



**THE HUMANE SOCIETY**  
OF THE UNITED STATES



**HUMANE SOCIETY**  
INTERNATIONAL

December 8, 2014

Brenda Tapia  
Branch of Permitting  
Division of Management Authority  
U.S. Fish and Wildlife Service  
5275 Leesburg Pike  
Falls Church, VA 22041

***Re: Black Rhinoceros Trophy Import Permit Applications  
(PRT-33291B; PRT-33743B)***

Dear Ms. Tapia,

The Humane Society of the United States and Humane Society International strongly urge the U.S. Fish and Wildlife Service to deny the permit applications from Corey Knowlton (PRT-33291B) and Michael Luzich (PRT-33743B) to import black rhinoceros (*Diceros bicornis*) hunting trophies from Namibia. *See* 79 Fed. Reg. 65980 (Nov. 6, 2014). Rhino poaching has dramatically increased in Namibia in the last year, corruption in the trophy hunting industry is rampant, and there is no evidence that Namibia's rhinoceros management plan has been updated to include the most recent scientific information. Issuing these import permits would result in the death of a critically endangered black rhino and would clearly not enhance the propagation or survival of the species, as required by law. Indeed, granting these permits would undermine rhino conservation efforts and would violate the Service's duties under the ESA and implementing regulations. 16 U.S.C. § 1539; 50 C.F.R §§ 17.21, 17.22. Thus, the Service must deny these applications.

**ESA Permitting Standards**

Pursuant to the ESA (16 U.S.C. § 1538(a)) and Fish and Wildlife Service regulations (50 C.F.R. §§ 17.21, 17.22), once the Service lists a species as endangered, as it did with the black rhinoceros (*Diceros bicornis*) over 30 years ago (45 Fed. Reg. 47352 (July 14, 1980)), individuals of listed species are protected from import unless such action will "enhance the propagation or survival of the affected species" or is for scientific research consistent with the conservation purpose of the ESA. 16 U.S.C. § 1539(a)(1)(A); 50 C.F.R. §§ 17.21, 17.22. As the plain language of the statute makes clear, enhancement authorization may only be issued for activities that *positively benefit* the species in the wild. *See also* FWS, *Ensuring the Future of the Black Rhino* (Nov. 25, 2014), at <http://www.fws.gov/news/blog/index.cfm/2014/11/25/Ensuring-the-Future-of-the-Black->

[Rhino](#) (acknowledging that the ESA enhancement standard is more stringent than the CITES non-detriment standard and that these rhino import permits will only be issued if the Service finds “that the rhino is taken as part of a well-managed conservation program that contributes to the long-term survival of the species”); U.S. Fish and Wildlife Service Handbook for Endangered and Threatened Species Permits (1996) (making clear that an enhancement activity “must go beyond having a neutral effect and actually have a positive effect”).

Enhancement authorization must be granted on a case-by-case basis, with an application and opportunity for meaningful public participation. 16 U.S.C. § 1539(c); *Friends of Animals v. Salazar*, 626 F. Supp. 2d 102, 119 (D.D.C. 2009). Before the Service can issue authorization to conduct otherwise prohibited acts, it must find that: (1) the permit or registration was “applied for in good faith;” (2) the permit or registration “will not operate to the disadvantage of such endangered species;” and (3) the proposed action “will be consistent with the purposes and policy” of the ESA (i.e., *conservation*<sup>1</sup>). 16 U.S.C. § 1539(c)-(d). As explained by Congress, these requirements were intended “to limit substantially the number of exemptions that may be granted under the act.” H. R. Rep. No. 93-412 p. 17 (1973) (emphasis added). Implementing regulations further require that applicants provide detailed information about the animals, persons, facilities, and actions involved in the otherwise prohibited activity. 50 C.F.R §§ 17.21(g), 17.22; *id.* § 13.21(b)(2)(3) (authorization may not be issued if applicant “failed to disclose material information required” or “failed to demonstrate a valid justification”).

In deciding whether to issue an enhancement permit, the FWS must consider “[t]he probable and indirect effect which issuing the permit would have on the wild populations of the wildlife sought to be covered by the permit;” “[w]hether the permit . . . would in any way, directly or indirectly, conflict with any known program intended to enhance the survival probabilities of the population from which the wildlife sought to be covered by the permit was or would be removed;” “[t]he opinions or views of scientists or other persons or organizations having expertise concerning the wildlife or other matters germane to the application;” and “[w]hether the expertise, facilities, or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application.” 50 C.F.R. § 17.22(a)(2).

### *Current Status of Rhinos in Namibia*

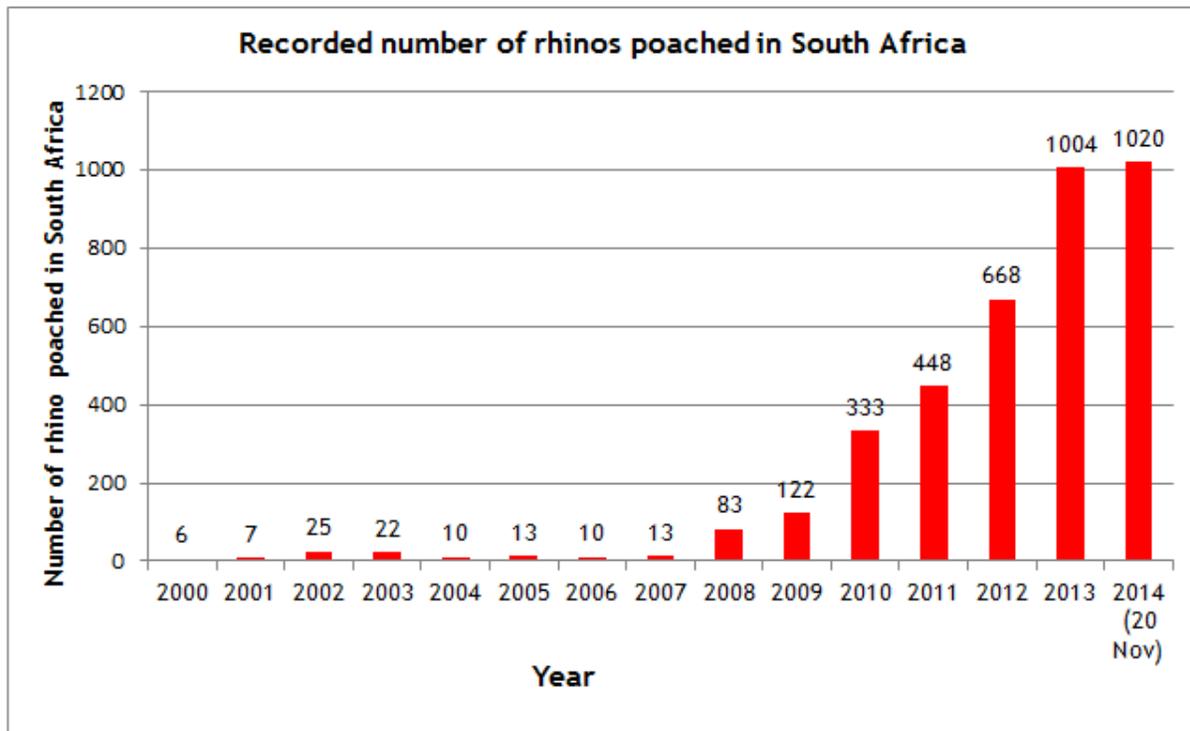
Rhinoceros across Africa are facing a poaching crisis on a scale never before seen – hundreds of rhinos are killed each year to feed the demand for rhino horn used in

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<sup>1</sup> The primary purpose of the ESA is to “provide a program for the conservation of such endangered species.” 16 U.S.C. § 1531(b). The term “conservation” means “to use...all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary” – i.e. to recover the species in the wild so that it may be taken off of the list of endangered species. 16 U.S.C. § 1532(3).

traditional Asian medicine, and the profitable trade in rhino parts funds organized poaching gangs and terrorist organizations. See, e.g., U.S. National Strategy to Combat Wildlife Trafficking (2014), available at <http://www.whitehouse.gov/sites/default/files/docs/nationalstrategywildlifetrafficking.pdf>.

In South Africa, more rhinos have been killed so far in 2014 than in any other year in the past decade:



[http://www.savetherhino.org/rhino\\_info/poaching\\_statistics](http://www.savetherhino.org/rhino_info/poaching_statistics)

Unfortunately, rhino poaching is also on the rise in neighboring Namibia. As indicated in the attached news articles, at least 20 rhinos have been found dead in Namibia this year, with two poachings documented in the formerly secure Etosha National Park just last month.

Humane Society International is actively working to decrease the demand for rhino horn – in partnership with the Vietnam CITES Management Authority, HSI has used a variety of approaches to increase public awareness that it is illegal to buy and sell rhino horn in Vietnam, and to educate the public on the myths of medicinal uses of rhino horn. Fortunately, recent polls show that this campaign has been remarkably successful. See <http://blog.humanesociety.org/wayne/2014/10/rhino-horn-demand-drops-in-vietnam.html>.

However, rhinos continue to be under siege from poachers in Africa, and there is no evidence that Namibia's rhino management plan, the most recent version of which is more than ten years old (2003), long before the current rhino poaching crisis erupted, has been amended to account for the current threats that rhinos face.

Further, although Namibia issues permits to hunt rhino, there is no evidence that such permitting decisions take into account the best available science, which demonstrates the importance of incorporating individual-level measures of rhino genetic diversity into management plans and shows that "excess" male rhinos can successfully be used to improving genetic diversity in small populations (instead of culled via trophy hunting). See *Attached* Cain, B. et al. 2014. *Sex-Biased Inbreeding Effects on Reproductive Success and Home Range Size of the Critically Endangered Black Rhinoceros*. Conservation Biology Conservation Biology, Volume 28, Issue 2, pages 594–603, [http://www.olpejetaconservancy.org/sites/default/files/documents/Cain\\_2013.pdf](http://www.olpejetaconservancy.org/sites/default/files/documents/Cain_2013.pdf); Linklater, W. L., Adcock, K., du Preez, P., Swaisgood, R. R., Law, P. R., Knight, M. H., Gedir, J. V. and Kerley, G. I.H. (2011), *Guidelines for large herbivore translocation simplified: black rhinoceros case study*. Journal of Applied Ecology, 48: 493–502. doi: 10.1111/j.1365-2664.2011.01960.x <http://onlinelibrary.wiley.com/doi/10.1111/j.1365-2664.2011.01960.x/full>.

The international trade in rhino horns for commercial purposes is prohibited under the U.N. Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Rhino poaching and the illicit international trade in rhino horns has been on the CITES agenda for decades, including at the most recent meeting of the Conference of the Parties, held in March 2013, and subsequent meetings of the CITES Standing Committee. The illegal trade in rhino horns also has been the subject of other high level multilateral negotiations, including the February 2014 London Conference on Illegal Wildlife Trade ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/281289/london-wildlife-conference-declaration-140213.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/281289/london-wildlife-conference-declaration-140213.pdf)).

Thus, it is imperative that Namibia reevaluate whether critically endangered black rhinos can be sustainably hunted for trophies, especially in light of the current poaching crisis and new scientific information demonstrating the value of preserving bulls. Unless or until such analyses are completed, it is impossible for the Service to make an enhancement finding for these permit applications.

*The Service Cannot Rely on Its Previous Enhancement Finding or Non-Detriment Finding*

In 2013, the Service issued an import permit for a black rhino trophy from Namibia (PRT-229051); however, for the following reasons, the Service's findings underlying that permit are insufficient for the Service to make an enhancement finding on the current applications

from Mr. Knowlton and Mr. Luzich. *See* FWS, *Record of Advice on Import Permit Application (No. 229051, Feb. 2, 2010)*; FWS, *Enhancement Finding for PRT-229051*.

The Service stated that the positive enhancement finding for PRT-229051 was based on three factors: success of implementing the Black Rhino Conservation Strategy for Namibia, the use of funds generated from black rhino hunts, and the biological need for such harvests. Not only were these findings flawed when originally issued, but given the materially different landscape in 2014 (and the ongoing poaching crisis), these findings are particularly inadequate to support issuance of the Knowlton and Luzich permits.

Regarding the “success of implementing the Black Rhino Conservation Strategy for Namibia”: The previous enhancement finding states that the Strategy “contains very specific management goals in the area of range expansion, biological management, protection, policy and legislative frameworks, and capacity building and sustainability”; “through this strategy, local communities directly benefit, resulting in increased community support for presence of black rhino and provides a disincentive to poaching”; and “between 2001 and 2012, the population of black rhino in Namibia increased from 735 to over 1700. It should be recognized that the ten-year target established in the Strategy plan was to increase the population to 1,500 animals by 2011.” The implication of this explanation is that U.S. importation of a black rhino trophy is important to the success of the Strategy.

However, firstly, given the wide-ranging activities addressed under the Strategy, it would be impossible to single out any one element—such as trophy hunting of one black rhino and the trophy being imported to the U.S.—as being the sole reason for the success of the Strategy. Secondly, these statements are about the Strategy as a whole, not trophy hunting and not importation of a trophy into the U.S. Thirdly, it is clear that whatever successes the Strategy had to date have happened without imports to the U.S. (since granting the Namibian import permit is inconsistent with the Service’s policy over the last several decades). In conclusion, whatever success the Black Rhino Conservation Strategy for Namibia has achieved, it has done so without imports of black rhino trophies to the U.S. Evidence is cited in the enhancement finding for the success of the Strategy, but no evidence is provided that the importation of a black rhino trophy will enhance the survival of the species.

Regarding “the use of funds generated from black rhino hunts”, the previous enhancement finding states that “permitting this rhino trophy deposited \$175,000.00 into the GPTF.” According to the finding, the “Game Products Trust Fund” was established to ensure “that revenue obtained from the sale of wildlife products could be used exclusively towards wildlife conservation and community conservation and development programs aimed at harmonizing the co-existence of people with such wildlife, and thus securing a future for wildlife outside of and within protected areas in Namibia.” The finding further states that “since the need to protect populations from poaching and provide on the ground oversight,

including 24-hour surveillance, may be prohibitively expensive, the sale of a surplus male trophy and the use of the funds derived from that sale to provide the protection and oversight needed, will serve to enhance the survival of the species.” The implication of these statements is that the \$175,000 paid to the GPTF will: a) be used for black rhino conservation; and b) this will enhance the survival of the species.

Further, there is no guarantee that any of the \$175,000 will be used for black rhino conservation as this money was deposited into the GPTF which is a general fund allocated by a Board to all manner of projects including those that have nothing to do with rhinos, and could even be harmful to rhinos, such as “rural development”. The GPTF Board, comprised of diverse interests including community representatives, and Ministries of Agriculture and Finance, decides which projects will be funded. Secondly, even if some or all of the funds are used for black rhino conservation, there is no guarantee that the activities undertaken will enhance the survival of the species. Thirdly, given the reported success of black rhino conservation in Namibia as described in the enhancement finding, it is unclear what the additional funds provided by this hunt could do to further enhance the survival of the species; as noted in the enhancement finding, at that time there was virtually no rhino poaching in Namibia. In conclusion, the previous enhancement finding admits that there is no guarantee that funds generated from black rhino hunts will be used to enhance the status of the species in the wild. Furthermore, the enhancement finding demonstrates that black rhino conservation in Namibia has been successful without funds associated with U.S. trophy imports.

Finally, regarding “the biological need for such harvests”, the previous enhancement finding makes the case that so-called post-reproductive, surplus male black rhinos “need” to be removed from the population because males kill each other, compete with and impede immigration of younger males, repress breeding, and suppress gene flow. The finding makes numerous statements in this regard including: “there have been indications that aggressive males may be a population-limiting factor in some areas and removal of these individuals may lead to a population increase and greater survival”; “the removal of limited number of males has shown to stimulate population growth in areas where it is evident that density dependent effects are repressing breeding and causing mortality”; “biological effects of removing specific individuals from a population include 1) reduced male fighting; 2) shorter calving intervals; and 3) reduced juvenile mortality”; and “male-biased populations can have an adverse effect on productivity, gene flow, and immigration of younger males”. Firstly, to call this a “biological need” is to ignore millions of years of evolution that resulted in these behaviors. In evolutionary terms, mortal combat between males and competition with younger males is optimal behavior that does not “need” to be addressed by human intervention; if it were not optimal, it would not have evolved. Secondly, the enhancement finding does not cite sources in the scientific literature to support the claims made, particularly that removal of males stimulates population growth and improves gene flow. Thirdly, even if these claims were true, the enhancement finding

does not provide evidence that the black rhino trophy to be imported came from an “aggressive male” that lived in one of the areas or populations referred to in the claims (with density-dependent effects, or male-biased populations). Fourthly, the finding refers to density-dependent effects of black rhinos without understanding that the reference cited, Emslie et al. (2009)<sup>2</sup>, refers to the effect of density of rhinos in fenced sanctuaries, and not to the effect of removing a specific individual from a wild population, which is relevant to the import of the Namibian black rhino trophy.

Furthermore, the previous enhancement finding for the Namibian import argues that import of a black rhino trophy to the U.S. will not harm the survival of the species. The finding states that “animals to be taken as trophies may only be “post reproductive” male animals and assumed to be beyond normal reproductive age that would be at least 30 years old. Presumably, this means that these animals are well represented in the population”; and “all current studies of population dynamics indicate that the removal of a limited number of surplus males from a self-sustaining population will have little effect on the fecundity or survival of that population”. Firstly, the enhancement finding does not cite sources in the scientific literature to support the claims made, particularly that male black rhinos aged 30 and above no longer reproduce and that their genes are “well represented in the population”, and that removal of “surplus males” will have little effect on survival of a self-sustaining population. Secondly, wild black rhinos may live to age 40 (Berger and Cunningham 1995)<sup>3</sup>; removal of a 30 year-old black rhino deprives the population of perhaps ten more years of genetic contribution, vital to the genetic diversity and therefore the resiliency and survival of a critically endangered species. Thirdly, the enhancement finding provides no evidence that the male black rhino subject to the import permit was a “surplus male” or that he lived in a “self-sustaining population”. In conclusion, the enhancement finding for the Namibian import does not demonstrate a “biological need” for removing males from black rhino populations, and should not be relied upon in evaluating the South African import permit application.

The ESA (16 U.S.C. § 1539(c)) requires the Service to make individualized enhancement findings and the Service must reconsider its previous findings and examine the Knowlton and Luzich applications *de novo*. But even if the Service did apply the same criteria, these applications should be denied – for example, Knowlton’s application seeks authorization to kill and import the trophy of Bull D, a 28 year old male that is under the 30 year age limit the Service used in its previous analysis.

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<sup>2</sup> Emslie, R.H., R. Amin, and R. Kock (eds). 2009. Guidelines for the in situ Re-introduction and Translocation of African and Asian Rhinoceros. IUCN Species Survival Commission, Gland, Switzerland.

<sup>3</sup> Berger, J. and C. Cunningham. 1995. Predation, sensitivity and sex: why female black rhinoceroses outlive males. *Behavioral Ecology* 6 (1): 57-64.

### Deficiencies in Knowlton and Luzich Applications

Mr. Luzich and Mr. Knowlton fail to meet both the procedural and substantive requirements for issuance of the requested import permits; therefore, the Service must deny these applications.

#### ➤ Bad Faith

As an initial matter, these individuals cannot be said to have applied for this authorization in good faith, as required by law. 16 U.S.C. § 1539(d)(1). Mr. Luzich and Mr. Knowlton are two wealthy business men whose primary interest is securing a trophy for personal enjoyment and aesthetic purposes, not to contribute to rhino conservation. Michale Luzich is Managing Partner at Luzich Partners, LLC, a Las Vegas-based investment firm. Luzich is a member of the NRA Golden Ring of Freedom, which requires a minimum donation of \$1 million to the NRA to gain entry. Luzich has already killed a critically endangered black rhino that he now seeks to import to display as a trophy. Corey Knowlton is currently an Associate Hunting Consultant for The Hunting Consortium Ltd. and works on the “Jim Shockey’s The Professionals”. Mr. Knowlton’s application acknowledges that without the issuance of the import permit he will not hunt a black rhino (thus confirming that his primary desire is to acquire a trophy for personal enjoyment).

The Service cannot issue authorization to conduct otherwise prohibited activities to an applicant who has no intention, let alone expertise, to actually contribute to conservation of the species.

Further, it is especially concerning that Mr. Luzich’s application references Peter Thormahlen, a professional hunter with a history of arrests for violating hunting regulations, including leading multiple “hunts” to feed the rhino horn trade. See Brendan Borrell, *Hunters Paying \$150,000 to Kill an Endangered Rhino May Save the Species* (Dec. 9, 2010), available at <http://www.bloomberg.com/news/2010-12-09/hunters-paying-150-000-to-kill-an-endangered-rhino-may-save-the-species.html>; *South Africa Vets & Hunters Involved in Rhino Poaching* (July 18, 2012), at <http://www.wildlifeextra.com/go/news/rhino-m99.html#cr>. Perhaps most egregiously, last year one of Thormahlen’s American clients killed a **female** rhino in Mangetti National Park, a significant loss to the breeding potential of this critically endangered species. See The Namibian, *Napha Distances Itself from Rhino Cow Hunter* (Oct. 2014), <http://allafrica.com/stories/201410230452.html>. This also demonstrates improprieties in the management and security of Mangetti, which is the same location that Knowlton and Luzich reference in their applications.

#### ➤ Insufficient Information

Neither Mr. Luzich’s nor Mr. Knowlton’s application provides sufficient information for the Service to make an enhancement finding.

Both of these applications include the same supporting documentation, as both applications were completed by John Jackson, President of Conservation Force, which has a vested interest in facilitating trophy hunting and imports of trophies. By and large, the documentation characterizes trophy hunting as having an important economic benefit. But it is irrelevant that some people consider trophy hunting in general, or Namibia's rhino trophy hunting program in particular to be of economic value – the ESA requires the Service to deny an import permit application unless the applicant clearly demonstrates that the proposed activity would enhance the survival of the species.

Mr. Jackson and the Director of Conservation Force (Shane Mahoney) are members of the IUCN “Sustainable Use and Livelihood Specialist Group” – not to be confused with the IUCN African Rhino Specialist group, which is the scientific authority on the issue of black rhino conservation and management. The letter from this “Sustainable Use” group contains a number of false and misleading statements: for example, the letter states that “Namibia has experienced very few poaching incidents” and references a document from March 2013 on that issue – but as demonstrated in the attached news articles, the situation in Namibia is drastically different now than it was in 2013, and rhino poaching has unfortunately become a significant problem in that country (both within and outside of national parks).

Similarly, the included IUCN SSC Guiding Principles on Trophy Hunting as a Tool for Creating Conservation Incentives cannot justify an enhancement finding for either Mr. Knowlton or Mr. Luzich since that document does not provide any information specific to these particular hunts and even acknowledges (at pg 7) that “Nothing in this document is intended to be interpreted in any way as a specific endorsement or criticism of a particular trophy hunting programme.”

Further, all of the information included in Mr. Luzich's application that relates to the Dallas Safari Club auction (at issue in Mr. Knowlton's application) is irrelevant, as that auction occurred four months after Mr. Luzich hunted a black rhino.

Emails between the Service and Namibia (regarding Mr. Luzich's hunt) provide no information on the rhino that was killed except to say that he was moved from Etosha National Park to Mangetti NP in 2009 because ‘it was post-reproductive and was breaking out of the park’. No information was provided on the age of the rhino as requested by USFWS, how it was determined that he was “post-reproductive” or “surplus”, or why he was selected to be hunted. Thus, Namibia did not respond fully to the request for information from the Service and provided no justification at all for the hunt of this particular animal. Indeed, the application materials provide no information at all on the population rhinos in Mangetti NP (e.g., how many are there, what is the sex ratio and age structure).

Mr. Knowlton's application is similarly insufficient. Although the application materials suggest that there is a letter of support from the IUCN/SSC African Rhino Specialist Group

for this hunt, no such letter is included in the application materials. Further, Mr. Knowlton's application states that the hunt would occur in Mangetti National Park (which the application mistakenly identifies as a game reserve) and identifies the two bulls that he will choose from to kill (Bull C (age 31) and Bull D (age 28)) – without clearly identifying which bull he is proposing to hunt, it is difficult to analyze whether the hunt would be sustainable..

Male rhinos can breed until they die so it is unclear what Mr. Knowlton's application means when he says these two bulls (age 28 and 31) are "post-reproductive". That a particular male rhino might restrict cows from breeding with younger bulls is a statement of the natural behavior of black rhinos (as male rhinos compete for access to females and older males naturally restrict younger males' access to females) – thus, such description cannot alone justify a need to remove a particular rhino from a population. Thus, the information provided in these applications is insufficient for the Service to make a finding that importing trophies of the particular rhinos hunted would enhance the survival of the species, as required by law.

➤ Trophy Hunting Is Not Enhancement

HSUS and HSI object to the notion that trophy hunting of a critically endangered species provides a net benefit to species survival. Indeed, there is abundant evidence that the existence of legal markets for endangered species can both encourage and facilitate poaching of those species. See Valerius Geist, *How Markets in Wildlife Meat and Parts, and the Sale of Hunting Privileges, Jeopardize Wildlife Conservation*, CONSERVATION BIOLOGY, Vol. 2, Issue 1 at 16 (Mar. 1988) (U.S. wildlife conservation has been "based on three primary policies ... 1) the *absence* of market in the meat, parts, and products of [wildlife,] 2) the allocation of the material benefits of wildlife by law, not by the market place . . . , 3) the prohibition on frivolous killing of wildlife"); David M. Lavigne, *et al.*, *Sustainable utilization: the lessons of history*, THE EXPLOITATION OF MAMMAL POPULATIONS 251, 260 (Victoria J. Taylor *et al.* eds., 1996) (establishment of "legal markets for valuable wildlife product . . . provide[s] incentives for poaching [because] when the prices of wildlife products are sufficiently high, they also attract criminal elements into poaching, making wildlife protection not only increasingly difficult but also dangerous"); Lavigne, *et al.*, at 258-260 ("Generally, putting a price on dead wildlife almost invariably leads to over-exploitation and increases the 'extinction potential' of target species"); Hunter, *et al.*, INTERNATIONAL ENVIRONMENTAL LAW & POLICY at 1035 (Foundation Press 1998) (Excerpt) ("Trade is responsible for an estimated 40% of vertebrate species facing extinction. Ironically, market forces can exacerbate the threats from illegal trade, for as species become rarer their value on the market increases to reflect this scarcity, increasing the incentive for further poaching"); see also Valerius Geist, *North American Policies of Wildlife Conservation*, WILDLIFE CONSERVATION POLICY (Geist and McTaggart-Cowan eds 1995). Further, the Service has explicitly recognized that some of these endangered species are specifically

targeted by “non-resident hunters” who seek to obtain “trophies” of these exotic wild animals. 70 Fed. Reg. 52319, 52321.

For trophy hunters, the rarer the trophy, the more valuable and expensive it is, and the greater is the prestige. *See* Courchamp F, Angulo E, Rivalan P, Hall RJ, Signoret L, et al. (2006) *Rarity Value and Species Extinction: The Anthropogenic Allee Effect*. PLoS Biol 4(12): e415. doi:10.1371/journal.pbio.0040415.

The Service cannot sanction such actions that are anathema to the letter and intent of the ESA, the purpose of which is to “provide a program for the conservation of such endangered species.” 16 U.S.C. § 1531(b); *see also Humane Society v. Kempthorne*, 481 F. Supp. 2d 53, 62 (D.D.C. 2006) (enjoining an FWS program allowing lethal take of endangered gray wolves, holding that: “[t]he language ‘propagation or survival of the affected species,’ is on its face, antithetical to the killing of 43 members of an endangered species barring some direct and immediate danger imposed by the individual animals killed to other members of the species.”) (vacated as moot); *Fund for Animals v. Turner*, 1991 WL 206232, at \*7 (D.D.C. Sept. 27, 1991) (rejecting FWS’s argument that hunting threatened grizzly bears promotes conservation by creating wariness of humans).

➤ Donations Are Not Enhancement

The ESA requires a direct link between the authorized action (the take or commerce) and the required effect (enhancement). *See* 58 Fed. Reg. 32,632 (June 11, 1993) (questioning “whether there is a *direct cause and effect relationship* between education through exhibition of living wildlife and enhancement of survival in the wild of the species exhibited”) (emphasis added). The plain language of the ESA only allows FWS to permit an “otherwise prohibited action” if *that action* enhances the species’ survival. 16 U.S.C. § 1539(a)(1)(A). Here, the “otherwise prohibited” action that the Service would be permitting – import of a hunting trophy – is not carried out for the purpose of enhancing the species; rather, the action is undertaken solely for the personal benefit of Mr. Knowlton and Mr. Luzich. Thus, such a donation offset is insufficient grounds for an enhancement finding.

As discussed above, there is no evidence that donations made to Namibia’s Game Products Trust Fund (GPTF) automatically benefit rhino conservation. Further, there is no accounting of how GPTF funds have been spent in the past, nor evidence that Namibia’s black rhino conservation plan relies on funding from trophy hunting. Indeed, if such information existed, one would have expected these applications to contain evidence that funds generated by the hunt of the black rhino in Namibia for which the Service previously permitted a trophy import, were spent by the GPTF on rhino conservation projects. But Mr. Knowlton and Mr. Luzich rely entirely on donations to the GPTF in attempt to justify their proposed actions, even though they have not even alleged how exactly their donations would be used to further rhino conservation (e.g., projects to reduce levels of poaching and human-wildlife conflict or to expand protected habitat). Mr. Jackson’s conclusory statements on these issues are not dispositive.

Mr. Luzich's application alleges that the applicant donated \$200,000 to the GPTF – but Mr. Luzich (and his attorney John Jackson) failed to provide any proof that such donation was in fact made. Further Mr. Luzich does not even allege that the money purportedly donated to the GPTF would be earmarked to implement the Black Rhino Conservation Strategy for Namibia. While Mr. Luzich appears to have paid N\$100.00 (US\$9.13) for the hunting permit, N\$135.00 (US\$12.32) to the Namibia Professional Hunters Association, and N\$250,000.00 (US\$22,820.11) to Glaser Safaris, such payments are completely irrelevant to the Service's enhancement analysis.

Any alleged loss of future auction revenue is also irrelevant to the Service's decision here, not only because such auctions have not been demonstrated to benefit rhino conservation, but because predictions about future auctions are entirely speculative.

In fact, the applicants' proposed activities would not enhance the survival of the species, would not be consistent with the conservation purpose of the ESA, and would act to the detriment of the animal involved. Therefore, the Service must deny this application for enhancement authorization.

### Conclusion

In summary, the Service must deny this import permit application because:

- Namibia's rhino conservation plan has not been updated to address the poaching crisis;
- The permits were not applied for in good faith;
- The applications contain insufficient details and explanation;
- Trophy hunting of critically endangered black rhinos is not enhancement;
- The applicants' trophy imports would not enhance rhino survival; and
- Donations cannot legally offset otherwise prohibited activities.

Nearly 100,000 HSUS and HSI constituents also submitted comments in opposition to these permits (filed separately), demonstrating that there is strong public support for protecting endangered rhinos from senseless death.

Pursuant to the Service's regulations (50 C.F.R. § 17.22(e)), HSUS hereby requests ten days advance notification (via email, [afrostic@humanesociety.org](mailto:afrostic@humanesociety.org)) prior to the issuance of these permits. Additionally, if the Service decides to issue these permits, please include with such notice a copy of the individualized enhancement finding for the applicant.

Sincerely,



Anna Frostic  
Attorney, Wildlife Litigation  
The Humane Society of the United States  
2100 L Street NW, Washington, DC 20037



Teresa M. Telecky, Ph.D.  
Director, Wildlife Department  
Humane Society International