



“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

Non-Resident Issue Flares In New Mexico... News On The Cheetah... More Mischief By HSUS

by **John J. Jackson, III**

DATELINE: NEW MEXICO

News... News... News
State Launches New
Attack On Non-Residents

The Attorney General of New Mexico has announced that he is filing in August a motion to reopen and set aside a very important permanent injunction issued 20 years ago. The case he wants to overturn is Terk v. Gordon (State Director of Game) in the US Federal District Court of New Mexico. It is the only Federal Court case that has held that it is unconstitutional to have a license allocation system that discriminates against non-residents. 20 years ago, the Federal Court permanently enjoined the State of New Mexico from allocating non-residents fewer licenses for Rocky Mountain bighorn sheep, Mexican desert bighorn sheep, oryx and ibex. Of particular significance is that the two sheep were hunted exclu-

sively on federal lands. All hunting in New Mexico is more than 70 percent on federal land. The 20-year-old injunction expressly prohibits unequal allocation of available licenses, i.e. non-residents must be given an equal chance at the available licenses. This



20-year-old judgment that New Mexico is now trying to overturn was a decision by a three-judge panel. That opinion stated, “Plaintiff’s... contention is that allocation of licenses for bighorn, oryx and ibex on the bases of residency discriminates impermissibly

against non-residents. It is admitted that the purpose of the allocation policy of the Game Commission is to preserve hunting of the three species for New Mexico citizens. We find no conservation considerations involved and non-residents are not a source of evil. From the bighorn’s point of view, the residency of the hunter is not relevant. The effect of the allocation is to exclude non-residents who have already tendered the non-resident fee solely because they are non-residents. This is outside the limits of the police power” (Emphasis Added). If the Attorney General is able to overturn this decision, non-residents may no longer be able to hunt the two sheep in New Mexico despite the fact that they are exclusively on federal lands and we can expect other states to follow. By complex analogies to unrelated cases, New Mexico is arguing that the law has changed since the decision was rendered and that hunters are no longer protected by the US Constitution from such discrimination; therefore, the

judgment should be set aside! The New Mexico motion states that the judgment was rendered because “non-residents... had a lower chance than residents of drawing a permit from a random drawing that imposed an allocational limitation on non-resident hunts.” The last line of the motion states that New Mexico “urge this court to dissolve the injunction or modify it to allow Defendants to impose non-resident allocational limitations for the species in question.” It is important that the decision be defended against being set aside. Conservation Force has been carefully monitoring non-resident licensing discrimination because such discrimination is politically motivated by residents and negatively affects wildlife resources that are dependent upon the revenue brought in by the non-residents who are being excluded and discriminated against in the licensing process. Such discrimination is counter productive. If the Terk decision is set aside even though it was an admitted case of discrimination on federal lands, then hunters who travel will be at greater risk throughout the US. If vacated, the Terk case will be cited as a federal legal precedent and rationale for discrimination. Conservation Force has decided to take the lead in this difficult case, not because it will be easy - which it will not be - but because of its obvious importance. 14 different states reportedly filed interventions in the original case 20 years ago and we can expect no less this time. This means we earnestly need your immediate financial support. Send your tax-deductible contribution to Conservation Force, 3900 N. Causeway Blvd. Suite 1045, Metairie, LA 70002 and designate it for the “Non-resident Discrimination Case.”

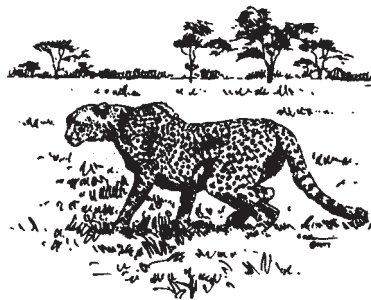
DATELINE: NAMIBIA

News Analysis

**Cheetah Import Permits
Are Big Breakthrough**

The USFWS is about to issue trophy import permits for an endangered species taken in the

wild for the very first time. Though the Endangered Species Act (ESA) authorizes it, the USFWS has never issued such a permit since 1973 when the ESA was enacted. This positive development arises out of the effort to import cheetah trophies in accordance with the CITES quota from Namibia. The Office of Scientific Authority has approved the issuance of such permits in a scientific finding that the sport hunting programs would enhance the species survival and propagation. This is the very first time such an approval has been made. Although the Office of Management Authority has temporarily denied the trophy import permits, it is under review, and the USFWS is expected to publish a Federal Register Notice proposing a change in its administrative practice concerning trophy imports of “endan-



gered” species in select cases that would enhance the species survival. Such a change in the administration of the ESA would go a long way to modernizing it and bringing it in line with contemporary wildlife management science. It will raise survival hopes for species that otherwise might decline or remain at risk indefinitely. The Cheetah Initiative is certainly achieving its intended purposes. The Comment Campaign in response to the Federal Register proposal will be expensive and time consuming. Conservation Force needs financial support to finish this right now. The pivotal events are expected to occur within the next 45 days. Tax-deductible contributions should be designated for the “Cheetah Initiative” and made out to Conservation Force, 3900 N. Causeway Blvd. # 1045, Metairie, LA 70002.

JOHN J. JACKSON, III
Conservation Force



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DATELINE: WASHINGTON

News Analysis

**HSUS Launches New
Attack On Campfire**

HSUS is conducting an all-out war on CAMPFIRE of Zimbabwe and on trophy hunters in general after being annihilated at two consecutive CITES Conferences. By voice vote they succeeded in having the Senate Foreign Operations Appropriations Bill amended on the Senate floor to scare CAMPFIRE out of its proactive role, if not prohibit it from representing its own interest and being a renowned model in the world conservation community. The amendment is too long to repeat here, but it includes a direct attack on hunting. It states that none of the appropriations funds can be used to support “the trophy hunting of elephants or other endangered species...” which not only fails to recognize the conservation role of trophy hunting but simultaneously implies that Zimbabwe elephants are endangered on the heels of the world downlisting them to Appendix II of CITES. The amendment orders the Administrator of the Agency for International Development (AID) to report

alternatives to trophy hunting as a means of generating income for CAMPFIRE districts and a “...description of how (the)...funds are to be used.” This implies that CAMPFIRE will not get any more funds unless they develop alternatives to sport hunting. What an insult to American sportsmen! Regulated, licensed sport hunting is the cornerstone of wildlife conservation in North America and trophy hunting has become recognized as the most effective and efficient means of conservation and development in the developing world. At this time, CAMPFIRE derives 95 percent of its revenue from trophy hunting by non-residents. Through the CAMPFIRE program, habitat for wildlife in Zimbabwe has increased from 12 percent to 33 percent. Elephant numbers have also increased from under 45,000 10 years ago to over 65,000 today, and poaching has virtually ceased in CAMPFIRE communities where inhabitants have come to see their wildlife as a financial benefit and no longer a nuisance. The amendment is a disincentive for CAMPFIRE and the whole developing world that is following its renowned example. This does not bode well for the continuing role of sport hunting. An even worse amendment is being proposed in the House at this time. The

House amendment still pending at this writing is the Fox-Miller Amendment (Amendment No. 14 to H.R. 2159). It provides that “none of the funds made available under the heading ‘DEVELOPMENT ASSISTANCE’ may be used to support or promote trophy hunting...” Imagine a law in the US against state wildlife agencies because they support and promote sport hunting! Hopefully, this amendment will be defeated in the House. Regardless, the Senate amendment will go to a Conference Committee some time in August or September at the very latest. Conflict over the amendment may not be resolved when you read this. A phone call to your Senator could make the difference. We really need endorsement and USAID support for CAMPFIRE-type programs. Many billions of dollars of foreign aid are being spent by donor agencies to improve human conditions through development of photographic and general tourism. Sport hunting, the original ecotourism, should not be slighted, much less singled out as being disfavored. If this is not turned around now, it can be of enormous consequence for community development around the world and for all the foreign wildlife resources that could benefit from licensed, regulated sport hunting.

Briefly Noted

Desert Sheep Uplisting... Elephant Hunting Update... And More

California-Baja Desert Sheep Listing: Since we last reported on the USFWS’s proposed listing of California-Baja Desert Sheep as “Endangered,” the service has again reopened the comment period. However, a decision is expected in the next 30 to 90 days and it could adversely impact hunters with Desert Bighorn sheep hunts booked in Baja, Mexico, this year. Hunters who have already hunted their sheep in Baja and still have trophies in Mexico are advised to get them in the country as soon as possible. Conservation Force filed a Freedom of Information Request and obtained all of the comments that have

been filed. We filed a consolidated Opposition to the Listing of the Mexican Baja population of the sheep collaboratively in behalf of Conservation Force, the Foundation for North American Wild Sheep (FNAWS), The Grand Slam Club, International Sheep Hunters Association, Dallas Safari Club and Houston Safari Club. If the Mexican Baja population gets listed, that population can be expected to nose dive and US sportsmen are not ever likely to be able to import those trophies again. Incidentally, we are indebted to Dave Snyder, President of the Orange County Chapter of Safari Club International (SCI), for calling

to our attention that the US population of the sheep has been hunted in recent years. He reports that the California Fish and Game Commission annually issues a small number of permits (10 to 12) by lottery and also issues one or two special permits for auction at fundraisers. FNAWS usually gets one. One member of the Orange County Chapter took a 175-plus ram this past year. Thank you for this correction. Unfortunately, California Department of Parks and Recreation and the Big Horn Institute both filed comments favoring the listing of the US population. **Elephant Hunting Update:** Elephant hunting on a very small scale has re-

opened in Ethiopia and is under consideration for opening in Zambia and Mozambique. Additionally, there are continuing developments in the effort to get trophy import permits approved for ivory taken in Cameroon. Conservation Force is deeply committed to completion of the Elephant Initiative that began in 1990, initially under the auspices of the Louisiana Chapter of SCI. This initiative will be brought to a successful conclusion. Again all contributions, which are tax deductible, are needed and appreciated. There is a slim chance that Conservation Force will be able to get Ethiopian ivory approved for import into the US within the next 60 days, but Ethiopia's CITES quota is only three per year. Cameroon is updating its Elephant Management Plan - on its own, incidentally, without any financial assistance from sport hunting interests. The adoption of the plan by the government should do the trick for trophy imports into the US. Conservation Force is also working on obtaining a general ruling on Tanzania imports so that permits don't have to be decided one by one on a permit-by-permit basis as they have been since the Elephant Lawsuit first got import permits authorized. The attitudes towards sustainable use of elephants that were expressed at the 10th Conference of CITES and the stinging award of \$341,000 in costs and attorney's fees against the USFWS in the Elephant Suit should facilitate efforts in the future. There are a few facts of interest about the Elephant Lawsuit. The court held that "counsel performed a public service in this case.... Plaintiffs' victory here was total - not only were the guidelines published for notice and consent, they were ultimately abandoned by the defendant, rarely seen in this type of litigation... [C]ounsel expended considerable - and ultimately successful - effort attacking the substance of the guidelines. This was no doubt challenging and difficult and indeed innovative work...." Ironically, we formally offered to waive the attorney's fees if the defendant (that is, the USFWS) would allow the import of trophies from Tanzania and Ethiopia, but the

USFWS adamantly refused. Today, we know that Tanzania has the largest elephant population in the world (approximately 98,000), that it lost many millions in revenue due to the "import guidelines" and that Ethiopia lost most of its conservation revenue and its principal means of containing elephant poaching as well. Every conceivable attempt was made to get the USFWS to voluntarily withdraw the illegal trophy import guidelines, but the USFWS just dug its heels in and even ultimately lost a contempt-sanctions motion for continuing to use the guidelines. Namibia, whose elephants have just been downlisted to Appendix II by a 3-against-1 vote and were recognized as having never been endangered, was one of the principal countries whose permits were not being processed by the USFWS when the suit was filed. The legal fees were only awarded for recorded billable hours in the litigation, which were less than five percent

of the time put in by legal counsel on the matter. The case lasted nearly eight years. It's worth noting that HSUS intervened in the suit, using Mark Owens' name (of the Owens Foundation in Zambia) to gain standing to be in court. After the USFWS totally withdrew the guidelines, the suit was dismissed "without prejudice." That means it can be reactivated if necessary, as indeed it may be in the next few months depending on the outcome of the permit situation in Ethiopia, Cameroon and other countries.

Time Requirements For Prosecution Under CITES: How much time has to pass before you are protected from prosecution under the Lacey Act for a trophy in your trophy room that was imported in violation of CITES or the ESA? At least five years after it is no longer in your possession, because possession itself is a crime as well as the act of importation. But beware, concealment or destruction of evidence is also a crime, so there is even exposure for getting rid of it. It is definitely best not to import any trophy without a permit making its import and possession lawful and its destruction unimportant to anyone but yourself.

Polar Bear Permit Advisory: There are a couple of recurring problems that polar bear permit applicants are having. The permit application form does not indicate that the USFWS wants you to state the size of the bear, so applicants do not know to put the size down. Only those who have carefully read the Federal Register Notice itself know to do it. It is best to provide the size to avoid delay. The USFWS has been handling the permitting process very expeditiously, thanks to Congressman Don Young's scathing Polar Bear hearing, as well as the efforts of Dr. J. Y. Jones and SCI. A few unfortunate hunters have imported their bears from friends and non-professional sources who did not know to get a Canadian CITES Appendix II Export Permit. It is an absolute necessity and the failure to do so can be expected to lead to seizure of the bear and worse. The original CITES export permit from the Canadian authorities must be with the shipment, not a copy.

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Their contribution adds to that already provided by the following individuals:

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- Don Causey.

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MEMO

To: Jim Young, Print N Mail
From: Elaina Panozzo, Hunting/Angling Reports
Re: August 1997 Special Supplement to The Hunting Report
Date August 1, 1997

Jim,

Here's the file for the Special Supplement to the August issue of The Hunting Report. Please fax blue lines for approval ASAP. Print run is 3,950 (3,860 circulation plus 90 overs). Thanks!

Elaina