



Animal Welfare Institute

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March 19, 2012

BY ELECTRONIC AND REGULAR MAIL

Submitted via DMAFR@fws.gov

Brenda Tapia
Division of Management Authority
U.S. Fish and Wildlife Service
4401 N. Fairfax Drive, Room 212
Arlington, VA 22203

Dear Ms. Tapia:

RE: Endangered Species; Receipt of Applications for Permit (77 Fed Reg. 9687)

On behalf of the Animal Welfare Institute (AWI), please accept the following comments on the above-referenced U.S. Fish and Wildlife Service (FWS) invitation to comment on several applications within the captive-bred wildlife registration under 50 CFR 17.21(g) for various endangered species, to enhance their propagation or survival, covering activities over a five year period.

AWI requests that the U.S. Fish and Wildlife Service deny the permits and/or amendments of captive-bred registration and/or permits requested for the following applicants:

PRT-64029A by Double D Ranch, Rosansky, TX;
PRT-64028A by Double D Ranch, Rosansky, TX;
PRT-017404 by 777 Ranch Inc., Hondo, TX;
PRT-013008 by 777 Ranch Inc., Hondo, TX;
PRT-17533A by Earl Bruno, Eden TX;
PRT-28015A by Earl Bruno, Eden, TX;
PRT-64738A by Palfam Ranch Management LLC, Giddings, TX;
PRT-64797A by Palfam Ranch Management LLC, Giddings, TX;
PRT-64797A by Recordbuck Ranch, Utopia, TX;
PRT-64163A by NH&S Holdings, LLC, Valley Mills, TX;
PRT-180804 by Laguna Vista Ranch, Ltd., San Antonio, TX;
PRT-180803 by Laguna Vista Ranch, Ltd., San Antonio, TX;
PRT-65292A by Buck Valley Ranch, LLC, Center Point, TX;
PRT-65368A by Buck Valley Ranch, LLC, Center Point, TX;
PRT-65330A by Flying L Land & Livestock LLC, Bandera, TX;
PRT-65320A by Guajolote Ranch, Inc., San Antonio, TX;
PRT-65321A by Guajolote Ranch, Inc., San Antonio, TX;

PRT-65116A by 5F Ranch-Ford Ranch Corp., Zephyr, TX;
PRT-65009A by William Montgomery, Elgin, TX;
PRT-65096A by Ronald Grant, Bracketville, TX;
PRT-65097A by Ronald Grant, Bracketville, TX;
PRT-65091A by Eslabon Ranch, Ltd., George West, TX;
PRT-65090A by Eslabon Ranch, Ltd., George West, TX;
PRT-65092A by Turkey Creek Ranch, Ltd., Houston, TX;
PRT-65093A by Turkey Creek Ranch, Ltd., Houston, TX;
PRT-65017A by Kothman Ranch Company, Sanderson, TX;
PRT-65019A by Kothman Ranch Company, Sanderson, TX;
PRT-64986A by Rancho Vedado, Inc., Mertzon, TX;
PRT-64987A by Rancho Vedado, Inc., Mertzon, TX;
PRT-200207 by KJC Holdings, Lohn, TX;
PRT-200211 by KJC Holdings, Lohn, TX;

In particular, AWI requests FWS deny the following permits authorizing interstate and foreign commerce, export, and cull of various species from the captive herd maintained at their facilities, “for the purpose of enhancement of the survival of the species”¹:

PRT-64028A requested by Double D Ranch, Rosansky, TX;
PRT-64738A requested by Palfam Ranch Management LLC, Giddings, TX;
PRT-64797A by Recordbuck Ranch, Utopia, TX;
PRT-64163A by NH&S Holdings, LLC, Valley Mills, TX;
PRT-180803 by Laguna Vista Ranch, Ltd., San Antonio, TX;
PRT-65368A by Buck Valley Ranch, LLC, Center Point, TX;
PRT-65321A by Guajolote Ranch, Inc., San Antonio, TX;
PRT-65097A by Ronald Grant, Bracketville, TX;
PRT-65090A by Eslabon Ranch, Ltd., George West, TX;
PRT-65093A by Turkey Creek Ranch, Ltd., Houston, TX;
PRT-65019A by Kothman Ranch Company, Sanderson, TX;
PRT-64987A by Rancho Vedado, Inc., Mertzon, TX;
PRT-200211 by KJC Holdings, Lohn, TX;

The applicants’ proposed actions fail to provide any genuine conservation benefits to the species, as is legally required under the Endangered Species Act (ESA) and implementing regulations.² It is clear from the permit applications specified above that their true intent is to facilitate commercial captive hunting operations, to the detriment of endangered species.

Most captive breeding wildlife registration programs, particularly those involving large mammalian species on U.S. facilities that allow for commercial captive hunting operations, do not help preserve the species. In fact, they often achieve the opposite—they oppress individual animals’ natural and necessary expressive behaviors, ravage the genetic and reproductive

¹ 77 Fed. Reg. 9688, 9689, 9690 (February 17, 2012).

² 16 U.S.C. § 1539; 50 C.F.R. § 17.21(g) & § 17.22.

viability of the species, and indirectly aid in the destruction of wild populations and habitat. When particular captive breeding programs can be found to be causing these negative outcomes, the institutions should be liable for a “take”³ under Section 9 of the ESA,⁴ namely because the breeding programs “harm” and “harass”⁵ the species by “significantly disrupt[ing] normal behavior patterns.”⁶

In addition, the captive-bred wildlife registration program, which facilitates U.S. ranches to hold and allow for commercial hunting of these species, has not been effective at conserving the species given that each species is declining in the wild. Conversely, captive hunting of endangered animals and the trade of their body parts as trophies can have a negative impact on wild populations. The FWS has recognized that “consumptive uses” like this can “stimulate a demand for products which might further be satisfied by wild populations.”⁷ Conservation must be achieved through habitat protection and programs to create incentives for local people in these habitats to protect wildlife wherever it is found.⁸

Species Applied For & Status in the Wild

The species applied for in the above mentioned permits include: Scimitar-horned oryx (*oryx dammah*), Addax (*Addax nasomaculatus*), Dama gazelle (*Nanger dama*), Barasingha (*Rucervus duvaucelii*), and the Eld’s deer (*Rucervus eldii*) are all Endangered, Critically Endangered, and Appendix I species within the Convention on International Trade in Endangered Species (CITES).

The Scimitar-horned oryx (*oryx dammah*) was declared endangered in 1986, critically endangered in 1996, and extinct in the wild by 2000.⁹ There has been no definite evidence of the survival of this species in the wild for more than 15 years.¹⁰ Overhunting and habitat loss, including competition with domestic livestock, have been reported as the main reasons for the extinction of the wild population of Scimitar-horned oryx.¹¹ As part of planned reintroduction projects, animals have been released into fenced protected areas in Tunisia (Bou Hedma National Park 1985, Sidi Toui National Park 1999, Oued Dekouk National Park 1999), Morocco (Souss-Massa National Park 1995), and Senegal (Ferlo Faunal Reserve 1998, Guembuel Wildlife

³ “Take” includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, as well as habitat modification. 16 U.S.C. § 1532(19).

⁴ 16 U.S.C. § 1538 (1982).

⁵ 16 U.S.C. § 1532(19).

⁶ 50 C.F.R. § 17.3.

⁷ 44 Fed. Reg. at 30,045.

⁸ Newby, J. & Wachter, T. 2008. *Addax nasomaculatus*. In: IUCN 2011. IUCN Red List of Threatened Species. Version 2011.2. <<http://www.iucnredlist.org/apps/redlist/details/512/0>>. Downloaded on 18 March 2012.

⁹ IUCN SSC Antelope Specialist Group 2008. *Oryx dammah*. In: IUCN 2011. IUCN Red List of Threatened Species. Version 2011.2. <<http://www.iucnredlist.org/apps/redlist/details/15568/0>>. Downloaded on 18 March 2012.

¹⁰ *Id.*

¹¹ *Id.*

Reserve 1999). Reintroduction is currently also planned at a site in Niger.¹² The reintroduction projects that release animals into native habitat are more appropriately designated as enhancing the survival of the affected species than animals held on private game ranches in the U.S., which are simply hunted and disappear from the population altogether.

Addax nasomaculatus is similarly in peril and should not be kept and hunted on U.S. hunting ranches. The species was declared endangered in 1986 and critically endangered in 2000.¹³ The species is believed to have undergone a decline well exceeding 80% over the past three generations (21 years).¹⁴ The total wild population is estimated at less than 300 individuals across the range, with the majority of the population in the Termit/Tin Toumma region of Niger.¹⁵ The population continues to decline due to ongoing threats of hunting and habitat loss.¹⁶ Along with the Dama gazelle (*Nanger dama*), this species is considered to be the Saharan bovid species at highest risk of extinction in the near future.¹⁷ With less 300 individuals comprising the total wild population, these animals absolutely should not be hunted on U.S. ranches as part of the captive-bred wildlife registration, as this will not enhance their propagation or survival.

Similarly, the sustained decline in the Dama gazelle (*Nanger dama*) is due to uncontrolled hunting by nomads, military and Arab hunting parties and habitat loss and degradation due to overgrazing by domestic livestock has continued and is now estimated to have exceeded 80% over 10 years, with the total population numbering less than 500 individuals.¹⁸ The Dama gazelle is following the same trail into extinction in the wild as the Scimitar-horned Oryx.¹⁹ Listed as vulnerable in 1986, endangered in 1990, and critically endangered in 2006, with subpopulations probably number around 20 individuals in all cases, are separated by hundreds of kilometers.²⁰

The Barasingha (*Rucervus duvaucelii*) was similarly listed as endangered as of 1986 and vulnerable in 1996. The species is assumed to be still in decline by at least 10% over 24 years²¹ and its range is now highly fragmented, with evidence for fewer than 10 viable populations.²² Mortality is largely by predation, flooding and poaching.²³ Scientists have

¹² *Id.*

¹³ Newby, J. & Wachter, T. 2008. *Addax nasomaculatus*. In: IUCN 2011. IUCN Red List of Threatened Species. Version 2011.2. <<http://www.iucnredlist.org/apps/redlist/details/512/0>>. Downloaded on 18 March 2012

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Newby, J., Wachter, T., Lamarque, F., Cuzin, F. & de Smet, K. 2008. *Nanger dama*. In: IUCN 2011. IUCN Red List of Threatened Species. Version 2011.2. <<http://www.iucnredlist.org/apps/redlist/details/8968/0>>. Downloaded on 18 March 2012.

¹⁹ *Id.*

²⁰ *Id.*

²¹ Duckworth, J.W., Samba Kumar, N., Chiranjibi Prasad Pokheral, Sagar Baral, H. & Timmins, R.J. 2008. *Rucervus duvaucelii*. In: IUCN 2011. IUCN Red List of Threatened Species. Version 2011.2. <<http://www.iucnredlist.org/apps/redlist/details/4257/0>>. Downloaded on 18 March 2012.

²² *Id.*

estimated that this species is reliant upon hands-on management in protected areas and changes in management style could see a resumption of very rapid declines echoing those of the mid-twentieth century.²⁴ Poaching must be tackled through local communities and habitat degradation curbed by reducing and eventually ceasing grazing of domestic stock within protected areas.²⁵

The Eld's deer (*Rucervus eldii*), listed as Critically Endangered since 1996, face an estimated rate of decline exceeding 50% in three generations.²⁶ This population decline is due primarily to hunting which in addition to local consumption of meat in Cambodia, Lao PDR, Viet Nam and Myanmar is driven by a thriving and probably increasing trade in bushmeat, a national, regional and East Asian market for traditional medicinal products derived from the species, a regional international market for trophy antlers (only exacerbated by hunting activities on U.S. game ranches), as well as widespread habitat loss.²⁷ The habitats of the deer have been encroached for grazing, cultivation, and fish farming.²⁸

ESA Permitting Standards & Legislative Intent

Under the captive bred wildlife registration program, activities that would otherwise be prohibited under the ESA can only occur when the activities are shown to enhance propagation or survival of the affected species,²⁹ provided that the principal purpose is to facilitate conservation breeding and positively benefit species in the wild.³⁰ FWS must find that permits (1) were applied for in good faith; (2) if granted and exercised will not operate to the disadvantage of such endangered species, and (3) will be consistent with the purposes and policy set forth in the general findings, purpose and policy of the ESA to provide a program for the conservation of endangered species.³¹ The stated purpose of the Act is “to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of [international] treaties and conventions”³²

As variants of the word “conserve” appear multiple times in this and many provisions of the Act, it is clear that conservation is the crux of the ESA. Section 3 of the Act states that “[t]he terms ‘conserve,’ ‘conserving,’ and ‘conservation’ mean to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary.”³³ “Such

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ 16 U.S.C. § 1539(a)(1)(A).

³⁰ 50 C.F.R. § 17.3.

³¹ 16 U.S.C. § 1539(d).

³² 16 U.S.C. § 1531(b).

³³ 16 U.S.C. § 1532(3).

methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.”³⁴ Thus, the ultimate goal of the ESA is to, by almost any means, return populations of listed species to healthy levels so that their existence is no longer at risk.³⁵

If chosen to be protected, a species is placed in one of two classifications based on the “biological health” of a species’ population: “endangered” or “threatened.”³⁶ An endangered species is a “species which is in danger of extinction throughout all or a significant portion of its range.”³⁷ A threatened species is a “species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.”³⁸ The ESA requires federal agencies to consult with FWS or the National Marine Fisheries Service (NMFS) to “ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of designated critical habitat of such species.”³⁹

Evidence of Section 9 Violations and 50 CFR § 17.21(g) & 17.3⁴⁰

Prohibitions are outlined in Section 9 of the ESA.⁴¹ Section 9 applies to all persons—federal, state, or private—within the jurisdiction of the United States.⁴² It provides protections to only species listed as endangered, not those listed as threatened.⁴³ Prohibited acts include the import or export of listed species⁴⁴ and the transporting or selling of wrongfully taken species in interstate and foreign commerce⁴⁵ or for commercial activity.⁴⁶ However, the take prohibition is the central tenet of Section 9.⁴⁷ It prohibits any action that causes a “take” of any endangered

³⁴ 16 U.S.C. § 1532(3).

³⁵ Daniel J. Rohlf, *The Endangered Species Act: A Guide to Its Protections and Implementation* at 28 (Stanford Env. L. Socy. 1989).

³⁶ *Id.* at 26.

³⁷ 16 U.S.C. § 1532(6).

³⁸ 16 U.S.C. § 1532(20).

³⁹ U.S. Environmental Protection Agency, *Summary of the Endangered Species Act*, <http://www.epa.gov/lawsregs/laws/esa.html> (last accessed March 18, 2012).

⁴⁰ The author also consulted expert Jessica Su Johnson for information related to the Endangered Species Act Section 9 Take Prohibition.

⁴¹ 16 U.S.C. § 1538.

⁴² Daniel J. Rohlf, *The Endangered Species Act: A Guide to Its Protections and Implementation* at 31 (Stanford Env. L. Socy. 1989).

⁴³ *Id.* at 73.

⁴⁴ 16 U.S.C. § 1538(a)(1)(A).

⁴⁵ 16 U.S.C. § 1538(a)(1)(D).

⁴⁶ 16 U.S.C. § 1538(a)(1)(E).

⁴⁷ Daniel J. Rohlf, *The Endangered Species Act: A Guide to Its Protections and Implementation* at 31 (Stanford Env. L. Socy. 1989).

species.⁴⁸ The ESA defines “take” as meaning “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.”⁴⁹

“Captive wildlife” is considered to be any living wildlife held in a controlled and intensively manipulated man-made environment, which can include artificial housing, waste removal, health care, protection from predators, and artificially supplied food.⁵⁰ Thus, wild animals kept as part of the 50 CFR 17.21(g) program are captive wildlife under the ESA. The ESA exempts particular acts involving captive wildlife from the definition of “harass.” “Harassment,” when applied to captive wildlife, “does not include generally accepted: (1) [a]nimal husbandry practices that meet or exceed the minimum standards for facilities and care under the Animal Welfare Act,⁵¹ (2) [b]reeding procedures, or (3) [p]rovisions of veterinary care for confining, tranquilizing, or anesthetizing, when such practices, procedures, or provisions are not likely to result in injury to the wildlife.”⁵² The regulation is referring to the practices, procedures, and provisions themselves. On its face, the FWS seems to give sizeable discretion to facilities participating in the captive-bred wildlife registration program, allowing them to use any and all “generally accepted” modes and methods to achieve their goals.

The current rule (50 CFR § 17.21(g)) also provides an exception that allows for taking, transporting, and shipping captive-bred endangered species in interstate or foreign commerce on the condition that (if the species is not exempted): 1) the activity's purpose enhances species propagation or survival and 2) the activity does not involve commercial buying or selling of nonliving wildlife. These acts are only permitted if it can be shown to not be harmful in any way to the survival of wild or captive populations of the species.⁵³

The 1979 final rule also amended the definition of “enhance the propagation or survival” of wildlife in captivity to include a wide range of normal animal husbandry practices used to maintain self-sustaining and genetically viable stocks of wildlife in captivity. Specifically included in those practices were “culling” and “euthanasia,” but again, this is only in order to maintain self-sustaining and genetically viable stocks of wildlife in captivity. In addition, “any... wildlife possessed under a permit must be maintained under humane and healthful conditions,”⁵⁴ and any person holding a permit “must comply with all conditions of the permit and with all applicable laws and regulations governing the permitted activity.”⁵⁵

⁴⁸ 16 U.S.C. § 1583(a)(1)(B)–(C).

⁴⁹ 16 U.S.C. § 1532(19).

⁵⁰ 50 C.F.R. § 17.3

⁵¹ See United States Department of Agriculture, *Government and Professional Resources, Animal Welfare Act*, http://awic.nal.usda.gov/nal_display/index.php?info_center=3&tax_level=3&tax_subject=182&topic_id=1118&leve13_id=6735 (last accessed March 18, 2012). The purpose of the Animal Welfare Act (AWA) is “to insure that animals intended for use . . . for exhibition purposes . . . are provided humane care and treatment.” 7 U.S.C. § 2131. It directs the Secretary to establish minimum standards for “handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care . . . necessary for humane handling, care or treatment of animals.” 7 U.S.C. § 2143. These standards are promulgated in 9 C.F.R. 3 *et seq.*

⁵² 50 C.F.R. § 17.3.

⁵³ *Id.*

⁵⁴ 50 C.F.R. § 13.41.

⁵⁵ 50 C.F.R. § 13.48.

To presume an absolute exemption for these private game facilities—that any wildlife that is captive in origin is not protected by the ESA—would reach an absurd result. That would be completely contrary to the purpose of the ESA to facilitate recovery of endangered and threatened species.⁵⁶ Consequently, the purpose of any exemption included in the ESA, such as the allowance for generally accepted breeding procedures and veterinary practice, would also necessarily have the goal of conservation in mind. Surely that conservation goal does not include allowing for a captive-bred individual to be culled when there are, for example, only 300 left in the wild.

Captive-bred wildlife registration programs have not upheld their conservation goals and have arguably done more harm than good. Many endangered species of large mammals are never successfully reintroduced to the wild. Given that the facilities applying for registration permits are not successfully reintroducing captive-bred animals into the wild (with success meaning the establishment of a self-sustaining wild population), these facilities are not enhancing propagation or survival of the affected species. Even if such reintroduction efforts are not required to warrant the applicant's request for a CBW registration and/or take permits, there is no question that they have to demonstrate how their efforts are enhancing the survival of the species in the wild. The majority of applicants referenced above appear to do this based on their contribution to Conservation Force for its Ranching for Restoration program. Yet, no information is provided by any of the applicants about the Ranching for Restoration program, what species are allegedly benefitted, what proportion of the contributions to Conservation Force are allocated to the program, and whether the program has had meaningful benefits in the wild. Even if the applicants are not required to provide this information, the FWS surely must ensure that the claims made by the applicants – the very claims that they rely on to justify receipt of the requested permits – are legitimate and that, consequently, the Ranching for Restoration program results in a meaningful benefit in the wild to each of those species for which the permits are being requested.

Most captive populations, especially of large species, maintain such low numbers of individual animals that inbreeding depression and loss of genetic variability are unavoidable.⁵⁷ Large mammals in captivity will have small populations, and these populations usually become lacking in demographic or genetic viability.⁵⁸ Further, the translocation and reintroduction of animals and contact with multiple exotic species as part of the standard conservation program are often considered necessary but also risk spreading disease.⁵⁹

⁵⁶ The stated purpose of the Act is “to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of [international] treaties and conventions” 16 U.S.C. § 1531(b).

⁵⁷ Byant et al., *Experimental Tests of Captive Breeding for Endangered Species*, Conservation Biology, Vol. 13, No. 6, 1488 (Blackwell Publishing 1999).

⁵⁸ William Conway, *Zoo Conservation and Ethical Paradoxes*, in *Ethics on the Ark* 6 (John Wuichet ed., Smithsonian Institution 1995).

⁵⁹ Jonathan D. Ballou, *Assessing the Risks of Infectious Diseases in Captive Breeding and Reintroduction Programs*, Journal of Zoo and Wildlife Medicine, Vol. 24, No. 3, 334 (American Association of Zoo Veterinarians 1993).

Animals in these facilities are also particularly vulnerable to diseases due to enhanced exposure to unfamiliar pathogens. Even more importantly, these programs can also work counter intuitively to habitat conservation and conserving these species in the wild. In addition, there is overwhelming evidence that creating legal markets for endangered species and their parts can encourage and facilitate poaching and create demand for wild members of those species, working against conserving these species in the wild.⁶⁰

Specific Permit Application Deficiencies under 50 C.F.R. § 17.22

The implementing captive-bred wildlife registration program regulations require that permit applications include detailed information to which all of the following must be attained:

- (i) the common and scientific names of the species sought to be covered by the permit, as well as the number, age, and sex of such species, and the activity sought to be authorized (such as taking, exporting, selling in interstate commerce;
- (ii) a statement as to whether, at the time of application, the wildlife sought to be covered by the permit (A) is still in the wild, (B) has already been removed from the wild, or (C) was born in captivity;
- (iii) A resume of the applicant's attempts to obtain the wildlife sought to be covered by the permit in a manner which would not cause the death or removal from the wild of such wildlife;
- (iv) If the wildlife sought to be covered by the permit has already been removed from the wild, the country and place where such removal occurred; if the wildlife sought to be covered by the permit was born in captivity, the country and place where such wildlife was born;
- (v) A complete description and address of the institution or other facility where the wildlife sought to be covered by the permit will be used, displayed, or maintained;
- (vi) If the applicant seeks to have live wildlife covered by the permit, a complete description, including photographs or diagrams, of the facilities to house and/or care for the wildlife and a resume of the experience of those person who will be caring for the wildlife;
- (vii) A full statement of the reasons why the applicant is justified in obtaining a permit including the details of the activities sought to be authorized by the permit;
- (viii) If the application is for the purpose of enhancement of propagation, a statement of the applicant's willingness to participate in a cooperative breeding program and to maintain or contribute data to a studbook;⁶¹

In making its decision, FWS must consider the following factors:⁶²

⁶⁰ See Geist, V., *How Markets in Wildlife Meat and Parts, and the Sale of Hunting Privileges, Jeopardize Wildlife Conservation*, CONSERVATION BIOLOGY, Vol. 2, Issue 1 at 16 (March 1988); Lavigne, D., et al., *Sustainable Utilization: The Lessons of History*, THE EXPLOITATION OF MAMMAL POPULATIONS 251, 260 (1996); Hunter et al., INTERNATIONAL ENVIRONMENTAL LAW & POLICY at 1035 (Foundation Press 1998), etc.

⁶¹ 50 C.F.R. § 17.22(a).

- (i) Whether the purpose for which the permit is required is adequate to justify removing from the wild or otherwise changing the status of the wildlife sought to be covered by the permit;
- (ii) The probable direct and indirect effect which issuing the permit would have on the wild populations of the wildlife sought to be covered by the permit;
- (iii) Whether the permit, if issued, would in any way, directly or indirectly, conflict with any known program intended to enhance the survival probabilities of the population from which the wildlife sought to be covered by the permit was or would be removed;
- (iv) Whether the purpose for which the permit is required would be likely to reduce the threat of extinction facing the species of wildlife sought to be covered by the permit;
- (v) The opinions or views of scientists or other persons or organizations having expertise concerning the wildlife or other matters germane to the application; and
- (vi) Whether the expertise, facilities, or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application.⁶³

While the impending deadline for these comments as well as the number of permit applications involved prevents a detailed permit-by-permit analysis of whether the applicants have adequately complied with the requirements of the relevant regulations by providing the requisite information, a broad review of each relevant permit application reveals that many – if not all – are seriously lacking in required content. Instead of ignoring these deficiencies, the FWS must, at a minimum, reevaluate each application to identify whether it is or is not compliant with all relevant requirements including whether the applicant has supplied all of the required information. If not, that information should be requested from the applicant and, upon receipt, the FWS should publish a new notice in the Federal Register to initiate a new round of public comment. Many of the permit applications were so lacking in detail that it would appear that applicant spent mere minutes completing the document. This surely was not the intent of Congress of the FWS when creating these laws/regulations that allow for the application and receipt of the relevant permits under the ESA.

Conclusion

The species named in these permit applications bear the brunt of the captive-bred wildlife registration program shortcomings. While the applicants' claimed purpose in keeping these large mammals in captivity is to enhance propagation or survival of the affected species at the expense of the individual creatures' wellbeing, the merits of such programs should be heavily scrutinized to minimize animal suffering as well as maximize legitimate endangered species recovery. Furthermore, the applicants and/or the FWS have an obligation to ensure that their programs are contributing to the survival of the species in the wild. Merely contributing to a program operated by a pro-hunting organization for which no information is provided as to what proportion of contributions are allocated to on-the-ground conservation, how said funds are spent to improve

⁶² In addition to § 13.21(b) whereby a permit may not be issued if the applicant failed to disclose material information required or failed to demonstrate a valid justification for the permit.

⁶³ 50 C.F.R. § 17.22(a)(2).

the conservation status of the species in the wild, and whether such efforts are effective is not sufficient to meet the requisite standards to obtain the relevant permits. Furthermore, most if not all of the applications addressed in this comment letter appear incomplete without any effort made by the applicants to meaningfully respond to the questions/requests that are relevant to their operations.

Thank you in advance for providing this opportunity to comment on these permit application and for considering these comments. Please send any future correspondence or information about this issue to: Tara Zuardo, Wildlife Program Associate, Animal Welfare Institute, 900 Pennsylvania Ave., SE, Washington, DC 20003.

Sincerely,

A handwritten signature in cursive script that reads "Tara Zuardo".

Tara Zuardo, Wildlife Program Associate