

April 25, 2017

Service Information Collection Clearance Officer
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Submitted Via E-Mail: madonna_baucum@fws.gov

OMB Control Number: 1018-0093

Docket Number: FWS-HQ-IA-2017-N022; FXIA16710900000-167-FF09A30000

Re: Proposed Information Collection; Federal Fish and Wildlife Permit Applications and Reports—Management Authority

I am pleased to submit comments on behalf of the League of American Orchestras (the League) in response to the February 24, 2017 request by the U.S. Fish and Wildlife Service (USFWS) in 82 Fed. Reg. 11596 for comments on the permit applications and reports that the Division of Management Authority uses to determine the eligibility of applicants for permits requested in accordance with the criteria in various Federal wildlife conservation laws and international treaties. The League is fully committed to the goals of wildlife conservation and combatting illegal trade in protected species, and we appreciate the leadership the U.S. government has demonstrated in advancing consideration of the international transportation of musical instruments.

The League leads, supports, and champions America's orchestras and the vitality of the music they perform. Its diverse membership of approximately 800 nonprofit organizations across North America runs the gamut from world-renowned symphonies to community orchestras, from summer festivals to student and youth ensembles. Founded in 1942 and chartered by Congress in 1962, the League links a national network of thousands of instrumentalists, conductors, managers and administrators, board members, volunteers, and business partners. Our organization is also an active participant in the wider international cultural exchange community, partnering with The Recording Academy, Chamber Music America, the American Federation of Musicians, the American Federation of Violin and Bow Makers, the National Association of Music Merchants, and the Performing Arts Alliance to

communicate with musicians in the U.S. and abroad regarding compliance with international rules for travel with musical instruments that contain protected species material.

Description of Respondents

The international use of musical instruments by individual musicians, small and large professional ensembles, and youth orchestras is essential to performances that advance diplomacy, spark artistic innovation, and support vital international cultural activity. Musicians perform with valuable and culturally significant musical instruments, legally crafted decades and even centuries ago that can contain small amounts of elephant ivory, embellishments of tortoise shell, grips of reptile skin, and rosewood. In partnership with USFWS and the conservation community, music stakeholders have undertaken efforts to increase compliance with current permit requirements while simultaneously pursuing policy improvements that will alleviate unnecessary burdens that do not advance conservation goals. We note at 82 Fed. Reg. 11596, Part II. Data, the Description of Respondents includes “individuals,” which would encompass the individual musicians that require permits for cross-border travel. However, we note that the remaining list of respondents is absent a category that would encompass symphony orchestras and other nonprofit performing arts organizations that make use of permit forms and procedures. We suggest that USFWS consider adding a reference to orchestras, music ensembles, or some more general reference that takes into account non-commercial importers/exporters of wildlife and plant material.

Musical Instrument Application (Form 3-200-88)

We appreciate the significant and effective efforts of USFWS to streamline permit procedures for musical instruments by putting into place a Musical Instrument Certificate (MIC), using Form 3-200-88, that relieves musicians and organizations engaged in non-commercial cross-border travel from the burdensome requirement of using the multiple Forms 3-200-23, 3-200-30, and 3-200-32. We offer the following comments in response to the topics framed by USFWS.

**Whether or not the collection of information is necessary, including whether or not the information will have practical utility; and,
Ways to minimize the burden of the collection of information on respondents.**

While continued improvement and fine-tuning of existing permit procedures would be appreciated, the most effective way to minimize the burden of the permit process is to remove from the process altogether those activities that do not constitute a threat to the conservation of protected species.

At the 17th conference of the parties (CoP17) to the Convention on International Trade in Endangered Species, unanimous approval was given to [Resolution Conf. 16.8 \(Rev. CoP17\)](#), which at Part 2, “RECOMMENDS Parties not to require a CITES export permit or re-export

certificate for a musical instrument containing specimens of CITES-listed species where consistent with Resolution Conf. 13.7 (Rev. CoP17) on *Control of trade in personal and household effects.*” The effect of this and other revisions to Res. Conf. 13.7 is to:

1. Clarify that instruments loaned to musicians may qualify for CITES Musical Instrument Certificates.
2. Specify that the non-commercial scope of the Musical Instrument Certificates includes using the permits when traveling for “paid or unpaid” performances.
3. Recommend that CITES countries not require permits when musicians are carrying certain instruments as personal effects.

If implemented across CITES Parties, this personal effects exemption could help the many musicians that prefer to carry instruments onboard flights or as checked items. Since implementation of the musical instrument certificate process began, nearly all orchestra musicians with CITES materials place their instruments in cargo shipments to avoid multiple, unwieldy permits in favor of a single permit and inspection procedure. If more musicians can carry instruments in cabin or as checked baggage without needing to obtain permits, they may practice and rehearse at their own discretion (shortly before departure and soon after landing), as well as have the ability to branch away from a tour for other solo and smaller ensemble work.

The personal effects exemption will represent real relief for international guest soloists, small-groups, and large ensemble musicians, greatly reduce the burden of cost and time related to navigating permit application and enforcement procedures, and allow USFWS to dedicate its limited resources to compliance and enforcement efforts that directly impact conservation goals.

At the CoP16, the U.S. proposed the original resolution on Frequent Cross-Border Non-Commercial Movements of Musical Instruments, which was adopted by consensus as Resolution Conf. 16.8. Among CITES Parties, the U.S. was also the first to begin implementation and enforcement of procedures related to the Musical Instrument Certificate (MIC). The U.S. is uniquely positioned to play a critical leadership role in advancing this next step, and we ask USFWS to immediately begin the process of acknowledging the personal effects exemption.

We also once again ask USFWS to continue consideration of exemptions for musical instruments transported by cargo under a carnet, which would allow legally crafted and legally purchased musical instruments to be transported through international ports without undergoing burdensome permit and inspection procedures. Given that the international use of musical instruments through non-commercial movement across borders does not contribute to trafficking in endangered species, for larger musical ensembles transporting instruments by cargo, consideration should be given to potential permit and inspection exemptions for musical instruments that are traveling as “tools of the trade,” and under an ATA carnet.

Since such exemptions are only useful if acknowledged in all countries through which a musician must travel, we urge the U.S. to lead by implementing an exemption for personal effects, engage in dialogue with other CITES Parties to do the same, and carry this discussion forward to achieve further streamlining of the permit process at CoP18.

The accuracy of our estimate of the burden for this collection of information.

While the estimated completion time burden of .5 hours listed in the Federal Register notice may accurately reflect the time required to complete Form 3-200-88, it does not take into account the very many hours and days of preparation—as well as the related financial expense—required to compile the supporting documentation that must accompany a permit application. Musicians, instrument makers, and cultural institutions are still struggling to assess and document the protected species content of musical instruments, which were legally crafted decades, and even centuries ago. In the context of the more than 40-year history of CITES, under which rules related to musical instruments have gone largely unimplemented, the CITES Musical Instrument Certificate permit application procedures are still emerging and not fully understood by musicians and nonprofit music organizations. This challenge is compounded by the addition of new requirements such as the listing of the *Dalbergia* genus in CITES Appendix II at the CoP17, which requires a new wave of evaluation of musical instruments to assess, identify, and document each instrument's species components. We have been informed by individual musicians and some ensembles that the required time and financial expense of compliance have left no option but to forgo travel with their best musical instruments, and such a decision has a significant impact on the artistic quality musicians produce. As the USFWS considers our above request to support exemptions and streamlining in the permit application procedures, the full burden of current permit requirements should be taken into account.

Ways to enhance the quality, utility, and clarity of the information to be collected.

We strongly encourage USFWS to institute an electronic filing system that will help to streamline and make more efficient the process of acquiring, using, and invalidating musical instrument certificates.

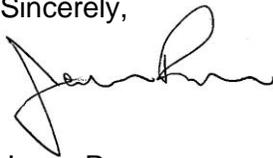
For instance, the impact of the current restriction on musical instruments appearing on more than one permit at a time multiplies the burden on applicants, the management authorities that issue permits, and the enforcement officials that credential them. Single permits are issued to group ensembles for instruments that may number more than 40 items accompanying an orchestra tour. This single document enables the ensemble to present one certificate for credentialing in the U.S. and at international ports. However, upon return to the U.S., the ensemble must immediately void the permit so that musicians performing independently or in another ensemble may apply for a new permit. Likewise, musicians holding individual permits must void them before their instrument is included on a group

permit. Given the narrow timeframe between engagements, this is impractical, and an electronic system could help speed the permit issuance and invalidation process.

We also encourage USFWS to seek every possible opportunity for ongoing communication of permit requirements for musical instruments between the permit issuance office of USFWS and its enforcement branch. Inconsistent interpretation of requirements can have the unintended effect of slowing travel and reducing confidence in the permit process for musicians. Given the extremely limited resources available to support international tours by nonprofit orchestras, the timing of departures and arrivals is extremely tight and cannot accommodate unplanned delays at ports. We are grateful, for instance, that recent dialogue between permit issuance and enforcement offices resulted in clarifying that a serial number is not required for each instrument listed on an MIC. Given that a multitude of musical instruments – particularly older ones or smaller ones such as bows – do not include serial numbers, alternative forms of identification must be accepted in order for the permit process to be a viable option. We encourage USFWS to seek every opportunity for its permit issuance and enforcement branches to be in dialogue about the details of implementation, and we stand ready to inform those conversations with any technical information that might be of use.

Thank you for the opportunity to provide these comments. The League of American Orchestras looks forward to continued engagement with the U.S. Fish and Wildlife Service on immediate and ongoing implementation of the Musical Instrument Certificate, as well as pursuing opportunities for future international policy improvements that will both protect endangered species and facilitate international cultural activity.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jesse Rosen', with a stylized flourish at the end.

Jesse Rosen
President & CEO