



“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: BRITISH COLUMBIA

News... News... News Anti Hunters Target Grizzly Bear Hunting

Over 100 organizations have petitioned British Columbia to close all grizzly bear hunting. The campaign is being lead by the Environmental Investigative Agency (EIA) of the United Kingdom, the international fundraising organization that was so prominent in the listing of the African elephant at the Convention on International Trade in Endangered Species (CITES) in 1989. In the past it has always proclaimed that it was not an anti-hunting organization, but it most certainly is in this instance. Its petition threatens a boycott if all grizzly hunting is not stopped. Another surprise is the action of Defenders of Wildlife. They have also professed not to be anti-hunting but they are circulating the petition to stop the hunting. Petition signers include groups such as the Fund for Animals, Humane Society of the United States, Humane

Society International and others that are wholly opposed to hunting. Despite the false assertions in the Antis' petition, the grizzly is the best managed species in British Columbia and one of the best managed bear populations in the world. The bear is stable or increasing through most of its range



and its habitat is simply enormous by any standard. Its numbers are estimated at 13,000 and its harvest management is conservative. Contrast that with the Florida black bear, which the USFWS (see below) has declined to list as threatened, and the absurdity of the petition to stop all grizzly sport hunting is apparent. Another absurdity

is the Antis are arguing that the bear should not be hunted because of the number being killed as problem animals, instead of more should be hunted to eliminate expensive and wasteful problem animal control. Bear hunting is also being characterized as despicable “trophy hunting” with no recognition being given to the superb hunting experience that more truthfully represents the activity. Conservation Force is one of a small select group that is contending with this new fundraising campaign by the protectionists.

DATELINE: FLORIDA

News... News... News Florida Black Bear Won't Be Listed

The US Fish and Wildlife Service (USFWS) has announced it will not list the Florida black bear as threatened or endangered under the Endangered Species Act. The final notice reverses the earlier determination that it should be listed. In 1991 the USFWS actually made a finding

that the Florida black bear “warranted” listing but did not list it because of higher priorities. This came to a head when the Fund for Animals filed suit in the District of Columbia and the USFWS agreed in a settlement that it would resolve the listing before December 31, 1998. In the Final Notice, 235FR67613, the USFWS recognized that the bear only occupies 27 percent of its former range and has only a fraction of its historic population of 11,500 bears. Despite this reduction in numbers and fragmentation of distribution, it no longer meets any of the five listing factors. There are four separate viable populations of the bear and they are all secure regardless of the 73 percent loss of habitat. It also found that harvest rates of 10 to 13 percent per annum are sustainable and that neither legal hunting nor poaching are a current threat to the bear. Poaching for gall bladders and claws was not found to be significant and the Lacey Act is said to provide all the authority necessary to control it. The main cause of mortality in most areas is road-kill. The USFWS reasoned that the survival of the bear “was more dependent on appropriate management than population size”. It noted that the Florida bear “is similar in population size and total secure habitat” to other parts of the Southeast. It pointed out that the Louisiana black bear, which is the only black bear listed in the US, has a recovery plan that only calls for two viable subpopulations linked by a corridor, while Florida has four stable, habitat-secure populations. This closes a long chapter. It demonstrates the importance of large blocks of public land and management in the survival of species. It is one more sub-species we can continue to hunt.

DATELINE: SOUTH DAKOTA

**News... News... News
Court Won't Address
Non-Resident Issue**

The Federal Court Judge in that criminal case in South Dakota I have written about before has refused to allow the issue of non-resi-

dent discrimination to come up in the proceeding. The case, you will remember, involves several landowners and hunting outfitters who are being prosecuted for transferring their licenses to others. Their defense was, the South Dakota license allocation system unfairly discriminates against non-residents. Hence, the law they allegedly violated is unconstitutional. The judge's ruling is that the crime they allegedly committed is too remote and unconnected to the license allocation system for them to have standing to challenge the whole license allocation system. Specifically, the court ruled that “Defendants’ attempt to ensnare the entire licensing scheme in this constitutional challenge is simply too sweeping.... Defendants are challenging the constitutionality of a statute and regulations which they are not charged with violating.... A finding that the quota system discriminates against interstate commerce would not change the fact that transferring licenses is prohibited. In the end, defendants fail to meet their burden of establishing that they have standing to challenge the quota on nonresident licenses.... The anti-transfer provisions apply equally to nonresidents as well as resident license holdings... be they nonresident or resident, is the same: they cannot transfer their licenses.... [thus] the Court finds that the anti-transfer law [itself] does not burden interstate commerce in any way.” Conservation Force submitted two lengthy but specific briefs on the non-resident issue but the court did not reach the merit of those issues at all because of the decision that the criminal defendants did not have standing to challenge the discriminatory licensing system. The defendants are expected to appeal the court avoidance of the issue, so the legal review of the non-resident discrimination may still occur in the case at a later date. This criminal case could have been decisive, had the court reached the issue. Now, all hope of resolving the issue of discrimination against non-resident hunters rides on the Wyoming and Arizona cases. They once and for all will decide what rights, if any, non-resident hunters

JOHN J. JACKSON, III
Conservation Force



“SERVING THE HUNTER WHO TRAVELS”

World Conservation Force Bulletin

Editor/Writer

John J. Jackson, III

Publisher

Don Causey

Copyright 1999© by Oxpecker Enterprises Inc. ISSN 1052-4746. This bulletin on hunting-related conservation matters is published periodically free of charge for subscribers to *The Hunting Report*, 9300 S. Dadeland Blvd., Suite 605, Miami, FL 33156-2721. All material contained herein is provided by famed wildlife and hunting attorney John J. Jackson, III with whom *The Hunting Report* has formed a strategic alliance. The purpose of the alliance is to educate the hunting community as well as proadvocacy of hunting rights opportunities. More broadly, the alliance will also seek to open up new hunting opportunities worldwide and ward off attacks on currently available opportunities. For more information on Conservation Force and/or the services available through Jackson's alliance with *The Hunting Report*, write:

Conservation Force
One Lakeway Center, Suite 1045
Metairie, LA 70002
Tel. 504-837-1233. Fax 504-837-1145.

For reprints of this bulletin or permission to reproduce it and to inquire about other publishing-related matters, write:

The Hunting Report
9300 S. Dadeland Blvd., Suite 605
Miami, FL 33156-2721.
Tel. 305-670-1361. Fax 305-670-1376.

have. In both cases discrimination against non-residents is directly at issue because they revolve around specific civil requests for the courts to review and declare if the artificial legal barriers against non-resident hunters are unconstitutional. In both cases, the respective state Attorney Generals are arguing that non-resident hunters don't have standing because their interest is only recreational, thus not protected and that outfitters that do have protected commercial interest aren't themselves being denied licenses. If neither recreational hunters

nor commercial outfitters and guides have standing, no one does. We are arguing that outfitters are wholly dependent upon their non-resident clients getting licensed, that they suffer the severest economic injury because of the discrimination and that their very occupation depends upon licensing of non-residents. The courts have traditionally been unsympathetic to complaints by non-residents with only recreational interest. The two pending suits directly address the most important non-resident issue, the opportunity to get licenses at all. The opportunity

to get a license should be treated more importantly by the courts than they have treated lesser hindrances like higher pricing and other requirements such as guide requirements. The whole issue is more complex than it appears on the surface. In some western states, more than 80 percent of the revenue generated by hunting comes from a very limited number of non-residents who literally subsidize the residents, who are favored and pass their share of wildlife costs directly and indirectly on to others. The pending cases are important and Conservation Force is

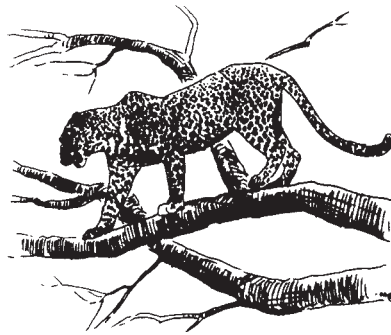
Briefly Noted

working on them around the clock.

Canadian Wood Bison: The US Fish And Wildlife Service (USFWS) has denied a petition to downlist the Canadian Wood Bison. In its denial, the USFWS states that population levels have not yet reached the recovery management objectives set by the Canadian authorities. The Canadians did not participate in the downlisting petition. In other words, the petition that was filed by a private individual was deemed premature. Nevertheless, the USFWS indicated that perhaps it would be receptive to allowing import of captive-bred wood bison taken by sportsmen when the USFWS's budget and circumstances allow it in the future. The presumed reference here is to what's called "the bontebok exception." Bontebok are a species of antelope in South Africa which are listed as endangered but which can be imported under select circumstances. The wood bison was downlisted at the last CITES meeting. Nevertheless it remains listed on the US Endangered Species List. Its recovery is partly due to conservation efforts by Conservation Force's partner in Europe, Prince Abdorreza's International Foundation for the Conservation of Wildlife.

Congo Leopard: The USFWS has also denied a test import permit for leopards from Congo-Brazzaville that had been filed by the Conservation Force Congo Task Force. The application

was filed in June of 1998 in the name of Christopher Kinsey who was to hunt with Eric Stockenstrom. Many scientists believe Congo holds one of the most dense leopard populations in the world, but this is the first attempt to import one into the US. We are checking with all interests and expect to appeal the denial. The denial presents an alarming new twist never before raised by the USFWS. The Office of



Scientific Authority (OSA) denied the permit on the basis that under Res. Conf. 10.14 only leopards from countries that have quotas set at a CITES conference can be either exported or imported. It is no longer within the power of exporting and importing nations to make a non-detriment determination. It can only be determined at a full conference by all of the nations as a body. This interpretation is clearly outside the bounds of the Treaty and was never discussed as such when Res.

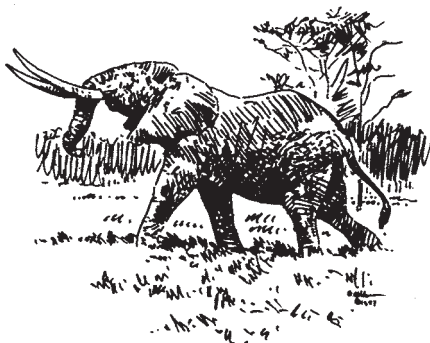
Conf. 10.14 was adopted. The irony is that the US has gone full swing in a few short years, from not giving any weight to CITES leopard quotas adopted by a full conference of the parties (the Mozambique leopard quota, for example) to only recognizing leopards within the quota. Not surprisingly, OSA still does not honor the quotas when they are adopted by the parties as a whole either! Regardless, the resolution the OSA relied upon is only a "recommendation" and no interpretation can be outside of the Treaty that was intended to allow trade in sport hunting trophies without a quota adopted by a full conference. The parties devised conference quotas to facilitate export and import of trophies, not to obstruct them. This is the first advice rendered on a proactive test import permit for trophies by Susan Liebermann since she became Chief of OSA. It makes adoption of quotas by a whole conference mandatory hereafter, though it only applies to leopards, which are the most numerous cats in the world. It is the epitome of bureaucracy in that it reduces management options, adds delay and goes beyond the Treaty - all for a species that most certainly does not need this kind of intense scrutiny. If the procedures adopted here are extended to other listed game species, range nations will be deprived of the sovereign right to make their own non-detriment determi-

nation for both export and import.

Impossible To Fail: My good friend, J.Y. Jones, who was so instrumental in establishing the import of polar bear into the United States, has published a book about the epic success. It's called *Impossible to Fail* and it is available for \$34.95 (Deluxe Edition, \$100.00) at 800-321-5692; or online at amazon.com. Believe me, I can still remember the Secretary of Interior holding me by my coat lapel and stating we would never get polar bears in! Jones learned of this but was undaunted and acted as if it was “impossible to fail,” hence the book title is certainly appropriate.

Antis' admit purpose behind CAMPFIRE attack and Refuge Compromise: *Animal Law* is published by the students of the Northwestern School of Law of Lewis and Clark College. It is funded by the Animal Legal Defense Fund of California. The most recent issue contains an essay entitled “The Fruits of Our Labor” about the 105th Congress. It was written by the Director of Grassroots Campaigns of The Humane Society of the United States (HSUS)- that is, Nancy Perry, a law school graduate from there in 1995. According to Perry, the anti-CAMPFIRE amendment her group backed (namely, the Fox-Miller amendment to House Bill 2159 on 1998 Foreign Operations Appropriations) “...sought to bar the use of American tax dollars from supporting or promoting trophy hunting...” (What she neglects to mention is that the annual federal tax revenue from hunting exceeds budget appropriations for the entire Interior Department for two years). She goes on to state that “CAMPFIRE relies primarily on the promotion of trophy hunting of elephants and other endangered and threatened species to generate funding for infrastructure projects to local people.” She also claims that “the same organizations that administer CAMPFIRE.... also supported efforts by foreign governments to weaken the Endangered Species Act by pushing for amendments to allow the import of trophies of endangered and threatened species to the United States.” At the time, you'll re-

member, the amendment was not supposed to be against sport hunting. Clearly, in light of what Perry has now written, it indeed was against sport hunting. The Fox-Miller amendment by Representatives Jon D. Fox (R-PA) and George Miller (D-CA) failed by a vote of 159 to 267. It was a shameful attack on hunters and hunting and poor indigenous people and one of the



world's best conservation models.... Turning to the National Wildlife Refuge System Improvement Act, Perry says this bill did not turn out as well for sportsmen as we expected. The “original 1997 House Bill 511....,” she writes, “elevated hunting and commercial trapping to purposes of the System” but the “...compromise bill that passed only raised hunting, fishing and other recreational activities to priori-

ties but not purposes of the System.” What this means is that hunting must still be shown to be “compatible” with the particular refuge. The recent Fund for Animals suit against bison hunting and winter feeding of elk and bison has raised the issue of purposes and compatibility. What their press release does not give a clue to is that they lost on that point. The federal judge expressly found that the feeding and hunting did not violate the Refuge Act because Congress gave refuge managers authority to manage the resource. The Fund's only victory is that it's now necessary to do a review of the matter under the National Environmental Protection Act. That will only cause a short delay in hunting and feeding. After reviewing the actual decision as distinguished from the Fund's press releases, the court decision is rather innocuous. The Fund alleges a lot more than it can prove. They did not prevail on most of their arguments.

Teer Retiring from Welder Wildlife: Dr. Jim Teer, an important Conservation Force Board member, is retiring as Director of the Welder Wildlife Foundation in Texas after 20 years. The Welder Wildlife Foundation is a nonprofit wildlife and education foundation in southwest Texas that houses one of the most complete wildlife libraries in the world. Over 300 people attended his retirement banquet in November as a tribute to him. There are few if any wildlife scientists of his standing in the world. He previously served Texas A&M where he was the head of the Department of Wildlife and Fisheries Science for nine years and Professor for 17 years. He is Past President of The Wildlife Society and received its most prestigious award, the Aldo Leopold Memorial Award. He has authored more than 100 scientific publications and is presently the Chairman of the North American Sustainable Use Specialist Group of the International Union for Conservation of Nature and Natural Resources (IUCN). He plans to return to Texas A&M as a visiting professor and will be able to devote more time to Conservation Force. We are proud that he has been on the Conservation Force team from its origin.

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

December 30, 1998

To: Jim Young, Print N Mail
From: Nilton Aquino, Oxpecker Enterprises
Re: Print run for January 1999 Conservation Force Supplement

Jim,

Here's the file for the January 1999 issue of the Conservation Force Supplement, to be inserted in the January 1999 issue of The Hunting Report. Don't forget to insert John Jackson's picture on page 2. Please fax "blue lines" for approval ASAP.

Total print run is 4,380. That includes 4,077 copies for insertion into The Hunting Report (active circulation); and 50 copies to be shipped directly to John Jackson. The remaining 253 copies are to be shipped to us here in Miami. As usual, bill John Jackson for all costs relating to Conservation Force.

Please call if questions.

Nilton