



SPECIAL SUPPLEMENT

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

World Conservation Force Bulletin

www.conservationforce.org June 2013

CIC General Assembly Adopts Recommendations for African Lion and White Rhino

The International Council for Game and Wildlife Conservation held its 60th General Assembly in Budapest during the last week of April. The theme of this year's Assembly was "World Forum for Sustainable Hunting: Conserving Wildlife – Key to Global Cultural Heritage."

Four members of Conservation Force's Board were present: Philippe Chardonnet, Shane Mahoney, Gerhard Damm and myself along with Chrissie Jackson, Secretary. As usual, CIC had a reach encircling the hunting world and renowned speakers including Dr. Jon Hutton, Director of UNEP's Wildlife Conservation Monitoring Centre; Rosie Cooney, Head of the IUCN's Sustainable Use and Livelihoods Specialist Group; Reinhold Messner, famous mountaineer and explorer; Dr. Andreas Demeter, Advisor to the European Commission Department of Environment; H.E. Uahckuo Herunga, Honorable Minister of MET of Namibia; Dr. Zsolt Semejen, Deputy Prime Minister of Hungary; H. E. Dr. Lajos Bogнар, Deputy State Secretary of the Ministry of Rural Development of Hungary; H. E. Stefan Adam, State Secretary of the Ministry of Agriculture of Slovakia; Ing. Dr. Marin Zizka, Director General of the Forestry Section of the Ministry of Agriculture of the Czech Republic; Mr. John Kenena Kasaona, Director, Integrated Rural Development and Nature Conservation; Dr. Bráulio Ferreira de Souza Dias, Executive Secretary, Convention on Biological Diversity; Mr. Eduardo Mansur, Director, Forest Assessment, Management and Conservation Division of the United Nations Food and Agriculture Organization (FAO);

DATELINE:
Hungary



John J. Jackson III

Dr. Adrian Lombard, President, International Association for Falconry and the Conservation of Birds of Prey; Prof. Niels Elers Koch, President, International Union of Forest Research Organizations; and so many more.

One very relevant Recommendation was adopted by the General Assembly on the African Lion. It follows:

RECALLING its Recommendation no CIGAS6. REC03 of 2009 in favour of the long-term conservation of the African Lion by applying best practices in hunting lions

RECOGNIZING the importance of sustainable lion hunting for the conservation of the species

OBSERVING that such hunting assigns an economic value to lions, which helps to reduce poaching and destruction of so-called problem animals

UNDERLINING that hunting tourism assists Governments financially to protect vast areas of lion habitat and to resist the encroachment pressure by alternative land uses which may destroy biodiversity and wild ecosystems

REFERRING to a recent decision by the Dallas Safari Club, a CIC member organization, that the ideal huntable male lion is one which is at least six years of age and is not known to head a pride or be part of a coalition heading a pride with dependent cubs

TAKING NOTE of scientific research, which shows that the hunting of male lions of at least five years of age and above has no negative effects on population dynamics

The 60th CIC General Assembly in Budapest, Hungary,

1. ENCOURAGES Government authorities, hunting operators and visiting hunters, as well as all international and national hunting organizations to follow age-based rules for hunting lions.

2. RECOMMENDS the Government authorities to enact, in cooperation with the hunting operators, respective country specific regulations encouraging the hunting of mature male lions and discouraging the hunting of immature male lions, and to apply them together with transparent monitoring and control procedures.

3. FURTHER RECOMMENDS that a database with details of hunter-harvested lions is set up in cooperation with neutral institutions such as IUCN SSC.

4. ACKNOWLEDGES and COMMENDS the Tanzanian and Mozambican authorities for introducing such systems and encourages them to further improve the efficiency of these systems and extend them.

What readers may not realize is that most scientists have opposed the ESA endangered listing of the African lion, but with an important caveat. They have insisted upon the adoption of the aged-lion approach by the hunting community, i.e. the six-year approach.

Remember *A Hunter's Guide to Aging Lions in Eastern and Southern Africa*, available from *The Hunting Report* or Safari Press, is available for only \$16.95 (52 pages with profuse color photos.) Do your part. Don't shoot juvenile lion.

A second Recommendation concerned the new posture towards white rhino trade:

TAKING NOTE that the black rhino has been on CITES Appendix I since 1977 and that consequently all trade - with





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EDITOR/WRITER

John J. Jackson, III

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Barbara Crown

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Conservation Force
3240 South I-10 Service Road West, Suite 200
Metairie, LA 70001
Tel. 504-837-1233 Fax 504-837-1145
www.ConservationForce.org

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few exceptions - has been illegal
AWARE that despite this, black rhino populations in Africa have dropped during that time from approximately 65,000 in 1970 to 5,000 now due to illegal hunting and loss of habitat

REITERATING that white rhino populations during that time have increased to 20,000 mainly because of the involvement of the private sector and economic incentives, including trophy hunting

REGRETTING that all existing African rhino populations are today under extreme poaching pressure

NOTICING that the main destination for illegal rhino horn is the traditional oriental medicine market in Asia and that the demand for horn is unlikely to disappear

EXPRESSING CONCERNS that in the face of surging costs of rhino protection, private rhino owners in South Africa can no longer afford to continue hitherto successful rhino conservation work and are increasingly disinvesting and disposing of their animals

UNDERLINING that large stocks of rhino horn exist in South Africa, which are continuously replenished through natural mortality, dehorning and confiscations

NOTING that the demand for rhino

horn products in the traditional oriental medicine market of Asia could potentially be satisfied by a legal, controlled trade

DRAWING ATTENTION to the fact that strict protection has failed in the case of the black rhino, whereas market related, sustainable use of white rhino has demonstrably contributed to the upsurge of white rhino numbers in the past decades

Therefore the CIC General Assembly in Budapest, Hungary on 30th of April 2013

1. PROPOSES to replace the ineffective rhino horn trade ban with an effective legal rhino horn trade system under the auspices of CITES.

2. CALLS ON the Parties of CITES, Governments of rhino range countries, owners of stockpiled rhino horn and private rhino owners in Africa, as well as the Governments of Asian countries where rhino horn products are consumed and relevant national organisations for the integrity of traditional oriental medicines to cooperate in creating the management framework for legal rhino horn trade.

The 61st General Assembly is to be held in Milan, Italy on 23 through 26 April, 2014. Hope to see you there. ■

Double Quotas Not Yet Resolved in USA

Although the Parties at CITES CoP16 adopted Resolutions that expressly provide that the year of take, not the year of export or both, should be on the export permit for leopard and elephant trophies, that is not yet the regulation in the United States. The US Fish & Wildlife Service (USFWS) has not yet published a report of the 16th CoP and has not itself published a change in its own regulations. Of course, the Director of Law Enforcement can issue an interpretive letter or directive to port Law Enforcement inspectors, but has not yet done that either.

At the recent meeting of the International Affairs committee of the Association of Fish and Wildlife Agencies, yours truly asked representatives of the Division of Management Authority and International Affairs of USFWS to issue a letter of interpretation or other

steps to prevent new seizures from the confusion, but nothing has been forthcoming.

In short, it is best to continue with double quotas until there is official notice to the contrary from responsible authorities in the USFWS.

The USFWS is expected to publish a post-CoP16 summary in the Federal Register. When it does, perhaps it will provide a statement that all concerned persons can rely upon.

That said, the USFWS does seem to be undergoing an improvement in attitude after several years of "no excuses" enforcement. In May we were able to get four different leopards released that had been seized for technical errors, and only one new leopard was seized. It is something to celebrate, and we hope it continues. ■

Equal Allocation of New Mexico Nonresident Licenses for Rocky Mountain and Desert Bighorn Sheep, Oryx and Ibex Challenged Again

In May, the State of New Mexico filed a motion to overturn the famous *Terk* case. *David B. Terk v. James S. Lane, Jr., individually and as Director of the Department of Game and Fish, State of New Mexico, Scott Bidegain, Thomas Salopek, Tom Arvas, Paul Kienzle III, William Montoya, Robert Espinoza and Ralph Ramos, individually and as members of the State Game Commission, State of New Mexico* (74-837-M Civil). The *Terk* case is the only case to have ever held that it was a violation of the *Equal Protection Clause* of the US Constitution to discriminate against nonresident hunters.

In 1978, that Federal Court issued a permanent injunction prohibiting the State of New Mexico from discriminating in the allocation of licenses for Rocky Mountain and desert bighorn sheep, oryx and ibex. In 1997 the state tried to overturn the injunction. Conservation Force was retained by David Terk and we defeated the motion. We defeated it on the basis that the Director of the Game Department had admitted in his deposition that the sole justification of the discrimination was to favor residents over nonresidents, which was outright discrimination. Now the state has learned of David Terk's death and has filed a new, second motion to overturn the injunction.

If the 1978 injunction is overturned, then the New Mexico current statute, 17-3-16 NMSA 1978 will apply. That

provides that 84 percent of licenses issued by special draw (such as licenses for bighorn sheep, oryx, ibex, deer, elk, pronghorn and others) be issued to residents. Of course, that too can be changed to wholly eliminate nonresidents, but there is no evidence of such a present intent. Since 1978 the licenses have been allocated equally.

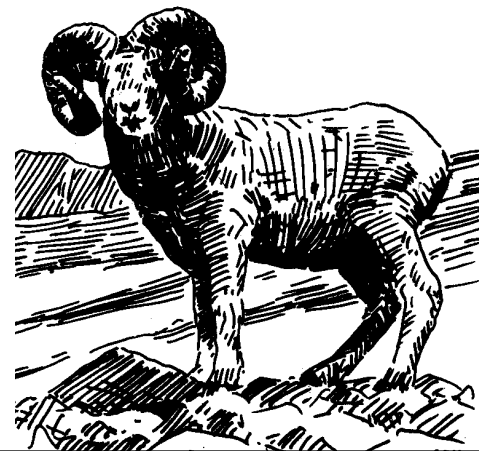
It is not clear that Conservation Force will again enter into this litigation to save the one case based upon pure and simple discrimination. It is also not clear if Terk's two daughters, heirs, wish to substitute for their deceased father, who died April 9, 2000. We estimate the cost of defense to be approximately \$20,000 and are already operating in the red due to other litigation.

Other nonresident hunter license discrimination cases have rested upon the *Dormant Commerce Clause* of the US Constitution, but a stop was put to that line of cases when Congress passed the *Reaffirmation of Resident and Nonresident Hunting Act* of 2005, Pub. L. No. 109-13, section 6036, 119 Stat. 231, at 289-290 as part of an emergency military appropriations bill. Although not a standing statute on the books, it provided a Congressional statement of policy to permit states to discriminate in allocation of hunting and fishing licenses and prices under the *Commerce Clause*. That led to the dismissal of all the then pending cases, but did not affect the

longstanding *Terk* case that was based upon the *Equal Protection Clause*, not the *Dormant Commerce Clause*.

The new motion can be viewed on Conservation Force's website at <http://www.conservationforce.org/news.html>. A copy of the 1998 court judgment denying the first motion like this is also at that same site.

In the original motion to set the favorable injunction aside, we appeared *pro hac vice*, as out-of-town counsel, though we did all the work. Again we need a local attorney to act as local counsel, though we will do all the work should we participate. This is a call for a volunteer local attorney admitted to the Federal District Court in Albuquerque, New Mexico. If willing to serve as local counsel, then please contact John J. Jackson, III at jjw-no@att.net or at 504-837-1233. ■



Wood Bison Cases Still in Court

Although the Canadian wood bison has been downlisted to threatened and is importable without an import permit from the US Fish & Wildlife Service (USFWS), two of the original permit cases are still open. It is now 14 years since we began the *Wood Bison Initiative*.

After the wood bison were downlisted, the defendants, the Department of Interior and USFWS, filed a motion to set aside the case judgment that remanded the permit denials and ordered that the applications be processed properly. They argued that permits were no longer needed, and we opposed with the

argument that the permit denials were still illegal acts and should be corrected. The Court agreed with Conservation Force and denied the government's argument that it should no longer have to act on the Court's determination that the permit denials were a violation of the Administrative Procedures Act. That is where it stands, though now the government has written to the permit applicants asking them to waive their rights to valid permits since they no longer need a permit at all.

Second, the government filed an appeal of the District Court's decision and order that overturned the permit deni-

als. The appeal was filed long past the deadline, so Conservation Force filed a motion to dismiss the appeal and in due course the government (Department of Justice, which represents the DOI and USFWS in litigation) withdrew its appeal. That is over.

Third, Conservation Force filed a Freedom of Information Act (FOIA) request for approximately 1,600 pages of documents that were not produced in the Administrative Record during the Wood Bison case. Those were the pages where the senior biologists were persuaded by VIP legal advisors higher in the Department of Interior to change their scientific

findings and change their draft approval of the enhancement permits. Although the bison are now downlisted, if the scientific findings were knowingly and deceptively falsified we don't want it to happen again. We want full disclosure and exposure.

The USFWS did not respond to the FOIA request at all and ultimately had to be sued after multiple notices. *Conser-*

vation Force v. Ken Salazar, et al. 12-1665 (KBJ). They have stalled as long as they can. Though they have responded they have still withheld 577 pages largely on the basis those pages are protected from disclosure under the attorney work product and attorney-client privileges. We in turn have responded that legal advice to do something fraudulent or deceptive like changing scientific findings to avoid political controversy under false

pretenses is a violation of professional conduct, thus not legal or protected communications. Cross motions for summary judgment are pending on that FOIA case as this is written. Meanwhile, it was not necessary to file suit to change the denial of enhancement permit applications of black rhino trophies from Namibia, but the markhor suit challenging the denial of those permits is in rehearing. ■

Black Rhino Public Education

Conservation Force has received a great deal of "hate emails" over the black rhino import permit for Namibia. Except in the case of the most obscene instances, we have responded with a short, simple form letter. The email response has

proven very effective and hopefully reflects well on the greater hunting community. It takes little to respond and you would not believe how well it is working. Most people are seriously misinformed and embarrassed that

they jumped to conclusions that are not warranted. The form of the letter may be useful for others to reply in similar circumstances. The letter follows:

Thank you for caring about Namibia's black rhino.

Believe me, you have been misinformed by people who know little or nothing and don't contribute at all. The rhino in Namibia are recognized by all reputable experts and authorities as being the best managed in the world. The 177 Parties of CITES have established a hunting trade quota/limit of 5 per year of rhino certified to be post-reproduction males that are killing calves and reproducing cows and younger males. Did you know that 50 percent of male rhino die of fighting wounds, not poaching? 30 percent of the females die that way. When a population reaches a certain density it is necessary to separate them, but then the old translocated bulls kill young, robust bulls, cows and calves at the new location.

The regulated, licensed hunting is a very select reduction that saves the lives of innocent rhino and accelerates the recovery of the population. Also, the revenue is deposited in a government/public trust fund that is spent exclusively on the rhino and related management, including anti-poaching. Of course, the revenue is essential. The real experts such as CITES, the Rhino Specialist Group of the IUCN, WWF, USFWS, and - yes - Conservation Force, all care and support the permit and are fulfilling their missions. These rhino are in safe hands.

Please do help by making a tax-deductible donation and you are welcome to dedicate it to black rhino conservation, in which case we will direct it to anti-poaching for rhino.

Rest easy, the token hunt is part of a tested conservation strategy and has undergone over a decade of scrutiny before implementation.

*Thank you,
John J. Jackson, III*

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