



## “SERVING THE HUNTER WHO TRAVELS”

*“Hunting provides the principal incentive and revenue for conservation. Hence it is a force for conservation.”*

### Special To The Hunting Report World Conservation Force Bulletin

by John J. Jackson, III

#### SPECIAL REPORT

#### News Analysis

### Wildlife ‘Compact’ Has Important Downsides

**M**ore states are adopting the *Interstate Wildlife Violators Compact*. Numerous hunting organizations and associations are mistakenly endorsing it. There is a serious downside to the Compact, however, that hunters who travel need to know. It appreciably adds to the risks that hunters who travel are already exposed to. It effects not only those guilty of wildlife offenses of every kind when out of state, but also impacts those accused and extends how long they are exposed to prosecution. It can stop your right to hunt everywhere and forever. It is more burdensome on nonresidents who must appear and defend themselves no matter how minor the charge, or possibly lose the right to hunt and fish everywhere and forever.

The Compact is a reciprocity agreement adopted by the state legislatures of each member state. Under it, a hunter or angler who loses his right

to hunt or fish because of any violation can lose that same right in all Compact states, including his home state if it is a member of the Compact. The objective is for the states to support one another, but the effect on the traveling hunter can be out of all proportion to the offense.

When the trial judge rules that you



can't return to the state of the offense for a number of years, which they readily and typically do to nonresidents, the judge may also be prohibiting your hunting and fishing everywhere outside of that jurisdiction in all Compact states. That risk puts you at a disadvantage in plea-bargaining with the prosecutor. You had better make a deal to pay a higher fine or

whatever you can on the condition your hunting and fishing not be suspended or revoked in the prosecuting state for life. If you don't, you have more at risk than other law violators. Some judges are heavy-handed with out-of-staters who are not thought to respect, appreciate or even know local laws. A judge's sentence that you can't hunt or fish in the state of the violation can be given effect everywhere else for the same duration.

In case you don't know it, there is serious political prejudice against non-resident hunters and anglers in the Western states. One such state is Nevada that originated the Reid Bill to give states unlimited and absolute authorization to discriminate against nonresidents in license pricing and allocation on all lands within the state. It's no surprise that Nevada is one of the two original states that began the Compact in the 1980s. It was soon joined by Colorado and Oregon, and the Compact was advanced by the Western Association of Fish and Wildlife Agencies. Today, 25 states are members. All of the western states are members, including Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Washington,

Wyoming and North and South Dakota. More states in the rest of the country have signed on, including Georgia, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Missouri and, recently, Wisconsin. It has really been the Western Compact up to now, but at this point it is becoming a nationwide Compact that is aimed at nonresident hunters, or hunters who travel inter-state to hunt. Although a resident's violation in his or her own state may be given reciprocal effect everywhere else, the aim actually is to double up punishment on nonresidents who commit an offense and leave.

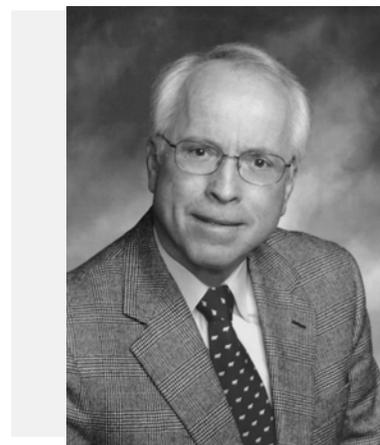
Many of the western states, if not all, have open-ended statutes of limitation for nonresident hunters and only for nonresident hunters. You can be prosecuted for an offense a decade or more after you've hunted. If you don't appear, your license in your home state will be suspended and may be suspended in all Compact states. Imagine getting a violation notice of a petty wildlife offense ten years after you've made a hunt and having to go to the state, retain a lawyer, appear for ar-

raignment and then appear for trial one or more times as trials are frequently continued unless you plead.

In the legal profession we call such continuances a case of “local justice.” I've personally been involved in the handling of that kind of case. You don't want to know what fee the lawyer in the Western state wanted. But clients caught up in these kinds of cases pretty much have to pay for legal counsel or just plead guilty to the offense and risk their license being suspended or revoked everywhere and even forever until the charges are disposed of. The application of open-ended statutes of limitations through the Compact has been upheld by the courts as being reasonable in the case of nonresidents. This only applies to nonresidents.

The Compact applies to all level of offenses no matter how petty. The failure-to-appear penalty is the same in all cases – suspension in your home state and perhaps everywhere.

Worse yet, you can't post bond and simply fail to appear, as in other petty offense cases or as residents can. Un-



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**World Conservation Force Bulletin**

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**Publisher**

Don Causey

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### Conservation Force Soldiers/Supporters in the News

■ **Ron and Jackie Bartels** jointly received the coveted *Arthur Van Pelt Award* from the Louisiana Outdoor Writers Association in recognition of a “lifetime commitment to conservation”. It is the association's most prestigious conservation award. They are both active in Ducks Unlimited, Safari Club International and in programs and projects too numerous to list here. Ron serves with me on the Louisiana Wildlife and Fisheries Foundation, which is the alter ego of the state's wildlife commission. Jackie has just been selected to receive the *Diana Award* at SCI's Convention in January. Both were also jointly awarded the SCI Hall of Fame Award at SCI's Reno Convention earlier this year. Both are ardent supporters of Conservation Force and have been from its inception.

**.Dr. James Teer** is the recipient of the 2006 *Harvey Weil Professional Conservationist Award*. He was particularly recognized as a “true professional, true

conservationist, and a true friend to all living things” who “has balanced research and conservation, with a special interest in biodiversity and sustainable use of wild resources.” He too has far too many credentials to list here, including his past Presidency of The Wildlife Society, Chairmanship of Texas A&M University's Department of Wildlife and Fisheries Sciences. He has also held the Caesar Kleberg Chair of Wildlife Ecology. He has previously been awarded the Leopold Award from The Wildlife Society, the Chevron Award and the Daughters of the American Revolution Award. He is a founding board member of Conservation Force who has worked on everything imaginable, including Argali litigation, Mozambique elephant import permits, black-faced impala, cheetah and many of Conservation Force's other projects. He maintains a small office for Conservation Force in College Station, Texas.

like other cases, nonresidents can lose their right to hunt and fish in all Compact states if they fail to appear and face the charge. This is true of the smallest infraction. Don't make the mistake of skipping or forfeiting bond because then you can't regain your right to hunt and fish in other Compact states until the charges are fully disposed of, which may take a year or more, or forever. Whenever you are charged, you have to appear voluntarily regardless of bond because if you don't, your rights are suspended everywhere until you do.

Imagine getting a notice in the mail to appear out-of-state for a petty offense many years after the fact and if you don't voluntarily appear your rights are suspended everywhere. Worse, imagine losing your rights for failure to appear in the case when you didn't receive the notice that was intended for you. Imagine having to retain an attorney, flying back and forth, out-of-state lodging and the disadvantage in the plea-bargaining process. The suspension of your license in all Compact states for failing to appear in a petty offense case also has been upheld by the courts in the Compact states. It is how the Compact is designed to work. We think it is unfair to those accused of any minor offense, not just a disproportionate punishment for those from out-of-state.

The Compact is a useful law enforcement tool. It arguably permits an out-of-state hunter or angler to post a lower bond or to be released without posting bond. But then it assures his appearance. Unfortunately, the posting of a bond and then bond forfeiture for failing to appear is appropriate and desirable in many petty offense cases because of the cost savings and convenience. Under the Compact, however, nonresidents will have to bear the cost of appearing and disposing of the case by trial or plea, unlike other defendants.

It is most certainly a useful law enforcement tool, but it applies to the pettiest of offenses as well as the more serious crimes. It applies to those charged as well as those convicted. It was designed to pursue nonresident

hunters and fisherman and has done just that in many thousands of cases (more than 4,000) in the Western states. Procedurally, it is worse than the federal Lacey Act. You can still separately be prosecuted under the Lacey Act because it is not double jeopardy; it is another separate offense by a different government. (16 USC 3372.) In fact, your plea to the state offense can be used as evidence against you, an admission of guilt, in a subsequent federal prosecution under the Lacey Act. Some sportsmen have to plead guilty to dispose of the charges to get their hunting and fishing rights restored, but when they do, they facilitate any potential Lacey Act prosecution. State authorities have no authority or ability to grant immunity from federal prosecution. Instead, your plea in the state



can be used against you if there is a federal investigation.

What effect does it have on resident hunters? None, unless they travel out-of-state themselves. Resident hunters should be aware that one out of seven hunters hunt outside of their home states each year. If not you, it may be a friend, your relative or a family member who is impacted by this.

What is the measure of this extra burden aimed at nonresidents? As well as paying license fees 20 times higher than residents, the suspension, or permanent loss, of your hunting rights is amplified by the number of Compact states. That can be 25 times worse a penalty. The fact that a nonresident can't ignore the charges or forfeit bond in even a petty case adds significant travel, lodging and legal fee costs.

Unfortunately, we don't know of anyone other than Conservation Force

advising sportsman of the downside and unfairness of the Compact. (You can find the Compact online at the Nevada Department of Wildlife website - <http://www.stoppoaching.org/wvc/index.shtm>.)

**DATELINE: TEXAS**

**News.... News.... News  
Gala Tanzania Banquet  
Was A Huge Success**

**T**he Presidents' fundraising dinner for Tanzania conservation held in Texas on October 17<sup>th</sup> was a spectacular event. We are so proud to have partnered with Dallas Safari Club, the Wildlife Conservation Foundation of Tanzania, the Freidkin Foundation and the presidents in holding the Gala.

The ambience, food and service of Gaylord's Texan in Grapevine, Texas, were all superb. The extended cocktail reception presented an opportunity for all to meet and speak with President George H. W. Bush, President Valéry Giscard D'Estaing, Archduke Lorenz of Austria-Este, His Excellency Ambassador George Kahama of Tanzania and the many renowned attendees from around the world. That was complemented by the quality champagne, wines and spirits generously donated by Moët Hennessy.

I don't know that I've ever been to such a function or that there will ever be one like it again. Each of the dignitaries spoke from the heart and demonstrated genuine commitment to the cause. More than a quarter of a million dollars was raised from those that attended, as well as from mail-ins from around the world.

Dallas Safari Club primarily organized and hosted the Gala, once more demonstrating its superiority and capacity. Indeed, it brings a lot to the industry. There were too many renowned individuals and too much generosity to cite here. Dallas Safari Club and Conservation Force bore much of the direct costs and their members and supporters were generous contributors. Tanganyika Wildlife Safari, Legend-

ary Adventures, Moët Hennessy, Mount Kilimanjaro Safari Club and Cecile Riolet donated the seven auction items. Like the spirit of the night, the auction items sold above value. Our dear friend Victor Lattimore was the most generous auction bidder and individual contributor.

Donations are still coming in and are still welcome. Just make your tax deductible contribution out to Conservation Force. Dedicate it to “Gala Dinner for Tanzania” and mail to Conservation Force at PO Box 278, Metairie, LA 70004. The full amount goes to the cause.

#### SPECIAL REPORT

### News.... News... News Last Nonresident Suit Is Summarily Denied

**W**e have not reported on one last nonresident lawsuit that has been denied. On September 13, 2006 *George Toulman v. Mike Hayden, Secretary of the Kansas Department of Wildlife in his official capacity* was summarily denied by the U.S. District Court for the District of Kansas, case number 05-1118-WEB. It is distinct and significant because it was the second of two suits by a nonresident who owns and manages land out-of-state. The basis of the suit was the Privileges and Immunities Clause of the United States Constitution.

The suit was filed by George Toulman personally as a landowner from out-of-state who makes a significant investment in his land in Kansas, pays taxes on it and everything else, yet he and his family are not entitled to a landowner’s permit, as are resident landowners and other privileges of residents. Nonresidents can only hunt mule deer with muzzleloaders, and can’t hunt wild turkey in the unit where his land is located even though he and his family are landowners.

Without a lot of fanfare, the court held that the discrimination did not violate the rights of nonresident landowners because “[p]ossession of property does not make every right associated with that property fundamental

under the Privileges and Immunities Clause,” only those rights that are “basic and fundamental to the maintenance of the Union.” “The right of a nonresident landowner to access his property on equal footing with residents to hunt ... is not ‘basic to the maintenance or well-being of the Union’; consequently, it is not fundamental under the Privileges and Immunities Clause.”

This is the second and last case of recent in which federal courts have held that landowners who are nonresidents don’t fare any better than other nonresidents, i.e., they have no entitlement to hunt and fish on par with those that intend to permanently reside in the state. The other was *State of Minnesota v. North Dakota*, 05-3012 in the U.S. Court of Appeals for the Eight Circuit in which Congressman Collin Peterson was a plaintiff.

We’ve waited til now to see if either of the cases would be appealed, but the appeal times in both of these cases have expired. The nonresident rights court battles that have raged for the last decade are over. There are no more cases pending. The only remaining courses are remedial action in Congress, reciprocity between the states instead of warring, or a new legal case arguing that the Reid Bill that is not codified expired after the fiscal year of its passage. – *John J. Jackson, III.*

#### Conservation Force Sponsor

Grand Slam Club/Ovis generously pays all of the costs associated with the publishing of this bulletin. Founded in 1956, Grand Slam Club/Ovis is an organization of hunter/conservationists dedicated to improving wild sheep and goat populations worldwide by contributing to game and wildlife agencies or other non-profit wildlife conservation organizations. GSCO has agreed to sponsor *Conservation Force Bulletin* in order to help international hunters keep abreast of hunting-related wildlife news. For more information, please visit [www.wildsheep.org](http://www.wildsheep.org).

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#### Time For Action

■ As the year 2006 comes to an end it is time to thank all those who have supported and partnered with Conservation Force. We’ve built monuments to argali in Mongolia, held Gala dinners, cosponsored symposiums and workshops to further the recognition and use of hunting as a force for conservation. We’ve pressed on for trophy imports of argali, markhor, black-faced impala, cheetah, black rhino and elephant from Zambia, Mozambique and Cameroon. We’ve battled to save and expand polar bear hunting, launched new programs for import of argali, advanced the concepts of “sustainable use”, of “conservation hunting” and resolved misinterpretations of APHIS rules governing ungulates. We’ve survived and rebuilt Conservation Force after what has truly been the worst disaster of our lives, all the while monitoring animal rights conferences, distributing educational materials and bumper stickers and hundreds of big and small actions day in and day out.

We know that the challenges of 2007 will be the most important in our ten year history. The CITES Conference in June will be in The Hague. The proposal deadline is next month, January. In late January and February we must analyze and prepare position papers for all relevant proposals and resolutions.

Here at home the threat is even worse. The understaffed International Affairs office of the USF&WS with the worst and most notorious history in the world is creating new authority and responsibilities for itself. The hunting and developing world is facing the greatest deluge of threats in its history. It is time to take action to save ourselves. We can’t wait any longer. We need you to help make Conservation Force a Force to be Reckoned With! Do that by making a year-end gift to Conservation Force. Mail tax-deductible contributions to Conservation Force at P.O. Box 278, Metairie, LA 70004-0278, USA. – *John J. Jackson, III.*