



**Animal Welfare
Institute**
www.awionline.org

January 31, 2013

Via Email (adinsupplyco@frontiernet.net) and First Class Mail

Adin Supply Outfitters
104 Main
Adin, CA 96006

Pit River Rod and Gun Club
104 Main
Adin, CA 96006

Re: Notice of Legal Violations in connection with Coyote Drive 2013

Dear Sirs,

We are writing on behalf of our coalition of organizations to inform you of several legal violations threatened by your upcoming Coyote Drive 2013. Your planned coyote hunt threatens violations of state and federal law by failing to obtain the requisite permissions and permits from private and federal landowners where your hunt is scheduled to take place; threatens violations of the Endangered Species Act if wolves are mistaken for coyotes and killed during your hunt; and threatens violations of California's gambling laws. For these reasons, we are asking you to cancel the coyote drive.

Background

Coyote Drive 2013 takes place over the course of two days and is designed to reduce the coyote population in the area around Adin, California. In addition to the hunt, the drive includes the issuance of prizes to the winner of the contest, raffles with prizes (i.e., guns) during the

Saturday evening banquet, and a raffle for a gun to be awarded at the conclusion of the event on Sunday.¹

According to your website and hunter chat lists, the coyote drive is scheduled to occur on private and public lands near and around Adin. The contest notice explains that “no geographic boundaries have been made” for the hunt.² Participants have been notified that “[h]unters will fan out from the small town of Adin into public and private lands of northeastern Shasta County, Siskiyou, Modoc, and Lassen Counties . . .”³ The public lands in this area include those under the jurisdiction of the United States Forest Service (“USFS”), the Bureau of Land Management (“BLM”), the United States Fish and Wildlife Service (“USFWS”), the National Park Service (“NPS”), and other federal and state agencies.⁴

1. Violations of State Requirements to Obtain Written Permission from Private Landowners.

Coyote Drive 2013 threatens to violate state requirements for hunting on private lands. Under California law, coyotes are considered to be nongame mammals. Fish & Game Code § 4152. Pursuant to regulation, they are allowed to be hunted. Ch. 6 § 472(a). When such hunting takes place on private lands, however, the hunter must have written permission from the land owner to hunt on that person’s land. *See* Ch. 6 § 474(b) (“[o]n privately-owned property . . . nongame mammals may be taken from one-half hour after sunset to one-half hour before sunrise only by the landowner or his agents, *or by persons who have in their immediate possession written permission issued by the landowner or tenant that states the permittee can trespass* from one-half hour after sunset to one-half hour before sunrise on property under the ownership or control of such landowners or tenants.”) (emphasis added).

The contest guidelines and coyote drive only remind participants to “gain permission to access private property” but fail to require contestants to obtain the “written permission” of the private landowner and, thus, threaten violations of California’s game code. Moreover, the regulation indicates that such written permission must be obtained in advance because the writing must indicate that the hunter “can trespass from one-half hour after sunset to one-half hour before sunrise.” There is nothing in the contest notice that explains that *advance* written notice to hunt on private lands is necessary let alone legally required. California’s Department of Fish and Wildlife (“CDFW”) is also being notified of this legal violation.

¹ Contest Guidelines (available online at: <http://www.adinsupply.com/Coyote%20Drive%207%20Guidlines.pdf>).

² *See* Contest Guidelines at 1.

³ *See* http://www.myoutdoorbuddy.com/hunting_report.php?Hunting=6796.

⁴ Such lands include: the Modoc, Lassen and Siskiyou National Forests; federal public lands that fall within the Eagle Lake, Altoras, and other nearby BLM Districts; the Modoc, Lower Klamath, Clear Lake, and Tule Lake National Wildlife Refuges; the Lava Beds National Monument managed by the NPS, the Sierra Army Depot, a facility managed by the U.S. Department of Defense; and the Ash Creek or Dutch Flat Wildlife Management Areas, which are managed by CDFW.

2. Violations of Federal Legal Requirements to Obtain Special Use Permits for Hunting on Federal Lands.

Coyote Drive 2013 also threatens violations of federal legal requirements for hunting on public lands. Hosting a coyote hunt and contest on public lands requires special use authorization, which your drive appears to be lacking. Both the USFS and BLM regulate the use of public lands near Adin. Participants have been advised to “fan out” into these areas during the hunt. Despite this fact, there is no indication that you have obtained the required special use permits from federal managers of nearby USFS or BLM lands.⁵ Indeed, we received notification from the BLM on January 28 confirming that it had not issued a Special Recreation Permit for your event and that it has, accordingly, informed you that hunt participants cannot utilize BLM lands during the hunt.⁶ Additionally, you have also failed to alert participants of restrictions to hunting on NPS and USFWS lands in the area.

There are also several state Wildlife Management Areas in the vicinity. Ms. Karen Kovacs, CDFW wildlife program manager, confirmed that coyote and predator hunting is not allowed in the Ash Creek or Dutch Flat Wildlife Management Areas, both of which are very close to Adin, California.⁷ Again, these agencies are being notified of these impending legal violations.

3. Threatened Violations of the Endangered Species Act.

Your contest threatens violations of species’ protection laws by enabling and increasing the likelihood that wolves, instead of coyotes, will be killed by hunters participating in your hunt and contest. The federal Endangered Species Act prohibits the unlawful “take” of gray wolves, which are protected as “endangered” in California. 16 U.S.C. § 1538(a)(1)(B); 32 Fed. Reg. 4001.⁸

The coyote drive will occur in an area of northern California where the wolf called “OR-

⁵ See e.g., USFS Special Use Permit regulations at 36 CFR §251.50 and §251.51; BLM Special Recreation Permit regulations at 36 CFR Subpart 2932 et seq.; California National Wildlife Refuge species hunting regulations for Modoc, Lower Klamath, Clear Lake, and Tule Lake refuges at 50 CFR §32.24; and for Lava Beds National Monument see 36 CFR §2.2, Proclamation No. 1755, November 21, 1925, Establishing Lava Beds National Monument, and Proclamation No. 2925, April 27, 1951, Enlarging the Lava Beds National Monument.

⁶ See email from Ms. Nancy Haug, Bureau of Land Management to Camilla Fox, Project Coyote, Attachment 1.

⁷ Pers. comm. with Ms. Kovacs on 1.18.13.

⁸ We also note that the California Endangered Species Act forbids the killing, hunting, and other forms of taking of candidate, threatened, and endangered species. CA ESA § 2085. In October 2012, the gray wolf became a candidate for protection under the CA ESA. CA ESA § 2085.

7,” that dispersed here from Oregon, has been ranging.⁹ Other wolves (not wearing tracking collars) may also be in the area. As reported in the *San Francisco Chronicle* last May, OR-7 was seen mingling with coyotes in Modoc County- in the very area where this hunt is to take place.¹⁰ We are concerned that OR-7 or other protected wolves that may be in the area will be killed as a result of the contest.

The risk of wolves being killed during the coyote drive exists not only due to the proximity of the hunt to OR-7’s territory, but also due to the similarity in appearance between coyotes and wolves. Indeed, there is compelling evidence that wolves are often misidentified as coyotes and killed.¹¹ In this case, because the drive is conducted as a contest, which may offer prizes for the most coyotes killed or the largest coyote killed, there is the potential that OR-7 or other wolves could be placed in jeopardy by drive participants. Moreover, there is increasing interest in hunting wolves and anti-wolf sentiment in Northern California.

For all these reasons, the coyote drive and its contest are not legally sound. We strongly encourage you to ensure that your activities in connection with this hunt fully comply with the Endangered Species Act as well as the CA ESA, and are confident that legal counsel would advise you that the most prudent course is to cancel the Coyote Drive 2013.

4. The Coyote Drive Threatens Violations of California Gambling Laws.

In order to put on a contest awarding prizes for the killing of coyotes (or any other animal), you must obtain the necessary licenses and/or permits from the State. Your coyote contests constitute controlled games under state law. *See* Cal. Penal Code § 337j(e)(1) (a “game

⁹ The first photograph of Journey was taken outside of Adin in May 2012.

¹⁰ Fimrite, P. May 13, 2012. “California’s lone wolf seen mingling with coyotes,” *San Francisco Chronicle* (accessed online on 1.28.13 at <http://www.sfgate.com/science/article/California-s-lone-wolf-seen-mingling-with-coyotes-3554309.php>).

¹¹ On January 29th, the U.S. Fish and Wildlife Service confirmed that a large canine shot by a coyote hunter in Kansas was a wild wolf - the first instance of a wolf in Kansas in almost 75 years. *See* Corn, M. Jan. 29, 2013. “DNA Tests Confirm Animal Was a Wolf,” *The Hays Daily News*. (accessed online on 1.29.13 at <http://www.hdnews.net/Story/wolfkilled012913>)
See also, e.g., WolfPark.org./coyotes (“The coyote is often mistaken for the larger, bulkier wolf, especially when only glimpsed in fading light or behind foliage.”); www.arizonahuntingtoday.com (““A 70-pound female wolf was shot and killed Jan. 25 by a coyote hunter in Roberts County. Wolves are protected under the Endangered Species Act and state law, and it is illegal to kill them, according to U.S. Fish and Wildlife Service and state Game, Fish and Parks Department officials. People who plan to hunt coyotes in northeastern South Dakota, particularly in northern Roberts County, must make sure the animal is definitely a coyote and not a wolf.”); Montana Fish, Wildlife & Parks (fwp.mt.gov/search) (“It is sometimes hard to tell the difference between wolves and coyotes, especially from a distance.”); Michigan Wolf Management Plan (July 10, 2008) at 34 (“Other regulations could protect the wolf population in more-specific ways. For example, in recent years, the coyote season has been closed in the UP and the northern LP during the November 15–30 firearm season to help prevent the killing of wolves misidentified as coyotes. This restriction and other regulations will be reviewed, modified or enacted as necessary to provide the wolf population with appropriate levels of protection.”) (available at: http://www.michigan.gov/documents/dnr/Draft_Wolf_Management_Plan_030708_227742_7.pdf).

of chance ... played for ... any other thing of value that is not prohibited and made unlawful by statute or local ordinance.”). As a result, your organizations are required to maintain “a valid state gambling license, key employee license, or work permit.” Gambling Control Act (GCA) Art.4, § 19850. Furthermore, under Article 17, a non-profit organization (e.g., the Pit River Rod and Gun Club) can only operate a single fundraiser per year, which cannot exceed five consecutive hours in duration, and which must be pre-approved by the California Department of Justice. *Id.* at Art. 17, §19986(b). In addition, no non-profit organization can conduct a fundraiser involving controlled game unless it has been in existence and operation for at least three years and “registers annually with the department” (Department of Justice). *Id.* at §19986(e). Failure to operate pursuant to these requirements is a violation of state law of which we are notifying the California Department of Justice.

5. The Coyote Drive Threatens Violations of the California Fish and Game Code.

Section 2003 (a) of the California Fish and Game Code (CFGC) makes it “unlawful to offer any prize or other inducement as a reward for the taking of any game birds, mammals, fish, reptiles, or amphibians in an individual contest, tournament, or derby.” However, such a contest, tournament, or derby is permissible if the “total value of all prizes or other inducements is less than five hundred dollars (\$500) for the individual contest, tournament, or derby.” CFGC at §2003(d).

We understand that you will award two silver belt buckles worth \$300 to the winners of Coyote Drive 2013. In addition, a gun will be awarded by raffle at the conclusion of the hunt and other prizes (which we understand will also include guns) will be made available via raffle during the Saturday banquet. As a result, the total value of all prizes and other inducements associated with this hunt will clearly exceed the \$500 limit set by law.

Conclusion

As this letter explains, there are several legal flaws with your upcoming Coyote Drive 2013. It is our intent to work with relevant state and federal agencies in order to prevent these legal violations from occurring. We reiterate our requests that you cancel the coyote hunt.

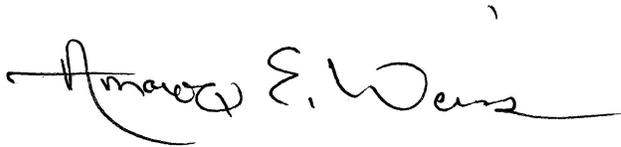
Sincerely,



Camilla H. Fox
Executive Director/ Project Coyote
Wildlife Consultant/ Animal Welfare Institute



D.J. Schubert
Wildlife Biologist/Animal Welfare Institute



Amaroq Weiss
West Coast Wolf Organizer/Center for Biological Diversity

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