

June 11, 2020

Via email

Ms. Barbara Creecy, Minister
Department of Environment, Forestry and Fisheries
bcreecy@environment.gov.za

Mr. Ishaam Abader
Deputy Director-General
Legal Authorisations and Compliance Inspectorate
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Mr. Shonisani Munzhedzi
Deputy Director-General
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Re: Request to Investigate Unpermitted Import of Invasive Species for the South African Million Dollar Pigeon Race

Dear Minister Creecy and Messrs. Abader and Munzhedzi,

I am counsel to People for the Ethical Treatment of Animals (PETA) and I am writing to respectfully request that the Department of Environment, Forestry and Fisheries (Department) investigate apparent unlawful imports of an invasive species in connection with the annual South African Million Dollar Pigeon Race (SAMDPR), and take appropriate enforcement action against those responsible for violations of the National Environmental Management: Biodiversity Act 10 of 2004 (NEMBA). The National Council of SPCAs' support of this request, urging the Department's swift action, is appended to this letter.

Air Sport Internationale SA (ASI), a Swiss private company, runs the SAMDPR.¹ ASI's Managing Director is Sara Blackshaw, and the SAMDPR Race Director is Michael Holt. ASI is not registered in South Africa, and all mentions of ASI in this document include any South African agents or affiliates that it may use to manage the SAMDPR.²

During a three-month undercover investigation into the SAMDPR in late 2019 and early 2020, PETA investigators discovered that ASI and/or its agents conduct

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¹ See Moneyhouse, Air Sport Internationale SA, <https://www.moneyhouse.ch/en/company/air-sport-internationale-sa-13795920811> (business profile).

² A South African company, Blue Bar Management (Pty) Ltd, owned by Holt and Pieter Saayman (SAMDPR Systems Manager), is referenced on older race documents. Blue Bar seems to have handled transportation of pigeons within South Africa. It may also have played, or may still play, a greater role. However, all mention of the company has been deleted from the SAMDPR website.

NEMBA-restricted activities involving listed invasive species—*Columba livia*, pigeons—without the requisite invasive species permits. As detailed below, ASI imports, trades in, releases, spreads and allows pigeons to breed as part of its SAMDPR operations. This is a serious environmental concern as, over the past six years alone, tens of thousands of birds have not returned to the loft.³ Many of these birds join and breed with wild flocks of pigeons, increasing the invasiveness of pigeons in South Africa; contract communicable diseases; and risk infecting other pigeons and other birds, which could seriously affect the proximate ecosystems and the poultry industry.

We respectfully request that the Department: (1) issue a compliance order to ASI and its agents, stating that they may not carry out the restricted activities inherent in the SAMDPR without the requisite invasive species permits; (2) seek appropriate charges ASI, its agents and its principals for conducting restricted activities without the requisite permits; (3) issue a directive to Heron Banks Golf & River Estate to comply with its duty of care as the owner of the land on which the loft is located;⁴ and (4) because international shippers are preparing to import pigeons to South Africa for the SAMDPR between August and October 2020, promptly issue a moratorium on the importation of pigeons for the SAMDPR as you investigate this matter further.

Select audio, video and documentary evidence demonstrating these violations is available upon request. All surveillance was conducted and evidence obtained in accordance with South African or U.S. law, as appropriate. If your offices require any information or further evidence from PETA's investigation, we would be happy to provide such assistance and schedule a meeting with the investigator.

1. The SAMDPR's Restricted Activities

1.1. Race Background

The SAMDPR takes place annually in Gauteng and the Free State, beginning in April and extending through late January or early February. The SAMDPR loft is located on the Heron Banks Golf and River Estate, Minnaar St, Sasolburg, Free State 1948. The competition is a series of one loft pigeon races. In a one-loft pigeon race, owners of young pigeons ship their birds to a single loft and, after the birds are quarantined and homed to the loft, race organizers release the birds increasing distances from the loft, hoping that they fly back to it. The birds are then ranked in the order that they return.⁵ This year, the "Main Race" of the SAMDPR took place on February 1.

³ See SAMDPR, Results, <https://www.samdpr.com/results> (information captured in tables in Addendum C).

⁴ From 1997 to 2011, the SAMDPR loft was located at Sun City in the North West Province. In 2012, it was moved to Linbro Park, Gauteng. Since 2016, it has been located in Sasolburg on the border of Gauteng and the Free State, on land owned by Heron Banks Golf & River Estate. See Paul Smith, *The 24th South African Million Dollar Pigeon Race 2020*, Herbots, <https://www.herbots.be/en/article/the-24th-south-african-million-dollar-pigeon#/>.

⁵ This is distinct from conventional club pigeon racing, in which pigeon owners raise the birds in their own lofts, and submit them to be released from a single point with all other entrants. The birds are supposed fly back to their owners' individual lofts and they are ranked by their average speed, rather than the order that they return.

1.2. Importing

Between April and June, each year, young pigeons (some as young as four weeks old) are imported to South Africa from all over the world to be entered into the SAMDPR. Over the past six years, at least 30,000 pigeons have been imported into South Africa for the SAMDPR.⁶

Once the birds are received by the SAMDPR loft, participants relinquish their control and ownership to the race organizers.⁷ The birds are quarantined and homed to the loft until September, at which time agents of ASI begin training them.

1.3. Releasing and Spreading

For training and racing, the birds are transported away from the loft and then released to return to it, with distances incrementally increased for each training flight. Training flights occur almost every day, but race organizers record the results of only twenty-five of them. Five longer flights—between 165km and 340km—are called “Hot Spot Races.” The final race, the “Main Race,” was over 600km long, from Hanover in the Northern Cape to the SAMDPR loft in Sasolburg, on the border of the Free State and Gauteng.

For the most recent Main Race, of 1,548 birds who were entered into that final race in the competition, only 704 pigeons returned to the loft over a period of more than six weeks. An additional 27 birds who had not returned from training and Hot Spot Races arrived during that time, and 12 birds were held back from the Race. Thus, of the 3,632 pigeons who survived quarantine to begin the first training race, only 743 pigeons remained at the end of the competition. Over the past six years, the SAMDPR has lost 22,272 birds, according to their records. This figure represents 73.19% of all birds who survived quarantine and flew in the SAMDPR in either training or prize-winning races.⁸ Please see Addendum C for a breakdown of the losses over the previous six years.

The Centre for Agriculture and Bioscience International (“CABI”) lists pigeon racing as one of two ways that *Columba livia* numbers are dispersed: “Some rock pigeons kept by fanciers for homing and racing competition fail to return to their lofts, establishing new populations or bolstering existing ones.”⁹ Many SAMDPR participants and personnel similarly recognize that, while many of the birds that do not return to the wild die from predation, dehydration, starvation, or exhaustion, others join wild flocks or other fanciers’ lofts and continue to breed. As discussed below, the birds that temporarily or permanently do not return to the loft are a health hazard to human and animal life: they can spread or contract diseases and contaminate food and water sources for wild and industrial farm animal populations.

⁶ This figure is calculated using the sum of estimates for the number of pigeons entered into the SAMDPR over the past six years, as provided by SAMDPR personnel, less the proportion of South African birds entered each year.

⁷ SAMDPR, Conditions of Entry, <https://www.samdpr.com/conditions/english>.

⁸ This figure does not include birds who died during transport or quarantine, which is estimated in Addendum D, below.

⁹ CABI, Invasive Species Compendium, *Columba livia*, <https://www.cabi.org/isc/datasheet/87913#tomeansOfMovementAndDispersal> (citing C.S. Robbins, *Non-native Birds*, in: Dep’t of the Interior, National Biological Service, *Our Living Resources* 437-440 (E.T. Laroe et al. eds. 1995)).

When asked what happens to birds who are lost in the race, Joe Gomes, a SAMDPR participant and well-known South African fancier, told PETA's investigator, "Some just join the wild birds, some go to other guys' lofts, dishonest okses who keep them."¹⁰ He later elaborated:

They land, most of them end up in 'Jan Pieterse's' loft [like 'Joe Soap', referring to Afrikaans fanciers in the Free State] ... or they just f***ing become feral pigeons again. They go back into feral. It's a fact. It's a documented fact. They go, they mate with a wild pigeon, they f***ing breed and away the go, hey.¹¹

Similarly, when asked what happens to the birds who don't return, Corrie Naude, the loft manager and head trainer for the SAMDPR, responded, "[T]hey are in lofts or on farms or wild animals catch it or hawks. But sometimes they come back with their babies, to the loft. They bred somewhere with farm birds and come back and the babies follow them here to the loft."¹²

1.4. Breeding

As explained on the SAMDPR website, the pigeons do attempt to breed while in the SAMDPR loft: "All the pigeons are trained together and housed together. If we find a pair trying to nest, the pigeons are separated into different compartments."¹³ This is an imperfect system and surely does not prohibit all breeding by pigeons in the loft. Additionally, SAMDPR personnel and participants acknowledge that the pigeons from the SAMDPR breed with wild birds and birds at other lofts in South Africa when they get lost after being released by SAMDPR personnel, as shown above.

1.5. Auctions

After the Main Race, the SAMDPR holds auctions around the country where people can buy the birds who do make it back to the loft after the Main Race and those who were held back from the race. The pigeons are transported all over the country and sold to the highest bidder at different pigeon racing clubs around South Africa.

2. **ASI Operates The SAMDPR Without Required Invasive Species Permits**

2.1. The SAMDPR's Activities Require Invasive Species Permits

The Regulations¹⁴ to NEMBA list pigeons, *Columba livia*, as invasive species.¹⁵ *Columba livia* includes racing pigeons, otherwise called homing pigeons or rock pigeons.¹⁶ No person may undertake *any restricted activities* involving invasive species, unless they have obtained a permit to do so.¹⁷ As explained above, for the SAMDPR, ASI conducts the following restricted activities, listed in NEMBA:

¹⁰ PETA investigator communication with Joe Gomes (Jan. 22, 2020) (video available upon request).

¹¹ PETA investigator communication with Joe Gomes (Jan. 30, 2020) (video available upon request).

¹² PETA investigator communication with Corrie Naude (Jan. 30, 2020) (video available upon request).

¹³ SAMDPR, Frequently Asked Questions, <https://www.samdpr.com/about/faq>.

¹⁴ NEMBA Regulations 2016, GN R.864 (29 July 2016).

¹⁵ *Id.*, List 4, No. 11.

¹⁶ See Addendum B for further detail.

¹⁷ NEMBA § 71.

- Importing specimens of listed invasive species into South Africa;
- Possessing or having physical control over specimens of listed invasive species;
- Growing, breeding, or causing specimens of listed invasive species to multiply;
- Conveying, moving or translocating specimens of listed invasive species; and
- “Selling or otherwise trading in, buying, receiving, or in any way acquiring or disposing of any specimen” of a listed invasive species.¹⁸

Further, ASI conducts the following restricted activities, listed in the Alien and Invasive Species Regulations:¹⁹

- “Spreading or allowing the spread of, any specimen of a listed invasive species,”
- “Releasing any specimen of a listed invasive species.”²⁰

It is an offense to carry out a restricted activity without a permit.²¹ A person convicted of such an offense is liable to a fine of up to R10 million, “or imprisonment for a period not exceeding ten years, or to both such a fine and such imprisonment.”²²

While the NEMBA Regulations contain a general exemption for certain pigeon racing activities, it does not apply to ASI or the SAMDPR:

Any person undertaking pigeon racing or pigeon showing *registered with the relevant industry Association* is exempted from requiring a permit for all restricted activities, *provided such Association is in possession of a valid permit* in terms of the Act or the Alien and Invasive Species Regulation, 2014 for any restricted activity relating to pigeon racing or pigeon showing and provided such person complies with all permit conditions in the relevant Association’s permit. *The above exemption does not apply to restricted activity “a” in Notice I: “Importing into the Republic, including introducing from the sea, any specimen of a listed invasive species” and any person engaging in this activity must apply for a permit from the Issuing Authority.*²³

This exemption does not apply to ASI or the SAMDPR because they are not registered with a pigeon racing association that holds a permit exempting its members (or itself) from complying with NEMBA. Even if it were a member of such an association, it would have to obtain a permit under NEMBA from the issuing authority for the importation of pigeons—the exemption does not extend to this restricted activity.

The South African National Pigeon Organization (“SANPO”) is the “mother organization” of pigeon racing in the country.²⁴ Blue Bar Management, previously linked with the SAMDPR, was

¹⁸ *Id.* § 1, Section (b) of the definition of “restricted activity”.

¹⁹ Alien and Invasive Species Regulations 2014, GN R. 598 of GG 37885 (1 August 2014).

²⁰ *Id.*, § 6(a), (b).

²¹ NEMBA § 71(1).

²² *Id.* § 102(1).

²³ NEMBA Regulations, List 4, No.11.

²⁴ Thomas Smit, *Getting Started with Pigeons*, Farmer’s Weekly (Aug. 2, 2013), <https://www.farmersweekly.co.za/animals/pigeons/getting-started-with-pigeons/>.

listed in SANPO's register of organizations that can provide official ring numbers to birds. However, they have not been listed in subsequent years.²⁵ Fadiel Hendricks, the President of SANPO, explained to one of PETA's investigators that "the Million Dollar"—the SAMDPR or ASI—is "not a member of SANPO."²⁶

It is clear that the exemption does not apply to the SAMDPR and ASI. ASI is therefore required to have a permit for all of the restricted activities it routinely carries out for the SAMDPR—importing, possessing, controlling, conveying, releasing, spreading, and trading in pigeons.

2.2. ASI Does Not Have the Requisite Permits

PETA submitted a request under the Promotion of Access to Information Act (PAIA), in partnership with the National Council of Societies for the Prevention of Cruelty to Animals (NSPCA), in order to learn whether ASI held the requisite permit to undertake the restricted activities in connection with the SAMPDR.²⁷ The Department's response stated that:

After receipt of the above-mentioned request, the Department conducted a thorough search in our database for the requested documents *and no records* of permits issued for the purpose of the South African Million Dollar Pigeon Race to Air Sport Internationale and/or the South African National Pigeon Organisation were found.²⁸

ASI does not have the requisite NEMBA permit.²⁹ Accordingly, we respectfully request that your offices investigate this apparent violation of the law, take appropriate enforcement action, and issue a compliance order prohibiting the SAMDPR from occurring unless its management body, ASI, obtains the requisite permit—which, as discussed below, cannot be issued.

3. **ASI Cannot Obtain a Permit**

The law requires intensive scrutiny of the provision of permits for conducting restricted activities regarding invasive species. The issuing authority—the Minister, in this case, per NEMBA³⁰—must consider the various risks and benefits of approving the restricted activities in question.³¹

When considering the risks and benefits of a permit, the law requires that the issuing authority adopt a precautionary approach, and favor environmental and welfare concerns. This is reflected in the specific factors to be considered by the Minister, discussed below, and section 88(3) of NEMBA's requirement that a decision to issue or refuse a permit must be consistent with the

²⁵ See SANPO, 2017 – Rings, <http://sanpo.co.za/index.php/using-joomla/extensions/components/content-component/article-categories/105-2017-rings>.

²⁶ PETA investigator communication with Fadiel Hendricks (March 09, 2020) (audio available upon request).

²⁷ Exhibit 1, attached reply by the Department of Environmental Affairs.

²⁸ *Id.* (emphasis added).

²⁹ During the course of the investigation, PETA learned that ASI or its agents may have obtained unrelated permits from the Department of Agriculture, Land Reform, and Rural Development (DALRRD). These permits, likely issued pursuant to the Animal Improvement Act 62 of 1998, are separate and additional to those required under NEMBA and do not require invasiveness or other environmental factors to be considered for their approval.

³⁰ NEMBA § 1.

³¹ *Id.* § 71(2).

“national environmental management principles,”³² contained in section 2 of the National Environmental Management Act (NEMA).³³ These core principles include “[t]hat the disturbance of ecosystems and loss of biological diversity are avoided, or, where they cannot be altogether avoided, are minimised and remedied,” and “that a risk-averse and cautious approach is applied, which takes into account the limits of current knowledge about the consequences of decisions and actions.”³⁴ The objectives of NEMBA include the “the need to protect the ecosystem as a whole,”³⁵ and the purposes of the chapter on alien and invasive species include:

- (a) to *prevent the unauthorized introduction and spread of alien species and invasive species* to ecosystems and habitats where they do not naturally occur;
- (b) to manage and control alien species and invasive species to *prevent or minimize harm to the environment and to biodiversity* in particular; [and]
- (c) to eradicate alien species and invasive species from ecosystems and habitats where *they may harm such ecosystems or habitats*.³⁶

Many of the legally mandated considerations, below, favor the denial of a prospective application by ASI for the requisite invasive species permits. If it were to apply for an invasive species permit for its SAMDPR-associated restricted activities, such application should be denied.

3.1. Avoiding the Spread of the Invasive Species

NEMBA and its attendant Regulations require the issuing authority to heavily weigh the invasiveness of a particular listed species in reaching its permitting decisions. Section 91 of NEMBA states, “An issuing authority may issue a permit for a restricted activity involving a specimen of an alien species or of a listed invasive species *only if* ... the relevant species has been found to have *negligible or no invasive potential*.”³⁷ This is certainly not the case with pigeons, which are highly invasive and breed intensively, a fact known to SAMDPR personnel and participants, as shown above.

Further, the issuing authority must be satisfied that “adequate measures have been taken by the applicant to prevent the escape and spread of the species.”³⁸ Contrary to this requirement, the very purpose of ASI’s SAMDPR is to *intentionally release* pigeons into the wild, knowing that the vast majority of them will not return over the course of the competition and that many of these pigeons will join and breed with wild flocks, increasing their invasiveness.

We are aware that on October 23, 2014, the Department published a notice indicating that it “reached an agreement that the activities of the pigeon racing fraternity will have no significant impact on the invasion by the feral pigeon” because “[t]he numbers are reasonably low in relation

³² *Id.* § 88(3)(b).

³³ NEMA 107 of 1998.

³⁴ *Id.* § 2(4).

³⁵ NEMBA § 2(a)(iA).

³⁶ *Id.* § 64(1) (emphases added).

³⁷ *Id.* § 91(b) (emphases added).

³⁸ *Id.* § 91(d).

to the existing invasions.”³⁹ We are concerned that the considerations that led to this conclusion did not account for the several thousands of birds who fail to return from races each year,⁴⁰ or the extent of the environmental concerns they introduce, as a result of the pigeon racing industry’s intentional concealment of these facts in order to shield itself from scrutiny.⁴¹

3.2. Avoiding Socio-Economic and Ecosystem Harm

In assessing the level of risk, regulation 14 of the Alien and Invasive Species Regulations sets forth relevant considerations including, for instance: the “reproductive potential, mode of reproduction, dispersal mechanisms and undesirable traits” of the invasive species; the “invasive tendencies of the species elsewhere and of close taxonomic relatives in South Africa and elsewhere”; and “the ability of the species to create significant change in an ecosystem.”⁴²

3.2.1. *Invasiveness and General Ecosystem Harm*

Pigeons breed intensively, have spread throughout South Africa, and are known to spread diseases, as discussed above. They are able to impact ecosystems and industrial farm operations significantly due to the extent of their range and their ability to pass on diseases to other species. The socio-economic and ecosystem harm caused by pigeons is further evidenced by CABI’s report on the species:

Rock pigeon droppings can accelerate the deterioration of buildings and increase cost of maintenance. Large amounts of droppings may kill vegetation and produce an objectionable odour. Around grain handling facilities, pigeons consume and contaminate large quantities of food destined for human or livestock consumption. Furthermore, rock pigeons located around airports can be a threat to human safety because of potential bird-craft collisions. In the U.S. alone, they cause \$1.1 billion dollars of damage in urban areas annually.⁴³

3.2.2. *Disease – Risk to Ecosystems and Poultry*

PETA’s investigators calculated that over the past six years, an average of 13-15% of birds entered into the SAMDPR died during quarantine each year. This equates to around 5,200 pigeons over the six years. Please see Addendum D for additional detail on these calculations. Disease was the only reason for their deaths furnished by SAMDPR personnel and participants. The frequency of pigeon disease transmission is also confirmed by CABI’s report:

Rock pigeons are known to transmit pigeon ornithosis, encephalitis, Exotic Newcastle Disease, cryptococcosis, toxoplasmosis, salmonella food poisoning, and

³⁹ Dep’t of Env’tl. Aff., *Feral Pigeon Invasive Species* (Oct. 23, 2014), https://www.environment.gov.za/mediarelease/feralpigeon_invasivespecies.

⁴⁰ See Section 1.2, *supra*.

⁴¹ See Section 3.2, *infra*.

⁴² Alien and Invasive Species Regulations 2014, GN R. 598 of GG 37885 (1 August 2014), § 14.

⁴³ CABI, *supra* n.9, at <https://www.cabi.org/isc/datasheet/87913#toimpact>.

several other diseases. Rock pigeons and their nests are infested with ectoparasites, such as ticks, fleas, and mites, which can cause health problems for humans.

The SAMDPR's own veterinarian, Dr. Pieter van Zyl, told PETA's investigator how diseases are spread among pigeons in quarantine: "They go into quarantine [overseas] and then they pick up everything and then they arrive halfway dead here. And then they infect other birds in the loft."⁴⁴ He further explained:

Pigeons mingle in the basket.... If you mingle them and they drink water, they infect each other the whole time.... Through water and a lot of the bacteria that we get in pigeons actually grow in water. It's what we call bio film. ... And they [sic] grow in the water basins and the troughs. If you don't disinfect it completely with biofilm removers, they keep on infecting the birds.⁴⁵

Diseases persist after quarantine and is one of the main causes of pigeons not returning to the loft. As explained by Dr. van Zyl, birds who are ill and are forced to race will often not return, but would have if they had been treated:

[T]hey've got a fever and they've got a gut and they don't eat. They don't feel well. And then you stress them. And those are the ones that get lost. And next week there'll be others with another disease getting sick. And the week after that another lot. And that's why they've got those high losses. They keep on losing those birds that just needed a bit of treatment.⁴⁶

SAMDPR personnel and participants not only know that SAMDPR birds interact with wild pigeons, but also publicly downplay the known risk of spreading disease to wild birds, predators, other racing pigeons, and poultry. Dr. van Zyl, when asked whether there is a worry about SAMDPR pigeons "bringing diseases into other people's lofts," he responded, "With birds you get all diseases, always. You know, the wild ones flying around will carry, in any case, to your loft, if it's there [if they carry the disease]."⁴⁷ He further informed the investigator about substantial disease threats posed by the race:

Dr. van Zyl: Infectious bird flu is the biggest thing in the world today. That's what scares everybody. And then Newcastle is the second one.

Investigator: So is Newcastle, is that still a worry?

Dr. van Zyl: It's a big worry. It's a big big worry but we underplay it and we isolated a new strain in birds that came in from Holland.

Investigator: In this last [competition]?

Dr. van Zyl: Ya. That was one of the scariest things.

⁴⁴ PETA investigator communication with Dr. Piet van Zyl (Feb. 06, 2020) (video available upon request).

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

Investigator: So that can go to humans, as well?

Dr. van Zyl: No. That can go to other birds. And it can go into the poultry industry. And that's a billion dollar industry.⁴⁸

In addition to the threats posed to pigeons and the poultry industry, Dr. van Zyl recognized that the spread of diseases from pigeons to humans is a concern for the public:

We don't like discussing [the extent of diseases at the SAMDPR] with people who is not involved [sic] because then they go and say this guys [sic] are spreading all these bad germs around and our kids are gonna die because they are racing pigeons.⁴⁹

This is especially worrying given the current coronavirus pandemic that has devastated South Africa and the world. The danger of viruses spreading between animals and humans is at the forefront of the public's consciousness of public health policy. It is extremely worrying that ASI's Managing Director, Sarah Blackshaw, told PETA's investigator on February 2, 2020, "We had a terrible virus that decimated our loft... if you look at the coronavirus...",⁵⁰ and Paul Smith, the International Coordinator for shipping birds to South Africa, told PETA's investigator that, "it's like the coronavirus," when referring to the transmissibility of diseases that pigeons carry.

In order to conceal the extent of this threat that racing pigeons pose to birds and the public health, the SAMDPR does not publish the total number of pigeons entered into the competition; they only publish the number that survive transport and quarantine. In this regard, Paul Smith confirmed that the information is unpublished because, "We don't want people to know—the opposition to know—how many pigeons have gone to the race. When I write my race reports, I get told not to put how many pigeons get entered originally."⁵¹ This is but a sample of evidence PETA has gathered that demonstrates the extent of this risk, pigeon racers' knowledge of it, and the concealment of such problems by SAMDPR personnel.

3.3. Animal Welfare Considerations

In *National Society for Prevention of Cruelty to Animals v. Minister of Justice and Constitutional Development and Another*,⁵² the Constitutional Court outlined a host of cases showing established precedent that environmental authorities must consider the welfare of animals when making decisions affecting such animals:

[56] More recently, Cameron JA's minority judgment in *Openshaw* recognised that animals are worthy of protection not only because of the reflection that this has on human values, but because animals "are sentient beings that are capable of suffering and of experiencing pain". The High Court in *South African Predator Breeders Association* championed this view. A unanimous Full Bench found that canned

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ PETA investigator communication with Sara Blackshaw (Feb. 02, 2020) (video available upon request).

⁵¹ PETA investigator communication with Paul Smith (Jan. 29, 2020) (video available upon request).

⁵² 2017 (4) BCLR 517 (CC).

hunting of lions is “abhorrent and repulsive” due to the animals’ suffering. On appeal, the Supreme Court of Appeal did not dispute this finding.

[57] The Supreme Court of Appeal in *Lemthongthai* explained in the context of rhino poaching, that “[c]onstitutional values dictate a more caring attitude towards fellow humans, animals and the environment in general”. The Court concluded further that this obligation was especially pertinent because of our history. Therefore, the rationale behind protecting animal welfare has shifted from merely safeguarding the moral status of humans to placing intrinsic value on animals as individuals.

[58] *Lemthongthai* is also notable because it relates animal welfare to questions of biodiversity. Animal welfare is connected with the constitutional right to have the “environment protected ... through legislative and other means”. This integrative approach correctly links the suffering of individual animals to conservation, and illustrates the extent to which showing respect and concern for individual animals reinforces broader environmental protection efforts. Animal welfare and animal conservation together reflect two intertwined values.⁵³

The Gauteng High Court, in *National Council of the Society for Prevention of Cruelty to Animals v Minister of Environmental Affairs and Others*,⁵⁴ used this precedent to state unequivocally that, when environmental authorities evaluate whether to permit the export of lion bones, “at the very least our constitutional and legal obligations that arise from Section 24, NEMBA and the [Biodiversity Management] Plan require the consideration of animal welfare issues.”⁵⁵ Thus, it is clear that any prospective invasive species permit application (or, indeed, any application affecting animal biodiversity) requires the issuing authority to consider animal welfare.

There is substantial suffering and death throughout the SAMDPR. First, transporting pigeons to South Africa from overseas is inherently harmful to them. A Canadian SAMDPR participant, Neil Gonzalez (Island Paradise Loft), said the following about transporting pigeons to South Africa from overseas:

Well, it’s just that they’re being sent over as they’re babies. And just the stress that we endured coming over from Canada, going to Amsterdam, which is an 8-hour flight, and another layover for a couple of hours, and then an 11-hour flight over to Johannesburg, and then who knows how long they’ve gone without water or something like that. And these birds, they’re just babies, so their immunity levels are very, very low, and then you add in all these other birds, the stress level, it’s huge.⁵⁶

As discussed above, many pigeons suffer from disease and die during quarantine due to cross-infections. On average, around 14% of birds entered into the SAMDPR died during quarantine

⁵³ *Id.* (citations omitted).

⁵⁴ 2020 (1) SA 249 (GP).

⁵⁵ *Id.*, ¶ 74.

⁵⁶ PETA investigator communication with Neil Gonzalez (Feb. 02, 2020) (video available upon request).

over the past six years. This equates to around 5,200 pigeons. Of the birds who survived quarantine, 73.19% have not returned to the loft after being released in training flights or races over the course of the competition. Over the previous six editions of the competition, this equates to 22,272 birds in total. Many of these birds suffer and die as a result of diseases not being treated, dehydration, starvation, exhaustion, or predation. With the 14% of birds that died during quarantine each year, around 77% of birds who were entered over the past 6 years—or more than 27,000 birds—did not make it to the end of the competition.

The birds who do survive the competition but arrive too late after the Main Race to be auctioned off are killed without anesthetic by SAMDPR personnel, according to the SAMDPR trainer, Corrie Naude.⁵⁷ Those who are auctioned are bred at an unnaturally high rate,⁵⁸ and many of them and their offspring are killed by breaking their necks or decapitating them without anesthetic.⁵⁹

As stated by Dr. van Zyl: “It’s a cruel, cruel world and the best survives. For the pigeons as well.”⁶⁰

3.4. Socio-Economic Benefits

In order to approve an application for a permit to conduct a restricted activity involving invasive species, the issuing authority must find that “the benefits of allowing the activity are significantly greater than the costs associated with preventing or remedying any resultant damage to the environment or biodiversity.”⁶¹ As stated above, ASI is a Swiss company and all SAMDR entry fees and bets are paid into its account in Switzerland.⁶² The profits are not kept within South Africa, and not invested in the country, which may also reduce tax revenue.

As described in great detail in separate complaints to the relevant gambling and tax authorities in South Africa, copies of which can be provided to the Department at your request, [REDACTED] [REDACTED] illegal, gambling activities via the SAMDPR. They do not pay the appropriate taxes on their gambling revenue. Further, fanciers investigated by PETA attested to not paying taxes on SAMDPR winnings or on the sale of birds, in contravention of South African law. A prominent South African fancier stated that the pigeon trade is “better than diamonds”⁶³ for laundering money and evading taxes. It is clear that [REDACTED] avoidance of taxation reduces any potential economic benefit to South Africa from the SAMDPR.

Additionally, for the most recent SAMDPR, PETA’s investigators estimate that fewer than 60 international participants and spectators attended the main event—the Main Race. One can

⁵⁷ PETA investigator communication with Corrie Naude (Feb. 15, 2020) (video available upon request).

⁵⁸ PETA investigator communication with Dr. Piet van Zyl (Feb. 06, 2020) (video available upon request).

⁵⁹ For example: Mike Ganus, a prominent American fancier, told PETA’s investigator, “I just dislocate their heads.” PETA investigator communication with Mike Ganus (March 11, 2020) (audio available upon request).

⁶⁰ PETA investigator communication with Dr. Piet van Zyl (Feb. 06, 2020) (video available upon request).

⁶¹ NEMBA § 91(c).

⁶² The SAMDPR’s Conditions of Entry, *supra* n.7, includes detail of ASI’s account at “UBS SA, Geneva” in order to send payments.

⁶³ PETA investigator communication with Fancier (Jan. 22, 2020) (video available upon request).

anticipate a relatively low contribution to tourism revenues from such a small cohort of international visitors.

Accordingly, if ASI does apply for an invasive species permit to conduct restricted activities in connection with the SAMDPR, as required, its application should be denied in light of the substantial environmental and animal welfare problems inherent to the race.

4. Heron Banks' Owner is Usurping its Duty of Care

NEMBA requires landowners who have invasive species on their land to exercise a duty of care. Specifically, such landowners must: “(a) notify any relevant competent authority, in writing, of the listed invasive species occurring on that land; (b) take steps to control and eradicate the listed invasive species and to prevent it from spreading; and (c) take all the required steps to prevent or minimise harm to biodiversity.”⁶⁴ This would apply to the owner of the land on which the Heron Banks Golf and River Estate sits, where the birds are kept and where the SAMDPR lofts are located.⁶⁵ A former director of the company that runs the Heron Banks Golf and River Estate, Gary Lance,⁶⁶ appears to have given the SAMDPR officials permission to build the loft on land belonging to the Estate.⁶⁷

Whether or not the owner of the erf has notified authorities that they are hosting large numbers of pigeons on their land, it is clear that they have not taken any steps to control or prevent the spread of pigeons, or to prevent or minimize the associated harms to biodiversity discussed above.

The Department is empowered to direct any person to comply with a duty of care and to remedy any harm caused by the occurrence of invasive species.⁶⁸ If a person contravenes such a directive, it is an offense under NEMBA.⁶⁹ Anyone can request DEFF to issue such a directive,⁷⁰ using the form provided by the Alien and Invasive Species Regulations,⁷¹ which is attached hereto as Addendum E. We respectfully request that the Department direct the owner of the specific erf to comply with its duty of care.

5. Conclusion

It is clear that, each year, despite pigeons' listing as an invasive species, ASI is importing pigeons into South Africa for the purposes of the SAMDPR. ASI's employees are possessing and

⁶⁴ NEMBA § 73(2).

⁶⁵ From the Memorandum of Incorporation of the Heron Banks Golf and River Estate Homeowners Association, the estate spans: Sasolburg Extension 66 and including Portion 1 of the farm De Rust No.370; Portion 2 of the farm De Rust No.370; Remaining Extent of the farm Grootfontein No.328; Erf 1 Vaal Park; Erf 1295 Vaal Park; and Erf 1294 Vaal Park Township, Parys District, Free State Province.

⁶⁶ Companies and Intellectual Property Comm'n, e-Services, <https://eservices.cipc.co.za/Search.aspx> (search by “Enterprise No.” and enter “K2017310381”).

⁶⁷ Paul Smith, *The 24th South African Million Dollar Pigeon Race 2020*, Herbots (Sept. 1, 2019), https://www.herbots.be/en/article/the-24th-south-african-million-dollar-pigeon#.

⁶⁸ NEMBA § 73(3).

⁶⁹ *Id.* § 101(1)(c).

⁷⁰ *Id.* § 74(1).

⁷¹ Alien and Invasive Species Regulations 2014, GN R. 598 of GG 37885 (1 August 2014), at Annexure B.

controlling pigeons, allowing them to breed and multiply. The pigeons are conveyed to various locations in the Free State and Northern Cape and then released, in the hope that they will fly back to the SAMDPR loft. An average of 73.19% of birds do not return to the loft. Many of the birds who do return are auctioned off following the race. The release, spread or allowing the spread, and “selling or otherwise trading in” invasive species are ‘restricted activities’ under NEMBA. ASI, the company that runs the SAMDPR, is required to hold a permit in order to conduct such activities.


The fact that no such permit has been obtained—and cannot be obtained—is highly significant: The SAMDPR creates dire environmental and socio-economic dangers and involves cruel treatment of animals, without any Departmental oversight of the restricted activities. The SAMDPR is responsible for increasing the invasiveness of pigeons in South Africa and the risk of spreading extremely harmful diseases amongst other bird species, which could seriously harm the poultry industry. Pigeons can affect infrastructure and can spread infectious diseases amongst other species, including humans.

As a result of carrying out NEMBA-restricted activities regarding pigeons, ASI is apparently guilty of offenses and subject to penalties under the Act. Accordingly, we respectfully request your offices to:

- 1) Invoke the powers listed in section 31L of NEMA, and issue a compliance order prohibiting ASI from proceeding with the SAMDPR;
- 2) Institute appropriate charges against ASI and its agents for the related contravention of NEMBA;
- 3) Issue a directive to Heron Banks Golf and River Resort to comply with its duty of care to control the invasive species on its land, prevent the species from spreading, and to prevent or minimize the attendant harm to biodiversity; and
- 4) Issue a moratorium on the importation of pigeons by ASI or its agents for the purposes of the SAMDPR until the matter is concluded, as we understand that processing the information in this document and completing the requested steps will take some time.

Please let me know when we might be in contact to further discuss this issue. Thank you for your consideration.

Very truly yours,



Jared Goodman
Vice President and
Deputy General Counsel for Animal Law



Exhibit 1



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Private Bag X 447 · PRETORIA · 0001 · Environment House · 473 Steve Biko Rd · Arcadia · PRETORIA Tel (+27 12) 382 9000 · Fax (+27 12) 359 3604

Ref: PAIA191981

Enquiries: Mr Khathutshelo Nelukalo

Tel: (021) 441 2812 Email: Knelukalo@environment.gov.za

Arno De Klerk
National Council of Societies for the Prevention of Cruelty to Animals (NSPCA)
P.O. Box 1320
Alberton
Gauteng
1450

Email:

Dear Mr De Klerk

REQUEST FOR ACCESS TO INFORMATION IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000 (ACT NO. 2 OF 2000) WITH RESPECT TO PERMITS PROVIDED FOR THE PURPOSES OF THE SOUTH AFRICAN MILLION DOLLAR PIGEON RACE

1. Your request for access to information in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) ("PAIA"), dated 25 February 2020, for which payment was made to the Department on 25 February 2020, has reference.
2. In the above mentioned request you specifically requested access to the following records:
 - 2.1 *All permits provided for the purposes of the South African Million Dollar Pigeon Race, to Air Sport Internationale and/or the South African National Pigeon Organisation (whichever is applicable) in terms of Chapter 7 of NEMBA, regarding restricted activities relating to pigeons, for the previous 10 years (between Jan 01, 2010 and February 28, 2020).*
 - 2.2 *The record of decision making regarding those permits, including:*
 - a. *The reasons provided by the Departmental official(s) in approving the permits.*
 - b. *The information and considerations contemplated by the Departmental official(s) in coming to their decision.*
 - c. *The applications submitted to the Department of Environmental Affairs by Air Sport Internationale and/or the South African National Pigeon Organization (whichever is applicable) for such permits."*

**REQUEST FOR ACCESS TO INFORMATION IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000
(ACT NO. 2 OF 2000) WITH RESPECT TO PERMITS PROVIDED FOR THE PURPOSES OF THE SOUTH AFRICAN MILLION
DOLLAR PIGEON RACE**

3. After receipt of the above-mentioned request, the Department conducted a thorough search in our database for the requested documents and no records of permits issued for the purpose of the South African Million Dollar Pigeon Race to Air Sport Internationale and/or the South African National Pigeon Organisation were found.
4. In light of the above, a sworn Affidavit is deposited herewith in terms of Section 23(1) (b)(ii) of PAIA.
5. Should you wish to appeal against the decision, you are referred to sections 74 and 75 of the PAIA, which allows you to lodge an internal appeal together with the prescribed appeal fee, in the prescribed form to the Information Officer of the Department within 60 days. The subject and reasons for the internal appeal must be clearly indicated.

Yours sincerely



Ms Nosipho Ngcaba

Director-General

Department of Environmental Affairs

Letter signed by: Dr Guy Preston

Designation: Deputy Director-General: Environmental Programmes

Date: 23/03/2020

Addendum A

NSPCA Letter of Support



08 June 2020

Ms. Barbara Creecy, Minister
Department of Environment, Forestry and Fisheries
Private Bag X 447
Pretoria
Gauteng
0001
bcreecy@environment.gov.za

Mr. Ishaam Abader
Deputy Director-General
Legal Authorisations and Compliance Inspectorate
iabader@environment.gov.za

Mr. Shonisani Munzhedzi
Deputy Director-General
Biodiversity and Conservation
smunzhedzi@environment.gov.za

Dear Ms/Sir

Request to Investigate Unpermitted Import of Invasive Species for the South African Million Dollar Pigeon Race

The National Council of SPCAs (NSPCA) has been actively involved in monitoring the South African Million Dollar Pigeon Race since 2012.

During these years we have seen many concerns relating to the keeping, breeding, transportation and liberation of the racing pigeons. These domesticated animals are forced to fly long distances to get back to their lofts. They are exposed to harsh weather conditions which include extreme heat, rain, wind and cold as well as predator attacks and the possibility of being struck by moving motor vehicles.

The last couple of years have shown that an extremely high number of pigeon do not return to the loft after liberations. The liberations are done during a number of training flights as well as the main race. There is absolutely no way of knowing where the birds are or what

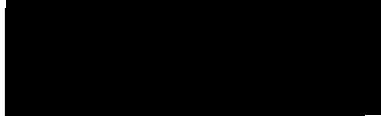


happened to them. Very little concern is raised by the owners / organisers who regard the high number of losses as normal.

The NSPCA supports the complaint lodged by PETA and believe that swift action by the Department is required to prevent any further animal suffering.

We appreciate your consideration in this regard.

Yours sincerely

A black rectangular box redacting the signature of Arno De Klerk.

Arno De Klerk

Manager

NSPCA Special Project Unit

Addendum B

Racing Pigeons are *Columba livia*

As discussed in this complaint, NEMBA Regulations specifically list *Columba livia* as an invasive species, and exempt from permitting requirements only certain conduct regarding the species as it is used for racing—an exemption which is not applicable here.

Despite this clear language identifying racing pigeons as an invasive species, Fadiel Hendricks, the Chairperson of SANPO, told PETA's investigator in a phone call that he does not think that the pigeon is listed as an invasive species in South Africa:

Investigator: Oh so the Million Dollar isn't a member of SANPO though?

Hendricks: They're not a member of SANPO, no.... The racing pigeon is now classified as *Columba livia domestica*, you understand me? It don't fall under the category of invasive species, you see?⁷²

In that same phone call, Hendricks stated that wild or "feral" pigeons are considered invasive species but racing pigeons are not.⁷³ This is incorrect and belied by the plain language of the regulation, as well as the Department's acknowledgment that "[t]he pigeon which is commonly used in pigeon racing, is the same listed species" as the invasive feral pigeon.⁷⁴ Additionally, CABI deems *Columba livia* to include racing pigeons.⁷⁵ While racing pigeons may be larger and sleeker than most wild pigeons of the species *Columba livia*, even the Royal Pigeon Racing Association acknowledges that they are the same species.⁷⁶ Similarly, in considering the legality of a pigeon shoot, a U.S. court found:

The forecast of evidence, including the expert affidavits and other materials, reveals that although pigeons may be denominated as either 'domestic' or 'feral', the two categories are genetically identical. The domestic pigeon was introduced into the United States as a domesticated bird and used as a passenger and homing bird, as well as for other purposes. Feral pigeons descend from domestic pigeons that escaped captivity and have now returned to a wild state and exhibit feral characteristics due to different degrees of human control and habitation.⁷⁷

Wild pigeons and racing pigeons can and do breed, a fact evidenced by the many statements from SAMDPR personnel and participants. They may have some different traits, but have the same invasiveness potential and are indisputably the same species. The regulation makes no distinction between wild or domesticated *Columba livia*, and the fact that it contains a specific exemption for racing pigeon owners, in terms of requiring permits for conducting restricted activities involving

⁷² PETA investigator communication with Fadiel Hendricks (March 09, 2020) (audio available upon request).

⁷³ *Id.*

⁷⁴ Dep't of Environmental Affairs, *supra* n.39.

⁷⁵ See e.g., CABI, *supra* n.9, at <https://www.cabi.org/isc/datasheet/87913#touses>.

⁷⁶ Royal Pigeon Racing Ass'n, *Getting Started*, <https://www.rpra.org/about-rpra/getting-started/>.

⁷⁷ *Malloy v. Cooper*, 592 S.E.2d 17, 21 (N.C. Ct. App.), *writ den.*, *review den.*, *appeal dismissed*, 597 S.E.2d 133 (N.C. 2004).

Columba livia, clearly demonstrates that racing pigeons are considered to be *Columba livia* under the NEMBA Regulations and, therefore, are invasive species in South Africa.

The fact that the Chairperson of SANPO does not believe that racing pigeons are invasive species raises the questions of whether SANPO itself has a permit, which it would hold on behalf of its members, to allow it to engage in racing activities under this exemption. This is beyond the scope of PETA's investigation, focusing on the SAMDPR, but it something that we urge your offices to investigate.

Addendum C

The Number of Pigeons Lost by the SAMDPR

Over the previous six years, an average of 73.19% of birds have gotten lost over the course of the competition—22,272 birds in total. These figures are calculated from the official race statistics from the SAMDPR website for the previous six years, which is as far back as the records are provided.⁷⁸ These records are tabulated below:

2019/2020

| <u>Type of Listing</u> | <u>No. of birds</u> |
|---|----------------------------|
| Initial Loft Listing ⁷⁹ | 3632 |
| Total Pigeons Basketed for Main Race | 1548 |
| Total Returns from Main Race | 704 |
| Total Birds Lost in Main Race | 844 |
| % of Basketed Birds Lost in Main Race | 54.52% |
| Total Pigeons After Main Race ⁸⁰ | 743 |
| <i>Total Birds Lost, Overall</i> | <i>2889</i> |
| <i>% of Birds Lost, Overall</i> | <i>79.54%</i> |

2018/2019

| <u>Type of Listing</u> | <u>No. of birds</u> |
|---------------------------------------|----------------------------|
| Initial Loft Listing | 5505 |
| Total Pigeons Basketed for Main Race | 2531 |
| Total Returns from Main Race | 1387 |
| Total Birds Lost in Main Race | 1144 |
| % of Basketed Birds Lost in Main Race | 45.20% |
| Total Pigeons After Main Race | 1487 |

⁷⁸ SAMDPR, Results, <https://www.samdpr.com/results>.

⁷⁹ This number is not the total number of pigeons sent to the SAMDPR loft, but the total number that survived quarantine. As shown in Addendum D, 13-15% of birds sent to the SAMDPR loft die before the initial loft listing is posted, on average, each year.

⁸⁰ This number includes all birds that returned from the Main Race, the birds that were held back from the Main Race and “non-basketed returns”—or, birds that did not return from previous races and were out of the loft when basketing for the Main Race occurred, but then returned after the Main Race. For the most recent edition of the SAMDPR, some birds may still return, all though the number will be low. This number is the sum of the current number of returned birds (704), held-back birds (12), and non-basketed returns (27).

| | |
|---|---------------|
| <i>Total Birds Lost, Overall</i> | 4018 |
| <i>% of Birds Lost, Overall</i> | 72.99% |

2017/2018

| <u>Type of Listing</u> | <u>No. of birds</u> |
|--|----------------------------|
| Initial Loft Listing | 6642 |
| Total Pigeons Basketed for Main Race | 2627 |
| Total Returns from Main Race | 1583 |
| Total Birds Lost in Main Race | 1044 |
| % of Birds Lost in Main Race | 39.74% |
| Total Pigeons After Main Race | 1705 |
| <i>Total Birds Lost Overall</i> | 4937 |
| <i>% of Birds Lost, Overall</i> | 74.33% |

2016/2017

| <u>Type of Listing</u> | <u>No. of birds</u> |
|--|----------------------------|
| Initial Loft Listing | 5502 |
| Total Pigeons Basketed for Main Race | 2434 |
| Total Returns from Main Race | 1447 |
| Total Birds Lost in Main Race | 987 |
| % of Birds Lost in Main Race | 40.55% |
| Total Pigeons After Main Race | 1555 |
| <i>Total Birds Lost Overall</i> | 3947 |
| <i>% of Birds Lost, Overall</i> | 71.74% |

2015/2016

| <u>Type of Listing</u> | <u>No. of birds</u> |
|--------------------------------------|----------------------------|
| Initial Loft Listing | 4450 |
| Total Pigeons Basketed for Main Race | 2161 |
| Total Returns from Main Race | 1120 |
| Total Birds Lost in Main Race | 1041 |

| | |
|--|----------------------|
| % of Birds Lost in Main Race | 48.17% |
| Total Pigeons After Main Race | 1207 |
| <i>Total Birds Lost Overall</i> | <i>3243</i> |
| <i>% of Birds Lost, Overall</i> | <i>72.88%</i> |

2014/2015

| <u>Type of Listing</u> | <u>No. of birds</u> |
|--|----------------------------|
| Initial Loft Listing | 4698 |
| Total Pigeons Basketed for Main Race | 2453 |
| Total Returns from Main Race | 1356 |
| Total Birds Lost in Main Race | 1097 |
| % of Birds Lost in Main Race | 44.72% |
| Total Pigeons After Main Race | 1460 |
| <i>Total Birds Lost Overall</i> | <i>3238</i> |
| <i>% of Birds Lost, Overall</i> | <i>68.92%</i> |

Addendum D

Estimates of Deaths During Quarantine

The SAMDPR falsely claims on its website that it has a rate of “0.01% fatality on average” during quarantine.⁸¹ This is patently untrue.

Various estimates have been provided by SAMDPR personnel, publically and to PETA’s investigator, regarding the total number of pigeons who were entered into the loft and the total number who died in quarantine. The initial loft listings posted on the SAMDPR website only represents the number of pigeons who survived quarantine. From these estimates, PETA’s investigators calculated that an average of between 13 and 15% of birds entered into the SAMDPR died during quarantine. This equates to around 5,200 pigeons over the six years.

However, it can be much higher: for the 2019/2020 SAMDPR, 19-27% of entered pigeons died in quarantine.

The following table shows the estimated number of deaths in quarantine, over the past six years:

| | 2019/20 | 2018/19 | 2017/18 | 2016/17 | 2015/16 | 2014/15 | Average |
|---|---------|---------|---------|---------|---------|---------|---------|
| Total birds sent – high estimate | 5000 | 6405 | 7200 | 6000 | 5000 | 6000 | 5934.17 |
| Total birds sent – low estimate | 4500 | 6305 | 7200 | 6000 | 5000 | 6000 | 5834.17 |
| Number of birds in initial loft listing (survived quarantine) | 3632 | 5505 | 6642 | 5502 | 4450 | 4698 | 5071.5 |
| Number that died in quarantine – high estimate | 1368 | 900 | 558 | 498 | 550 | 1302 | 891.72 |
| Number that died in quarantine – low estimate | 868 | 800 | 558 | 498 | 550 | 1302 | 798.41 |
| % died in quarantine – high estimate | 27.36% | 14.05% | 7.75% | 8.3% | 11% | 21.7% | 15.03% |
| % died in quarantine – low estimate | 19.29% | 12.69% | 7.75% | 8.3% | 11% | 21.7% | 13.45% |

These estimates come from quotes by SAMDPR personnel. For the 2019/20 SAMDPR:

- Sara Blackshaw, ASI’s Managing Director, told PETA’s investigator that around 5,000 birds were sent to the SAMDPR and that a third of that number died in quarantine.⁸²
- Corrie Naude, the head trainer, similarly told PETA’s investigator that nearly 5,000 pigeons were sent to the SAMDPR, and when asked how many birds died in quarantine,

⁸¹ SAMDPR, History of the Race, <https://www.samdpr.com/about/history>.

⁸² PETA investigator communication with Sara Blackshaw (Feb. 02, 2020) (video available upon request).

responded: “Ach, a lot. Ya a lot. 1,000. 1,200. And you can do nothing. You go with a bag in. You take them. You throw them in the dustbin.”⁸³

- Michael Holt, the Race Director, told PETA’s investigator that 25% of the birds died during quarantine (this would equate to 4,842 birds being entered, in total).⁸⁴ In a later email, he stated that “the initial intake was around 4,500 pigeons.”⁸⁵

On January 29, 2020, in the hotel bar lobby at the Emerald Resort & Casino, PETA’s investigator recorded Tad Truszkowski, a British participant (TadT Lofts) complaining that the SAMDPR does not publish how many total pigeons were sent to the Race. Paul Smith, the international coordinator for the SAMDPR, replied: “Tad, we don’t do it over here, because we don’t want people to know—the opposition to know—how many pigeons have gone to the race. When I write my race reports, I get told not to put how many pigeons get entered originally, but I always do.”

However, it seems that he stopped putting estimates of the number of pigeons entered into the SAMDPR for the 2018/19 and 2019/20 competitions. For 2014/15, Paul Smith stated in a race report that “[t]he 19th SAMDPR was a total of 38 different countries participating and they entered around 6,000 pigeons.”⁸⁶ For 2015/16, he stated that “close to 5000 [were] entered.”⁸⁷ For 2016/17, he stated that “over 6,000 entries entered from 34 different countries” were entered.⁸⁸ For 2017/18: “7,200 pigeons entered from 36 different countries.”⁸⁹ For 2018/19⁹⁰ and 2019/20,⁹¹ he does not list the total entered, only the loft listing figures.

Smith later told PETA’s investigator that 800 to 900 died during quarantine for the 2018/19 SAMDPR.⁹²

⁸³ PETA investigator communication with Corrie Naude (Feb. 15, 2020) (video available upon request).

⁸⁴ PETA investigator communication with Michael Holt (Feb. 15, 2020) (video available upon request).

⁸⁵ PETA investigator communication with Michael Holt (Feb. 20, 2020) (text available upon request).

⁸⁶ Paul Smith, *The 23rd South African Million Dollar Pigeon Race. First International Press Release*, One Loft Racing (Dec. 20, 2018), <https://onelofttracing.com/the-23rd-south-african-million-dollar-pigeon-race-first-international-press-release/>.

⁸⁷ Paul Smith, *The 20th Million Dollar Platinum Edition “My Recent Visit To South Africa,”* One Loft Racing (Nov. 14, 2015), <https://onelofttracing.com/2528-2/>.

⁸⁸ Paul Smith, *The 21st South African Million Dollar Pigeon Race. Another Race Season Starts in the South African Sunshine*, One Loft Racing (Nov. 25, 2016), <https://onelofttracing.com/the-21st-south-african-million-dollar-pigeon-race-another-race-season-starts-in-the-south-african-sunshine/>.

⁸⁹ Paul Smith, *The 22nd South African Million Dollar Pigeon Race. First International Press Release*, One Loft Racing (Dec. 18, 2017), <https://onelofttracing.com/the-22nd-south-african-million-dollar-pigeon-race-first-international-press-release/>.

⁹⁰ Smith, *supra* n.86

⁹¹ Paul Smith, *The 24th South African Million Dollar Pigeon Race. First International Press Release*, One Loft Racing (Nov. 8, 2019), <https://onelofttracing.com/the-24th-south-african-million-dollar-pigeon-race-first-international-press-release/>.

⁹² PETA investigator communication with Paul Smith (Feb. 21, 2020) (audio available upon request)

Addendum E

Request for Directive: Heron Banks River & Golf Estate is not Upholding its Duty of Care

ANNEXURE B

Request to issue a directive in terms of section 74(1) of the National Environmental Management: Biodiversity Act for a listed invasive species

Explanatory Note:

In terms of section 74(1) of the Act any person may request the Minister, in writing, to issue a directive in terms of section 73(3) of the Act.

For official use:

Reference number

Date:

1. DIRECTIVE REQUESTED BY:

| | |
|------------------|--|
| Full name | Phillipus Arnoldus De Klerk |
| Identity number | ██████████ |
| Physical address | 6 Clark Road Florentia Alberton Code 1450 |
| Postal address | P.O. Box 1320 Alberton 1450 Code 1450 |
| Telephone number | ██████████ |
| Fax number | ██████████ |
| Cellular number | ██████████ |
| E-mail address | ██████████████████ |

2. DIRECTIVE TO BE ISSUED TO

Name: The owner is unknown, but is presumed to be Heron Banks Golf Estate

2.1 SITE AND SPECIES DETAILS

2.1.1 Name (if applicable), province/magisterial district, erf number or physical address:

Heron Banks Golf and River Estate
Minnaar Street
Vaalpark
Sasolburg
Free State
1948

2.1.2 Listed invasive species involved (Attach list if space is insufficient):

Scientific name: Columba Livia

Common name: Pigeon, racing pigeon, homing pigeon, carrier pigeon, rock pigeon, rock dove, common pigeons etc.

2.2 REASONS FOR REQUEST (Choose whichever is applicable)

2.2.1 Contravention of permit requirements in terms of section 71(1) of the Act and/or associated permit conditions?

If yes, substantiate:

No permit has been obtained

| | |
|--|----|
| | No |
|--|----|

2.2.2 Contravention of notification requirements in terms of section 73(2)(a) of Act?

No record has been discovered of the landowner's notification of the active possession, spreading, transporting and trading of pigeons at South African Million Dollar Pigeon Race loft, on property of Heron Banks Golf and River Estate

| | |
|-----|--|
| Yes | |
|-----|--|

2.2.3 Contravention of measure to prevent spreading / control / eradicate in terms of section 73(2)(b) of the Act?

If yes, substantiate:

| | |
|-----|--|
| Yes | |
|-----|--|

Heron Banks Golf and River Estate has a large pigeon racing loft and allows the South African Million Dollar Pigeon Race to take place on its land every year. Pursuant to the Race, pigeons are released to the wild, with an average of 73.4% not returning to the loft, over the course of 6-8 months, every year. No measures are taken to prevent such spread of pigeons, which are an invasive species. The invasion of pigeons is a health hazard for ecosystems, farm animals, and humans.

2.2.4 Previous directives not implemented?

If yes, substantiate:

| | |
|--|----|
| | No |
|--|----|

I, the undersigned, Phillipus Arnoldus De Klerk.....
confirm that the above information is correct and complete to the best of my knowledge.

SIGNED:.....



DATE: **2020/06/04**