



## Wolves In Our Backyard

On February 8, 2007, the U.S. Fish and Wildlife Service removed the gray wolves of the Western Great Lakes from the “endangered” species list. When that delisting became effective on March 12, 2007, the states of Michigan, Minnesota and Wisconsin regained the authority to manage wolves within their states. Although none of the three states has yet announced plans to establish wolf seasons, the delisting does give the states the power to do so if and when state wildlife authorities determine that their wolf populations can sustain reasonable harvests.

The Endangered Species Act requires the FWS to continue to monitor the delisted wolves for the next five years. During this five-year period, the states of the Western Great Lakes region will likely exercise a conservative approach to wolf population control and management. The delisting does however give Michigan, Minnesota and Wisconsin the immediate ability to exercise lethal methods to deal with problem wolves that prey on livestock, pets, and hunting dogs—a growing problem in these states.

Few oppose the delisting because most groups and individuals recognize the Western Great Lakes wolf recovery as one of the most dramatic successes of the collaborate conservation efforts of the FWS and the



states. Unfortunately, there are always a few spoilers and in this case, a few fanatic groups have brought suit to challenge the wolf delisting. The Humane Society of the United States, Animal Protection Institute and Help Our Wolves Live filed suit on April 16, 2007 in the U.S. District Court for the District of Columbia. Safari Club International, Safari Club International Foundation and

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## Grizzly Bears and the Endangered (Forever) Species Act

As of April 30, 2007, the Yellowstone population of grizzly bears is off the “threatened” species list. SCI has hailed this as a landmark step in wildlife conservation and recovery and SCI has long supported this delisting. However, recently several environmental and animal rights groups have served notice that they intend to sue the U.S. Fish and Wildlife Service over this action. These organizations include the Humane Society of the United States, the Sierra Club, Natural Resources Defense Council, and the Center for Biological Diversity. These groups will likely file a lawsuit shortly after June 2, 2007. Despite continuing conservation efforts and extensive scientific evidence and analysis supporting the grizzly bear delisting—generated over decades at great costs—these groups persist in their opposition to the delisting. Under the standards that HSUS, et al. want to impose, the FWS could never delist any species, even if every recovery goal has been exceeded and the species’ future is secure, as is the current case with the grizzly bear. In essence, these groups aim to convert the Endangered Species Act into the Endangered (Forever) Species Act.

In contrast, SCI has presented the FWS with substantive written and oral comments in support of the delisting. SCI’s support is based on extensive scientific evidence showing recovery, the desirability of returning management over this species to the states, and the need to embrace ESA recovery successes when they occur. The FWS agreed that this population of the species has recovered (other grizzly populations in the lower-48 states remain listed as “threatened”) and that the Federal and state management plans for the

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the National Rifle Association have joined forces to ask the D.C. federal district court to allow us to help the FWS defend the delisting. Because this is one of the first cases in which courts will examine what type of recovery is required to enable the FWS to remove a species from the “endangered” species list, the outcome of this litigation could establish some significant precedent for the future application of the ESA (including the delisting of grizzly bears and the proposed delisting of gray wolves in the northern Rocky Mountain area).

***“Despite having no involvement in three prior wolf listing and/or conservation lawsuits filed over the past four years, U.S. Sportsmen’s Alliance has decided to try to join this latest suit.”***

SCI is not the only group from the hunting community that has moved to intervene in the DC case. Despite having no involvement in three prior wolf listing and/or conservation lawsuits filed over the past four years, U.S. Sportsmen’s Alliance has decided to try to join this latest suit. USSA joined with the Wisconsin Bear Hunters’ Association to assert the interests of Wisconsin bear hunters whose dogs have been attacked or threatened by gray wolves. SCI, SCIF and the NRA have presented the court with broader concerns, explaining to the court how the organizations’ members have increasingly found themselves in competition with wolves for prey, lost game to wolves and been stalked and/or confronted by aggressive wolves. In addition, SCI and SCIF and the NRA asserted that overpopulations of wolves, without state management and control, could ultimately prove detrimental to the conservation of wolves themselves.

SCI’s Litigation team would like to thank the many SCI members who responded to our request for help with our intervention. We received e-mails and phone calls from dozens of members who had stories to tell about their wolf encounters while hunting. In particular, we would like to thank Stephen and Patti Delano, Scott Talbot, Larry Godwin, Jack Smythe and Clint Deraas, whose declarations we were able to use to assert SCI’s interest in the outcome of the litigation.

***Grizzly Bears - continued from page 1***

species will protect it well into the future. With the return of management to the states (specifically, Idaho, Montana, and Wyoming), each state may now independently determine if and when to establish a hunting season for grizzly bears.

In anticipation of a lawsuit, SCI has filed substantive comments on the delisting. SCI is primed to argue against these groups’ attempt to create delisting standards that would ensure that a species, once listed, would remain listed forever. SCI is well aware that continued listing of the species would adversely impact many of our members.

Interestingly, other environmental/conservation groups, such as the National Wildlife Federation and Defenders of Wildlife, appear to support the grizzly bear delisting. Right now, it remains unclear whether they would actually seek to participate in the lawsuit to defend the delisting.

All groups should celebrate the successes of the ESA so the FWS can direct funds and efforts to recover other species under the ESA (for example, other populations of grizzly bears), instead of depleting these resources on costly and counter-productive litigation. Unfortunately, groups opposing



this delisting (and the gray wolf delisting discussed elsewhere in this Newsletter) appear to want to keep species on the ESA lists forever, which would provide them with a means to prevent other activities (e.g., hunting, resource extraction, development) that conflict with their own narrow interests.

## Knee Deep in Refugee Comment Letters

The month of April is the time of many well known (and little known) celebrations. For example, you might already know that April is “Keep America Beautiful Month,” “Jazz Appreciation Month” and “National Car Care Month.” It is possible that a few people even know that April is also “National Pecan Month,” “National Poetry Month” and (one of my personal favorites) “Straw Hat Month.” This year, however, Safari Club International should find a way to designate yet another important commemoration for the month of April. April 2007 will, without doubt, be logged in the annals of SCI Litigation Department history as – note how the name just trips off your tongue -- “National Wildlife Refuge Draft Hunting Environmental Assessment Comment Letter Month.”

As a result of ongoing litigation over hunting on refuges in the National Wildlife Refuge System, a few months ago, the U.S. Fish and Wildlife Service committed itself to redrafting over 70 Environmental Assessments related to hunting on refuges throughout the National Wildlife Refuge System. The FWS promised the court that it would complete the process by May 31, 2007. After spending a good deal of time examining their hunting programs, the vast majority of the refuges published their revised draft EAs during the month of March. As a result, most of the 30 public comment periods for these planning documents ended in April. Safari Club International’s Litigation Department procured and reviewed almost 60 of these draft planning documents and prepared individual comment letters for each between April 1st and April 30th. A list of the refuges on which SCI and SCIF commented appears below.

SCI was pleased to learn that most of the draft EAs not only recognized that hunting does not harm the refuge environment, but also offered extensive analyses of how hunting benefits the refuge environment, wildlife habitat, flyway health and the National Wildlife Refuge System generally. Numerous EAs described how hunting reduces and controls populations of deer, feral hog, coyote, beaver, nutria, nilgai, and a variety of species of geese, and consequently reduces the damage that these species cause to the habitat of migratory birds and other wildlife species dependent on refuge habitat. Many of the draft EAs specifically noted how hunting is the most efficient and economical method of wildlife population management and control for deer and other species.



**Anna Seidman, buried by comment letters**

In their numerous comment letters, SCI’s litigators praised the authors of the EAs and in some cases, recommended methods by which the EAs could enhance their environmental analyses. On occasion, SCI’s attorneys recommended that one refuge consult another refuge’s draft EA for ways to improve their environmental assessment of hunting.

On May 31st, the FWS will report to the U.S. District Court for the District of Columbia on the status of their monumental task. Fund for Animals and the other animal rights groups that sued to challenge hunting on the refuges will undoubtedly cry foul and complain that the FWS gave them inadequate time to respond to all the planning documents. SCI and SCIF, who responded to almost every single refuge assessment, will display for the court each of the numerous, individually analyzed comment letters that SCI submitted.

Despite the tremendous task assumed by the FWS and SCI, the irony is that this lawsuit may have served hunters far more than it benefitted the anti-hunting crowd. As a result of the lawsuit and due to the efforts of the FWS, SCI, SCIF and their litigation partners, the federal government and the federal courts now have substantial documentary evidence showing how hunting benefits the environment of the refuges, including wildlife, plants and humans. SCI hopes that these efforts will demonstrate to the court just how lame the animal rights groups’ complaints truly are. For that reason, SCI might be able to dedicate a new national holiday for April 2008. How does “Hunting Benefits the Environment Month” sound?

## SCI Continues To Oppose the Proposed Listing of Polar Bear as Threatened

On a recent evening in early spring, SCI Litigation Counsel Doug Burdin sat in the Department of the Interior's cavernous auditorium surrounded by animal rights fanatics, most of whom sported orange life jackets and white baseball caps decorated to look like polar bear faces. A few of the attendees dressed in full polar bear suits. Doug and the polar bear wannabees were there to comment on the upcoming decision of the U.S. Fish and Wildlife Service on whether to place the real polar bears on the "threatened" species list. The FWS gave each individual only three minutes to testify. Most of the animal rights group advocates used their time to tell emotional tales, offering little if any scientific data or legal analysis that would be of assistance to the panel of scientists and FWS bureaucrats sitting on the auditorium stage.

Few, like Doug, testified against listing. The State of Alaska, a representative from the government of Nunavut, a spokesman from the American Farm Bureau and a couple of other groups and individuals offered opinions similar to those presented by SCI. Doug took advantage of his testimony to explain to the FWS that too many questions are left unanswered about the impact of global climate change on polar bear populations, almost all of which are currently healthy. He explained that Endangered Species Act



valuable opportunity to offer comments to the FWS. On April 9, 2007, SCI filed substantive comments opposing the proposed listing by the FWS to list the polar bear as "threatened" under the ESA. SCI's comments were one of about 500,000 that the Service received (the FWS apparently received more comments on the polar bear proposal than any other listing proposal in history).

But in fact, the vast majority of these comments were mass-produced, e-mail comments that said little more than the polar bear-costumed commentators at the D.C. hearing: "I support the listing" (in the majority of cases). The emotional rantings and duplicated letters should have little impact on the ultimate decision. The FWS chooses to focus on comments that substantively address the listing criteria and largely ignores the "form" letter comments.

SCI gave the FWS a great deal to consider. In its substantive comments, SCI explained in detail the following:

- A "threatened" listing would have an adverse impact on hunting the species in Canada, the local native communities that rely on funds from sport hunting (primarily from U.S. hunters), importing trophies into the United States, and conservation and management efforts. (See article on Polar Bears in Volume 1 of the Litigation Newsletter.)
- The ESA requires a determination that the

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("ESA") listing requires more certainty about future impacts on the species than currently exists.

In addition, he detailed how listing, because it would interfere with the importation of polar bear trophies into the United States, would hinder polar bear conservation efforts in places like Nunavut. Doug tried to make it clear that listing would do more harm than good.

Three minutes of testimony was hardly enough to tell the whole story. Fortunately, SCI had another

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## Why Can't Hunters Help Manage Wildlife in National Parks

President Theodore Roosevelt was one of this country's most famous hunters and proponents of sustainable use conservation. Ironically, hunting is prohibited at the National Park that bears his name. That's because Congress failed to expressly authorize hunting when it established the National Park back in 1947 and because the National Park Service prohibits hunting on any National Park where the activity is not specifically authorized by statute.

The no-hunting irony has become deeper of late because of the Park's wildlife management problems. The elk of Teddy Roosevelt National Park have exceeded healthy population levels and the NPS has announced plans to significantly reduce the herd. Because of the "no hunting" NPS policies, hunters aren't welcome to help the cull. Instead, the NPS plans to use sharpshooters to reduce elk numbers and has rejected the recommendations of North Dakota's wildlife management authorities that the park utilize qualified hunters to assist in the management operation.

A similar scenario is brewing at Rocky Mountain National Park in Colorado. The park's elk population is damaging the habitat by overbrowsing. The NPS refuses to use hunters to help manage the herd but instead has proposed a multimillion dollar plan to use paid sharpshooters to kill a significant percentage of the park's elk population. The NPS has told the state and the public that volunteer services of members of the hunting community are not welcome to assist this effort.

Wind Cave National Park in South Dakota is not far behind Theodore Roosevelt and Rocky Mountain. Its elk population also requires culling and the park's statutes do not permit hunting. Once again, it appears that the NPS will choose a solution that does not involve the volunteer assistance of members of the hunting community. Similar scenarios have played out involving invasive animals at Point Reyes National Seashore (where hunting is allowed) and



the Channel Islands National Park (where the NPS is spending millions of dollars to eradicate feral pigs). On the East Coast, overabundant deer are destroying vegetation and habitat at Park Service units in Pennsylvania, Ohio, and Maryland, yet the NPS still refuses to consider using qualified hunters.

***"The NPS refuses to use hunters to manage the herd but instead has proposed a multimillion dollar plan to use paid sharpshooters to kill a significant percentage of [ Rocky Mountain National ] Park's elk population."***

SCI attorney Anna M. Seidman recently joined representatives of the Association of Fish and Wildlife Agencies, the U.S. Sportsmen's Alliance, the National Rifle Association and the Congressional Sportsmen's Foundation, in a meeting with NPS Director Mary Bomar and members of her staff to advocate the use of hunters to assist in wildlife management on National Parks. Although Director Bomar offered a cordial reception, nothing suggested that the NPS has taken the hunting and wildlife management communities' recommendations to heart.

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***"The no-hunting irony has become deeper of late because of the Park's wildlife management problems."***

## California Continues To Consider Lead Ammunition Ban in Condor Range

SCI recently filed comments with the California Department of Fish and Game encouraging the Department to continue researching and analyzing the need for a ban on lead ammunition in Condor “range.” The comments addressed the Department’s ongoing preparation of an environmental document to present to the California Fish and Game Commission, the body that will determine whether to put the lead ammunition ban in place.

Both the Department and the Commission identified a number of issues that must be considered before making a decision. SCI reiterated those issues and pointed out additional research and analysis the agencies should consider.

SCI’s comments focused on the following:

- The Department’s acknowledgement concerning “the lack of scientifically-based documentation to date (although anecdotal and observational notes do exist) of condors feeding on hunter-killed carcasses and ingesting lead ammunition fragments in California, ... .”
- The Department’s assessment of a recent paper by Church et al. concerning a study of isotopes and lead ammunition.
- The possible impact of a lead ammunition ban on the number of hunters buying licenses in California and resultant impact on revenue for wildlife conservation and management.
- The availability of viable non-lead alternatives and whether a ban on lead ammunition will prevent the use of certain types of legal firearms for hunting.
- Whether state deer hunting zones are the best means with which to delineate the “condor range,” as even a cursory review of the current and recent condor observations plotted on the deer zones map shows that the deer zones are excessively expansive.

SCI’s comments on the Department’s draft environmental document can be found under the Government/Litigation News tab at [www.safariclub.org](http://www.safariclub.org).



The Department expects to complete its draft environmental document on the lead ammunition issue in May and will then solicit further public comment. After finalizing the document, the Department will present it to the Commission. The Commission will formulate a final proposed rule, solicit public comments, and then schedule a vote on the proposed ban. As of today, the Commission has not set a timeframe on these actions.

*SCI’s comments addressed “the possible impact of a lead ammunition ban on the number of hunters buying licenses in California and resultant impact on revenue for wildlife conservation and management.”*

As the agencies work on these tasks, a Federal court in California will continue to hear a lawsuit filed by several groups seeking to hold the Commission liable for alleged future “take” (death or injury) of condors from the use of lead ammunition in condor “range.”

The groups allege such take violates the Endangered Species Act. They seek a court-imposed ban on lead ammunition in the condor range. SCI has been closely monitoring this lawsuit and expects the court shortly to issue a schedule for discovery, dispositive motions, and trial (if necessary).

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species is “likely” to become extinct in the “foreseeable future,” a finding requiring a high level of certainty about future events.

- The great uncertainty about the nature and extent of global climate change over the next 45 years, and its impact on the arctic ecosystem and the polar bear, prevents the FWS from making this affirmative determination.
- Why the FWS must account for likely future global efforts (many already under way) to combat the root cause of any global climate change, such as the emission of greenhouse gases.
- The ESA is not the proper mechanism for dealing with global climate change. (An admitted goal of environmental-group proponents of listing is to force the administration to take action on global climate change).

SCI comments, including several lengthy appendices, can be found under the Government/Litigation News tab at [www.safariclub.org](http://www.safariclub.org).

Opposing the listing of the polar bear does not mean that SCI is: (1) denying the existence of global climate change; (2) suggesting the United States and other countries of the world should not address the issue; or (3) opposing continued conservation of the polar bear. It merely means that the strict standards required for ESA listing have not been met here and that the federal government should address global climate change separately, through regulatory and policy tools better suited to deal with this complex issue. No matter how many animal rights activists wearing polar bear suits make baseless pleas for polar bear listing, the fact is that polar bear conservation and science-based management will continue without an ESA listing.

Finally, as more harm than good—in terms of sustainable use conservation—would befall the polar bear if listed, those truly concerned with polar bear conservation should not support listing at this time. The FWS is expected to make a decision by January 2008, but has the authority to take an additional six months under certain conditions.

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Giving new hope to the cause, however, recently two legislators introduced bills to remedy the situations in the parks within their states. Congressman Mark Udall of Colorado introduced a bill that would authorize the NPS to utilize the services of resident members of the hunting community to assist the NPS and the state of Colorado in the cull of elk on Rocky Mountain National Park. Senator Byron Dorgan of North Dakota introduced a similar bill in the Senate designed to authorize the NPS to utilize North Dakota members of the hunting community to assist in the cull of the elk in Theodore Roosevelt National Park. It is quite possible that a member of South Dakota’s legislative delegation will introduce a similar bill for Wind Cave National Park.

SCI supports these bills and this position is one that our members have voiced to their Senators and Representatives on Lobby Day 2007 and will continue to voice. SCI would like to see these individual state efforts joined together in a nationwide bill that would authorize the NPS to use qualified members of the hunting community to assist in the reduction and management of wildlife populations on National Park Service lands generally. Wildlife management through use of members of the hunting community will cost the public less.

In addition, hunters will either use the animals they take, or will donate the meat, where possible, to facilities that feed the hungry. This could prove to be a win-win situation for everyone except those who are more interested in keeping hunters out of the National Parks than in properly and economically managing our nation’s wildlife.



Late Breaking News From Alaska

On May 10, 2007, the Federal Subsistence Board voted unanimously to continue to designate 30 percent of the seats on every Regional Advisory Council for representatives of sport and commercial hunting and fishing. The Board held a special public hearing to allow testimony and to deliberate on the sole question of how they would meet their court ordered, Federal Advisory Committee Act requirement of balancing the membership of the councils in order to provide representation from groups other than subsistence users. The Board's own staff and many from the subsistence users' community urged the Board to abandon the plan that involved designating a specific percentage of participation by sports and commercial users. Detractors of the 70/30 plan claimed that the FACA requirement could be fulfilled simply by seating subsistence users who also have knowledge of commercial and recreational uses.

SCI has been fighting a battle with the Federal Subsistence Board for nine years, in an effort to make certain that the recreational hunting community has an active role in federal decisions over subsistence priorities on federal public lands. Anna Seidman, Chief Litigation Counsel for SCI, testified at the hearing, explaining that the only way the

recreational hunting community could attain true representation on these councils is by the participation by sport hunters who share and can advocate the interests of the sport hunting community.

After much deliberation, the Board agreed with SCI's position. The Board will now issue a Final Rule as to the membership balance plan. It is likely that several native Alaskan groups will challenge the legality of the rule, as they have in the past and it will be up to the federal court in Alaska to determine whether the rule will stand. SCI will be prepared to continue to defend the interests of recreational hunters in this important issue.

SCI President Ralph Cunningham applauded the victory, stating: "After nine years of litigation, SCI was determined to make sure that our community continues to have the right to participate in the decisions that allocate Alaska's wildlife resources on federal lands. It is now up to our members in Alaska and to other Alaskan residents who enjoy recreational hunting and fishing to answer the call and to volunteer to sit on these councils in order to give voice to our interests."



Wolves in our backyard.

