

February 26, 2020

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Via e-mail: mary_cogliano@fws.gov; rosemarie_gnam@fws.gov

Re: Comments opposing imports of wild-caught elephants by the Pittsburgh Zoo

Dear Drs. Cogliano and Gnam,

On behalf of PETA, I'm writing regarding a recent application by the Zoological Society of Pittsburgh ("the Pittsburgh Zoo") to import elephant calves purchased from and captured in Zimbabwe under the Convention on International Trade in Endangered Species of Wild Fauna and Flora and Fauna (CITES).

On January 27, the U.S. Fish and Wildlife Service (FWS) provided PETA the final response to a Freedom of Information Act (FOIA) request showing that the zoo—aided by Holly Hunt and Jim Fouts—applied to import as many as 28 "sub-adult" African elephants from Zimbabwe to be placed at its International Conservation Center (ICC) and other facilities.

The records only extend through August 5, and show that the FWS was still considering the application at that time. However, the agency confirmed yesterday that the application was eventually withdrawn. It's likely that the adoption of [CITES Resolution Conf. 11.20 \(Rev. CoP18\)](#)—which states that *ex situ* facilities are generally not "appropriate and acceptable destinations" for elephants taken from the wild in Zimbabwe and Botswana—contributed to the withdrawal, as the Pittsburgh Zoo would not qualify as an "appropriate and acceptable destination."

Given the zoo's consistent efforts to acquire and breed elephants, it's likely that it will attempt similar imports in the future. Moreover, such applications are handled with secrecy, and PETA is concerned that the FWS may choose not to notify the public or accept public comment on the environmental impacts of the proposed import. The records show that in this instance, the agency was undecided about whether to do so. Therefore, PETA feels it must provide comments for the record to demonstrate why the FWS must reject any future attempt by the Pittsburgh Zoo to import elephants taken from their families and homes in Africa. Thank you for your time and consideration.

Very truly yours,



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I. **Factual background: The Pittsburgh Zoo's Plans to Pay Zimbabwe to Capture Young Elephants**

A. *The Proposed Sale and Capture*

On March 21, 2019, the Pittsburgh Zoo submitted an [application](#) to import 28 "sub-adult" elephants to be captured in Zimbabwe. It was to be a purely commercial transaction: the zoo would buy the elephants for an unspecified amount of money from the Matetsi Eastern Block of the Matetsi Hunting Community, which would round up and capture the animals. The profits would be used to construct roads and buildings, and to purchase equipment to irrigate fields owned by the local tribal leader (who unsurprisingly endorsed the transaction).¹ There was no claim that the transaction would benefit the species, their habitat, the families who would lose their youngest members, or the individuals to be held captive.

The records state that the elephants had not yet been captured, but that the goal was to do so by July 2019. There's no information about who the targeted elephants are, their specific ages, their herds, or how they would be selected for capture. There's also no information on the capture methods, aside from a reference to an out-of-print book published nearly 30 years ago.² Typically, the methods used to capture elephants are violent and terrifying:

First, a viable herd is identified. Then operatives in a helicopter pick off the younger elephants with a sedative fired from a rifle. As the elephant collapses, the pilot dive-bombs the immediate vicinity so the rest of the herd, attempting to come to the aid of the fallen animal, are kept at bay. When things quieten down, a ground-team approaches the sedated elephants on foot, bundles them up, and drags them on to trailers."³

Dr. Joyce Poole, a renowned elephant biologist and ethologist, has described the capture of youngsters as "highly stressful" for all members of an elephant family.⁴ "To violently tear a family apart by capturing live calves," she writes, "would cause immediate and long-term suffering. It is cruel and should not be condoned on any grounds."⁵

¹ Letter from Benson Makoni, Business Dev., Epis Resources, to Charles van Niekerk, Wildlife Assignments Int'l (Mar. 18, 2019); Letter from Chief Shana, Jambezi Hwange District (undated).

² *The Capture and Care Manual* (Andrew A. McKenzie, ed., 1993).

³ Adam Cruise & Christina Russo, *Exclusive: footage shows young elephants being captured in Zimbabwe for Chinese zoos*, *The Guardian* (Oct. 3, 2017), <https://www.theguardian.com/environment/2017/oct/03/exclusive-footage-shows-young-elephants-being-captured-in-zimbabwe-for-chinese-zoos>; see also JG du Toit, *Veterinary Care of African Elephants* 2.7, 2.8 (2001), <https://savf.org.za/wp-content/uploads/2018/09/Veterinary-Care-of-African-Elephants.pdf>.

⁴ Affidavit of Joyce Poole Concerning the Capture and Treatment of Elephant Calves 2 (1998), https://www.elephantvoices.org/component/docman/?task=doc_download&gid=8&Itemid=155.

⁵ *Id.*

The case Dr. Poole was describing was comparable to this one. It involved the removal of a group of 30 "sub-adult" elephants—aged 4 to 10—from the wild in order to ship them to zoos and circuses.⁶ During capture, the baby elephants were darted as helicopters chased away their mothers and relatives.⁷ During transport to the holding facility, the animals were reportedly "trembling and screaming," and making "intense distress calls" that are evidence of suffering and extreme trauma.⁸ After reviewing footage of the calves prior to their export, Dr. Poole noted that the animals kept their eyes wide and ears alert, with their temporal glands secreting fluid in response to stress.⁹ She concluded that all of the animals showed "considerable signs of distress and trauma," and that the youngest calves in particular displayed signs of "deep trauma," such as sunken eyes, dull skin, and an expression of grief on their faces.¹⁰

Notably, Dr. Poole was one of 55 global elephant specialists to [pen a letter to the FWS](#) in August 2019 vehemently opposing the import of elephants taken from the wild after the New York Times reported that U.S. zoos were in the process of planning one.¹¹

B. The Recipients

The application indicates that thirteen elephants would go to the zoo's ICC, while six would go to the "Elephant Conservation Center," which the application claimed would be opened in Florida¹² by Eric Mogensen, who operates the Virginia Safari Park and other roadside zoos. FWS permit applicants are required to disclose whether they've been assessed a civil penalty for violation of any statute or regulation related to the activity for which they seek a permit. Yet the application failed to disclose that in 2018, Mogensen was assessed a \$99,999 civil penalty to settle a case brought under the Animal Welfare Act alleging that animals at his zoos were denied veterinary care for

⁶ *Id.* at 1.

⁷ *Id.*

⁸ *Id.* at 1, 5.

⁹ *Id.* at 4.

¹⁰ *Id.*

¹¹ Open Letter by Elephant Specialists Re: Captive Elephants and Import of Wild Elephants and Captivity (Aug. 19, 2019), <https://blog.humanesociety.org/wp-content/uploads/2019/08/Letter-to-FWS-by-Elephant-Specialists-Re-Zim-calf-imports-19-August-2019.pdf>; Charles Seibert, *Zoos Called It a 'Rescue.' But Are the Elephants Really Better Off?*, N.Y. Times, July 19, 2019, <https://www.nytimes.com/2019/07/09/magazine/elephants-zoos-swazi-17.html>.

¹² This facility would be located at a property formerly occupied by the National Elephant Center, a \$2.5 million AZA facility that closed soon after it opened after four of the six resident elephants (plus a full-term fetus) died in the span of three years. See Melissa E. Holsman, *New Details Emerge About Elephant Deaths at Fellsmere Center*, TCPalm.com (Apr. 5, 2017), <http://www.tcpalm.com/story/news/local/indian-river-county/2017/04/05/new-details-emerge-elephant-deaths-fellsmere-center/99748330/>.

diseases and injuries, and that he falsified a report to cover up the intentional drowning of a wallaby by his daughter, among other violations.¹³ The Elephant Conservation Center withdrew from the application in April 2019 without explanation.

Additionally, the Kansas City Zoo, Maryland Zoo, and Memphis Zoo—all accredited by the Association of Zoos and Aquariums (AZA)—would receive three elephants each. In August, these three facilities also backed out of the application without explanation. Soon after their withdrawal, AZA president and CEO Dan Ashe tweeted: "Our members are involved in no active imports, and we oppose past and current efforts involving Zimbabwe. We will be transparent in any future discussions."¹⁴

On August 5, the Pittsburgh Zoo indicated that it would move forward with importing 13 elephants on its own. This is the last item included in the records that the FWS disclosed. On February 25, 2020, the FWS confirmed that the zoo had withdrawn the application.

II. Elephants captured in Zimbabwe must remain in their natural ranges, except under exceptional or emergency circumstances.

CITES restricts commercial trade in certain plants and animals threatened with extinction. Most populations of African elephants appear in Appendix I of the Convention, and are therefore entitled to the highest protections. However, the population of Zimbabwe is granted lesser protection and listed in Appendix II "for the exclusive purpose of allowing . . . trade in live animals to appropriate and acceptable destinations, as defined in Resolution Conf. 11.20 (Rev. CoP18)."¹⁵

Under CITES guidelines revised in late August 2019—while this application was pending—zoos are not "appropriate and acceptable destinations" for elephants taken from the wild. Generally, this term encompasses only "*in situ* conservation programmes or secure areas in the wild, within the species' natural and historical range in Africa."¹⁶ *Ex-situ* transfers of wild-caught elephants are only "appropriate and acceptable" under two scenarios:

- 1) In "exceptional circumstances," where the CITES Animals Committee, in consultation with the International Union for the Conservation of Nature (IUCN) elephant specialist

¹³ See Consent Decision & Order, *In re: Virginia Safari Park and Preservation Ctr., et al.*, AWA Docket Nos. 15-0107, 15-0108, 15-0109 (USDA Sept. 13, 2018), https://oalj.oha.usda.gov/sites/default/files/CD%20-%2015-0107%2008%2009_Redacted_1.pdf; Complaint, *In re: Virginia Safari Park and Preservation Ctr., et al.*, AWA Docket Nos. 15-0107, 15-0108, 15-0109 (USDA May 1, 2015), https://911animalabuse.com/wp-content/uploads/2010/09/VA130013_AC_Complaint_Mogensen_Redacted.pdf.

¹⁴ Dan Ashe (@DanAshe), Twitter (Aug. 20, 2019, 8:50 AM), <https://twitter.com/DanAshe/status/1163795419979231232>.

¹⁵ CITES Appx. II, ann. 2 (emphasis added).

¹⁶ CITES Res. Conf. 11.20 (Rev. CoP18), available at <https://cites.org/sites/default/files/document/E-Res-11-20-R18.pdf>.

group, finds that such transfer will provide "demonstrable *in-situ* conservation benefits for African elephants."¹⁷ (The IUCN African Elephant Specialist Group has long opposed "removal of African elephants from the wild for any captive use" because captive uses provide "no direct benefit for *in situ* conservation of African elephants."¹⁸)

2) In "emergency situations" where the *ex-situ* transfer is temporary.¹⁹

Although the FWS is not required to issue a CITES import permit for Appendix II species,²⁰ it must make this "appropriate and acceptable" determination in order for an import to move forward. In addition to finding that an exceptional circumstance or emergency situation exists, the FWS must also make the following determinations:

- 1) That the proposed recipient is "suitably equipped to house and care for [the elephants] sustainably."²¹
- 2) That the proposed import would promote *in situ* conservation.²²

The guidelines for making the "suitably equipped" determination are broad: the FWS will consider factors such as space, environmental enrichment, staff experience, species survival rates and mortalities, and measures taken to prevent mortalities.²³ It may use the "best available information on the requirements of the species in making a decision and will consult with experts and other Federal and State agencies, as necessary and appropriate."²⁴

The FWS may deny any permit²⁵ or authorization on several grounds, including: if the application fails to "demonstrate a valid justification for the permit and a showing of responsibility"; if the "authorization requested potentially threatens a wildlife or plant population"; or if the applicant is "not qualified."²⁶

¹⁷ *Id.*

¹⁸ Statement from the African Elephant Specialist Group of the IUCN Species Survival on the Removal of African Elephants for Captive Use (Dec. 2003), https://www.iucn.org/sites/dev/files/import/downloads/pos_capvuse_en.pdf.

¹⁹ CITES Res. Conf. 11.20 (Rev. CoP18).

²⁰ *See* CITES Art. IV. Likewise, imports of live African elephants do not require an Endangered Species Act permit. 50 C.F.R. § 17.40(e)(2).

²¹ CITES Res. Conf. 11.20 (Rev. CoP18).

²² *Id.*

²³ 50 C.F.R. § 23.65; *see also* CITES, Non-binding guidance for determining whether a proposed recipient of a living specimen is suitably equipped to house and care for it, Notification to the Parties No. 2019/070 (Nov. 29, 2019), <https://www.cites.org/sites/default/files/notif/E-Notif-2019-070.pdf>.

²⁴ 50 C.F.R. § 23.65(b)(3).

²⁵ "Permit" in this context is defined broadly to include a "license, permit, certificate, letter of authorization, or other document as the context may require, and to all such documents issued by the Service or other authorized U.S. or foreign government agencies." *Id.* § 13.3.

²⁶ *Id.* § 13.21(b)(3)-(5).

III. The Pittsburgh Zoo is not an appropriate or acceptable destination under CITES Resolution Conf. 11.20 (Rev. CoP18).

As a captive facility in the United States, the Pittsburgh Zoo's ICC doesn't qualify as an "appropriate or acceptable destination" that will conserve the elephants in their native homes under CITES guidelines. Likewise, as discussed in the following subsections, ample information demonstrates that the Pittsburgh Zoo is not suitably equipped to house and care for elephants sustainably.

A. *The Pittsburgh Zoo has made reckless and harmful elephant care decisions.*

In 2011, the Pittsburgh Zoo imported three elephants—Sukiri, Seeni, and Thandi—from a private owner in Botswana to the ICC. The zoo spun the import as a rescue, but noted that its goal was to breed the elephants by introducing them to its bull, Jackson, as soon as it could.²⁷

The breeding effort failed, as only one birth has occurred: in 2017, Seeni gave birth to and allegedly rejected a sickly calf who died after only three months. The zoo bred Seeni knowing that as an orphan herself, she hadn't had a mother as a role model to teach her the skills she needed to care for her own calf. It also knew that she had previously rejected a calf who died after just three weeks in Botswana.²⁸ It then failed to monitor her overnight in the last weeks of her pregnancy, despite having concerns about her health.²⁹

Staff arrived at the ICC one morning in May 2017 and were "shocked" to find that Seeni had given birth.³⁰ Soon after, the calf was taken from her mother and moved to the Pittsburgh Zoo to be raised by its staff. The reasons for doing so were never entirely consistent—the zoo's press release stated that Seeni wasn't producing milk and "made no attempt" to care for the calf.³¹ Yet it also claimed that Seeni was "interested" in the calf, and elephant manager Willie Thieson even reportedly said that the calf bonded with her mother.³²

²⁷ Kari Andren, *Three elephants receive memorable reprieve* (July 20, 2011), <https://archive.triblive.com/news/three- elephants-receive-memorable-reprieve/>.

²⁸ Dillon Carr, *Elephant birth awaited at Somerset conservation center* (May 3, 2017), <https://triblive.com/local/westmoreland/12253024-74/elephant-birth-awaited-at-somerset-conservation-center>

²⁹ *Id.*

³⁰ *Baby Elephant Calf Makes Early Arrival at International Conservation Center in Pittsburgh*, WTAE (June 5, 2017), <http://www.kcci.com/article/baby- elephant-calf-makes-early-arrival-at-pittsburgh-zoo/9978252>.

³¹ Press Release, Pittsburgh Zoo, *Baby Elephant Born Premature* (May 31, 2017), <http://www.pittsburghzoo.org/News- Baby-Elephant-Born-Premature>.

³² *Id.*; *Baby Elephant Calf Makes Early Arrival at International Conservation Center in Pittsburgh*, WTAE (June 5, 2017), <http://www.kcci.com/article/baby- elephant-calf-makes-early-arrival-at-pittsburgh-zoo/9978252>.

The zoo put the calf on display when she was just five weeks old, even though she was sickly and considered a "critical care animal."³³ Just days before she was to make her highly publicized public debut, a young elephant Umasai—who'd been imported from Germany in 2011 with the goal of introducing "a new bloodline into the North American elephant population"³⁴—was euthanized at the ICC.³⁵ The zoo did not announce his death.

In the following weeks, the zoo removed the calf from public display at least twice. She was "teething," "not herself,"³⁶ "miserable," not eating well or sleeping well, and losing weight.³⁷ In August 2017, she became critically ill and died. She reportedly had chronic enterocolitis, a condition that prevented her from absorbing nutrients.³⁸

Following inspections of the ICC and the zoo on July 12, 2017, the U.S. Department of Agriculture (USDA) issued [inspection reports](#)—which were later [amended](#) to remove key details following an appeal—confirming that the ICC and the zoo were unprepared for the calf's birth and incapable of giving her the best shot at survival in the company of her own mother.³⁹ The USDA's inspector initially wrote that the ICC had only two full time elephant care employees, one seasonal employee, and one off-site elephant manager—an insufficient number of people to care for five elephants and a newborn calf. He also concluded that these individuals were not prepared for the calf's birth because they could only work with Seeni "as time allowed due to limited staffing."⁴⁰ The

³³ Lisa Wardle, *Watch a Baby Elephant Make Her Public Debut at the Pittsburgh Zoo*, Pennlive.com (July 7, 2017), http://www.pennlive.com/entertainment/index.ssf/2017/07/baby_elephant_public_view.html; Press Release, Pittsburgh Zoo, *Pittsburgh Zoo Debuts Baby Elephant* (July 6, 2017), <http://www.pittsburghzoo.org/News-Baby-Elephant-Debut>.

³⁴ *Pittsburgh Zoo gets elephant from Germany to sire*, Pittsburgh Tribune-Review (Aug. 20, 2011), <https://archive.triblive.com/local/local-news/pittsburgh-zoo-gets-elephant-from-germany-to-sire/>.

³⁵ See Pittsburgh Zoo, Federal Fish and Wildlife Permit Application, PRT-69379C, at 30 (Dec. 5, 2017), available at <https://www.regulations.gov/document?D=FWS-HQ-IA-2018-0001-0011>.

³⁶ Dan Majors, *Pittsburgh Zoo Takes Baby Elephant Off Display for a Few Days*, Pittsburgh Post-Gazette (July 24, 2017), <http://www.post-gazette.com/local/city/2017/07/24/pittsburgh-zoo-baby-elephant-born-premature-ppg-aquarium-highland-park/stories/201707250056>.

³⁷ See Diana Nelson Jones, *Bringing Up Baby: Zookeepers Take Over Parenting for Premie Pachyderm*, Pittsburgh Post-Gazette (July 30, 2017), <http://www.post-gazette.com/local/city/2017/07/30/baby-elephant-Pittsburgh-Zoo-early-birth-preemie/stories/201707300093>.

³⁸ Diana Nelson Jones, *Lab Report Confirms that Inability to Absorb Nutrients Caused Baby Elephant's Death*, Pittsburgh Post-Gazette (Mar. 13, 2018), <http://www.post-gazette.com/local/city/2018/03/13/Lab-report-on-baby-elephant-s-death-confirms-zoo-s-belief-but-provides-further-clue/stories/201803130118>.

³⁹ Initial Inspection Report, Zoological Socy' of Pittsburgh Sites 001 & 002 (Jul. 12, 2017), https://www.peta.org/wp-content/uploads/2018/12/T125651_2017-07-12_Citations-related-to-Seeni-calf.pdf; cf. Amended Inspection Report, Zoological Socy' of Pittsburgh Sites 001 & 002 (Jul. 12, 2017), <https://www.peta.org/wp-content/uploads/2018/12/Pittsburgh-Zoo-July2017-Amended-Reports.pdf>.

⁴⁰ Initial Inspection Report, Zoological Socy' of Pittsburgh Sites 001 & 002 (Jul. 12, 2017), https://www.peta.org/wp-content/uploads/2018/12/T125651_2017-07-12_Citations-related-to-Seeni-calf.pdf.

zoo took the calf from Seeni "in part because of this limited staff and their inability to care for this animal . . . thereby placing its welfare at significant risk."⁴¹

The inspector also initially wrote that the survival rate for human-reared calves is very low. He suggested that the zoo's decision to remove the calf from her mother just after she was born was primarily driven by "logistical issues related to personnel and location."⁴² Specifically, reasons for the move included "Seeni's intractability" and the fact that "the ICC site was not adequately staffed or prepared to provide the intensive 24/7 care required for hand-rearing the compromised calf."⁴³ Though the zoo stated that Seeni was not showing signs of producing milk, its records reportedly showed that she was lactating three days after the birth.⁴⁴ The inspector noted that "adequate maternal lactation might have been a possibility" had the calf remained with her mother, and suggested that Seeni may have bonded with her baby had she been given more time.⁴⁵ The zoo's CEO, Dr. Barbara Baker, later told a reporter that "'the keeper staff who were at the ICC didn't have experience with lactating African elephants and were mistaken' that Seeni was producing some milk"⁴⁶—a further admission that the zoo was unprepared to properly care for the calf.

A leading text on elephant veterinary care supports the inspector's conclusions, explaining that a facility's "primary goal" should be to "to keep the elephant calf with the elephant mother" because calves rarely survive without their mothers.⁴⁷ In the case of "forced separation," reuniting the calf and mother "is of paramount importance," and "continued attempts should be made for the calf to spend significant time (most of the day and night) near the mother."⁴⁸ By moving the calf across the state from the ICC to the zoo, the zoo foreclosed this option for her.

The USDA also noted that the calf was exposed to numerous hazards at the zoo, which had failed to adequately limit the risk of exposure to pathogens.⁴⁹ She had a two-inch wound on her head from scraping it on a manure conveyor, and she walked over "electrical wires on the wet ground"

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Sean D. Hamill, *PETA tries again to stop Pittsburgh Zoo from importing elephant semen after new report*, Pittsburgh Post-Gazette (Dec. 12, 2018), <https://www.post-gazette.com/news/science/2018/12/12/PETA-Pittsburgh-Zoo-elephant-semen-USDA-inspection-complaints/stories/201812120160>.

⁴⁷ Karen Emanuelson, *Neonatal Care and Hand Rearing*, in *Biology, Medicine, and Surgery of Elephants* 233, 233 (Murray Fowler & Susan Mikota, eds., 2006).

⁴⁸ *Id.* at 233, 237.

⁴⁹ Initial Inspection Report, Zoological Socy' of Pittsburgh Sites 001 & 002 (Jul. 12, 2017), https://www.peta.org/wp-content/uploads/2018/12/T125651_2017-07-12_Citations-related-to-Seeni-calf.pdf; Amended Inspection Report, Zoological Socy' of Pittsburgh Sites 001 & 002 (Jul. 12, 2017), <https://www.peta.org/wp-content/uploads/2018/12/Pittsburgh-Zoo-July2017-Amended-Reports.pdf>

during the inspection.⁵⁰ She also entered a utility room containing bleach and cleaning supplies that could have injured her.⁵¹ The inspector concluded: "The facility must protect this elephant calf from hazards from this time forward."⁵²

These inspection reports confirm that the Pittsburgh Zoo is not an appropriate or acceptable destination for young African elephants because it is not suitably equipped to care for them, and has failed to make the requisite showing of responsibility to hold CITES permits. It bred an elephant who never learned parenting skills from her own family, only to take her calf away for human convenience and against best practices. It then put the sick infant on display, and she died soon after. The fact that the zoo eagerly reported the calf's birth and rushed to put her on exhibit—while never even mentioning Umasai's death—suggests that the zoo was putting its own interest of attracting visitors ahead of the needs of the calf.

Critically, the zoo's has also failed to explain what, if anything, it has done to address the USDA's finding that it was understaffed and unprepared for the calf's birth. It has also failed to demonstrate that the ICC has acquired a sufficient number of experienced staff capable of caring for 17 elephants, including 13 freshly caught juveniles. Its application only included the résumés of three elephant keepers at the ICC: the same number of people that the USDA found to be insufficient to care for a single calf and five adults.

B. The export of Thandi demonstrates potentially harmful animal care decisions, and raises doubts about the integrity of Pittsburgh's permit applications.

In September 2019, the Pittsburgh Zoo sent Thandi to the Zoo de Granby in Canada. The zoo's export permit application justified the transfer on two grounds: "for conservation education and as a companion animal for a male and female elephant located at Zoo de Granby." The possibility of breeding Thandi is not mentioned anywhere in the application.⁵³

These justifications appear to be disingenuous. Public statements announcing the transfer make clear that the purpose of moving Thandi to Granby was to breed her with a bull there. The Pittsburgh Zoo wrote in a press release that the transfer "supports breeding efforts to infuse new

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² Initial Inspection Report, Zoological Socy' of Pittsburgh Sites 001 & 002 (Jul. 12, 2017), https://www.peta.org/wp-content/uploads/2018/12/T125651_2017-07-12_Citations-related-to-Seeni-calf.pdf.

⁵³ Pittsburgh Zoo, Federal Fish and Wildlife Permit Application, PRT-69379C (Feb. 21, 2019).

genetics into the aging African elephant population throughout North America,"⁵⁴ while Zoo de Granby wrote that "Thandi, a 28-year-old female with an excellent genetic background is destined for breeding with Tutume, a 20-year-old male."⁵⁵

Granby representatives also suggested that Thandi is a "proper breeding age companion for Tutume," although it would be "dangerous" for its existing elephant Sarah, "who has never bred, to become pregnant at her age [36]."⁵⁶ However, the AZA's *Standards for Elephant Management & Care* make clear that it would also be dangerous for Thandi, who has never bred, to become pregnant at her age (28), as "[n]ulliparous⁵⁷ females over age 24 years have had limited success delivering calves and have experienced dystocias and retained fetuses."⁵⁸

The Pittsburgh Zoo should have disclosed this breeding plan to the FWS so that the agency could fully evaluate its application. Breeding Thandi is potentially harmful to her, as was separating her from Seeni and Sukiri, the only social companions she has known for decades. Recent news stories also suggest that the zoo planned to send Seeni to the Milwaukee County Zoo in 2019, but the move was abandoned because Pittsburgh was "indecisive about the move and schedule."⁵⁹ It's not clear whether the efforts to relocate Seeni and Thandi were related to the zoo's plan to acquire elephants from Zimbabwe. Nor is it clear whether the zoo has further plans to move Seeni or other elephants at the ICC. But the decision to move Thandi for breeding despite her age and lack of reproductive experience raises further doubts about the zoo's animal care decisions, and whether it is suitably equipped to house and care for elephants sustainably.

⁵⁴ Press Release, Pittsburgh Zoo, *Thandi Moves to Zoo de Granby, Quebec* (Sept. 19, 2019), <https://www.pittsburghzoo.org/thandi-moves-to-zoo-de-granby-quebec/>.

⁵⁵ Press Release, Zoo de Granby, *The Arrival of a New Elephant at the Zoo de Granby* (Sept. 19, 2019), <https://zoodegranby.com/en/arrival-thandi>.

⁵⁶ Rachel Lau, *Granby Zoo welcomes newest African elephant, Thandi*, Global News (Sept. 18, 2019), <https://globalnews.ca/news/5919775/granby-zoo-african-elephant-thandi/>.

⁵⁷ Defined as a female animal who has never given birth.

⁵⁸ See AZA *Standards for Elephant Management & Care* 3.3.2.10.

⁵⁹ Graham Kilmer, *Zoo Backs off on Elephant's Transport*, Urban Milwaukee (Feb. 5, 2020), <https://urbanmilwaukee.com/2020/02/05/zoo-backs-off-on-elephants-transport/>

C. The rejection of modern elephant care standards demonstrates that the Pittsburgh Zoo is not suitably equipped to care for elephants sustainably.

The Pittsburgh Zoo was a member of the AZA for 29 years, but forfeited its accreditation in 2015 to avoid adopting modern elephant management standards that would have required it to abandon dangerous and outdated training methods that rely on pain, fear, and dominance.⁶⁰

In 2010, the AZA announced an occupational safety policy to gradually adopt "restricted contact" management of elephants. In a restricted contact system, elephants and humans are protected from one another by a barrier. Elephants can choose whether to participate in training, or walk away if they're uncomfortable. They learn using rewards instead of punishment, and the barrier protects both the elephant and the trainer from harm. Instead of switching to this safer, more humane management system, the zoo left the AZA.

As of 2019, the Pittsburgh Zoo's elephant manager reportedly still handles elephants in free contact, while other elephant staff at the facility reportedly use protected contact. Free contact is a circus-style system in which trainers condition elephants to fear and obey them by using bullhooks to jab, strike, and intimidate the animals. The goal of such discipline is to elicit 100 percent compliance. Bullhooks have been widely rejected as cruel, outdated, and unnecessary in modern zoos. They've been banned in two states and numerous cities—including Pittsburgh⁶¹—and the AZA has moved to eliminate their use in accredited zoos, stating that they are "not acceptable as daily management tools" and a "strong majority" of AZA zoos have already done away with them.⁶²

Aside from the obvious cruelty of these training methods, free contact puts human lives at risk: [dangerous interactions](#) with captive elephants have resulted in dozens of human deaths and catastrophic injuries. In 2002, for example, an elephant crushed a keeper to death at the Pittsburgh Zoo when he commanded her to move forward.⁶³ Likewise, the Occupational Safety and Health

⁶⁰ AZA's statement on Pittsburgh Zoo & PPG Aquarium's decision to forfeit AZA accreditation (Aug. 17, 2015), <https://www.aza.org/aza-news-releases/posts/azas-statement-on-pittsburgh-zoo--ppg-aquariums-decision-to-forfeit-aza-accreditation->.

⁶¹ See Pittsburgh, Pennsylvania, City Code § 637.02.

⁶² Email from Dan Ashe, AZA President and CEO, to AZA Colleagues (Aug. 19, 2019); see also Karin Brulliard, *Some of America's top zoos still use bullhooks on elephants. That's about to change.* Washington Post (Aug. 21, 2019), <https://www.washingtonpost.com/science/2019/08/21/some-americas-top-zoos-still-use-bullhooks-elephants-thats-about-change/>.

⁶³ David Conti, *Elephant kills handler at Pittsburgh Zoo* (Nov. 19, 2002), <https://archive.triblive.com/news/elephant-kills-handler-at-pittsburgh-zoo/>.

Administration has found that free contact management of elephants is "likely to cause death or serious physical harm to employees" in violation of federal worker safety law.⁶⁴

The Pittsburgh Zoo has refused to fully modernize. Prior to forfeiting its accreditation, the zoo even attempted to use a pair of dogs to chase and nip at elephants in order to keep the animals away from staff working in the yard.⁶⁵ This earned it a citation from the USDA for causing stress to the elephants.⁶⁶

The zoo's withdrawal from the AZA demonstrates that it isn't following best practices when it comes to elephant handling and training, doesn't have the backing of the leading zoo accrediting body in the U.S.,⁶⁷ and is therefore not suitably equipped to manage elephants sustainably.

D. The FWS must consider whether the Pittsburgh Zoo would breed new elephants with Jackson.

The Pittsburgh Zoo's loss of AZA accreditation has also impacted its ability to participate in the AZA's elephant breeding plan. Elephant breeding in the U.S. is exclusively aimed at producing more captive animals, rather than at boosting wild populations, so it is not a meaningful conservation strategy. Nevertheless, the zoo's lack of membership in an organized program is important to the extent that it intends to breed any elephants it acquires, and to the extent that the FWS must make a finding that a permit applicant is suitably equipped to house the species *sustainably*.

The AZA's African Elephant Species Survival Program (SSP) is deemed a "Yellow" SSP, meaning that the animal population "cannot retain 90% gene diversity for 100 years or 10 generations" and is not self-sustaining.⁶⁸ Under current AZA policy, unaccredited organizations may not participate in Yellow SSPs unless they become approved "Sustainability Partners."⁶⁹ There is no publicly available list of Sustainability Partners. However, it appears that the zoo is not one. In June 2019, it applied for a captive-bred wildlife registration but withdrew African elephants from the

⁶⁴ See, e.g., Scott Friedman, *OSHA Fines Fort Worth Zoo After Elephant Injures Zookeeper* (Mar. 18, 2016), <https://www.nbcdfw.com/investigations/OSHA-Fines-Fort-Worth-Zoo-After-Elephant-Injures-Zookeeper-372603212.html>.

⁶⁵ *Dogs herd elephants at Pittsburgh Zoo* (May 13, 2014), <https://www.cbsnews.com/news/dogs-herd-elephants-at-pittsburgh-zoo/>.

⁶⁶ USDA Inspection Report, Zoological Soc'y of Pittsburgh (Jan. 5, 2015).

⁶⁷ The fact that the Zoological Association of America (ZAA) accredits the zoo is not meaningful. The ZAA is a trade organization whose [mission](#) is to "protect and defend the right to own exotic and domestic animals" and to defend animal exhibitors against "those with political agendas." Its so-called accreditation program caters to substandard roadside zoos, and its standards do not meaningfully protect animal welfare or public safety. Moreover, Barbara Baker, CEO of the Pittsburgh Zoo, is the ZAA's board chair.

⁶⁸ AZA, *Glossary of Terms* (Aug. 30, 2016), https://assets.speakcdn.com/assets/2332/glossary_of_common_terms.pdf

⁶⁹ *AZA Species Survival Plan® Program Handbook 26* (2020), https://assets.speakcdn.com/assets/2332/aza_species-survival-plan-program-handbook.pdf.

application because "[i]t is taking longer than expected to become [AZA SSP] sustainability partners" for the species.⁷⁰ There is no evidence in the current application to indicate that the zoo has become a Sustainability Partner since then.

The ICC's sole male elephant, Jackson, is one of just a handful of male elephants in the U.S. to have produced offspring. Consequently, his genes are extensively represented in the gene pool. He has had at least 17 offspring, though only 10 are still alive.⁷¹ There are only 179 African elephants held in the U.S., and Jackson and his offspring represent 6 percent of the total population. Likewise, his offspring represent 24 percent of the 41 living captive-born African elephants in the U.S. Hence, importing elephants who would potentially breed with Jackson would not benefit the demographics of a captive population that already has an unsustainably small gene pool.

The Pittsburgh Zoo's exclusion from the African Elephant SSP—which acknowledges that this species is not sustainable in captivity—coupled with the fact that the genes of its sole bull elephant are overly represented, demonstrates that it is not suitably equipped to maintain elephants sustainably.

E. The Pittsburgh Zoo's past efforts to obtain "genetic material" from elephants in the wild evidences a lack of responsibility.

In 2009, Dr. Baker participated in "Project Frozen Dumbo," an operation at the Phinda Private Game Reserve in South Africa in which semen was collected from 15 wild bull elephants who were tranquilized with darts from an open helicopter. The elephants were immobilized, examined with a rectal probe, and then semen was collected after electrostimulation. The semen was shipped to a zoo in France to create a sperm bank to be used to impregnate elephants in European zoos. Baker also participated in a second capture in 2010, which resulted in the collection of 16 liters of semen—enough to inseminate 300 elephants. These materials were destined for the ICC, which intended to create a sperm bank of its own.⁷²

⁷⁰ Email from Heather Terrell, Pittsburgh Zoo, to Emma Nelson, FWS (June 6, 2019), available at <https://www.regulations.gov/document?D=FWS-HQ-IA-2019-0062-0010>.

⁷¹ Jackson's living offspring include: Victoria, born in 1999 at the Pittsburgh Zoo; Calee, born in 2000 at the Pittsburgh Zoo and currently held at the Henry Doorly Zoo in 2018; Kianga, born in 2004 at Disney's Animal Kingdom; Nadirah, born in 2005 at Disney's Animal Kingdom; Angelina, born in 2008 at the Pittsburgh Zoo; Zuri, born in 2008 at the Pittsburgh Zoo; Tsavo, born in 2008 at Disney's Animal Kingdom; Zuri, born in 2009 at Utah's Hogle Zoo; Lucas, born in 2011 at the Toledo Zoo; Fitz, born in 2019 at the Louisville Zoo.

⁷² *Efforts to Create Elephant Sperm Bank in Somerset County*, WDUQ News, (Dec. 31, 2009), <http://wduqnews.blogspot.com/2009/12/efforts-to-create-elephant-sperm-bank.html>; Adrian Tordiffe, National Zoological Gardens of South Africa, "Project Frozen Dumbo," Dec. 2009, <http://www.nzg.ac.za/newsletter/issues/11/08.php>; Bill Zlatos, *Pittsburgh Zoo still awaiting genetic material for breeding* (Aug. 8, 2011), <https://archive.triblive.com/local/local-news/pittsburgh-zoo-still-awaiting-genetic-material-for-breeding/>.

In October 2010, the International Elephant Foundation (IEF) applied for a blanket permit to import numerous biological specimens from captive and wild elephants in Asia and Africa, including the semen from Project Frozen Dumbo.⁷³ The application included a "letter of agreement" between the Phinda and the Pittsburgh Zoo documenting the intention to immobilize wild bull elephants and collect their semen for export to the United States.⁷⁴ It did not include any documentation that the zoo or other parties involved had acquired the appropriate permits from the South African government.

During the comment period, Andrew Blackmore of Ezemvelo KZN Wildlife, a South African regulatory agency, expressed "serious concerns regarding the application and issuing of the necessary permits for the collection and export of samples" from Phinda, and requested that the FWS delay issuance of a permit until his agency could conduct an investigation.⁷⁵ Subsequent correspondence revealed that Blackmore's agency had "no record" that Phinda, Pittsburgh, the IEF, or Dr. Baker had applied for or obtained the collection or bioprospecting permits required to carry out Project Dumbo. As such, the collections were "unauthorized," and Blackmore recommended that the FWS deny the permit application.⁷⁶ Over the course of several months, Blackmore aggressively pursued information from Baker—and threatened to take legal action—but Baker repeatedly brushed him off.⁷⁷

In April 2011, the FWS notified Blackmore that the IEF had modified its permit application to cover only the import of samples taken from captive elephants, so the FWS no longer needed to verify whether Baker had obtained the appropriate permits for Project Frozen Dumbo.⁷⁸ The IEF's blanket permit to allow the import of blood, saliva, gametes, and other materials taken from captive elephants was issued in June 2011 and would remain valid for five years.

Troublingly, there is no evidence that the FWS investigated the allegedly unauthorized collections in South Africa. Regardless, this apparent failure to obtain necessary permits authorizing the capture of wild elephants to invasively collect their semen further evidences a lack of responsibility.

⁷³ IEF, Federal Fish and Wildlife Permit Application, 15923A (Oct. 25, 2010, amended Apr. 4, 2011).

⁷⁴ Letter from Jaco Mattheus, Warden, Phinda Private Game Reserve (Mar. 16, 2010).

⁷⁵ Email from Andrew Blackmore, Head Integrated Environmental Management, Ezemvelo KZN Wildlife, to Brenda Tapia, Monica Farris, Michael Carpenter, FWS (Jan. 4, 2011).

⁷⁶ Letter from Andrew Blackmore, Head Integrated Environmental Management, Ezemvelo KZN Wildlife, to Monica Farris, FWS (Jan. 11, 2011).

⁷⁷ These emails, plus the correspondence cited in footnotes 74-78, are available here: <https://www.peta.org/wp-content/uploads/2020/02/2010-Pittsburgh-Zoo-Phinda-elephant-capture-correspondence.pdf>.

⁷⁸ Email from Monica Farris, FWS, to Andrew Blackmore, Head Integrated Environmental Management, Ezemvelo KZN Wildlife (Apr. 4, 2011).

IV. NEPA requires an Environmental Assessment.

Under the National Environmental Policy Act (NEPA), federal agencies must prepare an Environmental Impact Statement (EIS) to consider the consequences of "major federal actions significantly affecting the quality of the human environment."⁷⁹ Where an agency is not sure whether a federal action will have a significant impact, it must prepare an Environmental Assessment (EA) and "involve environmental agencies, applicants, and the public" in preparing the assessment.⁸⁰ The U.S. Department of the Interior (DOI) has determined that CITES permitting decisions are categorically excluded from the EIS and EA requirements of NEPA when the activities authorized "cause no or negligible environmental disturbance."⁸¹

The FWS cannot claim a categorical exemption for any permitting decision that results in the violent and terrifying round-up and removal of wild elephants from their families. This would cause more than a "negligible environmental disturbance," and at the very least, the FWS must prepare an EA with input from the public as it has done in the past when elephants were captured and imported from Eswatini.⁸²

Moreover, even if the categorical exemption did apply in such circumstances, agencies must "provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect and require additional analysis and action."⁸³ The DOI's regulations provide for a dozen such extraordinary circumstances that require the agency to prepare an EIS or EA for an otherwise categorically excluded action.⁸⁴ The capture and import of African elephants involves extraordinary circumstances, including the following:

- The action has "highly controversial environmental effects" and involves "unresolved conflicts concerning alternative uses of available resources."⁸⁵ "Controversial refers to circumstances where a substantial dispute exists as to the environmental consequences of the proposed action."⁸⁶ Fifty-five global elephant specialists have argued against the capture of African elephants, citing harm to the individuals taken as well as to the remaining herds left with "severe and lifelong" negative

⁷⁹ 42 U.S.C. § 4332(C); *see also* 43 C.F.R. § 46.100(a).

⁸⁰ 40 C.F.R. § 1501.4(b).

⁸¹ Dep't of the Interior Dep't Manual, Part 516, Ch. 8.5(C)(1).

⁸² *See, e.g.*, Draft Draft Environmental Assessment; Dallas Zoo Management; Dallas, Texas, 80 Fed. Reg. 64,008 (Oct. 22, 2015).

⁸³ 43 C.F.R. § 46.205(c).

⁸⁴ *Id.* § 46.215.

⁸⁵ *Id.* § 46.215(c).

⁸⁶ *Id.* § 46.30.

effects.⁸⁷ The IUCN also opposes the capture of African elephants for captive use.⁸⁸ The text of Resolution Conf. 11.20 (Rev. CoP18)—which states that elephants must remain in their natural ranges except under extraordinary or emergency circumstances—provides further support that capturing elephants for captive use would have "highly controversial environmental effects."

- The action establishes "a precedent for future action or represent[s] a decision in principle about future actions with potentially significant environmental effects" and has "a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects."⁸⁹ On two occasions in the past two decades, the FWS has allowed U.S. zoos to import dozens of elephants from Eswatini in exchange for large sums of money.⁹⁰ Those imports provided a roadmap for facilities wishing to import elephants. It also encouraged Zimbabwe to engage in trade. In 2015, Zimbabwe used Eswatini's exports to the U.S. to justify its own sales of elephants to Chinese zoos. Environment, Water and Climate Minister Oppah Muchinguri stated, "We exported elephants to China and there was backlash from America. But we are glad that they are also importing. They imported elephants from Swaziland as we speak. So now we can challenge them that they are denying us from exporting to China yet they are importing."⁹¹ CITES data shows that Zimbabwe exported 109 elephants to China and the United Arab Emirates between 2012 and 2018,⁹² reportedly making millions.⁹³ In 2019, the country exported another 30 baby elephants to China.⁹⁴ Allowing facilities in the U.S. to capture and import elephants would further

⁸⁷ Open Letter by Elephant Specialists Re: Captive Elephants and Import of Wild Elephants and Captivity (Aug. 19, 2019), <https://blog.humanesociety.org/wp-content/uploads/2019/08/Letter-to-FWS-by-Elephant-Specialists-Re-Zim-calf-imports-19-August-2019.pdf>.

⁸⁸ *Id.* at 4; Statement from the African Elephant Specialist Group of the IUCN Species Survival on the Removal of African Elephants for Captive Use (Dec. 2003), https://www.iucn.org/sites/dev/files/import/downloads/pos_captiveuse_en.pdf.

⁸⁹ 43 C.F.R. § 46.215(e), (f).

⁹⁰ See Comments of PETA, the Performing Animal Welfare Society, the Animal Legal Defense Fund, and Deborah Robinson, Esq. (Nov. 23, 2015), <https://www.regulations.gov/document?D=FWS-HQ-IA-2015-0157-2639> (opposing the 2016 import of elephants and discussing the impacts of the 2003 import); see also Charles Seibert, *Zoos Called It a 'Rescue.' But Are the Elephants Really Better Off?*, N.Y. Times, July 19, 2019, <https://www.nytimes.com/2019/07/09/magazine/elephants-zoos-swazi-17.html>.

⁹¹ Muchinguri *Blurts: We Have Too Many Elephants in Zimbabwe*, ZimEye (Nov. 9, 2015), <http://www.zimeye.com/muchinguri-vomits-we-have-too-many-elephants-in-zimbabwe>.

⁹² See Open Letter by Elephant Specialists Re: Captive Elephants and Import of Wild Elephants and Captivity 1 (Aug. 19, 2019), <https://blog.humanesociety.org/wp-content/uploads/2019/08/Letter-to-FWS-by-Elephant-Specialists-Re-Zim-calf-imports-19-August-2019.pdf>.

⁹³ See, e.g., Abdur Rahman Alfa Shaban, *Zimbabwe rakes in \$2.7m selling baby elephants in China*, Africa News (May 13, 2019), <https://www.africanews.com/2019/05/13/zimbabwe-rakes-in-27m-selling-baby-elephants-in-china/>. Note that this article reports a lower number of elephants exported than that found in the CITES trade database.

⁹⁴ Farai Mutsaka, *Zimbabwe sent 30 baby elephants to China, says rights group* (Oct. 25, 2019), <https://abcnews.go.com/International/wireStory/zimbabwe-30-baby-elephants-china-rights-group-66526788>.

enshrine an existing precedent and would serve to legitimize trade in an imperiled species by nations that will sell elephants to "everyone who wants our wildlife."⁹⁵

V. Conclusion

For all of the reasons detailed above, PETA respectfully requests that FWS consider this information demonstrating that the Pittsburgh Zoo is not an appropriate and acceptable destination for elephants should it seek permission to import them in the future. It also reminds the agency of its obligations under NEPA, which include providing the public with notice of the application and the opportunity to comment.

⁹⁵ Ray Ndlovu, Zimbabwe Ready to Sell Elephants to 'Anyone Who Wants Wildlife', Bloomberg (June 24, 2019), <https://www.bloomberg.com/news/articles/2019-06-24/zimbabwe-ready-to-sell-elephants-to-anyone-who-wants-wildlife>.