



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 October 2013

## US Fish & Wildlife Lists White Rhino as Threatened

**O**n September 11, 2013, the US Fish & Wildlife Service (USFWS) issued an "Interim Rule" listing of all southern white rhino (*Ceratotherium simum simum*) as threatened under the Endangered Species Act, ESA. 78 FR 55649. The listing was made effective immediately and without prior notice, or a call for comments. Comments are being accepted before the Interim Rule is made final. Comments on or before October 11, 2013 will be considered, but the listing has the force of law now.

The Notice explains that the immediate "threatened" listing is made because of the similarity of appearance of the southern white rhino to those rhino that are listed as "endangered" under the ESA. All other rhino are already ESA listed. Treating the southern white rhino as threatened "will substantially facilitate law enforcement actions to protect and conserve all endangered rhino species." The agency reports that "[o]n January 17, 2012, the OLE (Office of Law Enforcement of USFWS) requested that the southern white rhino be listed as a threatened species based on the similarity of appearance provisions of section 4(e) of the Act and our (FWS) implementing regulations at 50 CFR 17.50." The agency explains that the immediate listing without prior notice, a comment period and re-noticing of the rule is because "persons could seek to take advantage of the regulatory loophole caused by the similarity of appearance with the southern white rhino before this impending regulation under the Act became effective... (and) the Service reasonably believes a spike in the illegal trade and poaching of endangered rhino species could occur with this delay." A USFWS press release

DATELINE:  
**United States**



John J. Jackson III

the day before the official Federal Register Notice, further explained that the similarity of appearance "has allowed traffickers to mislabel the horns of other protected rhino species as white rhino horn in an effort to evade restrictions on sale and transport."

Both the press release of the agency and the Federal Register Notice state that import permits for hunting trophies will not be required. ("The threatened designation will not change current

permitting requirements for sport-hunted trophies of southern white rhino," says the press release, and "Therefore, a sport-hunted trophy of southern white rhino, legally taken and exported from South Africa or Swaziland would not require a separate ESA regulatory permit to import it into the United States" says the FR Notice.) The USFWS cites Section 9(c)(2) of the ESA, which provides that "noncommercial importation into the United States of threatened species that are listed under CITES Appendix II...are presumed not to be in violation of any provision of the Act or any regulation under the Act...." So it is proposing that no import permit will be required for the rhino from South

Africa and Swaziland, but the interim rule is not yet a final rule. Import permits are already required for white rhino imported from elsewhere under CITES because they are on Appendix I, not Appendix II.

The threatened listing does immediately prohibit the sale of white rhino horn in interstate commerce. Readers don't want to get caught selling it interstate or attempting to sell it interstate without a permit. ("[t]his interim rule will...make it illegal for any person...to deliver, receive, carry, transport, or ship southern white rhino... in foreign or interstate commerce...; sell or offer for sale in interstate and foreign commerce any specimen of southern white rhino.") It remains to be seen what interstate commercial transactions will be issued permits.

The rhino is not being listed because of its own status. Southern white rhino are at record numbers despite escalating poaching of all rhino. A "growing market demand is fueling dramatic increases in rhino poaching." A "transition from ordinary poachers to groups has created additional challenges for law enforcement personnel."

The southern white rhino has increased in number. In 1895 it was considered extinct until a small population of less than 20 was discovered in Natal, South Africa. The population has since been built to more than 20,160 in 2012. This is thanks not only to the efforts of the South African government, but also private landowners. The USFWS states that "[p]rivate landowners have made a large contribution toward rhino conservation through private ownership and custodian agreements on behalf of range states, and account for almost 25 percent of the African rhino populations....Private owners contribute roughly 20,000 sq. km. (4,942,110 acres) of land toward rhino conservation efforts." The Notice emphasizes the importance of these privately-owned lands and that "[t]he possible loss of



these privately-owned lands has the potential to result in overcrowding or higher population densities within protected areas...which are already under siege from poachers."

This reasoning and the tenor of the

whole listing suggests that import permits or other restrictions on white rhino trophy hunting are not in the plans. The white rhino benefits from trophy hunting and needs that added, legitimate value more than ever. ■

## Two Articles on Black Rhino Trophy Imports

The following are two short articles recently published on the website of the Sustainable Use and Livelihoods Specialist (SULi) Group of IUCN. They provide additional insight into the conservation significance of the breakthrough in import of black rhino.

Namibia has auctioned two additional permits for black rhino to be taken in 2013. Both are to be taken by US hunters, who were the top bidders. Conservation Force is providing the legal representation of both of those hunters and will continue to represent hunters for these sensitive permits.

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### Rhino trophy imports into the US: Perspectives from the US and the impact on communities in Namibia

The US Fish & Wildlife Service (USF&WS) has recognized the beneficial value of sustainable use of Namibia's black rhino. In April, the Service granted an import permit for a black rhino hunting trophy. SULi members John J. Jackson, III and Brian Jones discuss this decision and its implications from a conservation and trophy hunting, and a rural community perspective.

#### The Conservation and Trophy Hunting Perspective By John J. Jackson, III

The black rhino is listed as "endangered" under the US Endangered Species Act (ESA). Import is prohibited without a permit and no permit has ever before been issued for a trophy of any "endangered" listed species taken in the wild in the 40-year history of the 1973 Act.

The approval was based upon a scientific determination that the hunting enhanced the survival of the species in the wild as well as separate findings that it was not detrimental and it did not jeopardize the species; three findings in total. It was found to enhance the survival by producing needed revenue for recovery and essential management and by directly benefitting local livelihoods which increased community support for the presence of rhino and disincentives for poaching.

Make no mistake about it, this is one instance where the US Fish & Wildlife Service (USFWS) has determined that sustainable use, specifically tourist safari hunting, enhanced the survival of the species in the wild. Conservation revenue is expected to increase substantially from the increased demand of US hunters, the largest safari market. The fixed quota and off-take will remain the same, but demand from the enlarged market is expected to increase the



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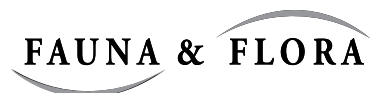
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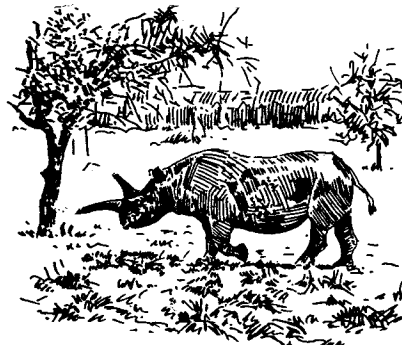

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auction price/conservation revenue. The quota is limited to five per year by CITES Resolution CoP16 13.5 and CoP13 Doc. 19.3. That is four percent of the Namibia population according to the USFWS findings. The Namibia population of the *D. b. bicornis* subspecies, the one permitted, has increased by well over 100 percent since 2001, which puts it over Namibia's 10-year target.

In its enhancement finding, the USFWS highlighted Namibia's National Action Plan, its Rhino Coordinator and its "certification" process for selection of rhino to be taken (limited to post-reproductive males) as examples of its exemplary management practices. Moreover, because aggressive males are "population limiting," removal of post-reproduction males may lead to a "population increase and greater survival." Fifty percent of male rhino die from fighting wounds and 30 percent of females. Translocation of surplus, post-reproductive males frequently culminates in their death and that of productive cows, calves and productive bulls at the translocation site. The hunt price was \$225,000 US Dollars, of which \$175,000 went into Namibia's Game Products Trust Fund, which funds Namibia's rhino program, including community programs to incentivize the local people. The rhino is expected to become the most expensive trophy in the world.

The African Rhino Specialist Group (ARSG) of SSC/IUCN has counseled Namibia from the inception and supported the USFWS's enhancement determination. The USFWS cited in its determination that the program conforms with SULi's Guiding Principles on Trophy Hunting as a Tool for Creating Conservation Incentives, IUCN SSC 2012. I was able to act as the pro bono legal representative of the permit applicant.

The enhancement finding is so unique that I do not believe it will serve as a precedent for other species. Other efforts have been disappointing. For example, I spearheaded the attempted importation of endangered listed Canadian wood bison and Suleiman markhor of Torghar without permitting success, though a District Court did overturn the denial of the wood bison permits. Instead, I was successful with the alternative strategy of downlisting the wood bison from "endangered" to "threatened" which permits trophy importation. A Final Rule on Conservation Force's petition to downlist the Suleiman markhor of the STEP Program in the Torghar Hills of Pakistan is expected in July. Conservation Force was successful in



establishing the US import of flare-horned markhor a few years ago. Unlike the straight-horned markhor, it is only listed as threatened. In that instance the price jumped from \$45,000 to \$150,000.

*John J. Jackson, III is the President of Conservation Force, an IUCN member organization, and a member of SULi. He was originally successful with establishing the import of elephant trophies in the early 1990s.*

### The Rural Community Perspective By Brian Jones

The granting of an import permit for a black rhino hunting trophy by the US Fish & Wildlife Service (USFWS) is good news for rural communities in Namibia. It shows that good conservation practice will be recognized and that communities can gain from their conservation efforts. Black rhino are being conserved in state-run protected areas and on private land in Namibia, but there is also an important population on communal land, particularly within communal area conservancies. The conservancies are areas of land within which communities have been given user rights over wildlife.

Since the devastating poaching of black rhino in northwestern Namibia in the 1980s, the illegal killing of rhino has been reduced to almost zero. There have been only a handful of poaching cases over the past 15 years, and the rhino population on communal land has more than doubled. While the conservation authorities and NGOs have stepped up monitoring and anti-poaching activities, there is common agreement that without community commitment to conservation it would have been difficult to achieve this level of success.

The communal area conservancies in northwestern Namibia are able to gain income from photographic tourism activities as well as from strictly controlled safari hunting. This income is used for a variety of community benefits including communal projects, household cash payments, transport to clinics in remote areas, support to the elderly and human-wildlife conflict mitigation. The income and other benefits, such as meat from community hunts and trophy hunting, help to provide incentives for rural farmers to accept large and dangerous wildlife species such as black rhino, lion and elephant on their land.

The conservancies also plough back a portion of their

income into conservation. They employ game guards that help to monitor black rhino movements and distribution. They contribute staff members and vehicles to annual game counts in partnership with conservation officials and NGO personnel. The conservancies also set aside land exclusively for wildlife and tourism. One conservancy tourism establishment has a highly successful rhino tracking activity for guests and a community-owned tourism concession has a high-end tourist camp that is also based on specialist rhino tracking using community members as trackers.

This conservation effort by local communities has been recognized by the Namibian government, which translocates black rhino from state-run protected areas to conservancies as part of an official rhino custodianship

program. Even if the black rhino are not hunted on communal land, the bulk of the hunting fee goes into the Game Products Trust Fund, which among other things, provides grants to conservancies to assist their conservation activities.

Namibia is well aware of the terrible poaching of rhino taking place in neighboring South Africa and that the focus may shift one day to Namibia. However, ensuring that communities have an incentive to conserve black rhino and are committed to stopping poaching will be one of the key strategies the Namibian authorities use to try to combat rhino poaching.

*Brian Jones is an Environment & Development Consultant based in Windhoek, Namibia. ■*

### Defense of Terk Decision Needs Support

Conservation Force has entered into defense of the Terk decision in New Mexico. We are fighting the motion to overturn the decision that found the admitted discrimination against nonresidents' sheep, oryx and ibex hunting violated the Equal Protection Clause of the US Constitution. If we lose, nonresidents are not likely to ever be able to hunt those species in New Mexico again. If we win, nonresidents will continue to have an equal opportunity at the available licenses in the allocation process.

Although three donors have come forward, we need \$10,000 to \$15,000 more in contributions to fight this round. Conservation Force will not use its general or other dedicated funds to protect nonresident interests, as it is no longer part of our agenda. We will put up a good fight to keep the Terk case intact, but we need separate and independent support from those who care about this issue. Tax deductible contributions can be made to Conservation Force at P.O. Box 278, Metairie, LA 70004-0278. ■



### Two Colorado State Senators Recalled for Passage of Firearms Restrictions

Two Senators in the State of Colorado have been recalled by those that elected them because of their reactionary passage of burdensome firearms restrictions.

The Colorado Springs district of the State Senate President, Senator John Morse, and the Pueblo district of Senator Angel Giron recalled their senators. Senator Morse led the reactionary passage of restrictive gun control laws that will do nothing to improve public safety but did reflect the agenda of the national anti-gun organizations.

The recalls were precedent setting in Colorado, but the legislation that was passed and that led to the senators' removals is still the law. We need more of this!

In the meantime, NSSF reports that firearms incidents in schools have for some time been far below historic levels of the past. Moreover, many schools are developing emergency procedures and

plans to protect students. Some steps as simple as locking classroom doors can be a great help. I suspect more infants die in cribs for unrelated reasons than in schoolroom firearm incidents. There is a siege going on against firearms and ammunition that will not quiet, so everyone who cares needs to say "no" to unrelated restrictions and additional impediments. ■

### Cheetah Numbers Increasing

Dr. Laurie Marker reports in *The State of the Cheetah 2013*, that "[c]heetah populations in Namibia...have risen significantly since the Cheetah Conservation Fund began, and may have even doubled in size." Of course, Laurie suggests it is because of the work of CCF, which no doubt has played a large part. We too think the drafting and implementation of the *Cheetah National Action Plan* and focus on the cheetah arising from the CITES hunting quota, the establishment of the *Predator Committee* with its regular meetings of stakeholders and scientists, and development of sustainable use in the communal conservancies have all played a part. The cheetah is secure in Namibia and the hunting community has played a role in that as well as the CCF. ■

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