

7 FEBRUARY 2018

For the urgent attention of:
The Honourable Dr Edna Molewa
Minister of Environmental Affairs
cc. Olga Kumalo and Magdel Boshoff

Dear Minister Molewa,

1. This letter is an official request for the Minister and the Department of Environmental Affairs (“**DEA**”) to establish a Wildlife Forum with *inter alia* representatives of South African animal protection organisations (the “**Proposed Forum**”).
2. This request is urgent as the Minister has a forum with the hunting industry and other organisations but has neglected to facilitate a forum where government can also dialogue and discuss challenges faced regarding wildlife management, nationally and in various provinces, with a major wildlife sector, the animal protection organisations.
3. This letter is written on behalf of the following twenty-three registered animal protection and conservation organisations:
 - A Greener World
 - Animal Law Reform South Africa
 - Ban Animal Trading
 - Beauty Without Cruelty South Africa
 - Campaign Against Canned Hunting
 - Captured in Africa
 - Centre for Animal Rehabilitation and Education
 - Elephant Reintegration Trust
 - Elephants Alive
 - EMS Foundation
 - Four Paws (South Africa)
 - Future 4 Wildlife
 - Humane Society International (Africa)
 - Institute for Critical Animal Studies (Africa)
 - Landmark Foundation
 - National Council of SPCAs
 - Outraged South African Citizens Against Rhino Poaching
 - Rhino Rescue Project

Rhinos in Africa
Save Our Rhino
Southern Africa Faith-Communities' Environmental Institute
Southern African Fight for Rhinos
Vervet Monkey Foundation

4. We refer to the outcome of the bilateral meeting held between DEA (represented by Olga Kumalo, Mpho Tjiane, Magdel Boshoff and Khuthadzo Mahamba) and the EMS Foundation on the 9th October 2017.
5. We refer to the existence of a wildlife forum (the “**Wildlife Forum**”) with the DEA, certain government departments and representatives of *inter alia* the hunting and wildlife industries in the country.
6. Further to our meeting on the 9th October 2017, DEA explained it is unwilling to change the Terms of Reference (“**ToR**”) of the Wildlife Forum to include membership of certain South African animal organisations but that DEA had agreed in principle to set up the Proposed Forum.
7. Ideally, the DEA should allow wildlife protection organisations and other civil society entities to be part of one Wildlife Forum. If the DEA is unwilling to comply with this request, then an equally weighted Wild Animal Protection Forum is necessary and must be established.
8. We are concerned that this may result in unnecessary duplication of efforts, as many of the same issues could and should be discussed by both forums. On the positive side, two separate forums would enable different interests to be addressed in more detail and with wide representation on the issues than through the single commercially based existing Forum. As such, it is requested that a representative of the National Council of the Society of the Prevention of Cruelty to Animals (NSPCA), as the recognised and mandated agency w.r.t. animal protection and welfare, be present at both Forum meetings and act as liaison between the two.

9. We have set out below some of the main reasons why we believe the establishment of the Proposed Forum inclusive of animal protection organisations would be pertinent and justified.

9.1 As an initial point we would like to state that wild animals are an integral part of South Africa and need to be treated with respect. As such, the DEA needs to take into account the various interests on which it has an impact. Not only does the manner in which wildlife is managed affect the “wider wildlife and hunting industry” as appears from the ToR, it also affects the wildlife itself, other industries, other non-human animals, the environment at large, biodiversity, surrounding communities and the South African population. In addition, due to certain international treaties such as the Convention of International Trade in Endangered Species (“**CITES**”), it has a direct effect on South Africa and the way it is viewed by the international community.

9.2 With some aspects of welfare likely to be included in NEMBA a Forum of this nature would become even more justified and essential.

9.3 Importantly, the Constitutional Court unanimous and landmark judgement handed down on 8th December 2016 by Justice Sisi Khampepe (with Nkabinde ADCJ, Cameron J, Froneman J, Jafta J, Madlanga J, Mhlantla J, Musi AJ and Zondo J concurring): National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another (CCT1/16), elevated the welfare and protection of non-human animals to a constitutional concern. Significantly related their welfare and protection to biodiversity and the constitutional right to have the “environment protected ... through legislative and other means” in section 24 of the Constitution. The Constitutional Court emphasised that constitutional values dictate a more caring attitude towards fellow humans, animals and the environment in general and that this obligation was especially pertinent because of South Africa’s history.

9.4 As is apparent from the ToR, on issues relating to Wildlife, DEA is consulting with organisations which have a purely commercial interest in the use of

animals. As these organisations view wildlife as a commodity, they do not protect any interest of the animals themselves, whether as individuals or as part as a greater group. Even if such organisations purport to be cognizant of animal protection, welfare and conservation issues, this is very different in practice and it is difficult for such parties to separate these interests from their own. The Proposed Forum, which is to be made up of animal organisations and government representatives, would not be driven by commercial or profit objectives and would therefore consider the best interests of the animals themselves. Animals have their own intrinsic worth (as well as worth to the inhabitants of the country which are not purely economic) and this of necessity needs to be considered in any decisions/regulations relating to such.

9.5 The Minister through DEA is obliged to engage with all stakeholders equally. In a forum which relates to South Africa's wildlife, there needs to be consistent engagement with **all relevant stakeholders** and not only the ones currently represented in the Wildlife Forum. The ToR further indicates that "*representative bodies of the organized national wildlife and national hunting industries, and of related fields of endeavour, who are not yet members of the Forum after the adoption of this Terms of Reference may apply by a letter to become members, upon which the Forum will decide to award such body membership*" (our emphasis). It is clear that only like-minded individuals and organisations would have a seat at the table. The DEA mentions in several of its projects/strategic objectives that it will engage with a broad range of stakeholders. It is therefore inconsistent to exclude animal organisations when discussing issues which have a direct impact on animals. The treatment of wildlife is furthermore an environmental issue which the Constitutional Court has recently affirmed and, more particularly, welfare and treatment of animals now forms part of environmental right and responsibilities of DEA.

9.6 The existing non-governmental membership of the Wildlife Forum is composed exclusively of local hunting and game trading industries despite the myriad of stakeholders from across the spectrum with an interest in sustainable wildlife management. In fact, the TOR provide no room for wildlife

conservation groups to become members of the current Wildlife Forum, despite the fact that wildlife conservation groups have a unique and important perspective to offer regarding wildlife and proper management of wildlife.

9.7 Dhoya Snijders, an independent researcher and analyst, concluded that through the Wildlife Forum, the government and the hunting industry have, since 2005, *“by means of organizational and discursive restructuring, promoted a discourse alliance that endorses both government’s conservation interests and industry’s development interests, while excluding dissenting voices”*, such as labour, civil society and environmental organizations. (Snijders, D., 2014. Wildlife policy matters: inclusion and exclusion by means of organisational and discursive boundaries. *Journal of Contemporary African Studies* 32:173-189).

9.8 It is vital, particularly for the integrity of the democratic process that South Africa holds so dear, that wildlife conservation groups are provided equal access to, and an equal voice in, governmental policy discussions related to wildlife and wildlife management.

9.9 Biodiversity conservation is one of the objectives of DEA and needs to be implemented in consultation with various stakeholders and taking into account a broad variety of interests. The way in which wildlife is managed has a direct impact on biodiversity and various other groups.

9.10 There are many national issues regarding wildlife management that the Minister and DEA need to address with animal protection organisations on an ongoing and continuous basis.

9.11 The establishment of the Proposed Forum with animal protection organisations, would create a platform for dialogue and would also provide the Minister access to viewpoints and additional information that would provide the Minister and DEA with additional information to resolve issues of concern and develop and strengthen policy.

10 Additional Issues

- 10.1 The Proposed Forum would undertake to provide constructive feedback, comments and solutions to the Minister.
- 10.2 The terms of reference in relation to the Proposed Forum would need to be succinctly drafted in order to avoid any future issues.
- 10.3 It is suggested that this proposed Forum meets quarterly.
- 10.4 Many of our organisations promote development of rural communities within the wildlife sector through non-consumptive tourism and they work closely with communities who are directly affected by decisions taken by the Minister and DEA. Our input would therefore be invaluable.
- 10.5 In terms of the composition of the Proposed Forum we suggest representatives from: animal protection organisations, DEA, DAFF, the 9 provinces, SAPS/HAWKS, Department of Justice. There are many challenges with addressing wildlife welfare currently through DAFF and again, a Forum of this nature could assist.
- 10.6 Additional animal protection organisations can and should be included in the Forum. The inclusion of further groups would be necessary to address the wide and diverse challenges and work of groups actively involved in the non-commercial aspect of wildlife (e.g. the wildlife rescue and rehabilitation community) who are faced with daily challenges of loopholes and shortfalls in wildlife legislation.
- 10.7 Issues relating to the current legal framework (insofar as this relates to South Africa's wildlife) would need to be at the forefront of discussions (as well as potential solutions) insofar as it relates to wild animals, including: the development of the legal mandate in respect of wild animals in South Africa; inconsistency in the way the current laws are drafted and applied both at a National and Provincial level; inadequate resources in respect of the enforcement of the laws; the lack of current provisions which relate to

the welfare and protection of wild animals (which is becoming an increasingly important part of wildlife management internationally); and general commodification of wild animals and emphasis on their property status.

We thank you for considering our request and look forward to moving this matter along positively.

Yours Sincerely,

Michele Pickover (michele@emsfoundation.org.za) 082 253 2124

On behalf of

Animal Law Reform South Africa
Ban Animal Trading
Beauty Without Cruelty South Africa
Campaign Against Canned Hunting
Captured in Africa
Centre for Animal Rehabilitation and Education
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