



SPECIAL SUPPLEMENT

"Hunting provides the principal incentive and revenue for conservation.
Hence it is a force for conservation."

World Conservation Force Bulletin

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Trophy Seizure Threat Reaches New High; USFWS Conduct Reaches New Low

In late summer, 2011, possibly the worst problem yet with US trophy imports began developing. US Fish & Wildlife Service (USFWS) Law Enforcement import inspectors at some ports started requiring two quotas on export permits when leopard trophies were exported in a year different than the year taken. For example, if a leopard was taken in 2011 but not exported until 2012, some port inspectors want both the year of the take (2011) and the year of the export (2012) and the respective quota for each year to be on the export permit. In effect, two quotas have to be allocated by the foreign country. Those inspectors want the year of shipment and quota in block 11(a) of the CITES export permit.

Because the exact form of the CITES export permit is not mandated, some countries don't even have a Section 11(a) on their forms. Furthermore, it has never been the practice to use two quotas. Additionally, the new double quota is only required by some inspectors in some ports and only in the United States. Worse, no clarification has been provided by USFWS despite multiple requests from every part of the industry and southern and eastern African countries trying to comply. Shipments already in transit to the US have been halted at intermediate stops and frozen in place. Many are still on hold today. Storage charges have been accumulating on shipments on hold in intermediate ports. Shipments have been broken up and returned to exporting countries from intermediate countries. The Section 11(a)/two-years-means-

DATELINE:
United States



John J. Jackson III

two-quotas issue began being applied to elephant trophies and is rumored to apply to crocodile as well. All are on Appendix I or II of CITES, with CITES quotas, and thus require an export permit, a quota and tagging or marking. Foreign authorities, brokers and all concerned cannot fathom the requirement of allocating and including two or more quotas, and the CITES Secretariat is reporting mixed and confusing responses to its inquiries to USFWS.

The problem has grown worse as has the confusion and panic. Hunting clients have demanded their trophies, while brokers have stalled anticipating clarification. Due to changes in the *Service Manual*, hunters are now held accountable for disagreements between country authorities. The March 2008 changes to the *Manual* deleted the express provision that hunters should not be liable for technical differences between exporting countries and the United States.

Those same *Manual* changes also added that seizure be considered first before all lesser alternatives, while it deleted the express 30-day "grace period" that had allowed for correction of technical

errors. These changes have made the community vulnerable and sensitive. It is a hell of a mess, and the divisions of the USUSFWS have not seemed to care.

Finally, after five months (August-December), the Chief of Permits promised that he would issue a definitive answer at the Dallas Safari Club convention specifying what in fact was required by the USUSFWS. Instead, he did not attend and did not provide any clarification of what was required. Most trophies are frozen in place with secondary problems, such as the passage of permit expiration dates that have ticked past. The furor is growing.

Four weeks later at the SCI Convention, industry leaders, foreign government representatives and USFWS met in a number of side meetings. The Deputy Director of USUSFWS, Rowan

"... port inspectors and Solicitors have been turned loose on international hunters like an uncontrolled pack of attack dogs."

Gould, said that the problem was not yet resolved. He very personably explained that he had a personal friend who had a leopard seized, but he could not solve the problem for his friend. He acknowledged that "hunters are caught in the middle...caught in a trap" that has to be fixed, but there are differences on the issue within the USFWS, so there is not yet a

definitive answer. He was backed up by the Chief of Management Authority, Roddy Gabel, who confirmed that they were working on the problem but had no resolution yet. Chief Gabel said he

was puzzled why the problem had not arisen "until last year." The foreign government representatives and leaders of the Professional Hunter associations of Africa looked at the Deputy Director and Chief of Management Authority with disappointment that the issue was not resolved and condemnation of the havoc caused by the delay. The agency that is so judgmental of others is caught in its own trap. Apparently Law Enforcement and the Management Authority can't agree, and each port of entry has its own view.

The Deputy Director got sharp with me when he thought I was suggesting that it was being done deliberately, when in fact what I was implying was the obvious: the delay was irresponsible, the problem was of their own making and the consequences were the result of the harsh new provisions in the internal *Service Manual*.

This may be the worst seizure and forfeiture problem I have seen, but this block 11(a) issue is just a symptom of a deeper problem within the Agency. Hunters don't seem to have a friend within the Agency leadership anymore. That is frightening. What will be next?

One broker said that the port inspectors and Solicitors have been turned loose on international hunters like an uncontrolled pack of attack dogs. They are inventing issues on their own without adequate oversight with the mistaken caveat that the trade is disfavored, must be strictly controlled and any technical irregularity should convert trophies into contraband rather than just "subject to" being treated so only when the situation warrants.

Some Court Success in Seizure Cases

We have some courtroom successes to report on a number of recent seizure cases:

- We were able to settle one seizure case in Federal Court in **Atlanta** after two years of litigation. The Agency agreed to release two elephant tusks that had been scrimshawed with the Big Five on one side. The tusks were released to the hunter after he disc-sanded off the scrimshawing in the presence of Law Enforcement agents.
- The Ninth Circuit Court of Appeals in **California** ordered mediation in an African lion trophy case with the

This does indeed jeopardize the safari industry and the conservation dependent upon the industry. It creates disrespect for the Law Enforcement agency and mistrust of USFWS. Believe me, those innocent hunters that are losing their trophies will not soon forget or forgive the deep personal loss and excessiveness of the mistreatment. The mistreatment is unforgivable. How can our government go so wrong? It is time to govern the regulators before more harm is done.

Conservation Force and its supporting organizations, such as Dallas Safari Club, Houston Safari Club, the Wild Sheep Foundation, Grand Slam/OVIS, etc., are no longer the only organizations sounding the alarm. Most of the American Wildlife Conservation Partners (AWCP) signed a request back in September 2011 directed to the Director to fix the problem. The latest double quota development occurred after that and after other joint letters from Conservation Force (including NRA, SCI and the Congressional Sportsmen's Foundation) and its member organizations to both the Chief of Law Enforcement and Director of the USFWS without response except that they are working on it. As I write this, the Wildlife and Hunting Heritage Conservation Council is scheduled to address the issue and make recommendations to the Director of USFWS.

I received a surprising phone call today (mid-February). Five different leopard trophies have been seized on entry into Houston for the "Section 11(a) violation." The seizures are continuing! We need hunters and brokers to report seizures to Conservation Force as early as possible. ■

result that the hunter, after denial of his petition for remission, three years of litigation and order of forfeiture by a lower court, has been allowed to re-export his trophy to then re-import it again. The lion was seized because of a clerical error on the export permit by the issuing government.

The error was obviously a government clerical mistake and was corrected by the issuing government, but USFWS Law Enforcement would not even respond to multiple government emails to consult on the problem. The three-

(Continued on page 4)



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SPECIAL FOCUS ON AFRICAN LION

New Study Quantifies the Importance of Lion Hunting

In response to the growing attacks on safari hunting of African lion, *Panthera* (www.panthera.org) funded a study to estimate the loss of habitat and other negative consequences if lion trophies were prevented from importation into the United States. In the countries included in the study (Mozambique, Tanzania, Zambia, Namibia and Zimbabwe), lion hunting generated 5-17 percent of gross trophy hunting income. If lion hunting was effectively precluded, trophy hunting could potentially become financially unviable across at least 59,538 km² that could result in a concomitant loss of habitat. However, it could have other, far broader negative impacts, including 1.) reduction of competitiveness of wildlife-based land uses relative to ecologically unfavorable alternatives, 2.) reduce tolerance for the species among communities where local people benefit from trophy hunting, and 3.) reduce funds available for anti-poaching. The report recommended instead of listing lion, it would be better if “interventions focused on reducing off-takes to sustainable levels, implementing age-based regulations and improving governance of trophy hunting.”

The study is important, timely and conservative. The study was performed by Peter Andrew Lindsey, Guy Andrew Balme, Vernon Richard Booth and Neil Midlane and published in *Plos One* on January 2012, Volume 7, Issue 1, e29332, www.plosone.org. It can also be found on our website at <http://www.conservationforce.org/news.html>. The

study is 10 pages in length and full of interesting data. Though it concludes that lion hunting revenue will also be less if the offtake is more conservative, we note that can be offset by higher prices for trophy quality lions that should arise from age-based management and lower quotas. The survival of lion will not be free.

The study mentions that Mozambique operators are already operating at a loss. They are holding on to their concessions with the expectation that revenue will increase as the general game base recovers from the war years. Of course, this in part is because of the low elephant quota and inability to import those trophies into the United States. But for leopard imports, Mozambique would be even less viable. The loss of lion could be the death toll.

“If lion hunting were precluded, trophy hunting could become potentially financially unviable across 43,828 km² in Tanzania, 10,280 km² in Zambia, 3,310 km² in Zimbabwe and 2,120 km² in Mozambique (or 59,538 km² in total) which is equivalent to four times the area of Serengeti National Park... Reducing offtake to .5 lions/1,000 km², however, would only potentially render trophy hunting financially unviable across 7,005 km² (affecting only Tanzania and Zimbabwe)...”

“With the exception of rhinoceroses...in Namibia and South Africa and exceptionally large elephant trophies, lions generate the highest revenue per hunt of any species in Africa.”

“Temporary moratoria on lion hunting could be used to allow recoveries in areas where hunting is implicated in negative lion population trends. Lion populations recover quickly when the pressure for excessive harvest is removed. Consequently, overhunting is likely to pose little threat to the long-term persistence of lion, so long as interventions are made to address excessive quotas where they occur. Conversely, if lion hunting was banned, and wildlife-based land uses were replaced by alternatives in some areas, the long-term prospects for lion conservation in these areas would be poor and reversing negative trends would be unlikely. Precluding lion hunting may therefore be a greater long-term risk to lions than overhunting. That said, urgent efforts are needed by range states to reform lion hunting management and temporary moratoria could be considered for use as leverage to promote such changes.”

The authors acknowledged Dallas Safari Club and Houston Safari Club who opened their convention floors to the surveyors. Both organizations have been significant contributors to Conservation Force’s leadership in age-based harvest management, which is cited above as a better alternative than uplisting lion. Of course, age-based hunting will reduce the overall harvest, but it can make the harvest almost biologically inconsequential and, just as importantly, further raise the esteem of the lion to that of the true King of Beasts. ■

Onsite Report: The Etosha Meeting of African Lion Working Group

The 70-member African Lion Working Group (ALWG) held a meeting in Etosha National Park in Namibia in mid-February. Yours truly and Philippe Chardonnet, Ph.D. of Conservation Force’s Board of Directors, are members and attended as participants. Both Chardonnet and I chaired sessions and made presentations, then participated heavily in the discussion session on various topics. We were joined by Pascal

Mésochina of IGF and a Tanzania Wildlife Department representative.

Two expatriate scientists from Ethiopia and one from Cameroon were hell-bent on stopping lion hunting.

Paula White, Ph.D. described her lion aging study in Zambia in detail. Though the average age of harvested Zambia lion had been increasing in the voluntary program, recently the age of lion began sliding back. It is suspected

that the gloom from possible uplisting and insecurity as concessions were up for renewal partially reduced the positive trend towards harvest of older aged lion.

Chardonnet made a presentation to the group on behalf of the Cat Specialist Group of IUCN on the proposed world cat population status database. He also made a presentation

(Continued)

African Lion (Continued)

on the CITES Periodic Review of lion that is being done by the African range nations upon the motion of the USFWS at the last CITES Animals Committee meeting. It will not be completed by the next Animals Committee meeting in mid-March. He invited input from all present.

Yours truly explained the consequences of uplisting the lion to Appendix I of CITES. First, it may not stop the feared medicinal trade of lion bone from RSA because parts from registered, captive-bred facilities are treated as Appendix II for trade purposes. The same is true of hunting

trophy parts. If the African lion is listed on Appendix I, then only captive-bred lion from RSA would any longer be importable into the United States. I made a separate presentation on the failed Cheetah Initiative in Namibia because of its CITES and ESA listing.

An Appendix I listing would not stop import of lion trophies to the EU because trophy trade is exempt by Resolution 2.11, and the EU treats trophies as personal goods as well. It would stop import into the US of lion trophies from the wild. The US is the largest safari marketplace. Safari hunting provides for two-thirds of lion habitat and crucial funding of

the operating budgets of wildlife departments, and is crucial to a host of communal-based conservation strategies that are working. I reminded the group that American hunters had invested more than 1.25 million dollars in the Regional and National planning workshops in the last six years and that the hunting community has been the greatest funder of lion conservation for decades. Although National Geographic's Big Cat program and Panthera are two recent organizations showing great promise, they are new to the scene: it is the hunters that have been providing the most for the longest. ■

Conservation Force Legal Action Update

Straight-Horned Markhor Developments

In response to the Markhor III suit, the USFWS is promising to make the 12-month finding on the downlisting of the straight-horned markhor in the Torghar region of Pakistan before the end of July, 2012. Despite our request for a timeline, none was provided before suit was filed and there also was no response whatsoever to the 60-day notice of intent to sue. Only now does the USFWS claim it is a waste of resources to litigate because the Court would not resolve it before July anyway. We have reminded the USFWS that this is the second petition to downlist those markhor, that USFWS has broken all past promises, that we requested the expected date before the third suit was filed, etc. Nevertheless, we hope to settle this case in the next few weeks if we can get the USFWS to enter into a consent judgment of some sort. In the meantime, the measurable loss to that conservation hunting program is \$105,000 per markhor, i.e. the difference in price between those markhor that can be imported and those that can't. The whole conservation world is watching this one.

Wood Bison Developments

On February 8th, the 12-month deadline for the downlisting determination on the Canadian wood bison passed without a final ruling. On the next day, we sent the necessary 60-day notice of intent to sue for not making the finding within the mandatory period because we haven't been able to get a date of completion from the USFWS. In that notice we again asked for a date with the objective of not filing suit if it is not really necessary or if the litigation can't be consummated before the USFWS will make the decision anyway. No response yet. We expect a favorable downlisting decision when the USFWS does issue its final rule. ■



Court Success

 (Continued from page 2)

judge appellate panel took a dim view of the refusal of the USFWS to respond to the issuing government's many attempts to correct their harmless error, particularly after USFWS would not accept a correcting permit because there had not been any consultation.

• Conservation Force's very first **California** seizure court cases have finally made it to the US Supreme Court. In the first, a leopard was seized after the export permit was lost by a major airline. In the other seizure, a clerk of the issuing country entered a nonsensical expiration date on the leopard export permit, not the intended six-month period.

The cases challenge the Constitutional excessiveness of forfeiture for the minor violations, the fundamental unfairness of the petition for remission hearing when the solicitor had a fixed position that the trophy is contraband that can't be returned, the applicability of the "innocent owner defense" under the *Civil Asset Forfeiture Reform Act* and, fourth, the applicability of the *Act of State Doctrine* that should compel acceptance of foreign government decisions about their own official documents. ■

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