

of the Indian Land Consolidation Act to be unconstitutional.

2. Reopening all estates in which property escheated to an Indian tribe under the escheat provision of the Indian Land Consolidation Act:

- a. Allows correction of the prior distribution of assets;
- b. Is in the public interest;
- c. Furthers the Department's trust responsibility; and
- d. Prevents manifest injustice.

3. For the reasons given above, all estates in which property escheated to an Indian tribe under the escheat provision of the Indian Land Consolidation Act are reopened. The Secretary will distribute interests in these estates to the rightful distributees in accordance with *Babbitt v. Youpee*, 519 U.S. 234 (1997).

4. The Bureau of Indian Affairs will bear the majority of administrative costs associated with this action.

5. The Department will ask Congress for a supplemental appropriation for this project.

#### Text of the Secretary's Order

The text of the Order signed by the Secretary on February 19, 1999, reads as follows:

#### United States Department of the Interior

Office of the Secretary, Washington, D.C. 20240

In the matter of all estates in which property escheated to an Indian Tribe pursuant to 25 U.S.C. 2206.

#### Order

On January 21, 1997, the United States Supreme Court issued a decision in *Babbitt v. Youpee*, 519 U.S. 234 (1997), in which it essentially held that the "escheat provision" of the Indian Land Consolidation Act, 25 U.S.C. 2206, as amended, is unconstitutional. On October 2, 1998, the Deputy Commissioner for Indian Affairs filed a Petition for Reopening All Estates in Which Property Escheated to an Indian Tribe Pursuant to 25 U.S.C. 2206 (the "Petition") with the Office of Hearings and Appeals. By Order the same day, I took jurisdiction of the Petition and solicited comments on it and a Proposed Order for Reopening Escheated Estates. Both the Petition and Proposed Order were served upon the affected tribes.

To give full effect to the Supreme Court's holding in *Youpee* and to further the Department of the Interior's trust responsibility to the Indian people, I find that the public interest would be furthered by applying the *Youpee* decision retroactively to prior Departmental probate determinations

consistent with the procedures set forth more fully below. I further determine that reopening these estates will prevent manifest injustice and that a reasonable possibility exists for correction of prior distribution of assets which occurred in reliance on the unconstitutional statute.

In furtherance of my Order dated October 2, 1998 in which I assumed jurisdiction to decide the Petition pursuant to 43 CFR § 4.5(a), and further by virtue of the power and authority vested in me by Section 1 of the Act of June 25, 1910, as amended, 25 U.S.C. 372 (1970), and other applicable statutes, *it is hereby ordered*:

The Petition for Reopening All Estates in Which Property Escheated to an Indian Tribe Pursuant to 25 U.S.C. 2206 is hereby granted. All prior Departmental probate determinations wherein land interests were Ordered to be escheated to Indian tribes pursuant to 25 U.S.C. 2206 are hereby reopened. The determinations made therein are modified to the extent that the appropriate Bureau of Indian Affairs official having jurisdiction over the affected land titles shall distribute any such escheated interests to the rightful heirs and beneficiaries without regard to the provisions of 25 U.S.C. 2206, except that prior determinations where an Indian tribe has paid fair market value for any escheated interest under 25 U.S.C. 2206 will not be reopened or modified.

It is recognized that there will be cases that do not fall within the parameters of this Order and which will need to be treated on an *ad hoc* basis, such as cases where there was no determination of heirs, cases of will construction, and any other type of miscellaneous case where Bureau of Indian Affairs personnel are uncertain as to how to proceed. The Bureau of Indian Affairs shall refer such cases to the respective Administrative Law Judge for adjudication. To the extent not already delegated, I hereby delegate authority to the Administrative Law Judges to assume jurisdiction over, and enter determinations in, those cases pursuant to existing law.

The Director, Office of Hearings and Appeals, or his delegate will have jurisdiction to decide any objection to the implementation of this Order. Any objection to implementation of this Order shall be made in writing to: Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Room 1111/BT-3, Arlington, VA 22203.

Dated the 19th day of February, 1999.

**Bruce Babbitt**,  
Secretary of the Interior.

**Edward B. Cohen**,  
Deputy Solicitor.

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

*Applicant*: Audubon Zoological Garden, New Orleans, LA, PRT-008168. The applicant requests a permit to import one male and one female captive-born, captive-held jaguars (*Panthera onca*) from Zoologico de Guadalajara, Mexico, for the purpose of enhancement of the survival of the species through conservation education, propagation, and scientific research.

*Applicant*: Carl W. Strawberry, Annapolis, MD, PRT-008186. The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

*Applicant*: Hawthorn Corporation, Grayslake, IL, PRT-673366. The applicant requests a permit to re-export and re-import captive-born Tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

*Applicant*: Rare Feline Breeding Center, Inc., Center Hill, FL, PRT-004337. The applicant requests a permit to re-export and re-import captive-born Tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities

conducted by the applicant over a three year period.

**Applicant:** Bowmanville Zoo, Ontario, Canada, PRT-805163. The applicant requests a permit to import and re-export captive-born Bengal tigers (*Panthera tigris tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following applications for permits to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

**Applicant:** Alberto J. deJongh, Baton Rouge, LA, PRT-008115. The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

**Applicant:** Jeff C. Neal, Tulsa, OK, PRT-008116. The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Davis Strait polar bear population, Northwest Territories, Canada, prior to April 30, 1994 for personal use.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358-2104 or fax 703/358-2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office

within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281).

Dated: February 23, 1999.

**MaryEllen Amtower,**

*Acting Chief, Branch of Permits, Office of Management Authority.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### North American Wetlands Conservation Council; Availability of Grant Application Instructions

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The U.S. North American Wetlands Conservation Act Standard Grant Application Instructions booklet and computer disk are now available. In addition, both will be available via the Internet in early 1999.

**DATES:** Proposals may be submitted at any time. To ensure adequate review time prior to North American Wetlands Conservation Council meetings, due dates continue to be the first Friday in April (April 2, 1999) and August (August 6, 1999).

**ADDRESSES:** For a copy of the booklet and/or disk, contact the Fish and Wildlife Service Publications Unit, c/o National Conservation Training Center Support Services, Route 1, Box 166, Shepherd Grade Road, Shepherdstown, WV 25443 in writing or by phone (304) 876-7203 during normal business hours.

**FOR FURTHER INFORMATION CONTACT:** North American Wetlands Conservation Council Coordinator at (703)358-1784, R9ARW\_NAWWO@MAIL.FWS.GOV or WWW.FWS.GOV/R9NAWWO/NAWCAHP.

**SUPPLEMENTARY INFORMATION:** The Council has two U.S. conservation grants programs for acquisition, restoration, and enhancement of wetlands. Any individual or organization who has a long-term, partner-based project with matching funds can apply. The focus of this notice is the larger (up to \$1,000,000) grants program (a separate notice is issued for "Small Grants"). The booklet provides the schedule, review criteria, definitions, information required in the

proposal, and a format for proposals. The disk contains a proposal outline, budget table and Technical Assessment Questions (including species lists) in Word Perfect and Word word-processing programs.

Major changes and clarifications since last year are:

- (1) Proposals must be unbound.
- (2) We require a Cover Page.
- (3) We require Standard Form 424 and attachments submitted with the proposal, rather than later.
- (4) We wrote instructions in plain language (active voice, more headers, more use of lists, and Table of Contents in question format).
- (5) We included Office of Management and Budget Information Collection Statement.
- (6) We replaced the term "overhead" with clearer statements.
- (7) We disallow the short-hand method for reporting numbers in the Budget Table.
- (8) Technical Assessment Question 2 non-waterfowl migratory birds lists are organized by Partners in Flight physical geographic areas.
- (9) We gave more information about what to expect after the proposal is approved for funding.
- (10) We require appraisals for grant and match tracts acquired and donated in fee or easement.
- (11) We must receive proposals by the first Friday in April and August (versus postmarked by).
- (12) Part 1 font size = 11 and suggested font face = Times New Roman.
- (13) We gave a Technical Assessment Questions Contacts table.
- (14) We listed more Internet web sites in the Directory.

We prepared the booklet and disk to assist partners in developing proposals that comply with the "North American Wetlands Conservation Act." The Act established a North American Wetlands Conservation Council, a Federal-State-Private body, that recommends projects to the Migratory Bird Conservation Commission for final approval. The Council requires that proposals contain a minimum of 50 percent non-Federal matching funds and follow a prescribed format.

We have submitted information collection requirements to the OMB for review and approval under the Paperwork Reduction Act of 1995, Pub. Law 104-13. On August 24, 1998, OMB gave an emergency approval for this information collection requirement and assigned it approval number 1018-0100. Our request for continued approval has been submitted to OMB. An agency may not conduct or sponsor, and a person is