



“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**

Animal Extremists

Two of the purposes of Conservation Force are to monitor and to contend with the animal extremist, anti-hunters. Normally, this is done discreetly and confidentially. This month there is so much in motion, some serious and some silly, that we take a glimpse at it.

The Fund Sues and Sues: The Fund for Animals is not bashful about filing lawsuits. Win or lose, it fully utilizes the judicial branch of government. Through litigation, it totally stopped the sport hunting of game animals listed as “threatened” under the Endangered Species Act (ESA) by first winning the Minnesota wolf suit and then the Montana grizzly suit. Since then, it has attempted to apply those decisions to the hunting of threatened species in foreign lands such as elephants and leopards in Africa and argali in Asia indifferently to the fact that those listed species have little if any other benefits other than those arising from regulated sport hunting. Recently, they claim to have gotten a temporary restraining order to prevent

deer hunting at Hilton Head Island Wildlife Sanctuary in South Carolina. They have another suit to stop pigeon shoots in Pennsylvania on the basis that such hunts are inhumane in violation of the cruelty laws. They have



a similar cruelty case against pigeon shooting at the Dallas Gun Club in Dallas, Texas. Those two states lead the nation in the number of hunters, save for Michigan, but the Fund does not seem to care. They are shaping the jurisprudence governing cruelty into

an anti-hunting tool much as they previously did with the ESA in the wolf and bear cases. But that is not all! They have just filed a case in Wyoming federal court over bison and elk hunting. They are using another strategy here that must be studied and monitored. The suit was filed in October. It targets the supplemental feeding of elk and bison at the Jackson Hole National Elk Refuge. It alleges that three agencies (the US Fish and Wildlife Service (USFWS), the National Park Service and the US Forest Service) have all violated the National Environmental Policy Act (NEPA) by feeding both elk and bison without proper review. The agencies are also claimed to have violated NEPA by failing to consider “non-lethal” bison management alternatives (birth control). In addition to the NEPA claim, they assert that the “compatibility clause” of the newly reformed National Wildlife Refuge System Administration Act has been violated. They raise this issue by

claiming that the supplemental feeding program (for both elk and bison) was not ever specifically determined to be “compatible” with the Refuge’s statutory purpose. “The Fund also opposes the supplemental feeding of elk and bison on the Refuge” because “...[t]he supplemental feeding program has led to increases in the (elk and bison) populations which have been dealt with by increasing or establishing hunting seasons.” They assert that hunting changes the behavior of the animals and thus robs the Fund’s members of wildlife-watching opportunities. Further, they claim that USFWS has “...never undertaken any environmental review” under NEPA concerning the supplemental feeding program for elk on the National Elk Refuge and has “...never prepared a compatibility determination” concerning the supplemental feeding program for elk. The National Environmental Policy Act

and National Wildlife Refuge System Administration Act are laws that were enacted by sportsmen but are now being used against the interest of hunters. The argument that fertility control has to first be fully considered as an alternative to hunting for hunting programs to be legal on federal lands is a relatively new tactic but I fear it will have to be contended with from now on. Second, the claim that pro-hunting management is itself an undesirable alternative because hunting-type management such as supplemental feeding creates or perpetuates the alleged over-population problem, is also a new anti-hunting spin that is becoming more common. Since the Antis are losing their fallacious argument that regulated sport hunting threatens game animals, they opportunistically have taken the very opposite position, i.e., sport hunting creates too many animals. The issues and headaches raised in the 22-page lawsuit provide insight into why federal agencies today seem to dance more and more to the anti-hunters’ tune. This case may determine whether the recent reform of the National Wildlife Refuge System Administration Act that made hunting a priority use really protects hunting sufficiently or was too much of a compromise because of the renewed emphasis on “compatibility.” The new emphasis on “compatibility” in the Refuge Reform Act may be the reason so many opponents of hunting consented to its passage. An amazing 307 refuges are open to fishing and 290 refuges offer hunting. More than one out of 14 hunters hunt on refuges and sportsmen help pay for their acquisition through the Duck Stamp Program. The refuges are managed by USFWS, not state authorities, consequently the decision in this case can affect hunting and management on all of the refuges in the entire refuge system across the nation. Worse, the consideration of alternatives under NEPA can apply to all federal lands, not just to refuges. That is 650 million acres of land.

Cleveland Amory is Dead: Cleveland Amory died on October 14, 1998. He founded the Fund for Animals in 1967

New Way to Get Permit Applications

- The USFWS has set up a free fax retrieval system so that hunters can get trophy import permit applications more readily. The different kinds of applications have been given separate numbers so they can be more easily ordered. You can have copies of applications faxed to you by calling 703-358-2348 from a touch-tone phone. Simply follow the recorded instructions for entering your fax number and the desired Document Numbers. The most common permits and their Document Numbers are as follows: Elephant trophy - Doc. No. 2019; Leopard trophy - Doc. No. 2019; Polar Bear trophy - Doc. No. 2045; Argali trophy - Doc. No. 2021; Bontebok trophy - Doc. No. 2022; other ESA animal species trophies - Doc. No. 2037; other CITES Appendix I Hunting trophies - Doc. No. 2031. You can also download the applications from the USFWS Internet address, www.fws.gov/r9dia/index.html. Click on the permits category to obtain application packages.

JOHN J. JACKSON, III
Conservation Force



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and led it as President until his death - 31 years. The Fund reports that Cleveland was buried next to a cat. He was a leading opponent of sport hunting. His background demonstrates why. At Harvard University, he was editor of the *Harvard Crimson*. Later, he became the editor of *The Saturday Evening Post*. He served for 11 years as social commentator on *The Today Show* and from 1963 to 1976 he served as chief critic for *TV Guide*, wrote a column for the *Saturday Review* and did a daily radio essay. With that sort of background, he brought a lot to the animal extremist side that it otherwise did not warrant. He was a prolific writer and one of his many books is said to have been the basis for the TV special, *The Guns of Autumn*. The Fund claims that he is the father of the American anti-hunting movement of today. For the first 20 years, the hunting world largely slept while Amory toiled. Suffice it to say that the threat to hunting and wildlife management will continue to be a nuisance for a long time to come. Nevertheless, sport hunting, particularly big game hunting, remains the conservation paradigm today, continues to have pace-setting growth and is all pervasive.

SPECIAL REPORT

Regulatory Matters
ESA Listing Could Stop
Varmint Hunting, More

A number of game animals have recently entered the Endangered Species Act (ESA) listing process. The National Wildlife Federation (NWF) filed a petition for the “emergency” listing of black-tailed prairie dogs throughout its range of 10 states. The USFWS has already declined to treat it as an “emergency” but is otherwise processing the petition. There are five species of prairie dogs in the US and two are already listed. The NWF admits that the black-tail has the absolute largest distribution, density and most numerous total numbers of all prairie dogs but goes on to claim that the rodents’ habitat is

too small and fragmented and that it is being over-utilized. The petition states that hunting of the species “...could easily be managed to have minimal impact on black-tailed prairie dogs.” That statement should not be taken out of context, however, as no sport hunting whatever would be legal if the species is listed as threatened as the NWF suggests. Threatened species cannot be hunted within the US. In fact, no hunting of any kind of prairie dog is likely again in our lifetimes in those 10 states if the species is listed. To my chagrin, the NWF expressly asserts that varmint hunting is one of the principal reasons the rodent should be listed. For pages, the petition vents that prairie dog hunting is unregulated, without quota, unlicensed and excessive. The NWF exercised no



restraint in attacking such hunting. In fact, if there is any brilliance in the lengthy listing petition, it is in the unabashed verbosity against prairie dog hunting. If the NWF is successful, they will have single-handedly added a lot of qualifications to the common belief that sport hunting has never endangered a single species. Whatever the underlying objective, all such rodent hunting is now to be at issue and may cease forever. Is this crying wolf? Not so long ago the wolf was varmint too.... Other species being considered currently are the Canada lynx in Canada and the US (comments accepted until November 16, 1998); the Idaho ground squirrel (comments accepted until November 20, 1998); and the Big Cypress fox squirrel in Florida, which is already listed by the state of Florida itself (comment accepted

until December 8, 1998). Once listed, these species are unlikely to ever be hunted again in our lifetimes and the hunting of other species in the same habitat can be affected.

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■ While we are on the subject of ESA listings, it is worth noting that animal and plant species are treated very differently under this act, depending on whether they are domestic or foreign species. Most listed species of animals are foreign, while most listed species of plants are domestic. The box score is as follows: Of those animals listed in the “endangered” category, 521 are foreign and only 350 are domestic. The opposite is true of plant species, i.e., only three foreign plant species are listed in contrast to 669 domestic plants. Perhaps the different treatment of animals and plants provides some insight into the real reason species are selected. It is not for the species’ interest. It is for bio-political reasons of the agency. The USFWS lists foreign animals, not foreign plants. It readily lists foreign animals over the objection of the range nations. There are far fewer North American mountain lions than leopard or jaguar, yet only the latter are listed as endangered or threatened. There are fewer black bears than elephants but only the latter are listed. There are only a few hundred grizzlies in the Lower 48. They number fewer than tigers or black rhino but the grizzly is only considered threatened, while the foreign species are treated as endangered. The USFWS so readily lists foreign animal species because it is easy to do so and because the agency has little regard for state or foreign authorities. Also, it costs the agency little to list a foreign animal species because the ESA does not provide benefits for foreign animals. But there is another reason even more base. Listing them creates an illusion that the ESA is performing more than it is even though most of the animal species don’t benefit and range nation programs are actually obstructed by the listing action.

Briefly Noted

Serious New Penalties for Migratory Bird Baiting:

In the waning hours of the Congressional session, the Bird Baiting bill I have mentioned in these pages before did pass the Senate and is on the President’s desk for his signature as this is written. The legislation overrides the longstanding USFWS regulation applying strict criminal liability (irrefutable presumption of knowledge) to hunters found hunting in baited areas. The USFWS refused to change the regulation itself so Congress did. The new standard will not appreciably lessen the conviction rate, except in rare instances, though it may protect the truly innocent. There is an 88 percent conviction or guilty plea rate in Louisiana, Mississippi and Texas, where the courts have long applied the Delahoussaye “knew or should have known” standard. In those states where the new rule has already been applied, 2,042 of 2,318 cases from 1984 to 1996/1997 resulted in guilty pleas or convictions. But there is more that you must really be alerted to. The new legislation has more than doubled the penalties! Before, the baiting offense was punishable by up to six months imprisonment and a \$500 fine. Now, imprisonment can be up to one full year and the potential fine is \$15,000. So be forewarned. Under the new legislation you will probably have to make an inquiry as to whether the hunting area is baited and make an inspection to make sure it is not baited; otherwise, you will be convicted on the basis that you “should have known” even if you did not in fact know of the presence of the bait. As a safeguard the Migratory Bird Treaty Reform Act of 1998 also expressly provides that the USFWS must do an analysis and report to House and Senate committees on the effect of the amendment before the passage of five years. The report is to cover the effect the reform has had on the general practice of baiting, on migratory bird conservation and its effects on law enforcement efforts as well. Thus, those who abuse the reform effort may hurt one and all.

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The Rhino Tiger Conservation Act Amended:

The Rhino Tiger Conservation Act of 1994, which yours truly first suggested, has also been reformed in the last days of this Congress. The sale, importation or exportation of rhino and tiger parts or substances that are labeled to contain those parts is now illegal if it is intended for human consumption or application. This added language is intended to prohibit medicinal uses of rhino and tiger. It appears to apply equally to white rhino of South Africa that is not listed on the Endangered Species Act at all or thought to any longer be at risk. It is not intended to apply in any way whatsoever to the import or export of hunting trophies.

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Ballot Initiative Before US Supreme Court:

A Colorado law placing requirements on signature gatherers for ballot initiatives is being reviewed by the US Supreme Court. The lower federal court held that the Colorado requirements that people gathering signatures be registered voters and wear ID badges indicating that they are being paid to gather signatures were in violation of free speech rights. It is not the first such case. A decade ago the

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 Abdorrezza 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

US Supreme Court held in another Colorado case that it was unconstitutional to prohibit the payment of signature gatherers. This matter bears watching because of the increasing importance of the ballot initiative process to hunting interests.

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Kenya Wildlife Director: After a struggle over most of the past year, Richard Leakey has regained his position as Director of the Kenya Wildlife Service (KWS). He replaces the high scientifically respected David Western who has held the position since Leakey resigned. Both men are thought to favor safari hunting, but the renewal of safari hunting in Kenya relies upon far more than who directs the KWS. It depends on the will of the local people as well as the highest politicians.

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USFWS Voluntarily Terminates the Reintroduction of Red Wolves:

The USFWS has given up on reintroducing red wolves in the Great Smokey Mountains National Park in North Carolina and Tennessee. This is because of the “extremely low pup survival and the inability of the red wolves to establish home ranges within the park.” The goal was to establish three separate wolf populations of at least 220 animals total but the pups were being killed by coyotes, black bears, other predators, canine diseases and parasites according to USFWS. Most of the adults that had been released have been recaptured and removed for future reintroduction elsewhere.

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Minnesota Gray Wolves Will Not Be Hunted:

Although the USFWS has announced that it intends to downlist the thousands of gray wolves in Minnesota, the wolves will not be given game animal status. The state authorities have no intent of allowing the hunting of the wolves even though the population has long been more than double the recovery goals of the USFWS. Sport hunting has been thoroughly and fully considered but totally rejected for the foreseeable future. - John J. Jackson, III.

MEMO

October 28, 1998

To: Jim Young, Print N Mail
From: Elaina Panozzo, Oxpecker Enterprises
Re: Print run for November 1998 Conservation Force Supplement

Jim,

Here's the file for the November 1998 issue of the Conservation Force Supplement, to be inserted in the November 1998 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 4,200. That includes 3,910 copies for insertion into The Hunting Report (active circulation); and 50 copies to be shipped directly to John Jackson. The remaining 240 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 --
Elaina