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United States Senate
COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP
WASHINGTON, DC 20510-6350
TELEPHONE: (202) 224-5175 FAX: (202) 224-5619

June 30, 2015

The Honorable Daniel M. Ashe
Director
U.S. Fish and Wildlife Service
1849 C Street, N.W.
Washington, D.C. 20240

Dear Director Ashe:

I am writing on behalf of the numerous American small businesses that share my concerns over the U.S. Fish and Wildlife Service's (FWS) forthcoming proposed rule that further restricts the export, import, and commercial sale of lawfully owned elephant ivory in America. We all share the common goal of protecting our global elephant populations from the devastation of illegal poaching and ivory trafficking. Accordingly, it is vital that we develop effective, responsible policies moving forward that protect the species without unintended consequences affecting our small businesses here at home. Consequently, I am concerned over the substantial steps that the FWS has already taken in outlining the scope and substance of a rule that would have significant, negative impacts on law-abiding small businesses across the country, while offering negligible results, at best, in stopping the illegal sale of African elephant ivory.

In February 2014, the FWS issued Director's Order No. 210 in response to President Obama's 2013 Executive Order promoting efforts to reduce the demand for elephant ivory.¹ The Director's Order, which creates a ban on the import, export and sale of elephant ivory,² had to be revised after public comment revealed the extent of its substantial, unintended impacts on businesses.

I have repeatedly heard concerns over the potential economic impacts of the proposed rule from a vast range of small businesses, such as antique dealers, musicians, music stores, museums, flea markets, auctioneers and numerous other small businesses throughout Louisiana and America that continue to legally deal in ivory artifacts. Elephant ivory has widely been used in innumerable pieces of art and antiques through the mid-twentieth century, from musical instruments and furniture to firearms, chess sets, jewelry, and more. As FWS explained, "The burden of proof falls upon the person claiming the exception. Importers, exporters, and sellers should be prepared to provide documentation that exempts them from the prohibitions."³ I note

¹ National Strategy for Combating Wildlife Trafficking, THE WHITE HOUSE, (Feb. 2014), <http://www.doi.gov/news/upload/NationalStrategyWildlifeTrafficking.pdf>.

² What can I do with my African elephant ivory? U.S. Fish & Wildlife Service, <http://www.fws.gov/international/travel-and-trade/ivory-ban-questions-and-answers.html> (last visited June 29, 2015).

³ What can I do with my African elephant ivory? U.S. Fish & Wildlife Service, <http://www.fws.gov/international/travel-and-trade/ivory-ban-questions-and-answers.html> (last visited June 29, 2015).

that trained experts in these industries have taken significant and highly effective steps in identifying lawful elephant ivory to uphold responsible business practices that avoid the sale or trade of illegal ivory. Unfortunately, it is widely understood that the FWS's proposed rule would create a virtually complete ban on all commercial imports, exports, and domestic sales of elephant ivory, including legally acquired ivory.

I am concerned that the Administration's efforts, while important, are misguided and ineffective. The Administration also has a poor track record of disregarding the economic impact of rules and regulations, especially on small businesses. As they currently stand, the FWS's actions would disproportionately impact small businesses and would impose unnecessary and oppressive burdens on businesses that sell or deal in legal ivory pieces.

America's small businesses are not the enemy. Accordingly, I urge the FWS to develop a responsible policy that does not inadvertently target lawful small businesses, ivory owners or dealers. I also request that FWS conduct a comprehensive economic analysis of the proposed rule, specifically to include the costs and impacts on small businesses before moving forward with the proposed rulemaking. Furthermore, I ask that FWS promptly provide a briefing to my office outlining the steps it is taking to ensure small businesses are protected.

I appreciate your prompt and thorough response on this important matter. Please direct any questions to the Majority staff of the Senate Small Business and Entrepreneurship Committee at (202) 224-5275.

Sincerely,



David Vitter

Chairman

Senate Small Business and Entrepreneurship Committee