

Here is our policy on donating the use of images to worthy organizations and causes. This letter is a work-in-progress.

> I am working on a non-profit endeavor, and I would like to use your images for free. Is that possible?

We make our living from photography, plus it consumes work time to administer and negotiate the use of photographs for nonprofit organizations. Therefore there are costs and considerations involved that must be negotiated and found acceptable for everyone involved.

- 1) Photographs that we supply to a non-profit endeavor are for singular use as specified in the request, and cannot be supplied to other individuals, publications, or organizations. These other entities should request image usage through my office directly, and you may not transfer the license to any third party.
- 2) Tell us exactly what photograph(s) you'd like to use. Search our web-based database of photographs at www.norbertwu.com/search/ . Identify the exact image ID numbers of interest(such as BRN0065 or ALK0001).
- 3) Send us a formal letter with your name, title, and organization, describing the exact usage proposes for specific photograph(s). We need to pre-approve any usage of our photographs in any venue. We have supplied a form below that you can fill out, and mail or email to us. We require a signature on this form either by scan or by mailing us the original.
- 4) It is customary and important for us to receive, at the least, copies of any publications (or photocopies of the specific pages) in which our photographs have been used. We do keep track of usages of our photographs, and getting copies is important for many reasons including reciprocity.
- 5) Credit is important. If the photograph is used in a website, please specify the website address (URL). For any publications, please be sure to credit my photographs in the form "© Norbert Wu / www.norbertwu.com." For speaking engagements, be sure to mention my name as the photographer of my images.
- 6) Our office charges a service fee for all submissions, regardless of the use. This fee covers our costs and staff time to grant permissions and track them. We appreciate receiving your Fedex account number to bill shipments to, as it helps us get photos to you quickly without incurring further expenses on our end.
 - a) For all requests that do not require us to prepare a submission (you use our website exclusively, and use images from the site), we charge US \$75 to grant and track permissions and usage of the photograph.
 - b) For any requests that require us to submit either a web-based lightbox or transparencies, we charge a minimum fee of US \$75 plus the cost of staff time billed at \$150 per hour.
- 7) To ensure our staff time is kept to a minimum, we ask that payment for this service fee be made from petty cash or check before permission is granted. We are sorry, but we will not service requests, or grant permissions for requests, that require us to fill out institutional paperwork. We do accept Paypal for payment.

FAQs:

> How many images can I use for the \$75 research fee?

We will allow the use of up to three images for use on the web for the \$75 research fee, and the use of one image in a print publication for the \$75 research fee. If you choose to use up to three images for web use, you must order them all at once. Due to our staff time in tracking these kinds of permissions, we cannot carry on long, tortuous conversations about usages and images. Sorry to be so direct, but when we donate our images, these transactions generally take three times more time than our regular business. This is because folks at nonprofits and academic institutions usually do not understand standard business practices that graphic professionals do, and we end up having to spend significant time explaining such practices.

- > Also, in paying this fee can I only use the image once in the publication or
- > on several pages?
- >
- > Lastly, if we were to re-print a second edition of the publication following
- > review and comment, will this fee cover repeated editions?

The research fee covers a one-time use of the images. If on the web, the images can be used on one web page only, for a period no longer than one year. After a year, the images must be removed (we will remind you). If in a print publication, the image can be used only once, not on several pages. We do not allow images to be used in second or successive editions – permission must be asked of us for any usage in the future.

A few comments from the photographer:

Due to our staff time in tracking these kinds of permissions, we cannot carry on long, tortuous conversations about usages and images. When we donate our images to nonprofit organizations, these transactions generally take three times more time than our regular business. This is because folks at nonprofits and academic institutions usually do not understand standard business practices that graphic professionals do, and we end up having to spend significant time explaining such practices.

1. If we grant you the use of an image, particularly at no charge, then common courtesy and professionalism demands that we get a copy (a xerox copy or a scan via email is fine if that is all you can afford) of the page in which our image is used.

I will always remember a researcher whom I considered a friend asking to use one of my images. I allowed her to use it. She never sent a copy of the paper (we asked), never said thanks -- nothing. A few years later she wrote to ask to use the image again. I initially gave her the same treatment she had given to me -- no response. Her requests became more and more urgent. My office finally replied to her with a "no." She was upset and asked what she had done to deserve such treatment. The question that remains in my mind is why she assumed that we'd continue to allow use of the image in more and more publications, when she never even bothered to say thanks, and never sent us a copy of the use of the image, even though we asked several times.

This is a situation I encounter a great deal with scientists (and other photographers): they ask for favors, don't say thanks, don't follow up with a copy of the use of the image, and often don't even respond if I ever need something from them. Why should my office be the only party that responds and is professional enough to take care of all necessary details?

2. Publishers like these university presses fib routinely to get what they want. SCIENCE, the magazine of the American Association for the Advancement of Science, wanted to use my image on the cover of their magazine once. We asked if they normally paid for the use of images, and they said that they never did. I

went to the library and looked up some past issues, saw an image by a stock agency that I knew, called them up and verified that they had been paid. I was appalled that an organization like the American Association for the Advancement of Science would lie about something like that.

3. It frequently happens that when we try to do a favor, the favor turns into a nightmare where we have to spend an inordinate amount of time with logistics of delivering an image, the publisher is not quite happy with the image supplied, the publisher wants exclusive rights to use our images for the rest of eternity throughout the universe, etc. Our patience for such situations has worn thin.

We will supply a JPG color image that we know works well for publication. It is up to the publisher to work with that image, and we hope that their level of expertise is professional, they don't leave things to the last minute, they don't ask us to sign 10-page-long contracts that give them the rights to use the image however they want in whatever media in the universe in perpetuity that their lawyers want. Faced with any kind of long or unreasonable contract, my office will have to withdraw our offer for the use of our images. We don't have the time to review or approve such long and onerous contracts.

It is usually far easier for our office to work directly with someone from the publisher to negotiate the rights to use our images, rather than working through a researcher. We will always need the publisher to send a contract that outlines the terms needed, and to accept an invoice from us that outlines the terms needed.

4. Our normal rate for usage of photographs in books is on the order of hundreds of dollars for a 1/4 page use, with print run limited to 40,000.

All this kind of information -- print run, size on the page, etc is what our office routinely asks for when granting a license to use one of our images. We must ask and receive confirmation on all such details as we do keep track of such things. It's business. Our business is licensing the rights to the use of my images, and we have to be as meticulous in the licensing and rights granting as scientists need to be in collecting and analyzing data for their papers. Thanks for understanding.

5. For some researchers and nonprofits, we are willing to allow the use of up to three images for the fee of \$75. We feel that this is generous and it barely covers the cost of our time in tracking rights and giving permissions.

6. I hope that the publisher and any folks who we are donating the use of our images for the low rate does not take this for granted, and word does not spread that our office is granting rights to images for the low rate of \$75. This would destroy what existing business we have.

Here are some writings from other photographers about their policies on donating images:

Eric Cheng, a renowned underwater photographer and publisher of *wetpixel* quarterly magazine, writes:

“Thank you for your interest in my images.

As you can imagine, it takes tens of thousands of dollars in equipment and travel to capture images like the one(s) you are interested in publishing. I spend a lot of time doing pro-bono work and giving images away to non-profit organizations, but it is impossible to both give away images all the time and stay in business.

In order to provide images to a commercial entity without payment, I would need a significant value in exchanged services. In some cases, I am willing to provide images in exchange for publicity or prestige, but most often, something more is required.”

Amy Gulick is a photographer and writer based in North Bend, Washington. She is a Fellow with the International League of Conservation Photographers and the 2008 recipient of the NANPA Mission Award and Philip Hyde Grant. Excerpts of her article from NANPA Currents magazine are reproduced below with her permission.

PICTURES HAVE WORTH:

When we provide our photographs to conservation NGOs, we are providing more than just pictures. We are offering our years of experience, time in the field and expertise on all things photographic. Our final lesson: pictures have worth and should be fairly compensated. Many photographers give their images away to NGOs with the admirable intent of "helping the cause." But by doing this, they are sending the message that their images have no value. People tend to value things more if they have to invest something in them. As such, it's not surprising that many NGOs do not budget for photo licensing when they can obtain images for free. It's no wonder so many weak images are used. It's our job to politely educate NGOs about the true costs of making our images--travel, equipment, post-production and business overhead. We then need to negotiate a mutually agreeable arrangement for fair compensation working within the budgetary constraints of the NGOs we choose to assist. In lieu of monetary payment, bartering may be acceptable compensation in the form of access to photographic subjects and use of organization resources. It's crucial that the NGOs understand that some form of adequate compensation will ensure that we can continue making images that strengthen their important work and our profession.

Here's a form you can fill out to request the use of an image from our office. Once we receive this form along with the \$75 research fee, we will email you the image in a resolution suitable for your use. It is likely that you will need to correspond with our office before filling out this form; we are happy to help, but please understand that our office has limited time and may have other business to take care of before non-revenue-generating requests.

Request for Permission to Use Image from Norbert Wu Productions Library:

I request permission to use image _____, description/caption _____
_____ for the following specific use:

Print use: If in print, the exact title, edition, print run, territory, language, date of publication: Example: *One time, non-exclusive North American English and Spanish language reproduction rights for the use of one Norbert Wu Productions image in the Brookings Learning title, GENERAL AND BIOLOGICAL CHEMISTRY, 6th edition, by John Doe. Total Print Run: up to 500K. ISBN: 1133103944. Est. Pub Date: 1/1/2012. Image #ANT0004, diver and jelly, ©2010 Norbert Wu / www.norbertwu.com, printed at 1/4 page or less, interior.*

If for a talk, the name of the talk, the date, location, and name of the venue or gathering: _____

We never allow unlimited use of our images. If you wish to use this image in multiple talks, then please list the talks below along with the date and location. Our permission to use the image in any talk(s) expire each year after your initial talk. Please contact our office to request permission for subsequent uses of any image in any talks or presentations.

If any digital rights are requested, please contact our office first to work out the language. We never grant perpetual or unlimited rights to our images in any way, shape, or form. Example of a valid use would be: One time, non-exclusive North American English language electronic reproduction rights for the use of one (1) Norbert Wu Productions image: image of bluefin tuna SRD0041 for website of Save the Bluefin Tuna organization, at www.savebluefin.org. Term: no longer than one (1) years. License expires on March 1, 2012. No greater than 1/2 screen, no home page use. *No other rights granted. Website use only, environmental organization.

I, the undersigned, agree that Image will not be given to any third party in any way, shape, or form; and that image will be used exclusively as described above.

Company or Organization _____

Print Name _____

Signature _____ Date: _____

If I ask a favor of someone, I don't try to take advantage of that person.

As an example of a nonprofit organization requesting my office to donate an image, but then presenting my office with an outrageous contract, here's an email exchange between myself and a photo editor at Conservation International. I am putting this here so that other photo editors at nonprofit organizations don't make the same mistake.

----- Original Message -----

Subject: Request for use of image for non-commercial media use

Date: Tue, 23 Aug 2011 11:52:51 -0400

From: Sarah Hoyt <s.hoyt@conservation.org>

To: <norbert wu's office email>

Hello,

I work for Conservation International's Global Marine Division in media and communications. I am assisting in media outreach for an article to be published in PLoS ONE in the coming weeks titled "Global Conservation Priorities for Marine Turtles." The paper is a unique global priority-setting analysis that lists the most endangered and the healthiest sea turtle populations in the world based on thousands of data points and input from dozens of experts.

To coincide with the release of the paper, we will be sending press releases and posting blogs and slideshows to raise awareness about at-risk populations of sea turtles and also to highlight conservation successes.

Ideally, this will include at least one image from each healthy and each endangered population. We would like to request permission to : 1) use the attached image on CI's website to promote this story; and 2) make this image available to media for use in connection with this story.

The license agreement for the desired image is attached, along with a low-res JPEG of the image. I would be very grateful if we could get your and the photographer's permission to use this image for the purposes described above. If the terms are agreeable, I would appreciate it if you could please send a high-res JPEG along with the signed agreement.

I look forward to hearing from you. And thank you for your support!

Sincerely,

Sarah

Sarah Hoyt | Global Marine Division

Conservation International | 2011 Crystal Drive | Suite 500 | Arlington, VA 22202

Phone: 703-341-2505

COPYRIGHT LICENSE

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, I, Norbert Wu, hereby grant to Conservation International Foundation, including all subsidiaries and affiliates thereof (hereinafter referred to singularly and collectively as "CI"), a royalty-free license, including the right to sub-license, to exercise all rights of whatever kind or nature now or hereafter protected by the Copyright Laws of the United States of America and all foreign countries in and to the photo titled "PNG0031_Hawksbill turtle", for the sole non-commercial use to promote an online story of the published paper "Global Conservation Priorities for Marine Turtles" on Conservation International's website and other press outreach.

I represent and warrant:

- (i) that I am the sole owner of the Photographs;
- (ii) that I hold the complete and undivided copyrights in the Photographs;
- (iii) that I have the full right and power to make this license;
- (iv) that there are no rights outstanding which would diminish, encumber or impair the full enjoyment or exercise of the rights herein granted to CI;
- (v) that I have obtained any required releases from any person or for any property depicted in the Photographs; and
- (vi) that I have no knowledge of any objection by any person or entity, or other third party acting on behalf of the depicted subjects, against the exercise of any of the rights granted hereunder; I hereby bind myself to advise CI immediately if any such objection comes to our knowledge in the future.

I understand and agree that if any of the above representations and warranties are found to be false or inaccurate, that I shall indemnify and hold harmless CI and its officers, directors, members, employees, and agents, from and against any and all claims of third parties, including losses, damages, legal fees, and all other expenses.

It is understood and agreed that CI, as well as any sub-licensee of CI, shall submit to me a copy of the specific application and credit me, Norbert Wu, as the copyright owner of my photos:

© Norbert Wu

I represent to CI that I **am 18** years of age or older and legally capable of binding myself to this license and release agreement.

Signature: _____

Name: _____

Date: _____

From: Norbert Wu Productions Office [mailto:office@norbertwu.com]

Sent: Wednesday, August 24, 2011 1:02 PM

To: Sarah Hoyt

Subject: Re: Request for use of image for non-commercial media use

Dear Ms. Hoyt:

I had a good laugh when I received your email and looked at the contract language (which I converted to a PDF and have attached). I am assuming that CI is not offering to pay for the use of this image. So my assumption is this: CI wants to use my image for free. CI expects me and my office to spend the time to peruse, understand, and approve the legal language in your contract. If I sign this legal document, it seems that CI then acquires the image and can license the image as it wishes.

Why in the world would I allow this? More to the point, why would CI ask for a photographer(s) to donate their hard-earned images (which have required thousands of dollars to acquire) and also saddle the photographer with a predatory contract that has this onerous legal language that might slip by less-informed photographers?

I am offended by this request and its accompanying contract. I've already sent it to a couple of colleagues. They've both found the contract language to be objectionable and disrespectful to photographers. I am bcc:ing a few more colleagues on this email. Perhaps some of them will chime in on this issue.

Here's the language that I find most objectionable (bold emphasis added by me):

...{I, Norbert Wu, hereby grant to Conservation International Foundation, including all subsidiaries and affiliates thereof (hereinafter referred to singularly and collectively as "CI"), a royalty-free license, including the right to sub-license, to exercise all rights of whatever kind or nature now or hereafter....

If I ask a favor of someone, I don't try to take advantage of that person. If I need a ride and ask to borrow a friend's car, I don't have him sign a document that then gives me ownership of that car or lets me make money by renting the car out to the end of eternity. If CI is going to ask photographers for their help in publicizing its causes, then CI will hopefully reconsider this sort of onerous, predatory contract and instead draft a simple, clear, easy document that will make a photographer happy that he/she has helped.

Sorry to be so direct.

PS -- the image that is on the PDF is not my image. The image that you attached to your original email to me is indeed one of my images.

Signed,

Norb

Norbert Wu Productions
Pacific Grove, CA 93950
USA

Subject: RE: Request for use of image for non-commercial media use

Date: Wed, 24 Aug 2011 13:09:33 -0400

From: Sarah Hoyt <s.hoyt@conservation.org>

To: Norbert Wu Productions Office

Hi Norbert,

I apologize for the confusion. I am not a legal expert and was given this release as a template to use. I will certainly take your concerns to CI's legal department and see what we can do to fix these issues. We are incredibly grateful for any donation from photographers and of course do not want to upset you or the photographers we have built a relationship with in any way. We do not sub-license, it was in the language that was approved by my superiors. We only use images for non-commercial and media uses to promote CI's work and achievements. We never receive money for others' images and we always credit the photographer. Where possible, we purchase rights to use images, however we are a non-profit and have great budget constraints so we cannot always do this.

I appreciate your directness. I am sincerely sorry.

All the very best,

Sarah

Sarah Hoyt | Global Marine Division

*Conservation International | 2011 Crystal Drive | Suite 500 |

Arlington, VA 22202*