



From: 9/16/2011
REXANO, 205 N. Stephanie Street, Suite D # 131, Henderson, Nevada 89074
www.REXANO.org, contact@REXANO.org

To:
U.S. Fish and Wildlife Service
Suite 212; Arlington, VA 22203; telephone, (703) 358-2093
Public Comments Processing, Attn: FWS-R9-IA-2011-0027; Division of Policy and Directives Management; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203
(FOR FURTHER INFORMATION CONTACT: Timothy J. Van Norman, Chief, Branch of Permits, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 212, Arlington, VA 22203; tel: 703-358-21040; fax 703-358-2281)

Docket ID: Docket No. FWS-R9-IA-2011-0027 RIN: 1018-AW81
Captive-Bred Wildlife Prohibitions; Generic Tigers
<http://www.regulations.gov/#!documentDetail;D=FWS-R9-IA-2011-0027-0001>

REXANO POSITION: OPPOSE

REXANO is opposing removing the “generic tiger” exemption from the Captive-Bred Wildlife Registration, CBW.
As stated on its website, in its mission, the purpose of USFWS is to protect/save wild animals/tigers in the wild thru Endangered Species Act, (ESA), Lacey Act, CITES and Rhinoceros & Tiger Conservation Act. American ‘generic’ tigers are a self sustaining population and in no way endangering wild populations in any shape or form. Just the opposite, captive breeding has reduced the need to take wild animals from their wild habitat for exhibition purposes. We are not aware of any wild-caught tigers in the recent history being imported into the USA.

Current Laws

The CBW exemption only applies to living animals, not the body parts. The commerce in non-living wildlife or parts is still prohibited without a FWS CBW permit, for both, buyer and seller. Therefore removing the CBW exemption for “generic tigers” (we prefer the term American tiger) will have no impact on the existing legislation prohibiting the sale and export of body parts, if, indeed such illegal activities even occur here in the USA. We quote for your easy reference:

“Subpart C—Endangered Wildlife 3. Section 17.21(g) is revised to read as follows:
§ 17.21 Prohibitions. (g) Captive-bred wildlife. (1) *Notwithstanding paragraphs (b), (c), (e) and (f) of this section, any person may take; export or re-import; deliver, receive, carry, transport or ship in interstate or foreign commerce, in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce any endangered wildlife that is bred in captivity in the United States provided either that the wildlife is of a taxon listed in paragraph (g)(6) of this section, or that the following conditions are met:
...SNIP...Such activity does not involve interstate or foreign commerce, in the course of a commercial activity, with respect to non-living wildlife”.*

Sub-Species

Successful captive breeding of “American tiger” also assures the survival of the species in case the wild populations go extinct.

The idea of sub-species is controversial & academic, a human defined classification. It has been shown that sub-species can easily interbreed and thrive in another sub-species habitat.

It appears that in no other species than tiger is the issue of genetic purity (sub-species) more abused for financial and political gain. It is well documented that if no man made barriers creating a fragmented habitat are present, such as roads and development, in few cases wild animals meet and actually interbreed naturally in the wild on species level (wolf/coyote, lynx/bobcat, grizzly/polar bear,..) and sub-species level, such as box turtle with 3 toed box turtle, etc...

However what "species" means depends; it usually refers to a group of naturally interbreeding organisms. Some species might not naturally interbreed in the wild due to different geographic habitats, domestication or different social groups (in the wild lions live in prides, tigers are solitary). However, some of these species can breed and produce offspring in captivity (liger, zedonk, mule...), and at time the offspring can be fertile. In a perfect world, we could say the only time we can definitely say we have two distinct species is if they can't breed and produce any offspring. But in real life, many closely related species can produce offspring who often have fertility issues; usually the males are sterile.

What exactly constitutes a distinct sub-species is very contentious even in scientific circles. Taxonomists, geneticists, morphologists, and zoologists debate among themselves and publish conflicting results in peer reviewed journals. It is humans who might declare whether a certain population or metapopulation is a sub-species.

Before DNA analysis were available, sub-species were defined as representing a unique group of a particular species, that is adapted to a specific environment. But how many DNA bars do we need nowadays to label something a different sub-species? Taken to the very extreme, could non fraternal sibling/twin/etc...humans be called a separate sub-species if we only go by the “DNA bar number” game?

Tiger sub-species will not remain physically/cosmetically distinct (lighter longer coat in Amur tiger, etc...) if they occupy the same locale over evolutionary time. The longer coat is simply an adaptation to colder climate, but if the Amur tigers were caught and released in tropical India, over time they would lose the long coat, as it is not needed in the warm climate. Would we still call this wild population a Bengal tiger or not? A third grader can tell a difference between a Doberman and a Poodle, but many tiger experts can't distinguish between a South China and Indochinese tiger.

The tiger taxonomy is still evolving at the moment:

- 1) The Malayan tiger was recently ID'd as a separate sub-species and
- 2) Amur tigers are now closely related if not hybrid of Caspian. So if USFWS pegs to existing definitions, then the law will not be “dynamic”.

Some geneticists think that the sub-species debate is pointless: all tigers are part of “tiger soup” and this “pet tiger” discussion diverts resources, aka tax payers' money, from the hard conservation issues that really matter, such as wild habitat protection.

The Florida panther sub-species has already been inbred and hybridized with Texas cougar sub-species through human intervention. So why is it deemed appropriate to interbreed in some cases, especially in the wild, but not in others, such as in captivity? Isn't it like speaking out of both sides of one's mouth; sounds not very consistent...

The purity of wild Bengal tiger is already questioned by releasing a captive hybrid tiger Tara into the wilds of India years ago. MN zoo Tiger 'expert' Ron Tilson suggested saving the wild South China Tiger by hybridizing it with other tiger sub-species.

<http://www.time.com/time/magazine/article/0,9171,1964894-2,00.html>

"The last remaining South China tigers could die out within a few generations unless their genes are supplemented with those from other subspecies. It is not an image China's propagandists will want to project: a captive population of "Chinese" tigers, enfeebled by decades of inbreeding and reliant on genes from, say, a Vietnamese subspecies before they can survive in the wild. But ultimately, says Tilson, the Chinese will have to accept this hybridization "because it's already been done and they have no other cards to play."

Conservation

What is conservation anyway? If it is protecting the wild tigers in their wild habitat, then the current wild conservation approach is failing miserably. The biggest long term threat to wild tigers is habitat loss and fragmentation, short term is the poaching. This means that any tiger born in USA will be born and die in captivity, and none will be released back to the wild, so why do their sub-species even matter? Considering that the current wild conservation strategy is failing, it is time to change the course and concentrate on the preservation of live specimens in captivity. And America (and some European countries) is/are the only country/ies that can afford it by having private sector cover the expense. Rather than burden private sector with more red tape, the regulations for captive bred US American tigers should allow more commercial freedom, the way it is done with farmed alligators.

Danger to Humans

Captive tigers in USA are not a public safety hazard. A total of 14 people were killed by ALL captive tigers in the USA in the last 20 years, a rate of 0.7 deaths per year. This is a very small number compared to the risks we face in everyday life. In all fatal tiger attack cases, the uninvolved public was never at risk. Most fatalities happened as a result of occupational/hobby hazard to owners/trainers/keepers, the rest happened to family members and public voluntarily visiting the property where the animals were kept. (See Exhibit 2)

On the other hand, wild tigers kill hundreds of humans and livestock each year. The exact number is not known. But as a benchmark, the Wildlife Institute of India <http://www.wpsi-india.org/wpsi/index.php> publishes poached figure and if you look at them, roughly 2/3 of tigers are killed due to conflict, not profit. Humans living in tiger territory often kill them out of revenge, and often not even using/selling the body, just letting it rot in the forest. This is another real threat wild tigers are facing that is in no way addressed by proposed legislation; in many cases, locals do NOT want them nearby, as they see no benefit in living in the close proximity to a deadly predator.

Trade

There is little evidence and no proof that American tigers are part of any illegal tiger part trade, either domestically or internationally. If it were occurring, we would expect to see some white skins seized, since there are many white (and other color) tigers in USA, but we can't find any instance where non orange with black stripes tiger pelt was seized. (See Exhibit 1)

It is commonly accepted that China is the main consumer of tiger parts for medicine as well as pelts. It is absurd to suggest that American tiger parts and pelts might end up in black Asian market. The cost of transporting would be astronomical, and USA has well enforced laws and international ports, as opposed to borders within tiger range countries, where the tigers actually live, that makes smuggling so much easier and profitable. China has its own captive tiger populations, which are as large if not larger than captive American tiger population, so why would they import American tigers at higher risk and cost???

The illegal trade chooses boundaries that are less well-enforced than others. The higher the risk of detection, the higher the cost to transport. Only an idiot would import tigers from US instead of Myanmar, because US borders are well guarded.

In the last decade, exotic animal sanctuaries in USA have been complaining that too many tigers are looking for home and have no place to go. These adult tigers are given away *free of charge*, so how come the smugglers didn't already start collecting these free tigers if it was so easy and profitable to smuggle American tigers into Asian black markets?

To burden private US tiger owners with more regulations because something might in theory happen, but has yet to actually occur is as ludicrous as having federal registry for domestic wolfy looking dog breeds, in case some real endangered wolves might end up as food on Chinese tables.

American Tiger Inventory

According to USDA documents and industry reports, there are no more than 3,500 tigers in captivity in the USA. About 95% of them are in federally USDA regulated facilities, from AZA zoos to circus. The majority of non USDA tigers are in 501©3 wildlife sanctuaries that are exempt from captive Wildlife safety Act (CWSA) under the condition that: *"Sanctuaries must keep records of any possession, transportation, sale, acquisition, purchase, barter, disposition, importation or exportation of big cats. Sanctuaries must keep their records up to date, retain them for five years, and make them or copies available to the Service on request. Records must include the dates of transactions and the names and addresses of the persons involved."* **So our federal government already has access to the inventory of 99.99% of captive purebred AZA and generic/American tigers. Only tiny fraction of tigers are kept as strictly non commercial pet, but even these are usually already regulated on state, county or city level.**

That the USDA and CWSA exempt sanctuaries inventory paperwork already ensures that USFWS has better access to the actual tiger inventory in private hands, since it includes all tigers at the facility. The CBW only applies to the tigers in interstate commerce, and does not apply to the tigers given as gifts or to the intrastate sales or donations.

Conclusion

If the conservation community is not ready to get rid of the tiger sub-species and call all tigers just a 'tiger', we would like to propose to refer to the non AZA US tigers as 'American tiger', the most numerous sub-species that only occurs in captivity in 4 distinct colors. Instead of wasting or dictating demand, consider using the bodies of naturally deceased tigers to supply the demand, in a controlled regulated environment, similar to alligator farming or human organ donation. (See Exhibit 3).

The true goal should be to protect endangered species in the wild, and the captive tigers in US do not jeopardize that goal, in fact that they help ensure the wild tiger species persistence.

As this paper has shown, sub-species are hard to define. Generally, it represents a group that is isolated and has not interbred outside for a long time, and has some unique traits.

Our proposed privately owned 'American tiger' sub-species fits this loose sub-species definition:

- American tigers are geographically isolated from the wild Asian tigers through a large body of water
- American tigers do not and might never interbreed with the wild tigers' sub-species unless they get released in the wild habitat
- AZA zoos have around 260 pure bred tigers, not all are breeding. AZA only maintains three sub-species, Siberian, Sumatran, and Indochinese, and is not currently working with private non AZA sector when it comes to tiger breeding.
- http://www.mnzoo.com/conservation/conservation_atZootigerSSP.asp
- American tigers tend to regularly come in all 4 colors (orange, tabby, white and snow white). All can be seen in the wild, but it happens VERY rarely
- American tigers are bred for temperament, which makes them well suited for the life in captivity and adapted to the different climates in USA
- American tigers might be the most numerous tiger subspecies (we don't have the exact inventory of captive tigers in China)

As stated at the beginning, we oppose removing the "generic tiger" exemption from the CBW registration, since we don't see the economics of shipping from USA to Asia profitable or practical. Removing the generic exemption does nothing for the conservation of wild tigers and is not in line with the purpose of USFWS and wildlife laws' purpose which is wild conservation, not the welfare of captive born tigers.

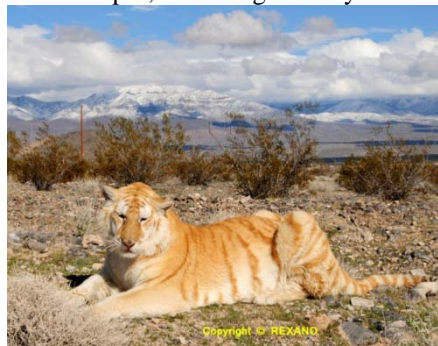
Exhibit 1: AMERICAN TIGER COLORS



ORANGE TIGER: brown with black stripes, golden or hazel eyes



GOLDENT TABBY (STRAWBERRY) TIGER: light orange with darker orange and very faint brown stripes, hazel or golden eyes



WHITE TIGER: white with black or brown stripes, blue eyes



SNOW WHITE TIGER: white with very faint stripes, blue eyes



Exhibit 2: HUMAN FATALITIES CAUSED BY CAPTIVE TIGERS IN THE USA 1990-2010

YEAR/State	Relationship to tiger	Comments
December 2007 California	Visitor killed by a tiger who was out of her cage, while still on the SF Zoo property, 2 more visitors injured, USDA	Lawsuit were filed by families and surviving victims
April 2006 Minnesota	USDA federally licensed private professional owner/trainer herself killed by her tiger	Occupational hazard. MN already has tough regulations on exotic animals-no risk to uninvolved public.
August 2005 Kansas	17 year old volunteer on the property of a federally licensed USDA sanctuary to have her picture taken with adult tiger, which is against USDA rules.	Parents should also be held responsible. Parents sued. Exhibitor lost his USDA license and KS enacted tough regulations compared by many to a ban. No risk to uninvolved public.
December 2003 North Carolina	10 year boy old killed by his uncle's pet tiger	Parents should be also held responsible. Being killed by a tiger shouldn't be treated any differently than death by accidents involving other activities. No risk to uninvolved public.
April 2003 Oklahoma	Tiger killed a handler at professional federally licensed USDA facility	Occupational hazard--no risk to uninvolved public.
March 2003 Illinois	Man killed by his own tigers at his own federally licensed USDA facility	Occupational hazard-no public risk. Illinois already heavily regulates private possession of 'dangerous animals'.
October 2001 Texas	3-year old boy killed by his family's tiger at their USDA licensed facility	Parents should be also held responsible. Being killed by a tiger shouldn't be treated any differently than death by accidents involving other activities. No risk to uninvolved public.
July 2001 Florida	Tiger killed a worker doing a tiger cage repair at a professional federally licensed USDA facility	Occupational hazard. FL already has regulations on exotic animals-no risk to uninvolved public not on property. Exhibitor lost his USDA license.
March 2001 Nevada	Tiger killed handler, federally licensed USDA facility	Occupational hazard, no public risk, facility is not in business anymore
June 1999 Texas	9-year old killed by her stepfather's tiger at his USDA licensed facility	Parents should be also held responsible. Being killed by a tiger shouldn't be treated any differently than death by accidents involving other activities. No risk to uninvolved public.
November 1998 Florida	Tiger killed his female owner at federally licensed USDA facility	Occupational hazard. FL already has regulations on exotic animals-no risk to uninvolved public
October 1998 Florida	Same tiger that killed his female owner in November 1998(see above) killed his male handler/trainer, USDA	Occupational hazard. FL already has regulations on exotic animals-no risk to uninvolved public not on the property.
May 1997 Pennsylvania	Circus tiger killed trainer, USDA	Occupational hazard.
June 1994 Florida	AZA zoo keeper killed by a tiger, USDA	Occupational hazard.
1990-1993	Some attacks, but no fatalities	Since Internet and data was not easily accessible as it is now, 1990 is our starting year for data collection.

CONCLUSION Regarding Human Fatalities Caused by Captive US Tigers:

Captive tigers in USA are not a public safety hazard.

Total of 14 people were killed by ALL captive tigers in the USA in the last 20 years, which is 0.7 deaths per year. Very small number compared to the risks we face in everyday life. Two were in AZA facilities, 12 in non AZA facilities, but AZA has few tigers than private sector, and they are also hands off.

In all fatal tiger attack cases, uninvolved public was never at risk, most fatalities happened as a result of occupational hazard to owners/trainers/keepers, the rest happened to family members and public voluntarily visiting the property where the animals were kept. The only person killed in 'public' was a circus trainer in Pennsylvania in 1997 while he was doing his job, and the tiger was caged.

Since 1990, there is no record of a member of the general public in the USA dying as a result of a captive tiger at large, meaning unsupervised and OFF the property where the animals were kept. Tiger out of the cage but still on owners'/zoo property (as in the case of the 2007 SF zoo attack) is not considered AT LARGE for our statistical analysis.

Exhibit 3: (older editorial from 2006, so some numbers might be outdated)

http://www.rexano.org/ConservationPages/Tiger_Parts_Frame.htm

Donate Captive Tiger Body Parts to Save the Wild Ones

By Zuzana Kukol, Winter 2006

The world population of wild tigers plummeted in the last 100 years from 100,000 to around 5,000 today. Their main threat is habitat destruction and poaching for body parts used to treat various ailments in Traditional Chinese Medicine, TCM. No amount of laws and money poured into conservation is helping to slow down the sharp decline in the big cats' numbers. TCM has been around for centuries and it is unreasonable to expect the Chinese will suddenly change their historically accepted practices. **It would be like telling Americans to give up their right to freedom of speech; something that is deeply ingrained in our culture and heritage.**

To save the wild tiger, maybe it is time to look at US captive tigers as a source for body parts for TCM.

I hate waste and I love big cats, especially tigers. I am a private owner of exotic cats and I dread the day they die. I would do anything to extend the lives of my cherished animals. Being a realist, I know the sad day will come when they will leave me forever.

Many people donate the organs of their deceased loved ones to save the life of another human. It would be just as beneficial if we, private pet and commercial owners of tigers, could help save the wild tiger by donating the parts of our animals that died of old age or terminal illness to be distributed to TCM practitioners in USA. By providing legal domestic supply, demand for illegally killed wild tigers would be reduced, thus making it less profitable for poachers to slaughter them in the wild.

I have other pets, vegetarians to meat eaters and so no food ever goes to waste in my household, there is always somebody who finds a brown banana or dry bread to be a delicacy. For the same reason I have no problem with livestock farming, as it is usually the whole animal that gets used.

Then why are we wasting perfectly good dead tigers' parts in the USA by disposing of them as a useless waste instead of supplying the growing demand for them, thus reducing the pressure (poaching demand) on wild populations?

I have had many Internet E-list discussions with traditional tiger conservationist on the subject over the years. They are always resisting free market approaches, advocating for more laws and pumping more money into tiger programs that so far did not increase the number of wild tigers, just the opposite, wild populations are on steep decline.

My interest in the subject has been revived this year after reading August 15, 2006 issue Of *The NY Times'* opinion "Sell the Tiger to Save it: A Private Conservation Programme" by Barun Mitra of Liberty Institute in New Delhi, India. While Barun Mitra is concentrating on the Chinese and Indian programs, I would like to propose an idea for what we can do in the United States.

Even though nobody knows for sure how many tigers really are kept privately in the USA, rough estimates range between 5,000 to 15,000. Most are living comfortable lives while their wild cousins are being poached to extinction. The Endangered Species Act, ESA, prohibits sale of tiger parts across the state lines, while CITES, (the Convention on International Trade in Endangered Species of Wild Fauna and Flora), prohibits international trade in tiger parts.

Traditional conservationists argue that if the sale of tiger parts becomes legal, it will increase the demand and poaching will increase. However, we will not know until we try it. In the case of American Alligator, captive breeding saved the beast from extinction to the point the animal is now a serious pest in Florida backyards. American bison is another private breeding conservation success.

I am not proposing farming tigers in USA, killing them for body parts; my plan is to simply allow the private owners to donate the parts from tigers that die of old age or disease. Set up a tiger donation program similar to the human organ donor programs. There would be many levels of oversight and more than one government agency to oversee this program to minimize possible abuse and corruption.

One or more of the already existing wildlife and health agencies could oversee the program. Current tiger owners can donate the carcass of their deceased animals to an agency or foundation set up for this purpose (similar to organ donor agency).

Another agency or organization would be responsible for selling and regulating the distribution to TCM practitioners in the USA. The parts are to be sold under controlled, regulated and documented fashion (similar to narcotics or other

controlled substances are now) to the US based stores specializing in Traditional Chinese medicine.

The tiger owner is NOT financially compensated for the tiger parts. The reward for the tiger owners is knowing they are helping wild tigers. Participants could get a 'tiger conservationist' seal or endorsement from the managing agency, making tiger sanctuaries or exhibitors more eligible or attractive to financial donors and audience who wish to help with wild tiger conservation.

I also suggest legalizing the sale of tiger whiskers. Whiskers are a renewable resource, since the whiskers come from live animals and are shed, growing in intervals. There shouldn't be a danger of unscrupulous owners killing the tiger for whiskers to make money, since live animals produce whiskers on continual basis. Fines or severe penalties might be required for pulling whiskers from live animals.

By supplying the demand from deceased US captive tigers, the killing of wild tigers by poaching will be drastically reduced and might even save the wild tiger. The poachers are the only losers by having their customer base reduced or eliminated. Everybody else is a winner, the tiger owners who donated their deceased animal knowing they are helping the wild ones. The TCM customers will get their medicine legally, and enforcement agencies who will have less illegal activity to deal with. Instead, this program can finance itself thru the sale of donate tiger parts to TCM practitioners. So why are we already not doing this?

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REXANO, Responsible Exotic Animal Ownership, is a nonprofit US based organization, exempt from Federal income tax under section 501 (c) 3 of the Internal Revenue Code. REXANO is also a domestic nonprofit corporation incorporated in the state of Nevada. WE support responsible private ownership of exotic animals in any form, be it non commercial pet or sanctuary, as well as commercial breeder or exhibitor.

REXANO, 205 N. Stephanie Street, Suite D # 131, Henderson, Nevada 89074
www.REXANO.org, contact@REXANO.org