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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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#### Special Report: Addressing The US Trophy Seizure Crisis

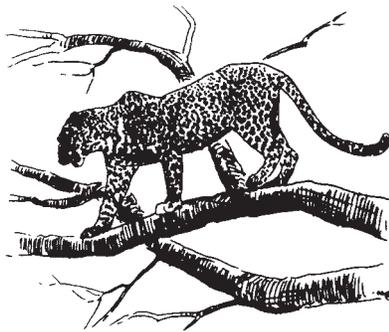
■ In late November and early December yours truly attended the annual general membership meetings of the Professional Hunters Associations of South Africa (PHASA) and Namibian Professional Hunters Association (NAPHA). This year my address to those professional hunters, hunting operators, taxidermists and related industry and government attendees advised of the untold trophy seizure crisis in the United States. An abbreviated version follows here as well as a checklist chart for all to use to protect trophies from detention, seizure and forfeiture. Read this because it may be the only way you can protect yourself and your property under the new *Zero Tolerance* policy. It will help you import “defensively” so you may protect your cherished property. Good luck.

##### Abbreviation of Address

Dear members of ....I will first update you about Conservation Force since I last addressed you, then quickly turn to crises and issues of pressing concern to you directly.

Since I last addressed you, Conser-

vation Force has been admitted as a member of the IUCN. We are the first hunting organization to be admitted to membership in a very long time, perhaps more than a decade. Of course, our leadership were already active members of the various specialist groups of the IUCN, such as the Cat



Specialist Group, Sustainable Use Specialist Group, Antelope Specialist Group, Deer Specialist Group, Affiliated African Lion Working Group....Our IUCN membership will help us serve the conservation interests of the hunting community even more. Our conservation leadership is real.

Second, a study has been completed showing that for three consecutive years Conservation Force was the 19<sup>th</sup> largest NGO on the African Continent out of more than 280 NGOs. We were 19<sup>th</sup> from the top in the amount of conservation expenditures on the ground. This is how far we have come in 12 years. Believe me, we are not stopping there. That makes us truly the greatest hunting-based conservation non-governmental organization in Africa. We haven't done that alone. Conservation Force has combined the force of nearly 200 other organizations to get results.... You are one of those 200 organizations that have joined forces with us for the past 12 years, and we thank you for that. Despite the state of the world economy, we expended more than \$350,000 on lion conservation since February. It was imperative....

Third, we have become members of the World Forum on the Future of Sport Shooting Activities and serve on its Executive Council because of the growing threat to firearms from the United Nations and its various proceed-

ings. In fact, I've become the Chairman of the WFSA's Temporary Transit of Sporting Firearms Task Force, TTF, with the mission of addressing the needs of traveling safari hunters and shooters. In July, a worldwide workshop is planned, and your government and this association will be invited.

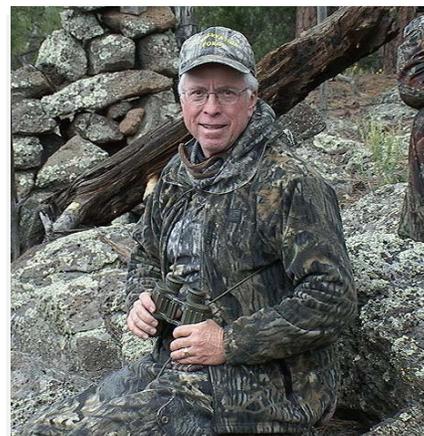
There is a fourth development that has been forced upon us. We have become the leading international hunting advocacy organization in the world. Conservation Force is litigating cases in US Federal Court in all the US ports of entry from San Francisco to New York. Conservation Force has more than nine lawyers on staff, full-time, part-time and as pro bono volunteers litigating cases. This unprecedented and historic action is in response to unprecedented obstacles to safari hunting and use of hunting as an international conservation tool. Most is defensive litigation, but we are also bringing the fight to those that threaten hunting. We now represent a new force: the force of law.

Since this same time last year, hundreds of trophies worth millions of dollars have been detained, seized and/or forfeited. It is unprecedented as is our response to it. Let me explain. First, the International section of the USF&WS has phased in its approximately 100 pages of new internal CITES regulations that I advised you about in the past. Those were the regulations it adopted in September 2007. I say “phased in” because they were allowing trophies to be shipped back to the exporting country for corrections and reshipment, but no longer. Now that escape hatch is closed. Second, over the last few years of the last Administration, the Law Enforcement Division of the USF&WS - read port inspectors and their supervisors, all the way up to the Chief of Law Enforcement in Washington D.C. - has adopted a strict **No Tolerance, No Forgiveness, No Rights** approach to any and all trophy importing errors. Both the inspectors in the ports of entry and the Department of Interior Solicitors that see themselves as safeguards of both CITES and ESA now take the position that any error, no matter how slight or in-

nocent, even typographical errors, convert the trophy into **contraband** illegal to possess and therefore the hunter/owner has absolutely no protected property interest in the trophy. This leaves the hunter, your client, defenseless when any error is made. Let me tell you, it is stern and heartless enforcement. You must help. Believe me, the USF&WS is holding your hunting clients responsible for the shipping mistakes and wants them to go against you, the “captains” of the safaris, the contracted taxidermists and shipping agents and even the exporting governments and airlines. No doubt you may soon find yourself being held responsible by your clients. The scale of the seizures, the nature of the mistakes and the growing costs of the trophies and their preparation and shipping are colliding. We have stepped up because the conservation role of hunting itself can be threatened.

Let me cite some examples of the seizures. This time last year, hundreds of trophies from Southern Africa were seized, detained or held up here or in other exporting countries because of the USF&WS's new regulation that transit through intermediate countries, such as South Africa, had to be “immediate” else import and re-export permits had to be issued by South African CITES Authorities. The US is the only country with this “immediate” requirement. The very first two trophies seized were those belonging to outdoor writer Craig Boddington and his wife, Donna. Those were their elephant tusks from Botswana. Though those tusks never officially entered South Africa while in transit, the USF&WS said they were stopped too long, i.e. “immediate transit” meant immediate transit. They wanted South African CITES authorities to issue re-export permits for trophies delayed in transit. Those seized were to be forfeited as contraband.

Conservation Force filed a petition with the Director of USF&WS on behalf of itself and supporting organizations, Debbie Peake in Botswana and the South African Authorities that protested the need for and added expense and delay for inspection and issuance of permits for trophies passing through



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in transit. A standoff ensued. After months, the Chief of USF&WS's Law Enforcement Division issued a letter in effect making the new regulation inapplicable to the necessary delays in South Africa, but only excepting certain necessary delays in South Africa for trophies passing through from other Southern African countries. It is not over by any means.

A first-time safari hunter has just had his leopard, hippo and crocodile trophies seized because his CITES export permit was not “validated.” That is the requirement that at the time of export section 14 of the export permit be completed by a designated CITES Officer itemizing the parts, stamping the permit, and signing and dating it. That is distinct from the issuance of the permit. It is part two, so to speak. The USF&WS has been permitting those not properly validated to be shipped back for completion but now are seizing for forfeiture. Forfeiture generally means destruction and always total loss to the hunter. That first-time hunter says he is not ever going on safari again. Who can blame him?

In one instance the airline lost all the paperwork for a leopard. The port inspector and the reviewing Solicitor ultimately ordered the forfeiture because the CITES authorities that issued the replacement permit did not first timely consult with the UFS&WS before the issuance. I repeat, the USF&WS now requires stringent adherence to every formality even when it is senseless in the particular instance.

We are fighting these seizures in court and soon in Congress. It is costing Conservation Force no less than \$15,000 in out-of-pocket expenses in each of the cases. With that, the outlook is doubtful and not promising. Of course we have stepped up to the plate because that is what we do and what we are about, but it is overwhelming.

The reality is that most of the problems can be solved here in Africa before they occur. Conservation Force is creating a checklist or chart of the problems as a guide that must be put in practice immediately. We will list the reoccurring problems that should be looked for before the shipment of

any CITES trophy. We will circulate that to the PH and taxidermist associations and they in turn will help circulate it to all concerned, including your hunting clients. You need to discover and correct the errors before shipment.

The checklist has been evolving and will have to be revised from time to time, which we are prepared to do. We look forward to collaborating with all of you in keeping the checklist simple, accurate and up-to-date. I only



regret that this has snuck up on us and so much may have already been compromised or lost. (*Editor Note: The promised draft checklist follows this article and, when final, will be circulated to the greater hunting community as promised and posted on the Conservation Force and Hunting Report web sites for your use.*)

There is a second range of developments that contributed to Conserva-

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tion Force's litigation, upscaled leadership and advocacy. In December of 2008, the outgoing Director of USF&WS called me and advised that Conservation Force dismiss all the various trophy import permits that had been pending for years. He explained that the Administration was not going to adopt the “enhancement policy” for import of ESA “endangered” listed species and the next would not even be interested. It was over. He advised it would save the USF&WS (International Affairs section) a lot of trouble and Conservation Force as well. Well, after some perplexing consideration we refused to dismiss half a lifetime of work and all the conservation potential at risk. We began sending notices to sue for downlisting petitions that had been held up for up to a decade while we had waited for adoption of the enhancement policy and for import permits in the process for even longer than that. The USF&WS response was the denial of virtually every permit *en masse*. That includes the denial of cheetah and black-faced impala applications on administrative appeal for years before the Director. It includes the denial of all pending applications for wood bison from the Yukon and Suleiman markhor from the renowned Torghar Conservation Project in Pakistan. It includes all outstanding Cameroon elephant import permit applications and all elephant import permits from Mozambique, including the exemplary Niassa Reserve. They have not yet denied the elephant import permits from Zambia, but we have sued them after a Freedom Of Information Act request demonstrated they had not so much as begun the permit processing after five years. We have also helped generate downlisting proposals for CITES CoP15 for Tanzania and Zambia elephant so import permits will no longer be required from those countries. (See the December 2009 issue for more information on this effort.) The USF&WS has assumed more permitting responsibility than it has the will or capacity to deliver, so it is time to eliminate the need for import permits for elephant from Tanzania and Zambia. – John J. Jackson, III.

## TROPHY PROBLEM CHECKLIST FOR IMPORTATION TO THE US - DECEMBER 2009

**Tags:** Must be (1) *permanently* attached; (2) *through a hole*. Ear, eye, mouth, nose, bullet holes are okay, but not around the leg above the foot. Tag number must match that on the permit.

**Permit Expiration:** Get a faxed copy of the import permit before exporting. Do not ship an Appendix I species without seeing a copy of the import permit to be sure it will not expire before the shipment arrives. Examine both the export and import permits for expiration dates and look for date errors.

**Export Permit:** Examine for errors of name of permittee and name and number of species, signature and seal by CITES designated officers.

**Validation:** Make sure section 14 of export permit is fully completed, i.e. all trophy parts itemized, signed and sealed by designated CITES officer before the final step of shipment.

**Purpose Code:** If crafted or worked item of trophy parts (feet, tail swish, bracelet, scrimshawed tusks, boots, gun cases, clothing, etc.), export permit must be coded “P” for person instead of “H” for hunting trophy. If part of an elephant or rhino trophy on Appendix II, it must have an Appendix I import permit (Form 3-200-37) because it’s not treated as a trophy. Only trophy trade is on Appendix II, not trophies converted into “personal” items.

**Valuation:** Understatement of value is the cause of excessive seizures, i.e. forfeiture of \$50,000 trophies for a \$500 offense. A true representative value should be used, not an understatement. Pro-rated cost of acquisition (cost of the hunt) is best, or insurance value. Note: trophies are not taxed upon entry into the US, but they most certainly are seized. The exporter should use the full value from the get-go, as import brokers carry it over onto their declarations.

**In Transit:** Transfer through intermediate countries must be immediate, without delay. A hunter traveling with his trophy cannot layover in an intermediate country without appropriate import and re-export permits from that country.

**Post-shipment Corrections:** Exporting authorities must *immediately* contact and confer with US authorities *before* issuing a retrospective permit or replacement permit, not months later or after issuing a new permit. Retrospective and replacement permits must be issued immediately, not weeks or months later. The importing agent must set corrective action in motion immediately and use a true value for the trophy on the 3-177 Declaration entry form rather than carry over the export fee as the value or some other incorrect value from the export documents.

**Re-shipment:** Send trophies back whenever you can, else it is treated as illegal to possess contraband, like stolen goods or illegal drugs, without any protectable interest.

**Re-shipment Import Permits:** When trophies are returned to the exporting country and re-shipped, new original import permits are required.

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