

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE PREVENTION	)	
OF CRUELTY TO ANIMALS, <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civ. No. 03-2006 (EGS/JMF)
	)	
FELD ENTERTAINMENT, INC.,	)	
	)	
Defendant.	)	
	)	

**PLAINTIFFS’ NOTICE OF ADDITIONAL RECENT AUTHORITY**

Plaintiffs give notice of the recent decision by Judge Kennedy of this Court in the consolidated cases, Friends of Animals v. Salazar, Civ No. 04-01660 (D.D.C.) and Cary v. Gould, Civ. No. 06 - 02120 (D.D.C.) (June 22, 2009), as additional authority in support of the standing of plaintiff Animal Protection Institute united with Born Free USA (“API”). A copy of the decision is attached.

In his recent decision, Judge Kennedy upheld the standing of the organizational plaintiffs on both grounds asserted by API for standing in this case. First, he held that the organizations suffer informational injury when they are denied the information required by Section 10(c) of the Endangered Species Act, 16 U.S.C. § 1539(c), which requires any entity who wishes to conduct activities that otherwise constitute an unlawful “take” of an endangered species to apply for a permit under Section 10 of the statute. See Slip Op. at 11 - 13.

Second, Judge Kennedy held that the organizations also suffer organizational injury within the meaning of Havens Realty Corp. v. Coleman, 455 U.S. 363, 379 (1982), because, as a result of a Fish and Wildlife Service regulation that eliminated the need for canned hunting

ranches to apply for individual permits under Section 10(c) to kill captive endangered antelopes, the plaintiff organizations had to shift their resources from other activities to obtain information about these ranches and their operations that is important to their members and an integral part of their public education and advocacy efforts. Slip Op. at 15-18. As Judge Kennedy found, “[p]laintiffs suffer an organizational injury because the Rule directly conflicts with their activities and the services they provide in learning about and informing their members of the status of captive antelopes and participating in the section 10(c) process.” Id. at 16.

Respectfully submitted,

/s/ Katherine A. Meyer

Katherine A. Meyer (D.C. Bar No. 244301)

Howard M. Crystal (D.C. Bar No. 446189)

Eric R. Glitzenstein (D.C. Bar No. 358287)

Meyer Glitzenstein & Crystal

1601 Connecticut Avenue, N.W., Suite 700

Washington, D.C. 20009

(202) 588-5206

Counsel for Plaintiffs

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