

WILDLIFE CONSERVATION:

EDUCATION, HUNTING, HABITAT AND ENFORCEMENT

BY LINDA J. LINTON, ESQ.

Wildlife conservation in Nevada and all over the world is mandated by appropriate education regarding wildlife, the land, the law and the willingness to listen.

Before our legislature is a resolution, SB 221, to amend NRS Chapter 501 to form the Nevada Wildlife Public Education Council for the education of the public regarding wildlife conservation and laws. NRS 501.3585 Wildlife Trust Fund is already in place, along with other funding mechanisms. Hunters also recognized the need for a significant and sustainable source of funding for wildlife stewardship. In 1937, sportsmen lobbied Congress to pass the Pittman-Robertson Wildlife Restoration Act, placing an excise tax on the sale of sporting arms and ammunition. In 1950 the Dingell-Johnson Act placed a similar tax on fishing equipment. Today, when hunting and fishing gear is purchased, the buyer contributes to this fund. It generates upwards of \$1 billion annually.





Continuing Education

Conservation Groups

Non-governmental organizations play a vital role in wildlife conservation and education, among them Safari Club International (SCI), Rocky Mountain Elk Foundation (RMEF), Nevada Bighorns Unlimited (NBU) and Mule Deer Foundation (MDF). RMEF was founded in 1984 and has protected or enhanced more than 6.8 million acres of vital habitat for elk and other wildlife, and opened more than 911,000 acres of land to the public for recreation. NBU works with Nevada Department of Wildlife on educational endeavors. SCI provides wildlife courses for teachers each year, and its members assist with anti-poaching efforts and ensure that the dollars spent are to assist in conservation worldwide.

A Nevada NGO wrote to the Bureau of Land management (BLM) when a mine wanted to build facilities at a major migration corridor, requesting development be minimized or eliminated, and also requesting seed mixes for re-vegetation include bitterbrush, a rich nutrient for mule deer. A four foot fence constructed on a slope can become an eight foot fence to a deer on the downhill side. In this case, deer are left with no choice but to expend time and energy looking for a new place to cross. In the event of deep snow, the energy expended to get to the fence and then cross fences or to look for ways around fences, can be significant. Nearly 1,000 mule deer died in Elko County when the deer in the Ruby Mountains had already exhausted themselves coming through the deep snow and did not have enough stamina to make it over a fence.

Education regarding hunting and predatory-prey balance

Plaguing the science of the Northern Rockies Wolf Recovery Project of 1995 is the wolf, which the United States Fish and Wildlife Service (USFWS) chose to transplant from north-central Alberta, Canada, as the replacement wolf for the “reintroduction” into Montana, Idaho and Wyoming, which already had a smaller subspecies native to those states. Many residents stated that there were pockets of the native wolves in remote areas when the USFWS began bringing in the larger and more aggressive nonnative Canadian wolves—and that those native wolves were soon eliminated by the invasive species. In fact, the larger species were responsible for killing many herds of elk, killing hound dogs, killing cattle, and carrying disease to wildlife and humans.

Federal and state agencies agreed to delist wolves and place them under state management when the original minimum recovery levels reached 100 wolves each in Idaho, Montana and Wyoming. Wolves met those delisting standards in 2002, but 2015 minimum populations were nearly 500 percent above that: 786 in Idaho, 536 in Montana and 382 in Wyoming. The original population objective for wolves in the Western Great Lakes was 1,350, but at last count the overall minimum population numbered greater than 3,600. Animal rights groups filed at least nine lawsuits supporting

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The author at Area 114's fence line in October 2014.

Photo Courtesy of Linda Linton

wolf populations in the Northern Rockies and at least six others affecting wolves in the Western Great Lakes, as well as several others that have impacted the listing status of wolves across the contiguous 48 states. In September 2014, the D.C. district court determined that the delisting was illegal; the court concluded that Wyoming's commitment to maintain a population above minimum numbers was voluntary rather than part of the state's regulations or statutes. The court vacated the delisting and sent the wolves back to endangered status. All the parties appealed. (*Defenders of Wildlife v. Jewell*, Case No. 12-1833, 68 F.Supp.3d 193(D.D.C.2014); Case No. 14-5300 (D.C.Cir)) On March 3, 2017, the D.C. Circuit federal appeals court upheld the U.S. Fish and Wildlife Service's 2012 decision to remove gray wolves in Wyoming from the endangered species list.

Habitat

Nevada continues to experience incredible human population growth, develop houses and businesses on crucial mule deer winter range, and experience the conversion of millions of acres of mule deer habitats to developments. Developments all over Nevada are destroying not only mule deer habitat, but also migration routes. According to NDOW, deer and elk have also been harassed by drones during important breeding, calving and antler shedding events. Numerous fires, many deliberately set, also destroyed habitats without any revegetation for mule deer in Northern Nevada.

Development has replaced nutrient-rich vegetation with subdivisions, cheatgrass and other invasive species. There is nothing for the wintering mule deer to browse as they go

from yard to house to yard, discarding the non-nutrient dead grass and dormant bush leaves, road to road, until one gets killed by a passing car. In an effort to help, volunteers and NGOs purchased bitter brush seed, dug out the cheat grass and planted seeds this winter. Hopefully they will hold enough moisture in northern and southern Nevada to reseed areas taken up by invasive species.

Poachers

Poachers are stealing our wildlife. Anyone can help. If you see poaching, report it. If the information you provide leads to the conviction of a wildlife law violator, you will be eligible for a reward. If you wish to remain anonymous, please call the Operation Game Thief hotline at 1-800-992-3030.

Education for the Hunter

While a hunter may pay thousands or even hundreds of thousands of dollars to plan and take a trip to Tajikistan, Zimbabwe, Mozambique, Argentina, Mexico or Canada, the hunter, outfitter or guide must be educated regarding the laws on permits, weapons, importation, exportation, shipping (CITES, 50 C.F.R. § 23.74(d)(2)(i)), tagging and veterinarian requirements, and must understand that the buck stops with the hunter when it comes to the U.S. Fish & Wildlife Service if the hunter wants to receive the harvest from another country (18 U.S.C. § 983 if faced with civil forfeiture; 50 C.F.R. § 23.74). Education regarding the reputation of a host or client is extremely important, and even if respect is already accepted, a contract regarding the important points above is a top priority to protect interests. Whether hunting in Nevada, out of state or in a different country, the hunter should be 100 percent responsible for his or her actions or inactions.

Hunters can lose their harvest by civil forfeiture by simply failing to place the proper scientific name of an animal on a permit for importation into the U.S. Whether it is legal or not depends on how well one dots their i's and crosses their t's. Your client may have to go as far as filing a Petition for Remission (50 CFR 12.24) of the trophy back to the country of origin, which requires that the country of origin actually accepts the harvest back for appropriate examination and tagging. Unless the guide or outfitter has a bank account in the United States, filing a lawsuit may get you your money back, but only the U.S. Fish & Wildlife Service, Department of the Interior, has the authority to release the harvest into the hunter's hands. From countries like Mozambique permits take time; waiting two to three years is not uncommon.

Most hunting contracts from other countries, if signed in Nevada, will carry this state's venue and jurisdiction.



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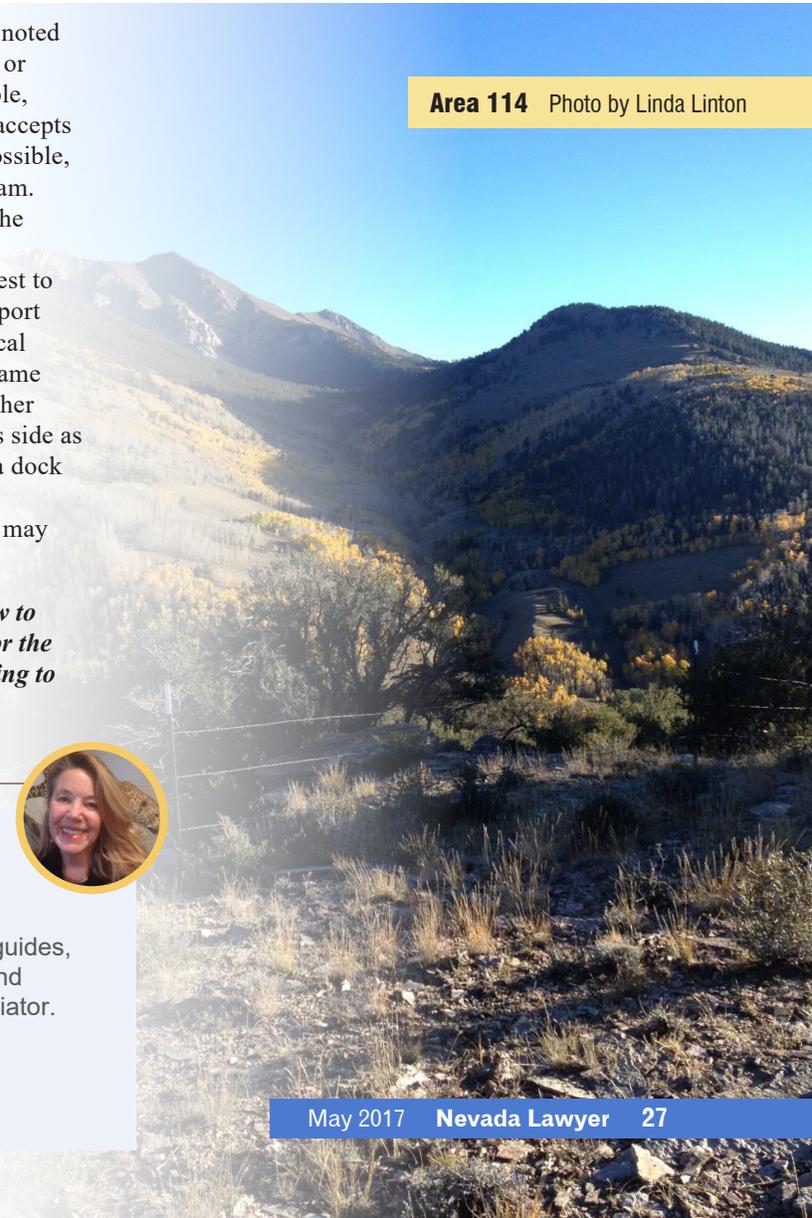
Hunting camp for cow elk. Photo by Linda Linton

However, if the contract's jurisdiction, venue or choice of law is noted in the contract, the hunter may still be able to negotiate for a lost or incorrect harvest or trophy. Another error could come, for example, from a hunter having his ram sent directly to a taxidermist, who accepts it on the hunter's behalf. Once the work is done, it is nearly impossible, save re-exporting it, to claim the hunter was shipped the wrong ram. This would require the hunter to obtain another permit for a ram he already harvested.

Reputable shippers, exporters and importers exist, but it is best to follow the harvest from the day of harvest to the day it comes to port with a USFWS agent. The regulations are clear. However, practical considerations aside, trying to meet with ambassadors from the same country and following the trail of documents to determine if another hunter received the harvest takes time; time is not on the hunter's side as the clock ticks with U.S. regulations and your harvest sitting on a dock waiting for forfeiture or destruction.

Back in the United States and Nevada, habitat and predators may inhibit a proper hunt.

See the author for examples of harvests gone awry, forfeited, how to correspond with the Department of the Interior, make motions for the potential return of the harvest and any further information relating to wildlife conservation. NL



Area 114 Photo by Linda Linton

LINDA J. LINTON is a member of the Nevada and California bars, and is a member of the Animal Law Section in Nevada. She also serves on the Legal Task Force for SCI and is a life member of SCI and NBU. She represents hunters, outfitters, guides, ranchers, irrigation companies, owners of domestic animals and many other clients in the civil litigation field. She is also a mediator.

