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## “SERVING THE HUNTER WHO TRAVELS”

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*“Hunting provides the principal incentive and revenue for conservation. Hence it is a force for conservation.”*

### Special To The Hunting Report World Conservation Force Bulletin

by John J. Jackson, III

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#### □ Polar Bear Suit Developments Conversation Force to Intervene

**T**he petitioners, the Center for Biological Diversity, Natural Resources Defense Counsel and Greenpeace, Inc. have filed a *Motion for Summary Judgment* and set it for hearing on May 8<sup>th</sup>. It requests the Oakland, California, Federal District Court to order Secretary Kempthorne and the US Fish & Wildlife Service to “publish in the Federal Register a final listing determination for the polar bear within seven (7) days of this (the) Order.” It also requests that “if the final listing determination” lists the bear as “threatened or endangered” then it should be made “effective immediately upon publication in the Federal Register,” rather than the usual statutory 30 days after publication. It also asks for the usual award of attorney fees and for the court to retain jurisdiction to ensure compliance with the requested order.

The Secretary and USF&WS had not yet answered the suit, much less responded to this Motion for Summary

Judgment, as this was written. The US has not made any appearance in the case yet. In fact, the Scheduling Conference is not set until June 17, but the case may be over by the date of the Conference to schedule the case.



The petitioners argue that the deadline for publication of a final determination is not discretionary and the only real issue remaining “is how long the Court should give the Secretary to come into compliance with the law.” They cite *Marbled Murrelet v. Lujan*,

1992, where the Court ordered publication three days after the order and other cases where the Court-set deadlines were 5 to 120 days after the date of similar orders. (You may recall that last month we reported that it is not uncommon to miss the deadline.) They argue that the “final determination left the relevant field office more than three months ago,” so it is ready to be published “within seven days of the hearing” of the motion. That allegation is not supported by any affidavit and, of course, the field office material is not a “final determination.” The “field” in this case is far greater than Alaska, where part of the determination was being made. Conservation Force in its comments to the proposal has questioned the obvious bias of those in the Alaska field office and called for oversight from others. That so-called field office is run by the leadership of the IUCN Polar Bear Specialist Group which has its own agenda and little or no knowledge or experience with the

Endangered Species Act as such. They surely don't have the experience and technical know-how with the ESA.

One must also remember that the scheduled May 8 hearing date is not necessarily the date the Order will be signed, starting any court-ordered countdown deadline for publication. There is little doubt that the Court will order publication as soon as possible because the deadline is non-discretionary, but no one is privy to the true status of the final rule at this time to really know how close to ready it is.

The petitioners' argument that the final rule, if it lists the bear, should be effective immediately instead of the statutory 30 days after publication is based solely upon the fact that all the deadlines have been missed so no further delay should be allowed. That is a wholly untenable position! The 30-day delay serves an entirely unrelated purpose than deadlines. In effect, that would punish and injure innocent US hunters and others who are entitled to reasonable advance notice. Moreover, polar bears are not in imminent risk. It would be unconscionable to override the 30-day effect provision simply because the processing deadlines were missed when the very reason for the fixed deadline was to protect those affected by the determination. It would hurt those the deadlines were intended to protect. The fixed deadlines were adopted after oversight hearings in the 1980s explicitly to afford protection to the stakeholders affected by the uncertainty such as the US hunters, brokers, taxidermists, wildlife managers and Inuits in this instance. If anything, the proposal should be dismissed as a de facto withdrawal if the listing is premature, information is deficient or not sufficient to generate a timely decision.

It should be understood that the petitioners' motion does not and cannot direct that the bear or any of its sub-populations be listed. The Court can only order the making of a final determination and its publication. The Court is not being asked to make the listing determination itself one way or the other.

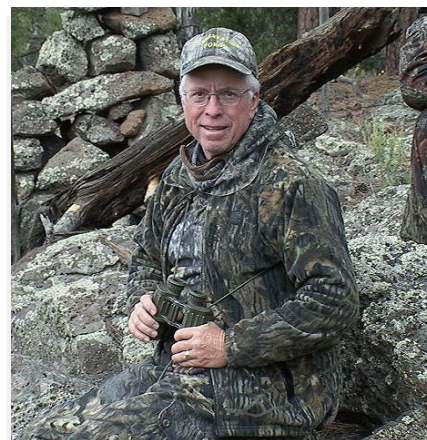
There are some allegations in the Motion for Summary Judgment that

Conservation Force disputes. One is that polar bears are “completely dependant upon Arctic sea ice for survival.” Only summer sea ice is in issue, not year-round ice. Some healthy and abundant populations have lived for centuries without summer ice, such as in Davis Strait.

Another is a half-truth. The Motion correctly states that the first documented “changes in polar bear parameters such as declining body condition, lowered reproductive rates and reduced cub survival” started in the late 1980s, but then incorrectly states it was “attributed...to climate warming and predicted that they would ultimately lead to population declines.” Petitioners need to get their facts straight. The late 1980s was an extremely cold period and the scientists attributed the change in bear characteristics to it being *too cold* and/or overpopulation (density), not to warming. This wholly undermines petitioners' claim that the characteristics of the bear are related to global warming. The origin of those concerns correlates with the cooling of the Arctic and continues to this date in some very limited areas.

Petitioners repeatedly state that global warming and ice melt are occurring at a more drastic rate than the models projected. Petitioners should know full well that the “record” (records date back to 1980) ice melt in 2007 was not due to warming. They disingenuously neglect to state that the Arctic refroze earlier than normal this winter, and that it is now colder than average. According to NASA, the record melt was due to a front that blew off the cloud cover and held it off and exposed the ice to direct sunlight longer than normal, not warming. Warming would increase cloud cover. It has refrozen and exceeds the three year average by four percent.

Conservation Force is preparing an intervention and/or amicus brief to rebut the request that any listing be made effective immediately. We are also researching the merits of a suit to dismiss the listing proposal because the mandatory deadlines for listing have expired. The delay is harming US hunters and Inuits and interfering with their



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longstanding polar bear conservation system. One of the clear and explicit Congressional purposes of making the

deadlines nondiscretionary was to prevent such injuries and damage to those awaiting the outcome. If the informa-

tion is not adequate to list the bear within the deadline then it should not be listed. It should be dismissed.

## Briefly Noted

### Improvement of Trophy Inspection

**Protocols:** Conservation Force has been assisting the National Customs Broker and Freight Forwarders Association of America and the National Taxidermists Association with numerous problems that arise during inspections when trophies are imported.

On Friday, April 4, 2008, Carol Rutkowski representing the National Customs Brokers and Forwarders Association, Coppersmith, Inc. and John Janelli, representing the National Taxidermists Association ([www.nationaltaxidermists.com](http://www.nationaltaxidermists.com)) met with the staff of the Veterinary Services – Animal Products Division of the US Department of Agriculture (USDA) in Rockville, Maryland. That staff is responsible for the wording of regulations and setting of procedures for the inspection of imported hunting trophies. One purpose of the meeting was to clarify that trophies that have been dipped, packed and dried overseas don't have to be dipped again.

Thanks in large part to Carol's efforts, a memo written by the USDA staff was published late last year on its website (<http://www.aphis.usda.gov/vs/ncie/pdf/guide-imp-rum-tro.pdf>) but it was not being implemented correctly at all US ports. That memo instructs Customs and Border Protection Agricultural Specialists (CBP/A) how to review documents and perform physical inspections of hunting trophies. The memo appears not to have been disseminated nationwide to all CBP/A staff. The memo completely changes how the CPB/A Specialist, at the first port of unloading, are to look at imported hunting trophies. The improved wording is so succinct that even the newest inspector should be able to read the documents and forward on, as *unrestricted*, the “dipped and packed” trophies to the port of entry.

A second dipping is not just an unnecessary duplication of expense; it

has ruined the skins of some trophies, according to John Janelli of the National Taxidermists Association. John provided tanned and flint-dried capes of two warthogs to demonstrate the destruction and severely damaging results of improper dipping techniques. “Re-dipping usually runs around \$65 per animal here in the US, which is duplication of what has already been done,” said Carol. “It works out to \$600 to \$800 per shipment of unfinished trophies, which amounts to millions of dollars of added costs. Not every hunter is a rich person. Most hunters have worked and saved for years for their trip of a lifetime and all these unnecessary costs are quite bur-



densome,” said Carol.

At this meeting, Carol also was finally successful, after six years of trying, to get the definition of “dip and pack” approved for inclusion in the Animal Products Manual. This will save international hunters the cost of having their trophies re-processed (dipped) in the US when they have already paid to have this done overseas. Foreign countries' own health regulations require the dipping (chemical treatment) before trophies are exported.

Carol reports that “There still needs to be more interaction with this agency with regard to what they consider non-commercial versus commercial shipments, particularly as it refers to the

number of animals being shipped and the mode of transportation on which they arrive into our country.” John Janelli suggested that the NTA be included on the USDA advisory council when the time comes to review Veterinary Services Memorandum 593.5 which pertains to restricted imports – handling and disinfection regulations that have been on the books since 9/13/76.

Carol is a real trooper. It was she who spearheaded the effort to conform Zimbabwe's CITES export permit forms to the new USF&WS internal CITES regulations that were adopted this past summer. It is partners like her that help us help you. John Janelli is likewise a hero. He has secured a position for the National Taxidermists Association (NTA) on the technical Advisory Board for all future revisions of the regulations. The NTA is an important and long-time supporter of Conservation Force.

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### Technical Workshop for the President's Executive Order on Facilitation of Hunting Heritage and Wildlife Conservation:

On April 6, 7 and 8, yours truly attended the Technical Workshop “to help develop a plan that will serve as the foundation for hunting and wildlife conservation for generations to come” (James L. Connaughton, Chairman, Executive Office of the President's Council on Environmental Quality). This was the “Technical Workshop” to define the problems, goals, impediments and solutions in nine categories of issue topics. The nine issue topics were: 1) North American Model, 2) Habitat Conservation, 3) Energy, 4) Climate Change, 5) State, Tribal and Federal Management, 6) Funding, 7) Access, 8) Recruitment and Retention, and 9) Education.

The next planning workshop will be on policy in May in Washington, D.C. and the conference itself with

## “Serving The Hunter Who Travels”

President Bush – *White House Conference on North American Wildlife Policy* - will be in September. Shane Mahoney of Conservation Force’s Board of Directors was the principle speaker/expert on the Model and lived up to his reputation. He is the author and orator in the *Opportunity for All* DVD, the story of the North American Model of Wildlife Conservation that is available from the Rocky Mountain Elk Foundation, Dallas Safari Club and elsewhere. Just a week before at the North American Wildlife Conference in Phoenix, Shane had delivered a paper jointly written by him and me on the North American Model and acceptance of components of it overseas (soon to be published in the North American Wildlife Journal).

The Model in and of itself attests to the important role hunters and anglers have played for 110 years to North American conservation. The President’s Executive Order recognizes that and should in itself demonstrate the relevancy and importance of hunting to the non-hunting public. It is for that reason Conservation Force has distributed over 10,000 designer copies of the Executive Order and has just given the American Wildlife Conservation Partners \$5,000 towards public relations broadcasting of the Order and planned Conference. The government organizers of the workshop also used Conservation Force’s parchment-paper, designer copy of the Executive Order for distribution and were very thankful for the way we had produced it. We alone have distributed over 10,000 copies.

If there was a theme of the workshop, it was the perpetuation of the North American Model. In fact, the conference and all supporting events were said to be “designed to achieve measurable outcomes to preserve and strengthen the North American Model.” The model or system for the last 110 years has been largely funded and advanced by American hunters. The working group said it was “the greatest conservation movement in the world” and “one of the greatest achievements of American society.” We must “reinvigorate the practices of the seven principles.” We “must ensure

the public understands that wildlife and wild places don’t exist by accident.” (Shane Mahoney) Hunters are the force.

The *North American Wildlife Conservation Technical Workshop* was an historic event for North American hunting and conservation with many of the greatest minds of our time. I can’t over-emphasize the importance of the Boone & Crockett leadership, the American Wildlife Conservation Partners (each and every one) and our own Board member Shane Mahoney as a gifted speaker and genuine authority on the all-important North American Model. The May policy workshop will be on general policy development, option prioritization/selection.

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**Conservation Force Leaders Recognized:** Three of Conservation Force’s Board of Directors have been recognized once again, demonstrating the caliber of the Board and all that the members do around the world.

Founding Board member Dr. James Teer has been chosen to the Texas *Hall of Fame*. A book could be written about all that he has achieved. In fact, his autobiography is to be published in June. We will keep readers advised.

Shane Mahoney has been selected to receive Safari Club International’s *Conservation of the Year Award* at its May awards program in Washington,

### Conservation Force Sponsor

Grand Slam Club/Ovis generously pays all of the costs associated with the publishing of this bulletin. Founded in 1956, Grand Slam Club/Ovis is an organization of hunter/conservationists dedicated to improving wild sheep and goat populations worldwide by contributing to game and wildlife agencies or other non-profit wildlife conservation organizations. GSCO has agreed to sponsor *Conservation Force Bulletin* in order to help international hunters keep abreast of hunting-related wildlife news. For more information, please visit [www.wildsheep.org](http://www.wildsheep.org).

GRAND SLAM CLUB  OVIS

D.C. Shane will be the third Board member of Conservation Force to receive this truly prestigious award. Dr. James Teer and Dr. Bart O’Gara, both founding members of Conservation Force, have received the award in the past.

Yours truly received *The President’s Award for 2008* from the Guide and Outfitters Association of British Columbia in Victoria, B.C. during the GOABC’s annual conference. It was awarded for more than a decade of work and commitment on issues from grizzly bear hunting to representation of GOABC at CITES conferences around the world. The inscription on the statue reads: “*Against the Wind – President’s Award for 2008. Awarded Annually to Recognize an Outstanding Contribution to Wildlife Stewardship and to the Guide Outfitting Industry in British Columbia.*” This is the fourth such award yours truly has received from a professional hunters association and the second in five months, the last being the *Conservationist of the Year Award* from the Namibian Professional Hunters Association on the other side of the world. Conservation Force receives support from ten professional hunters associations around the world and partners with many others. That confidence, support and encouragement is rewarding/awarding in itself. We are all a greater force for conservation because of that partnering.

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**Helping Hunting and Conservation Through Law Enforcement:** The national forensic laboratory has asked Conservation Force for help. They need some horns and hoofs from Ethiopia to establish and maintain correct DNA data for their forensic DNA library. If you have some horns or hoofs from game in Ethiopia, please contact me at [jjw-no@att.net](mailto:jjw-no@att.net); or by phone at 504-837-1233. Because the contribution comes through Conservation Force, a 501(c)(3) public charitable foundation, the contribution is tax deductible at the value of its tanning, but its value towards eliminating poaching is far greater than that. – *John J. Jackson, III.*