



“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

Protectionist File Suit To List All Polar Bear Under the Endangered Species Act

On December 15, 2006 the Center for Biological Diversity, Natural Resources Defense Council and Greenpeace filed a suit against the Secretary of Interior and US Fish and Wildlife Service to force the Service to take action on the Center’s petition to list all polar bear on the US Endangered Species List. The Center for Biological Diversity filed the polar bear petition that it is trying to enforce on February 16, 2005. The Service has failed to act on that petition within a 90-day period. In the absence of a suit, the Service has taken up to 10 years to make its findings. The suit will certainly prevent that. The underlying petition for listing primarily rests on an alleged potential threat to the bear’s habitat due to projections of global warming. Secondly, the original petition to list claims that the threat was exacerbated by the recent increase in hunting quotas. (See April 2005 *World Conservation Force Bulletin* for an analysis of that petition).

The suit has been filed in the US District Court for the Northern District

of California (San Francisco) and is Case No. C 05 5191 EMC. The protectionists are requesting the court “to order the Secretary to comply by a date certain with the ESA’s mandatory, non-discretionary ‘90-day finding deadline’ for processing citizen petitions to



list species.” This is not yet a suit to compel the listing. That would be premature. It is a suit to compel the completion of the first stage in which the Service determines whether or not the petition may warrant further review. Though the 12-page lawsuit re-

peats many of the allegations in the Center’s petition to list, that is not to be decided at this time. For example, it cites the IUCN Polar Bear Specialists Group’s recent recommendation that the bear should be classified higher as “Vulnerable”. In fact, the bear has arguably not been legitimately upgraded to “Vulnerable” on the Red List because world climate change is not an IUCN criterion for listing. This ultimately will be of some importance because another Federal Court recently overturned a decision by the Service not to list a plant species when the Service did not explain why it did not follow the lead of the IUCN on its Red List of that species. On the other hand, the Service may enter into a settlement judgment with binding dates for both the 90-day and 12-month determinations.

The protectionist also claim that the Service can’t timely make its required 12-month finding on the Center’s petition to list because that period is almost up as well. This suit may be amended on the anniversary

date of the filing of the listing petition in February 2006. Then it will be a lawsuit to compel the decision by the Service whether or not the listing is warranted, not just a more preliminary finding now in issue that it “may” be warranted. This case may stay in the San Francisco Court and the court may follow the listing petition until it is ultimately decided fully and definitively. Readers should not be fooled by the apparent limited goal of this initial lawsuit. The suit can be amended again and again to encompass each stage of the listing process until the case is concluded.

That’s exactly what was done in an identical listing suite filed by the Center for Biological Diversity in Arizona when the Service did not act within 90 days on a petition filed by the Center to list the Northern Mexican Gartersnake. The court in that case recently (January 4th) entered a consent judgment fixing dates for publication of both the 90-day and the 12-month findings, *Center for Biological Diversity v. Norton*, CV-05-341-TUC-CKJ,D.ARIZ.

The three organizations picked the Northern District of California as a forum for the litigation and have asked that it be assigned to San Francisco rather than Sacramento. That court is popularly thought to be one of the most liberal. This is the same court in which the Center for Biological Diversity recently filed its suit against the Service for permitting the continued hunting of newly ESA-listed scimitar horned oryx, dama gazelle and addax. Conservation Force is searching for one or more *pro bono* attorneys in the San Francisco area who are admitted to that Federal District Court to assist us in tracking the cases and perhaps intervening because of its anticipated long-term importance.

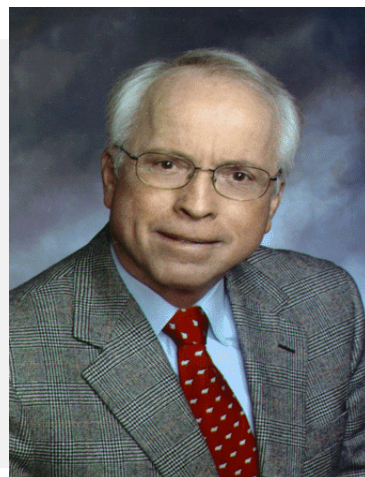
Polar bear hunting is at risk and will remain so for some time to come. If the polar bear is listed as “endangered”, then it will not be importable, just like Canadian Wood Bison, Pakistan Markhor, Namibian Cheetah, China Argali and other “endangered” game are not importable. If it is listed as “threatened” rather than “endangered”,

then trophies should still be importable because of provision 9-C-“2” of the Endangered Species Act (the “Dingel Amendment”), that generally allows trophy imports of “threatened” listed species that are already protected on Appendix II of CITES, as is the polar bear. Perhaps a more serious threat to continued US importation of trophies is the Marine Mammal Protection Act (MMPA). Though the MMPA was amended in the middle 90’s to permit importation of polar bear trophies, Senator John Kerry added conditions to that reform legislation that are now being brought into play through pressure from the antis.

Though not a party to the suit, Humane Society of the United States (HSUS) has also been pressuring the Service to end polar bear hunting. In November 2005, HSUS posted a paper entitled *Hitting Polar Bears When They Are Down*. The posting urges readers to “Take Action! Tell the Polar Bear Project of the US Fish and Wildlife Service to stop allowing the import of polar bear trophies into the United States.” It harps on the fact that the Polar Bear Specialist Group “recommended that the IUCN reclassify polar bears as vulnerable and add the species to the Red List of threatened species.” (Note, unlike the above lawsuit, the IUCN reclassification is represented by HSUS to only be a recommendation, not a fact.)

Wayne Pacelle, President and CEO of HSUS, is quoted in the release stating that “Polar bear are in trouble, as a consequence of global warming. The last thing they need is to be chased down and killed in their arctic environments by individuals seeking trophies.” “While the United States prohibits trophy hunting of polar bears, it does allow American hunters to kill a polar bear in Canada and import the body or pelt back to the United States. The United States needs to close that loophole in the MMPA if it is serious about protecting this vulnerable species,” he said.

Just as we expected, the affiliated Humane Society International (HSI), wrote the US Fish and Wildlife Service and has asked it to review trophy im-



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port approvals, particularly in areas where quotas are being increased. (This no doubt has further held up Conservation Force’s petition to allow the importation of polar bear trophies from the Gulf of Boothia). These old enemies of all hunting are wasting no time attempting to close polar bear imports at every opportunity. They have used the recent proposed increase in quotas to challenge trophy imports, as well as US global warming policy. The antis have been corresponding with the Service, asking the officials there “to review import approvals for Nunavut’s polar bear populations.” They report that the US Fish and Wildlife Service has responded back stating that “The Service is looking carefully at the situation to determine the best and most expeditious course of action to meet our responsibilities un-

der the [Marine Mammal Protection Act].” HIS states that it “continues to urge the US Fish and Wildlife Service to formally review its approval for



import of those stocks affected by the quota increase – we firmly believe the law requires the US Fish and Wildlife Service to rescind the import approvals, as the best available science does

not support a quota increase.”

Readers should know that the proposed increase of quota for the Baffin Bay population has since been decreased by the Inuit’s and the proposed increase in quota in the Gulf of Boothia is based upon a state-of-the-art scientific survey that showed the population to be far greater than thought.

This flap about Inuit participation in the quota-setting process is contrary to the Participatory Principle that stakeholder participation is desirable for sound and sustainable management. Once again, the antis just seem to be making more noise than we are.

Conservation Force needs help and support to meet this growing litigation challenge. Please send tax deductible contributions to Conservation Force PO 278, Metairie, LA 70004. (Yes, we are back in Metairie.)

Briefly Noted

HSUS Attacks Fishing Contest: HSUS has begun opposing fishing as well as hunting. Though the instance is limited to a shark fishing contest, the HSUS has in fact crossed the line to oppose fishing. We expect it to continue to do so expansively with time.

The HSUS issued a formal press release and initiated a full-blown campaign opposing a shark fishing tournament at Martha’s Vineyard in Massachusetts being sponsored by the Boston Big Game Fishing Club. The HSUS “press release” called the fishing tournament “a shark hunting contest.” Dr. John Grandy, the Senior Vice President for HSUS Wildlife programs is quoted in HSUS’s press release as stating that “Contest killing of sharks or any animal is an affront to a civilized society. In this case, it contributes to further declines in shark populations, while adding to the stigma that surrounds these magnificent predators. Shark killing contests should go the way of the bison killing contests of old. They perpetuate cruel and unnecessary treatment of some of the most ancient and fascinating of the ocean’s creatures. Many shark species, including blue and thresher sharks, have suf-

fered dramatic population declines and can ill afford to be the target of this sort of dubious enterprise.” The HSUS release also pointed out that “tiger sharks are listed as ‘near-threatened’ by the International Union for Conservation of Nature and Natural Resources.”

Astute hunters will recognize the similarity of the arguments against hunting that the HSUS is applying against the fishing tournament. It is “cruel and unnecessary” to fish for sharks at all and they are too “magnificent,” “ancient,” and fascinating ... creatures” to be treated that way. The species survival is represented to be at too great a risk. Finally “contest,” like trophy hunting, are “an affront to a civilized society.” Shortly, we presume, that will be applied to all tournaments from billfish to perch.

No doubt HSUS still denies that it opposes fishing but it has indeed crossed the line and anti-fishing fits them to a tee. Every argument against hunting is equally applicable to fishing, trapping, pet ownership, rodeos, circuses, ranching, farming and every other imaginable animal use.

PHASA Annual Meeting: The Profes-

sional Hunters Association of South Africa (PHASA) is the largest organization of its kind in the world. It held its annual membership meeting in November. Conservation Force had two of its Directors attend, Gerhard Damm and yours truly, John Jackson. It was also attended by Gray Thornton of Dallas Safari Club and President Dieter Schramm of The International Council for Game and Wildlife Conservation (CIC). Dieter was the keynote speaker at the Grand Finale Dinner and what he said about CIC was insightful.

CIC, it seems, was founded 80 years ago and has a unique roster of 34 state members (countries), associations, universities, experts and private members. “CIC is not a world hunting association, but an advisory body for governments, international conventions, such as the CBD, CMC, as well as CITES, IUCN and the UN-system on all questions of conservation of our biodiversity through the sustainable use principle.” Incidentally, yours truly is the President of the CIC’s Sustainable Use Commission (Committee) and serves on its Executive Board.

Dieter Schramm focused on the re-

cent Panel of Experts Report that recommends national hunting norms and standards that should be adopted in South Africa. He agreed with the condemnation of “canned lion hunting that can damage the credibility of the hunting industry.” On the other hand, he disagreed with the Panel’s recommendation that no hunting be allowed in national parks. “CIC was instrumental to have a resolution adopted at the recent IUCN National Parks Conference in Durban stipulating that hunting, if sustainable, can offer a vital contribution to the economics of National Parks. It is estimated that careful and selected hunting in South African National Parks can contribute finances in the area of some 40 million Rand per year, making South African National Parks independent from government funding.” The president of CIC and others pointed out that hunting in National Parks could also provide “unique schemes” for Black Economic Empowerment (BEE). That is the same position taken by Conservation Force through the formal comments of Gerhard Damm. Gerhard’s written comments to the panel stated that, “the 50,000-hectare Pilanesberg National Park derives a large proportion of its budget from controlled hunting, in addition to receiving at least 4,000,000 Rand from game-viewing tourists annually.” If allowed, hunting in additional national parks “will instantly create many BEE opportunities” For Gerhard’s full position see the August issue of African Indaba, Volume 3, numbers 4 and 5, at www.africanindaba.co.za.

Even though the Panel of Experts review recommends the banning of hunting in national parks, the review actually provides an opportunity to expand hunting to parks. It has now been put directly at issue by the Report. Conservation Force, CIC and others most definitely are making an impassioned plea to expand park hunting. It may yet turn out to be a very positive development in 2006.

Observations from Lion Workshops: As this goes to press, I am at the last two African Lion Workshops in Randburg, South Africa. The work-

shops cover South and East Africa combined but are two very different kinds. The first was a Technical Workshop sponsored by Wildlife Conservation International (WCI). It was attended by approximately 30 knowledgeable experts on the biological and ecological status of lion and its habitat in both East and South Africa. Those experts identified the best remaining habitat and the best remaining lion populations and matched them up to designate “Lion Conservation Units.” They then ranked those units to rate their viability. Finally, they composed a list of significant threats facing the lion and ranked them in importance in each of the “Lion Conservation Units”.

The longest and most secure Lion Conservation Units were found to be in Tanzania, followed by Botswana. Tanzania and the northern top of Mozambique (NIASSA) were virtually one unit. Approximately 55 percent of the lion’s range was in hunting blocks of one form or another and the risks or threats were lower in the hunting blocks. Tanzania has the largest population by far, perhaps equal to all of the rest of Africa. It also had the greatest number of prey, such as buffalo, and the greatest amount of suitable remaining habitat.

The highest rated units, it was concluded, contain enough lions and have a strong enough prey base to be poten-

tially self-sustaining for the next 100 years. Those highest rated units comprise 34 percent of the lion’s current known range. You can draw your own conclusion about the future of the lion in East and South Africa. Those units where there were fewer lions but adequate habitat such that lion numbers can increase if threats are alleviated were also determined and mapped. These are areas in which safari hunting can play a significant role in alleviating the threats if given a chance.

The most important factors in lion survival, it was concluded, are prey availability, illegal and conflict killing of lions, the size of the units, the efficacy of management of lion conservation, lion population size and quality of habitat. Safari hunting was not thought to be a threat, but instead, a net benefit. Needless to say, well regulated safari hunting reduces those factors that threaten lions and enhances those that benefit lions. Though that workshop was not about hunting, it was determined that hunting is not a threat. In fact, it was concluded that hunting plays a considerable role in the survival of lions.

The technical workshops were wholly sponsored by Wildlife Conservation International though assisted by the IUCN Specialist Group and its affiliate the African Lion Working Group. The workshop greatly raised IWC’s profile in African lion conservation and helped it establish connections with lion experts.

The information and conclusions from the first workshop were provided to the approximately 80 government employees and other participants in the second workshop designed to complete the first African lion conservation strategy, Workshop To Develop Conservation Strategies for Lions In Eastern and Southern Africa. Yours truly was an official observer in the first workshop and a “participant” in the second. A special thanks is due Steven Chancellor, Rann Safaris, Tanzania Safaris and Robin Hunt Safaris for their support, as well as biologists Kristin Nowell, Craig Parker, Lawrence Frank, Paul Funston and Philippe Charbonnet. – *John J. Jackson, III.*

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