> *Ibid.* (emphasis added).

<sup>94</sup> *Atlantic Sapphire blames RAS ‘design weakness’ for US fish die-off*, FISH FARMING EXPERT, <https://www.fishfarmingexpert.com/article/atlantic-sapphire-blames-ras-design-weakness-for-us-fish-die-off/> (last visited Apr. 6, 2021) (emphasis added).

<sup>95</sup> Land farm’s entire grow-out stock wiped out, FISH FARMING EXPERT (July 2017), <https://www.fishfarmingexpert.com/article/land-farm-8217-s-entire-grow-out-stock-wiped-out/> (last visited Apr. 16, 2021).

<sup>96</sup> N. Arellano, *High nitrogen levels cause fish mortality at Atlantic Sapphire Denmark*, RASTECH, (Mar. 2, 2020), <https://www.rastechmagazine.com/atlantic-sapphire-land-based-salmon-farm-loses-227000-fish/> (last visited Apr. 6, 2021); ATLANTIC SAPPHERE, Annual Report 2020, p.105 (Apr. 15, 2021).

Sapphire issued a statement that rings tragically prophetic in light of the events that would follow, stating that “[t]his incident demonstrates the importance and challenges of finishing commissioning of all Bluehouse systems while already in operation as well as the value of having multiple independent systems for biological risk diversification reasons.”<sup>97</sup>

The FDACS and the MSAO cannot allow Atlantic Sapphire to operate with impunity while causing the suffering and death of hundreds of thousands of salmon, each one protected by Florida law. Both the BMPs and Florida’s animal cruelty statute are intended to safeguard these animals and both allow for substantial penalties. The FDACS and MAOS should impose punishment on Atlantic Sapphire to prevent another tragic event—which otherwise seems inevitable given the company’s tainted history and utter disregard for the salmon in its care.

A. The FDACS should revoke Atlantic Sapphire’s Aquaculture Certificate of Registration, pursue criminal charges against its CEO, and impose a substantial administrative fine.

As the holder of an FDACS Aquaculture Certificate of Registration, Atlantic Sapphire “pledged (its) intention to implement (the BMPs) as part of the ongoing daily management practices at (its) facility” and agreed to be bound to them as law.<sup>98</sup> As described above, Atlantic Sapphire has repeatedly defied the BMPs by violating Florida’s animal cruelty law and subjecting hundreds of thousands of salmon to unnecessary suffering. The FDACS is empowered to—and must—impose substantial penalties for these violations.

The BMPs state that “Any person who violates any provision of the Florida Aquaculture Policy Act, Chapter 597, F.S., or the Aquaculture Best Management Practices, Chapter 5L-3, F.A.C., commits a misdemeanor of the first degree, and is subject to a suspension or revocation of his or her Aquaculture Certificate of Registration.”<sup>99</sup> In addition, the FDACS can impose an administrative fine in an amount not to exceed \$1,000 per violation per day in addition to the revocation.<sup>100</sup>

Florida’s animal cruelty law allows an individual charge for each animal subject to cruelty,<sup>101</sup> and between the July 2020 and March 2021 incidents, Atlantic Sapphire committed 800,000 violations of the law. The FDACS must impose punishment on Atlantic Sapphire. Recognizing the impracticality of bringing so many charges, at a minimum, the FDACS should revoke Atlantic Sapphire’s Aquaculture Certificate of Registration, file meaningful criminal charges against CEO Johan Andreassen that carry the possibility of several years of imprisonment, and impose a sizable administrative fine in the millions of dollars.

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<sup>97</sup> *27,000 fish die in Atlantic Sapphire’s Denmark RAS*, FISH FARMING EXPERT, <https://www.fishfarmingexpert.com/article/227000-fish-die-in-atlantic-sapphires-denmark-ras/> (last visited Apr. 6, 2021).

<sup>98</sup> FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, *Aquaculture Best Management Practices Manual*, p.1 (Nov. 2016), <https://www.flrules.org/Gateway/reference.asp?No=Ref-07694> (last visited Apr. 6, 2021).

<sup>99</sup> *Id.* at p.3.

<sup>100</sup> *Ibid.*

<sup>101</sup> Fla. Stat. § 828.12.

- B. In partnership with the FDACS or on its own initiative, the MSAO should pursue criminal charges against Atlantic Sapphire and its CEO including jail time and monetary fines.

The MSAO has publicly stated that it “believe(s) animals deserve our protection” and “take(s) a strong position on animal abuse and neglect,”<sup>102</sup> and it must take such a position with Atlantic Sapphire. Florida’s animal cruelty law plainly protects the salmon subject to unnecessary suffering at the company’s “Bluehouse” and the MSAO should bring the full force of the law to bear. Under the law, animal cruelty is punishable as a misdemeanor of the first degree with a term of imprisonment not exceeding 1 year<sup>103</sup> in addition to a fine of not more than \$5,000, or both.<sup>104</sup> In addition, “[a] person who commits animal cruelty . . . against more than one animal may be charged with a separate offense for each animal such cruelty was committed upon.”<sup>105</sup> Atlantic Sapphire has violated this law 800,000 times. Based on these violations, the MSAO should, in partnership with the FDACS or on its own initiative, file criminal charges against the corporation and CEO Johan Andreassen, seeking substantial monetary fines and imprisonment.

If you have any questions regarding this request, please contact me at (804) 307-4102 or wlowrey@animaloutlook.org. We appreciate your attention to this matter and look forward to your response.

Sincerely,



Will Lowrey  
Counsel  
Animal Outlook

cc:

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<sup>102</sup> *Animal Cruelty*, MIAMI-DADE STATE ATTORNEY’S OFFICE, <https://miamisao.com/our-work/animal-cruelty/> (last visited Apr. 15, 2021).

<sup>103</sup> Fla. Stat. § 828.12(1); Fla. Stat. § 775.082(4)(a).

<sup>104</sup> Fla. Stat. § 828.12(1).

<sup>105</sup> Fla. Stat. § 828.12.