

August 3, 2020

*Via email*

Ms. Sharon Haussmann, Chairperson  
Balule Nature Reserve  
[REDACTED]

Mr. Solly Kgopong, Head of Department  
Limpopo Department of Economic Development, Environment & Tourism  
[REDACTED]

**Re: Request to Investigate Apparent Permit and Hunting Protocol  
Violations on Balule Nature Reserve**

Dear Ms. Haussman and Mr. Kgopong,

I am counsel to People for the Ethical Treatment of Animals (PETA) and I am writing to respectfully request your investigation into potential violations of hunting permits, National Norms and Standards for the Management of Elephants in South Africa (“Norms and Standards”) and the Greater Kruger Hunting Protocol for Reserves where hunting takes place (“Protocol”) in connection with the hunting and prolonged suffering and drawn-out death of an elephant shot by American hunter Aaron Raby on Balule Nature Reserve.

As described in detail in the enclosed Appendix, Raby was accompanied by, among others: Ian Brown of Wayne Wagner Safaris, a professional hunter (“PH”) who guided the hunt; Evan Couzens of Umzikis Hunting Safaris, through whom the hunt was booked (“outfitter”); and a Balule representative or warden. A video of the hunt makes clear that while Raby shot the elephant at least five times in a manner that would not cause immediate death, none of these individuals accompanying Raby acted to minimize the elephant’s suffering by placing their own subsequent shots. Brown’s later comments indicate that this is his typical approach—to allow a paying client to fulfill the contract, apparently despite cruelty to the animal. At the end of the video, almost three minutes after the first shot was fired, the elephant was still not dead and was no doubt suffering immensely.

While unavailable to the public, Raby’s, Brown’s, and Couzens’ permits for the hunt may have incorporated the provisions of certain of the Norms and Standards, including its requirement of “ethical and humane” treatment, and the Protocol, which requires “compliance with the highest moral and ethical standards in recognition of a reverence for life and good sportsmanship,” to which the Balule representative is also bound. If the permit(s) incorporated these conditions, the cruel, needlessly prolonged, and inarguably painful manner in which the elephant was killed would have violated them, an offense punishable by substantial fines and/or imprisonment.

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Additionally, Raby told PETA's investigator that he paid for and obtained a permit allowing him to hunt an elephant with tusks weighing up to thirty pounds each. Raby also said that the elephant he hunted had tusks weighing thirty-four and thirty-five pounds, respectively, and that the elephant was misclassified as being within the permit's tusk-weight limits. The hunt may have been undertaken contrary to the applied permit's stipulations, and therefore unlawful, for this additional reason.

We request your offices to investigate whether these individuals violated the independent conditions of their permit and/or any applicable provisions of the Norms and Standards and Protocol. If any of such conditions were violated, we ask that you take the necessary actions to initiate prosecution of the offending parties.

Thank you for your attention to this matter.

Very truly yours,



Jared Goodman  
Vice President and  
Deputy General Counsel for Animal Law



Cc: Mr. Gareth Coleman, Managing Executive, Kruger National Park,  
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## APPENDIX

### 1 The Elephant Hunt

Ian Brown, of Wayne Wagner Safaris, the PH who guides Tsala Hunting Safaris, gave PETA's investigator the contact information of the most recent client who has hunted elephant with him, Aaron Raby, from Lakewood, California. The hunt took place in Balule Nature Reserve in December 2019, and was booked through Evan Couzens of Umzikis Safaris, who then procured the permits through Brown.

According to the video, a conversation with Raby, and Raby's public write up of the hunt,<sup>1</sup> Brown seems to have led the hunt, with Couzens, a Balule representative or warden by the name of Jacques, a tracker by the name of Robert, and a videographer by the name of Gina (no surnames given) accompanying him.

Brown sent a [harrowing video of Raby's elephant hunt](#) to PETA's investigator on June 18.<sup>2</sup> The following is a partial transcript of the video.

**00:00-00:10.** The footage is take from behind the three hunters and a tracker, looking out over a clearing. A bull elephant appears, walking slowly out of the trees on the other side of the clearing.

**00:10-00:20.** The hunters put up a tripod of shooting sticks and Raby sets the rifle on the sticks. The elephant turns towards the hunters and pauses with his ears spread wide. Raby and another hunter on his right (likely Couzens), both with 'Umkizis' on the back of their shirts, aim at the elephant.

**00:20-00:36.** Raby shoots the elephant in the head (first shot) and the bull collapses. Ian Brown instructs Raby, "Let's go, reload, let's go." The Umzikis hunter (likely Couzens) picks up the shooting sticks, walks quickly towards the elephant, and all present then start running towards a group of small trees to the left of the elephant.

**00:36-00:38.** The hunters stop and Raby aims at the elephant's flank. He shoots the elephant (second shot) and the elephant flinches in pain at the impact of the bullet.

**00:38-00:43.** The elephant moves his trunk and turns his head towards the hunters. Raby reloads and takes aim again. Brown says, "He was behind a little...." Raby reloads and aims at the elephant, again. Brown says, "Wait, let's just go 'round."

**00:43-01:06.** Blood is streaming from wounds between the elephant's eyes and just in front of his ear. He moves his head slowly from side to side. Brown asks, "Do you see where I'm middling?" Raby replies, "Yah." Brown says, "Your angle is a bit, your angle is a little bit left, you need to go

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<sup>1</sup> aaronraby1, *SOUTH AFRICA: Greater Kruger Elephant Hunt With Umziki Hunting Safaris*, Africa Hunting (Dec. 15, 2019), <https://www.africahunting.com/threads/south-africa-greater-kruger-elephant-hunt-with-umziki-hunting-safaris.54326/>.

<sup>2</sup> An edited version of the footage with subtitles can be viewed at <https://www.petapreview.com/elephant-hunt-south-africa/>. Raw footage of the hunt, and the additional evidence referenced herein, is available upon request.

to the right. Wait for him to turn a little bit.” The elephant lets out a distressed sighing sound and swishes his trunk. He does not seem to be able to get up. Brown says, “Wait for him. Wait for him to turn.” The elephant lets out a short snort and shakes his head slightly. Brown says something imperceptible and then instructs Raby, “Okay, come here.”

**01:06-01:29.** Raby walks through a group of small trees and bushes and aims at the elephant, about 10 meters away from him.

**01:29-01:38.** Raby shoots the elephant (third shot). The elephant winces and moves from the impact of the bullet. He unfurls his trunk slightly. Someone, likely the person operating the camera, whispers, “Ah no come on.” Brown says, “Kyk nou, net voor, ‘n bietjie laag.” (“Look now, just in front, a bit low,” in Afrikaans). He instructs Raby, “You must be a little bit higher.”

**01:38-01:48.** Raby aims and shoots at the elephant again (fourth shot). At the same time, another hunter says, “Low and left.” After the shot, a hunter exhales loudly, seemingly in frustration. Raby reloads. Brown confers with another hunter, who agrees “Hy’s a bietjie laag.” (“He’s a bit low.”). Brown instructs Raby, “You need to be, you need to be a little bit higher, hey Aaron?”

**01:48-02:36.** Raby reloads and shoots again (fifth shot). The elephant moves from the impact of the bullet. The other hunter (likely Couzens) says to Raby, “You’re too far back. See that...” The elephant lets out a long, low groan. Raby reloads as the hunters continue to talk. The elephant is still moving his head and trunk.

**02:36-02:50.** Raby reloads again. They all converse, gesturing with their hands, seemingly discussing where to shoot the elephant again. Their words are imperceptible.

By the end of the video, 2 minutes and 29 seconds after the first shot, the elephant is still not dead after Raby has shot him in the head four times. At no point do Brown or any of the other hunters shoot the elephant to quicken his death and reduce his suffering, even though it is clear from their constant coaching that Raby is not shooting in the correct place.

When asked why he had to fire multiple shots, Raby told PETA’s investigator that he knew that many of the shots were inaccurate. Brown told PETA’s investigator that after a hunting client takes a first shot, his preference is not to take subsequent shots himself, with no apparent regard for the elephant’s suffering. He told PETA’s investigator:

There’s actually in some of these reserves ... if your first shot doesn’t put the elephant down, the representative [of the reserve] is also going to put a shot into that elephant.... For myself, I don’t like shooting at all. I just want the client do to his thing, if he’s in a situation where you know, look, [the hunter] is gonna have a chance to get at least two or three shots before the elephant can get out of sight, you probably would wait a little bit for the second shot and then the representative would also make a shot.... For myself, I prefer the client to shoot the thing, whether it’s a buffalo or elephant or whatever it is. It’s not me paying. I’m not one of those guys who lets fly before the client. I don’t believe in that.

## 2 Legal Framework

A person wanting to hunt an elephant must obtain a permit to do so. Such permit must contain conditions pursuant to the Norms and Standards, which recognize elephants' sentience, intelligence, and social nature and require that activities affecting elephants be carried out humanely and ethically. Further, permits in Balule are likely to contain the condition that the hunters comply with the Protocol, which also contains ethical and humane requirements to ensure a swift death.

Where the Norms and Standards and/or the Protocol are incorporated into the elephant hunting permit, a hunter who fails to comply with these provisions has violated the permit. The hunter, and any person who allows them to contravene the conditions of a permit, is guilty of an offense and subject to a fine and/or imprisonment.

### 2.1 Hunting Permits

Elephants are listed as endangered species, which means they are classified as "protected" species in South Africa.<sup>3</sup> The National Environmental Management: Biodiversity Act 10 of 2004 (NEMBA) prohibits "[h]unting ... or killing any living specimen of a listed threatened or protected species" without a permit.<sup>4</sup>

There are three permits relevant to any particular hunt of a protected species in the Greater Kruger Conservancy, where Balule is situated. First, the hunter must have a permit to hunt the species, issued under NEMBA,<sup>5</sup> and subject to The Threatened or Protected Species Regulations (TOPS).<sup>6</sup> TOPS requires that the Norms and Standards be incorporated in elephant hunting permit conditions. As Balule Nature Reserve has not been declared a National Protected Area, the issuing authority for Raby's permit would be a Member of the Executive Council (MEC) of the Limpopo Dept. of Economic Development, Environment and Tourism (LEDET). Additionally, the PH must have a professional hunting permit and the outfitter must have a hunting-outfitter permit, each of which is issued pursuant to the Limpopo Environmental Management Act 7 of 2003 (LEMA).<sup>7</sup> The PH and hunting-outfitter permits are also issued by the MEC of LEDET.<sup>8</sup>

### 2.2 The Elephant Norms and Standards

Pursuant to TOPS, "If any norms and standards apply to the restricted activity for which a permit is issued, that permit must be issued subject to a condition that the permit holder is bound by those norms and standards and must act in accordance with those norms and standards when carrying out the restricted activity."<sup>9</sup>

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<sup>3</sup> Lists of Critically Endangered, Endangered, Vulnerable and Protected Species, GN R. 151 of GG 29657 (23 Feb. 2007).

<sup>4</sup> NEMBA § 57.

<sup>5</sup> *Id.* § 88.

<sup>6</sup> TOPS, GN R.152 of GG 29657 (23 Feb. 2007).

<sup>7</sup> LEMA §§ 49(1), 97.

<sup>8</sup> *Id.* § 97.

<sup>9</sup> TOPS § 19(2)

The purpose of the Norms and Standards is to ensure that “elephants are managed in the Republic in a way that ... (vi) is ethical and humane and (vii) recognises their sentient nature, highly organised social structure and ability to communicate.” Further, they provide that “[a]ny person ... carrying out an activity that relates, directly or indirectly, to an elephant must do so with regard to the following further principles”:

(h) management interventions must, wherever practicable, be based on scientific knowledge or management experience regarding elephant populations and must -  
(i) take into account the social structure of elephants; (ii) *be based on measures to avoid stress* and disturbance to elephants;

(i) where lethal measures are necessary to manage an elephant or group of elephants or to manage the size of elephant populations, these should be undertaken *with caution* and after all other alternatives have been considered;

(j) while efforts should be made to ensure that elephants continue to play an important role in an already well established nature-based tourism sector this *should not occur in an inappropriate, inhumane or unethical form or manner*;

...

(l) every effort must be made to safeguard elephants from abuse and neglect.

### 2.3 Greater Kruger Hunting Protocol

Balule is part of the Associated Private Nature Reserves (APNR), which published the Protocol, which must be signed by the hunter, the PH or outfitter, and the Nature Reserve’s representative for a hunt to be approved. The Ethics of the Protocol provide:

The obligation is acknowledged to respect animals and appreciate that they are sensitive to pain, respond to stress and may remember such experiences.

It is acknowledged that the legitimacy of hunting animals from wild animal populations subject to compliance with the highest moral and ethical standards in recognition of a reverence for life and good sportsmanship....

The weapons and ammunition used must be adequate to ensure quick and humane kills and that the hunter and the PH must prove his/her proficiency in the use of the weapons before commencing the hunt.<sup>10</sup>

The Protocol also imposes mandatory guidelines for professional hunting of elephants, to which “reasonable attempts [must] be made to adhere”:

In the hunting of the elephant, it is preferred that the client shoot for a ‘Brain Shot’ with his/her initial shot. By doing this it will be immediately apparent whether the elephant has been wounded or not.

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<sup>10</sup> Protocol § 3.

If the animal falls to the initial brain shot a further shot will be shot at all times to ensure that the animal is dead, either by client or PH.

If the animal does not immediately fall to the initial brain shot the Professional Hunter and Reserve representative shall both immediately put in a heart/ lung shot and then while the wounded elephant is still visible shall continue to fire further back-up shots, either lung, brain or disabling shots, as preferred.<sup>11</sup>

Criminal charges have been pursued in connection with violations of the Protocol. In August 2018, Balule Nature Reserve laid criminal charges against a game warden, Frikkie Kotze, for an elephant hunt he guided in which he authorized the shooting of a collared elephant in the Reserve and in a province other than that for which the permit was granted.<sup>12</sup> Kotze “pleaded guilty to the charges and was fined R50,000 or five years imprisonment, with both options suspended for five years. In addition, he must pay R35,000 to Elephants Alive to replace the elephant collar.”

Additionally, in late 2018, an elephant was shot thirteen times in front of tourists in the Reserve.<sup>13</sup> Ms. Hausmann condemned the shooting as unethical, stating that the hunt did “did not comply with the sustainable utilization model of ethical hunting in accordance with the hunting protocol that governs all reserves within APNR and to which Balule and hence Maseke are bound.” While Ms. Hausmann ultimately concluded that there was insufficient documentary evidence (“Hausmann said it was a case of ‘he said, she said’”) to pursue a violation,<sup>14</sup> the video of the hunt in this instance provides objective evidence of this unethical hunt.

#### 2.4 Offenses and Penalties

Section 101(2)(b) of NEMBA provides that “[a] person who is the holder of a permit is guilty of an offence if that person ... performs the activity for which the permit was issued otherwise than in accordance with any conditions subject to which the permit was issued.” Section 101(3)(e) holds that “[a] person is guilty of an offence if that person ... permits or allows any other person to do, or to omit to do, anything which is an offence in terms of subsection (1) or (2).” Such an offense is punishable by a fine of up to R10 million, imprisonment for up to ten years, or both.<sup>15</sup>

A violation of the conditions of the hunting-outfitter and/or PH permits, issued under LEMA, is also an offense under that Act,<sup>16</sup> punishable of “a fine not exceeding R150,000 or to imprisonment for a period not exceeding 7 years or to both.”<sup>17</sup>

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<sup>11</sup> *Id.* § 5.

<sup>12</sup> Africa Geographic Editorial, *Illegal Collared Elephant Hunt in Greater Kruger—Warden Convicted*, Conserv. Action (Nov. 26, 2018), <https://conservationaction.co.za/recent-news/illegal-collared-elephant-hunt-in-greater-kruger-warden-convicted/>

<sup>13</sup> Louzel Lombard Steyn, *Young Balule Elephant Shot 13 Times Before Horrified Visitors*, Conserv. Action (Dec. 5, 2018), <https://conservationaction.co.za/media-articles/young-balule-elephant-shot-13-times-before-horrified-visitors/>

<sup>14</sup> Louzel Lombard Steyn, *Balule Elephant Hunters Acquitted, Despite Eyewitness Reports*, News24 (Mar. 28, 2019), <https://www.news24.com/news24/green/news/balule-elephant-hunters-acquitted-despite-eyewitness-reports-20190327>.

<sup>15</sup> NEMBA § 102(1).

<sup>16</sup> *Id.* § 115.

<sup>17</sup> LEMA § 117(b)(i).

### **3 Application to the Hunters**

The Norms and Standards and the Protocol require that a hunted elephant's welfare be taken into account, and that the hunt is "ethical" and "humane." This hunt was particularly cruel. It was in Brown, Couzens and another PH's power to reduce the elephant's suffering by taking quick secondary shots after the Raby had initially shot the elephant. When it was clear that Raby was not shooting accurately, they failed to quicken the elephant's death to end his suffering. Brown explained that he does not like to do any of the shooting, preferring to let "the client do his thing." Further, there was an extended period of time, continuing after the end of the video, where they all did not shoot but appeared to allow the elephant to die a slow death.

This conduct appears to violate the Norms and Standards and the Protocol. It is unclear as to whether either was incorporated into the permits at issue, but it appears that Raby, Brown, Couzens, and Balule's representative likely signed and assented to the Protocol. A violation of conditions of the permit is an offense under NEMBA.

Raby, as the hunter and holder of the permit, would be liable for any such violations under section 101(2)(b) of NEMBA. The accompanying hunters, including Balule's representative, may also be liable of the attendant offense in section 101(3)(e) for any such violations by Raby, as they instructed him when and how to shoot the elephant, and failed to shoot the elephant and end his suffering.

Wayne Wagner Safaris and Umzikis Hunting Safaris, by whom Brown and Couzens are employed, respectively, must hold Limpopo hunting-outfitter permits. Further, Brown and Couzens must individually hold Limpopo PH permits. If these permits required that the holders comply with the Protocol and applicable Norms and Standards, or contain independent conditions that the holder must guide hunts in an ethical and humane manner, Brown and Couzens may have also violated their own permits, an offense in terms of section 115 of LEMA.