

*Wildlife and Hunting Heritage  
Conservation Council*

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July 19, 2012

Dan Ashe, Director  
U.S. Fish and Wildlife Service  
1849 C Street, NW  
Washington, D.C. 20240

**Re: Wildlife Hunting Heritage Conservation Council Requests Modifications in the U.S. Fish and Wildlife Services' Approach to International Hunting Trophy Importation**

Dear Director Ashe:

As conservationists representing millions of hunters and anglers nationwide, including many who hunt internationally and seek to import and export their trophies into and out of the United States, the Wildlife and Hunting Heritage Conservation Council (Council) requests that you modify U.S. Fish and Wildlife Service (Service) practices regarding the importation and exportation of hunting trophies. For the past few years, the Service has adopted a very strict interpretation when dealing with the importation and exportation of trophies that suffer from some technical or procedural irregularity. Service port personnel often seize such trophies rather than allow for other less drastic means of dealing with documentation or other technical problems.

Hunters are one of if not the most valuable of the Service's tools for encouraging international conservation, particularly in countries that lack the resources to manage their native wildlife. Instead of being recognized for their contributions to conservation successes, some hunters are being unfairly penalized for minor, and insignificant errors in their efforts to import their trophies. As a consequence, hunters who have participated in international hunts that enhance the propagation and/or survival of a wildlife species and who have had no intention of violating U.S. or any other country's laws have been deprived of their trophies, fined and subjected to other penalties. The Council recommends that the Service revise its approach to focus on wildlife species conservation. The Service should reserve seizure of trophies for those cases where there is clear intent to defraud one or more countries' Management Authorities or evidence of a conservation detriment to the species in question.

Attached to this letter are the Council's eight recommendations for methods by which the Service can modify its approach to hunting trophy importation. They include: proposed 1) amendments to CITES resolutions and/or decision documents; 2) modifications to FWS manuals, policies, Directors' Orders, guidance documents and/or practices; and 3) coordinating efforts with representative organizations of the international hunting community.

The Council recognizes that the Service may already be in the process of implementing some of these changes and we applaud these efforts. These initial steps are an excellent first move, but more is required to remedy the situation that currently

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inhibits the U.S.'s ability to participate in and encourage sustainable use conservation world-wide.

Thank you for requesting that the Council engage in this important topic and we thank Service staff who participated on the sub-committee that studied the CITES concerns. The Service should adopt a consistent and formalized approach to hunting trophy importation, as outlined in the attached recommendations, in order to remedy the obstacles that are inhibiting U.S. contributions to international wildlife conservation.

We look forward to working with the Service on this important effort and in all efforts that support hunting as a means of sustainable use wildlife conservation both within the United States and world-wide.

Sincerely,

A handwritten signature in black ink that reads "John Tomke". The signature is written in a cursive, flowing style.

John Tomke, Chair  
Wildlife and Hunting Heritage Conservation Council

attachment

**Wildlife and Hunting Heritage Conservation Council's Recommendations to  
the U.S. Fish and Wildlife Service to Address Hunting Trophy Importation  
and Exportation Conflicts – July 19, 2012**

Over the last few years, the international hunting community has noted an increase in the number of trophies seized by the U.S. Fish and Wildlife Service (FWS) due to clerical, technical and/or procedural import and export documentation errors or insufficiencies. These errors or insufficiencies cause the FWS to consider invalid the import and/or export permits associated with these trophies and to consider the importation of these trophies a violation of federal law. The Wildlife and Hunting Heritage Conservation Council (WHHCC), representing the hunting community generally, has developed several recommendations that would reduce trophy seizures based on clerical, technical and/or procedural CITES and ESA errors or insufficiencies without undermining the U.S.'s efforts to encourage and support foreign species conservation. Many of the seized trophies are listed on Appendix I or II of CITES and/or on the threatened or endangered lists of the U.S. Endangered Species Act (ESA). Not only are those trophies of great personal and financial value to the hunter/importer who hunted the animal and seeks to import and preserve the trophy from that hunt, but the hunts resulting in these trophies have, in most cases, enhanced the propagation and survival of the species from which the animals were taken. Seizure of these trophies not only has a profound personal and financial impact on the hunter/importer, but it also has a dampening impact on hunting programs that assist, finance and encourage foreign species conservation.

The WHHCC recommends that the FWS place substantive conservation benefits over technical compliance. Where a hunting and importation program has been determined to enhance the survival of a species, the FWS should not let mere clerical, technical and/or procedural errors and inconsistencies in documentation take a prominent role in the determination of whether a hunting trophy taken from one of these programs should be allowed into the United States. The WHHCC's recommendations are also intended to help the FWS –with its limited personnel and financial resources – to better focus its efforts on substantive conservation of foreign species.

The WHHCC commends the FWS efforts to more openly communicate with the hunting community, to better educate the hunting community about importation and exportation requirements, and to provide viable alternatives to seizures in a number of circumstances. The WHHCC strongly recommends the continuation of this enhanced communication and collaboration between the hunting community and the FWS. In particular, the WHHCC applauds the FWS's decision to designate CITES proposals regarding leopard trophy importation and a

retrospective permit process for certain Appendix I specimens, for consideration at CITES CoP16. These proposals, if adopted by the CoP, should help greatly to alleviate problems being encountered by hunters in the importation of their trophies into the United States.

In addition, the WHHCC makes the following specific recommendations to further facilitate the importation and exportation of hunting trophies as a component of the sustainable use conservation of foreign species:

- 1) The FWS should move forward with its plan to propose to revise Resolution Conf. 10.14 (Rev. CoP 14), Quotas for leopard trophies and skins for personal use, and Resolution Conf. 12.3 (Rev. CoP 15), Permits and certificates, to make them consistent with respect to what quota/quantity information should be included on a leopard trophy tag and on the accompanying CITES permit. The WHHCC fully supports this plan and questions only whether the FWS should consider expanding this proposal to include importation for other species with quota requirements.**

Explanation: At present, the language of Resolution Conf. 10.14 (Rev. CoP 14) and Resolution Conf. 12.3 (Rev. Cop 15) leave unclear whether the export permit and tagging documentation is required to identify the quota of the year in which the trophy was taken or the quota of the year in which the trophy is being exported, or both. Conf.14.7 Annex: *Guidelines for management of nationally established export quotas* recognizes that this could be a problem and specifically notes:

“It is recognized that there are some cases in which it is likely that the export of specimens removed from the wild will occur after the year in which the removal took place, as happens with hunting trophies.”

The WHHCC agrees with the FWS’s plan to propose an amendment related to importation of leopard trophies that will clarify the requirements for exportation documentation. The WHHCC suggests that the same type of amendment would be appropriate to deal with similar documentation problems regarding other species with quotas such as Nile Crocodile and African Elephant.

- 2) The FWS should move forward with its plan to propose a retrospective permit process for certain Appendix I specimens with high conservation**

**value. The WHHCC commends the Service for including this proposal, on the assumption that it is intended to apply to Appendix I hunting trophies. If that was not the FWS's original intention, then the WHHCC recommends that the proposal be amended to apply to hunting trophies in addition to other specimens.**

Explanation: This proposal demonstrates the FWS's commitment to placing substantive conservation over procedural perfection in cases involving technical or paperwork errors that threaten to jeopardize importations that enhance the survival of Appendix I species. The WHHCC commends the Service on its decision to initiate this change in CITES's approach to retrospective procedural compliance.

- 3) The FWS should support an amendment to CITES Conf. 9.9, if made by another party to CITES, that would make "seizure and confiscation of specimens exported or re-exported in violation of the Convention" "generally preferable" only in cases involving hunting trophies where there is evidence that the importer purposely intended to defraud the exporting or importing country's management authority and/or where there is evidence that the importation would be detrimental to the survival of the species in the wild.**

Explanation: CITES' "generally preferable" confiscation approach can prove a reasonable deterrent to those who seek to violate the system and whose importation purposes pose no benefit to the species being imported. It can also prevent illegally imported species from being recirculated in trade for repeat attempts at illegal importation. These concerns are not at issue where 1) an individual's taking and importation genuinely benefits the species' conservation in the wild; 2) the CITES violation results from biologically harmless, inadvertent, rather than intentional conduct; and 3) the importation is of a personally hunted trophy that the importer seeks for his own personal use and enjoyment.

As the FWS has already published the proposals it intends to make at CoP 16, it is unlikely that the FWS will be able to add a new proposal at this time. For this reason, the WHHCC recommends that the FWS plan to support this type of proposal if and when it is offered at the CoP by another party.

- 4) The FWS should amend the FWS Manual, Law Enforcement, Wildlife Inspection Section 443 FWS 1, 1.17 A., or draft a FWS's Director's Order for internal FWS communication, with language that relieves FWS personnel from the obligation to consider seizure or abandonment before any other options in cases involving clerical, technical and/or procedural errors or insufficiencies in export or import permit documents for hunting trophies. For example, Section 443 FWS 1, 1.17 A of the FWS manual could be amended as follows [amended language appears in *italics*]:

**“Officers should consider seizure or abandonment before any other options *in circumstances where there is evidence of intent to violate the importation and exportation requirements of the ESA and/or its regulations and/or evidence of a disregard of the ESA’s conservation purposes.*”**

In addition, the remaining language of 1.17 could be amended as follows [amended language appears in *italics*]:

**“There are five options Service officers may choose for the refused shipment. The Service officer should select the option based on the commodity, the quantity, the violation history of the violator, the violations detected *and the significance of the violation to the conservation of the species based on consultation with the CITES Management Authority of the exporting country.* Service officers must ensure that the shipment does not violate any U.S. laws or regulations other than those enforced by the Service before considering options other than seizure. *Service officers should avoid taking action to seize or require abandonment of a hunting trophy for clerical, technical and /or procedural errors and omissions of government authorities, or disagreements between governments and/or where, after consultation with the exporting management authority it is determined that there is no dispute about the authenticity of the export documentation pertaining to that trophy.*”**

Explanation: The FWS considers invalid any import/export documentation that bears *any* clerical, technical or procedural error or insufficiency and therefore considers the associated importation to be a violation of the law. Currently FWS internal guidance directs the Service to address such violations by considering seizure or abandonment as the

agency's primary recourse. The WHHCC's recommendation does not seek to change this prioritization generally but seeks only to modify the prioritization of recourse in circumstances involving clerical, technical and/or procedural errors or omissions involving the importation of hunting trophies, where there is no indication of a larger, more substantive violation of law and in particular where there is evidence of a conservation and/or enhancement of survival benefit to the species being imported. Generally, for species listed as "threatened" or "endangered," the FWS has made a finding, independent of CITES requirements, that the importation of this trophy "enhances the propagation or survival of the species." In other words, the FWS has not simply determined that the pending importation is not detrimental to the species (pursuant to CITES resolutions). Instead, the FWS has made the finding that the importation is beneficial to the species. Penalization via seizure and forfeiture of a trophy for a mere clerical technical or procedural based violation undermines the conservation benefits that accrue from the sustainable international hunting program from which the trophy was taken. The WHHCC's recommendation seeks to remove obstacles to the FWS's efforts to encourage those international conservation efforts.

- 5) The WHHCC supports and encourages expansion of the FWS's current effort to offer non-binding pre-review of import documentation upon request from prospective importers. The WHHCC recommends that the FWS formalize, publicize and make department-wide these services. To do this, the FWS should develop and distribute internal agency guidance informing port personnel to agree to pre-review export documents when requested by hunter/importers. While these pre-reviews do not guarantee that a shipment, once imported or consigned for export, would be legal and free of violations, this is a valuable service and should help to limit clerical and technical errors on documentation.**

Explanation: The WHHCC commends the Service for already implementing the above-recommendation. Representatives of WHCCC sporting organization members as well as other representatives of the hunting community are informing their members of the availability of this important tool. The WHHCC seeks to have this strategy codified and applied consistently throughout the entire department. This strategy could benefit from a communication from the Director that the pre-review, non-binding process is a department-wide approach. The WHHCC acknowledges that the recommended pre-review would not guarantee that a

shipment, once imported or consigned for export, would be legal and free of violations.

- 6) The FWS should develop and distribute internal agency guidance that directs FWS Office of Law Enforcement port personnel, when confronted with a CITES violation based on a procedural or documentation error, to request that the U.S. CITES Management Authority contact the CITES Management Authority of the exporting country to determine whether the violation will undermine the enhancement of propagation or survival of the species and upon receiving a negative answer, to inform the hunter/importer of his options other than seizure or abandonment of his trophy.**

Explanation: This recommendation also codifies a strategy that the FWS is already implementing.

- 7) The WHHCC supports the FWS's ongoing work with representative organizations of the international hunting community in a coordinated effort to develop multi-media portions of these organizations' websites designed to educate the hunting community on the requirements for legally importing hunting trophies into the United States. The WHHCC recommends that the FWS apply additional resources to this effort to increase its efficacy.**

Explanation: This would expand upon communications that are already taking place between the FWS and those hunting organizations. These communications would result in a joint effort to develop more user-friendly access to information about the importation and exportation process. The WHHCC acknowledges that the FWS already provides a great deal of information on this topic from its website. Through the recommended enhanced effort, the FWS would provide additional documents, including completed import and export documentation as well as a tutorial to assist importers and their agents in understanding what type of information is expected on which forms required for importation of trophies into the U.S.

- 8) The WHHCC recommends that the FWS, on an ongoing basis, should identify and utilize means of improving efforts to ensure that substantive conservation is not sacrificed for technical compliance. The FWS and the hunting community share the same goal -- to ensure healthy wildlife**



**populations. The FWS should prioritize its limited resources to encourage hunting and importation programs that conserve and/or enhance the propagation or survival of species in the wild.**