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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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□ **Fund For Animals’ Suit**  
**Hunting Interest Set Back In Case**

Last month we reported on the Fund for Animals’ suit against three federal agencies, attacking their management of elk and bison in Jackson Hole, Wyoming. They have already won the first hearing! The federal judge has ordered the agencies to prepare an environmental assessment (EA) or environmental impact statement (EIS) before any more supplemental feeding of elk and bison takes place, or before any more bison hunting is permitted. The judge rejected the argument that a review was not necessary under the National Environmental Policy Act (NEPA) simply because the elk feeding has existed since 1912, long before NEPA came into existence in 1970. The court also rejected the government argument that the bison hunt was being conducted by the Wyoming Game and Fish Department, not by the federal agencies. Wyoming had intervened in the suit and its Game and Fish director said the decision is a “huge setback.” The

federal judge also rejected the argument that the bison hunt and the feeding program were separate and thus should not both be enjoined. The Fund for Animals argued that the feeding program is the cause of the overpopu-



lation of both elk and bison, that birth control is a better alternative than the interrelated feeding and hunting-type management and that birth control was not properly considered as an alternative because no EA or EIS has been done as required by NEPA. The court

order applies to the US Forest Service, as well as to the US Fish and Wildlife Service (USFWS), which manages the refuge. The court did not decide the merits of birth control versus feeding and hunting, only that a review to consider choices was mandatory under NEPA. It did decide that feeding and hunting are inseparable activities and thus a NEPA review was necessary before either were legally permissible. This case warrants careful watching as it develops. Conservation Force has offered to assist the Wyoming authorities in any way it can.... A few things should be noted about NEPA. Before the 1960s, the term “environment” was relatively unknown. NEPA was passed in 1969 and signed into law by President Nixon in 1970. It did not pass alone. From 1969 to 1972, 34 major environment-related laws were passed. Their impact has been so large partly because private groups were given standing to sue as private enforcers of the new laws. The growth in environ-

mental litigation is unprecedented and citizen suits organized by national membership organizations have become the order of the day. During the 1970s, federal courts decided 765 cases on NEPA issues alone. Despite the deference accorded federal agency discretionary determinations, the courts have regularly ruled favorably for environmental plaintiffs based on theories of abuse of administrative discretion, statutory construction, constitutional grounds and other exceptions that greatly outnumber the deference rule. It is a reality that we must all contend with. Fortunately, NEPA only requires federal agencies to take a “hard look” at an activity or project, and does not itself dictate that the federal agency select and follow the most environmentally sound alternative, which itself can be quiet subjective. Nevertheless, the process adds cost, public pressure from every quarter and delays to the management process. The pending Jackson Hole case may determine whether the consideration of animal rightists’ birth control alternatives are to be factored into the management process on all federal lands

before hunting or hunting-related management is permitted. Hopefully, it will not.

**SPECIAL REPORT**

**Firearms Threat  
New Orleans Gun Suit  
Bears Watching Closely**

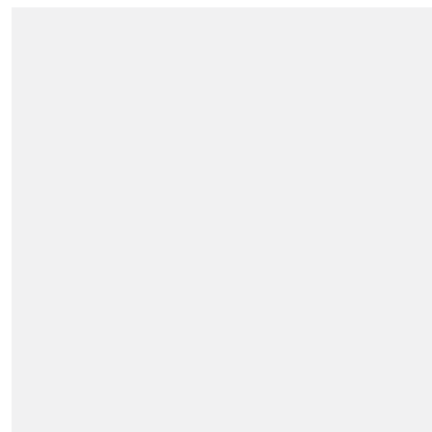
**O**n October 30, the City of New Orleans filed a suit against 15 major gun manufacturers, three firearm trade associations and others to hold the industry liable for the city’s expenses caused by gun violence, including the hundreds of murders that occur in New Orleans each year. It is claiming to be more than just another suit. The attorney handling the case is Wendell Gauthier of Metairie (a suburb of New Orleans), who began the breast implant cases and, more recently, the tobacco cases, which are expected to result in \$246 billion being paid to 50 states for their public health costs/damages related to smoking. Other states are expected to follow the New Orleans example as states did in the tobacco case. Never-

□ **Washington, DC**

**Capitol Hill Leadership To Be Prohunting**

■ The sister states of Louisiana, Mississippi and Texas will provide the Capitol Hill leadership in the next session. Fortunately, the leaders and the states they represent strongly favor sportsmen. My own Congressman, Representative Bob Livingston of Metairie, Louisiana, a suburb of New Orleans, is to replace Newt Gingrich as House Speaker. That position is said to be the third most powerful position in the US. Livingston has been the chairman of the powerful House Appropriations Committee. Senate Majority Leader Trent Lott of Mississippi already leads the Senate. The Majority Leader of the House is Dick Armey of Texas and the Majority Whip is Tom DeLay, also of Texas. Virtually all are longstanding members of the Congress-

sional Sportsmen’s Caucus that itself includes 40 percent of Congress. It certainly is nice to have those who talk the talk and walk the walk in such positions of leadership. Representative Billy Tauzin, who serves as vice chair of the House Resources Committee, is also from Louisiana, as is Senator Mary Landry, who introduced the Conservation and Reinvestment Act of 1998 in the Senate. The Deputy Whip and White House liaison, John Breaux, is also from Louisiana and has served as co-chair of the caucus. When these are added to Congressman Don Young, who chairs the Resource Committee; John Dingell of Michigan; and dozens of other legislators in key positions, sportsmen are at the helm of the ship.



**JOHN J. JACKSON, III**  
*Conservation Force*



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**Editor/Writer**

John J. Jackson, III

**Publisher**

Don Causey

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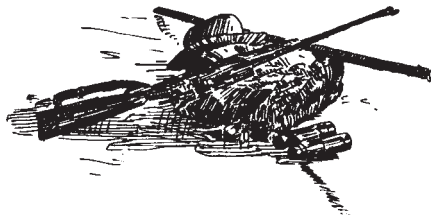
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theless, the similarity to the tobacco case stops there and the comparison is more of a public relations hoax than a reality. Despite representations to the contrary, Louisiana's products liability law has been codified to be more conservative than elsewhere. The suit has two bases. The first is a claimed failure to warn. The other is a failure to adapt design safety features in the firearms. There are a great many differences between the tobacco industry knowingly concealing risks that it well knew of and failed to warn about and the gun industry that sells a product everyone knows the risks of and which certainly are not concealed or held secret. Unlike cigarettes, handguns are safe when used as directed. The right to bear arms, in part due to the hard work of the National Rifle Association, is considered a fundamental right by many, while smoking is not. Aside from alleging a failure to warn of the products' risks, the gun suit also alleges that guns don't have "safety devices" that they should - i.e., they are alleged to be defective in design for not containing safety devices

that should be available. This refers to "smart guns" or "personalized guns" such as a pistol equipped with a computer chip that prevents it from firing unless the owner is wearing a coded electric ring or bracelet. Despite press reports that this suit asks for billions of dollars, stating a dollar amount in



a petition is prohibited in Louisiana courts. The New Orleans suit arises because of New Orleans' unusually large crime problem. In recent years, New Orleans has had a murder a day, up to 365 per year. It reports three to five gunshot victims a day in one public medical center alone. Up to 95 per-

cent of the shootings are black on black, which poses a unique problem for a black mayor, which is what New Orleans has. He has a new problem, too, now that this suit has been filed. New Orleans is a convention city, and the National Shooting Sports Foundation is scheduled to hold its year 2000 and 2001 Shooting Hunting and Outdoor Trade (SHOT) Show here. The SHOT Show typically draws 30,000 attendees. Now, the foundation is threatening to cancel its New Orleans show. The mayor says he did not know about the SHOT Show and all he wants is safer guns. He points out that, 30 years ago, the auto industry claimed it would go bankrupt if it was forced to install seatbelts, airbags and crashworthy door-locks. Not only is the auto industry not bankrupt, he says, but the states have achieved a reduction in highway fatalities because of that litigation. The mayor points out that in states like California there are now more shooting deaths than deaths by automobile accidents. Time will tell if guns can be made safer and still be fully functional for their intended purpose.

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### Briefly Noted

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**Kruger Abandons Birth Control Elephant Management:** Kruger National Park's officials announced in November that they will resume culling of elephants next year when the culling moratorium expires. Elephant culling was suspended in 1995. Up until then, it was used to keep the park elephant population in check. From 400 to 700 were killed per year for decades. The contraception of female elephants has failed because of the large size of the park and because of some unwanted biological and behavioral consequences. The 2.5 million-acre park has 8,870 elephants. They have increased by 1,300 since the cropping ended.

**Falcon Expected To Be Delisted:** The comment period for the proposed downlisting of peregrine falcon ended in late November. The bird was once

at risk because of the widespread use of DDT, which caused thin-shelled eggs that broke during incubation. According to USFWS, "...[today] there are at least 1,593 peregrine breeding pairs in the US and Canada" which the USFWS says is "...well above the overall recovery goal of 631 pairs." Even after delisting, the species will still be protected by the Migratory Bird Treaty Act. The falcon has long been an important bird used for hunting. Even Egyptian pharaohs were buried with falcons painted beside their mummified bodies to hunt with and for them in the hereafter.

**The Portrayal Of Hunting In Art Museums:** Recently, I was in the Louvre National Museum of Art in Paris to see the Mona Lisa and made a discovery worth sharing. Napoleon Bonaparte was a devoted sport hunter.

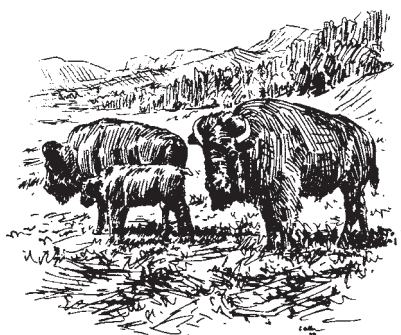
His dining room has been preserved and recreated in the Louvre. It is enormous in size and grandeur. The entire head-end wall is a mural not just of game animals, but of the hunt of those game animals. The hunt is celebrated, not just the game harvested. Throughout the museum, it is clear that hunting and game animals have had major cultural importance for the last 4,000 years. The insight I had at the Louvre reminded me of one I had during a similar tour of the Prado Museum in Spain. Seems that all the kings and queens of antiquity, as well as the royal children, chose to be painted in their proudest dress - their hunting clothes! (Now you know why they all seem to look alike.) It made a 1,000-year-strong statement of how kings and queens and people who had everything possible in their time es-

teemed hunting above all else and wanted the same for their children. Is it any wonder that so many feel the same today?

**The Sacred Hunt II: Rite Of Passage:** Randall Eaton, Ph.D. has produced his second Sacred Hunt video. It goes one step beyond his first award-winning Sacred Hunt video, providing more insight into the spiritual nature and need for hunting and the hunter's special and unequalled relationship with the natural world. It provides more understanding of ourselves than ever before. Conservation Force is proud to have assisted in producing this film, though we receive no part of the proceeds. Dr. Eaton has provided a substantial service to the hunting community. We are glad to be a small part of it. His first film is ranked among the top five all-time films and documentaries about hunting. This one delves further than ever before into the complexities of how and why hunting is so important to us. It can be ordered for \$29.95 toll free by calling 1-877-SACRED1.

**PHASA Survey:** The Professional Hunters Association of South Africa (PHASA) does an annual survey of its membership. The 1997 survey results are of interest. In 1997, R175,063,050 (approximately \$30,804,689 US at the current exchange rate) was generated from daily rates and trophy fees from clients of professional hunters in the Republic of South Africa. This excludes unguided hunting, taxidermy, air travel, hotel and similar expenses. It is only daily and trophy fees. Over 50 percent of the clients continue to be from the US, followed by Germany, Spain, Belgium, Austria and France. 45 percent of the foreign clients did additional tours before or after their hunts that averaged six additional

days. The average length of the hunting safari was 10 days and the average number of trophies taken was seven. The average value per trophy animal was estimated to be \$811 (US). The most popular species in order of preference were kudu, gemsbok, impala, warthog, zebra, blue wildebeest, red hartebeest, springbok, blesbok and eland. The average daily rate was \$355



per hunter and \$130 per observer.

**Brucellosis Causation:** Despite all the claims that brucellosis from elk or bison has never spread to cattle, it has. In 1992 in the federal court case entitled Parker Land and Cattle Co, Inc .v. U.S., 796 F. Supp. 477 (D. Wyo,1992) the court heard extensive expert testimony on the issue and expressly found that an outbreak of brucellosis on a Wyoming

cattle ranch "...was most likely caused by contact with infected elk or bison." Dr. Donald Bridgewater, the Western Regional Epidemiologist of the Animal and Plant Health Inspections Service of the US Department of Agriculture reported and testified that the infection came from either infected elk or bison, the court decision states. "At trial Dr. Bridgewater testified that he believed, with a reasonable degree of medical certainty, that the Parker infection was caused by contact with either elk or bison." The court also held that the National Park Service and US Fish and Wildlife Service have a duty to take an "active role in eliminating the brucellosis problem in the elk and bison which are under their control," and could be held liable for money damages for failing to do so. In that particular case, the judge did not find that the cattle were proven to be infected by park elk as distinguished from elk and bison roaming at large, but the court did find the federal agencies negligent for not more actively eliminating the disease in park elk and bison under their control. "The federal government does not have the discretion to do nothing in the fight against a disease which it is perpetuating by its wildlife management practices ...." Had the plaintiff proven that the disease came from the park and refuge elk or bison rather than others they would have been awarded money damages because they proved all other aspects of their case. Conservation Force has no position on this issue, except to point out the truth about the transmission of the disease.

**Tourist Killed By Elephant:** The *African Wildlife Update* reports that a tourist was killed in Namibia by an elephant recently. The tourist mistakenly camped in the dry river bed and bumped into a lone bull in musth at night. He ran but the bull pursued him for 300 yards, caught and killed him. The bull then charged the man's family who took refuge in their vehicle. Fortunately the bull broke off his charge at that point. - John J. Jackson.

### Conservation Force Sponsor

*The Hunting Report* and Conservation Force would like to thank International Foundation for the Conservation of Wildlife (IGF) for generously agreeing to pay all of the costs associated with the publishing of this bulletin. IGF was created by Weatherby Award Winner H.I.H Prince Abdorreza of Iran 20 years ago. Initially called The International Foundation for the Conservation of Game, IGF was already promoting sustainable use of wildlife and conservation of biodiversity 15 years before the UN Rio Conference, which brought these matters to widespread public attention. The foundation has agreed to sponsor Conservation Force Bulletin in order to help international hunters keep abreast of hunting-related wildlife news. Conservation Force's John J. Jackson, III is a member of the board of IGF and Bertrand des Clers, its director, is a member of the Board of Directors of Conservation Force.



International Foundation for  
the Conservation of Wildlife

### Contributions Needed

- Conservation Force needs contributions if it is to continue. Please send your tax deductible contribution to Conservation Force, 3900 N. Causeway Blvd., Suite 1045, Metairie, Louisiana 70002. Call 504-837-1233 for more details.

MEMO

November 25, 1998

To: Jim Young, Print N Mail  
From: Elaina Panozzo, Oxpecker Enterprises  
Re: Print run for December 1998 Conservation Force Supplement

Jim,

Here's the file for the December 1998 issue of the Conservation Force Supplement, to be inserted in the December 1998 issue of The Hunting Report. Don't forget to insert John Jackson's picture on page 2. Please fax "blue lines" for approval ASAP.

Total print run is 4,300. That includes 4,078 copies for insertion into The Hunting Report (active circulation); and 50 copies to be shipped directly to John Jackson. The remaining 172 copies are to be shipped to us here in Miami. As usual, bill John Jackson for all costs relating to Conservation Force.

Please call if questions --  
Elaina