

June 30, 2014



Submitted via Electronic Mail Only:

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**RE: Violations of the California Environmental Quality Act and
the Public Trust Duty of the State of California and Humboldt
County**

Dear Director Bonham and Supervisors Bohn, Fennell, Lovelace, Bass, and
Sundberg::

Pursuant to the California Environmental Quality Act (CEQA), Public
Resources Code §21000 *et seq.*, and the public trust duty held by the State of
California and its political subdivisions, and on behalf of the Animal Legal
Defense Fund (ALDF), the Center for Biological Diversity (CBD), Project
Coyote, the Natural Resources Defense Council (NRDC), the Animal Welfare
Institute, the Mountain Lion Foundation, the injured members of these groups in
Humboldt County, and other aggrieved citizens of the State of California, we
hereby request that the State of California through the California Department of
Fish & Wildlife (CDFW) and the Humboldt County Board of Supervisors (the
Board) take the following action:

1. Immediately terminate the Humboldt County Predatory Animal Control Program (Humboldt Program) supervised and carried out by the United States Department of Agriculture's APHIS-Wildlife Services (Wildlife Services);
2. Undertake legally required environmental review of the Humboldt Program under CEQA;
3. Properly preserve and protect Humboldt County's wildlife for the benefit of all state citizens pursuant to common law and statutory public trust requirements prior to reauthorizing the control of wildlife by Wildlife Services; and
4. Institute a non-lethal animal damage control program in Humboldt County, similar to the one used in Marin County, which recognizes the ecological benefits of predators.

As you are no doubt aware, through the Humboldt Program, Wildlife Services employs trappers, spending hundreds of thousands of taxpayer dollars over the last five years to kill hundreds of native predators and other "nuisance" animals in the name of commercial agricultural interests. Each year, without state oversight or any environmental investigation or analysis, the County and Wildlife Services enter into a contract whereby Wildlife Services receives a substantial payment of tax dollars in exchange for providing these services. Humboldt County retains minimal oversight over Wildlife Services' activities and merely receives periodic reports disclosing the total number of animals destroyed by the agency. These reports are also bereft of evaluation regarding the environmental impact of this killing.

Under CEQA, Humboldt County has a duty to review the impacts of activities that affect California's environment, including wildlife. Through repeated renewal of its contract with Wildlife Services without environmental analysis, the County has failed to follow the legal procedure mandated by CEQA. What is more, under the California public trust doctrine both Humboldt County and CDFW are obligated to regulate the State's wildlife resources in a manner that benefits all citizens of the County and State.¹ Contrary to the public trust, Wildlife Services kills ecologically valuable predators for the supposed benefit of a small number of commercial agricultural producers. This use of wildlife resources does not benefit all of California's citizens. As such, the County has failed to fulfill its legal duty under the public trust doctrine. In addition, CDFW does not participate in the authorization of the County's contract with Wildlife Services or maintain oversight over the environmental impacts of the County's program. As a result, CDFW has unlawfully delegated its duty under the public trust doctrine to preserve and protect wildlife.

Until these deficiencies are remedied, the Humboldt Program is operating in violation of California law.

I. State and local regulators should be alarmed by Wildlife Services' sordid history.

Wildlife Services states that its mission is to “resolve wildlife conflicts to allow people and wildlife to coexist.” In reality, its specialization—both historically and presently—is to kill wild animals, per the interests of some agricultural producers, hunters, and airports. Beginning in 1915, the agency’s earliest iteration provided federal funding for trappers and hunters who exterminated wolves to support the interests of beef producers. Over time, Wildlife Services’ programs grew and increased their effectiveness in destroying predators. During the first half of the 20th century, federal trappers played a crucial role in virtually eliminating wolf, grizzly bear, and mountain lion populations throughout much of the American West. Due to the decreased number of these large carnivores in the food chain, populations of other predators expanded. In response, Wildlife Services turned its attention to the destruction of other species including black bears, bobcats, red and gray foxes, skunks, badgers, raccoons and especially coyotes, which thrived partially in response to the decline of wolves. Since 2000, Wildlife Services has killed nearly one million coyotes and thousands of other predators across the United States.

Many of Wildlife Services’ methods are indiscriminate, often killing unintended victims. Some of the animals the agency has mistakenly killed are members of species that have been the subjects of costly conservation efforts (*e.g.* Mexican gray wolves, wolverines, river otters, swift and kit foxes, and bald and golden eagles). Since 2000, Wildlife Services has killed more than 50,000 members of over 150 non-target species, including birds of prey (*e.g.*, red-tailed hawk, great horned owl), armadillos, pronghorn, porcupines, long-tailed weasels, javelinas, marmots, snapping turtles, turkey vultures, great blue herons, ruddy ducks, sandhill cranes, and ringtail cats.

The most recent data on Wildlife Services shows that in fiscal year 2013 the agency killed more than 4 million animals across the United States. A sampling of last year’s statistics for native predatory species shows that Wildlife Services killed 75,326 coyotes, 419 black bears, 866 bobcats, 395 mountain lions, 3,706 foxes (including arctic, gray, swift, kit and red foxes), 372 badgers, 3 fishers, 2 pine martens, 40 weasels and minks, 528 river otters (397 of which were killed unintentionally), 2,385 birds of prey (including the unintentional destruction of one bald and two golden eagles), and 319 wolves (including the unintentional shooting of a rare and highly endangered Mexican gray wolf). In 2013 Wildlife Services also killed 24,390 beaver, which create habitat vital to other species and thousands of other non-predatory animals important to the health of the nation’s wild lands. Indeed, just this month, the *Washington Post* ran an investigative piece about Wildlife Services’ kill list, with details about which animals are killed, when and where, as reported by Wildlife Services to Congress. The piece sounds the alarm for Congressional action to reign in this “rogue” agency.ⁱⁱ

II. Humboldt County has a statutory duty to perform environmental review of its activities under the California Environmental Quality Act.

CEQA requires review of the environmental impacts of discretionary projects undertaken or approved by public agencies, which may cause adverse physical changes to the environment. Typically, compliance with CEQA requires the generation of an environmental document called

an Environmental Impact Report (EIR), which contains a statement of the environmental impacts of the proposed project and analysis of the viable alternatives to the project. The Humboldt Program meets the definition of a “project” under title 14 of the California Code of Regulations §15378(a). The Program has significant effects on the environment of the State according to California Public Resources Code §§ 21060.5 and 21068 and, as a result, is subject to review under CEQA. Further, the County is the proper lead agency under California Public Resources Code § 21067. As the lead agency, Humboldt County should prepare an Environmental Impact Report pursuant to California Public Resources Code § 21165. However, the County has failed to conduct any CEQA review regarding the Humboldt Program.

III. The State of California, through the California Department of Fish & Wildlife and Humboldt County, has violated its duty to protect wildlife resources held in public trust for the benefit of all Californians by implementing the Humboldt Program without environmental review.

The State of California and its political subdivisions have a legal duty to actively manage natural resources, including wildlife, in a manner that benefits all Californians. This duty is derived from a long common law tradition requiring each state to protect and preserve the natural resources shared by its citizens.ⁱⁱⁱ

Common law principles reaching back to antiquity place a duty on the State, as a sovereign representative of the people, to hold common resources in trust for its citizens. This trust duty requires the State to preserve natural resources and to protect its citizens’ interests in those resources by safeguarding against their exploitation for private gain at the expense of the public good. These principles, known as the “public trust doctrine,” arose to protect the public’s access to tidelands and navigable waters, especially for use in navigation, commerce, and fishing. Over time, California courts have recognized additional trust duties beyond such waters and uses. California case law recognizes that the doctrine expresses a state’s intrinsic responsibility to protect the public’s interest in shared natural resources, including wildlife. California courts have made this determination directly citing the important shared resource provided by wildlife.^{iv} California courts have also made this determination implicitly through the recognition that the proper allocation of California water resources must consider the ecological impact of usage because aquatic resources are inextricably tied to wildlife.^v Further, California statutes clearly make CDFW a trustee of the wildlife resources of the State. California Fish & Game Code § 711.7 states that fish and wildlife resources are held in trust for the people of the State by CDFW. Plainly, California law treats wildlife as an important natural resource that provides significant public benefits and requires judicially enforced governmental protections ensuring wise use.

Pursuant to the California public trust doctrine, government actors—here CDFW and the Humboldt County—are charged with fulfilling state trust duties. In fulfilling those duties, the government must consider the ecological impacts on wildlife resources before authorizing government activities affecting natural resources. Implicit in this duty is the mandate that state actors may not abdicate their duty under the doctrine by ceding control over the allocation of natural resources to non-state or private parties. This ancient legal restriction exists because

relinquishing control over common resources to non-state parties creates the danger that they will exploit public resources for private gain or in a manner that is contrary to the public good.^{vi}

Under the public trust doctrine, CDFW and Humboldt County must take an active role in the management of California's public trust resources. However, neither of these entities has fulfilled its duty under the public trust doctrine by properly managing wildlife resources. As a result of these failures a non-state actor has become the *de facto* manager of a sizable portion of state and county wildlife resources and ultimately controls the fate of a huge number of wild animals in the State. To be sure, Wildlife Services manages wildlife resources for the benefit of a small number of commercial interests by killing predators and many other animals, including birds, to protect agricultural and air traffic control interests. However, these same predators are essential to healthy ecosystems and to the maintenance of California's natural resources. As such, both CDFW and the County must carefully consider the harm the majority of California citizens will suffer as a result of Wildlife Service's activities and those citizens' interest in preserving the State's environment, including its wildlife resources. CDFW and Humboldt County must correct these violations of the public trust duty of the State and review Wildlife Services' activities in Humboldt County.

IV. Humboldt County's relationship with Wildlife Services violates its duty to protect wildlife.

Humboldt County authorizes and oversees the Humboldt Program administered by Wildlife Services. The County has a legal obligation to properly analyze and supervise the program. Yet the County has failed to provide sufficient environmental review prior to authorizing Wildlife Services to carry out the program and has not retained sufficient oversight over the program to ensure that the wildlife resources within its borders are properly [managed] for the benefit of all state citizens.

1. The Humboldt County Board of Supervisors authorized the Humboldt Program without any environmental review.

In June 2014, the Board approved a Work & Financial Plan between the County and Wildlife Services for fiscal year 2014–2015 as part of the County Board of Supervisors' Consent Calendar. Items placed on the County's consent calendar are typically routine administrative items that do not require separate consideration or discussion. In Humboldt County, the pending Consent Calendar is approved by a single majority vote of the Board during its meetings. By the request of any Supervisor, items on the Consent Calendar may be removed for separate discussion. However, the Work & Financial Plan was not separately considered and received no substantive environmental analysis as a part of the Board's authorization process. There is no indication that the Board considered the interests in wildlife of all County and California residents when it authorized the Plan at its June meeting. In addition, the Board has an affirmative duty, which it failed to fulfill, to raise and consider the environmental impacts of its actions regarding wildlife. Also in June, during the same unanimous vote, the Board authorized a five-year Cooperative Services Agreement with Wildlife Services. This document structures the system of serial Work & Financial Plans that allow the Humboldt Program to operate and are approved each year by the County. There is no evidence that the Board considered the foreseeable long-term environmental impacts of the Humboldt Program when it authorized the

Cooperative Service Agreement with Wildlife Services. In addition, there is no evidence that the board solicited or received input from CDFW on the Cooperative Services Agreement or the Work & Financial Plan.

2. Humboldt County provides insufficient review, and oversight, of Wildlife Services' activities.

Once Humboldt County authorizes its Wildlife Services Program, it retains little oversight over Wildlife Services' activities conducted there. Generally, a federal "Wildlife Specialist" (trapper) employed by the USDA, and supervised by the state director of Wildlife Services (also a federal official), carries out Wildlife Services' activities including the destruction of wild animals. On behalf of the USDA, these trappers enter agreements with commercial agricultural producers directly. The trappers independently determine the magnitude of killing and methods they perceive as necessary to control wildlife conflicts subject to Wildlife Services' policy and their own discretion. As a result, [wildlife resource management]—properly the duty of Humboldt County—is at the whim of Wildlife Services, the individual Specialists operating in the County, and private commercial interests.

There is no evidence that Humboldt County tracks or analyzes the impacts of Wildlife Services' activities within its borders in any way. In general, pursuant to the Work & Financial Plans used by Wildlife Services in California, the USDA is obliged to submit quarterly reports to county agricultural commissioners summarizing Wildlife Services' activities in counties where the agency operates. Boilerplate language in the Work & Financial Plans, including Humboldt County's Plan, state that "[t]he cooperator [i.e. County] will be kept advised of the status of the project on a regular basis" by the Wildlife Services' District Office in Sacramento. However, these *ex post* records provide only the barest facts about Wildlife Services' activities—often including little more than the number and species of animals that Wildlife Services has killed and a purported, estimated dollar amount of damage to agricultural resources in the county. As such, these documents contain no substantive analysis of the impact of the Program on wildlife resources in Humboldt County or the State of California.

CDFW and Humboldt County's failure to examine the ecological impacts of the Humboldt Program violates California's public trust doctrine. The State and County have ceded control over the use and allocation of California's wildlife resources to Wildlife Services. Wildlife Services is a federal agency with no specific obligation to protect the State's resources—for the common good of all state citizens or otherwise—and which in fact destroys those resources to serve as a predator killing operation for a small number of commercial agricultural producers. The County may not simply rubber-stamp the Humboldt Program each year and allow this failure to continue. Furthermore, the State, through CDFW, may not simply stand idly by and give tacit approval to the County's actions. Instead, these entities must closely scrutinize the actual and potential ecological and wildlife impacts of the implementation of the Humboldt Program including the cumulative effects of the ecological changes caused by removing predators from the landscape. Then they must weigh those impacts and the resulting harm to all California's citizens against the private benefits of Wildlife Services' continued operation in the County. During this analysis, the State and County must determine how best to serve the common good. Until the CDFW and Humboldt County undertake such a review, the

County's approval of the Humboldt Program and continued relationship with Wildlife Services violates the public trust doctrine.

3. The continued authorization and operation of the Humboldt Program does not benefit all county or state citizens.

The State and County's failure to adequately regulate Wildlife Services' activities harms the interests of the public by allowing Wildlife Services to destroy valuable public trust resources without sufficient consideration by the County or analysis and authorization by CDFW. Furthermore, were these state actors to properly fulfill their duty they would find that Wildlife Services' activities are detrimental to the common good rather than beneficial.

Every year, Wildlife Services kills tens of thousands animals in California. For example, in 2008, Wildlife Services killed a total of 79,751 animals in California, a large portion of which were predators. As a consequence of killing so many animals, population dynamics and delicate natural equilibriums are destabilized. The unchecked destruction of native predators degrades California's natural resources. Wildlife Services' destruction of predatory species can lead to broad and unexpected environmental impacts because predators are essential for ecological systems to function properly. Disruption at the highest "trophic" level of the food chain, where major predators reside, has profound effects on other trophic levels. This process, called a trophic cascade, can fundamentally change ecosystems. This trophic cascade harms California's natural resources by changing the behavior patterns of wild animals, reducing plant and animal recruitment, spoiling key habitat for wildlife, reducing biodiversity, and increasing the number of "pest" animals present in the landscape.^{vii}

Studies of trophic cascade examples show that it is a deeply complex process. For example, studies in Yellowstone National Park assessing the effects of past lethal predator control efforts have shown that killing a large number of predators can cause ungulates (*i.e.*, hooved herbivores) to over-browse shrubs and saplings. Over-browsing, in turn, reduces the recruitment (*i.e.*, the number of juvenile members of a species that survive to join the adult populations) of trees and understory plants, reducing habitat for smaller mammals, birds, and insects.^{viii} Even the localized reduction in predator populations can change some sensitive habitat permanently and harm wildlife. For example, an increase in ungulates can change river morphology and harm fish. Destruction of plant matter by grazers, which is essential for maintaining the integrity of river and stream banks, leads to broadened river channels and decreased channel depth. These effects, in combination with the reduction in shade provided by shore plants, lead to increased water temperatures, which negatively impact fish health.^{ix}

Even the coyote is important to ecosystems like those found in Humboldt County. Healthy predator populations can control other species that, if left unchecked, increase and become detrimental to long-term ecosystem health. Studies indicate that where predator populations are absent or significantly reduced, rodent and rabbit populations can explode. The increased rodent populations compete with livestock for grazing resources, damage crops and property, and spread disease. Decreased coyote populations could also lead to mesopredator (*i.e.* medium-sized predators) release. This phenomenon can occur when populations of smaller predators balloon because of the absence of competition from larger predators. Larger

populations of these smaller predators increase the predation on small prey animals and birds occurring in the area and decrease species recruitment by stealing eggs and killing vulnerable young animals. Increased pressure on the smaller prey species ultimately leads to decreased biodiversity and ecosystem health.^x

In Humboldt County alone, Wildlife Services kills hundreds of predators and other wild animals every year. Wildlife Services reported a total of 271 animals killed in 2009, 271 animals in 2010, 441 animals in 2011, and 177 animals in 2012, which is the last year for which we have complete data. The majority of the animals killed in the last five years were coyotes but the death toll included 13 mountain lions, 55 black bears, and 30 grey and red foxes. Wildlife Services also killed numerous beavers, raccoons, and other species during that timeframe.

The examples above illustrate how wholesale destruction of predators and other animals, like that occurring in Humboldt County, harms California's wildlife resources and ecosystems. The Program reduces biodiversity, decreases habitat, and increases the number of "pest" species, thereby degrading the value of California's environment and natural resources. These resources are held in trust for the benefit of the public. CDFW and Humboldt County's failure to control Wildlife Services' activities and perform their public trust duty harms every citizen's interest in those resources. Wildlife Services considers only the interests of a small minority of private parties involved in the production of livestock and other agricultural commodities when it undertakes the destruction of California's wildlife resources. Neither the County nor CDFW has considered the ecological impacts of the Humboldt Program nor have they attempted to balance the allocation of wildlife resources to better serve the public good in light of those effects. Rather the County authorized, without review, the destruction of those resources to benefit a small number of commercial interests. What is more, CDFW has wholly failed to exercise its statutory obligation to hold the fish and wildlife resources of California in trust for the State's citizens by giving tacit approval to the Humboldt Program. These failures violate the public trust. Until these issues are remedied the Humboldt Program must be discontinued.

V. Humboldt County's contract with Wildlife Services is bad policy and should be cancelled.

1. Wildlife Services' practices are dangerous and cruel.

Wildlife Services' methods are cruel and pose a danger to both people and their pets. To capture and kill wildlife, the agency regularly uses steel-jaw leghold, "Conibear" traps, wire snares, and poisons. Each of these methods causes animals horrible injuries and prolonged agony. Animals often remain trapped for days without food or water. These brutal methods of predator control have been widely condemned. The State of California has outlawed the use of many methods routinely utilized by Wildlife Services, including steel-jaw leghold traps and two predacides -- Compound 1080 and sodium cyanide M-44s. These laws, largely accomplished through referenda, are evidence of the public's concern regarding wildlife trapping procedures and distaste for brutal and indiscriminate killing. Nonetheless, Wildlife Services' records show that the use of traps and snares by Specialists is ubiquitous in California and that Specialists routinely make use of the exception that allows federal employees to use hounds to hunt predators.

Wildlife Services' traps, carelessly placed and left unmonitored, have permanently injured hikers. Traps have also snared and caught companion animals. Many of these animals have been killed or seriously injured. Such incidents have occurred not only in wilderness or rural areas, but often in populated suburban landscapes.

In addition, Wildlife Services employees have committed egregious acts violating decency and, likely, state anti-cruelty laws. Recent examples include a Specialist named Jamie P. Olson, who drew public scorn for posting pictures on Twitter (taken while on official duty) of his hunting dogs mauling a coyote caught in a leg-hold trap.^{xi} Another Wildlife Services employee named Russell Files was charged with animal cruelty for intentionally capturing his neighbor's dog in multiple steel-jaw leghold traps, also while on duty.^{xii} The police found the dog covered in blood from her frantic attempts to escape. The investigating detective stated that the trapping "ranks up there with the worst [animal abuse] I've seen."^{xiii}

2. Contracting with Wildlife Services is not cost effective for Humboldt County.

Economic concerns also counsel for discontinuing the County's relationship with Wildlife Services. Humboldt County paid \$66,807.26 to Wildlife Services for the upcoming fiscal year. However, despite this high cost, the Humboldt Program does not effectively protect agricultural resources. While the Humboldt Program kills a large number of predators each year, the damage to agriculture reported in the County remains largely constant. Additionally, spending County funds to kill a large number of beneficial predatory species rather than using those tax dollars to introduce effective alternative methods of controlling crop damage and harm to livestock is simply wasteful. Humboldt County spends a large amount of money on activities conducted by Wildlife Services that do not, in fact, correct the problems those actions seek to address. Wildlife Services' actions actually harm the County's valuable natural resources. With budget crises facing state and county governments, predatory animal control programs should be among the first cut because they are not a cost-effective means of protecting agricultural producers across the State.

3. Contracting with Wildlife Services is unnecessary.

Further illustrating the wisdom of discontinuing the Humboldt Program is Marin County's success in providing assistance to ranchers without employing Wildlife Services. Marin County does not contract with Wildlife Services for predatory animal damage control services; Marin has been without a federal trapper for more than ten years. Instead, Marin County's program (Marin Program) is based on non-lethal control measures.^{xiv} To the surprise of many ranchers in Marin County, non-lethal methods have proven more effective than Wildlife Services.^{xv} Some ranchers have seen losses due to predation drop by over sixty percent.^{xvi} The Marin Program emphasizes the use of fencing, both electric and conventional, guard animals, including dogs and llamas, and other non-lethal means to keep livestock safe. Rather than spending money to destroy wildlife resources, Marin County uses its funds to help defray the cost of building fences and employing non-lethal deterrents to ranchers who take steps to properly protect their animals, and directly reimburses ranchers for livestock killed by coyotes.

The Marin Program does not preclude ranchers from removing problem animals on their own ranch.

In addition, Sonoma County recently declined to renew its contract with Wildlife Services based on concerns over the legality of the County's approval of Wildlife Services activities. Sonoma County is currently considering the feasibility of instituting a non-lethal animal damage control management plan.

VI. Conclusion

Wildlife Services' activities harm California wildlife. Humboldt County's failure to analyze the environmental impacts of Wildlife Services' activities violates the County's statutory duty under CEQA. This failure also violates its public trust duty to consider and allocate common resources for the benefit of all of its citizens. As such, Humboldt County should immediately terminate the Humboldt County Predatory Animal Control Program and undertake appropriate review of the activities of Wildlife Services within the County under CEQA and the public trust doctrine. In addition, the State of California, through CDFW, has failed to comply with its public trust duty under California law. CDFW must take action to fulfill its trust duty regarding the Humboldt Program; it may not simply relinquish control over the destruction of thousands of wild animals.

Finally, we request to be informed of and given the opportunity to participate in any review process available through Humboldt County or CDFW and to provide additional information and assistance in the State and County's review of the ecological and resource allocation impacts of the Humboldt Program. Thank you for your time and attention to this matter.

Sincerely,

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ⁱ See *National Audubon Society v. Superior Court*, 33 Cal.3d 419 (1983); *Center for Biological Diversity, Inc. v. FPL Group, Inc.*, 166 Cal. App. 4th 1361–63; Cal. Fish & Game Code § 1801(b).

ⁱⁱ See *USDA's Wildlife Services killed 4 million animals in 2013; seen as an overstep by some*, WASHINGTON POST (June 8, 2014) (available at http://www.washingtonpost.com/national/health-science/governments-kill-of-4-million-animals-seenas-an-overstep/2014/06/06/1de0c550-ecc4-11e3-b98c-72cef4a00499_story.html?hpid=z4).

ⁱⁱⁱ See *National Audubon Society v. Superior Court*, 33 Cal.3d 419, 441 (1983); *Center for Biological Diversity, Inc. v. FPL Group, Inc.*, 166 Cal. App. 4th 1360–1363 (2008).

^{iv} See *Center for Biological Diversity, Inc. v. FPL Group, Inc.*, 166 Cal. App. 4th 1360–1363 (2008).

^v See *National Audubon Society v. Superior Court*, 33 Cal.3d 419 (1983).

^{vi} See *Illinois Cent. R. Co. v. State of Illinois*, 146 U.S. 387 (1892).

^{vii} See e.g. William J. Ripple and Robert Beschta, *Large Predators and Trophic Cascade in Terrestrial Ecosystems of the Western United States*, *Biological Conservation* 142, 2401-2114 (2009).

^{viii} Beschta, R.L., Ripple, W.J., *Trophic Cascades in Yellowstone: The First 15 Years After Wolf Reintroduction*, *BIOLOGICAL CONSERVATION* (2009), available at <http://www.acsu.buffalo.edu/~jcallen/large%20predators%20and%20trophic%20cascades%20in%20w%20US.pdf>.

^{ix} Beschta, R.L., Ripple, W.J., *The Role of Large Predators in Maintaining Riparian Plant Communities and River Morphology*, *GEOMORPHOLOGY* (2011), available at doi:10.1016/j.geomorph.2011.04.042.

^x Henke, S.E. and F.C. Bryant, *Effects of Coyote Removal On The Faunal Community in Western Texas*, JOURNAL OF WILDLIFE MANAGEMENT 63(4): 1066-1081; Kevin R. Crooks & Michael E. Soule, *Mesopredator Release and Avifaunal Extinctions in a Fragmented System*, NATURE vol. 400: 563-566.

^{xi} T. Knudson, *U.S. wildlife worker's online photos of animal abuse stir outrage*, SACRAMENTO BEE, Nov. 2, 2012, available at <http://www.wildearthguardians.org/site/DocServer/SacBeeWSCoyoteKill11.2.12.pdf?docID=6923>.

^{xii} T. Knudson, *U.S. wildlife agent accused of trapping a neighbor's dog*, SACRAMENTO BEE, Jan. 31, 2013, available at <http://www.sacbee.com/2013/01/31/5153892/us-wildlife-agent-accused-of-trapping.html>.

^{xiii} *Id.*

^{xiv} Fox, C.H. and C.M., *Papouchis, Coyotes in Our Midst: Coexisting with an Adaptable and Resilient Carnivore*, Animal Protection Institute, Sacramento, California (2005).

^{xv} Fox, C.H., *Analysis of The Marin County Strategic Plan for Protection of Livestock & Wildlife: An Alternative to Traditional Predator Control*, Master's Thesis: Prescott College, Prescott, Arizona. p. 112 (2008).

^{xvi} Fox, C.H., *Analysis of The Marin County Strategic Plan for Protection of Livestock & Wildlife: An Alternative to Traditional Predator Control*, Master's Thesis: Prescott College, Prescott, Arizona. p. 112 (2008); Fox, C. H. *Coyotes and Humans: Can We Coexist?*, R.M. Timm and J. H. O'Brien (eds.), Proceedings, 22nd Vertebrate Pest Conference. Publ. Univ. Calif.-Davis, pp. 287-293 (2006); Fimrite, P., *Ranchers Shift From Traps to Dogs to "Ght Coyotes*, SAN FRANCISCO CHRONICLE, p. 1 (April 27, 2012) (available at <http://www.sfgate.com/science/article/Ranchers-shift-from-traps-to-dogs-to-ght>).

June 30, 2014



Submitted via Electronic Mail Only

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**RE: Violations of the California Environmental Quality Act and
the Public Trust Duty of the State of California and Mendocino County**

Dear Director Bonham and Supervisors Brown, McCowen, Pinches, Gjerde, and Hamburg:

Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code §21000 *et seq.*, and the public trust duty held by the State of California and its political subdivisions, and on behalf of the Animal Legal Defense Fund (ALDF), the Center for Biological Diversity (CBD), Project Coyote, the Natural Resources Defense Council (NRDC), the Animal Welfare Institute, the Mountain Lion Foundation, the injured members of these groups in Mendocino County, and other aggrieved citizens of the State of California, we hereby request that the State of California through the California Department of Fish & Wildlife (CDFW) and the Mendocino County Board of Supervisors (the Board) take the following action:

1. Immediately terminate the Mendocino County Predatory Animal Control Program (Mendocino Program) supervised and carried out by the United States Department of Agriculture's APHIS-Wildlife Services (Wildlife Services);
2. Undertake legally required environmental review of the Mendocino Program under CEQA;
3. Properly preserve and protect Mendocino County wildlife for the benefit of all state citizens pursuant to common law and statutory public trust requirements prior to reauthorizing the control of wildlife by Wildlife Services; and
4. Institute a non-lethal animal damage control program in Mendocino County, similar to the one used in Marin County, which recognizes the ecological benefits of predators.

As you are no doubt aware, through the Mendocino Program, Wildlife Services employs trappers, spending hundreds of thousands of taxpayer dollars over the last five years to kill hundreds of native predators and other "nuisance" animals in the name of commercial agricultural interests. Each year, without state oversight or any environmental investigation or analysis, the County and Wildlife Services enter into a contract whereby Wildlife Services receives a substantial payment of tax dollars in exchange for providing these services. Mendocino County retains minimal oversight over Wildlife Services' activities and merely receives periodic reports disclosing the total number of animals destroyed by the agency. These reports are also bereft of evaluation regarding the environmental impact of this killing.

Under CEQA, Mendocino County has a duty to review the impacts of activities that affect California's environment, including wildlife. Through repeated renewal of its contract with Wildlife Services without environmental analysis, the County has failed to follow the legal procedure mandated by CEQA. What is more, under the California public trust doctrine both Mendocino County and CDFW are obligated to regulate the State's wildlife resources in a manner that benefits all citizens of the County and State.¹ Contrary to the public trust, Wildlife Services kills ecologically valuable predators for the supposed benefit of a small number of commercial agricultural producers. This use of wildlife resources does not benefit all of California's citizens. As such, the County has failed to fulfill its legal duty under the public trust doctrine. In addition, CDFW does not participate in the authorization of the County's contract with Wildlife Services or maintain oversight over the environmental impacts of the County's program. As a result, CDFW has unlawfully delegated its duty under the public trust doctrine to preserve and protect wildlife.

Until these deficiencies are remedied, the Mendocino Program is operating in violation of California law.

I. State and local regulators should be alarmed by Wildlife Services' sordid history.

Wildlife Services states that its mission is to “resolve wildlife conflicts to allow people and wildlife to coexist.” In reality, its specialization—both historically and presently—is to kill wild animals, per the interests of some agricultural producers, hunters, and airports. Beginning in 1915, the agency’s earliest iteration provided federal funding for trappers and hunters who exterminated wolves to support the interests of beef producers. Over time, Wildlife Services’ programs grew and increased their effectiveness in destroying predators. During the first half of the 20th century, federal trappers played a crucial role in virtually eliminating wolf, grizzly bear, and mountain lion populations throughout much of the American West. Due to the decreased number of these large carnivores in the food chain, populations of other predators expanded. In response, Wildlife Services turned its attention to the destruction of other species including black bears, bobcats, red and gray foxes, skunks, badgers, raccoons and especially coyotes, which thrived partially in response to the decline of wolves. Since 2000, Wildlife Services has killed nearly one million coyotes and thousands of other predators across the United States.

Many of Wildlife Services’ methods are indiscriminate, often killing unintended victims. Some of the animals the agency has mistakenly killed are members of species that have been the subjects of costly conservation efforts (*e.g.* Mexican gray wolves, wolverines, river otters, swift and kit foxes, and bald and golden eagles). Since 2000, Wildlife Services has also killed more than 50,000 members of over 150 non-target species, including birds of prey (*e.g.*, red-tailed hawk, great horned owl), armadillos, pronghorns, porcupines, long-tailed weasels, javelinas, marmots, snapping turtles, turkey vultures, great blue herons, ruddy ducks, sandhill cranes, and ringtail cats.

The most recent data on Wildlife Services shows that in fiscal year 2013 the agency killed more than 4 million animals across the United States. A sampling of last year’s statistics for native predatory species shows that Wildlife Services killed 75,326 coyotes, 419 black bears, 866 bobcats, 395 mountain lions, 3,706 foxes (including arctic, gray, swift, kit and red foxes), 372 badgers, 3 fishers, 2 pine martens, 40 weasels and minks, 528 river otters (397 of which were killed unintentionally), 2,385 birds of prey (including the unintentional destruction of one bald and two golden eagles), and 319 wolves (including the unintentional shooting of a rare and highly endangered Mexican gray wolf). In 2013 Wildlife Services also killed 24,390 beaver, which create habitat vital to other species and thousands of other non-predatory animals important to the health of the nation’s wild lands. Indeed, just this month, the *Washington Post* ran an investigative piece about Wildlife Services’ kill list, with details about which animals are killed, when and where, as reported by Wildlife Services to Congress. The piece sounds the alarm for Congressional action to reign in this “rogue” agency.ⁱⁱ

II. Mendocino County has a statutory duty to perform environmental review of its activities under the California Environmental Quality Act.

CEQA requires review of the environmental impacts of discretionary projects undertaken or approved by public agencies, which may cause adverse physical changes to the environment. Typically, compliance with CEQA requires the generation of an environmental document called

an Environmental Impact Report (EIR), which contains a statement of the environmental impacts of the proposed project and analysis of the viable alternatives to the project. The Mendocino Program meets the definition of a “project” under title 14 of the California Code of Regulations §15378(a). The Program has significant effects on the environment of the State according to California Public Resources Code §§ 21060.5 and 21068 and, as a result, is subject to review under CEQA. Further, the County is the proper lead agency under California Public Resources Code § 21067. As the lead agency, Mendocino County should prepare an Environmental Impact Report pursuant to California Public Resources Code § 21165. However, the County has failed to conduct any CEQA review regarding the Mendocino Program.

III. The State of California, through the California Department of Fish & Wildlife and Mendocino County, has violated its duty to protect wildlife resources held in public trust for the benefit of all Californians by implementing the Mendocino Program without environmental review.

The State of California and its political subdivisions have a legal duty to actively manage natural resources, including wildlife, in a manner that benefits all Californians. This duty is derived from a long common law tradition requiring each state to protect and preserve the natural resources shared by its citizens.ⁱⁱⁱ

Common law principles reaching back to antiquity place a duty on the State, as a sovereign representative of the people, to hold common resources in trust for its citizens. This trust duty requires the State to preserve natural resources and to protect its citizens’ interests in those resources by safeguarding against their exploitation for private gain at the expense of the public good. These principles, known as the “public trust doctrine,” arose to protect the public’s access to tidelands and navigable waters, especially for use in navigation, commerce, and fishing. Over time, California courts have recognized additional trust duties beyond such waters and uses. California case law recognizes that the doctrine expresses a state’s intrinsic responsibility to protect the public’s interest in shared natural resources, including wildlife. California courts have made this determination directly citing the important shared resource provided by wildlife.^{iv} California courts have also made this determination implicitly through the recognition that the proper allocation of California water resources must consider the ecological impact of usage because aquatic resources are inextricably tied to wildlife.^v Further, California statutes clearly make CDFW a trustee of the wildlife resources of the State. California Fish & Game Code § 711.7 states that fish and wildlife resources are held in trust for the people of the State by CDFW. Plainly, California law treats wildlife as an important natural resource that provides significant public benefits and requires judicially enforced governmental protections ensuring wise use.

Pursuant to the California public trust doctrine, government actors—here CDFW and Mendocino County—are charged with fulfilling state trust duties. In fulfilling those duties, the government must consider the ecological impacts on wildlife resources before authorizing government activities affecting natural resources. Implicit in this duty is the mandate that state actors may not abdicate their duty under the doctrine by ceding control over the allocation of natural resources to non-state or private parties. This ancient legal restriction exists because

relinquishing control over common resources to non-state parties creates the danger that they will exploit public resources for private gain or in a manner that is contrary to the public good.^{vi}

Under the public trust doctrine, CDFW and Mendocino County must take an active role in the management of California's public trust resources. However, neither of these entities has fulfilled its duty under the public trust doctrine by properly managing wildlife resources. As a result of these failures a non-state actor has become the *de facto* manager of a sizable portion of state and county wildlife resources and ultimately controls the fate of a huge number of wild animals in the State. To be sure, Wildlife Services manages wildlife resources for the benefit of a small number of commercial interests by killing predators and many other animals, including birds, to protect agricultural and air traffic control interests. However, these same predators are essential to healthy ecosystems and to the maintenance of California's natural resources. As such, both CDFW and the County must carefully consider the harm the majority of California citizens will suffer as a result of Wildlife Service's activities and those citizens' interest in preserving the State's environment, including its wildlife resources. CDFW and Mendocino County must correct these violations of the public trust duty of the State and review Wildlife Services' activities in Mendocino County.

IV. Mendocino County's relationship with Wildlife Services violates its duty to protect wildlife.

Mendocino County authorizes and oversees the Mendocino Program administered by Wildlife Services. The County has a legal obligation to properly analyze and supervise the program. Yet the County has failed to provide sufficient environmental review prior to authorizing Wildlife Services to carry out the program and has not retained sufficient oversight over the program to ensure that the wildlife resources within its borders are properly managed for the benefit of all state citizens.

1. The Mendocino County Board of Supervisors authorized the Mendocino Program without any environmental review.

On June 3, 2014, the Board approved a Work & Financial Plan between the County and Wildlife Services for fiscal year 2014–2015 as part of the County Board of Supervisors' Consent Calendar. Items placed on the County's consent calendar are typically routine administrative items that do not require separate consideration or discussion. In Mendocino County, the pending Consent Calendar is approved by a single majority vote of the Board during its meetings. By the request of any Supervisor, items on the Consent Calendar may be removed for separate discussion. However, the Work & Financial Plan was not separately considered and received no substantive environmental analysis as a part of the Board's authorization process. There is no indication that the Board considered the interests in wildlife of all County and California residents when it authorized the Plan at its June meeting. In addition, the Board has an affirmative duty, which it failed to fulfill, to raise and consider the environmental impacts of its actions regarding wildlife. Also on June 3, 2014, during the same unanimous vote, the Board authorized a five-year Cooperative Services Agreement with Wildlife Services. This document structures the system of serial Work & Financial Plans that allow the Mendocino Program to operate and are approved each year by the County. There is no evidence that the Board considered the foreseeable long-term environmental impacts of the Mendocino Program when it

authorized the Cooperative Service Agreement with Wildlife Services. In addition, there is no evidence that the board solicited or received input from CDFW on the Cooperative Services Agreement or the Work & Financial Plan.

2. Mendocino County provides insufficient review, and oversight, of Wildlife Services' activities.

Once Mendocino County authorizes its Wildlife Services Program, it retains little oversight over Wildlife Services' activities conducted there. Generally, a federal "Wildlife Specialist" (trapper) employed by the USDA, and supervised by the state director of Wildlife Services (also a federal official), carries out Wildlife Services' activities including the destruction of wild animals. On behalf of the USDA, these trappers enter agreements with commercial agricultural producers directly. The trappers independently determine the magnitude of killing and methods they perceive as necessary to control wildlife conflicts subject to Wildlife Services' policy and their own discretion. As a result, wildlife resource management—properly the duty of Mendocino County—is at the whim of Wildlife Services, the individual Specialists operating in the County, and private commercial interests.

There is no evidence that Mendocino County tracks or analyzes the impacts of Wildlife Services' activities within its borders in any way. In general, pursuant to the Work & Financial Plans used by Wildlife Services in California, the USDA is obliged to submit quarterly reports to county agricultural commissioners summarizing Wildlife Services' activities in counties where the agency operates. Boilerplate language in the Work & Financial Plans, including Mendocino County's Plan, state that "[t]he cooperator [i.e. County] will be kept advised of the status of the project on a regular basis" by the Wildlife Services' District Office in Sacramento. However, these *ex post* records provide only the barest facts about Wildlife Services' activities—often including little more than the number and species of animals that Wildlife Services has killed and a purported, estimated dollar amount of damage to agricultural resources in the county. As such, these documents contain no substantive analysis of the impact of the Program on wildlife resources in Mendocino County or the State of California.

CDFW and Mendocino County's failure to examine the ecological impacts of the Mendocino Program violates California's public trust doctrine. The State and County have ceded control over the use and allocation of California's wildlife resources to Wildlife Services. Wildlife Services is a federal agency with no specific obligation to protect the State's resources—for the common good of all state citizens or otherwise—and which in fact destroys those resources to serve as a predator killing operation for a small number of commercial agricultural producers. The County may not simply rubber-stamp the Mendocino Program each year and allow this failure to continue. Furthermore, the State, through CDFW, may not simply stand idly by and give tacit approval to the County's actions. Instead, these entities must closely scrutinize the actual and potential ecological and wildlife impacts of the implementation of the Mendocino Program including the cumulative effects of the ecological changes caused by removing predators from the landscape. Then they must weigh those impacts and the resulting harm to all California's citizens against the private benefits of Wildlife Services' continued operation in the County. During this analysis, the State and County must determine how best to serve the common good. Until the CDFW and Mendocino County undertake such a review, the

County's approval of the Mendocino Program and continued relationship with Wildlife Services violates the public trust doctrine.

3. The continued authorization and operation of the Mendocino Program does not benefit all county or state citizens.

The State and County's failure to adequately regulate Wildlife Services' activities harms the interests of the public by allowing Wildlife Services to destroy valuable public trust resources without sufficient consideration by the County or analysis and authorization by CDFW. Furthermore, were these state actors to properly fulfill their duty they would find that Wildlife Services' activities are detrimental to the common good rather than beneficial.

Every year, Wildlife Services kills tens of thousands animals in California. For example, in 2008, Wildlife Services killed a total of 79,751 animals in California, a large portion of which were predators. As a consequence of killing so many animals, population dynamics and delicate natural equilibriums are destabilized. The unchecked destruction of native predators degrades California's natural resources. Wildlife Services' destruction of predatory species can lead to broad and unexpected environmental impacts because predators are essential for ecological systems to function properly. Disruption at the highest "trophic" level of the food chain, where major predators reside, has profound effects on other trophic levels. This process, called a trophic cascade, can fundamentally change ecosystems. This trophic cascade harms California's natural resources by changing the behavior patterns of wild animals, reducing plant and animal recruitment, spoiling key habitat for wildlife, reducing biodiversity, and increasing the number of "pest" animals present in the landscape.^{vii}

Studies of trophic cascade examples show that it is a deeply complex process. For example, studies in Yellowstone National Park assessing the effects of past lethal predator control efforts have shown that killing a large number of predators can cause ungulates (*i.e.*, hooved herbivores) to over-browse shrubs and saplings. Over-browsing, in turn, reduces the recruitment (*i.e.*, the number of juvenile members of a species that survive to join the adult populations) of trees and understory plants, reducing habitat for smaller mammals, birds, and insects.^{viii} Even the localized reduction in predator populations can change some sensitive habitat permanently and harm wildlife. For example, an increase in ungulates can change river morphology and harm fish. Destruction of plant matter by grazers, which is essential for maintaining the integrity of river and stream banks, leads to broadened river channels and decreased channel depth. These effects, in combination with the reduction in shade provided by shore plants, lead to increased water temperatures, which negatively impact fish health.^{ix}

Even the coyote is important to ecosystems like those found in Mendocino County. Healthy predator populations can control other species that, if left unchecked, increase and become detrimental to long-term ecosystem health. Studies indicate that where predator populations are absent or significantly reduced, rodent and rabbit populations can explode. The increased rodent populations compete with livestock for grazing resources, damage crops and property, and spread disease. Decreased coyote populations also lead to mesopredator (*i.e.* medium-sized predators) release. This phenomenon occurs when populations of smaller predators balloon because of the absence of competition from larger predators. Larger

populations of these smaller predators increase the predation on small prey animals and birds occurring in the area and decrease species recruitment by stealing eggs and killing vulnerable young animals. Increased pressure on the smaller prey species ultimately leads to decreased biodiversity and ecosystem health.^x

In Mendocino County alone, Wildlife Services kills hundreds of predators and other wild animals every year. Wildlife Services reported a total of 376 animals killed in 2008, 438 animals in 2009, 264 animals in 2010, 392 animals in 2011, 459 animals in 2012, the last year for which we have complete data. The majority of the animals killed in the last five years were coyotes of which 874 were killed, but the death toll includes 21 bobcats during that period, 28 mountain lions, 82 black bears, and 29 gray and red foxes. Wildlife Services also killed numerous beavers, raccoons, and other species during that timeframe.

The examples above illustrate how wholesale destruction of predators and other animals, like that occurring in Mendocino County, harms California's wildlife resources and ecosystems. The Program reduces biodiversity, decreases habitat, and increases the number of "pest" species, thereby degrading the value of California's environment and natural resources. These resources are held in trust for the benefit of the public. CDFW and Mendocino County's failure to control Wildlife Services' activities and perform their public trust duty harms every citizen's interest in those resources. Wildlife Services considers only the interests of a small minority of private parties involved in the production of livestock and other agricultural commodities when it undertakes the destruction of California's wildlife resources. Neither the County nor CDFW has considered the ecological impacts of the Mendocino Program nor have they attempted to balance the allocation of wildlife resources to better serve the public good in light of those effects. Rather the County authorized, without review, the destruction of those resources to benefit a small number of commercial interests. What is more, CDFW has wholly failed to exercise its statutory obligation to hold the fish and wildlife resources of California in trust for the State's citizens by giving tacit approval to the Mendocino Program. These failures violate the public trust. Until these issues are remedied the Mendocino Program must be discontinued.

V. Mendocino County's contract with Wildlife Services is bad policy and should be cancelled.

1. Wildlife Services' practices are dangerous and cruel.

Wildlife Services' methods are cruel and pose a danger to both people and their pets. To capture and kill wildlife, the agency regularly uses steel-jaw leghold, "Conibear" traps, wire snares, and poisons. Each of these methods cause animals horrible injuries and prolonged agony. Animals often remain trapped for days without food or water. These brutal methods of predator control have been widely condemned. The State of California has outlawed the use of many methods routinely utilized by Wildlife Services, including steel-jaw leghold traps and two predacides -- Compound 1080 and sodium cyanide M-44s. These laws, largely accomplished through referenda, are evidence of the public's concern regarding wildlife trapping procedures and distaste for brutal and indiscriminate killing. Nonetheless, Wildlife Services' records show that the use of traps and snares by Specialists is ubiquitous in California and that Specialists

routinely make use of the exception that allows federal employees to use hounds to hunt predators.

Wildlife Services' traps, carelessly placed and left unmonitored, have permanently injured hikers. Traps have also snared and caught companion animals. Many of these animals have been killed or seriously injured. Such incidents have occurred not only in wilderness or rural areas, but often in populated suburban landscapes.

In addition, Wildlife Services employees have committed egregious acts violating decency and, likely, state anti-cruelty laws. Recent examples include a Specialist named Jamie P. Olson, who drew public scorn for posting pictures on Twitter (taken while on official duty) of his hunting dogs mauling a coyote caught in a leg-hold trap.^{xi} Another Wildlife Services employee named Russell Files was charged with animal cruelty for intentionally capturing his neighbor's dog in multiple steel-jaw leghold traps, also while on duty.^{xii} The police found the dog covered in blood from her frantic attempts to escape. The investigating detective stated that the trapping "ranks up there with the worst [animal abuse] I've seen."^{xiii}

2. Contracting with Wildlife Services is not cost effective for Mendocino County.

Economic concerns also counsel for discontinuing the County's relationship with Wildlife Services. Mendocino County paid \$142,356.40 to Wildlife Services for the upcoming fiscal year. However, despite this high cost, the Mendocino Program does not effectively protect agricultural resources. While the Mendocino Program kills a large number of predators each year, the damage to agriculture reported in the County remains largely constant. Additionally, spending County funds to kill a large number of beneficial predatory species rather than using those tax dollars to introduce effective alternative methods of controlling crop damage and harm to livestock is simply wasteful. Mendocino County spends a large amount of money on activities conducted by Wildlife Services that do not, in fact, correct the problems those actions seek to address. Wildlife Services' actions actually harm the County's valuable natural resources. With budget crises facing state and county governments, predatory animal control programs should be among the first cut because they are not a cost-effective means of protecting agricultural producers across the State.

3. Contracting with Wildlife Services is unnecessary.

Further illustrating the wisdom of discontinuing the Mendocino Program is Marin County's success in providing assistance to ranchers without employing Wildlife Services. Marin County does not contract with Wildlife Services for predatory animal damage control services; Marin has been without a federal trapper for more than ten years. Instead, Marin County's program ("Marin Program") is based on non-lethal control measures.^{xiv} To the surprise of many ranchers in Marin County, non-lethal methods have proven more effective than Wildlife Services.^{xv} Some ranchers have seen losses due to predation drop by over sixty percent.^{xvi} The Marin Program emphasizes the use of fencing, both electric and conventional, guard animals, including dogs and llamas, and other non-lethal means to keep livestock safe. Rather than spending money to destroy wildlife resources, Marin County uses its funds to help defray the

cost of building fences and employing non-lethal deterrents to ranchers who take steps to properly protect their animals, and directly reimburses ranchers for livestock killed by coyotes. The Marin Program does not preclude ranchers from removing problem animals on their own ranch.

In addition, Sonoma County recently declined to renew its contract with Wildlife Services based on concerns over the legality of the County's approval of Wildlife Services activities. Sonoma County is currently considering the feasibility of instituting a non-lethal animal damage control management plan.

VI. Conclusion

Wildlife Services' activities harm California wildlife. Mendocino County's failure to analyze the environmental impacts of Wildlife Services' activities violates the County's statutory duty under CEQA. This failure also violates its public trust duty to consider and allocate common resources for the benefit of all of its citizens. As such, Mendocino County should immediately terminate the Mendocino County Predatory Animal Control Program and undertake appropriate review of the activities of Wildlife Services within the County under CEQA and the public trust doctrine. In addition, the State of California, through CDFW, has failed to comply with its public trust duty under California law. CDFW must take action to fulfill its trust duty regarding the Mendocino Program; it may not simply relinquish control over the destruction of thousands of wild animals.

Finally, we request to be informed of and given the opportunity to participate in any review process available through Mendocino County or CDFW and to provide additional information and assistance in the State and County's review of the ecological and resource allocation impacts of the Mendocino Program. Thank you for your time and attention to this matter.

Sincerely,

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ⁱ See *National Audubon Society v. Superior Court*, 33 Cal.3d 419 (1983); *Center for Biological Diversity, Inc. v. FPL Group, Inc.*, 166 Cal. App. 4th 1361–63; Cal. Fish & Game Code § 1801(b).

ⁱⁱ See *USDA's Wildlife Services killed 4 million animals in 2013; seen as an overstep by some*, WASHINGTON POST (June 8, 2014) (available at http://www.washingtonpost.com/national/health-science/governments-kill-of-4-million-animals-seenas-an-overstep/2014/06/06/1de0c550-ecc4-11e3-b98c-72cef4a00499_story.html?hpid=z4).

ⁱⁱⁱ See *National Audubon Society v. Superior Court*, 33 Cal.3d 419, 441 (1983); *Center for Biological Diversity, Inc. v. FPL Group, Inc.*, 166 Cal. App. 4th 1360–1363 (2008).

^{iv} See *Center for Biological Diversity, Inc. v. FPL Group, Inc.*, 166 Cal. App. 4th 1360–1363 (2008).

^v See *National Audubon Society v. Superior Court*, 33 Cal.3d 419 (1983).

^{vi} See *Illinois Cent. R. Co. v. State of Illinois*, 146 U.S. 387 (1892).

^{vii} See e.g. William J. Ripple and Robert Beschta, *Large Predators and Trophic Cascade in Terrestrial Ecosystems of the Western United States*, *Biological Conservation* 142, 2401-2114 (2009).

^{viii} Beschta, R.L., Ripple, W.J., *Trophic Cascades in Yellowstone: The First 15 Years After Wolf Reintroduction*, *BIOLOGICAL CONSERVATION* (2009), available at <http://www.acsu.buffalo.edu/~jcallen/large%20predators%20and%20trophic%20cascades%20in%20w%20US.pdf>.

^{ix} Beschta, R.L., Ripple, W.J., *The Role of Large Predators in Maintaining Riparian Plant Communities and River Morphology*, *GEOMORPHOLOGY* (2011), available at doi:10.1016/j.geomorph.2011.04.042.

^x Henke, S.E. and F.C. Bryant, *Effects of Coyote Removal On The Faunal Community in Western Texas*, JOURNAL OF WILDLIFE MANAGEMENT 63(4): 1066-1081; Kevin R. Crooks & Michael E. Soule, *Mesopredator Release and Avifaunal Extinctions in a Fragmented System*, NATURE vol. 400: 563-566.

^{xi} T. Knudson, *U.S. wildlife worker's online photos of animal abuse stir outrage*, SACRAMENTO BEE, Nov. 2, 2012, available at <http://www.wildearthguardians.org/site/DocServer/SacBeeWSCoyoteKill11.2.12.pdf?docID=6923>.

^{xii} T. Knudson, *U.S. wildlife agent accused of trapping a neighbor's dog*, SACRAMENTO BEE, Jan. 31, 2013, available at <http://www.sacbee.com/2013/01/31/5153892/us-wildlife-agent-accused-of-trapping.html>.

^{xiii} *Id.*

^{xiv} Fox, C.H. and C.M., *Papouchis, Coyotes in Our Midst: Coexisting with an Adaptable and Resilient Carnivore*, Animal Protection Institute, Sacramento, California (2005).

^{xv} Fox, C.H., *Analysis of The Marin County Strategic Plan for Protection of Livestock & Wildlife: An Alternative to Traditional Predator Control*, Master's Thesis: Prescott College, Prescott, Arizona. p. 112 (2008).

^{xvi} Fox, C.H., *Analysis of The Marin County Strategic Plan for Protection of Livestock & Wildlife: An Alternative to Traditional Predator Control*, Master's Thesis: Prescott College, Prescott, Arizona. p. 112 (2008); Fox, C. H. *Coyotes and Humans: Can We Coexist?*, R.M. Timm and J. H. O'Brien (eds.), Proceedings, 22nd Vertebrate Pest Conference. Publ. Univ. Calif.-Davis, pp. 287-293 (2006); Fimrite, P., *Ranchers Shift From Traps to Dogs to "Ght Coyotes*, SAN FRANCISCO CHRONICLE, p. 1 (April 27, 2012) (available at <http://www.sfgate.com/science/article/Ranchers-shift-from-traps-to-dogs-to-ght>).