



# Animal Welfare Institute

900 Pennsylvania Avenue, SE, Washington, DC 20003 • [www.awionline.org](http://www.awionline.org)  
telephone: (202) 337-2332 • facsimile: (202) 446-2131

May 7, 2012

**BY ELECTRONIC MAIL**

Submitted via [DMAFR@fws.gov](mailto:DMAFR@fws.gov)

Lisa Lierheimer  
Division of Management Authority  
Attn: FWS-R9-IA-2012-N082  
U.S. Fish and Wildlife Service  
4401 N. Fairfax Drive, Room 212  
Arlington, VA 22203

Dear Sir or Madame:

RE: Endangered and Threatened Wildlife and Plants' Publishing Notice of Receipt of Captive-Bred Wildlife Registration Applications [77 Fed Reg. 120838]

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.

AWI requests that FWS deny the permits and/or amendments of captive-bred registration and/or permits requested for the following applicants: PRT-69093A; PRT-65826A; PRT-69574A; PRT-676508A; PRT-685135A; PRT-70470A; PRT-70466A; PRT-69571A; PRT-70057A; PRT-70125A.

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:" PRT-65826A; PRT-70466A; PRT-69571A; PRT-70057A; PRT-70125A.

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.<sup>1</sup> 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

---

<sup>1</sup> 16 U.S.C. § 1539; 50 C.F.R. § 17.21(g) & § 17.22.

the species in the wild. In fact, they often achieve the opposite—they oppress individual animals' natural and necessary expressive behaviors, ravage the genetic and reproductive viability of the species, and indirectly aid in the destruction of wild populations and habitat.

Although the CBW registration system was established to facilitate the captive breeding of endangered and threatened species in order to enhance the conservation of the species in the wild, the vast majority of CBW registrants breed species in captivity with no intent to ever reintroduce any of their animals into the wild. Instead, in an attempt to meet the “conservation” requirement for obtaining or renewing a CBW registration, they make donations to in-situ conservation programs. It is entirely unknown, however, if these programs are legitimate and, other than accepting information submitted by the applicant that he/she supports such programs financially, it would appear that neither the applicant nor the FWS engages in any objective assessment of the legitimacy or effectiveness of the in-situ conservation program.

Furthermore, in many cases, the donated funds appear to be distributed to a third party which then allocates the monies to the conservation program. Yet again, it is unclear what proportion of the funds are ultimately allocated to the program, how they are used by the program, and what conservation benefit has been achieved. Assuming that providing such donations is a sufficient means of meeting the conservation requirement imposed in the CBW program (versus actually engaging in the reintroduction of bred animals, as can be argued was the original intent of the program), there must be some auditing mechanism established to ensure that a conservation benefit is being achieved to justify the issuance of CBW registrations or renewals.

Unfortunately, programs like captive-bred wildlife registration as they exist today have become an end in themselves – not a means to conservation. Broadly, considering the ongoing decline in the wild of many of the species (see examples summarized below) subject to CBW registration, said registrations are not meeting the intent of the CBW process. The very act of breeding most CBW registered animals in captivity and placing them on private game facilities to be hunted is detrimental to the species as a whole, including wild populations. Although it is characterized as potentially preserving species survival and diversity, it does not contribute to the enhancement of the species in the wild and may, in fact, be counter-productive to such conservation. AWI strongly urges FWS to bolster its regulation of captive listed species because current practices do not enhance the survival of the species in the wild.

### **Species Applied For & Status in the Wild**

The species applied for in the above mentioned permits include: the Galapagos tortoise (*Chelonoidis nigra*), radiated tortoise (*Astrochelys radiata*), Asian wild ass (*Equus hemionus*), barasingha (*Rucervus duvaucelii*), Eld's deer (*Rucervus eldii*), Arabian oryx (*Oryx leucoryx*), scimitar-horned oryx (*Oryx dammah*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), bontebok (*damaliscus pygargus pygargus*), seladang (*Bos gaurus*), Bengal tiger (*Panthera tigris tigris*), Siberian tiger (*Panthera tigris altaica*), Snow leopard (*Uncia uncia*), Cheetah (*Acinonyx jubatus*), Orangutan (*Pongo pygmaeus*), Asian elephant (*Elephas maximus*) and red lechwe (*Kobus leche*).

The Barasingha (*Rucervus duvaucelii*) was 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 years<sup>2</sup> and its range is now highly fragmented, with evidence for fewer than 10 viable populations.<sup>3</sup> Mortality is largely by predation, flooding and poaching.<sup>4</sup> Scientists have 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.<sup>5</sup> Poaching must be tackled through local communities and habitat degradation curbed by reducing and eventually ceasing grazing of domestic stock within protected areas.<sup>6</sup>

The Eld's deer (*Rucervus eldii*), listed as Critically Endangered since 1996, face an estimated rate of decline exceeding 50% in three generations.<sup>7</sup> 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.<sup>8</sup> The habitats of the deer have been encroached for grazing, cultivation, and fish farming.<sup>9</sup>

The Scimitar-horned oryx (*oryx dammah*) was declared endangered in 1986, critically endangered in 1996, and extinct in the wild by 2000.<sup>10</sup> There has been no definite evidence of the survival of this species in the wild for more than 15 years.<sup>11</sup> 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.<sup>12</sup> 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 Reserve 1999). Reintroduction is currently also planned at a site in Niger.<sup>13</sup> The reintroduction

---

<sup>2</sup> 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.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Timmins, R.J. & Duckworth, J.W. 2008. *Rucervus eldii*. In: IUCN 2011. IUCN Red List of Threatened Species. Version 2011.2. <<http://www.iucnredlist.org/apps/redlist/details/4265/0>>. Downloaded on 18 March 2012.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> 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.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

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.<sup>14</sup> The species is believed to have undergone a decline well exceeding 80% over the past three generations (21 years).<sup>15</sup> 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.<sup>16</sup> The population continues to decline due to ongoing threats of hunting and habitat loss.<sup>17</sup> This species is considered to be the Saharan bovid species at highest risk of extinction in the near future.<sup>18</sup> 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.<sup>19</sup> The Dama gazelle is following the same trail into extinction in the wild as the Scimitar-horned Oryx.<sup>20</sup> 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.<sup>21</sup>

### **ESA Permitting Standards & Current CBW Registration Program**

The purpose of the ESA is to provide a program for the conservation of endangered and threatened species.<sup>22</sup> Take, import/export, and interstate sale and commercial transport are strictly prohibited.<sup>23</sup> Section 10(a) permits otherwise prohibited activities for scientific purposes

---

<sup>14</sup> 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

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> 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.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> 16 U.S.C. § 1531(b).

<sup>23</sup> 16 U.S.C. § 1538(a)(1). All prohibitions that apply to endangered species also apply to threatened species unless the agency otherwise permits these activities pursuant to 50 C.F.R. § 17.31(c) or 17.32. However, any “special rule” must also “provide for the conservation” of the species, i.e. recovery in the wild. 16 U.S.C. § 1533(d); see also *Sierra Club v. Clark*, 577 F. Supp. 783 (D.Minn. 1984), *aff’d*, 755 F.2d 608 (8th Cir. 1985); accord, *Fund for Animals v. Turner*, 1991 WL 206232 (D.D.C. 1991)). These prohibitions apply to captive individuals of a listed species. See 77 Fed. Reg. 431, 434 (Jan 5., 2012). (“The Act specifically covers any species that is listed as

or to enhance the propagation or survival of the affected species, indicating activities that must positively benefit the species in the wild.<sup>24</sup> 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.<sup>25</sup> It is essential that the Service only authorize otherwise prohibited activities when a case-by-case analysis confirms that the activity will positively benefit the survival of the species in the wild and will not be harmful in any way to the survival of wild or captive populations of the species.

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,”<sup>26</sup> 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.”<sup>27</sup>

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.”<sup>28</sup> The hunting of “surplus” or “excess” captive wildlife bred under a CBW registration can lead to the trade in their body parts which, in turn, can have a negative impact on wild populations by increasing demand for such products. Such demand may be met by “legal” sources or, given the high potential for profit, low chance of detection and capture, and generally light penalties if captured, said products can be obtained through the killing of the species in the wild and subsequent smuggling of the parts/products in demand. There is overwhelming evidence that creating legal markets for endangered species and their parts can

---

endangered or threatened, whether it is native to the United States or non-native and whether it is in captivity or in the wild. The prohibitions apply to all listed specimens.”); H.R. Rep. No. 93-412 (1973) (“[t]he term ‘fish or wildlife’ means all wild animals, whether or not raised in captivity”).

<sup>24</sup> 16 U.S.C. § 1539(a); See also 50 C.F.R. §17.3 (“Enhance the propagation or survival, when used in reference to wildlife in captivity, includes” certain activities that “would not be detrimental to the survival of wild or captive populations of the affected species.”); U.S. Fish and Wildlife Service Handbook (1996) (making clear that an enhancement activity “must go beyond having a neutral effect and actually have a positive effect”).

<sup>25</sup> Id.

<sup>26</sup> 50 C.F.R. § 13.41.

<sup>27</sup> 50 C.F.R. § 13.48.

<sup>28</sup> 44 Fed. Reg. at 30,045.

encourage and facilitate poaching and create demand for wild members of those species, working against conserving these species in the wild.<sup>29</sup>

To presume an absolute exemption for 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.<sup>30</sup> 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. 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.<sup>31</sup>

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 explicitly and with compelling evidence how their efforts are enhancing the survival of the species in the wild.

Most captive populations, especially of large species, maintain such low numbers of individual animals that inbreeding depression and loss of genetic variability are unavoidable.<sup>32</sup> Large mammals in captivity will have small populations, and these populations usually become lacking in demographic or genetic viability.<sup>33</sup> 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.<sup>34</sup> Animals in these facilities are also particularly vulnerable to diseases due to enhanced exposure to unfamiliar pathogens. Even more

---

<sup>29</sup> 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.

<sup>30</sup> 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).

<sup>31</sup> 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.

<sup>32</sup> Byant et al., Experimental Tests of Captive Breeding for Endangered Species, *Conservation Biology*, Vol. 13, No. 6, 1488 (Blackwell Publishing 1999).

<sup>33</sup> William Conway, Zoo Conservation and Ethical Paradoxes, in *Ethics on the Ark* 6 (John Wuichet ed., Smithsonian Institution 1995).

<sup>34</sup> 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).

importantly, these programs can also work counter intuitively to habitat conservation and conserving these species in the wild.

### **Additional Recommendations**

In addition to denying the above-mentioned permit applications, AWI urges the Service to amend the CBW regulations to ensure that CBW applicants are required to assert a demonstrable conservation benefit to a listed species (not a taxonomic family) and clarify its definitions of “take” and “enhancement” as applied to captive listed species. For example, here the Bramble Park Zoo (PRT-685135) has applied for a renewal and amendment of their captive-bred wildlife registrations by listing various Family and/or Genus names without specifying species. It is extremely difficult to demonstrate a positive conservation benefit to an endangered *species* by simply associating a registration permit with a general Family or Genus name.

In addition, currently the regulations exempt “generally accepted” animal husbandry, breeding, and veterinary practices from the definition of harass as applied to captive individuals.<sup>35</sup> Such a broadly worded exemption fails to ensure compliance with the ESA’s intent, as well as the public’s statutory right to information under the ESA.

The applications specified above also fail to adequately provide detailed descriptions of how the proposed activities would “enhance the propagation or survival of the affected species.”<sup>36</sup> This is a key component of the captive-bred wildlife registration program and, therefore, the FWS should publish, when seeking comment on each application, demonstrating that it has undertaken its due diligence in regard to the allegations made by applicants that they are engaged in activities that do enhance the survival of the species. This analysis should be undertaken for all such activities applicants claim to support whether they are directly or indirectly linked to the applicant’s activities and regardless of where the activities are alleged to occur.

To ensure meaningful public participation, the Service should also establish an online database for application materials and enhancement findings similar to those made available by agencies such as the Animal and Plant Health Inspection Service. Currently, the burden is on the public to request application materials, which does not ensure meaningful public participation 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’ well-being, 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

---

<sup>35</sup> 50 C.F.R. § 17.3; 16 U.S.C § 1539(a).

<sup>36</sup> 16 U.S.C. § 1539(a).

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.

Since the CBW program has been in place for decades, its alleged benefits must now be measurable. However, FWS has not provided evidence documenting the effectiveness of this program in enhancing the survival of the registered species in the wild. Instead, it is expecting the public to simply believe that a CBW registration translates into enhancement of one or more species when there is no evidence of such a positive correlation. If anything, as indicated above, the decline of many CBW registered species in the wild demonstrates that the CBW registration process is largely a means of raising exotic species for wealthy hunters to shoot in a highly controlled setting and far from a conservation program.

Thank you in advance for providing this opportunity to comment on the above-mentioned captive-bred wildlife registration applications 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