



SPECIAL SUPPLEMENT

*"Hunting provides the principal incentive and revenue for conservation. Hence it is a force for conservation."*

# World Conservation Force Bulletin

www.conservationforce.org March 2015

## Don't Blame the Victim, Don't Punish the Elephant – Conservation Force Argues the Tanzania Suspension with FWS

**O**n Monday, February 2, 2015, Conservation Force met with Dan Ashe, director of the U.S. Fish and Wildlife Service (FWS), to argue our appeal of the denials of three 2014 import permits for elephant trophies from Tanzania and our Requests for Reconsideration of these denials. (SCI's related suit was recently dismissed for failure to first follow this administrative route.)

The oral argument was presented in the Interior Department Building. John Jackson led the argument, and I provided back-up data as needed. Director Ashe was an active participant and asked questions throughout. He was joined by five FWS representatives: Director of International Affairs Bryan Arroyo, Division of Management Authority (DMA) Chief of Permits Tim Van Norman, Division of Scientific Authority (DSA) Branch Chief of Consultation and Monitoring Pam Scruggs, DSA Biologist Mary Cogliano, and DMA Biologist Laura Noguchi. He was also joined by Mr. Russell Husen of the Department of the Interior Solicitor's Office. Ms. Noguchi took notes on the argument.

Below is a short report highlighting our points and summarizing questions asked by Director Ashe. It is not meant to be a transcript of the 80 minute argument.

### Summary

Coming into the meeting/oral argument, Conservation Force developed a nuanced theme. Our refrain was "don't blame the victim (Tanzania) and don't blame the elephant." We pointed out that Tanzania had experienced unprecedented, demand-driven poaching starting in early 2010, the magnitude of which caught the country

DATELINE:  
**Tanzania**



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Staff Attorney

revenue and "boots on the ground" which are essential to Tanzania's conservation strategy. We tried to impress upon Director Ashe that our appeal was not about loss of hunting opportunity, but the hunting was critical to elephant conservation. We also noted that other U.S. agencies, particularly USAID, pledged \$40 million+ to Tanzania for 2014 and beyond. With other agencies giving money to Tanzania, it makes no sense for FWS to contradictorily block the generation of critical income.

### The negative NDF was flawed – hunting in Tanzania was (and is) sustainable

Our first set of points focused on flaws in the negative February 21, 2014 non-detriment finding (NDF) and its October 7 follow-up, which responded to Conservation Force's May 15, 2014 Request for Reconsideration and July 24, 2014 Supplement. The DSA made its NDFs without ever requesting Tanzania's own non-detriment finding. Not having requested this finding from Tanzania, FWS failed to rely on the "best available" information, and skipped over the

by surprise, like a "perfect storm." We continually reviewed the actions Tanzania has taken and continues to take to fight the poaching. We emphasized the positive results so far.

We also focused on the counter-productiveness of the trophy import suspension. The ban jeopardizes the elephant by cutting off hunting

customary practice and protocol for such proceedings. Moreover, Conservation Force emphasized that concern about Tanzania's limited hunting offtake is unsupported. Taking into account the apparent decline in the Selous and the Ruaha Rungwa reflected in 2013 surveys, Tanzania's elephant population is still above 64,000. All else being equal, that number is the third largest population in Africa, and 34% larger than the importable elephant populations of South Africa (22,889) and Namibia (25,018) combined. Yet Tanzania's reduced CITES export quota of

100 pairs of tusks is lower than South Africa's (150) and similar to Namibia's (90). In its "Questions and Answers" explaining the trophy import suspension, FWS has stated that it "does not have conservation concerns with the sport hunting of African elephants in Namibia, South Africa,

or Botswana." So, how can it have concerns with Tanzania's far lower take-to-population ratio (0.156%) compared to South Africa's or Namibia's?

To further ensure the sustainability of hunting offtake, Tanzania is unique in imposing a "two-tiered" quota. It limits total offtake to a quota and additionally requires trophies to meet strict size limits which were raised in 2014 – at the same time the quota was lowered from 200 to 100 pairs of tusks, in part to address FWS concerns.

We also informed Director Ashe of the "multiplier" effect of elephant hunts. Elephant may only be hunted on 21-day safaris. The success rate for taking an elephant is not especially high: the average number taken from 2011-13 was only 41 per year. In 2014, only 7 elephant were taken. That offtake



has a little to no effect on the population growth rate. But hunters pay game, license, daily conservation, and other fees for a 21-day safari. This revenue has far-reaching benefits that far outweigh the limited take. And on an elephant safari, a hunter will typically take other excess game during the 21 days. This generates additional fees that directly pay for management and anti-poaching activities. The hunting is not an "additive" loss; it "saves far more elephant than it takes."

**The poaching was unprecedented ... but so was the response**

Tanzania has a long history of fighting elephant poaching. It lost elephant in the 1970s/1980s, but it won the battle against poaching then and saw its population rebound. However, in 2010, poaching spiked to a never-before-seen level. These poachers were – and are – more motivated, armed and supplied than ever. Carter Roberts, WWF CEO, has said, "We face an unprecedented poaching crisis," and the WWF website reports, "In more than 50 years of conservation, we have never seen wildlife crime on such a scale." This is not Tanzania's fault. Tanzania is the victim.

Tanzania responded to the crisis. Among other things, in 2010, the government launched five anti-poaching operations. In 2011 and 2012, it launched Operations Okoa Tembo I-III. In 2012, the SPANEST project began in the Ruaha Rungwa and reduced poaching by 56% in its first year. Also in 2012, the government revised WMA regulations to provide greater incentives to communities living with wildlife to combat poaching and protect wildlife as assets. It also restored Benson Kibonde as Chief Warden of the Selous Game Reserve. And in 2013, in Operation Tokomeza, Tanzania's military launched a major assault on poachers. The results of the 2013 Selous survey indicate that these efforts worked, and the number of "fresh" carcasses (younger than 18 months) was <5% of the total number of elephant carcasses counted. Although poaching had been a major problem, it was greatly cut in the past 18 months. The poaching was already turned around before the U.S. trophy import suspension.

Yet Tanzania has not cut its pace. In 2014 alone, among other things, it has:

- Reinstated and ramped up *revenue retention* in the Selous Game Reserve (fees stay in the Selous)
- Added 501 scouts: 172 are deployed in the Selous in addition to 300 "volunteer wardens" (paid for by hunting operators)
- Added 51 4x4 vehicles, including 8 from the Wildlife Conservation Foundation of Tanzania (WCFT, an NGO founded and supported by hunters)
- Patrolled 422,523 man-days and 339 aerial hours
- Added 5 helicopters and other aircraft, including one micro-light plane donated by WCFT
- Initiated the Tanzania Wildlife Authority (TAWA), which will directly capture the hunting/operating revenue (of course, reduction in revenue handicaps it)
- Trained hundreds of staff, including 50 intelligence officers and 40 at ports/airports
- Created a *National Task Force* on intelligence and investigation
- Created a *National Strategy to Combat Poaching and Illegal Wildlife Trade* supported by a UNDP-administered basket fund, which has generated over \$91 million in pledges including \$51 million from Germany and \$40 million from the U.S. (in the past eight months about \$225 million in pledges)
- Held two international summits (May and November)
- Ramped-up operator anti-poaching and community development support, including over \$1 million from one operator alone (see below) and another documented \$1.1 million more from other elephant area operators

All these actions have shown real results. According to the Ministry of Natural Resources and Tourism, poaching incidents decreased by 85% in 2014 compared to 2013. And for the first time since 2004, the Proportion of Illegally Killed Elephant (PIKE) was at or below 0.5 for every site in Tanzania. In other words, Tanzania had the poaching crisis under control well before FWS



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imposed the trophy import suspension, and it continues to combat the unusual, demand-based poaching at a breakneck pace. So why punish them with an export ban?

### **Export and the purposes of import are not-detrimental**

As we argued to Director Ashe, Tanzania's 2014 non-detriment finding acknowledged challenges facing its elephant population. But it reported on the "mitigation measures" Tanzania has taken, such as halving its export quota. Based on a review of all the data and off-setting challenges and mitigation, the Tanzania scientific authority concluded: "The low level of offtake generated by trophy hunting is not detrimental to the survival [of elephant...] and the amount of revenues generated by this low level of offtake are of critical importance for the conservation of the species."

Under CITES Res. 2.11 (rev.), the DSA should have accepted this finding (had they asked for it). Like Tanzania, FWS should have considered both the "adverse or beneficial" effects of offtake, including "any off-setting benefit for the conservation of the species in the wild" under its own regulations, 72 F.R. 48402. When the limited offtake of 7 elephant is balanced against the conservation revenue and activities, CBNRM incentives, and anti-poaching support generated by safari hunting, the absence of any detriment – and the enhancement to the species – is clear.

### **Hunting benefits elephant through revenue generation, CBNRM incentives, and anti-poaching**

As we argued to Director Ashe, DMA defined "enhancement" in the import permit denial letters. "Enhancement" was defined as "activities that provide a direct benefit to the species being hunted ... [which] could include the use of revenue generated by the hunt to support conservation projects or to manage the species... [or activities that] improve

human-wildlife conflicts, anti-poaching efforts, or habitat conservation."

Safari hunting provides all these types of benefits. Safari revenue underwrites the conservation and elephant management system. It currently makes up over 90% of the funds for the *Tanzania Wildlife Protection Fund*. Funding for the new TAWA will also come from user fees, including hunting license, block and concession, and daily conservation fees. TAWA is a parastatal, which means the fees will go directly to its coffers, with no "middleman." In other words, TAWA's ability to effectively conserve wildlife is directly related to the revenue generated from user fees, which means it is directly related to the health of the hunting industry. It will fail without elephant and lion revenue.

Similarly, Tanzania has re-established the *Selous Revenue Retention System*. Under this system, at least 50% of hunting revenue generated in the Selous game reserve must be retained and spent there. 85% of Selous revenue comes from safari hunting. According to Chief Warden Kibonde, Tanzania has "freed the elephants" in the Selous from poachers by ramping up patrol scouts and volunteers, time spent on patrol, and patrol vehicles and other equipment. All because of hunting.

In our argument, in addition to benefits in protected concession and reserves, we quantified the benefits that hunting generates for WMAs (Wildlife Management Areas). Relying on a 2012 WWF report, we emphasized to the Director that growth of WMAs in Tanzania largely depends on safari hunting. Of the existing 17 WMAs, 13 earn hunting revenue, including annual block fees up to \$60,000. WMA guidelines were revised in 2012, and the revisions improved the sharing of revenue down to local communities. Those improvements caused an additional 21 communities to apply for WMA status. These 21 WMAs make up 4% of Tanzania's land mass, and this

will be additional wildlife habitat and will expand migration corridors. These communities seek WMA status in large part to take advantage of a greater share of hunting revenue. The correlation between safari hunting revenue, habitat preservation, and CBNRM is clear.

We also described to the Director one example of operator anti-poaching support. Operator Eric Pasanisi and his entities contributed over \$914,000 to anti-poaching in 2012/2013, and increased this contribution to over \$1 million in 2014. Mr. Pasanisi voluntarily pays the salaries of 100 Selous volunteer wardens to augment the ranger presence, and donates rations, equipment, vehicles, a micro-light airplane, and more. Although we only had time to describe one example in detail, we emphasized to the Director that all hunting operators perform anti-poaching patrols and contribute anti-poaching funds, equipment, etc. A reduction in operator revenue – through acts like the import suspension – takes boots off the ground. That is the opposite of what FWS intended or what anyone wants in a country that faces the unprecedented, demand-driven poaching.

Finally, we pointed out to Director Ashe that the Scientific Division's October 7 NDF acknowledged a list of successes Tanzania achieved, including formation of TAWA (which will be primarily funded by hunting revenue), strengthening WMAs (which will depend to a large part on hunting revenue), and expanding law enforcement capacity (which was paid for with hunting revenue), among others. Apparently DMA, the sister authority to DSA, did not consider these benefits in making the enhancement determination. If it had taken these benefits into account, it is hard to understand how a negative determination could be made. Accordingly, we emphasized that a new enhancement determination is necessary.

### **Permit denial deprives elephant of enhancement**

In conclusion, we provided Director Ashe with a list of losses that will grow if the trophy import suspension remains in effect. Among other things, we pointed to reductions in operating and retention revenue; reductions in voluntary

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operator contributions and operator anti-poaching patrols; reductions in government incentives; reduction in community/WMA conservation incentives; crippling of the new TAWA; and the punishment of the elephant instead of punishing the poachers. And we quoted the conclusion of an UNESCO/IUCN Reactive Monitoring Mission undertaken in 2013. In evaluating the Selous Game Reserve's (SGR) continued status as a World Heritage Site, the mission concluded:

... the current situation of the African Elephant in SGR has triggered some debate on the appropriateness of commercial (sic) trophy hunting. Given the substantial contribution of hunting revenues to the management and conservation of SGR the banning of commercial (sic) hunting in SGR would be ill-advised and counter-productive in the view of the mission.

Likewise, we emphasized to Director Ashe that a continued FWS trophy import suspension is ill-advised and counter-productive. It "jeopardizes" much needed revenue. It has already affected available revenue (the small offtake of 7 undoubtedly results from an inability to import), and will only do more damage the longer it remains in place. We urged Director Ashe to align FWS with the U.S. agencies who have partnered with Tanzania, such as USAID, rather than standing at odds with them.

**Partial Summary of Q&A**

Director Ashe asked questions throughout the presentation. Among other things, we explained the difference between the NDF and the DMA enhancement finding, and the difference between the DSA's NDF and Tanzania's

NDF. This question arose in part because we noted that DSA ignored protocol in making its NDF without asking for or considering Tanzania's own finding.

Director Ashe asked if hunting continues in Tanzania, and if other wildlife are hunted besides elephant. We reiterated the multiplier effect of 21-day safaris required for elephant hunting. Many more elephant are hunted than taken, but license and trophy revenue is generated from the extra days mandated and hunters who take other abundant game while in the bush.

When we were describing the example of operator contributions, Director Ashe suggested the import suspension caused operators to step up their contributions. We agreed that it added urgency to anti-poaching efforts; however, Tanzania and its operators were already acting in 2010 and intensifying efforts in 2012 and 2013 as they realized the extent of the poaching siege. FWS cannot take credit for Tanzania's successes.

Director Ashe rhetorically asked when a hunted population experiences a decline in the U.S., don't wildlife authorities shut down hunting. But we disagreed. "Not necessarily." When the duck population declines by tens of millions we don't reduce the quota, much less close the season entirely. The hunting is not the cause and is a net benefit. We don't jeopardize the 13 million acres of wetlands Ducks Unlimited has saved merely because

of a decline. We cited an expert report that the worse the poaching, the less relevant the hunting offtake becomes mathematically, but the more important the hunting is to survival and recovery, which hunting accelerates (Rowan Martin).

The Director also asked if Tanzania could be "blindsided" by a poaching perfect storm. We said yes, but once Tanzania confirmed the poaching they conducted military operations in 2010! But the scope of the poaching was unexpected, and a few

military maneuvers were not enough to stop it, as in the past. As we explained to Director Ashe, because efforts that had worked in the past did not work in the present, Tanzania needed – and initiated – an unprecedented response and anti-poaching strategy. In the past 6-8 months Tanzania has raised hundreds of millions of dollars in assistance while FWS is "choking" its core funding. No one should blame Tanzania for ivory demand-driven poaching the likes the world has never experienced before.

The Director also now has the benefit of Tanzania's voluminous response to questions FWs sent to Tanzania many months after the suspensions that should have been requested before the suspension. Now FWS has better information, i.e. the "best available information" to properly make sound non-detriment and enhancement determinations in its two respective divisions, DMA and DSA, for 2014 and, of course, for 2015. The final determination for 2014 and 2015, we suspect, will await the pending report on the extensive 2014 aerial surveys, which we expect in a few weeks. ■

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