

Suit Filed to Compel Timely Processing of Petition to List Giraffe under ESA

Four anti-hunting organizations filed a declarative and injunctive suit on December 6 in Federal District Court for the District of Columbia against the Secretary of Interior and USFWS (1:18-CV-02857 before Chief Judge Beryl A. Howell). The petitioners ask that the FWS be compelled to make a 90-day determination by a certain date

on the petition to list all giraffe as endangered that petitioners filed April 19, 2017 (19 months without the preliminary determination) and ask for attorney fees and costs.

The petitioners are the Center for Biological Diversity, Humane Society International, Humane Society of the United States, and the Natural Resources Defense Council. It is often interesting to see how the anti-hunting organizations describe themselves. In this case the CBD includes "creative media" among it's activities; HSI "protects animals from abuse, including trafficking and trophy hunting"; and HSUS alleges correctly that it has filed "petitions to list elephants, lions, leopards..., in order to curtail the import of hunting trophies...." (their leopard and elephant petitions are still open and



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pending at this time).

The petitioners allege to have sent a *Notice of Intent to Sue* on September 18, 2018 to no avail. The petition includes the allegation that giraffe have declined from 150,000 in 1985 to 100,000 today (34 years), have recently been listed as *Vulnerable* on the IUCN's Red List, and are not protected by any other international

instrument except Appendix II of the Convention for Migratory Species (CMS). (The latter allegation contradictorily and unwittingly suggests that the status is not recognized to be as dire as represented in the petition). The petition also implies that the petitioned ESA listing would provide needed economic and conservation interventions when in fact the benefits under the ESA for foreign species are slim to none and in our view the listing would have a net-negative effect on giraffe which, of course, are fairing best in the hunting countries and will never be in danger as long as they are a game animal.

A couple of isolated subspecies of giraffe are Red-listed as endangered by the IUCN, but the species as a whole is not. Moreover, research shows that giraffe are doing the best

in the hunting countries of Southern Africa, as you would expect. Regulated hunting ensures their existence.

In addition to the claim that the delay is in violation of the ESA, there is a second claim that the delay violates the Administrative Procedures Act, 5 USC 706(1), applicable when agency action is "unlawfully withheld or unreasonably delayed."

Regardless of the merits of the original petition to list or the truth of the allegations about the status of the species and benefits from listing alleged in the suit, there is a mandatory, non-discretionary 90-day deadline to make the preliminary finding (first of three to complete the listing process) to the "extent practicable." In due course the court will no doubt issue an order setting a certain time for the FWS to publish a 90-day finding whether or not the review for possible listing is warranted. The court is also likely to award attorney fees. Conservation Force will be closely monitoring this litigation and is prepared to intervene should it be necessary. We also expect a CITES proposal to list all giraffe at the next CITES Conference of the Parties (CoP 2018 in May 2019). We are careful not to intervene unnecessarily because the CBD, for example, has more than one-hundred suits against the Secretary and FWS. Although the petitioners are frequently awarded attorney fees and costs in such cases, intervenors supporting the Administration are not.

President George H.W. Bush was a Conservation Fund Raiser



With all the accounts of President George Bush's productive life, a significant part has been missed. I knew the president through his fund raising efforts for wildlife and habitat conservation, and fund raising for anti-poaching, having met and spent many hours with him because he was a *Patron* of the **Wildlife Conservation Foundation of Tanzania** run by the Pasanisi hunting family. He remained a Patron of the Foundation until his death. Although the Pasanisi's safari hunting operation has folded (2018) due to USFWS trophy import permit practices—particularly the failure to approve lion trophy imports for several long years or to even legitimately review elephant trophy import permit applications—the foundation still continues. So did President Bush's patronage until his recent passing.

President Bush stood and conversed for hours with attendees at the *Gala Dinner For Tanzania* on October 17, 2006 in Gaylord, Texas, then he was the primary speaker for nearly another hour. That fund raising banquet for anti-poaching revenue was jointly held by Conservation Force, Dallas Safari Club and the Friedkin

Foundation as a benefit to the Wildlife Conservation Foundation of Tanzania. Conservation Force acted as the conduit non-profit, 501 ©(3) public charity for the hundreds of thousands of dollars raised with the President's help.

I also witnessed President Bush on more than one occasion at Steve Chancellor's home and elaborate trophy room participating in conservation fundraising functions where the *Chancellor Foundation* was the conduit for the conservation funding.

Most recently at the Grand Opening of Johnny Morris's Bass Pro *Wonders of Wildlife National Museum and Aquarium in Springfield, Missouri* President Bush appeared by video (owing to limited mobility) to celebrate the conservation work and continuing conservation promise of Johnny Morris.



I never knew the president to be more than a casual hunter and fisherman, but he was enough of an outdoor sportsman to love the outdoors and wildlife. He was a fellow conservationist and liked the company of fellow hunters and anglers. Goodbye Mr. President, with great respect.

New U.S. African Strategy: *Prosper Africa*

In mid-December National Security Council Advisor, Ambassador John Bolton, announced that the U.S. has developed a "New African Strategy" called *Prosper Africa*. It is a foreign assistance investment strategy for select, "responsible" nations that are "accountable and transparent." The announcement comes less than two weeks after China promised \$60 billion in financial support to Africa at the opening of the China-Africa Summit in early December.

Bolton complained of the neo-

colonial expansionism of China and Russia: "They are deliberately and aggressively targeting their investments in the region to gain a competitive advantage over the United States." "Great power competitors, namely China and Russia, are rapidly expanding the financial and political influence across Africa. They are deliberately and aggressively targeting their investments in the region to gain a competitive advantage over the noted States."

Bolton did not pull his punches.



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“China uses bribes, opaque agreements, and the strategic use of debt to hold states in Africa captive to Beijing’s wishes and demands. It’s investment ventures are riddled with corruption, and do not meet the same environmental or ethics standards as U.S. developmental programs,” he said. “Russia, for its part, is also seeking to increase its influence in the region through corrupt economic dealings. Across the continent, Russia advances its political and economic relationships with little regard for the rule of law or accountable and transparent governance....” He summarized, “In short, the predatory practices pursued by China and Russia stunt economic growth in Africa; threaten the financial independence of African nations; inhibit opportunities for U.S. investment; interfere with U.S. military operations; and pose a significant threat to U.S. national security interest”

Bolton pointed out that from 1995 to 2006 the U.S. invested aid in Africa equal to all other donor countries combined and as recently as 2016 and 2017, 8.3 and 8.7 billion, respectively.

China’s direct foreign investment in 2016 was 6.4 billion. In short, the U.S. leads the pack but has not been happy with the results. Moreover, the larger part of China’s investment has been binding loans with shorter terms than World Bank loans not due for a decade.

The new policy has three parts; First, advancing trade and commerce ties for the mutual benefit of African nations and the U.S.; Second, countering Radical Islamic Terrorism and violent conflict; Third, better efficiency and results.

“America’s vision for the region is one of independence, self-reliance, and growth- not dependency, domination, and not debt.... We want African nations to succeed, flourish, and remain independent in fact and not just in theory.” He added, “From now on, the United States will not tolerate this longstanding pattern of aid without effect, assistance without accountability, and relief without reform.”

For a complete transcript see whitehouse.gov (Foreign policy issued December 13, 2018).

Changes in Leadership in the DOI

The new leadership within the U.S. Department of Interior and its U.S. Fish and Wildlife began to take shape as the year ended. Deputy Secretary of Interior David Bernhardt, will serve as the Acting Secretary until a nominee is confirmed by the Senate. Margaret Everson, a lawyer and biologist from DU, has replaced Greg Sheehan as the Principle Deputy Director of U.S. Fish and Wildlife and will, no doubt, serve as the Acting Director of Fish and Wildlife until a new Director is nominated and confirmed by the Senate. The Deputy Assistant Secretary for Fish, Wildlife and Parks, Aurelia Skipwith, also a biologist and attorney, has been nominated but is not expected to be confirmed by the Senate until early in the new Session in January.

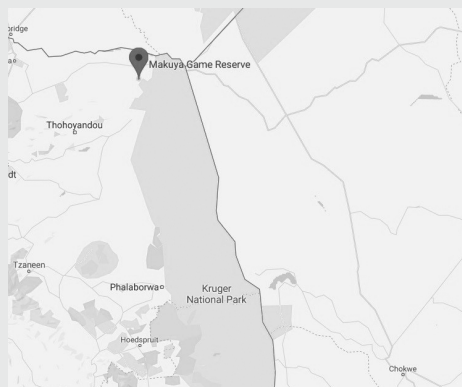
The respect and recognition that Secretary Zinke and Greg Sheehan accorded to hunters and anglers, including international hunters and hunting as a conservation tool, has had no match in many decades. Hopefully the work that they initiated will carry forward as appearances suggest.

Working with Makuya Nature Reserve

In the far north of Limpopo Province just South of the Pafuri Gate lies a 13,808 hectare piece of land, named the Makuya Nature Reserve which shares a fenceless border with the Kruger National Park. The reserve has struck a working relationship with Conservation Force and PHASA. This is the story as written by Esther Netshivhhjongweni, a member of the Makuya Royal Family and community advisor as well as a new PHASA board member.

Makuya Nature Reserve Developments

In the spirit of peace and sustainability, between June 2016 and November 2016, Esther Netshivhongweni of Dracura Wildlife Solutions facilitated negotiations between the three traditional councils that hold the land to work together jointly as the owners of the Makuya Nature Reserve. This led to the signing of a Memorandum of Agreement between the three traditional councils



followed by the signing of the co-management agreement between the Limpopo Economic Development, Environment and Tourism (LEDET) and the three traditional councils. LEDET is the management authority that sets quotas and issues permits.

Dracura Investments trading, operating as Dracura Wildlife Solutions has acquired the hunting and eco-tourism concession for the Makuya Nature Reserve. The economic benefits of the three traditional councils are distributed in

proportion to the hectare percentage of land contributed by each traditional council in the reserve. The new agreement based relationship signals a new era between the three councils. The Makuya Traditional Council (MTC) relinquished 10% from its economic benefits and allocated 5% to Mphaphuli and Mutele Traditional Councils respectively, even though it owns 94% of the land.

Makuya is an undeclared conservation area bordering Kruger National Park. Makuya's is located within the Greater Limpopo Transfrontier Conservation Area (GLTFCA). Once the Greater Kruger cooperative agreement negotiations between Makuya's Co-Management Committee and LEDET has been concluded a cooperative agreement will be signed. Signing of that agreement will unlock a lot of marketing opportunities for the Makuya Nature Reserve communities.

A needs assessment of the Makuya Nature Reserve established many management and infrastructure shortcomings. Infrastructure such as roads, fencing and safari camps require repair and upgrading to receive and entertain clients. Although an application for funding had been made to the Department of Tourism and Environmental Affairs, more funding is still needed.

Also, further assessment suggested that the staff needed training and skills development and a marketing strategy needed to be implemented. Despite a very robust hunting and eco-tourism sector, Makuya Nature Reserve was not being marketed at all as a tourist hunting or tourism destination.

The biggest headache of all seemed to be poaching. Poaching remains a huge threat to the development and sustainability of Makuya Nature Reserve. The fact is, not enough resources were being given to Makuya Nature Reserve by LEDET to combat poaching. Dracura Wildlife Solutions together with the three traditional councils, co-management and communities applied for funding from the Department of Environmental Affairs and invited Department of Environmental Affairs to witness challenges which communities are facing in their wildlife space, but the Department of Environmental Affairs has to date, not committed to help. The funding shortfall may compromise the Reserve's reputation as a result of client and market segment dissatisfaction. The disappointing part of this poaching challenge is that the poachers are our own community members.

Eco-tourism currently does not benefit the communities. Dracura Wildlife Solutions and the Community Management Committee

(CMC) are still in negotiation with LEDET for financial assistance which is necessary for the communities to benefit from eco-tourism and accommodations.

These are the challenges which caused Dracura Wildlife Solutions to approach PHASA. The purpose is for PHASA to assist the CMC to raise funds and to manage the funds ensuring that funds are spent for developing Makuya Nature Reserve with anti-poaching as a priority and urgent project.

As a start, during the 2018 PHASA Annual General Membership Meeting, Dracura Wildlife Solutions and MTC donated one elephant, three buffaloes and one nyala as part of their pending annual quota received from LEDET. PHASA auctioned these donations for an astounding R1.14 million of which R800,000 will be directly for Makuya's community projects and R314,000 will remain in the PHASA Fund to be utilized for other worthy projects. The Makuya portion will also be kept in PHASA trust and managed by the PHASA Fund for Makuya Nature Reserve projects. During this function, there were international organisations who showed interest in growing the PHASA Makuya Fund to assist the communities in managing their reserves such as Conservation Force. All funds and donations received by Makuya Nature Reserve, would remain in the PHASA Fund under a separate Makuya Project Fund. It is to be controlled, expended and accounted for properly, by the PHASA Fund and Esther Netshivongweni who has become an elected Board Member of PHASA.

The assistance and co-operation from PHASA also ensures that Makuya Nature Reserve receives greater visibility in the international market place. PHASA is the largest

professional hunting association in the world, making their contribution of resources and assistance, immense and irreplaceable.

Makuya Nature Reserve has the potential to generate millions of Rands for the communities provided the MTC commits to addressing the following challenges:

- a. Management of the reserve
- b. Infrastructure
- c. Poaching control
- d. Marketing
- e. Eco-tourism assistance

PHASA is also involved in the attempts made by Makuya Nature Reserve to improve community sustainability and social responsibility effort. For example, during a function held on 6th and 7th October 2018, for this very cause, the PHASA Fund donated all the chicken and cool drinks that were used at the particular function.

PHASA's role is advisory and one of assistance. The role which PHASA plays in the uplifting of Makuya Nature Reserve speaks to its care and willingness to sustain and develop communities, as well as remain a leading association in furthering South African livelihoods.



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