



Animal Welfare Institute

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February 22, 2016

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Public Comments Processing

Attn: Docket No. FWS-HQ-IA-2015-0149

U.S. Fish and Wildlife Service Headquarters; MS: BPHC

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Falls Church, VA 22041-3803

To Whom It May Concern:

On behalf of the Animal Welfare Institute (AWI), I submit these comments in response to an application for a permit to authorize the export of eight captive chimpanzees to a wildlife park in the United Kingdom. The US Fish and Wildlife Service provided notice of the proposed export of eight chimpanzees (i.e., from the Yerkes National Primate Research Center (Yerkes) to the Wingham Wildlife Park (WWP) in the United Kingdom on October 15, 2015 (80 Federal Register 62089). Public comments in response to that notice were due on November 16, 2015. In response to a lawsuit filed to challenge its decision to issue the requested export permit, the USFWS reopened the comment period on the Yerkes application including supplemental material submitted after the previous comment period ended. 81 Federal Register 3452.

AWI is strongly opposed to the proposed export of (i.e., Lucas, Fritz, Agatha, Abby, Tara, Faye, Georgia, and Elvira) from Yerkes to the Wingham Wildlife Park (WWP) in the United Kingdom. This opposition is based on:

- 1) a failure of the applicant (Yerkes) to provide accurate and complete information in its application for CITES and ESA permit from the US Fish and Wildlife Service (USFWS) to authorize the export of the eight chimpanzees to WWP;
- 2) the lack of credible evidence to permit the USFWS to make the findings required to authorize this export under both the Endangered Species Act (ESA) and the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES);
- 3) the lack of any compelling evidence to indicate that this proposed export of these eight chimpanzees will enhance the survival of the species in the wild;
- 4) evidence that WWP intends to exploit these chimpanzees including through breeding and perhaps in other ways to profit commercially while also creating a demand for chimpanzees for public display and/or private ownership which is entirely antithetical to the protection of this imperiled species in the wild;

5) failure by Yerkes and WWP to provide detailed transportation plans for the eight chimpanzees including: relevant itineraries; ground and air transportation details; loading, unloading, and any transfer procedures, providing transport containers in compliance with International Air Transport Association (IATA) standards; articulating if (or how many) veterinarians or other trained personnel would travel with the chimpanzees during transport; and providing an emergency contingency plan to address any medical or other emergencies during transport;

6) failure by the USFWS to subject the decision on this proposed export permit to review under the National Environmental Policy Act (NEPA) including the evaluation of alternative options for the placement of the eight chimpanzees in accredited and experienced US chimpanzee sanctuaries.

Fundamentally, the decision to be made here must be based solely on what is in the best interest of these eight chimpanzees and what is in compliance with the law. If that is the criteria used by the USFWS, it must deny the requested export permit and recommend that Yerkes send the chimpanzees to an accredited, experienced, and qualified US sanctuary. Such sanctuaries, including some that are relatively close (geographically) to Yerkes, are capable of accepting these chimpanzees now and: provide a significantly better option than WWP from a welfare perspective since the chimpanzees would not require international transport; they could be transported under the expert supervision of a larger veterinarian/technician team; transport time would be less thereby reducing the inherent stress of transport; they would be provided expert care in world class facilities for the remainder of their lives; they would not be subject to commercial exploitation or put on public display as is the intent of WWP; and they would remain in the US under the jurisdiction of US laws and agencies. Furthermore, this would not be precedent setting as Yerkes has sent chimpanzees to a US sanctuary (i.e., Chimp Haven) in the past.

While the permit application materials, including the supplemental materials, indicate that WWP has now completed construction of its chimp facility, there are dozens of chimpanzees in Europe that need rescue and/or to be relocated. If WWP were to agree not to breed any chimpanzees, prohibit their use for any commercial purpose, and engage in meaningful conservation education, it could provide a suitable home for chimpanzees in need in Europe.

Much of the evidence documenting the inadequacies in the Yerkes permit application has been compiled and submitted by Meyer, Glitzenstein and Eubanks in its November 13, 2015 comment letter on behalf of a number of parties including Dr. Mary Lee Jensvold who is a member of the board of directors of AWI. As it is unnecessary to restate such evidence, AWI hereby incorporates that letter by reference into this comment letter (see Attachment A). For emphasis, that letter identifies the following deficiencies in the Yerkes permit application and the USFWS decision-making process:

- Yerkes has included false or misleading information in its application and/or has misrepresented information of material importance to the decision being made by, for example:
 - failing to disclose that WWP is not an accredited facility; that WWP is not a non-profit entity; that WWP is not a member of the European Endangered Species Program (or EEP); that EEP does not support the proposed export of chimpanzees to WWP; and that it has no interest in collaborating with WWP in the breeding of these chimpanzees and that such breeding is unnecessary, ill-advised, or must be entirely avoided because such breeding could result in species hybridization and since the eight chimpanzees are closely genetically related to one another;
 - failing to admit that neither the Kibale Chimpanzee Project (KCP) nor the Wildlife Conservation Society (WCS) support the transfer of these chimpanzees to WWP. Further, though Yerkes and WWP claimed that they planned to provide approximately \$19,000 over five years for chimpanzee conservation in an attempt to satisfy the enhancement requirement, neither KCP nor WCS want the funds because of their position against the transfer. failing to provide sufficient information to demonstrate the credentials, experience, or qualifications of WWP personnel in the care of chimpanzees and, in particular, the unique care of chimpanzees that have spent decades in medical research and, where such information was provided, the complete paucity of any direct experience with chimpanzees among most WWP personnel;
 - providing contradictory information about the lineage and genetics of one or more of the eight chimpanzees in the application materials;
 - failing to include evidence that the transport containers to be used for the chimpanzees comply with the dimensional and ventilation requirements of IATA;
- Any USFWS decision to permit this export would be made in violation of ESA/CITES requirements in that it will result in a detrimental impact to both the eight chimpanzees in question (and their progeny if bred in captivity) as well as to wild chimpanzees by, for example:
 - not adequately considering the physical and psychological impact including through trauma, stress, and disorientation of international transport (and preparation for such transport) and relocation on these chimpanzees including through: the disruption of social bonds (which has already occurred at Yerkes), the need to restrain and “knock-down” the chimpanzees to render them unconscious before transport; trauma of long-distance transport exacerbated by inadequate transport containers; no apparent plan for a sufficient number of veterinarians to travel with the chimpanzees; insufficient plans to ensure the animals remain properly hydrated during transport; no contingency plans to deal with emergencies during transport; the difficulty in addressing such emergencies particularly during a trans-Atlantic flight; the potential difficulties, including intra-specific aggression, when resocializing these animals at WWP; the lack of qualified personnel at WWP to address problems that could surface during resocializing and/or when the

- chimpanzees are subject to public display for the first time in their lives; and the complete lack of any apparent plans to ensure the psychological health of these chimpanzees;
- failing to consider the negative consequences of breeding these chimpanzees at WWP given its goal to increase visitor numbers by providing opportunities to observe baby chimpanzees. In addition, WWP could allow these chimpanzees, or more likely their progeny, to be used for films, advertisements, or for human-wildlife interactions. There is compelling evidence, as referenced in and attached to the November 2015 letter submitted by Meyer, Glitzenstein and Eubanks, that such exploitation increases demand for pet chimpanzees thereby increasing threats to wild chimpanzee populations via the international pet trade;
 - a failure by the USFWS to ensure that the transportation would minimize the risk of injury, damage to health, or cruel treatment of the chimpanzees because Yerkes failed to provide detailed transport plans or protocols. Such plans are critical given the documented sensitivities of chimpanzees to the trauma and stress inherent to transport (which are more easily managed and mitigated when transporting chimpanzees shorter distances over land as would occur if these chimpanzees were placed in a US sanctuary).
- Issuance of an export permit is not permissible as the export will not enhance the survival or propagation of chimpanzees in the wild by, for example:
 - since the EEP does not support this export and has no intention of collaborating with WWP on the breeding of these chimpanzees, since the genetic lineage of these chimpanzees may include both *Pan troglodytes* and *Pan troglodytes versus* whose breeding would create undesirably hybrids, and since the eight chimpanzees are genetically closely related, any breeding program, beyond being ill-advised, would result in no meaningful benefit to the survival of the species in the wild;
 - failing to disclose the substantive content of any chimpanzee educational materials despite claiming that such conservation education is a component of the alleged benefit of the export to the species in the wild (while recognizing that, by law, conservation education alone cannot be the basis for a positive enhancement finding);
 - failing to link enhancement of survival of the species in the wild to the activity for which a permit is being requested (i.e., the export of the chimpanzees) versus utilizing a “pay to play” scheme to create an alleged conservation benefit that is entirely separate from and not at all contingent upon the issuance of an export permit.
 - The USFWS cannot issue the requested permit without complying with NEPA and undertaking a consultation required under Section 7 of the ESA.

On January 13, 2016, Yerkes provided new information to the USFWS about the enhancement component of its permit application. This new information reveals that Yerkes and WWP have agreed to provide \$45,000 per year for five years to the Population Sustainability Network (PSN), the international arm of an

NGO based in the United Kingdom for the purpose of developing and implementing a program of integrated health centered on chimpanzee conservation at a yet to be selected location adjacent to chimpanzee occupied habitat in Africa.¹ Yet, there remain a number of inadequacies with this alternate enhancement program as described in the supplemental material submitted by Yerkes.

First, the proposal lacks any specificity as to local and precise content of what will be included, how such a program would be implemented on the ground, and how the impact of such a program on the conservation of wild chimpanzees would be measured. Indeed, the proposal includes a six month planning process to even identify a potential location and to develop a more comprehensive strategy. Mere promises of how funds may be used and what may be contained in such a program are not sufficient to meet the enhancement standard to justify the issuance of the requested export permit.

Second, if the USFWS agrees to this promise of a plan to enhance the survival of chimpanzees in the wild by issuing the requested export permit, other than promised updates on the program to be sent to Yerkes, it will have no means of ensuring the program is being implemented, of assessing its impact on chimpanzee conservation, and taking steps to rectify any problems if the promised program is deficient or is abandoned prior to the completion of the five year term. Indeed, there is evidence that PSN and its parent organization, the Margaret Pyke Trust, have recently experienced financial difficulties including an indication that PSN has been “struck off” England’s list of registered charities in October 2015,² that it was “dissolved” as a private company on January 19, 2016,³ and that the Margaret Pyke Center may be closed due to a lack of funding.⁴ This information is troubling and suggests that the PSN may not even be able to follow through with the agreement reached with Yerkes.

Third, the Yerkes agreement with PSN represents another example of a “pay to play” conservation scheme which fundamentally is inconsistent with the statutory requirements of the enhancement language in the ESA which requires that the permitted activity (i.e., the export of the chimpanzee) enhances the survival of the species in the wild. The ESA was never intended to allow such “pay to play” schemes which promote enhancement strategies that are only linked to the permitted activity through financial payments to a

¹ AWI notes with considerable concern that the agreement between Yerkes and PSN appears to have been orchestrated by Mr. Tim Van Norman, Chief, Branch of Permits of the USFWS. Not only is it entirely inappropriate for Mr. Van Norman to be acting effectively as an agent of Yerkes (the applicant) in finding a conservation project to ostensibly satisfy the enhancement standard of the ESA but his involvement calls into question his objectivity in reviewing the permit application and participating in the decision-making process. Given this, at a minimum, Mr. Van Norman must recuse himself from any further role in this decision-making process and AWI would strongly encourage the USFWS to adopt a policy to forbid its employees from engaging in behavior or taking actions to assist applicants in meeting ESA obligations for permits. It should be entirely the responsibility of the applicant to identify and develop enhancement plans to meet then enhancement standard in the ESA.

² See: <https://beta.companieshouse.gov.uk/company/09230792/filing-history>

³ *Ibid.*

⁴ See: Camden New Journal (2016), <http://www.camdennewjournal.com/letters/2016/jan/contraception-services-are-under-threat-potential-closure-margaret-pike-centre>

third party. Moreover, the issuance of the export permit is not a necessary trigger for the proposed PSN project in that it can proceed regardless of any decision made by the USFWS on the Yerkes permit application. Indeed, if Yerkes and WWP were truly interested in wild chimpanzee conservation they would commit to funding PSN independent of any decision, positive or negative, by the USFWS in regard to the requested export permit.

In addition to the agreement with PSN, Yerkes and/or WWP also have suggested that WWP will initiate a Jane Goodall Institute Roots and Shoots program at WWP, that Yerkes and WWP will participate in Chimpanzoo which involves the study of chimpanzees in captivity, and that WWP will engage in a conservation education program in primary and secondary schools in the same project area selected by PSN. These offers, while two of the three may provide benefits to chimpanzee conservation in the wild, also lack any type of specificity to be seriously considered by the USFWS in determining if the permit application satisfies the ESA enhancement requirement. Neither Yerkes nor WWP have provided any specific materials regarding the Roots and Shoots program proposed to be implemented at WWP nor have any materials relevant to WWP's proposed conservation education program been disclosed. Not only does that prevent the USFWS from reviewing such materials to determine if they would provide a meaningful conservation benefit, but it also prevents the public from reviewing such materials; materials that must be provided in full to meet the basic ESA permitting requirements. Also, as Chimpanzoo involves the study of chimpanzees in captivity, it has no meaningful link to the enhancement of the survival of chimpanzees in captivity.

Finally, given the documented inadequacies in the original permit application, the deficiencies inherent to the supplemental material, the short and long-term well-being of the eight chimpanzees, the potential impact of the requested export permit to wild chimpanzees given the plans for the chimpanzees at WWP, and due to the precedent that could be set by this decision, the USFWS must subject this decision to review pursuant to NEPA. There's no question that a decision to issue an export permit to Yerkes represents a federal action and that, as articulated in this letter and in the November 13, 2015 letter submitted by Meyer, Glitzenstein and Eubanks that the potential effects of this decision are major thereby triggering NEPA. While the level of controversy and potential precedent to be established by this decision warrant a review of the environmental impacts of this proposal in an Environmental Impact Statement, the USFWS must, at a minimum, evaluate these potential impacts in an Environmental Assessment. Such a review would permit a further evaluation of the environmental impacts of an agency action and to provide additional opportunity for public input so as to improve and inform its decision-making process. AWI encourage.

Conclusion:

In the end the decision for the USFWS in this case is relatively easy if it bases its decision on the law and what is in the best interest of these eight chimpanzees; animals who have lived for decades in captivity

being exposed to multiple experiments ostensibly to benefit human medicine. These chimpanzees deserve to live out their lives in a sanctuary environment where they will no longer be commercially or otherwise exploited. Several sanctuaries in the US can provide these chimpanzees with such permanent homes while WWP, based on the evidence offered in the permit application and collected from other sources, cannot. Furthermore, transporting these chimpanzees to an accredited US sanctuary with caretakers who have worked extensively with chimpanzees will involve far fewer risks and less trauma and stress to the animals compared to subjecting them to an international itinerary to a destination where the potential use of the chimpanzees may be entirely inappropriate and whose personnel don't have sufficient credentials to properly care for chimpanzees.

The ESA and CITES provide a list of criteria that must be met for endangered, Appendix I species to be exported. Yerkes has failed to satisfy those criteria, despite inappropriate assistance from a key USFWS decision-maker, and therefore should not be granted its requested export permit.

For these reasons, AWI requests that the USFWS deny the requested export permit while encouraging Yerkes to act expeditiously to place these eight chimpanzees in a qualified US sanctuary.

Thank you in advance for considering this information. Should you have any questions, need additional information, or if there is any future correspondence on this issue, please contact DJ Schubert at dj@awionline.org or, by telephone, at 609-601-2875.

Sincerely,



Cathy Liss
President



DJ Schubert
Wildlife Biologist