

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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SAFARI CLUB INTERNATIONAL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 1:11-cv-1564 BAH
	)	
KEN SALAZAR, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

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**EXPEDITED MOTION FOR RECONSIDERATION OF DENIAL  
OF INTERVENTION BY THE HUMANE SOCIETY  
OF THE UNITED STATES AND BORN FREE USA**

Pursuant to Fed. R. Civ. P. 54(b), Defenders of Wildlife (“Defenders”), The Humane Society of the United States (“HSUS”) and Born Free USA hereby respectfully request that the Court reconsider, on an expedited basis, the aspect of its March 23, 2012 Memorandum Opinion and Order which denied the motion to intervene by HSUS and Born Free USA. See ECF 41 (Opinion) & 42 (Order); see also Cobell v. Norton, 224 F.R.D. 266, 272 (D.D.C. 2004) (explaining that courts have “flexibility in applying Rule 54(b)” and that “reconsideration may be granted as justice requires”) (citations and quotation marks omitted). The groups seek expedited reconsideration to ensure that they can pool their resources in preparing the response to plaintiffs’ motion for summary judgment that is due on April 27.<sup>1</sup>

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<sup>1</sup> As an expedited request for relief, the parties have contemplated a briefing schedule whereby any responses or oppositions to the motion would be filed by March 30, 2012, and any reply would be filed by April 3, 2012. Defendant-Intervenor Friends of Animals (“FOA”) consents to this schedule. Plaintiff Safari Club International (“SCI”) consents to this schedule so long as a hearing on its pending preliminary injunction is not scheduled on or before March 30, 2012. Plaintiff Exotic Wildlife Association (“EWA”) does not consent to an expedited schedule. The Federal Defendants take no position on the proposed schedule.

In denying the motion with respect to HSUS and Born Free USA, the Court found that Defenders “would suffer an informational injury if the plaintiffs succeed in setting aside the Final Rule” at issue here, and thus “ha[s] informational standing in this matter.” ECF 41 at 15, 17. The only reason that the Court granted intervention as to Defenders, but not as to the other organizations, is that Defenders attached a declaration from Michael Senatore to its Reply brief, see ECF 21-2, attesting to the fact that the organization continues to have the same informational interests discussed in its 2008 declaration submitted to demonstrate standing in Friends of Animals v. Salazar, 626 F. Supp. 2d 102 (D.D.C. 2009) (Kennedy, J.). Defenders had submitted that additional declaration in response to plaintiff SCI’s reliance on the fact that the original 2008 declaration submitted on Defenders’ behalf was executed by an employee who was no longer working for the organization. The Proposed Intervenors had not submitted new declarations on this point with respect to HSUS and Born Free USA because the individuals who had executed the 2008 declarations submitted on their behalf in Friends of Animals are still employed by the groups and the representations regarding the use of this information remained fundamentally unchanged. However, now that the Court has ruled that more recent declarations are required to verify that the groups will continue to suffer informational injury should the plaintiffs prevail in their case, HSUS and Born Free USA are submitting such declarations. See Exhibit A (Declaration of Andrew Page); Exhibit B (Declaration of Adam Roberts).

HSUS and Born Free USA request reconsideration on three alternative grounds. First, similar to Defenders, HSUS and Born Free USA continue to regularly and routinely engage in the activities that Judge Kennedy held sufficient to confer standing to these organizations in the previous lawsuit, and have now submitted declarations verifying that this continues to be true.

Therefore, HSUS and Born Free USA respectfully request that the Court grant intervention on the ground that this particular deficiency has been now cured.

Second, although the Court need not reach this issue in light of the fact that the groups have now verified that they will continue to suffer informational injury if plaintiffs prevail in this action, HSUS and Born Free USA should also be granted intervention because they obtained from Judge Kennedy “a ‘judicially cognizable’ interest in ensuring compliance” with the judgment, see Salazar v. Buono, 130 S. Ct. 1803, 1814-15 (2010) (plurality) (Kennedy, J., concurring in judgment) – an additional basis for intervention that was not addressed in the Court’s intervention ruling. See Motion for Intervention, ECF 13-1 at 18-19.

Third, although the Court noted that the law is not clear as to whether it is necessary for each of the Proposed Intervenors to establish Article III standing here, see Op. at 12-13, n.8, the Supreme Court has ruled that such a showing is not required where the Intervenor seeks the same outcome as another party with standing on whose behalf it seeks to intervene. See McConnell v. FEC, 540 U.S. 93, 233 (2003) (finding that because the FEC has standing, the Court “need not address the standing of the intervenor-defendants, whose position here is identical to the FEC’s”), overruled on other grounds, Citizens United v. FEC, 130 S Ct. 876 (2010). Accordingly, because HSUS and Born Free USA seek the same outcome as Defenders in this case, and this Court has already held that Defenders meets the requirements of Rule 24(a), the Court should allow the other two groups to participate as co-intervenors.

Finally, granting HSUS and Born Free USA intervention will not prejudice the existing parties in any way because HSUS and Born Free USA will join Defenders, already an Intervenor, in filing a single brief on behalf of this longstanding coalition that seeks protections

for these antelope species, including by enforcing the judgment that all of the organizations jointly obtained from Judge Kennedy. On the other hand, precluding these two groups from participating in this lawsuit, and thus hindering the coalition's ability to pool their resources and their combined expertise, will certainly impair Defenders' ability to fully participate in the case. Thus, while these groups have similar interests in this litigation, their organizational expertise and missions are different. See Senatore Decl., ECF 21-2 at ¶ 1 (explaining Defenders' conservation and restoration mission); Page Decl., Exh. A at ¶ 1 (explaining HSUS's focus on protection of captive animals); Roberts Decl., Exh. B at ¶ 1 (explaining Born Free USA's emphasis on international wildlife preservation); see also Fund for Animals v. Norton, 322 F.3d 728 (D.C. Cir. 2003) (explaining that “[a]lthough there may be a partial congruence of interests [between coalition members seeking intervention], that does not guarantee the adequacy of representation”); Neusse v. Camp, 385 F.2d 694, 700 (D.C. Cir. 1967) (explaining that Rule 24(a) was designed to allow the involvement of “as many apparently concerned persons as is compatible with efficiency and due process.”).<sup>2</sup>

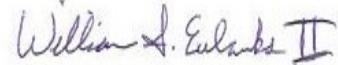
For all of these reasons, Defenders, HSUS, and Born Free USA respectfully request that the Court reconsider its denial of HSUS's and Born Free USA's motion to intervene.<sup>3</sup>

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<sup>2</sup> The fact that another animal protection organization, Friends of Animals, has been granted intervention has no bearing on whether the present motion should be granted. See, e.g., Fund for Animals, 322 F.3d at 731 (noting that the district court granted intervention to two different sets of “hunting and conservation” organizations).

<sup>3</sup> Pursuant to the Local Rule 7(m), counsel for Plaintiff SCI and for Plaintiff EWA respectively represent that they oppose the motion. Counsel for the Federal Defendants represents that the government takes no position on the motion. Counsel for Defendant-Intervenor FOA represents that FOA consents to the motion.

Respectfully Submitted,



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Counsel for HSUS and Born Free USA

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

Civ. No. 1:11-cv-1564 BAH

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SAFARI CLUB INTERNATIONAL,	)	
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Plaintiff,	)	
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v.	)	
	)	
KEN SALAZAR, <i>et al.</i> ,	)	
	)	
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**DECLARATION OF ANDREW PAGE**

I, Andrew Page, declare as follows:

1. I am the Senior Director for the Wildlife Abuse Campaign of the Humane Society of the United States (“HSUS”), a non-profit membership organization with over 10.5 million members and constituents. The mission of the HSUS is to create a humane and sustainable world for all animals and people, through education, advocacy, and the promotion of respect and compassion. The HSUS works to protect wild animals from an increasing number of threats from anthropogenic factors, including habitat loss and degradation, over-hunting, and illegal trade in wild animals and their parts. This work includes legislation, litigation, investigation, public education, special events, and field work directed at halting inhumane hunting practices such as captive or “canned” hunting, wildlife penning, and killing contests in the United States.

2. I have reviewed the November 4, 2008 declaration that I previously submitted in support of the HSUS’s intervention in this lawsuit, and I can attest that the statements made with regard to the HSUS and its activities continue to be true. I specifically incorporate herein the statements made in that November 4, 2008 declaration.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

*March 27, 2012*

Date



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Andrew Page, on behalf of  
The Humane Society of the United States

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Defendants.                )  
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**DECLARATION OF ADAM ROBERTS**

I, Adam Roberts, declare as follows:

1. I am the Executive Vice President of Born Free USA, a non-profit organization and a companion group to the United Kingdom-based Born Free Foundation, which was founded to protect animals and conserve threatened and endangered species.
2. I have reviewed the November 11, 2008 Declaration that I previously submitted in support of Born Free USA's intervention in this lawsuit. With the exception of two projects in which Born Free USA is no longer involved, I can attest that the statements made in the 2008 Declaration with regard to Born Free USA continue to be true.<sup>1</sup>

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

03/27/12

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Date



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Adam Roberts, Born Free USA

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<sup>1</sup> We are no longer involved in the Species Survival Network Trophy Hunting Working Group because it has since been disbanded, and we are not currently establishing regulations for canned hunt facilities in South Africa.

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**[PROPOSED] ORDER**

Upon consideration of the expedited motion for reconsideration of the denial of intervention by The Humane Society of the United States and Born Free USA, any responses thereto, and the entire record herein, it is hereby on this \_\_\_\_\_ day of \_\_\_\_\_, 2012 ORDERED that the motion to reconsider is hereby GRANTED; and it is further ORDERED that The Humane Society of the United States and Born Free USA are hereby granted intervention as of right under Rule 24(a) of the Federal Rules of Civil Procedure and party status as defendant-intervenor.

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United States District Judge