

The Parrot Protection Paradox

By utilizing a strict permitting system to save a species, the government is killing them.
I challenge Fish and Wildlife to solve the problem and save the American Parrot.

This letter is to give notice that

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Demands the departments action denying Mr. Biro's application for wildlife holding license as stated in the departments letter of denial dated August 2, 2013 be reviewed on appeal pursuant to A.R.S. 41-192. Additionally is demanded review through informal settlement conference pursuant to A.R.S. 41-1092.06.

The following are the reasons for the appeal.

- A) Legally, I must appeal to maintain my rights.
- B) There are no reasonable grounds for denying my appeal based on a fear of smuggling.
- C) There are not enough of these birds left in existence to deny breeding efforts and population management.

Appeal introduction

Currently, I am the loudest voice actively pursuing research and conservation efforts with Thick-billed parrots within the United States. This is why four Thick-billed parrots have been gifted to me thus far, with another young bird promised as a gift for this summer and a few more in holding patterns as the owners watch to see if this project will develop further. However, without permits, everyone waits for the birds to die of old age and the species to end under the weight of bureaucracy.

I will not elucidate my expertise, non-profit affiliation, and partnerships within the conservation community here. Through phone, e-mail, in-person conversation, Arizona State Fish and Wildlife is very familiar with my relevant background and high level of expertise. I will also not elucidate the decline of the Thick-billed parrot from massive flocks of hundreds of fantastic green birds over Arizona and New Mexico to the current state of local extinction in the U.S., as Arizona State Fish and Wildlife is very familiar with the decline of our American Parrot, the Thick-billed parrot, and the dire need for its recovery. Instead, I will focus on why denial of my permitting is legally wrong and backward to the mission of Fish and Wildlife to conserve and protect our country's precious natural resources.

A) Legally, I must appeal to maintain my rights.

My applying for an Arizona Wildlife Holding Permit is in no way a waiver of any of my rights, including any of my rights to not be compelled to give evidence to the state that could be used against me, my right to presumption of innocence, my rights existing at the time of application to any aspect of ownership of any of the animals held in my possession.

If the state of Arizona denies me the right to own birds that I have legally acquired, they are treading into the territory of civil rights violation. Particularly, the presumption of innocence and right to own property. This is especially worrisome because the permit denial is based on a legally perverse presumption of guilt. Because there is historically poor record keeping for this animal population, I am a smuggler and thus denied permits and my right to possess these birds as property in the state of Arizona. You cannot call me a criminal and deny me my property without showing any violation of a moral or ethical code.

The reality is that State of Arizona lacks police power authority to diminish my rights of possession or use over my legally acquired personal property. My ownership, possession and use of Thick-billed parrots poses no danger or threat to the health or welfare of the Arizona public. To the contrary, as the department's letter of June 3, 2013 acknowledges, my actions regarding Thick-billed parrots are focused on Thick-billed parrot conservation work and as such my efforts are directed toward increasing the Thick-billed parrots population both in the wild within their historic habitat range (South of Flagstaff, AZ, in southern areas of New Mexico and Mexico), through captive breeding programs, reintroduction research projects, and educational programming to alter public behavior.

These animals are my personal property and any state agency that deprives me of my rights of use, possession, sale or disposition of my property significantly diminishes my property rights as a citizen. I hold exclusive rights over these animals. If Arizona will not let me work within their existing system I will challenge and change that system through legal action based on my civil rights. There is significant legal precedent to support such an overturn and my non-profit's lawyer and law school volunteers have been active in researching this area.

I assert and demand my right to presumption of innocence¹ against the department's reliance on the insinuated claim of some deviation from the socially desirable ideal of good moral conduct² implied in the department's denial letter suggesting the Thick-billed parrots in my possession are assumed to have been obtained through illegal means unless I can assert positive proof to the contrary.

¹ The "presumption of innocence" in favor of an accused is a substantive common-law right of a citizen, rather than an evidentiary rule. *People ex rel. Natoli v. Lewis*, 29 N.Y.S.2d 544, 262 A.D. 347, reversed 41 N.e2d 62, 287 N.Y. 478. *Crim Law 308.*

² The so-called "presumption of innocence" is not, strictly speaking, a presumption in the sense of an inference deduced from a given premise but is more accurately an assumption of proof upon anyone who asserts any deviation from the socially desirable ideal of good moral conduct and once the so-called presumption has placed upon the state the burden of proving guilt, it has served its chief purpose. *Carr v. State*, 4 So.2d 887, 192 Miss. 152. – *Crim Law 308.*

I belligerently³ demand my right to be presumed innocent⁴ of any such deviations of moral conduct without having to produce documents to establish the contrary. The burden of proof of such deviations of moral conduct as are implied in paragraph 2 of the department's letter of denial lies with the department or other State law enforcement agency. These rights do not apply only to criminal cases but to any public accusation be it civil or criminal⁵.

B) There are no reasonable grounds for denying my appeal based on a fear of smuggling.

The decision by the United States to refuse permits to sell this species commercially has been successful. The dollar value of a Thick-billed is zero. There is no incentive for smuggling. To a conservationist the value of a Thick-billed can be *below* zero, because through government persecution, these birds can hurt those who work with them. Many aviculturists (a term for bird keeping professionals) are afraid of Thick-billed parrots. Thick-billed parrots are referred to in professional circles as "black helicopter birds" as merely mentioning them garners immediate, negative, government attention. However, even accredited Zoos sell or trade animals they breed to recoup costs. With a zero value, zoos and commercial breeders cannot recoup costs for breeding these birds. And so, the current captive population is not sustainable and their propagation even avoided because of potential government backlash.

I rebut the claim that rejecting my application helps stall smuggling. The assertion that violating my civil rights is necessary as a deterrent to dissuade smugglers is without basis. The view from Mexico, where the only remaining wild birds exist, is that smuggling is not a concern for this species: Macias et al. in 2000 identifies that smuggling, over-exploitation, and destruction of nests for illegal trade are **not** a concern for Thick-billed parrots (Cantu et al 2007). In fact, according to a Mexican veterinarian, Silva, an author of a comprehensive report on illegal trade of Mexican parrots, "Some species are not targeted at all due to lack of demand, an example being the red fronted parrot (*Rhynchopsitta pachyrhyncha*)" (Cantu et al 2007).

The total number of illegally taken Thick-billed parrots seized within Mexico from 1995-2005 was 25 birds over a *decade* as reported by the Mexican agency Profepa (Cantu et al 2007) with what smuggling activity that existed for this species continuing to decrease over time according to experts such as Helen Synder (New Mexico Game & Fish, 2004). Even in conversation with your agency Arizona Fish and Wildlife, such as my in-person meeting on August 20, your own staffed expressed "I've never heard of one" when asked if they had come across Thick-billed parrot smuggling incidents. You are denying my rights because you are trying to deter criminals that do not exist. Therefore, you are bullying me with

³ The privilege against self-incrimination cannot be claimed by an attorney or solicitor on behalf of a defendant, and is valid only when insisted upon by a belligerent claimant in person. U.S. v. Johnson, 76 F.Supp. 538 This case is frequently cited to show that rights must be fought for.

⁴ The "presumption of innocence" that surrounds every accused person means an assumption which prevails as the judgment of the law until the contrary is proven. Cloud v. State, 202 S.W.2d 846, 150 Tex.Crim. 458. – Crim Law 308.

⁵ "Presumption of innocence" in a civil case, where an officer, acting under process, is charged with assault, means that it is presumed that the defendant did not commit the act charged. McKinstry v. Collins, 56 A. 985, 76 Vt. 221.

locally false arguments while watching a species die.

C) There are too few of these birds in existence to deny breeding efforts and population management.

As the Thick-billed parrot becomes extinct in the wild, they become extinct in captivity, their genetic ark dwindling toward zero. This not hyperbole, the studbook numbers we obtained for 2012 show 83 Thick-billed parrots are registered, and only 2 babies were produced in 2012. According to the IUCN Red List there may be less than 100 active nests left in the wild (Birdlife International 2012), and the population estimates of 2,000 wild birds may be *overestimates*.

I am willing to externally raise money to breed Thick-billed parrots in cooperation with expert breeders, without recovering my costs through commercial activity utilizing Thick-billed parrots. However, I have been denied permits because the bureaucracy would rather let a species die than deal with the reality that the current privately held captive population is poorly recorded and managed. This historically poor record keeping is because permitting has been used as a way to cause incredible fights and conflict among humans, *not track birds*. The purpose of permitting should be to increase knowledge and control of the captive population, not as a doorway to persecute people who have come in contact with legally acquired birds. I will never be able to produce records about these birds' parents, and their life history from egg to now because such records do not exist. Rather than harping on a poorly executed past we should begin NOW with permitting to record and track these valuable, vanishing, animals. While we track the current birds we can create a culture to continue the prevention of smuggling, which is a heinous act. Smuggling is unacceptable. Breeding for conservation is necessary.

If you follow your own laws, including the Endangered Species Act, this stupid, worthless bickering will stop and we will work together to save a species as a partnership between government, NGOs, and private individuals. You know that zoos alone cannot save this species, zoos have too little space and are under commercial pressures that work against Thick-billed parrots: As smallish green birds Thick-billed parrots do not increase visitors through the gates. The private bird breeder, the aviculturists, must be included in permitting for species survival.

I challenge Fish and Wildlife at the State and National levels to end this regulatory nightmare and save a species. Permitting of all Thick-billed parrots currently in captivity should be an amnesty process without fear of prosecution until the captive population reaches a sustainable breeding level of 5,000 birds. All permitting fees should be waived until the captive population reaches a sustainable breeding level of 5,000 birds. Because there is no commercial value, those who breed these birds do so solely out of a love of conservation. It is time to work with conservationists instead of punishing us.

The department either needs to immediately issue the wildlife holding permit or issue a letter stating no such license is required for me to lawfully own and possess my personal property, four Thick-billed parrots used for scientific and conservation research, public education programs and for captive breeding to increase the species population.

I appreciate your consideration and attention to this matter.

Sincerely,

Chris A Biro

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Academic citations

Cantu, J. C. G., Saldana, M. E. S., Grosselet, M., & Gamez, J. S. (2007). The illegal parrot trade in Mexico: a comprehensive assessment. *Mexico and Washington, DC: Defenders of Wildlife*.

BirdLife International 2012. *Rhynchopsitta pachyrhyncha*. In: IUCN 2013. IUCN Red List of Threatened Species. Version 2013.1. <www.iucnredlist.org>. Downloaded on **26 August 2013**.

New Mexico Department of Game and Fish (2004) Thick-billed parrot brings birders to Engle
<<http://www.wildlife.state.nm.us/recreation/birding/documents/Thick-billedParrotBringsBirdersToEngle.htm>>