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Mr. Jeff M. Dolf, Commissioner
Humboldt County, Department of Agriculture
5630 S. Broadway
Eureka, CA 95503

Humboldt County Board of Supervisors
825 5th Street, Room 111
Eureka, CA 95501

RE: Violations of the California Environmental Quality Act, the California Endangered Species Act, the Public Trust Doctrine, and other laws

Dear Commissioner Dolf and Supervisors,

Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code §21000 *et seq.*, the California Endangered Species Act (CESA), Fish and Game Code § 2050 *et seq.*, and the public trust duty held by the State of California and its political subdivisions, Animal Legal Defense Fund, Center for Biological Diversity, Project Coyote, Animal Welfare Institute, Mountain Lion Foundation, WildEarth Guardians, the individual injured members of these groups in Humboldt County, and other aggrieved citizens of the State of California (collectively Petitioners) hereby request that the Humboldt County Department of Agriculture, by and through the Humboldt County Board of Supervisors (the Board), immediately terminate, or decline to renew, the Humboldt County Integrated Wildlife Damage Management (IWDM) Program supervised and carried out by the United States Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) Wildlife Services (Wildlife Services). Petitioners further request that Humboldt County institute a non-lethal animal damage control program that recognizes the ecological benefits of individual wild animals, including predators.

Should Humboldt County continue the IWDM Program, it must undertake legally-required environmental review under CEQA, comply with legal requirements under CESA, and properly preserve and protect Humboldt County wildlife for the benefit of all state citizens pursuant to common law and statutory public trust requirements prior to reauthorizing the killing of wildlife by Wildlife Services.

Each year Humboldt County spends nearly \$70,000 in taxpayer dollars to employ Wildlife Services to kill hundreds of native predators and other “nuisance” animals under its IWDM Program, primarily on behalf of commercial agricultural interests. To Petitioners’ knowledge, the County does so without environmental analysis under CEQA, without performing consultation or obtaining incidental take permits (ITPs) under CESA, and with minimal oversight over Wildlife Services’ activities. The methods and model employed in Humboldt County ignore current understanding of the important role wild carnivores play in our ecosystems and conflict with sound science regarding wildlife management. To better reflect modern scientific understanding of natural ecosystems and to better align with the views of Humboldt County residents, we urge you to take the actions requested. Until these steps are taken and the deficiencies outlined herein are remedied, the Humboldt County IWDM Program is operating in violation of California law.

I. Humboldt County’s Duties Under CEQA

Under CEQA, Humboldt County has a duty to review the impacts of activities that affect California’s environment, including wildlife. Through repeated renewals of its contract with Wildlife Services without adequate environmental analysis, the County has failed to follow the legal procedure mandated by CEQA.

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. The IWDM Program meets the definition of a “project” under title 14 of the California Code of Regulations § 15378(a). 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. “[I]f a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect.”¹ After preparing an EIR, the agency may only issue a “negative determination” if there is no substantial evidence, in light of whole record, that the project may have a significant effect.²

In order to justify use of a categorical exemption, rather than prepare an EIR, the County must establish that it had substantial evidence to support its claim that an exemption applies. In assessing whether an exemption is lawful, courts will determine whether there is a fair argument that the IWDM Program may have a significant effect on the environment, *i.e.* if there is a fair argument that the IWDM Program is not assuring the maintenance, restoration, or enhancement of a natural resource.³ In determining whether a fair argument exists, the court owes no deference to the lead agency’s determination; review is *de novo*, *with a preference for resolving doubts in favor of environmental review*.⁴ Thus, courts have routinely held

that there is a fair argument that actions affecting wildlife populations may have a significant impact on the environment, such that the natural resources and environmental protection exemptions do not apply.⁵ Similarly, the “common sense” exemption applies only if it is *certain* that there is no possibility that the activity in question may have a significant impact on the environment.⁶

Notably, both Monterey and Mendocino Counties prepared EIRs after Petitioners successfully challenged in court the use of categorical exemptions for their IWDM Programs.⁷ The Superior Court of Monterey County found that Monterey County “abused its discretion and failed to proceed in the manner required by law” when it failed to complete an initial study, prepare an EIR, or other CEQA document before executing the approval of the Work and Financial Plan with Wildlife Services.⁸ Mendocino County is currently preparing an EIR as part of a settlement agreement with Petitioners.

Sonoma, Shasta, and Siskiyou Counties have also cancelled or declined to renew their contracts with Wildlife Services based on concerns over the legality of the Counties’ approvals of Wildlife Services activities.

II. Humboldt County’s Duties Under CESA

The California Legislature has declared that: “it is the policy of the state to conserve, protect, restore, and enhance any endangered species or any threatened species and its habitat.”⁹ “Central to CESA is its prohibition on the taking of an endangered or threatened species.”¹⁰ Section 2080 of the Fish and Game Code states: “[n]o person shall . . . take, possess, purchase, or sell within this state, any species, or any part or product thereof, that . . . [is] determin[ed] to be an endangered species or a threatened species.” To “take” means to hunt, pursue, catch, capture or kill or attempt to hunt, pursue, catch, capture, or kill.¹¹ “Person” has been found to include state agencies,¹² and the prohibition against take applies to wildlife located on public as well as private land.¹³

As explained by the Supreme Court of California:

CESA allows the [Department of Fish and Wildlife] to authorize a “take” that is incidental to an otherwise lawful activity if certain conditions are met. . . . At the heart of CESA is the obligation to mitigate such takes. The impacts of the authorized take shall be minimized and fully mitigated. The measures required to meet this obligation shall be roughly proportional in extent to the impact of the authorized taking on the species. Where various measures are available to meet this obligation, the measures required shall maintain the applicant’s objectives to the greatest extent possible. All required measures shall be capable of

successful implementation. For purposes of this section only, impacts of taking include all impacts on the species that result from any act that would cause the proposed taking.¹⁴

Take of a listed species may occur pursuant to an ITP issued by the California Department of Fish and Wildlife (CDFW). No permit may be issued if it would jeopardize the continued existence of the species.¹⁵ In order to obtain a permit, applicants must submit an application to CDFW that addresses, among other topics: (1) an analysis of whether and to what extent the project or activity for which the permit is sought could result in the taking of species to be covered by the permit; (2) an analysis of the impacts of the proposed taking on the species; (3) an analysis of whether issuance of the incidental take permit would jeopardize the continued existence of a species; (4) a complete, responsive jeopardy analysis that shall include consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of known population trends, known threats to the species; and reasonably foreseeable impacts on the species from other related projects and activities; (5) proposed measures to minimize and fully mitigate the impacts of the proposed taking; (6) a proposed plan to monitor compliance with the minimization and mitigation measures and the effectiveness of the measures; and (7) a description of the funding sources and the level of funding available for implementation of the minimization and mitigation measures.

Under CESA, the County is required to obtain an ITP prior to engaging in activities that would result in the incidental take of CESA listed species. Wildlife Services' use of traps and poisons have a high likelihood of taking non-target listed species, and the County must therefore apply for and receive one or more ITPs from CDFW before deploying such taking methods to comply with CESA.

III. Humboldt County's Duties Under the Public Trust Doctrine

The California public trust doctrine further obligates Humboldt County to regulate the State's wildlife resources in a manner that benefits all citizens of the County and State.¹⁶ 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.¹⁷

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.¹⁸ California courts have also made this determination implicitly, by recognizing that the proper allocation of California water resources must consider the ecological impact of usage because aquatic resources are inextricably tied to wildlife.¹⁹ 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 like 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, and strike an appropriate balance between protecting wildlife and competing demands. Implicit in this duty is the mandate that state actors must retain control over management of natural resources, rather than relinquish oversight to non-state or private parties.²⁰

IV. Humboldt County’s IWDM Program

APHIS-Wildlife Services mission is ostensibly 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 airport authorities. 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. In recent decades, Wildlife Services has also killed numerous 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. From 2000-2017, Wildlife Services killed over 1.4 million coyotes and thousands of other predators across the United States.²¹

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.* gray wolves, wolverines, river otters, swift and kit foxes, and bald and golden eagles). From 2000-2017, Wildlife Services has killed more than 50,000 members of

over 150 non-target species, including wolves, 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.

Wildlife Services data also shows that, in the period from 2008-2016, in Humboldt County alone Wildlife Services killed: 162 coyotes, 49 black bears, 43 gray foxes, 22 mountain lions, 447 raccoons, 729 skunks, and 103 opossums.²² From July 2016 to July 2017 alone, Wildlife Services killed 221 individual animals, including 16 coyotes, 1 mountain lion, 5 black bears, 151 striped skunks, 36 raccoons, and 9 Virginia opossums—overwhelmingly on behalf of agricultural producers.²³

V. Humboldt County Should Discontinue Its IWDM Program

Humboldt County's IWDM Program should be discontinued as a matter of public policy. The IWDM Program contravenes modern, science-based wildlife management principles and is cruel, ineffective, unnecessary, and not cost effective. Humboldt County should follow the lead of Marin County and choose comprehensive, non-lethal alternatives to wildlife management rather than continue its outdated and unnecessary Program.

1. The IWDM Program contravenes modern, science-based wildlife management principles.

There is no credible scientific evidence to support the notion that the indiscriminate killing of predators serves any genuine interest in managing other species, whether by reducing livestock losses or predator populations.²⁴ Rather, sound science shows that indiscriminate killing is ineffective and likely leads to *increases* in both predator populations and risk of depredations.

The evidence is clear: more than 100 years of coyote killing has not reduced their populations. In fact, since mass killings of coyotes began in 1850, the range of this species has tripled in the United States.²⁵ In addition, since only a few, individual predators participate in depredation, indiscriminate and preemptive killing of predators can lead to the disruption of predators' social structure and foraging ecology in ways that increases the likelihood of predations, *i.e.* by increasing the number of surviving pups and transient individuals that are predisposed to depredate livestock.

Indiscriminate killing of coyotes can stimulate increases in their populations by disrupting their social structure, which encourages more breeding and migration, and ultimately results in more coyotes.²⁶ The alpha pair in a pack of coyotes is normally the only one that reproduces. When one or both members of the alpha pair

are killed, other pairs will form and reproduce. At the same time, lone coyotes will move in to mate, young coyotes will start having offspring sooner, and pup survival may increase.²⁷ While widespread killing may temporarily reduce coyote numbers in a given area, coyote populations recover quickly, even when up to 70 percent of their numbers are removed.²⁸ It is impossible to completely eradicate coyotes from an area.²⁹ New coyotes will quickly replace vacant territorial niches where coyotes have been removed. Coyote pairs hold territories, which leaves single coyotes (“floaters”) continually looking for new places to call home.³⁰ When they are not lethally targeted by humans, unexploited coyotes and certain other predator populations self-regulate their numbers by means of dominant individuals defending non-overlapping territories and suppressing breeding by subordinate pack members.

Disrupting the coyote family structure by killing individual animals, especially alpha canids, may also actually increase conflicts with livestock. Targeted coyote populations tend to have younger, less experienced individuals, increased numbers of yearlings reproducing, and larger litters. For adult coyotes with dependent young, the need to feed pups provides significant motivation for coyotes to switch from killing small and medium-sized prey to killing sheep and other livestock.³¹

Indeed, other states have recognized that wildlife management programs based on predator control are ineffective. The Pennsylvania Game Commission issued the following statement in 2016:

During the late 1800s and early 1900s, the Game Commission focused much of its energy and resources into predator control efforts. During this period, we did not understand the relationship between predators and prey. After decades of using predator control . . . with no effect, and the emergence of wildlife management as a science, the agency finally accepted the reality that predator control does not work. . . .³²

In recommending against a year-round hunting season on coyotes, the New York State Department of Environmental Conservation similarly concluded that “random” removal of coyotes will not control or reduce coyote populations, nor reduce or eliminate predation on livestock.³³ California should similarly heed sound science and adopt effective wildlife management practices.

2. The practices authorized by the IWDM Program are dangerous, cruel, and ineffective.

In addition to being ecologically destructive, Wildlife Services' methods are cruel and pose a danger to both people and other animals. Devices such as Conibear traps, steel-jaw leghold traps, and strangling snares indiscriminately kill wildlife harm, injure, and kill animals regardless of age, sex and species, and often result in injury, pain, suffering or death of target and non-target animals—including companion animals, livestock, and threatened and endangered wildlife. Nationwide, these traps and other similarly non-selective lethal control devices have unintentionally killed many pets, vertebrates of 150 species,³⁴ and thousands of mammals of at least 20 different taxa that are listed as threatened or endangered federally or in certain states.³⁵ More than 80 countries and 7 states have banned or severely restricted use of steel-jaw leghold traps.³⁶ In addition to outlawing these traps, California has outlawed the use of two predacides, Compound 1080 and sodium cyanide that is used in M-44 devices. These laws, largely enacted through referenda, are evidence of the public's concern regarding wildlife trapping procedures and distaste for brutal and indiscriminate killing. Indeed, these cruel methods of predator control have been widely condemned.

Nonetheless, Wildlife Services' records show that the use of inhumane traps and snares by its employees is ubiquitous in California and that it routinely makes use of the exception that allows federal employees to use hounds to hunt predators. Given its methods in other Northern California counties, Petitioners believe that Wildlife Services still uses steel-jaw leghold traps, Conibear traps, wire snares, and poisons in Humboldt County. Each of these methods causes horrible injuries and prolonged agony to animals, which, in the case of the traps and the snares, are compounded by the animals' violent struggles to escape. Animals often remain trapped for days and die of exposure, injuries, and other causes before a trapper returns to the site.³⁷ Wildlife Services' traps are often carelessly placed and left unmonitored.³⁸ Traps have also snared and caught companion animals, many of whom have been killed or seriously injured.³⁹ Such incidents have occurred not only in wilderness or rural areas, but also in populated suburban landscapes.

In addition, Wildlife Services employees have committed egregious acts violating decency and, likely, state anti-cruelty laws. 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 steel-jaw leghold trap.⁴⁰ Another Wildlife Services employee, Russell Files, was charged with animal cruelty for intentionally capturing his neighbor's dog in multiple steel-jaw leghold traps, also while on duty.⁴¹ The police found the dog covered in blood as she frantically tried to escape. The investigating detective stated that the trapping "ranks up there with the worst [animal abuse] I've seen."⁴²

Beyond the unnecessary cruelty of these methods, the methods employed by Wildlife Services in Humboldt County may not target the offending predator, the site where depredation has occurred, or the time when depredation occurred. Killing coyotes, for example, without regard to time of year has the potential to orphan dependent coyote pups. Coyotes give birth in February and March, and they provision their pups in the spring and summer. As such, they are particularly vulnerable at their den sites in March. Killing adult coyotes will leave dependent pups to die from thirst, starvation, predation or exposure.

Rather than lethal control, prevention is the best method for minimizing conflicts with predators such as coyotes.⁴³ Practicing good animal husbandry and using strategic nonlethal predator control methods to protect livestock (such as electric fences, guard animals, and removing dead livestock) are more effective than lethal control in addressing coyote-human conflicts.⁴⁴

3. The IWDM Program is unnecessary.

Further illustrating the wisdom of discontinuing Humboldt County's 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 and it has been without a federal trapper for more than ten years. Instead, Marin County's program is based on non-lethal control measures.⁴⁵ As mentioned above, and to the surprise of many ranchers in Marin County, non-lethal methods have proven more effective than the methods employed by Wildlife Services.⁴⁶ Some ranchers have seen losses due to predation drop by over sixty percent.⁴⁷ 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 kill wildlife, 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. Marin's program does not preclude ranchers from removing problem animals on their own ranch.

4. The IWDM Program is not cost effective.

Economic concerns also counsel for discontinuing the County's relationship with Wildlife Services. Humboldt County pays Wildlife Services nearly \$70,000 each year. However, despite this high cost, the IWDM Program does not effectively protect agricultural resources. 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 harm to livestock is simply wasteful. Indeed, Wildlife Services' actions actually harm, rather than protect, the County's valuable natural resources and environment. With many other pressing issues

facing the County government, a lethal predatory animal control program is not a cost-effective means of protecting the County's citizens, agricultural producers, environment, or natural resources—including individual wild and domestic animals.

VI. The Current IWDM Program Operates in Violation of California Law

Humboldt County's IWDM Program has significant effects on the environment of the State, and as a result, is subject to review under CEQA. As the lead agency under California Public Resources Code § 21067, Humboldt County should prepare an EIR pursuant to California Public Resources Code § 21165. Failure to do so before renewing the Wildlife Services contract would violate CEQA. Humboldt County's decision to continue the IWDM Program without consideration of the effects outlined herein would also violate CESA, the public trust doctrine, and federal laws.

1. Categorically exempting the IWDM Program violates CEQA.

CEQA requires review of the environmental impacts of discretionary projects undertaken or approved by public agencies that may cause adverse physical changes to the environment. The IWDM Program has significant environmental effects that demand consideration under CEQA and, therefore, any attempt to categorically exempt the IWDM Program from CEQA review would be inappropriate.

As explained above, sound science shows that indiscriminate killing is ineffective and likely leads to an *increase* in both predator populations and risk of depredations. As a consequence of killing so many animals each year, population dynamics and delicate natural equilibriums are destabilized. The unchecked destruction of native predators degrades California's natural resources and 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 and can fundamentally change ecosystems. Trophic cascades occur when apex predators no longer limit the density or behavior of their prey and thereby enhance survival of the next lower trophic level.⁴⁸ The removal of apex predators like wolves and coyotes can cause the "release" of mid-sized or "mesopredators" like foxes, raccoons, and skunks who are not at the top of the food chain.⁴⁹ Increased abundance of mesopredators in turn can negatively affect populations and diversity of other species, including ground-nesting birds, rodents, lagomorphs, and others. In some cases, declines in these species result in reduced prey for other predators and contribute to their decline

and extirpation.⁵⁰ Trophic cascades thus harm 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 on the landscape.⁵¹

Studies of trophic cascades show that it is a deeply complex process. 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.⁵² Even the localized reduction in predator populations can permanently impact some sensitive habitats 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.⁵³

Numerous studies analyze how carnivore removal, in particular, can cause a wide range of unanticipated impacts that are often profound, including on native plant communities, wildfire severity, biogeochemical cycles, and the spread of disease or invasive species⁵⁴, and more.

The IWDM Program also fails to recognize and protect predators' valuable contribution to the health and vitality of our ecosystems. Coyotes, for example, are an integral part of healthy ecosystems, providing a number of free, natural ecological services.⁵⁵ They help to control disease transmission by keeping rodent populations in check, curtailing hantavirus, a rodent-borne illness that can sicken and kill humans. In addition, coyotes clean up carrion, increase biodiversity, remove sick animals from the gene pool, disperse seeds, and foster soil fertility. Coyotes balance their ecosystems and have trophic cascade effects such as indirectly protecting ground-nesting birds from smaller carnivores and increasing the biological diversity of plant and wildlife communities.⁵⁶

Healthy predator populations can control other species that, if left unchecked, increase and become detrimental to long-term ecosystem health. Coyotes, for example, do not focus on any one species or on livestock species. Instead, they eat a diverse diet, including small mammals and insects; rabbits and rodents are their favorite prey.⁵⁷ Studies indicate that where predator populations are absent or significantly reduced, rodent and rabbit numbers can increase exponentially. The increased rodent populations compete with livestock for grazing resources, damage crops and property, and spread disease. Studies have also shown how wolves can

aid pronghorn populations because “wolves suppress[] coyotes and consequently fawn depredation.”⁵⁸

As explained further below, Humboldt County’s IWDM Program also has effects on endangered, threatened, and sensitive species that demand analysis under CEQA.

Despite this, the County has not adequately considered the ecological impacts of the IWDM Program—nor has it attempted to balance the allocation of wildlife resources to better serve the public good in light of those effects. Rather, the County authorized the destruction of those resources to benefit a small number of commercial interests when, in fact, according to data from the United States Department of Agriculture, livestock losses to wild carnivores are minuscule. In 2015, U.S. cattle and sheep inventories (including calves and lambs) numbered approximately 118.8 million animals.⁵⁹ Of that total, 474,965 cattle and sheep (including lambs and calves) were lost to all carnivores combined (including coyotes, unknown predators, and dogs), or 0.39 percent of the inventory.⁶⁰ The predominant sources of mortality to livestock, by far, are non-predator causes including disease, illness, birthing problems, and weather.⁶¹ Thus, the killing of hundreds of animals annually in Humboldt County is not justified for natural resource or environmental protection.

In sum, the wholesale destruction of predators and other animals, like that occurring in Humboldt County, harms California’s wildlife resources and ecosystems both directly, indirectly, and cumulatively. The IWDM Program reduces biodiversity, decreases habitat, and increases the number of “pest” species, thereby degrading the value of California’s environment and natural resources. As such, the use of a categorical exemption to avoid subjecting Humboldt County’s IWDM program to a substantive review pursuant to CEQA is illegal.

2. Unless an incidental take permit is obtained, authorizing the IWDM Program violates CESA.

There are several species located in Humboldt County that demand further protection under CESA. Pursuant to CESA, the County is required to obtain a state ITP prior to engaging in activities that would result in the incidental take of CESA listed species. As noted above, Wildlife Services’ activities have resulted in the unintentional take of thousands of mammals of at least 20 different taxa, many of which are listed as threatened or endangered either federally or in certain states. As explained below, Wildlife Services’ use of traps and poisons have a high likelihood of taking non-target species, including listed species, due to the indiscriminate nature of those methodologies. Therefore, if the County elects to continue to contract with Wildlife Services for lethal wildlife control activities, the

County must apply for and receive one or more ITPs from the California Department of Fish and Wildlife.

Species listed under the CESA as threatened, endangered, or species of special concern that are known to occur in Humboldt County include the tricolored blackbird, gray wolf, North American wolverine, Humboldt marten, and Pacific fisher.

The tricolored blackbird is especially susceptible in Humboldt County. The tricolored blackbird was listed as threatened under CESA in April 2018. The species is also under formal status review for listing as endangered under the federal ESA. These birds have declined by nearly 90 percent since the 1930s, and comprehensive statewide surveys found only 145,000 of the birds in 2014—the smallest population ever recorded. While the 2017 survey appears to show a small population rebound, with 177,656 blackbirds observed, the population increase came only after legal protections were put in place in 2016, and scientists caution that one year of data cannot be relied on to show population stability.⁶² The tricolored blackbird's range includes portions of Humboldt County, and they are regularly observed around the County.⁶³ Yet, to Petitioners' knowledge, tricolored blackbirds are not addressed or even acknowledged in any environmental analysis of the IWDM Program in the County, which violates both CEQA and CESA.

Humboldt County is also home to a number of threatened and endangered species listed under the federal Endangered Species Act that could be impacted by the IWDM Program. Some of the species most susceptible to non-target impacts from wildlife "management" are the gray wolf, North American wolverine (proposed threatened), and northern spotted owl. Additional species present in Humboldt County that are federally protected include the short-tailed albatross, brown pelican, California clapper rail, yellow-billed Cuckoo, western snowy plover, marbled murrelet, vernal pool tadpole shrimp, Lost River sucker, shortnose Sucker, tidewater goby, and several plant species. Humboldt County also contains federally designated critical habitat for several species, including the northern spotted owl.

Furthermore, several species of migratory birds designated by the United States Fish and Wildlife Service (USFWS) as Birds of Conservation Concern are present in Humboldt County during certain parts of the year, including: Allen's hummingbird, black swift, Brewer's sparrow, burrowing owl, Clark's grebe, great blue heron, green-tailed towhee, lesser yellowlegs, long-billed curlew, marbled godwit, olive-sided flycatcher, rufous hummingbird, sage thrasher, semipalmated sandpiper, short-billed dowitcher, tricolored blackbird, western screech-owl, whimbrel, willet, and willow flycatcher. These species also receive protection under the Migratory Bird Treaty Act. Bald and golden eagles and are also present in Humboldt County, which are protected under both the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.

Two additional species that may be unintentionally targeted by Wildlife Services' use of traps and poisons are bobcats and mountain lions. As of 2015, it is unlawful to trap bobcats anywhere within California.⁶⁴ Mountain lions are designated as a "specially protected mammal" in California and it is "unlawful to take, injure, possess, transport, import, or sell a mountain lion or a product of a mountain lion" in the state.⁶⁵ Under state law, mountain lions can only be taken or removed by the CDFW or an appropriate local agency authorized by the CDFW if the animal is "perceived to be an imminent threat to public health or safety or that is perceived by the department to be an imminent threat to the survival of any threatened, endangered, candidate, or fully protected sheep species."⁶⁶ The CDFW, upon confirmation that a lion has injured, damaged, or destroyed livestock or other property, can issue depredation permit (subject to certain conditions) to take the animal.⁶⁷ Because Humboldt County authorizes Wildlife Services to kill members of these species, it must comply with these requirements.

3. Authorizing the IWDM Program violates Humboldt County's public trust duties.

Contrary to the public trust, Wildlife Services kills ecologically valuable predators for the supposed benefit of a small number of commercial agricultural producers. This exploitation of wildlife does not benefit all of California's citizens, and fails to strike the appropriate balance between competing uses. As such, Humboldt County has failed to fulfill its legal duty under the public trust doctrine.

Under the public trust doctrine, Humboldt County must take an active role in the management of California's public trust resources. However, in Humboldt County, a non-state actor (Wildlife Services) has become the *de facto* manager of a sizable portion of state and county wildlife resources and ultimately controls the fate of an ecologically significant number of wild animals in the state.

Once Humboldt County authorizes Wildlife Services to carry out its IWDM Program, it appears to retain little oversight over Wildlife Services' activities. Generally, a federal "Wildlife Specialist" 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 employees enter into agreements with commercial agricultural producers directly. They independently determine the magnitude of killing and which methods they perceive as necessary to control wildlife conflicts subject to Wildlife Services' policy. As a result, wildlife management—properly the duty of Humboldt County—is surrendered to Wildlife Services, its individual employees operating in the County, and private commercial interests.

Further, Humboldt County appears not to track or analyze Wildlife Services' activities or their impacts within its borders in any way. In general, pursuant to the Work & Financial Plans used by Wildlife Services in California, the USDA is obligated to submit quarterly reports to county agricultural commissioners summarizing Wildlife Services' activities in counties where the agency operates. Boilerplate language in the Work & Financial Plan states 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 facto* 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 IWDM Program on wildlife resources in Humboldt County.

Again, 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 interests. However, these same predators and other species are essential to healthy ecosystems and to the maintenance of California's natural resources. As such, the County must carefully consider the harm the majority of California residents will suffer as a result of Wildlife Service's activities and those citizens' interest in preserving the State's environment, including its wildlife resources. It must closely scrutinize the actual and potential ecological and wildlife impacts of the implementation of the IWDM Program, including the cumulative effects of the ecological changes caused by removing predators from the landscape. Then it 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 County must determine how best to serve the common good. Until Humboldt County undertakes such a review, the County's approval of the IWDM Program and continued relationship with Wildlife Services violates the public trust doctrine.

VII. Conclusion

Wildlife Services' activities harm individual animals within California, and scientific evidence does not support the notion that indiscriminately killing individual members of predator species will diminish their populations or reduce conflicts with people, domestic animals, or livestock. Indeed, lethal control of predators may likely lead to more predators and more conflicts.

In light of the information provided herein, Humboldt County's failure to analyze the environmental impacts of Wildlife Services' activities before renewing its IWDM Program would violate the County's statutory duty under CEQA, CESA, and the federal statutes addressed herein. This failure would also violate its public

trust duty to consider and allocate common resources for the benefit of all of its citizens.

Humboldt County should immediately terminate its IWDM Program. Should Humboldt County elect to continue the IWDM Program, it should be suspended immediately pending appropriate review of the activities of Wildlife Services within the County under CEQA, CESA, and the public trust doctrine. In the event the County continues the IWDM Program, Petitioners request to be informed of and given the opportunity to participate in any review process and to provide additional information and assistance in the County's review of the ecological and resource allocation impacts of the IWDM Program.

Thank you for your time and attention to this matter.

Sincerely,



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⁸ *Id.*

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