



SPECIAL SUPPLEMENT

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

World Conservation Force Bulletin

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First Formal Action on Elephant Import Suspension Taken by Conservation Force

On May 16th, Conservation Force filed a joint *Request for Reconsideration* of Tanzania elephant import permit applications that have been denied by the US Fish & Wildlife Service. It is the first of a two-prong approach that Conservation Force is taking after a month of exploring the underlying issues of the import suspension. The second prong is taking remedial steps in the field to correct the problems, which is most important.

The three permits to import Tanzania elephant trophies were denied April 4th and May 7th. The deadline to administratively challenge the denials of April 4th was just days beyond the filing. We have been racing night and day since April 4th to identify the issues, amass information to satisfy the issues and to timely file the first step in the administrative appeal process for the benefit of all.

This is the normal way to proceed to challenge a ban or suspension. It is the way we have been opening and successfully expanding elephant hunting for 25 years. The courts with rare exception require a complainant to file for a permit and fully exhaust the administrative appeals process to a *Final* determination before the import permit applicant has standing to sue and the court has jurisdiction to adjudicate a case. The process provides the USFWS with an opportunity to self-correct its error, provides the submission of documentary evidence for USFWS to change its mind, and provides evidence for the court to consider after the course of the administrative appeal process.

The Request for Reconsideration is



DATELINE:
United States



John J. Jackson III

the right of any permit applicant when an import permit has been denied. After that is decided, if still denied, then the permit applicant can appeal to the Director of USFWS as well as ask for oral argument before the Director. Over the past 25 years we have done this for thousands of permit applicants for everything from elephant to cheetah. Each stage better defines and narrows the issues. Those issues become the information target for the next level of appeal. It is not only necessary before

filing suit, it can be faster than filing suit, which can be delayed for years with motions over threshold issues without ever reaching the merits. That is exactly what is happening with SCI's suit right now. The USFWS has filed a Motion to Dismiss that case on threshold issues that the organization is not a permit

applicant and, even if one or more members are applicants, they have not exhausted the administrative appeals process where the issues are likely to be resolved without ever reaching court.

The joint request has been filed by Conservation Force, acting as the authorized legal representative of the applicants. It is the applicants' appeal; we are just providing the pro bono services because of the public-conservation interest in solving the underlying problems. The Request has a 21-page *Information Document* attached, which in turn has 100 documents with thousands of pages attached. It has been a massive undertaking within little more than a month, but we are still collecting expert documentation for a second submission and the next level of administrative appeal, if necessary. We are working cooperatively with USFWS in this process because there are underlying problems with excessive poaching that Tanzanian authorities readily admit. If something is not done, there may not be any elephant to hunt and import. No one recognizes the poaching crisis more than Tanzania



itself, though they have gotten an unexpected and unwanted response from USFWS.

It is unfortunate that USFWS did not notify the hunting community or Tanzania of the suspension beforehand or better, try to solve the issues first. It is also a substantial handicap that USFWS did not send an inquiry or questionnaire to Tanzania before or even to this date, which is the usual protocol and just plain prudent. We have been able to get both the negative non-detriment advice issued by the Division of Scientific Authority and negative enhancement finding issued by the Division of Management Authority. This has been our guide to issues that must be addressed. We also gained some insight from Freedom of Information Act requests that we rushed out at the inception. We have learned that USFWS had decided to suspend imports from both countries before January 9th, 2014 because of written internal communications from the Director of International Affairs to the Director of USFWS. USFWS at that early date intended to advise Dallas Safari Club, SCI and Conservation Force according to internal memos, but never did. We can only speculate what would have happened had they informed us before the convention season as intended or if they had consulted with the two respective countries before the suspension. We are working with the hand that was dealt.

Many of the 100 documents are new materials that USFWS had not considered when making its negative non-detriment advice and enhancement findings. The information should go a long way towards lifting the suspension that the USFWS now refers to an "interim" determination, not a final determination of suspension for 2014.

We produced hard documentary proof that one exemplary operator expends approximately \$500,000 dollars a year in anti-poaching. We discovered that one of the most important aerial surveys upon which the estimated elephant decline was based had skipped a significant area and covered other parts only lightly. It is not a comparable or reliable measure of decline. We were able to demonstrate that the count of elephant carcasses and their appearance suggests

the escalation in poaching was arrested over two years ago, which means the elephant decline has turned around. The elephant skeletons/carcasses are more than 24 months old and what new ones exist are fewer than the natural death rate. This is good news.

The USFWS has approved elephant trophy import permits from Tanzania for 22 years, since my suit in 1992. The import permits have been based on positive DMA and DSA determinations, which have been largely based on intergovernmental communications and secondarily, from submissions of applicants, often with information from Conservation Force. When and if International Affairs has needed more or updated information, the DMA or DSA has requested the information from the Tanzanian authorities and simultaneously advised Tanzania it required the information and precisely what information it needed.

In this instance, no notice, warning, or inquiry was made to Tanzania before the negative findings. No inquiry was made of the Applicants, who were instead misadvised in a written acknowledgment that their applications were complete and they would be contacted if any further information was necessary.

As of the date of the Request for Reconsideration, no inquiry for additional information had been made to Tanzania or the Applicants. Tanzania does not even have a letter of inquiry as has been the longstanding practice or a courtesy notice of the pending permit denials. **At the very least**, the information attached to our Request for Reconsideration should be given every consideration because this is the first opportunity to address unknown issues and the USFWS' misperceptions arising from anecdotal information.

The Republic of Tanzania has the most up-to-date National Elephant Management Plan in Africa, adopted in 2010 and effective through 2015. With the exception of Kenya, no other country's plan is anywhere near as up-to-date as Tanzania. For example, Namibia's plan is dated 2007. Zimbabwe's plan is dated 1997. Botswana's plan and Zambia's plan are each dated 2003. Only Kenya has a current plan that extends from 2012-



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2021. Tanzania also conducts regular elephant surveys and has developed substantial internal survey capacity uncommon in the developing countries. It had and probably still maintains the second largest elephant population in the world. It has succeeded in preserving the largest amount of protected habitat in Africa, approximately 36% of the country. Thirty-eight Wildlife Management Areas (WMAs) are soon to add an additional 7% of the country as land managed for conservation. Currently, 17 WMAs make up 3% of the country, with 21 being registered for another 4% (WWF-Tanzania, Tanzania's Wildlife Management Areas, 2012 Status Report). Combined, 43% of the country is managed for wildlife.

Tanzania has over 1,000 rangers or game scouts, and in 2014 is adding 930 more (500, then 430). Although it has been one of the largest exporters of illegal ivory in the midst of the current unprecedented Africa-wide ivory trafficking crisis, it also is the seaport gateway for eight land-locked countries, has four international airports, and has had the largest number of elephant and habitat excepting land-locked Botswana. A great deal of the country's record amount of habitat is held in 150 hunting blocks and 38 developing WMAs. Tourist safari hunting is a major part of Tanzania's anti-poaching strategy. Each of the 150 hunting blocks and the 38 developing WMAs must do anti-poaching and CBNRM. Most of the game scouts are supplied directly or indirectly through hunting.

Tanzania is not unique to have an ivory poaching and trafficking problem,

but it is the leader in addressing the problem. (Witness the Summit on Stopping Wildlife Crime and Advancing Wildlife Conservation, Dar es Salaam, May 9 and 10, 2014.) A large part of the conservation world leadership is helping Tanzania authorities contend with the unprecedented and unexpected rise in poaching to crisis level. The fact remains that no one is doing more to control the unprecedented poaching arising from unprecedented demand.

Because of an unprecedented Asian demand, poaching has been more than anticipated. That said, Tanzania has been addressing the issues as they have become known. In the past four years, Tanzania has stepped up its programs. In 2014, without any knowledge that USFWS would threaten the hunting components of its programs, Tanzania has raised its anti-poaching and management efforts to exceptional levels. It is in the process of doubling its game scouts by adding 930 within months, increasing its WMAs by 21 areas to a total of 7% of the country (building community incentives and an army of village game scouts, and protecting corridors), returning to its Retention Funding system, organizing a UNDP Basket Fund, establishing the new Wildlife Authority, creating a ranger Disciplinary Board, Code of Conduct, and more. Tourist safari hunting has been a primary tool in Tanzania's anti-poaching arsenal. It serves as an essential user-pay mechanism for survival in the war on poaching, which the Minister has made clear is not optional.

It follows that the suspension is untimely. Tanzania appears to have already turned the surprise crisis around

after 2,000 arrests, confiscation of over 1,000 firearms, and several military and paramilitary campaigns.

The extreme rise in demand for ivory was unprecedented and unforeseeable, but Tanzania is measuring up. There is a wealth of hard documents and real actions to attest to the facts.

The USFWS has concluded that the sport hunting take is additive because the elephant population is declining, i.e. more elephant are dying and being killed than are being born. We point out that this conclusion is too simplistic because the benefits from the hunting make it a net gain in population. More animals and their habitat are conserved than are taken. For example, one exemplary hunting operator funds approximately \$500,000 a year in anti-poaching in the heart of the top elephant area. Imagine how many elephant that has saved and what elephant would exist without the habitat alone.

We also point out that the quota in Tanzania compared to the ratio of elephant is far less than in Namibia where the elephant population is 20,546 and the quota is 90 elephant, and in RSA where the population is 22,889 and the quota is 150 elephant. If the estimate is correct in Tanzania, the population is over 70,000 and the quota is only 200 elephant, but because of added length and weight restrictions averages 36% of the 200. Moreover, older bulls are biologically surplus unless an extreme number are taken.

The second prong of our approach is taking action on the ground in Tanzania to deter poaching and conserve the

Participants of the Elephant Summit in Dar es Salaam, Tanzania decided upon 15 action items to arrest the elephant poaching problem.



elephant. In the past month Conservation Force has participated in the Elephant Summit in Dar es Salaam, Tanzania entitled *Stopping Wildlife Crime & Advancing Wildlife Conservation: A Call to Action* where more than 15 action items were decided upon:

Priority Actions to Stop Wildlife Poaching in Tanzania

Action Item 1: Creation of the Tanzania Wildlife Authority (TAWA).

Action Item 2: Recruitment of 900 additional rangers in 2014, with an additional approximately 1,000 recruited each year until the need is met at 5,000 by 2018.

Action Item 3: Establishment of a Disciplinary Board to review and enforce Ranger Code of Conduct.

Actions to Stop Illegal Wildlife Trafficking

Action Item 1: Establishment of an Inter-Ministerial Task Force, including Ministries of Home Affairs, Transport, and Natural Resources and Tourism, with a clear direct lead Ministry to coordinate training and enforcement of wildlife laws to stop poaching and smuggling of wildlife.

Action Item 2: Registry and annual inspection of all Government-held ivory stocks by engaging independent third party audits.

Actions to Engage Community Conservation: Governance

Action Item 1: Establishing a joint MNRT – Ministry of Local Government Task Force to better define “devolution of authority to local communities” in the context of wildlife and natural resource conservation at the community level and improve governance and coordination of all wildlife and natural resource conservation community efforts at the district level through clear lines of duties and responsibilities among relevant district / ward / village institutions.

Action Item 2: Conduct a review of wildlife hotspots outside of protected areas with an aim to employ appropriate measures to engage community conservation efforts.

Actions to Engage Community Conservation: Benefit Sharing

Action Item 1: Request to the Tanzanian Parliament to – at the appropriate time – undertake a review of how Tanzanian tax policies may facilitate conservation practices in Tanzania, with particular reference to tax relief to public and private entities engaged in conservation.

Action Item 2: MNRT to establish a Commission to review and recommend measures by which Tanzanian wildlife tourism, including consumptive and non-consumptive activities, may better contribute to wildlife conservation in a transparent and demonstrable manner.

Citizen Commitment Against Wildlife Crime and for Wildlife Conservation

Action Item 1: Joint Statement by Leading Faith Organizations to “Stop Wildlife Crime and Engage in Wildlife Conservation.”

Action Item 2: Establishment of the Tanzanian Alliance for Religion and Conservation.

Citizen Engagement – Industry and Media Leaders

Action Item: Establishment of the Tanzanian Natural Resources Stewardship Council.

Regional Partnerships in Combating Wildlife Poaching and Illicit Trade

Action Item: Regional Conference to be held in Arusha in October 2014 to enhance regional cooperation in combating wildlife crime.

Global Coordination to Curb Demand for Wildlife Products & Advance Wildlife Conservation

Action Item 1: A Partnership Framework to be signed by global partners

Action Item 2: A Basket Fund to support implementation of actions – dialogue on establishment of the fund to be led by the United Nations Development Programme.

A special debt of gratitude is owed to the Tanzania Minister of Natural Resources and Tourism and the International Congressional Caucus Foundation, both of whom invited Conservation Force to this important Summit to stop illegal elephant trafficking from the point of poaching to the point of consumption.

We also attended CIC’s Conference in Milan, Italy and participated in its special program on illegal wildlife trade. There we made plans for and financial commitment to starting a German-sponsored anti-poaching program in the Selous to cost more than \$8 million. Our commitment is to ingest enough funding to start it this year rather than wait until 2015.

We also met with representatives of the Frankfurt Zoological Society to partner with them to place two experts on the ground in the Selous for one full year to instruct the game scouts in the most up-to-date (and, I might add, most impressive) technologies to control poaching.

We also met with the Director and Minister of Natural Resources and Tourism and pledged to fund an aerial survey of the Selous this year at the cost of \$160,000 US dollars with the help of the Shikar Safari Club International Foundation that has become a significant supporter of Conservation Force and none too soon.

We are prepared to do more in Tanzania. The elephant must be saved and there can be no doubt this country should be a stronghold. ■

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