

Total Estimated Burden Hours: 300.
Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 23, 2002.

Wayne Eddins,

*Departmental Reports Management Officer,
Office of the Chief Information Officer.*

[FR Doc. 02-24705 Filed 9-27-02; 8:45 am]

BILLING CODE 4210-72-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by October 30, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358-2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358-2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Hobson Reynolds, Dallas, TX, PRT-060384

The applicant requests a permit to import the sport-hunted trophy of one

male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

Applicant: Kurt E. Landig, Fremont, OH, PRT-061542

The applicant requests a permit to import one captive-born, male, white-eared pheasant (*Crossoptilon crossoptilon*) from The Old House Bird Gardens in Reading, England, for the purpose of enhancement of the survival of the species through captive propagation.

Applicant: Larry McFadden, Donalsonville, GA, PRT-061609

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR Part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: D. Olds Schupp, Dexter, MI, PRT-061560

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018-0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: August 23, 2002.

Anna Barry,

Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02-24736 Filed 9-27-02; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

National Park Service

Jimmy Carter National Historical Site Commission Meeting

AGENCY: National Park Service, Jimmy Carter National Historic Site, Interior.

ACTION: Notice of Advisory Commission Meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 1, Section 10(a)(2), that a meeting of the Jimmy Carter National Historic Site Advisory Commission will be held at 8:30 a.m. to 2 p.m. at the following location and date.

DATES: October 11, 2002.

ADDRESSES: The Plains High School, Jimmy Carter National Historic Site, 300 North Bond Street, Plains, Georgia 31780.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Boyles, Superintendent, Jimmy Carter National Historic Site, 496 Cemetery Road, Andersonville, Georgia 31711, (229) 924-0343 Extension 105.

SUPPLEMENTARY INFORMATION: The purpose of the Jimmy Carter National Historic Site Advisory Commission is to advise the Secretary of the Interior or her designee on achieving balanced and accurate interpretation of the Jimmy Carter National Historic Site. The members of the Advisory Commission are as follows: Dr. James Sterling Young, Dr. Barbara J. Fields, Dr. Donald B. Schewe, Dr. Steven H. Hochman, Dr. Jay Hakes, and Director, National Park Service, Ex-Officio member.

The matters to be discussed at this meeting include the status of park development and planning activities. This meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: September 24, 2002.

Charlie Powell,

Acting Regional Director, Southeast Region.

[FR Doc. 02-24762 Filed 9-27-02; 8:45 am]

BILLING CODE 4310-70-P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-469]

In the Matter of Certain Bearing and Packaging Thereof; Order

The Commission instituted this investigation on April 9, 2002, on the basis of a complaint filed by SKF USA, INC. ("SKF"). 67 FR 18632 (April 16, 2002). The complaint alleged that certain respondents had violated section 337 of the Tariff Act of 1930 by the unlawful importation into the United States, sale for importation, and/or sale within the United States after importation of certain bearings and packaging thereof by reason of: (1) Infringement of U.S. Trademark Registration Nos. 502,839, 502,840, 1,944,843, and 2,053,722; (2) infringement of common law trademarks; (3) dilution of registered and common law trademarks; (4) false representation of source; (5) false advertising; (6) passing off; and (7) unfair pecuniary benefits. The last claim alleges that respondents derive unfair pecuniary benefits by availing themselves of SKF's antidumping duty deposit rates and by failing to request antidumping duty administrative reviews to obtain their own rates. Complainant SKF describes the unfairness as being twofold. First, gray market importers of SKF bearings do not need to adjust their U.S. prices upwards to obtain a lower rate; they can keep their U.S. prices low and still get a low duty rate. Second, the gray market importers do not expend any resources to keep rates low; they merely "free ride" on SKF's rates. SKF analogizes this situation to the free riding problem recognized under the antitrust laws. On May 16, 2002, the Commission investigative attorney ("IA") filed a motion for summary determination as to the "unfair pecuniary benefits" claim, arguing that the claim is not cognizable under section 337 because it does not allege an unfair method of competition or an unfair act. Certain respondents supported the IA's motion. SKF filed an opposition to the motion. On June 14, 2002, in Order No. 11, the presiding administrative law judge ("ALJ") denied the IA's motion for summary determination. The ALJ explained that he was declining to decide whether the

"unfair pecuniary benefits" claim alleges an "unfair act" cognizable under section 337 because the claim presents a novel issue not appropriate for summary determination. The ALJ found that the risk of prematurely dismissing the claim outweighed the potential burden of additional discovery. On June 21, 2002, the IA filed a motion with the ALJ for leave to seek interlocutory review of Order No. 11 by the Commission. Respondents Bearings Limited and McGuire Bearing Company filed similar motions. On July 10, 2002, in Order No. 16, the ALJ granted these motions for leave to seek interlocutory review. The ALJ found that the motions met the requirements of Commission rule 210.24(b)(1), which provides that an ALJ may grant leave to seek interlocutory review of an order by the Commission if the order "involves a controlling question of law or policy as to which there is substantial ground for difference of opinion" and "subsequent review [of the order] will be an inadequate remedy." 19 CFR 210.24(b)(1). On July 18, 2002, the IA filed an application for interlocutory review, and on July 22, 2002, respondents Bearings Limited and McGuire Bearing Company did the same. The Commission has determined to grant the applications for interlocutory review of Order No. 16. Section 337(a)(1)(A) proscribes "unfair methods of competition and unfair acts" in the importation of articles, and/or sale thereof within the United States after importation. In order for the Commission to find that conduct involves an unfair method of competition or unfair act, it must be able to identify some sort of legally cognizable "unfairness" in that conduct. SKF's unfair pecuniary benefits claim does not allege the requisite legally cognizable unfairness. SKF alleges that respondents are engaging in an unfair method of competition by "availing themselves of SKF USA's antidumping duty rates." SKF's Amended Complaint at ¶ 157. SKF also describes the unfairness in respondents' conduct as lying in "[r]espondents' affirmative choice not to participate in Commerce's antidumping duty review process, and their free riding off SKF's rates." SKF USA's Opposition to the Commission Investigative Staff's Motion for Partial Summary Determination at 21. Respondents' practices with respect to antidumping duties apparently conform to the relevant Department of Commerce ("Commerce") regulations and Commerce's instruction to the U.S. Customs Service. SKF does not dispute this. Respondents enter their bearings at

the antidumping duty deposit rate specified by Commerce. When the bearings are liquidated, again the appropriate antidumping duty assessment rate is specified by Commerce. The Commission fails to see how following Commerce's specific directions with regard to antidumping duty deposit and assessment rates can constitute an unfair method of competition or unfair act. There is of course no per se prohibition on the importation of merchandise subject to an antidumping duty order by resellers (*i.e.*, entities other than the foreign manufacturer of the merchandise). SKF argues that respondents should request antidumping administrative reviews in order to obtain their own deposit rates. There is, however, no requirement that importers request an administrative review of their entries; such reviews are conducted only if "a request for such a review has been received." 19 U.S.C. 1675(a)(1). Having reviewed the arguments made by the IA, Bearings Limited, and McGuire Bearing Company on the one hand, and by SKF on the other, the Commission finds no basis to recognize SKF's unfair pecuniary benefits claim under section 337. SKF relies on antitrust cases addressing the "free rider" phenomenon. SKF's Amended Complaint at ¶ 169. However, those cases—to the extent that they discuss free riding at all—refer to it as a phenomenon that could excuse behavior that could otherwise violate the antitrust laws. The cases do not establish a cause of action based on free riding. Moreover, the courts have not extended the law of unfair competition to encompass free riding generally. SKF's attempt to liken respondents' conduct to misappropriation also is not persuasive. For there to be misappropriation, a property right or interest created by the skills, labor, and expenditure of another must be involved. SKF does not have such a right or interest in the antidumping duty rates that Commerce calculates for it. In essence, SKF's "unfair pecuniary benefits" claim has to do with the question of which antidumping duty deposit rates and assessment rates should be applied to resellers of merchandise subject to an antidumping duty order. This question is within Commerce's jurisdiction.

Having examined the relevant ALJ orders, the submissions of the parties, and the authorities cited therein, it is hereby *ordered that*:

1. Order No. 11 is reversed and the motion of the IA for summary determination as to the "unfair pecuniary benefits" claim is granted.