



# Public Watch

**Contributing constructively to law and policy  
development and governance in South Africa**

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Dear Minister van Schalkwyk

## **CAPTIVE ELEPHANTS & THE DRAFT NORMS AND STANDARDS**

Public Watch is an affiliation of informed South Africans (with a current official membership of over 200 people) concerned with law and policy development and governance in South Africa, and aims to ensure that these are informed, ethical and accountable. Public Watch acts to alert both the public and key government officials of issues that require redress or attention.

Public Watch has actively engaged in the consultation opportunities afforded by your department to develop Norms and Standards for the management of elephants. In May 2007 we submitted 43 written comments on the draft Elephant Norms and Standards that was published for public comment. Further, we attended the Public Stakeholder meeting on the 10 October 2007 to discuss a revised draft of the Norms and Standards (dated 20/09/07, draft 2). Recently we were in attendance at both the Captive Elephant Working Group meeting held on 8 November 2007 as well as the Stakeholder meeting on 12 November 2007.

We write here to alert you to fundamental problems in the way in which the management of captive elephants is being handled in the development of Norms and Standards for this protected species. We request your urgent intervention in this matter.

### **DEAT responsibility for care and management of captive elephants**

The departmental officials have informed stakeholders that they have been advised that the management of elephants in captivity are not DEAT's mandate, and that all aspects related to captive elephants (their care and use) must be referred to the Department of Agriculture. We submit that this is entirely inappropriate and nonsensical, for the following reasons:

1. The issuing of permits for keeping of elephants in captivity falls under the jurisdiction of NEMBA and the associated TOPS regulations. There is provision in NEMBA for the registration of captive centres for protected species, and for the development of Norms and Standards.
2. It will frustrate and compromise management of elephants should standards for captive elephants be dealt with in a different legal instrument and department to that of wild populations, particularly because there are aspects such as import, export and capture from the wild that are relevant to both captive and wild elephants.
3. The phenomenon of captive elephants is traditionally related to "sanctuary" and "rehabilitation", which are clearly within the biodiversity/environment mandate. The current desires of the captive elephant owners are focussed on their use for

interactions with tourists (walking with, riding), which are clearly TOURISM activities and not agricultural activities.

4. Welfare is not the only consideration when setting Norms and Standards for protected species when in captivity. There are key biodiversity issues that need to be managed in captivity as well, such as captive breeding, preventing risks from hybridisation and inbreeding, import/export, and release criteria. If the department hands the responsibility for all aspects of captive centres to the Department of Agriculture (DoA), this would mean that DoA would then need to include provisions related to biodiversity risk (which is not in its mandate!) in its standards/codes.

We urge you to intervene in this matter to ensure that the management of elephants in captivity (their care and uses) are dealt with effectively within the DEAT Norms and Standards for Elephants. We understand that this could be achieved through the current provisions in NEMBA and the TOPS regulations (or an amendment thereof, since they are not yet in force) or through a MOA with, or delegation from, DoA.

### **Provisions for captive elephants (use and care) should be underpinned by tangible information/knowledge and scientific evidence**

We are particularly disturbed by the roller-coaster ride that discussion and inclusion of provisions for captive elephants have taken in the development of the Norms and Standards for elephants.

In our opinion this has resulted from a lack of due attention by department officials to information at hand and available scientific evidence, with regard to:

1. the negative impacts on wild herds and individual elephants of capture from the wild
2. the wealth of literature and expert knowledge on ethology and social biology of elephants
3. the problems experienced worldwide with captive elephants, including both human deaths, accumulations and ethical issues
4. the inadvisability of captive breeding of elephants
5. the past history in this country of successful prosecutions for cruel training and the recent denial of a licence by a magistrate for training of elephants
6. the cruel training methods (initial and ongoing) required to produce tame elephants that are safe for “free contact interactions” (e.g. riding) and appear “happy” to the uninformed tourist
7. the failure of the captive elephant owners to present any evidence that they can or do train elephants without cruelty

Of particular concern is the lack of transparency from the “elephant-back safari industry” about their activities, the difficulties that are experienced by mandated welfare agencies to gain timely access to captive elephants (described as a frightening “black hole” by the NSPCA). Despite being repeatedly invited to do so by the Facilitator, the industry did not present any evidence at the Working Group meeting on 8 November 2007, or thereafter, that they are able to train and use elephants for elephant-back safaris without cruelty. We are concerned that the department should be so swayed and bullied by a self-interested small group of operators (about 20). Although they request the opportunity for self-regulation, this must be denied since there is no evidence worldwide that the kind of use of elephant that they have in mind can be done ethically and without cruelty.

We are aware from media reports that you visited EFAF and had a first-hand experience of riding an elephant. While no doubt the close interaction with elephant makes a strong

impression, we are confident that you were not duped into believing that the “safe” and “content” elephant you may have seen were produced without (ongoing) behind-the-scenes cruelty.

It is important that scientific evidence and tangible information are used as the basis for the Norms and Standards for matters related to keeping of elephants in captivity. The conclusions that we recorded at the Working Group meeting of the 8<sup>th</sup> November 2007 were based on scientific information and expert opinion and on tangible information provided (see Appendix). These conclusions were confirmed in a presentation at the start of the 12<sup>th</sup> November 2007 meeting. We therefore found it inexplicable that opinions voiced by the industry, with no evidence to back them up, were at the 12 November 2007 meeting allowed to subvert the considered outcomes of the Working Group meeting of the 8<sup>th</sup>. It is notable that at least one of the welfare NGOs, as a matter of principle, chose to boycott the meeting and that the NSPCA walked out midway.

We urge you to intervene to ensure that the work done by the Working Group, and the evidence-based conclusions reached (see Appendix), are not lost or disregarded.

### **Risks to inappropriate provisions for captive elephants**

Management of elephants is a very sensitive issue, both in South Africa and worldwide. We submit that if capture from the wild, training for free contact and elephant-back safaris be allowed that, in addition to risk to human lives, this industry has the potential to seriously damage tourism in South Africa. In the current climate of fair trade and eco-responsible tourism, informed tourists will not support a tourism industry that condones cruelty to elephants.

It is notable that a member of the elephant industry explained that prohibition of “free contact” need not destroy the captive-elephant tourism industry, since “protected contact” in sanctuary situations can provide close-up interactions between elephants and tourists, and does not require inhumane dominance training and risk to human lives.

### **In conclusion**

It is our opinion, based on available evidence, that any further capture, import or breeding of elephants for captivity should be prevented. Provisions must be put in place to ensure that elephants that are already captive are used and cared for responsibly, humanely and ethically, and all cruel practices must be prohibited.

We request your urgent intervention to ensure that progressive steps are taken in the care and management of captive elephants. Only then will South Africa be able to be proud of its custodianship of a true icon of its natural heritage - the elephant.

Sincerely



**Dr Amanda T. Lombard  
Conservation Biologist  
For Public Watch**

*A list of members who  
attach their names to  
this correspondence will  
be supplied if required*

## APPENDIX

### Evidence-based conclusions with regard to captive elephant use

Public Watch attended the Working Group meeting on 8 November 2007, in which scientific information, eyewitness evidence and elephant-training industry accounts were presented. Below we summarise the twelve main scientifically-based conclusions reached. Public Watch supports all of these conclusions.

1. Capture from the wild for captivity must be prohibited. Scientific evidence confirms that wild-capture is an inhumane practice, considering the significant negative impacts on individual elephants, and on wild herds. Behavioural scientists assert that it is kinder to cull than to submit wild elephants to a lifetime in captive training. Public Watch believes that “a live elephant is better than a dead elephant” only if that live elephant is not subjected to dominance training.
2. The import and export of elephants for captivity must be prohibited. Any import for captivity would provide a loophole for capture from the wild in other countries.
3. Captive breeding of existing captive elephants must be prohibited. Captive breeding would serve to prolong the problems associated with captive elephants. For example, the training of captive-bred elephants is open to abuse. Although training can initially be “softer/humane”, as the calves grow older “harder/more aggressive” training is required to dominate the animal, to allow for free contact (i.e. unprotected contact). This problem is pronounced in the case of male elephants, especially when they are in musth. Use of contraceptives for all captive elephants must be a norm and a permit condition. The NSPCA offered to assist financially with contraception.
4. Orphans should be rescued and brought into captivity **only in exceptional** circumstances. Scientific evidence confirms that calves of two years or older should be left to fend for themselves (they should not be considered as genuine orphans). In addition, calves under two years should be taken into temporary captivity only in exceptional circumstances, and then only for rehabilitation, and not for training.
5. “Free contact” between captive elephants and trainers/tourists must be stopped, and training for “free contact” must be stopped. “Free contact” refers to situations where there is no protective barrier between the elephant, and its trainer and the tourist. This requires the elephant to be under the firm, and predictable control, of its trainer. “Protected contact” refers to interactions where the tourist is protected from the elephant by a barrier of some sort, and allows the elephant to behave as naturally as its circumstances will allow. Public Watch supports protected contact in sanctuary situations, from where elephants are returned to the wild if possible. Sound scientific evidence, and expert opinion and testimony from experienced elephant researchers and ethologists, state that one cannot ensure that an elephant is safe enough for “free contact” (walking with elephants, elephant-back riding, circuses) unless it has undergone inhumane initial training, and experiences ongoing reinforcement training. Both the initial training, and the ongoing training to keep the elephant obedient and safe, is done out of sight of the public (owing to the chains, ankuses, and other instruments and methods used). The industry was challenged as follows: “if you throw away your chains, ropes, ankuses, and other training “tools”, will you be able to have free contact between elephants and tourists”. The industry was not able to rise to this challenge, owing to the high risk to human life when

elephants behave unpredictably (trainers have been killed during training exercises). Sound scientific explanation exists for the seemingly content elephant presented to tourists for free contact. This behavioural presentation can be explained in terms similar to the “Stockholm Syndrome” found in kidnap and abduction victims, victims of domestic abuse, and prisoners of war. The syndrome outlines the victim’s desire to “please” its captor, in order to minimise future suffering. A member of the elephant industry explained that prohibition of “free contact” need not destroy the captive-elephant tourism industry, since “protected contact” in sanctuary situations can provide close-up interactions between elephants and tourists, and does not require inhumane dominance training and risk to human lives. An urgent, explicit plan must be developed immediately in which the industry is tasked to move away from “free contact” to “protected contact”, and towards the use of “target” and positive reinforcement instead of dominance training. “Protected contact” allows the elephants to interact and respond to humans only if they feel like doing it, and they are not punished if they choose not to. Detailed protocols and standards for preparing elephants for “protected contact” must be developed, in consultation with elephant scientists (especially ethologists) and welfare agencies.

6. The use of all inhumane training methods and implements must be prohibited. There is convincing scientific evidence regarding the negative physical and psychological impacts of many training methods currently used in South Africa. These include: chaining, beating, food deprivation, water deprivation, the use of chains, straps and cables, the use of ankuses (bull-hooks), shock-sticks and earhooks. These must all be prohibited, since they are used in dominance training to engender fear in the elephant. The industry was NOT able to provide a guarantee that they could train elephants “safe” enough for free contact, if the above methods are prohibited.
7. The use and management of captive elephants must not be self-regulated (i.e. not regulated by the industry). Self-regulation represents a conflict of interests. Owing to vested business interests, the organisations that exploit elephants for commercial gain cannot be allowed to set their own standards. The South Africa captive-elephant industry has a very poor past record with regards to elephant abuse, and there are no indications that elephant-back safari operators and elephant trainers have changed their ways. Recent (2006) eyewitness accounts and photographs show that abusive training still continues (akin to the Tuli elephant methods). Members of the public, media and NSPCA are not allowed access to training facilities unless by appointment. They refer to this as “black holes” – i.e. an inability to look in and see the truth. Recently, as a result of public pressure, the captive-elephant industry has begun to draft their own “codes of conduct” for operators. When Public Watch asked for these codes, and when they were requested at a stakeholder meeting on the 12<sup>th</sup> November, the Elephant Trainers Association (ETA) refused to make these public, on the grounds that they are works in progress. Public Watch believes that the codes will allow further abuse, and that this is the real reason why the ETA is refusing to make them public.
8. Detailed standards must be set, and enforced, for the care, welfare, and permissible activities associated with captive elephants. These standards must be developed in consultation with elephant ethologists and welfare agencies, and must not be developed by the commercially-motivated industry. The standards must prevent any inhumane practices, and must outline, in detail, all permissible training techniques. Training must be for protected contact only, and for the ability to provide veterinary care.

9. All existing captive elephants in South Africa must be audited to assess their individual situations and wherever possible, individuals should be returned to the wild/semi-wild. There are many opportunities within South Africa to provide semi-wild sanctuaries for many of the existing captive elephants. Consequently, the number of captive elephants can be readily reduced in the near future.
10. Detailed monitoring of all captive elephants must be done. This monitoring must allow free, immediate and unannounced access by the NSPCA, as well as 24-hour surveillance systems, and free access by independent observers. The elephant owners should fund the surveillance, while monitoring must be managed externally.
11. Prevention of the use of captive elephants for circuses and elephant-back safaris will not have a significant economic or tourism impact. The meeting noted that tourism involving “protected” contact is a feasible alternative to tourism involving “free” contact. Current industry employment can be maintained with “protected” tourism contact. Given the international and national emotions surrounding elephants, the elephant-back safari industry presents a risk to tourism in South Africa, if the current inhumane practices are exposed. Although the industry constantly refutes that any cruelty is used, they are unable to provide convincing evidence, even when tasked to do so, and remain silent when asked if they can safely train elephants for free contact without the use of any instruments/chains etc.
12. To allow elephants to continue to be captured, trained and used in “free-contact” interactions (such as elephant-back safaris and circuses) would mean to (i) ignore scientific truths; (ii) to condone inhumane treatment of elephants, and (iii) to ignore the growing global trend away from this sort of practice. No evidence has been advanced to indicate that elephants can be trained for “free contact”, without cruelty. Consequently, if we allow legislation to develop that will condone or facilitate any opportunities for cruelty, this legislation will not be informed, enlightened or progressive, but will indicate a step backwards in South Africa’s new democracy.