

Written testimony to the Vermont House Fish, Wildlife and Water Resources Committee

Re: H.297 – Elephant Ivory and Rhino Horn Sale Ban

April 8, 2015

From: Ruth Musgrave, Wildlife Policy Consulting Associates, Olympia WA

Mr. Chairman and Members of the Committee:

Thank you for the invitation to testify before your committee regarding H.297. I have provided an information sheet and a matrix of state bills considering this same issue, so I would like here to provide information about the bipartisan nature of the issue; the connection between global and national security and the ivory market; local impacts in Africa; why a less than complete ban may prove to be ineffective; and the legality of a complete ban.

Bipartisan Nature of the Issue: The need for a ban on the sale of elephant ivory and rhino horn received bipartisan support in the New Jersey and New York legislatures. The bipartisan nature of the issue was illustrated, for example, by Gov. Chris Christie statement in signing a NJ bipartisan bill with no ban exemptions: “With this legislation, we are making it clear that there are strict consequences for individuals who would seek to profit from trafficking in these products and their harvesting that brings far-reaching, harmful consequences on endangered animal populations... These stricter measures will help to reduce the amount of criminal activity that surrounds this industry while protecting wildlife populations that are already seriously threatened from this harmful practice.” And Sen. Bateman, a Republican co-sponsor of the bill, stated: “Ivory trafficking is at the highest rate ever recorded, we must work with other states to crack down on organized crime connected with ivory sales.” These statements are in Governor Christie’s [press release](#).

Connection between Elephant and Rhino Poaching and Terrorism: International sources report the connection between the ivory market and terrorism. As examples:

1. The European Union’s recent final report, *Larger than Elephants: Inputs for an EU Strategic Approach to Wildlife Conservation in Africa* (Vol. 4, Central Africa), states:

“The increasing involvement of armed militia and rebel groups in the organized poaching of elephants is a particular concern because of its implications for national security. Several such cases have been documented in Central Africa. The infamous Lord’s Resistance army is involved in elephant poaching in Garamba NP (DRC) to fund its brutal campaign and Sudanese militia were responsible for the slaughter of elephants in Bouba Ndjida NP in northern Cameroon in 2013. The involvement of rogue elements of the national armed forces is widespread. Their involvement ranges from doing the poaching themselves, to supplying weapons and ammunition to poachers, to providing protection for the transport of the ivory...Also kidnapped children who have escaped from the LRA attest to the fact that helicopters (of undetermined origin) regularly landed at their camps to collect ivory.” [footnotes deleted]

2. The Secretary-General of CITES, the Convention on International Trade in Endangered Species, stated on World Wildlife Day:

“I am sure everyone here today has seen graphic images of elephant and rhino slaughtered for their ivory and horn...what they do not reveal is the profound impact this poaching and illicit trafficking is having upon entire species and ecosystems, local peoples and their livelihoods, national economies, and national and regional security. Nor do they reveal the faces of the transnational organized criminal gangs and in some cases rebel militia who are driving this illicit activity – corrupting officials all along the way, recruiting local poachers, and reaping high profits off shore at the expense of local communities, national economies and ecosystems. And it does not show how their ill-gotten gains are invested in all manner of criminal activities.”

3. Former Secretary of State Clinton, in a statement to a 2013 gathering of the Clinton Global Initiative, drew a direct link between terrorism and elephant poaching, citing growing evidence that terrorist groups in Africa are funding their activities in part by trafficking ivory. She said that this includes al-Shabaab, the group responsible for the recent attack at a shopping mall in Nairobi.
4. An investigative report out of Africa, *Africa's White Gold of Jihad: Al-Shabaab and Conflict Ivory*, outlines the observed atrocities that terrorist group al-Shabaab carries out and finances in substantial part through organized poaching of elephants. It concludes:

“The deadly path of conflict ivory starts with the slaughter of innocent animals and ends in the slaughter of innocent people. It is a source of funding for terrorist organizations that transcends cruelty. It is the ‘white gold’ for African jihad, white for its color and gold for its value. If we fail to act now, militant groups like al-Shabaab will lay down their roots deep in the African landscape, destroying its heritage for generations to come. Dangerous and unpredictable, al-Shabaab’s involvement in ivory trade brings with it an alarming dimension, a dimension the world cannot afford to ignore.” *

5. An extensive 2013 report, [“Criminal Nature: The Global Security Implications of the Illegal Wildlife Trade”](#) states that:

“Poachers have direct access to military weapons and arms markets linked to organized criminal and terrorist groups. In Africa news, NGO, and governmental reports regularly note that the illegal wildlife trade involves militia groups and warlords, some of which have been linked to terrorist attacks in the region and have alleged ties to al-Qaeda. In some cases, those same rebel groups, warlords, and militias that have terrorized communities in multiple African countries traverse the continent and engage in large-scale poaching. The fact that heavily armed gangs of poachers can enter national parks, reserves, and other protected areas and kill large numbers of animals and then move those products across multiple jurisdictions and ship their contraband out to destinations throughout the world through major airports and seaports is a cause for alarm for many working in global security, defense, and law enforcement.”

Finally: “The stage that this global black market has reached in terms of networks, profits, and operators, as well as its links to other trafficking syndicates, poses a substantial threat to international law and stability.”

Impact to Communities and Businesses in Africa: I wrote to a renowned Kenyan safari guide, Preston Mutinda, to inquire whether elephant and rhino poaching is impacting tourism and the businesses that depend on it. Mr. Mutinda is the highest “gold level” safari guide - one of only a handful in all of Kenya. He is the examiner for all other safari guides who are trying to achieve different levels of guide certification. He reported to me on April 4:

“Tourism which is the number one source of revenue for Kenya has drastically gone down due to poaching. We have had lots of booking cancellations when tourists are told via wildlife magazines and the internet about elephant killings...I have many times run into dead elephants on safari which were slaughtered by poachers some of which we had seen and filmed the previous day. As a result many of my guests promised never to return after seeing the dead elephants...I lost several professional photographers who used to return every year when they learned slaughter of very well-known elephants which had huge tusks... Many local people have lost their jobs in tourism sector due to many cancellations. Others affected are curio shops, farmers, sale of safari vehicles, community visits by tourists and many more. This is a big impact to local people.”

Why a Complete Ban May Be Appropriate: Trade in elephant ivory was banned completely by CITES in 1989. When individual sales of stockpiles were allowed under CITES, especially the sale of 100 tons of African nation ivory stockpiles in 2010, the floodgates of trade opened because it is almost impossible to distinguish between old or new, legal and illegally killed ivory. These tiny single exemptions’ resulting in massive, worldwide slaughter of elephants demonstrates the unintended impacts of an exemption, no matter how small.

In addition, on the state level the State of California had an ivory ban in place, but state regulations allowed the sale of ivory brought into the state before 1977. Under this exemption sales of ivory have [doubled in the last eight years, and as much as 90% of ivory for sale in California is found to be illegal](#). Because a minor exemption allowed trade to not only continue but to explode, the California legislature is now revisiting the ban with [AB 96](#), to close the loophole and prohibit the purchase, sale and possession for sale of all elephant ivory and rhinoceros horn.

Legality of No Exemptions: A complete ban on sale of animal products is not in violation of the “Takings” clause of the U.S. Constitution. This same issue was litigated in 2012 when the sale of shark fins was prohibited in California. The plaintiff alleged that it was deprived of all economically beneficial use of any shark fins that it acquired or will acquire. The court ruled that it is not a taking if the product can still be possessed or [noncommercially] transferred. Eliminating commercial trade alone does not constitute a taking. The judge in [AARCA v. Brown](#) stated: “Plaintiff has not cited any case, nor am I aware of any case, that holds that a government violates the Takings Clause when it imposes a complete ban on a product that it determines is harmful.”

Respectfully submitted,

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*It was while writing this testimony on April 2 that news broke of al-Shabaab's mass assassination of nearly 150 college students in Kenya.