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Spring 2011

# Speaking of Animals

The Humane Society of Utah is dedicated to the elimination of fear, pain, and suffering in all animals.

## Feral Cat Bill FAILS!

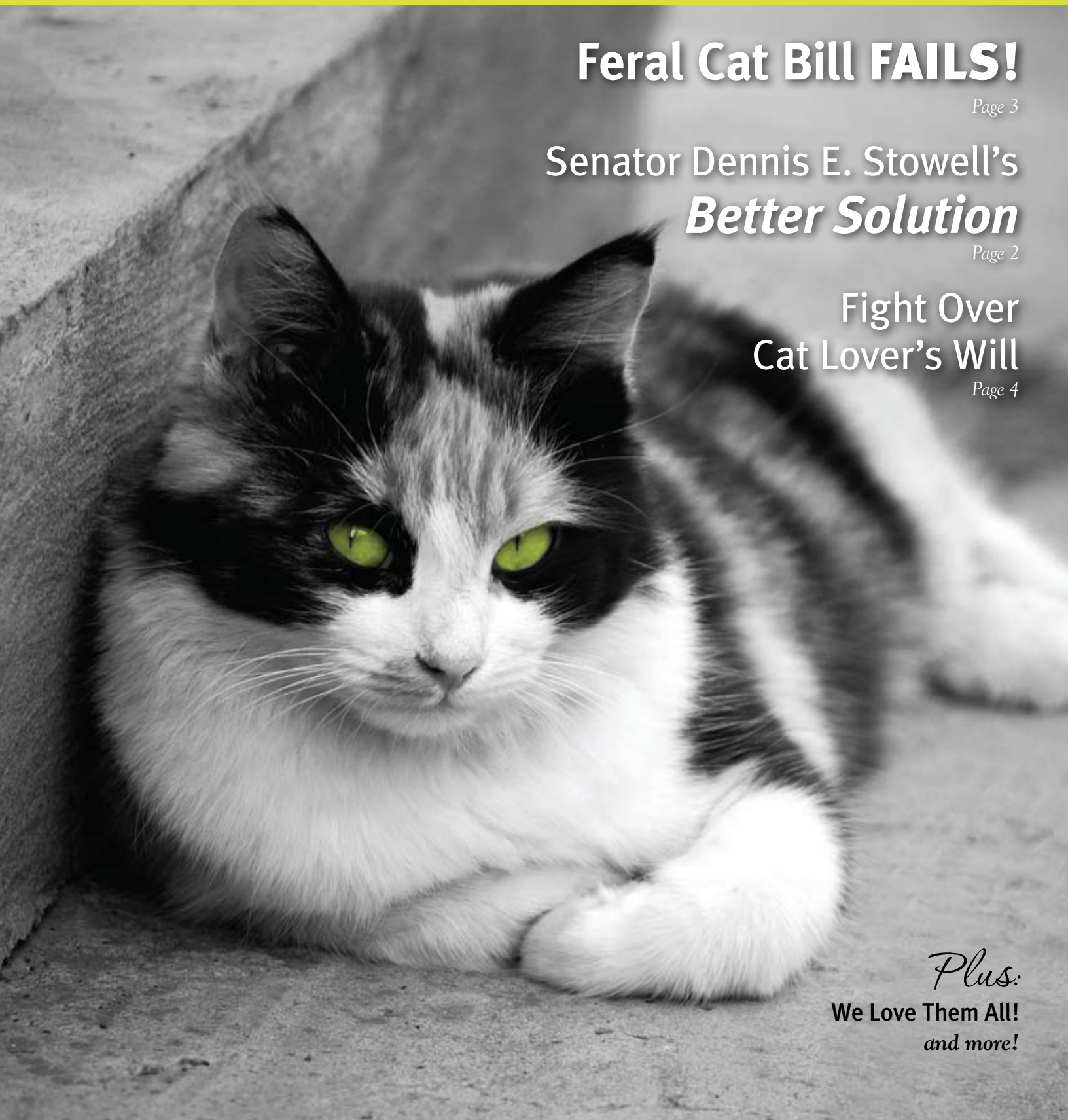
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*Plus:*

We Love Them All!  
and more!



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# *As I see things* Senator Dennis E. Stowell's **Better Solution**

— by Gene Baierschmidt  
HSU Executive Director

Curtis Oda's much-criticized proposal for dealing with feral animals by archaic and inhumane means fortunately died in the Senate, but at the same time — rather surprisingly — a bill entered by a Republican senator who represents a large area of mostly rural constituents not only passed, but also offers much more sensible and humane means of controlling feral populations. We're all grateful to Senator Dennis E. Stowell for drafting, entering, and pushing through SB 57. Here is a brief outline of the most important provisions of this bill:

- ❖ Requires municipal or county Animal Control shelters to hold any unclaimed stray animal in safe and humane custody for five business days after the animal is received, which extends the previous holding period by two days. This is good because it allows people who have lost a pet more time to locate and reclaim the animal.
- ❖ Clearly defines terms, including “sponsor of a cat colony”
- ❖ Defines “sponsor” as a humane society, non-profit animal rescue organization, adoption organization, or designated community cat caretaker who maintains written records on community cats
- ❖ Exempts community cats from the three-day mandatory shelter holding period, which allows a feral cat to be immediately released to a sponsor to be sterilized, ear-tipped, vaccinated, and released back to the colony
- ❖ Requires all animal shelters to sterilize stray dogs and cats or obtain a sterilization deposit at the time of the animal's transfer
- ❖ Allows a shelter to waive the sterilization deposit and release unsterilized animals to a sponsor, provided that the sponsor is a non-profit tax-exempt organization and provides proof of the sterilization within 30 days of release
- ❖ The feral cat colony records would have to be maintained for a minimum of three years and be available for inspection by an Animal Control officer upon request



*At the same time that HSU was tracking and urging opposition to the Oda bill, we also closely followed and supported the progress being made through the Legislature of Sen. Dennis Stowell's more sensible proposal regarding feral animals. Thanks in large part to vigorous and enlightened response from the public, Oda's “odious” measure failed and Sen. Stowell's passed. Thank you to everyone who took the time and trouble to become well informed about both bills and contact your legislators with your opinions.*

In short, this law mandates that Animal Control agencies cooperate with people who manage feral cat colonies, as well as extending the holding period for stray animals. HSU tracked and strongly supported SB 57 through the legislative session, and it passed without much resistance. It addresses the issue of feral animal colonies in a sensible and compassionate manner instead of relying on vaguely defined and possibly violent methods to solve a problem, and we applaud Sen. Stowell and his colleagues in the legislature for taking an enlightened approach to this controversial issue. ❖

# Feral Cat Bill FAILS

## Thanks to HSU and All of You

In the 2011 session of the Utah State Legislature an alarming threat to animal-protection issues was raised when Rep. Curtis Oda (R-Clearfield) introduced HB 210, a bill called “Animal Cruelty Amendments.” In essence, this bill would have allowed anyone to kill any cat, dog, pigeon, etc. that they believed to be wild, unowned, or undomesticated (“feral”), as long as the killing was done “humanely.”



Rep. Curtis Oda (R-Clearfield) introduced an “Animal Cruelty Amendments” bill in the last session of the Utah State Legislature that brought howls of outrage and derision from not only concerned Utahans, but other sources all over the country.

HSU Executive Director Gene Baierschmidt immediately saw the potential for abuses inherent in HB 210 and mobilized his resources against it. At the Capitol building he testified before the House Judiciary Committee and forcefully argued against the weaknesses and irrationalities of the bill. Among the points he raised were the following:

- ❖ This piece of legislation puts every stray dog or cat in the state in jeopardy.
- ❖ If a cat or dog wanders onto someone’s property, it could be determined to be feral and killed by clubbing, decapitation, or gunshot as long as the killing was done humanely. How do these methods qualify as “humane”?
- ❖ The law would allow “open season” on feral cat colonies, of which there are many in Utah. Anyone could go into a feral colony and indiscriminately kill all the animals and not face any cruelty charges.
- ❖ Thousands of citizens are already involved with trapping, sterilizing, and releasing feral cats; they have given much of their own time and money to seeing that these creatures can live out their lives without exacerbating the problem by reproducing.
- ❖ This bill would have exempted people from prosecution under the current animal cruelty laws if they killed an animal and said that they believed it was feral.
- ❖ To our knowledge, no other state has a law like this.

“HB 210 would have completely exempted people who destroy apparently homeless cats, dogs, or birds from any responsibility for their actions by permitting them simply to claim that they believed whatever animal they chose to kill was feral,” he stated. “In other words, any person, with or without any sort of training, specific knowledge, or other qualifications, could

arbitrarily determine not only what constitutes the feral or non-feral status of an animal, but also what the definition of a ‘humane death’ is — a very vague and subjective phrase that leaves itself open to myriad interpretations under any circumstances.”

If this law were to pass, he noted, it would also have made legal the killing of stray animals, or even any animal without obvious ownership identification, which, theoretically, could include any collarless dog or cat that might wander into someone’s yard. Briefly, Utah’s animal-cruelty laws would have reverted to what they were a decade ago: almost non-existent.

**The best means of controlling feral cats is to catch the animals in live traps, have them spayed or neutered, and release them back into the colony.**

– Gene Baierschmidt  
HSU Executive Director

### Enlightenment Campaign

HSU at once launched a protest against HB 210, and, via e-mail alerts and a postcard mailing, urged its membership to contact legislators to make them aware of the many possible disasters for animal welfare regulations lurking in the bill.



Is this a feral cat — or is it somebody’s lost pet — or is it a cat that’s just wandered into the yard from the house around the corner? You don’t remember seeing her before, so does that give you adequate grounds for deciding she’s feral? And if you come to the conclusion that she is feral (however arbitrarily that conclusion may have been reached), does that mean that the logical next step is to grab your gun and shoot her? Rep. Curtis Oda thought so.

Several members also wrote to the Humane Society with specific questions, showing that the public was intelligently analyzing the issue and not merely reacting reflexively. For example, one person said, “I can understand how this bill certainly does not fit well in our society, but I’m also concerned about what HSU’s answer to the problem of feral cats is. How does the public deal with the situation?” Mr. Baierschmidt’s response: “The best means of controlling feral cats is to catch the animals in live traps, have them spayed or neutered, and release them back into the colony. Both the Humane Society



# Dogged Fight Over Cat Lover's Will Ends

The following excerpt from Mrs. Kleinman's handwritten will clearly illustrates her devotion to her beloved feline companion and her wish for only the best of care for him throughout his life:

"Troy likes to hide and leap out at me. He likes . . . me [to] let him chase and jump, and to catch an apron string. He likes to sit in the window and look out. He is very attached to me — and I to him. He would miss me terribly if I were not caring for him. I love him so much. He is such good company for me. I hope I can always take care of him. He must be kept inside. Be patient and kind. He would, in time, love you, too."

This story begins in 1978, when a St. George woman named Mary Miles Kleinman and her son, Miles, found a sickly, malnourished cat skulking in a vacant lot near their home. They took him in and named him Troy, and over the next two years he became a constant and well-loved companion to both of them. Sadly, Miles passed away in 1980 and at that point Troy grew to be much more than an ordinary pet to Mrs. Kleinman, instead becoming in her heart more and more like a dear friend and family member.

In that same year Mrs. Kleinman had an attorney prepare a will for her in which she left her estate to 18 nieces and nephews, a monetary gift to her church, and \$75,000 to the Humane Society of Utah. She also set aside \$12,000 specifically for Troy's care in the event of her own death, along with a long list of Troy's needs, habits, and preferences (see box at left).

## More Wills

The following year Mrs. Kleinman had a new will drafted by a different attorney, who also happened to be one of her nephews. This document resembled the previous one, except that (a) no monies were left to her church or the Humane Society, (b) no mention at all was made of Troy, and (c) a provision was included which allowed her to draft a handwritten memorandum dividing her extensive personal property among her relatives as she desired.

Then in 1986, a *third* will was prepared by the same nephew/attorney which was nearly identical to the 1981 version, the one difference being that another nephew was deleted from the estate. The same provision for her making a handwritten disposition of her personal property was retained.

After that will was filed, Mrs. Kleinman proceeded to prepare a very thorough handwritten listing of all her possessions, such as her piano, paintings, furniture, and

the like, and carefully identified which relative was to receive which item or items. And in this handwritten document, she also stated that she wished to give \$18,000 to her church and \$75,000 to the Humane Society of Utah, and that an additional \$30,000 should be held in trust for the benefit of Troy — after whose death the remainder of the trust should also go to HSU.

## Conflicts Arise

In 1993 Mary Miles Kleinman passed away after a long illness. Troy, who survived her, went to live with one of her nieces, and the third will, along with the handwritten attachment, was submitted for probate. When the Humane Society attempted to claim the monies left to its programs in the handwritten document, the family contested the action, and at a hearing held in 1996 the St. George district judge ruled that, even though there was no doubt that this document was written by Mrs. Kleinman and that she clearly wanted to leave the cash gifts specified, Utah law prohibited handwritten addenda to printed wills from disposing of cash — despite the fact that diamonds, paintings, and gold were all considered permissible gifts. In short, the judge concluded that HSU was not entitled to any monetary gifts, either in its own name or as a remainder sum when Troy died.

Accordingly, HSU President and General Counsel Craig S. Cook appealed that decision to the Utah Supreme Court, contending that the handwritten document was a separate, holographic will and therefore the gifts specified therein were valid. In 1999 the Court agreed and ruled that the handwritten document could be considered a valid will in its own right, *as long as it was the last will prepared by Mrs. Kleinman*, since all of the printed wills contained clauses revoking prior wills.

## Fighting for the Animals

The major problem that HSU faced in defending the holographic will was the

# in Success for HSU — after nearly **TWO DECADES!**

fact that there was no date on it; the heirs immediately requested that the case be dismissed because, they argued, there was no way to prove when the will was written. When all seemed lost,



HSU President and General Counsel Craig S. Cook looks through some of the many legal documents related to the case of Mary Miles Kleinman's disputed will. On the box are pictures of Mrs. Kleinman and her beloved cat Troy, in whose name she left a substantial bequest to the Humane Society of Utah. Those funds, finally received after years of legal battles, will be used to build a state-of-the-art feline care and adoption colony in honor of Troy and Mrs. Kleinman at the HSU facility.

Mr. Cook decided to find a scientific way to validate the will. After researching many possibilities, he discovered Dr. William G. Eggington, Professor and Chair of the Department of Linguistics and English Language at Brigham Young University, and felt that his expertise and credentials were exactly what the case required in order to ensure that Mrs. Kleinman's actual wishes were fairly executed.

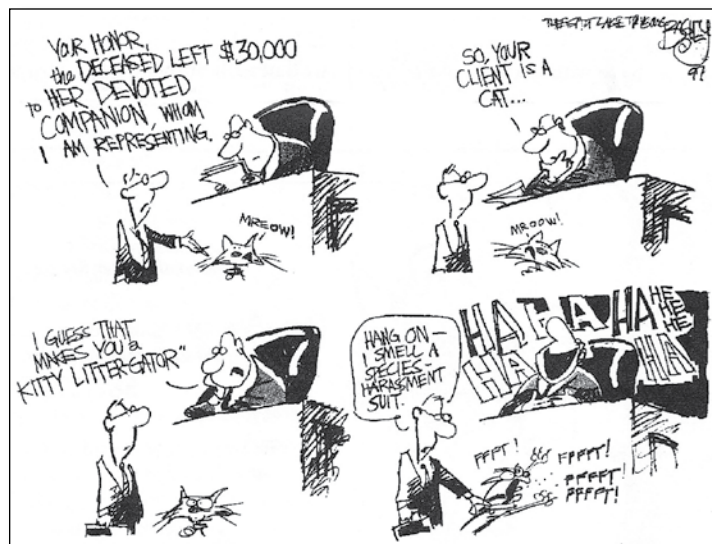
Dr. Eggington agreed to help the Humane Society because he believed it was wrong to deny Mrs. Kleinman's obvious desire to help Utah's animals with a donation. He worked tirelessly, comparing the handwritten will with other, dated, examples of her writing and establishing probable time of creation based on syntax, physical characteristics of the script, and condition of the ink and papers used. It was Dr. Eggington's professional opinion that the holographic will was indeed the final document that she prepared regarding distribution of her property and possessions.

For the next ten years lawyers for the heirs — undoubtedly expending a large sum of money in doing so — contested the right to a jury trial for the case, the qualifications of Dr. Eggington, and the right of the estate to use Mrs. Kleinman's

money to settle quarrels among the heirs. Mr. Cook, on the other hand, charged nothing for the seven trips he made to St. George and the hundreds of hours he poured into preparation and hearings. "As long as there is life in me," he stated simply, "I will never rest until the Humane Society receives the gift that Mary Kleinman wanted the animals to have, or until there is no possible legal avenue left to cross."

## A Hard-Won Triumph for Troy — and Other Animals

During the course of the sixteen-year legal battle the issue was heard in three separate cities and four different judges were assigned to the case. Throughout the litigation both sides discussed settlement and finally, in 2008, it was agreed that the estate would pay HSU \$90,000 in exchange for dismissal of the case and waiving large interest charges, and \$15,000 of Troy's trust.



Pat Bagley, the Salt Lake Tribune's popular editorial cartoonist, produced this whimsical depiction of Craig S. Cook's oral argument to the Utah Supreme Court regarding the Mary Kleinman estate.

Cartoon reprinted courtesy of Pat Bagley and the Salt Lake Tribune.  
Copyright December 4, 1997.

Even this wasn't the end of the struggle, though; when Mr. Cook and the attorney for the heirs attended a hearing in St. George to obtain Court approval for the settlement, the nephew-lawyer who had drawn up the two original wills contested the settlement "on the basis of fraud." It took another two years to defeat this absurd claim.

continued on page 6 (Two Decades)

Feral... continued from page 3

of Utah and Salt Lake County Animal Services provide these surgeries at very low cost to people who are willing to take the trouble to capture these unfortunate creatures and thus, at the very least, stem some part of the tide of uncontrolled reproduction among homeless animals. Ideally, it would be the responsibility of local governments to identify, collect, and sterilize feral animals within each district. That, unhappily, is not the case, but there are a great many private individuals who take it upon themselves to perform this task voluntarily. The humane community would throw its whole-hearted support behind a proposal to fund municipal catch-fix-release programs, but we cannot sanction Rep. Oda's non-solution of shooting, clubbing, or beheading any cat or dog who might happen to be in the wrong place at the wrong time."

### An Excellent Summation

One former Utahan, who now lives in Spokane, WA, sent us a message that very clearly outlines all educated people's objections to the Oda bill. This is what she wrote:

"I recently moved out of Utah, but I still enjoy receiving information from HSU, so I was very disturbed to hear about HB 210. It is wrong on so many levels and for so many reasons that it's difficult for me to comprehend why anyone would even propose such a piece of legislation. What is its definition of a 'humane' killing? How can anyone determine whether an animal is feral or only lost? — The bill's wording is just too vague.

"I have never understood the attitude of people who blame a stray animal for being stray. No one, whether a human or a non-wildlife animal, would choose to be homeless — to be without food, water, shelter, and medical attention when they're

sick or injured. If a dog or cat happens to be in that unfortunate situation, it's because of irresponsible human behavior somewhere along the line (abandonment, carelessness, failure to spay and neuter, etc.), and no animal deserves to be treated cruelly for that. HB 210 solves nothing."

### Maintain Vigilance for the Animals!

Fortunately, the bill aroused so much negative publicity (including spirited attacks from national cable television broadcasts) that, even though it passed in the House by a vote of 44 to 28, once it got to the Senate it died there without ever being heard — again, largely thanks to overwhelming opposition from the public. At the same time a second bill, sponsored by Senator Dennis Stowell (a Republican representing the mainly rural areas of Beaver, Garfield, Iron, Kane, Millard, and Washington Counties) does exactly the right things, and it passed! If Sen. Stowell's SB 57 is signed into law by Governor Gary Herbert, it means that there will be provisions for catch-fix-release programs for feral cat colonies — a far more sensible and humane response to the problem.

We're very grateful that HB 210 never made it through the Senate; nevertheless, this episode reminds us all that we must never allow ourselves to become complacent about compassion. People who care — like the Humane Society of Utah and its members — are the only element that stands between voiceless, defenseless beings and those who would seek to exploit their vulnerability. Thank you for taking the animals' part in this important legislative issue. ❖



The existence of homeless cats, even in a feral colony, is a very bleak and tough one. Tragic though their lives may be, the answer to the problem is not wholesale slaughter of the animals by anybody who happens to have a weapon (no matter how primitive) at hand. A more sensible and humane solution is the establishment of an intensive sterilization program to keep the sad cycle of feral reproduction under control.

Two Decades... continued from page 5

Finally, in December of 2010, a check was presented to the Humane Society by the heirs and the case was dismissed. This gift will be used to establish a special cat-colony room dedicated to Troy and Mrs. Kleinman. Central to the plans are open, home-like quarters for the cats to live and play in, where potential adopters can interact with them in a relaxed and positive environment.

"This was Mary Kleinman's wish," says HSU Executive Director Gene Baierschmidt. "She loved all cats, and adored Troy, and this will be a great



Craig Cook and Gene Baierschmidt (standing, appropriately enough, in front of a large portrait of a cat) hold the long-awaited check from the Kleinman estate.

memorial to that deep bond. I think she would be pleased with what we are doing with the money she left for the purpose of seeing that so many other cats will be given the best possible chances for going to loving, caring homes of their own."

Thus, after nearly 20 years, the long and convoluted story ends with Mary Miles Kleinman — thanks to the relentless efforts of Craig S. Cook — continuing to help forsaken cats, just as she once helped Troy, even though her life in this plane of existence ended decades ago. Many thanks are owed to a very caring woman and the doggedly persistent attorney who ensured that her final wishes were carried out as she wanted them to be. ❖



# Big or Small

## We Love Them All!

Recently the Humane Society took in two different dogs who desperately needed a lot of intensive special care and love. Ironically, each one's problem was the exact opposite of the other's, but, thanks to our super foster parents, they're both making astonishing progress. Here's the long and the short of the whole issue.

### Meet "YOGI"

#### *The Little King of Hearts!*

Here's a riddle: What weighs only 18 ounces, could easily be mistaken for either a hedgehog or a baby fox, oozes love and friendliness and irresistible charm from every pore, and reduces everyone who meets him to melting puddles of sentimental adoration? The answer is "Yogi" — a little toy Pomeranian puppy who came into the HSU facility in early February (a most appropriate Valentine!) and trotted away with hundreds of captured hearts forever tucked between his tiny paws. An even more puzzling question might be, How did such a delight wind up in an animal shelter in the first place? Well, this is his story.



There's only one possible thing to say about this adorable little charmer named Yogi: All together, now — "Aww-w-w-w!"

### We've Said So All Along

On more than one occasion, *Speaking of Animals* has published articles warning of the risks associated with purchasing animals from breeders of uncertain reputation, and Yogi — short for Yogi Bear-cub — is a perfect example of what we've been talking about. Yogi was turned in to the Society by a young couple who had just paid \$600 to a backyard breeder for the eight-week-old ball of fur, only to find when they brought him home that he was constantly coughing, scratching himself, refusing to eat, and suffering repeated bouts of gastrointestinal troubles. When they took him to a veterinarian, they were devastated to hear that he was afflicted with not only kennel cough (which is a minor and easily cured ailment), but with other more serious and often difficult-to-handle problems as well. Treatment could be both long-term and expensive and, after having already paid a hefty sum for Yogi, his people simply didn't have the resources necessary to look after his health properly. Thoroughly disenchanted with the breeder who had sold Yogi to them, they chose not to return him there, but instead brought him to HSU in hopes that something miraculous might happen. And it did.

### A Fabulous Foster Mom

Once again, our incredible Foster Parent Program assumed control of the situation. Our own veterinarians examined Yogi and confirmed that he was indeed suffering from two ugly parasitic infestations — giardia and mange. The first disease is caused by rapidly-dividing protozoa that attach themselves to the lining of the dog's small intestine, where they take away nutrients from the host while simultaneously releasing harmful toxins that can do serious damage to the internal organs. The dog becomes lethargic, malnourished, and dehydrated. Yogi displayed all those symptoms when he first came to us.

His second big problem, mange, is caused by microscopic mites that burrow into the animal's skin and feed on the hair follicles and oil glands near the surface. The result is severe itching, inflammation, and hair loss, and when the host animal's immune system is compromised — as Yogi's was — the mites spread virtually unchecked and cause intense deterioration of the skin tissues. Untreated mange can be fatal to an animal.

Assistant Animal Foster Coordinator Lisa VanZandt was initially going to send Yogi to the home of one of our many dedicated volunteer foster parents; but, recognizing that both of his infections were contagious (theoretically even capable of being passed to humans), she courageously decided to take him into her own home while he was being treated. He was given vaccinations and a special shampoo for his mange and put on two different oral medications, administered on a daily basis, to combat the giardia-causing microorganisms. Comfortably ensconced in his own private quarters, Yogi began to respond to all the attention and loving care he was receiving. After two weeks he was so much improved that Lisa brought him back to the HSU offices to show him off.

"He's eating well, his potty problems are over, and he's gained weight — he's all the way up to one pound, two ounces now," Lisa laughed. "The 'walking dandruff' in his fur has practically vanished and should be completely wiped out within the next week or so. And he has energy and affection and playfulness that just won't quit. When he gets excited," she says, "he dances around so fast that he looks like popcorn in a popper!"

### A High Price Guarantees Nothing

Yogi will soon become the permanent member of a loving and devoted family, where he can live out the happy, healthy

life that every companion animal deserves. Looking back on his rocky beginning, Lisa observes, “The fact that a puppy as young as Yogi could be infected with giardia means that he had to have picked it up where he was born, either from drinking tainted water or maybe even getting it from his mother. People who pay a lot of money for a purebred animal need to make sure that the breeder they’re dealing with is a conscientious, responsible individual who places the quality of his or her animals’ lives above everything else — especially profit.”

Yogi, the Valentine Bear, became the king of all the HSU staffers’ hearts; now he can go on to be the supreme ruler of his own wonderful new world.

## “BIG LOVE” to the Extreme

### *Here’s Ali!*

Yogi was affectionately referred to as “The Dust Ball” because he really wasn’t a lot bigger than one of those little bits of fluff you sweep out from under the bed; when Ali came to us, however, she was more likely to be nicknamed “The Dust Bowl!” Before our astonished eyes was a gentle four-and-a-half-year-old border collie who should have weighed about 50 pounds, but instead painfully hauled all 74 pounds of herself into the HSU offices on legs that had grown weak and arthritic from lugging around all that extra fat, whose joints and internal organs were damaged from the stress of bearing so much excessive weight, and whose avoirdupois made it almost impossible for her to stand or walk for more than a few minutes without collapsing.



*This photo of Ali was taken about midway through her weight-reduction program. Imagine what she looked like when she was ten pounds heavier; better yet, imagine how great she’ll look when she finally reaches her ultimate goal!*

Ali certainly hadn’t been a victim of deliberate abuse; it was more a case of absolutely careless and uninformed feeding habits. When she was brought to us in February she was already spayed and house-trained, had a sweet, obedient disposition, and got along with everyone, so she obviously hadn’t been neglected or mistreated. However, “I’ve always just given her whatever she wants whenever she wants it,” her apologetic person said. “I can’t resist those big brown eyes. But now I’ve lost my home and I can’t afford to feed her anything anymore. I know she’s kind of overweight, but do you think there’s a chance somebody might want to adopt her?”

## A New Ali, A New Life

Our Foster staff immediately decided that we’d make her adoptable — and, more importantly, for her own sake help her become the healthy, properly-nourished, energetic animal that she had the potential to be.

We started off by giving her sensible, satisfying portions of nutritious dog food and low-calorie treats. Exercising her was a little more difficult because of the additional problems the excess poundage had caused with her joints, so we started slowly — just short, leisurely strolls around the office at first; later the walks became a little longer and the pace picked up. Once or twice we even tried tossing tennis balls on the lawn for her to retrieve, which she was (in a rather elephantine way) able to do.

Every Wednesday Ali was weighed and her progress recorded. After a single month on her new regime, she had dropped five and a half pounds! As she became more slim she also became more active, and her willingness and ability to play increased — almost literally — by leaps and bounds. The difference between the alert, graceful animal that Ali is gradually becoming and the wheezing load of lard that was first brought to HSU is nothing less than miraculous.

Ali still has a few more pounds to lose before she reaches her ideal weight, but her improvement is steady and we’re not rushing her. She’s definitely on the right path. When she finally goes to a good new home of her own, she’ll be a healthy, happy dog with many more years of life and love ahead of her. ❖

## *Would you like to be a Miracle Worker?*

Every day the Humane Society of Utah takes in cats and dogs with special needs of all kinds, and our Foster Department can always use help in providing the extra care and love that these “challenged” animals require to make them ready to be adopted to good new homes of their own. Temporary homes are in great demand in the following areas:

- Mother dogs or cats with litters that are still too young to be placed for adoption
- Kittens and puppies who have no mothers and require regular bottle feeding
- Motherless puppies and kittens who are old enough to have been weaned, but who are nevertheless still too young to be put up for adoption

- Adult animals with physical or emotional handicaps who must be given conscientious, one-on-one care and attention to help them learn to blend into a real family

Please make sure that, if you wish to foster, your own animals are current on their vaccinations, including bordetella to ward off kennel cough.

Time spent by animals in foster homes usually ranges from approximately ten days to two months; we ask that you be able to make a commitment to keep an animal for as long as it takes to ensure his or her good health and adoptability.

Fostering is fun, rewarding, and you’re helping to save lives! If you’d like to be a genuine miracle worker, please call 801-261-2919, ext. 215, or e-mail [bconrad@utahhumane.org](mailto:bconrad@utahhumane.org) ❖