



“SERVING THE HUNTER WHO TRAVELS”

“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

DATELINE: ARIZONA

News... News... News Nonresident Hunters Lose Rights Case

The federal case filed in Arizona in 1998 challenging the cap that Arizona places on elk and deer hunting licenses that can be issued to nonresident hunters has been lost. The federal trial judge in Arizona granted a Summary Judgment against the nonresident hunters. He dismissed the Commerce Clause claim against Arizona, which is the claim that the cap is an unlawful barrier against commerce between the states which only Congress has the prerogative to govern. The trial judge held that the elk licensing system was not violative of the Commerce Clause because the sale of hunting licenses was not interstate commerce and did not affect interstate commerce. Any effect on commerce was unintended, incidental and justified (outweighed) by legitimate local interest.

The court distinguished each of the US Supreme Court Commerce Clause cases that we have been hopefully relying upon. The judge had earlier dismissed the outfitters from the suit on the threshold issue that they did not have legal “standing” to sue. The remaining plaintiffs have voluntarily dismissed the bal-



ance of their claims under the other clauses of the US Constitution for the purpose of expediting the appeal of the dismissal of the Commerce Clause claim. We are following the case closely and continue to support and share all of Conservation Force’s material, strategy and arguments

with legal counsel of the firm that brought the case - namely, US Outfitters.

The Court agreed that it is now well settled that the state “does not own wildlife” and cannot base a discriminatory system on the concept of ownership. The rest of the ruling was against nonresidents. The license allocation system for elk and deer did not violate the commerce clause in either of two ways. The hunting licenses are “not an article of trade” protected by the Commerce Clause because licenses only confer a chance to take game before it is exported from the state; licenses do not place any limit on out-of-state shipments of game after it has been taken. Residents and nonresidents are treated alike after the elk or deer are taken and ready to enter commerce. Second, hunting within the state is not interstate commerce because it is only an unprotected recreational activity of no commercial significance. The Court indicated that outfitters might be involved in commerce but they had been earlier dismissed from the case for failure to have “stand-

ing” and were no longer before the Court.

It is these legal issues upon which non-resident hunting rights will ultimately depend. First, is a nonresident hunting license “an article of commerce,” or just the sale of a “chance” before trade (commerce) begins? Second, is nonresident hunting an activity that meets the definition of interstate commerce, or is it simply an insignificant recreational activity?

We believe licenses themselves are “articles of trade” because they are sold interstate and because their issuance controls the movement of people from state to state. We also believe that the US Supreme Court’s Camp Newfound decision that travel of citizens from state to state to view wildlife is interstate commerce is equally applicable to hunters for hunting wildlife. This is obvious to us.

It is interesting to note that the outfitters were dismissed from both the Wyoming and Arizona suits for not having “standing.” Had they not been, the non-issuance of licenses to their clients upon which they depend may not have allowed the states to escape on the basis it is solely a recreational interest, not of commercial importance. There is no appellate level case on the issues yet.

DATELINE: WASHINGTON, DC

News Analysis
USF&W Launches Web
Page for Hunters

The US Fish and Wildlife Service has created a special internet page for hunters located at: <http://hunting.fws.gov>. The Service states it is “an effort to make its resources more accessible to hunters and to educate the public about the contributions of hunters to migratory bird and habitat conservation.” “The page contains links to the most recent waterfowl harvest surveys and population status reports, as well as to national survey data profiling hunters across the nation and the amount of money generated

for the US economy by hunting.” According to the Service, “non-hunters can also find information about habitat restoration programs funded by hunters and anglers that have restored and enhanced millions of acres of wetlands in the United States, Canada and Mexico.”

The internet page states that “[s]ince the late 19th century, hunters concerned about the future of wildlife and the outdoor tradition have made countless contributions to the conservation of the nation’s wildlife resources. Today, millions of Americans deepen their appreciation and understanding of the land and its wildlife through hunting. Hunting organizations contribute millions of dollars and countless hours of labor to various conservation causes each year. The Service considers hunting to be an important tool for wildlife management. Hunting gives resource managers a valuable tool to control population of some species that might otherwise exceed the carrying capacity of their habitat and threaten the well-being of other wildlife species, and in some instances, that of human health and safety.”

The page quotes the director in a recent speech on the new millennium as stating “[w]e must not forget our longtime friends. The hunting and angling communities have been supporting our mission since before our agency was even established. . . . We need to find ways to get the younger generations in touch with wildlife, and one of the best ways to do that is to preserve the future of our nation’s hunting and fishing traditions.”

The new web page has links to sites that identify hunting and recreational opportunities on federal lands. The internet page asks, “What do hunters do for conservation?” and answers “A lot.” It states that “the sale of hunting licenses, tags and stamps is a major source of funding for State Wildlife conservation effort,” that “proceeds from the Federal Duck Stamp . . . have purchased more than five million acres of habitat for the refuge system lands that support waterfowl and many other

JOHN J. JACKSON, III
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wildlife species Local hunting clubs and national conservation organizations protect the future of wildlife by setting aside millions of acres of habitat and speaking up for conservation in Washington and state capitals.”

The page provides links to many other useful sites for hunters, from the National Shooting Sports Foundation’s “Step Outside” to the “Yahoo Hunting Index.” It most certainly is nice to get some deserved recognition from the US Fish & Wildlife Service.

NATIONAL AFFAIRS
News... News... News
Hunters Win And Lose
On Ballot Initiatives

There were mixed results with those ballot initiatives that are of interest to sportsmen. There were a number of pro-active initiatives launched by sportsmen. They passed in North Dakota and Virginia. North Dakota amended its state constitution to protect hunting, trapping and fishing as rights. It passed with 80 percent of the voters in favor and 20 percent against it. The Virginia pro-active initiative

amended the Virginia constitution to protect the citizen’s right to hunt, fish, and harvest game. It passed with 60 percent in favor and 40 percent against it.

The other pro-active initiatives filed by sportsmen failed. Proposition 102 in Arizona that was intended to require a two-thirds super majority vote to approve any ballot initia-



tive relating to wildlife management failed by a margin of 38 percent to 62 percent. Measure 1 in Alaska that would have barred ballot initiatives related to wildlife management also failed. The vote was 36 percent in favor and 64 percent against.

Sportsmen also took some losses in those initiatives filed by the antis. The antis’ Alaska initiative to reinstate the ban against same-day fly-

ing in wolf control narrowly passed, with 53 percent in favor of the ban and 47 percent opposed. The antis’ Initiative 713 in Washington State to ban steel leghold traps, other body-gripping traps and certain poisons, narrowly passed with 54 percent in favor and 46 percent against. The antis are also taking credit for a fight between sportsmen in Montana. Initiative 143 imposing a moratorium on new game farm licenses and banning “canned hunts,” according to HSUS, passed with 52 percent in favor and 48 percent against. The antis took a shocking beating on Measure 97 in Oregon, however. That measure would have banned steel leghold and other body-gripping traps and use of certain poisons. It failed with only 39 percent voting for it and 61 percent of the vote against it. It ends the antis winning streak in Oregon. Earlier ballot initiatives have restricted both bear and mountain lion hunting in Oregon.

On the firearms front, both Colorado and Oregon passed initiatives for background checks at gun shows. Gun owners defeated Proposal 2 in Michigan that would have overturned the lawsuit preemption statute adopted last year and other gun owner protections.

Briefly Noted

Huge Pro-Hunting March Planned In England: Sportsmen are again to make a Countryside March in London on Sunday, March 18, 2001. It is expected to be the biggest demonstration of all time! This will be the third march of its kind in London and the fourth in Europe. In July, 1997 approximately 120,000 people rallied in Hyde Park, London. That was followed by more than 200,000 hunters and countryside people who rallied in Paris in February, 1998. Then on March 1, 1998, 270,000 hunters and countryside people marched again on Hyde Park dramatically demonstrating their solidarity for the country way of life. This new planned march should top

them all - the million hunters march.

Giant Transfrontier Park Coming in Southern Africa: An agreement has been signed to create the largest park in Africa, if not in the world. It is to be a transfrontier park (one straddling international borders), joining protected areas in the three countries of the Republic of South Africa (RSA), Zimbabwe and Mozambique. The agreement is to establish the park by the year 2003. It will include a merger of Kruger National Park in South Africa, the bordering Coutada 16 Conservation Area in Mozambique and the Gonarezhou National Park in Zimbabwe, plus some communal land. It is to be called the Gaza-Kruger-

Gonarezhou Transfrontier Park, and is to be managed as one integrated unit. By comparison the 35,000 square kilometer area is more than twice the size of the famed Yellowstone National Park in the US. This has been developing since 1990 and leaped forward in 1997 with the establishment of the Peace Park Foundation formed by Southern Africa conservation leaders. Some hunting opportunities will undoubtedly be lost, but the transfrontier park of our Southern African friends will set an example for the whole world.

CAMPFIRE Saves Lives: The CAMPFIRE Program in Zimbabwe saves people as well as wildlife. Re-

cently, 280 drought-hit families residing in the Masoka rural community had to take part of the community's 1999-2000 wildlife revenue to buy maize. Instead of building a secondary school and buying a lorry for transportation, the community has used some of its revenue for survival. The fact that Cape buffalo had also destroyed a significant part of the cash crops of the people helped the District Council authorize the reallocation decision. Between 90 and 95 percent of all CAMPFIRE revenue is derived directly from safari hunting activities.

CITES Secretariat Criticizes HSUS: The CITES Secretary General has issued an official Notification concerning some false rumors of illegal elephant ivory sales in Namibia and Botswana, and has written Humane Society of the United States (HSUS) about participating in the unfounded allegations against four governments. HSUS and others have been spreading false information that the Zimbabwe government has traded stockpiled ivory illegally to the government of China in exchange for armaments and that the government of Namibia had done the same to Taiwan in exchange for armaments, including military helicopters. The false information was quite detailed, which made it appear more credible than it was. It was a big, big lie! A thorough investigation failed to demonstrate any truth to the allegations against the nations. TRAFFIC, the largest international flora and fauna trade monitoring organization in the world, has established that no ivory is unaccounted for. Interpol, the World Customs Organization, and the Secretariat could not substantiate any of the allegations, nor could the agents in any of the respective investigative agencies within the governments. The information is simply false and the allegations unfounded.

(Postscript: It may or may not be related to the false rumors noted above, but our information is that HSUS has been denied their request to participate in the upcoming CITES 16th

Animals Committee Meeting in Virginia. Only “qualified organizations” that can contribute to the agenda are being allowed attendance by the new Chair.)

Chicago Firearms Suit Dismissed: The Cook County Circuit Court in Illinois has totally dismissed the City of Chicago's suit against 38 firearms industry defendants. The



suit was based on the theories of “negligent entrustment” and “public nuisance.” The Court ruled that no case was stated under either theory and dismissed the claim. It is reported that the City will appeal. More important, a federal court has required Scottsdale Insurance Company to defend the National Shooting Sports Foundation (NSSF) in all the pending municipal suits and to

repay NSSF's attorney fees and costs incurred in defending itself from those lawsuits.

Grizzly Bears To Be Introduced: The US Fish and Wildlife Service has issued a Final Rule to establish a “nonessential experimental population of grizzly bear in the Bitterroot Area of Idaho and Montana,” 65 FR 69624 (Nov 17th). There are now five separate grizzly bear populations in four of the lower 48 states. This will establish a sixth. This is only two percent of the grizzly's original range in the U.S.A. There are 1,000 to 1,100 in the existing five areas. This will add approximately 280 more. There were an estimated 50,000 grizzly bear in Western North American before European settlement. It is now listed as “threatened” in the lower 48 states. It has taken the Service 18 years to reach this point since the Grizzly Bear Recovery Plan finalized in 1982 first called for the evaluation of the Selway-Bitterroot ecosystem of east-central Idaho as a potential recovery area. The last grizzly bear was killed in the Bitterroot Mountains in 1932, and the last tracks were observed in 1946. The new bears will come from British Columbia, Canada, which has a surplus of bears and has been very cooperative. The core of the area of introduction is a large expanse of US Forest Service land and contains three wilderness areas, the Frank Church-River of No Return, Selway-Bitterroot and Gospel Hump. The grizzly will only be introduced in the Selway-Bitterroot Wilderness Area. A “nonessential” population means that its establishment is not essential to the survival of the species should the reestablishment fail. The “experimental designation” means that no bears currently exist in the area that is the site of the reintroduction and allows more flexible management.

Zimbabwe Supreme Court Orders Lands Returned: The Supreme Court of Zimbabwe has ruled that the land seizures in Zimbabwe have been illegal and has issued an order for the police to protect and restore dispossessed landowners.

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

MEMO

To: Jim Young, Print N Mail
From: Aymara Hernandez, The Hunting Report
Re: December 2000 Issue of Conservation Force Supplement
Date: November 27, 2000

Jim,

Here's the December 2000 issue of the Conservation Force Supplement to be inserted in The Hunting Report. Don't forget to insert John Jackson's picture on page 2. Please fax "blue lines" for approval A.S.A.P.

Print run is 5,300 (4,904 circulation, 25 copies for John Jackson and 371 overs). Please ship all overs as usual.

Please call me if you have any questions.

Aymara