



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240



In reply Refer To:
FWS/AIA/DMA/Pacific Northwest Falcons

MAR 4 2009

Dr. Theresa Munidita S. Lim
Director
Department of Environment and Natural Resources
Protected Areas and Wildlife Bureau
Quezon Avenue
Diliman
Quezon City
PHILIPPINES

Dear Dr. Lim,

The CITES Secretariat was kind enough to forward your letter of January 16, 2009, containing comments regarding the proposed registration of Pacific Northwest Falcons (Danny Ertsgaard, breeder) as a commercial captive-breeding operation of *Falco rusticolus* and *F. rusticolus* x *F. peregrinus*. The proposed registration was announced to the Parties in CITES Notification No. 2008/063, dated October 24, 2008. I hope that the following explanations address your concerns regarding the registration of this facility and that you will be able to rescind your objections.

Your letter to the CITES Secretariat identified three particular concerns that lead you to object to this registration. We would like to address each concern individually below.

Issue 1:

“a) We notice that some of the forms (e.g., Form 3-186A) provided by the applicant bear no initials and date(s) received by the U.S. Fish and Wildlife Service (USFWS) on the space provided under USFWS Use Only.”

Response 1:

The United States has many laws and regulations that monitor or regulate specific activities for wildlife species that are of particular conservation concern. Migratory birds, including raptors, are regulated under the Migratory Bird Treaty Act and its subsequent regulations (50 CFR Parts 10, 20, 21, and 22). Under 50 CFR 21, anyone who sells,



donates, or otherwise transfers a raptor must report that activity to the USFWS by submitting a Form 3-186A, "Migratory Bird Acquisition and Disposition Report." In addition to providing a copy of this report to the USFWS, copies are maintained by both parties of the transaction (i.e., the breeder and purchaser), and copies are provided to the State wildlife agency(s) that regulates raptor propagation or falconry within the state(s) in which the buyer and seller reside. Form 3-186A is a reporting requirement; it is not a permit, and there is no requirement for the USFWS to authorize a transfer prior to the transfer occurring. Since copies of the report go to individuals or government agencies other than the USFWS, the USFWS would not have the ability to stamp all copies of the Form 3-186A, nor is it a requirement that any copies of the form be stamped or otherwise validated by a USFWS official, including the copy maintained by the USFWS. In addition, the USFWS did not require institutions requesting registration as a commercial breeding operation to obtain stamped copies for inclusion with their registration application. In the case of this registration, some copies of Form 3-186A were obtained by the applicant directly from the USFWS, where the document may or may not have been stamped, but the bulk of the forms provided were obtained either from the applicant's own files or from other parties involved in the transfer of a particular bird. Therefore, Form 3-186A may not be stamped by the USFWS and does not require a stamp or other "validation" in order to be a valid document.

Issue 2:

"b) It was shown that specimen RX080453 was certified captive-bred by Cal Sandfort with Peregrine Fund's Special Purpose permit #MB693645-0. However, when it was acquired by the applicant on January 21, 1994, the name indicated under the Transfer was James Willmarth with FWS Permit No. 703654."

The Peregrine Fund is a not-for-profit organization established in 1970 to conserve birds of prey. The Peregrine Fund was instrumental in the recovery of U.S. populations of wild peregrine falcons in the 1970s and 1980s. The Peregrine Fund currently holds a Special Purpose permit (MB693645-0), issued under the Migratory Bird Treaty Act and its subsequent regulations, to house and propagate any native raptor. This permit also authorizes any employees of and volunteers to the Peregrine Fund to carry out authorized activities, such as breeding, under the auspices of the permit. It was under this permit that specimen RX080453 was produced by Cal Sandfort, a member of the Peregrine Fund organization, in 1993. When the bird was transferred to Danny Ertsgaard in 1994, James Willmarth, another representative of the Peregrine Fund, conducted the transfer. In addition to being authorized under the Peregrine Fund's Special Purpose permit, Mr. Willmarth also maintains a falconry/propagation permit under his name, but at the address of the Peregrine Fund. Therefore, specimen RX080453 was bred at the facilities of the Peregrine Fund in 1993 and subsequently transferred to Mr. Ertsgaard in 1994 by the Peregrine Fund. If you refer to the March 27, 2007, breeder's statement from the Peregrine Fund, the address of the facility is identified as "5668 West Flying Hawk Lane,

Boise, Idaho.” The January 21, 1994, Form 3-186A, submitted by Mr. Willmarth Dr. identifies the address of the transferring facility as “5666 West Flying Hawk Lane, Boise, Idaho.” The Peregrine Fund’s facilities, being very large, encompass both addresses.

Issue 3:

“c) Likewise, we noticed that specimen RX081183 was certified captive-bred by Mr. Robert Berry on March 15, 2007, or about fifteen (15) years after it was purchased by Mr. Danny Ertsgaard. Additionally, the certification of captive-bred status was from the breeder only, and we did not encounter validation of the certificate by the USFWS. There were also a number of certified captive-bred gyrfalcons by different bird breeders, but without any confirmation/validation from the CITES-MA of USA.”

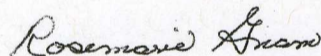
Under the U.S. regulations (50 CFR 21) that monitor and control the propagation and transfer of native raptors, breeders are not required to provide a breeder’s statement at the time a bird is transferred. The only document that must be generated at that time is the form 3-186A, “Migratory Bird Acquisition and Disposition Report.” As stated above, copies of this form are provided to the USFWS, the State wildlife agency(s) in the state(s) where the transaction occurred, and the buyer and seller in the transaction. However, to provide a clearer documentation trail for the registration process, the USFWS has requested that breeders wishing to register with the CITES Secretariat obtain a breeder’s statement for each captive-bred bird. In the case of specimen RX081183, as well as other birds identified by Mr. Ertsgaard, Mr. Berry, produced a breeder’s statement many years after the transfer actually occurred, based on his own breeding records and copies of Form 3-186A. The USFWS has determined that these “retrospectively” produced breeder’s statements are valid documents and are further supported by the Forms 3-186A provided with the registration.

We hope that these responses satisfy your concerns regarding Mr. Ertsgaard’s breeding operation. If you have additional comments or concerns that we can address, please let us know.

Sincerely,



Robert R. Gabel, Chief
Division of Management Authority



Rosemarie Gnam, Chief
Division of Scientific Authority

cc: CITES Secretariat