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31 March 2023

RELEASE DATE:

FOR IMMEDIATE RELEASE

WRSA & PHASA WELCOMES WITHDRAWAL OF NEW TOPS REGULATIONS

WRSA and PHASA have secured the withdrawal of the "*Regulations pertaining to threatened or protected terrestrial species and freshwater species*" ("TOPS regulations") and "*List of terrestrial species and freshwater species that is threatened or protected, restricted activities that are prohibited, and restricted activities that are exempted*" ("TOPS Lists") published by the Minister of Forestry, Fisheries, and the Environment on 3 February 2023. The withdrawal follows successful urgent litigation instituted in the Gauteng Division of the High Court, Pretoria, against the Minister and her department on 6 March 2023.

The urgent application jointly brought by the two organisations sought to secure an urgent interim interdict, pending a final review, against the TOPS regulations and TOPS lists coming into operation on 1 April 2023.

"The urgent court was only approached after the Department shut the door on industry during discussions held on 27 February 2023", says WRSA chief executive officer Richard York. "WRSA initiated discussions with the Department to point out material shortcomings in the content of the regulations and the lack of prior consultation by the Minister before the publication of the regulations. Litigation was only initiated after the Department made it clear that they would not be considering the game industry's concerns."

"It is unfortunate that members of the game industry must first approach the courts before government listens to serious objections to the practicality and lawfulness of regulations", says Dries van Coller, chief executive officer of PHASA.



WRSA



PHASA
Professional Hunters' Association
of South Africa

The sudden publication of the new TOPS regulations and TOPS Species list on 3 February 2023 surprised the game industry, primarily because the last meaningful public participation process was held eight years ago in 2015 when new amendments were first proposed. The Minister's promulgated version of the regulations differed materially from the previous versions and included numerous provisions which would be detrimental to the ability of game ranchers and professional hunters to conduct sustainable business.

"The most concerning part of the regulations is the Minister's reliance on IUCN Red List data which have never been made available to the industry", says Van Coller. "We simply had no idea what information the Minister relied upon when she made the new regulations and what data and research motivated her to include some of the country's most abundant game species, such as the Blesbok, on the TOPS list of protected species. We, as an industry, were completely surprised by the new TOPS list."

"We as an industry are already being hamstrung by the inability of various national and provincial departments to administrate the myriad of environmental regulations. State departments already do not have the capacity or funding to administer the wildlife industry properly. We receive complaints from members on a near-daily basis of permits not being processed. There is simply no money in some provinces to cover the costs associated with statutory oversight work. The system is stalling due to the departments not having enough people and money to do their job. Now we see a Minister who wants to impose even more conditions on an already over-regulated industry despite having a predecessor who admitted to parliament in October 2015 that the departments will not have the capacity to administrate the new TOPS regulations. On top of all this, we see the Department refusing to talk to us when we raise concerns about how things are going."

"How is the world's most successful private wildlife industry expected to operate and grow when we need to face impractical and unnecessary legislation?" asks York. "The South African game ranching industry has been proven to be able to recover and increase species populations across the board. We sit with highly trained professional game ranchers who can sustainably maintain and even repopulate Africa's rare and endangered species without relying on any public funds if we are only allowed to conduct business. Worst of all, the Minister wants to increase regulation over privately held game but refuses to include the number of animals held in private ranches when determining whether a species



requires protection. In effect, the conservation of TOPS species significantly harms the species under the TOPS regulations.”

The Minister has confirmed, in a settlement concluded between the legal representatives for the parties the night before the matter was to be heard in the urgent court, that the new TOPS Regulations and TOPS Lists will not be coming into operation on 1 April 2023 and will be formally withdrawn by the Minister on 31 March 2023. Her department has already issued communication confirming the withdrawal of the regulations. The Minister has also agreed to pay the costs of the application.

We would like to thank WRSA and PHASA members for their generous contributions in funds and time, and a special thank you to the Sustainable Use Coalition (SUCo) for their unwavering support.

- Joint statement by WRSA and PHASA

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