



January 27<sup>th</sup>, 2017

**PUBLIC COMMENTS PROCESSING ATTN: FWS-HQ-ES-2016-0131**

Dear Fish and Wildlife Service Officer

**COMMENT TO THE USFWS FROM THE EMS FOUNDATION, SOUTH AFRICA ON THE PETITION TO RECLASSIFY THE LEOPARD AS AN ENDANGERED SPECIES THROUGHOUT ITS RANGE**

The EMS Foundation is a non-profit African public interest organization based in South Africa. The mission of the EMS Foundation is to alleviate and end suffering and provide dignity for vulnerable and exploited groups, particularly wild animals, children and the elderly in South Africa and Africa, through: promoting their rights and interests; raising public awareness; advocacy; research and funding projects and programmes.

The EMS Foundation wholly supports the Petition filed on July 25, 2016 by The Humane Society of the United States, Humane Society International, Center for Biological Diversity, the International Fund For Animal Welfare, and the Fund For Animals to list all *Panthera Pardus* as Endangered and to immediately restrict leopard trophy imports.

In addition we make the following points:

1. Namibia, South Africa and Zimbabwe are major suppliers of leopards for trophies to the USA and other countries.
2. In Namibia, South Africa and Zimbabwe there is completely insufficient credible data on leopard populations and the effect of trophy hunting on leopards.

3. However, the credible research that has been done is clearly showing that human-mediated killings of leopards is having a devastating effect on leopard populations and indeed threatening their continued existence.
4. The number of leopards remaining in the SADC region is unknown but what is definitely known is that their numbers are declining at a concerning rate.
5. According to predator scientists, leopards are the most persecuted cat species in the world. And this statement is very true for the SADC region.
6. Research<sup>1</sup> in South Africa has shown that human-mediated leopard mortality exceeded the annual trophy “offtake rate” considered sustainable. In other words trophy hunting is causing leopard extirpation. Moreover the notion of a so-called “sustainable off-take” particularly in relation to leopards is also hugely problematic, contested and untested.
7. Pitman *et.al.* (2015) Leopards in Limpopo demonstrated that **legal mortality is unsustainable** (Pitman et al. 2015), and camera-trapping surveys conducted during and after that study period indicate that **leopard populations are declining** (Pitman et. al 2016).
8. Given the increased economic reliance on agricultural productivity, and the increased financial risk associated with intensive high-value wildlife breeding, decreased tolerance among landowners towards so-called “problem animals “such as leopards is inevitable.
9. The consequences of decreased tolerance towards ecologically important free-ranging wild animals<sup>2</sup> in particular leopards, is likely to have significant detrimental impacts on species persistence and ecological systems more broadly.

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<sup>1</sup> See papers used in the DEA N&S document.

<sup>2</sup> Free-ranging wildlife that potentially threaten the profitability of the game ranching industry include black-back jackal *Canis mesomelas*, brown hyaena *Hyaena brunnea*, caracal *Caracal caracal*, cheetah *Acinonyx jubatus*, lion *Panthera leo*, leopard *Panthera pardus*, spotted hyaena *Crocuta crocuta*, and African elephant *Loxodonta africana* (collectively referred to as ‘nuisance wildlife’).

10. Pitman et.al (2016)<sup>3</sup> clearly showed that in one province in South Africa alone “From 2003–2012, landowners submitted 693 problem animal permit applications for nuisance wildlife, and 999 for non-nuisance wildlife. Most (79%) applications originated from game ranches. ***For nuisance wildlife, leopard were the most common putative problem animal (68%)***”, this means that 471 leopards were known to have been killed during this period. These figures exclude unreported killings, which according to researchers, is widespread (see point 17 above).
11. Pitman *et.al* (2016) also demonstrated that wildlife ranching management practices have become more intensive, to facilitate the breeding of so-called “high-value game species” and they are as a result increasing predator-proof fencing to keep free-ranging wildlife out, and reducing populations of so-called “nuisance wildlife” through legal destruction.<sup>4</sup> This is having a devastating effect on leopards. Their findings demonstrated that the proportional increase in “problem animal control” of “nuisance wildlife” has far outweighed the proportional increase in “game ranching” trends towards more intensive practices - suggesting that intolerance is growing in momentum.<sup>5</sup> The consequences of decreased tolerance towards ecologically important free-ranging wildlife such as leopards is likely to have significant detrimental impacts on their ability to survive and endure as well as on ecological systems more broadly.
12. The top three species killed as so-called ‘problem animals’ (leopards, elephants and lions) are also the most desired for **non-consumptive tourism**.<sup>6</sup> The contribution of charismatic species such as leopards to South Africa, Namibia and Zimbabwe’s economy, together with their ecological significance, makes them vitally important species to conserve.<sup>7</sup> These countries therefore must take a more precautionary approach.

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<sup>3</sup> Pitman, T, Fattebert, J, Williams, ST., Williams, KS, Hill, RA, Hunter, LTB, Slotow R and Balme, GA. The Conservation Costs of Game Ranching. *Conservation Letters. A Journal of the Society of Conservation Biology*, 2016

<sup>4</sup> The number of applications for nuisance wildlife increased significantly with the number of wildlife ranchers breeding high-value species and with the use of predator-proof fencing.

<sup>5</sup> Ripple et al. 2014; 2015

<sup>6</sup> Di Minin et al. 2013

<sup>7</sup> Richardson & Loomis 2009

13. The increased use of predator-proof fencing and the legal destruction of wildlife in the SADC region shows that wildlife ranching practices are in conflict with leopard conservation. The predisposition to erect predator-proof fencing raises additional concerns (Woodroffe et al. 2014) because it fragments leopard habitats and significantly alters interactions between species, leading to detrimental impacts on ecosystem functions.
  14. The marked growth of human population in the areas where leopards occur is increasingly negatively impacting and threatening leopard habitat and has left the majority of suitable wildlife habitat in a highly fragmented state.<sup>8</sup>
  15. Another enormously concerning anthropocentric practice is the illegal trade and killing (snaring and poisoning) of leopards for cultural and *muti* purposes. For example in KZN one trader was found with 150 leopard skins.<sup>9</sup> This trader was not charged and is apparently still in business: this raises a red flag in terms of **weak and incompetent enforcement**. So even though, theoretically, a “strict permit system” governs hunting, many leopards are being killed and traded illegally.
  16. The wildlife authorities, in line with good scientific practice, have a duty to take a Precautionary Position in relation to the trophy hunting of leopards, particularly as they are a CITES Appendix 1 Listed Species. The fact that we are dealing with the persistence of species means that if a mistake is made the cost can be extinction or large-scale extirpation.
1. The EMS Foundation comments are within the overall context that sport/trophy hunting of endangered and threatened species such as leopards is not a legitimate conservation tool. The proponents of “trophy/sport-hunting as a conservation tool” contention are primarily sport-hunting advocacy organizations, like PHASA, CHASA, SAPA, Safari Club International etc. These organisations often cite two

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<sup>8</sup> Swanepoel et al. 2013

<sup>9</sup> <http://mg.co.za/article/2011-02-11-leopard-pelt-trader-gets-off-scotfree>

interrelated documents as alleged “proof” that trophy hunting can be a “useful tool” to conservationists:

- a. the IUCN SSC Guiding Principles on Sport-hunting as a Tool for Creating Conservation Incentives (09 August 2012)
- b. CITES Resolution Conf. 2.11 (regarding trade in hunting trophies of species listed in Appendix I).

The primary theory for promoting trophy hunting as a conservation tool behind the IUCN Principles and the CITES’s Resolution is that hunting can:

- a. Incentivise governments in developing countries to generate conservation programmes
- b. Directly raise funding for on the ground conservation efforts in counties with otherwise limited resources.

2. Supporters of trophy hunting based conservation increasingly ignore that these so-called benefits of trophy hunting have not overcome the long-term negative effect of hunting - namely the allowance for legalised killing of these animals continues to decrease their overall chance of survivability as a species in the wild. In fact, development economists conducted a study on illegal trade of wildlife and found that "the literature advocating trade as a conservation solution for endangered species relies on models that are based on simplistic and/or extremely restrictive assumptions."<sup>10</sup> The study went on to explain that "[i]n most cases these models rely on conceptual tools that have been theoretically discredited." Indeed, many objective scientific studies and in the field observations that are not directly supported by sport-hunting organizations have repeatedly concluded that sport-hunting endangered or threatened species, even if well managed, is one of the primary factors driving the illegal trade of these species in the black market. These findings show that the legal and illegal markets are intertwined in a complex manner and that their interactions create a dual market that is impossible to regulate.

3. Development Economists such as Nadal and Aguayo are supported by South African programmes driven by the Department of Trade and Industry (DTI) and

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<sup>10</sup> Alejandro Nadal & Francisco Aguayo, *Leonardo's Sailors: A Review of the Economic Analysis of Wildlife Trade*, (June 2014).

the Industrial Development Corporation (IDC), for example through the African Programme on Rethinking Development Economies (APORDE).

4. These Development Economists are extremely concerned by the lack of serious economic analysis on market structures and price formation dynamics in markets for so-called wildlife 'products' (including, of course, ivory, rhino horn, lion and tiger bones and skins, etc.). They argue that advocates of trophy hunting and deregulated trade of these 'products' have been navigating in oceans of ignorance, both in terms of the theoretical tools that are used as well as the superficial analyses of real world (existing) markets. This means that assertions concerning the movement of prices and the amount of resources that are supposed to be 'ploughed back' into conservation are in reality just empty statements.<sup>11</sup>
5. Given the remarkable exposure and research that has been generated over the past decade regarding the lack of credible evidence that sport/trophy hunting actually increases the survivability of many protected species, it is urgent that all the SADC countries undertake a review of their policies.
6. Allowing leopards to be trophy hunted and arguing that this can be used to obtain information on leopard populations and dynamics is counter-intuitive and unscientific.
7. Trophy hunting, illegal hunting, killing for skins, 'legal destruction' and revenge killings result in many leopards dying, and by-catch from snares for the bush meat trade, are pushing leopards in the SADC region to the brink of extinction.
8. Unreported and illegal killing of wildlife is widespread across southern Africa and therefore extremely pertinent.<sup>12</sup>

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<sup>11</sup> Email correspondence with Alejandro Nadal

<sup>12</sup> St John et al. 2012; Thorn et al. 2013; Kahler & Gore 2015

17. According to peer-reviewed research papers human-mediated leopard mortality is widespread, especially amongst private agricultural and wildlife ranches in Southern Africa.
18. The issue of 'non-detrimental findings' which technically is the backbone of CITES, has not been taken seriously enough by the Scientific Authorities in South Africa, Namibia and Zimbabwe.
19. South Africa, Namibia and Zimbabwe are making NDFs to the advantage of trade and trophy hunting but not biodiversity and protection.
20. South Africa, Namibia and Zimbabwe have failed to collect sufficient data required for an NDF assessment for leopards.
21. Input from scientists and other stakeholders in 2015 led the **South African authorities to place a moratorium on the trophy hunting of leopards in South Africa in 2016 and 2017.** They have done this because they recognise that their NDF decisions have been taken in the absence of reliable scientific data; quota-setting without biological data; lack of peer review of field studies and lack of uniform standards for non-detriment findings.
22. In South Africa, Namibia and Zimbabwe there is insufficient information on the impact of exploitation on the population and on the afflicted biological communities and ecosystems. They have been unable to scientifically determine population figures due to limited knowledge and understanding of the species biology, management, population and gender dynamics and the impacts of removal of individuals.
23. In terms of collecting the needed scientific data to properly make NDF findings, in South Africa, Namibia and Zimbabwe, there exists no general overview of the current use of biological information in determining detriment to CITES listed species to help scientists identify research priorities. **Scientists still need to**

**develop a body of scientific studies that propose, refine and adapt methods for assessing detriment.**

24. There has been no comprehensive review or research of South Africa, Namibia and Zimbabwe's effectiveness in regulating the wildlife trade and trophy hunting and its effects.
25. Allowing trophy hunting of leopards from these SADC countries is irresponsible because they have been made within the framework of a poorly uncontrolled, un-transparent and unaccountable regulatory system which is clearly open to abuse.
26. There are major failings and weaknesses in terms of governance and control of wildlife issues in all these countries, and these obviously include for CITES listed species.
27. There are valid concerns about the monitoring and enforcement systems in South Africa, Namibia and Zimbabwe. The negative effects of decentralised systems and practices and the concomitant poor management of wildlife. This includes the lack of implementation of a fully functional and transparent electronic permitting system (which is also accessible to NGOs who are monitoring trade and hunting).
28. TRAFFIC has already highlighted to South Africa that the requirement to address capacity and resource constraints affecting South Africa's conservation authorities at national, provincial and site levels has not been addressed. This also includes South Africa's administration of CITES. This is also true of Zimbabwe and Namibia. According to TRAFFIC South Africa remains derelict in fulfilling this critical need despite repeated promises and as a result South Africa's wildlife management remains clouded by delays, abuse and miscommunication within the current permitting structure, providing loopholes and opportunities for illegal and unintended activities for many species to proliferate.
29. The effect on leopard populations of local decision-making in the absence of adequate centralized regulation and evidence-based best practice necessary to uphold conservation objectives is extremely worrying.

30. In addition most conservation departments are under-staffed and often dysfunctional. Conservation authorities lack the human and financial resources to accurately and consistently monitor wildlife populations,<sup>13</sup> particularly elusive species such as leopard that range widely, and occur mainly outside of formally protected areas.<sup>14</sup> As a result these conservation departments and officials cannot be entrusted to collect scientific data, or oversee and manage leopard issues. In particular the lack the ability to adequately effectively monitor and regulate trophy hunting activities.
31. In South Africa it is well-document that the hunting industry itself is extremely problematic and unethical and has been involved in countless illegal activities with an expansion and consolidation of criminal syndicates in its ranks. This means there is even more need for the hunting industry to be appropriately monitored, controlled and managed.
32. There is a lack of knowledge and monitoring by authorities in South Africa, Zimbabwe and Namibia.
33. A particular problem of concern is that South Africa, Zimbabwe and Namibia do not have national or central database relating to wildlife permits for trade or hunting. Consequently there is no transparency, accountability or efficiency and control is abysmal.
34. Research undertaken in South Africa into the availability of information relating to wildlife from national and provincial government has shown massive problems and inconsistencies. Information and access to information are the lifeblood of our society and of any democracy. The South African Constitution provides that everyone has the right, with certain limitations, of access to information, held by the State including that held by provincial governments. Despite the constitutional guarantee NGOs researchers, environmental lawyers and journalists regularly

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<sup>13</sup> Rodriguez et al. 2005

<sup>14</sup> Swanepoel et al. 2013

struggle to source accurate and up to date information on wildlife issues from the provinces, the Department of Environmental Affairs, the South African National Parks (SANParks) and other related government agencies. Information distributed by official sources is oftentimes inconsistent with information released by other government agencies. Statements from official sources even contradict information placed on record by the relevant Minister in written responses to Parliamentary questions. These inconsistencies, inaccuracies and omissions produce confusion and inefficiency and make it difficult for the public, or indeed even members of Parliament, to gather a clear understanding of wildlife trade and hunting issues. Officials also sometimes decline to release information about wildlife populations, hunting and other issues on private land claiming “third party confidentiality”. This argument is based on the assumption that government departments cannot reveal details of “contracts” between themselves and private individuals. The net result is a considerable scarcity of information regarding the wildlife on the large area of land managed by of the private game ranching industry. This lack of information limits proper examination of South Africa’s wildlife management practices. It is very difficult to understand how the Ministry and the Department of Environmental Affairs can make informed decisions about the management of South Africa’s wildlife when the information they use, and provide to the public, is frequently inadequate. It also raises doubts, of the accuracy of information provided to international bodies such as CITES and is exemplified by the information demands on international treaties, such as CITES and the Convention on Biological Diversity, to which South Africa is signatory. All too often doors are closed in the face of researchers wishing to get clarity on a wide range of issues. Officials in some provinces are particularly poor in this regard. Even officials from the Department of Environmental Affairs sometimes struggle to get access to accurate and up to date information from some provincial officials. Given this context, **it is unclear how balanced decisions can be made at a national level when statistics vary so considerably or are not available. These failings also call into question some of the information given to international bodies such as CITES.**

35. There are serious concerns around South Africa, Namibia and Zimbabwe's implementation of the 'Precautionary Principle', i.e. the threat of irreversible harm and unacceptable risk, in relation to CITES Resolution 9.24 of CITES mandates that parties "shall apply the Precautionary Principle so that scientific uncertainty should not be used as a reason for failing to act in the best interest of the conservation of the species." Although the notion of the 'precautionary principle' is usually directed at pollution issues it also applies to wild life issues. In this context the principle requires that when the impact of a proposed action upon a species is not known, then the benefit of the doubt should be given to the species and the action not be undertaken until it can be shown that the action will not impose an unacceptable cost or loss to the species. The clearest example is also the most important, for it arises within the permit granting process, for both Appendix I and II species.
36. There are problems with South Africa, Namibia and Zimbabwe's approach towards uncertainty and the precautionary principle – they seem to be implementing precaution through adaptive management and monitoring, rather than explicitly endorsing a precautionary principle or precautionary approach, thereby emphasising uncertainty arising from data gaps. However, while monitoring and adaptive management are necessary for decision-making on wildlife trade and NDF's, they are not sufficient because they do not fully acknowledge the multiple sources of uncertainty.
37. There needs to be a dual role for precaution in wildlife trade and trophy hunting decision-making – a procedural role that incorporates it within monitoring and adaptive management and a substantive role that builds in an additional layer of protection even in the face of uncertainty.
38. International trade in wildlife and trophy hunting is big business and threatens extinction for many species. Indeed trade and trophy hunting are crucial reasons for the decline of species after habitat loss. They are a key threat to biodiversity conservation and are not sustainable. Importantly it is well known to have many abuses (both in terms of the permitting and regulatory system and to the animals

concerned), particularly in the South African context where for example, hunting quotas are often exceeded.

39. Trading in and trophy hunting of a threatened species encourages poaching because it establishes a market where income is generated from the killing of the species, thereby thwarting the CITES objectives.

40. It is not only about the effects of trophy hunting on leopards. There are a number of additional pressures on leopards and all these factors **together** need to be taken into account.

41. The effects of climate change also need to be taken into account. Particularly on an animal such as leopards, which is already listed as CITES Appendix 1.

Thank you for considering these comments. If you have any questions, please contact the EMS Foundation using the information listed below.

Sincerely,



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