



**1 FEBRUARY 2017**

BY ELECTRONIC MAIL ONLY

Mr. Mpho Tjiane  
Deputy Director: CITES Policy Development and Implementation  
Biodiversity and Conservation  
South Africa Department of Environmental Affairs  
Email: [mtjiane@environment.gov.za](mailto:mtjiane@environment.gov.za)

Dear Mr Tjiane

**SUBMISSION FROM BAT AND EMS FOUNDATION RE DEA PROPOSED LION BONE QUOTA**

Please find below a joint submission from Ban Animal Trading and the EMS Foundation.

We draw your special attention to points 9.4 and 9.5 of our Submission.

Please contact Smaragda Louw at [smaragda@icon.co.za](mailto:smaragda@icon.co.za) and Michele Pickover at [michele@emsfoundation.org.za](mailto:michele@emsfoundation.org.za) with your response.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "Smaragda Louw".

Smaragda Louw  
Director and Chairperson  
Ban Animal Trading

A handwritten signature in black ink, appearing to read "Michele Pickover".

Michele Pickover  
Director  
EMS Foundation

1. **INTRODUCTION**

- 1.1 The practice of "canned lion hunting", where lions are bred in captivity and hunted, is an issue that *Ban Animal Trading* and the *EMS Foundation* are fundamentally against. As of 2017, there has been an increased demand for the commercial trade in captive bred lion bones, bone pieces, bone products, claws, skeletons, skulls and teeth.
- 1.2 The number of captive-bred lions in South Africa is not known by DEA, however it is estimated to be approximately 7000 to 8000 lions, held at approximately 180 breeding facilities in the Republic of South Africa (RSA). However, this is a mere estimate owing to the difficulty in obtaining data from certain provinces within the RSA.
- 1.3 The South African National Biodiversity Institute (SANBI), the Scientific Authority to the Department of Environmental Affairs (DEA), has announced an annual export quota of 800 captive bred lion skeletons. There was never a quota on lion bone exports prior to the DEA setting the 800 skeleton limit.
- 1.4 DEA has set a deadline on the 2<sup>nd</sup> of February 2017 in order for interested parties, including the public, to make submissions in response to the proposed quota.
- 1.5 It is our contention that there must be no quota on the export of captive bred lion skeletons in the RSA. Our reasons for this position are as follows:

2. **SUBMISSION 1: LACK OF TRANSPARENCY:-**

2.1 We submit that the DEA has not been transparent as to the manner in which it has set the proposed quota, the research procedure implemented by the DEA in order to assess the viability of the quota is inherently flawed, and the DEA has not taken adequate cognisance of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) as well as the National Environmental Management: Biodiversity Act 2004 (NEMBA). For these reasons, we contend that the DEA is placing the RSA captive bred lion population at risk and must cease all trading in captive bred lion bones until such time as adequate details as to how the quota was reached have been furnished to the public, as well as until extensive research into the impact of any such quota may have on the viability and sustainability of the captive bred lion population in the RSA has been conducted.

2.2 **CURRENT PROCEDURE FOLLOWED BY THE DEA:-**

2.2.1 The following excerpt is taken from an article published by the DEA entitled: "Public invited to make written submissions on proposed lion export quota to the department in line with CITES requirements" and sets out a cursory indication of the plan to which the public are meant to comment:-

- "The following procedure was also proposed for the management of the 800 skeletons that will be exported from South Africa in 2017:
  - The quota will be managed at a national level.
  - Upon receipt of an application from a captive breeding operation (CBO)/hunting farm, the province will confirm with DEA whether a quota is available.

*Submission from BAT & EMS Foundation on Proposed Lion Bone Quota*

- The province will evaluate the application and determines whether the relevant permit can be issued.
- Skeletons will be packed separately at source (CBO/hunting farm), weighed, tagged and a DNA sample will be taken.
- Quota numbers will be indicated on all permits (e.g. killing/ hunting/ selling/ buying/ transporting/ exporting).
- Consignment to be inspected (and weighed) and permit endorsed at port of exit; random DNA samples will be collected.
- The South African National Biodiversity Institute (SANBI) will also initiate a study to monitor the lion bone trade in South Africa. The study will aim to increase the understanding of the lion bone trade in South Africa and the captive lion breeding industry, and will investigate how the trade in captive produced lion bone under a quota system affects wild lion populations.
- It will also strengthen the evidence base for the annual review of the quota in order to ensure it is sustainable and not detrimental to wild populations. The study will be a 3-year project with annual reviews, which aims to inform the Scientific Authority on a sustainable annual quota."

**2.2 LACK OF TRANSPARENCY:-**

2.2.1 We contend that the DEA has not been transparent as to the manner in which it has obtained the proposed quota of 800 captive bred lion skeletons.

2.2.2 No details of the above measures have been made available to the public and as such, it is not possible to make accurate submissions in respect thereof. We submit that the DEA has not been transparent as to the manner in which it has

obtained the quota of 800 captive bred lion skeletons based on its apparent, cursory Non-Detrimental Finding (NDF).

2.2.3 It is submitted that the DEA has followed the incorrect procedure when seeking to invite public comment. It must be noted that the above article was published on the 25<sup>th</sup> January 2017 and as such, we submit that we have been afforded an unreasonable time in which to respond to the DEA's proposed quota.

2.2.4 While the public has been notified of the proposed quota of 800 skeletons, the reasons followed by the relevant scientific authority have not been communicated to the public. This fact, when viewed in conjunction with the short space of time in which to make submissions to the DEA indicates that the procedure followed by the DEA in obtaining a quota is inherently flawed. The public and interested parties should have been invited to comment on any proposed quota before the amount thereof was set.

3. **SUBMISSION 2: INADEQUACY OF THE RESEARCH PROCEDURE FOLLOWED:-**

3.1 It is acknowledged that CITES does not ban the trade in lion bones for the RSA. CITES Appendix II 02/01/17 For *Panthera leo* (African populations) provides that: "a zero annual export quota is established for specimens of bones, bone pieces, bone products, claws, skeletons, skulls and teeth removed from the wild and traded for commercial purposes. Annual export quotas for trade in bones, bone pieces, bone products, claws, skeletons, skulls and teeth for commercial purposes, derived from captive breeding operations in South Africa, will be established and communicated annually to the CITES Secretariat."

- 3.2 It is acknowledged that it is within the mandate of the DEA, via the recommendations proposed by the SANBI, to set an annual export quota of captive bred lion skeletons in the RSA.
- 3.3 However, CITES requires member states to adequately determine whether such conduct will detrimentally impact the wellbeing of the species. In particular, Article IV, Subsection 2(a) provides that: "the export of any specimen of a species included in Appendix II shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met: a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species."
- 3.4 The DEA has stated: "Upon receipt of an application from a captive breeding operation (CBO)/hunting farm, the province will confirm with DEA whether a quota is available."
- 3.5 We submit that it does not follow logically that the DEA will confirm whether "a quota is available" after it has been set at 800 lion skeletons. We contend that the availability of any such quota should have been determined prior to its setting. This illustrates the improper procedure currently adhered to by the DEA in this matter.
- 3.6 It is submitted further that the DEA has not conducted adequate research into the viability and sustainability of the proposed quota on the basis of a robust NDF prior to its setting. We recommend that an NDF obtained on the basis of rigorous research by the DEA must be conducted prior to the setting of the quota.
- 3.7 The DEA has stated that "the study will be a 3-year project with annual reviews". The DEA has thus scheduled research to be conducted after the quota has been

set. We submit that this is procedurally inadequate. The research into the viability and sustainability of the proposed quota must be conducted prior to its setting.

- 3.8 It is contended that this is an improper procedure to follow when seeking to establish a viable quota on the basis of a robust NDF. We strongly urge the DEA to place the implementation of any proposed quota for the export of lion skeletons on hold until such time as the recommended, rigorous NDF is conducted. Without the conduct of research into an appropriate quota prior to setting the 800 skeleton limit, it is submitted the DEA has established this quota arbitrarily.
- 3.9 We submit that the DEA is unduly compromising the wellbeing and conservation of the captive bred lion population in the RSA pursuant to the inadequacy of the current procedure adhered to. This may give rise to a situation where the proposed quota of 800 skeletons is implemented and then found to be unduly high after the 1<sup>st</sup> annual review. In this event, the captive bred lion population would have been prejudiced unduly for that year and may cause irreparable damage to their conservation.
- 3.10 It is therefore contended that the procedure currently being canvassed by the DEA to conduct research only after the setting of an arbitrarily obtained quota may prove to be detrimental to the short, long and medium term sustainability of the captive bred lion population in the RSA.
- 3.11 Therefore, we urge the DEA to take Article IV of CITES into account during its NDF investigation. We submit that the quota as proposed, without any further research conducted by the DEA will prove detrimental to the South African captive bred lion population and as such, will contravene Article IV of CITES.

- 3.12 While the RSA has developed a National Lion Conservation Action Plan, it is merely a draft plan that has not been officially endorsed by Government.
- 3.13 Notwithstanding our inherent moral objections to the practice of canned lion hunting and the trade in predator bones, it is submitted that there are no adequate measures in place in order to determine the viability and sustainability of this quota or provide for the legislative enforcement thereof.
- 3.14 We submit that these enforcement mechanisms must be formulated and made available to the public prior to the implementation of any proposed quota for the export of captive bred lion skeletons. A failure to do so may promote poaching of wild lions, or result in the export of captive bred lion skeletons that exceed any quota proposed by the DEA.
- 3.15 It is our understanding that there has been inadequate governmental cooperation prior to the setting of the proposed quota. In particular, the DEA has not consulted with the Department of Agriculture, Forestry and Fisheries (DAFF) prior to the setting of the quota. The latter governmental institution is charged with ensuring the wellbeing of the RSA's wildlife population. A failure by the DEA to adequately consult with DAFF prior to the setting of the lion skeleton quota may unduly compromise the wellbeing and conservation of the captive bred lion population in the RSA. As such, we submit that the incorrect procedure in setting the quota has been followed.

4. **SUBMISSION 3: PROPOSED QUOTA TOO HIGH:-**

- 4.1 During the years 2005 – 2014, the CITES Trade Database indicated the total number of lion items declared to have been exported legally from the RSA to be 19666 (excluding those declared by weight or volume).

- 4.2 There are approximately 250 bones in a lion skeleton, although this number may vary depending on the length of its tail. Therefore, the number of lion bones that would be exported from the RSA pursuant to the proposed quota is 200 000. While this is a mere estimate, it is submitted that the proposed quota has the potential to exceed the total number of lion items exported from the RSA during a 9 year period between 2005 and 2014.
- 4.3 While the quota proposed by the DEA relates to complete lion skeletons, the above figure illustrates the disparity between the quota proposed by the DEA and past practices pertaining to the export of lion bones during 2005 and 2014.
- 4.4 We contend that the proposed quota, without the conduct of additional research in order to obtain an accurate NDF, is far too high and will in fact detrimentally impact the captive bred lion population in the RSA.

5. **SUBMISSION 4: INCOMPATIBILITY WITH CITES:-**

- 5.1 The Seventeenth meeting of the Conference of the Parties to CITES was held on 24 September – 5 October 2016.
- 5.2 The following direction was made to the Secretariat of CITES: "17.xA Subject to external funding, the Secretariat shall, in collaboration with African lion range States, the Convention on Migratory Species and IUCN: a) Investigate possible mechanisms to develop and support the implementation of joint lion conservation plans and strategies, taking into consideration existing lion conservation plans and strategies."
- 5.3 We submit that the conduct of the DEA in setting the proposed quota is inconsistent with the above recommendation to the Secretariat owing to the fact

that no recommendations from African lion range states have been taken into account by the DEA. In addition, we submit that the determination of an appropriate quota must be determined only after the formulation by the DEA of possible mechanisms to develop and support the implementation of joint lion conservation plans and strategies. It is contended that this recommendation is consistent with a robust NDF determination as advocated for.

- 5.4 The following direction was made to the Standing Committee of CITES: "17 c) Establish a CITES Task Force on African lions, inviting the participation of all African lion range States, consumer states for lion parts and derivatives, and relevant enforcement bodies, including the members of the ICCWC the Task Force."
- 5.5 We submit that until such time as the CITES Task Force on African lions has been established by Standing Committee and its recommendations on any potential quota for the export of lion skeletons have been taken into account by the DEA, the latter must suspend any potential implementation of the quota.
- 5.6 We contend that the research into the viability, sustainability and impact on the captive bred lion population that the proposed quota of 800 lion skeletons may have in the RSA must be conducted prior to its implementation. This entails the determination of an NDF on the basis of extensive research, taking into account the submissions and recommendations made by the CITES Secretariat, the Standing Committee as well as member states to CITES that engage in lion bone exports.

6. **SUBMISSION 5: BIAS:-**

- 6.1 Finally, it is submitted that the procedure followed by the DEA and SANBI is inherently biased. These governmental institutions have not taken the decision on the proposed quota independently. It is contended that both institutions have a direct interest, financial or otherwise, in the number of lion skeletons allowed to be exported from the RSA owing to the commercial value and demand for lion bones.
- 6.2 We therefore contend that all of the information used by SANBI and the DEA to set the quota must be released to the public. There has been a lack of transparency in this matter. As such, we strongly urge the DEA to suspend the implementation of the quota until such time as we are certain that there has been no conflict of interests in taking the decision to set the quota.

7. **SUBMISSION 6: INCOMPATIBILITY WITH THE NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT 2004 (NEMBA)**

- 7.1 Section 56(1) of National Environmental Management: Biodiversity Act 2004 (Act 10 of 2004) (NEMBA) provides:

(1) The Minister may, by notice in the Gazette, publish a list of - (a) critically endangered species, being any indigenous species facing an extremely high risk of extinction in the wild in the immediate future;

(b) endangered species, being any indigenous species facing a high risk of extinction in the wild in the near future, although they are not a critically endangered species;

(c) vulnerable species, being any indigenous species facing an extremely high risk of extinction in the wild in the medium-term future,

although they are not a critically endangered species or an endangered species; and

(d) protected species, being any species which are of such high conservation value or national importance that they require national protection, although they are not listed in terms of paragraph (a), (b) or (c).

7.2 The above section of must be read together with Threatened or Protected Species Regulations, February 2007 (TOPS Regulations). The TOPS Regulations provide that the lion (*panthera leo*) is classified as a "listed large predator" which is considered to be protected or threatened species. This means that it is legislatively acknowledged that the lion population faces an extreme risk of extinction in the medium term future.

7.3 In light of the classification of lions as a threatened species in terms of NEMBA and TOPS regulations, it is submitted that the lack of extensive research into the viability of the 800 skeleton quota poses an acute danger to the short, long and medium term wellbeing of the lion population in the RSA.

7.4 Section 57(1) of NEMBA further provides for restricted activities involving listed threatened or protected species: "A person may not carry out a restricted activity involving a specimen of a listed threatened or protected species without a permit issued in terms of Chapter 7."

7.5 The Purpose of the TOPS Regulations are as follows:

(a) Regulate the permit system that applies to threatened or protected species;

- (b) Provide for the registration of facilities, namely: captive breeding facilities, commercial exhibition facilities wildlife traders, game farms, nurseries, scientific institutions, sanctuaries, rehabilitation facilities;
- (c) Regulate a specific restricted activity.

- 7.6 While the DEA has set out procedures and mechanisms in order to implement and enforce the proposed quota, no details in respect thereof have been provided to the public. This fact notwithstanding, we submit that there is an urgent need to improve enforcement of current regulations on the hunting of lion and monitoring of exports of lion bone.
- 7.7 These mechanisms must be in place and their efficacy be proven prior setting any amount of lion skeletons that may be exported pursuant to the quota. A failure to do so may result in the ineffective regulation of the quota and may unduly prejudice the captive bred lion population in the RSA.
- 7.8 We submit that a failure to implement and ensure the effectiveness of the enforcement mechanisms in place to give effect to any potential quota for the export of lion skeletons will defeat the purpose of NEMBA and CITES, that is to promote and ensure conservation of the RSA's biodiversity as well as conserve our animals that are under threat of extinction.
- 7.9 Notwithstanding the above sections, owing to the paucity of accurate data pertaining to the number of captive bred lions and breeding facilities in the RSA, we submit that there are inadequate enforcement mechanisms in place in order to properly ensure that any proposed quota is adhered to.

- 7.10 As such, we strongly urge the DEA to determine the exact number of captive bred lions and facilities in the RSA. Without such a determination, it would be impossible to adequately ensure that the DEA's proposed quota is adhered to.
- 7.11 We submit that this determination must be made prior to any implementation of the proposed quota. We contend that a failure to comply with this procedure will undoubtedly have a detrimental effect on the captive bred lion population.
- 7.12 In addition, a condonation of canned lion hunting and an unduly high quota for the export of lion skeletons will in fact create negative international public opinion of the RSA's conservation reputation.

8. **SUBMISSION 7: RESULTANT PUBLIC AND INTERNATIONAL CHASTISEMENT:-**

- 8.1 We strongly oppose any trade in captive bred lion bones. In light of the inadequacy of the procedure followed by the DEA, the RSA's reputation of responsibility with regard to the conservation of its endangered and threatened wildlife population will be irreparably tarnished.
- 8.2 We submit further that an endorsement of the trade and export in captive bred lion bones may encourage the illegal hunting of wild lions, which may ultimately prove detrimental to the wild lion population. Further research by the DEA must be done on this point.
- 8.3 South Africa cannot ignore motion 009 adopted by the world's top scientists, government representatives, non-profit organisations, and experts at the IUCN World Conservation Congress held in Hawaii in September 2016, to terminate the hunting and breeding of captive lions and other predators in South Africa.

The motion requests the prohibition of the hunting of captive-bred lions under any conditions and also states that breeding should only be allowed at "registered zoos or facilities that demonstrate a clear conservation benefit". The motion acknowledged that "captive breeding of lions has not been identified as a conservation action in any African lion conservation planning programme." As a byproduct of this industry, the lion bone trade is a purely financial venture that offers no benefit to conservation. The motion requests that South Africa review existing legislation pertaining to the captive predator hunting and breeding industry and implement revised regulations by 2020.

9. **PROPOSED ACTION:-**

- 9.1 In light of the above shortcomings of the current procedure implemented in order to set the quota, we recommend a moratorium on all lion bone trading in the RSA until such time as the necessary research is conducted.
- 9.2 It is contended that lion skeleton trading in the RSA must be suspended until such time as the DEA or committee taking the decision to set the quota has conducted extensive research into the viability and sustainability of the quota, in addition to the potential effect that such quota will have on the South African lion population.
- 9.3 We submit that the above procedure advocated for is in accordance with the RSA's international obligations under CITES.
- 9.4 If the DEA persists in its implementation of the proposed quota, an urgent application to the High Court of Gauteng, Johannesburg will be made, seeking to interdict the DEA.

*Submission from BAT & EMS Foundation on Proposed Lion Bone Quota*

9.5 The DEA is hereby given notice of seven days to respond to these submissions, failing which, the legal action mentioned in paragraph 9.4 will be taken.

Thank you in advance for urgently considering this submission.

Please contact Smaragda Louw at [smaragda@icon.co.za](mailto:smaragda@icon.co.za) *and* Michele Pickover at [michele@emsfoundation.org.za](mailto:michele@emsfoundation.org.za) with your response.

Sincerely,



Smaragda Louw  
Director and Chairperson  
Ban Animal Trading



Michele Pickover  
Director  
EMS Foundation