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23 March 2022

Dear Dr Baard,

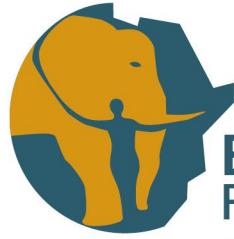
**OBJECTION TO THE ISSUING OF KEEPING, EXHIBITION AND TRANSPORT PERMITS FOR ELEPHANTS BY CAPENATURE TO THE KNYSNA ELEPHANT PARK (INDLOVU SAFARIS) AND MR CRAIG SAUNDERS (LAMLOCH SAFARI PARK/THE ELEPHANT SANCTUARY/ELEPHANT VENTURES)**

The EMS Foundation is a social justice non-governmental organisation with a long track record of advocating for the welfare and protection of wild animals and the environment in which they live. The EMS Foundation has a special interest in Elephants and government policy in relation to Elephants and consequently we also monitor the captive Elephant industry.

The EMS Foundation is extremely concerned about the way in which Elephants in captivity in the Western Cape are authorised and operated. These businesses keep Elephants in conditions which are detrimental to their social and physical welfare and where they are forced to interact with humans for the commercial gain of the facility owner. The provision of permits for elephant keeping and exhibition, where the *modus operandi* is to domesticate wild animals and to facilitate human interaction, does not promote conservation and negatively affects our rights in section 24 of the Constitution. The EMS Foundation also refers CapeNature to the Elephant Management Norms and Standards recognise elephants as sentient beings with a “highly organised social structure and the ability to communicate.” (Paragraph 2.2 (a)).

CapeNature permitting these facilities allows the narrow interests of a very small group of people to be prioritised over the welfare of the Elephants, conservation and biodiversity. This is inconsistent with CapeNature’s legal mandate which is restricted to promoting and ensuring nature conservation. It is also damaging to the Western Cape’s tourist image. We remind CapeNature that at the time of Craig Saunders applying for a permit for his Lamloch facility, more than 43,000 people signed a petition against its establishment. This shows that there is enormous public concern about elephants in captivity in the Western Cape.

[www.emsfoundation.org.za](http://www.emsfoundation.org.za)



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Many large international travel companies have already taken a decision not to support any undertaking that allows interactions with wild animals. The South African Tourism Services Association (SATSA) has extensively investigated the wildlife tourism industry and has developed a tool for tourists to evaluate captive wildlife facilities, see:

<https://www.satsa.com/wp-content/uploads/FAQs-.pdf>;

[https://www.satsa.com/wp-content/uploads/SATSA\\_HumanAnimalInteractions\\_Tool6.pdf](https://www.satsa.com/wp-content/uploads/SATSA_HumanAnimalInteractions_Tool6.pdf).

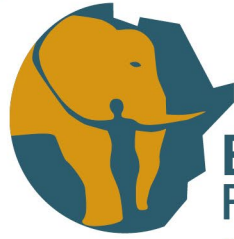
All the captive Elephant facilities in the Western Cape fall into the “avoid” category and are harming the image of South Africa.

As far back as 2016 and 2017 the Constitutional Court confirmed that animals have intrinsic value (i.e. are not just worthy of protection because of their usefulness as “resources”), are sentient beings and that the environmental right in section 24 of the Constitution encompasses both conservation and animal welfare considerations which are “intertwined”. (*National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another (CCT1/16) [2016] ZACC 46; 2017 (1) SACR 284 (CC); 2017 (4) BCLR 517 (CC) (8 December 2016)*). Therefore, considerations relating to an animal’s welfare are applicable considerations for CapeNature to take into account when deciding whether or not to issue a permit in terms of legislation administered by it. It is also competent for CapeNature to impose conditions in a permit relating to the welfare of the animal concerned and to pass legislation and develop policy governing human/wildlife interaction.

We also refer CapeNature to the new conservation policy frameworks in South Africa as well as the High-Level Panel (HLP) Report which made recommendations specifically in relation to animal welfare and well-being and the adoption of a ‘one-welfare’ approach, including that standards and practices within the wildlife sector need to meet the minimum acceptable standards for animal welfare and well-being. The HLP also noted that from an ‘international perspective’, there are major issues of concerns relating to animal welfare concerns relating to lion and elephant handling, and captive lion and elephant interactions.

Most of the captive elephants in South Africa are in the Western Cape. Despite this, CapeNature has no law in force dealing specifically with the welfare of captive Elephants as a result of human/Elephant interaction. The legislation is outdated and insufficient to protect elephants in captivity. Extensive scientific research highlights the welfare deficiencies all captive elephants endure. Cape Nature cannot ignore this and permits should no longer be considered under the lax laws.

Moreover, CapeNature does not have a coherent policy dealing specifically with the welfare of captive elephants and human interaction. The need for specific policies governing certain species of wild animals has been recognised in that CapeNature has a policy on *Conservation, Translocation and Utilisation of Carnivores in Captivity* (“the carnivore policy”). The policy includes standard wording for permits for these activities as follows: “CapeNature does not support, condone nor encourage any non-essential animal-human physical contact or interaction. CapeNature regards such activity as highly irresponsible, undesirable and potentially dangerous, and urges permit-holders to refrain therefrom at all times.” However, there is no such policy for Elephants which have unique vulnerabilities in this regard.



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Annex 3 of CapeNature's *Policy on Fencing and Enclosure of Game in the Western Cape, 2015* sets out minimum requirements for a management plan for captive animals. It recognises that the welfare of animals includes both physical factors (food, freedom from pain etc) and psychological factors (freedom to natural, freedom from fear and distress). Paragraph 25, which deals with captive elephants specifically, requires that a management plan for captive elephants must specify the uses to which the elephants will be put, as well as activities, training methods and tools. It also requires provisions "to cater for the social structures of elephants" and "to minimise stress and trauma".

CapeNature's application for a permit to transport wild animals within the province for show purposes (multiple events) states that: *"I, the owner, and I, the transporter, hereby declare that I take note of and understand That CapeNature does not support, condone nor encourage any non-essential wild animal-human physical contact or interaction. CapeNature regards such activity as highly irresponsible, undesirable and potentially dangerous, and urges permit-holders to refrain therefrom at all times. By signing this information document, the applicant takes note of CapeNature's position statement in this regard and indemnifies CapeNature fully against any claim."*

If CapeNature does not support or condone this – and also makes public statements to this effect - it must prohibit it in its permits and approvals. It is legally empowered to do so. CapeNature should make its policy on elephant/human interaction clear, and then enforce the policy effectively in its permits and approvals.

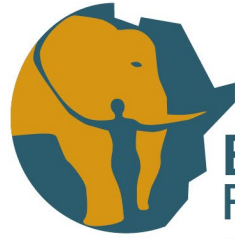
CapeNature would be reinforcing old apartheid legislation to facilitate the massive abuse of elephants and other wild animals under their jurisdiction. The 1975 Nature Conservation Ordinance, which is the legislative backbone in relation to wild animals is not only untransformed, outdated and in conflict with national legislation, but critically runs contrary to the incontestable scientific information on elephants who are socially extremely complex and intelligent sentient beings.

In addition, we refer CapeNature to the EMS/CapeNature meeting on elephants in captivity held on 11 July 2017 at the CapeNature offices and the [Taking Elephants out of Room symposium](#) in 2019.

#### Knysna Elephant Park

Unfortunately, yet another tragic incident involving an experienced elephant handler named Shepherd Chuma took place at the Knysna Elephant Park. Mr Chuma was [trampled to death in October 2021](#). Given our extensive work and audits on the captive elephant industry and the elephant in the industry, we request that CapeNature supply us with the name of the elephant involved in this incident so that we can assist CapeNature with its mandate and enforcement thereof. In addition, the public has a right to be informed of the humane or inhumane treatment of animals (as well as people in this case) at a facility and members of the public have the freedom to decide which commercial enterprise they support and which they do not. That freedom of choice can only be exercised if activities happening at a facility are laid bare for the public.

The EMS Foundation remains concerned about the necessary welfare standards at this facility as well as the safety and security of the elephant handlers who are interacting with elephants. These captive elephants are



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tourist attractions trapped in a facility where they are expected to perform constantly. Once again, another human fatality has highlighted our ongoing concern for the safety of the elephants being placed in an unsuitable and unsafe environment.

We recognise that CapeNature is the only regulatory authority in the Western Cape for the issuing of permits related to the protection of animals and plants and that “CapeNature strives to provide effective, fair and efficient administrative support, and monitor compliance in terms of all relevant environmental legislation, through the Permit Office” and also in terms of “taking in consideration the safety of both listed animals and people”.<sup>1</sup> What processes to monitor compliance did/does CapeNature follow if repeated incidents had happened at a specific facility and no investigation was conducted and no relevant documents were ever requested, no warning given to mitigate risks.

According to published reports, over a period of time about 40 elephants have been moved between the *Eden of Elephants* and the *Knysna Elephant Park*, both businesses owned by Lizette Withers. When *Eden of Elephants* was liquidated ten elephants were moved to the *Knysna Elephant Park*; the remaining elephants have been sold to private reserves and commercial enterprises. The National Council of SPCA’s (NSPCA) had laid criminal charges for extreme cruelty to animals in 2014 and since then, there has been an ongoing legal battle. Elephants were tortured, chained, roped, stretched, shocked with electric cattle prod and hit with bull hooks by trainers and handlers at *Elephants of Eden*, which as mentioned previously was part of the same organisation as the [Knysna Elephant Park](#). Trainers use these methods to break the elephant’s spirit so that they obey humans in the human elephant interaction tourist industry in South Africa. Footage was published in numerous [foreign newspapers](#) in May in 2014 and also handed over to the NSPCA. The injuries to the elephants indicate that this was not an isolated incidence of cruelty. The abused elephants were apparently moved to the *Knysna Elephant Park*. The [owner](#) of *Knysna Elephant Park* was in fact [accused](#) by the NSPCA of being involved in these aforementioned acts of cruelty towards the elephants.

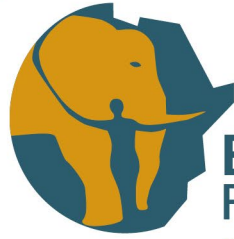
On the 21<sup>st</sup> June 2005, Tobias Ndlovu, an elephant handler at the *Knysna Elephant Park* was killed by the Park dominant bull. [Lisette Withers](#), the owner, said the elephant was [trying](#) to pick Tobias Ndlovu up after he had fallen and killed him by accident. Reports instead indicated that Ndlovu was [trampled to death](#).

On the 4<sup>th</sup> June 2011 Melikhaya Ndzwana, a guide and elephant handler was seriously injured and maimed by an elephant at the *Knysna Elephant Park*. The park manager [attempted](#) to lessen the seriousness of the incident. The elephant had attacked the handler, flinging him in the air and trampling him in front of visitors. The attack had lasted [about 10 minutes](#) and resulted in Ndzwana suffering numerous fractures, blood loss and the amputation of his shattered left leg.

In 2016 it was [reported](#) that the dominant bull involved with the death and severe injury of humans and seven other elephants were moved from the *Knysna Elephant Park* to the *Plettenberg Bay Game Reserve*.

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<sup>1</sup> CapeNature “Fencing and enclosure of game and predators in the WC Policy”. Point 4.3: The safety of both the listed animals and people must be taken into consideration.



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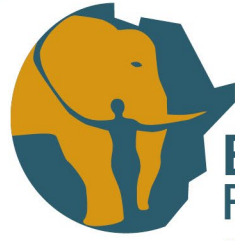
On Saturday 16<sup>th</sup> of October 2021 Shepherd Chuma, an employee of the *Knysna Elephant Park* for a decade, was killed by an elephant. Speaking on behalf of Shepherd's family, Abigail Moyo told a WeekEnd Argus journalist that this was not the first incident where [an elephant at the facility charged Shepherd](#).

Mr Chuma's death in 2021 was a preventable incident. It could very well be that the elephant that killed Mr Chuma was one of the elephants that CapeNature allowed the removal of 3 female elephant, including the Matriach, from Indalu Safaris to Knysna Elephant Park in May 2017. At the time, on the 5<sup>th</sup> May 2017 the EMS Foundation sent a letter to the CEO of CapeNature in this regard stating: *"I am sure you are aware that these elephants form part of an unresolved cruelty case against the owners of Knysna Elephant Park/Elephants of Eden/Indlovu Safaris. You are also aware that at Indalu safaris no bullhooks are used on the elephants and they are not tethered or "warehoused". You are also aware that these three elephants are part of a bonded group and that their removal will be extremely traumatic for all of the elephants in the group, particularly because these elephants were initially traumatised by being removed from their families and then "trained" via a methodology globally considered as extremely inhumane. We were alarmed to have been informed that CapeNature has refused to even consider the official appeal lodged by Indalu Safaris in terms of the relevant legislation. This despite the fact that you are obliged to do so in terms of the appeal regulations and your own ordinance. The EMS Foundation firmly believes that there were a number of valid issues raised in this appeal and CapeNature seems not to have even given any consideration to them. CapeNature appears not to have applied its mind to this matter. This is not only any irresponsible act but a dereliction of duty. We will be holding CapeNature to account for this."*

You will also recall that it was only weeks after the elephants were removed from this bonded group at Indalu that one of the elephants (Tebogo) was killed by another elephant. Tebogo was permanently "disabled" due to the cruelty at Elephants of Eden – stretching. He had a terrible life and did not deserve this untimely death. The death of Tebogo could have been entirely avoided had CapeNature done due diligence and used a duty of care when issuing permits for the removal, keeping and transport of elephants in the Western Cape. As a result, at the time the EMS Foundation again warned that "an elephant is dead, a bonded group destroyed and a potentially dangerous situation going forward has been created".

According to the [experts](#), elephants can live the impact of trauma for decades. How many more deaths need to occur before the elephant tourism business is shut down? Elephants are not a commodity, the training methods of elephants continue to be unregulated and elephant handlers do not require any formal training. Owners of these businesses ensure themselves by making sure that tourists [sign indemnities](#) absolving them of any responsibility or possibility of legal action.

The Pro Elephant Network, an international community of diverse individuals and organizations, comprising specific expertise on wild and captive elephants, including the fields of science, health, conservation, elephant welfare, economics, community leadership, social justice and the law, had formally submitted to the Department of Environment DFFE and Minister Creecy an overwhelming body of scientific evidence against keeping elephants in captivity and doing tricks for unaware tourists. In the Knysna Elephant Park activities include



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feeding, walking, touching, riding, partying, getting married and even sleeping with elephants; “unsuitable exemplars” had to be relocated since they were not coping with the non-stop commercial routine.

One of the main issues is that there is *no guidance in South Africa to govern methods used in handling or training elephants for interaction tourism*; *no limitation or restriction to equipment to be used*; *trainers and handlers do not require any formal and basic training or education to be able to work with or handle these very intelligent and sensitive animals*. Brian Courtenay, the Chairman and Founder of SATIB (Safari and Tourism Insurance Brokers), says that the lack of formalised norms and standards or protocols within the industry is of considerable concern the current operating practices are “simply accidents waiting to happen...and there have been a number of incidents in the past and they will happen again.”

*Craig Saunders/Lamloch*

The Overstrand Municipality [spent R2 million](#) fighting a fire that raged in Kleinmond over several days in January 2022. The fire broke out on the 8<sup>th</sup> January caused the closure of the R44 and threatened the luxury Arabella Hotel Golf and Spa. The fire started in Highlands in an old pine plantation of the national Department of Forestry, Fisheries and Environmental Affairs. Firefighters struggled to quell the blaze for four days.



Firefighters have battled a blaze in Kleinmond for a fourth day.

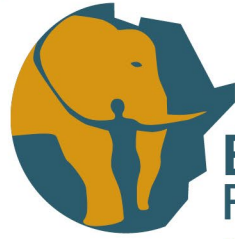


Mike Green

5400 hectares of land was destroyed in fire, some of which was forest and fynbos farmland. Two hundred firefighters were actively involved in fighting the fire. The Western Cape Disaster Management Centre allocated R300 000.00 to this operation.

According to Deon Rossouw, spokesperson for CapeNature Integrated Catchment Specialist, Disaster and Climate Response there were further environmental costs. Whilst the costs of the fire suppression can be quantified it is more difficult to ascertain the loss of ecosystems.

The only home that was burnt down in the fire was a farmhouse on Lamloch farm. Craig Saunders said that other residents on the farm made it out just in time, but apparently [the “sanctuary”](#) was hardly touched by the fire.



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In the eventuality of a wildlife fire it will be impossible to evacuate elephants. Elephants will naturally leave the area of containment and in such instances no fence will be strong enough. Fires in this area are seasonal according to CapeNature the Western Cape is one of the worst-affected veld fire areas in the South Africa, with fires a natural phenomenon in summer.

The EMS Foundation has also received concerning information that there was a failed attempt to relocate the elephants to Kleinmond in the latter half of 2021. We would appreciate a formal statement in this regard.

With good reason, the most credible and experience professional large-scale animal relocation experts in South Africa have refused to move the elephants belonging to Craig Saunders from Hazyview in Mpumalanga to Kleinmond in the Western Cape.

As a result, according to our sources, the elephants were loaded into a customised shipping container, which were inadequately constructed to offer safe and secure transportation of the elephants. According to statements we have received, the people involved were warned that the attempt was ill conceived. The elephants attempted to breakout of the container at a filling station in Hazyview a few kilometres from where the elephants are located. The truck was forced to turn around and offload the elephants. We have asked for more information from our sources. This, if true is a shocking indictment of the failure to make sure that the elephants are offered safety and security at all times.

### Conclusion

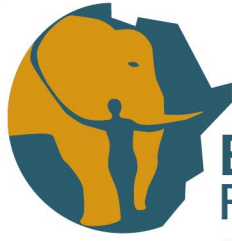
We strongly believe that the current permitting system and requirements must be upgraded and enforced, to meet and keep compliance with the national legal and judicial requirements, including access to information, the application of the Precautionary Principle, the implementation of the High-Level Panel Report vision, including but not limited to the obligation of implementing principles of One Welfare.

We formally request that CapeNature to consider the aforementioned information seriously and to take all the necessary steps to prevent further incidents at the Knysna Elephant Park and at other facilities in the Western Cape. We continue to insist that Lamloch Estate is unsuitable for elephants for numerous reasons as previously set out in our communications.

Following multiple incidents including serious harm to humans including death, we request that permits for the Knysna Elephant Park are to be suspended and this elephant family to be given an opportunity to be assessed and if possible, to be rehabilitated and rewilded. The EMS Foundation has the capacity to collaborate and offer support, national and international expertise and logistics during this process.

We also request that CapeNature investigates the attempted irresponsible translocation of elephant/s to the facility near Kleinmond and the permits to transport Elephants to Saunders' facility to be revoked.

We request that CapeNaure abstains from issuing permits to keep elephants at Saunders' Farm, unless the owners can provide a credible and practicable fire evacuation plan for all the wild animals kept at the farm, including the elephants.



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We look forward to your urgent response.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M Pickover', written in a cursive style.

**MICHELE PICKOVER  
EXECUTIVE DIRECTOR**