



“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

● Special Report: The Argali Suit ●

Part 1

Antis claim that all trophy imports of all threatened species are illegal

■ After many years of posturing, the antis have filed a declaratory action to have a federal court rule that it is illegal to import trophies of threatened species. That has become the principal issue in the argali case. Nothing may have more far-reaching impact on the safari industry!

The anti-hunters have always opposed the import of trophies of any and all animals listed as “threatened.” They are opposed to all sport hunting, but the hunting of listed species lends itself to their kind of fundraising. They argue that the Endangered Species Act (ESA) prohibits taking of threatened species within the USA and also prohibits the importation of trophies taken in other lands. Through federal court litigation they have already established the jurisprudential rule that hunting (taking) of “threatened” species is prohibited within the US in two successive cases. They first stopped the sport hunting of wolves in Minnesota, then the sport hunting of grizzly bear

in Montana.

The ESA expressly provides that the US Fish & Wildlife Service (USF&WS) may allow the taking of listed species as a “conservation” measure. The antis have successfully per-



suaded two federal courts that hunting can only be considered “conservation” in one “exceptional circumstance.” That “exceptional circumstance” has two parts. First, the population being hunted must be excessive (above biological carrying capacity). Second,

there must not be any alternative means of relieving the pressure (reducing it to within capacity) other than the hunting.

The antis have been arguing that this applies to the import of trophies, as well as to the taking of domestic animals by hunters within the US. We have monitored this very closely for over a decade because of their obvious strategy to eliminate the tourist hunting industry and the wildlife conservation programs that rely upon it. Until now, they have made the argument in numerous public comments to the USF&WS. They have threatened to sue over it numerous times. One anti-hunting organization even began to raise the issue in the old elephant suit in which they intervened. Though the issue surfaced in their pleadings, the elephant case was concluded before the issue was addressed by the court.

In the present argali case, the issue is squarely before the court. Consequently, this is the most important ESA

suit ever filed against safari/tourist hunting and the hunting-based wildlife conservation world. It is an **all-important** test case. They have struck where we are most vulnerable. This court decision can end it all.

They have amended their suit twice to clarify that this is the issue. They are not simply arguing that the issuance of permits to import argali trophies has not complied with the special regulations. They are now arguing that the special import regulations themselves are deficient because they don't first require a determination that the argali population is excessive and that there is no alternative method of relieving that pressure.

In a recent hearing in the pending argali case, the antis' legal counsel kept presenting that argument to the judge even though it was not the issue in that motion. Their obvious purpose was to plant the germ of the idea in the judge's mind. There is an old adage that first impressions are lasting, so they obviously were trying to leave an impression favoring the underlying purpose of their case.

During the oral argument of the USF&WS's Motion to Dismiss some of the claims on March 20, 2001, the antis made their purpose known. "Our argument is that ... it is inconsistent with the ESA itself (because import permit) decisions have to be for the conservation of the species, and conservation is defined to allow regulated taking only to relieve population pressures." (Page 35 of transcript.)

"We have not, of course, gotten to the merits of this case yet, and I want to remind the court that we are here on the motion to dismiss, but there are several cases, including a case decided in this court, that have determined that it is illegal for the Service to allow the hunting of threatened species, precisely because the Service has not determined that it was necessary to relieve population pressures. If it does it on another basis (current regulations), then it is inconsistent with section 15.33(d), and that is our claim in the case." (Page 36.)

"Issuing a permit ... is inconsistent with the ESA itself, which explains that

when you are making determinations for threatened species ... those decisions have to be for the conservation of the species, and conservation is defined to allow requested taking only to relieve population pressures."

In his concluding statement, the antis' counsel again stated that import permits for threatened animals can only be granted to "provide for the conservation" of the animal. His very last words were, "again, conservation is defined to allow regulated taking only to relieve population pressures. That is our allegation." (Page 60 of transcript.)

Part 2

Many More Developments in the Argali Suit....

■ There have been many developments in the argali suit. In the same above hearing of the USF&WS's Motion to Dismiss, which incidentally was denied by the judge on all counts, the judge was critical of the existing special regulations for issuance of argali import permits. We've never thought much of the special regulations for argali importation. This judge feels the same. At one point the judge said that "[t]he special rule is so complicated that it is very difficult to parse it." At another time she said "this convoluted regulation... really is pretty incomprehensible..." Ironically, that is exactly what I argued to another federal judge to no avail in the first argali suit in 1993.

The court has issued an agreed upon Scheduling Order that should govern the timing of the course of the case from this point on. First, Conservation Force has filed a Motion to Dismiss and the Administrative Record was produced on May 24th. Plaintiff's (Fund for Animals) Motion for Summary Judgment must be filed by June 24th. Defendants (Department of The Interior & USF&WS) must file their own Motion for Summary Judgment by August 2nd. The plaintiffs then have until September 6th to oppose defendants' and interveners' Motions for Summary Judgment and to reply in support of their own motion. Then, on October 1, de-

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pendants and the Interveners’ Replies in Support of their own Motions for Summary Judgment are due to the court. After that we await the decision of the judge.

We have also filed the brief in Mongolia’s appeal of the court’s denial of its motion to intervene. That was filed on the 14th of June and is expected to run its course by mid-fall. Obviously the issue is important if range nations are to be shown any diplomacy whatsoever.

Conservation Force has filed a Motion to Dismiss the antis’ argali suit on the basis that they don’t even have any presence or legitimate interest in Tajikistan, Mongolia and Kyrgyzstan to have standing to bring a case. Our position is that the antis don’t have real interest, the permitting has not caused them any harm or injury and a favorable judgment would harm rather than help argali or the antis’ feigned interest. The motion is in behalf of Foundation For North American Wild

Sheep (FNAWS), Grand Slam-Ovis, Conservation Force and others and is supported by sworn declarations and affidavits completed by Dennis Campbell of Grand Slam-Ovis, Ray Lee of FNAWS, Gretchen Stark of Safari Outfitters, Dr. James Teer and Dr. Bart O’Gara of Conservation Force’s Board of Directors and Raul Valdez. Never before have the antis filed a suit to prohibit the import of trophies from foreign nations with the consequential interruption of those nations’ programs. We are doing our very best to kick them out of court and keep them out. Regardless of the outcome, we are putting up a real fight. If we lose, WE will ALL really lose.

Part 3 USF&WS Withdraws Argali Proposal

■ The USF&WS has finally withdrawn its proposal to list the argali in

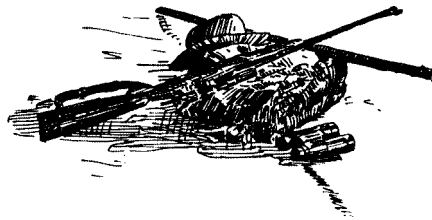
Kyrgyzstan, Mongolia and Tajikistan as “endangered.” The proposal to uplist them from “threatened” to “endangered” was because of concern we were going to win the first argali suit in 1993. We have long considered it to have been abandoned after we decided not to continue with that suit. The antis have recently revived it in the new argali case (2001) by trying to get the court to force the USF&WS into uplisting it to “endangered.” Instead, the USF&WS has completed the review in a 31-page decision and retained the argali where it is. In effect, one of the antis’ claims has been lost. The antis have already served a 60-day notice on the USF&WS that they intend to sue for this withdrawal of the proposed rule. The withdrawn rule can be found at Volume 67 page 35,942 of the Federal Register; or you can contact Conservation Force at 504-837-1233; e-mail, jjw-no@att.net. Unlike many foreign species, the argali are better off today than when they were first listed.

Briefly Noted

Support Sought For TV Hunting Documentary: There is a growing need to improve the image and acceptance of hunters and hunting in the eyes of the general public. We must make an extraordinary effort to change the growing misperceptions of hunting held by urban Americans or we will become a marginalized minority at risk for our survival. One of Conservation Force’s tax exempt purposes as a foundation is to educate the public about such things. For nearly a year, we have been partnering in an effort to produce a premier television program in a strategy to address this challenging need. We have teamed with actors Rick Schroder, Jameson Parker and James Swan, Ph.D., to produce a TV program to reach the general public. Conservation Force is serving as the financial fiduciary of the production, and we are accepting dedicated tax-deductible donations.

The story of the hunt is one of the oldest and most basic human artforms,

probably even older than the love story. Hunters continue to tell the stories of the hunt today, as they have done for thousands of years, but their audience is almost entirely other hunters. This makes hunting vulnerable.



The vast majority of people today do not get their hands dirty or bloody to put food on their table. They also have little or no knowledge or familiarity with hunting and its place in human evolution, culture and nature. The mystery shrouding hunting feeds fears

and suspicions that may have little to do with the actual practice of the hunt. It is little wonder then that a recent US Fish and Wildlife Service study found that over half of those surveyed felt hunters were reckless, dangerous and prone to drinking when in the woods, even though the statistics prove a scant few hunters are “slobs.” As a result of the disparity in perspective between hunters and non-hunters, the future of hunting is in jeopardy, for hunters are a minority group and an active anti-hunting movement seeks to exploit false stereotypes of hunting to their advantage.

Educating the non-hunting public is essential to the survival of hunting. More than ever before, people form their opinions based on mass media. If hunters are going to be understood by non-hunters, they must take their story to mainstream television. Actors Rick Schroder (“NYPD Blue,” “Lonesome Dove”) and Jameson Parker (“Simon and Simon,” “One Life to Live”) have

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teamed with writer James Swan, Ph.D. (*In Defense of Hunting, The Sacred Art of Hunting*) to write and produce a two-hour documentary for television which chronicles the evolution of hunting from the earliest times up to the present in a form appropriate for mass audiences. The trio is currently in negotiations with the History Channel to air the show during a prime-time evening time slot. The History Channel has the second largest audience of any cable network, reaching 80 million homes in the US, as well as many millions more abroad.

With the assistance of an international advisory board, Schroder, Parker and Swan plan to film in Europe, Africa, Asia and Australia, as well as North and South America, to show the roots of hunting as it takes places in native cultures and probe the deeper roots of the hunt. These visits to Paleolithic hunting caves and archeological digs will serve as the foundation for tracing the history of hunting to the present.

The program will show how hunting is a major touchstone of art, literature, science and technology, as well as human nature and culture. It also will explore the religious traditions associated with hunting in many parts of the world, including the celebrations of St. Hubert, the patron saint of hunting, in Europe and North America. All this will lead up to the story of how modern hunters, such as Theodore Roosevelt and Aldo Leopold, gave birth to conservation. And it will compare and contrast modern hunting customs around the world, as well as current wildlife management challenges as it seeks out the future of hunting in a world where for the first time in history, there is a vocal anti-hunting movement.

At each step of the way, well-respected scholars from appropriate fields will appear on camera, voicing their interpretations of hunting and its place in the human soul.

A program of this scope has never been produced or aired anyplace in the world. Parker, Schroder and Swan believe they can make it happen because they have more than 70 years of col-

lective experience producing film and television programs for general audiences, and they have many connections with the mainstream Hollywood entertainment community. These contacts enable them to draw on some extraordinary resources for cinematography, special effects, narration, art, dramatic reenactment and music. A number of well-known actors, musicians and movie and television makers have already volunteered to help.

This project has received endorsements from nearly every major hunting organization in North America, including the National Shooting Sports Foundation, Rocky Mountain Elk Foundation, the National Wild Turkey Federation, US Sportsmen's Alliance, North American Hunting Club, Pheasants Forever, Quail Unlimited, Foundation for North American Wild Sheep, BC Wildlife Federation and the National Rifle Association. These groups and others have voiced their support for the project and offered to help advertise the show when it is aired. This will make for an audience in the millions, and enable the network to sell the advertising time that they need to justify airing the program.

Schroder, Parker and Swan are planning to have the highest produc-

tion standards in this show, comparable to NOVA, Ken Burns specials, or David Attenborough's nature documentaries. The budget for such a project is more than the normal budget for a documentary that appears on cable television, and so we are asking the hunting community for support.

Tax-deductible donations for this show, tentatively titled "Tracks and Footsteps: The History of the Hunt," should be sent to: Conservation Force, One Lakeway Center, 3900 North Causeway Blvd. Suite 1045, Metairie, LA 70002-1746. On any donation, please mark it clearly for "Tracks and Footsteps."

We have to market it as well as produce it for it to be a success. Anyone interested in buying advertising space during the show or who has questions concerning the details of the production should contact: Snow Goose Productions, PO Box 2460, Mill Valley, CA 94942. Tel. 415-383-5064. E-mail: sgsprod@attbi.com.

Cameroon Elephant Permits: We have completed the filing of the administrative appeal of the denial of the 1998 and 1999 elephant import permits. It was a very substantial undertaking. In the appeal we asked the Service to bring the permitting up to date for 2000, 2001, 2002 and 2003 as well. We advise anyone who has taken an elephant in Cameroon that they have not yet imported to donate \$500 to Conservation Force's Cameroon Elephant Fund to prove "enhancement" that is required by USF&WS. That donation by itself is not assurance that the USF&WS will find "enhancement," but the contribution and smart expenditure of those funds is a giant step in that direction.

Our appeal documentation proves that Cameroon has done far more for elephant than any other country in Central or West Africa. It is becoming the conservation mecca of West and Central Africa. Nevertheless, the USF&WS has literally had a choke hold on its hunting-based elephant conservation program. It is time to free up the permitting choke hold as well as bring the permitting up to date. - *John J. Jackson, III.*

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 25 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: Leonardo Mocci, The Hunting Report
Re: July 2002 Issue of Conservation Force Supplement
Date: June 25, 2002

Jim,

Here's the July 2002 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 4,800 . Ship overs to us as usual.

Please call me if you have any questions.

Leonardo

P.S. Please make sure that John Jackson gets his 25 copies.