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FAX TRANSMITTAL SHEET

TO: Jeff Miller

FIRM: Center for Biological Diversity

FAX NO.: (415) 436-9683

TEL. NO.

FROM: Scott Franklin

DATE: May 6, 2013

RE: Request for Documents and Information Related to Non-Essential Experimental Population of Condors in Arizona and Utah

THIS FAX CONTAINS COVER PAGE PLUS 3 PAGES. IF YOU DO NOT RECEIVE ALL PAGES PLEASE CONTACT Christina AT (562) 216-4444.

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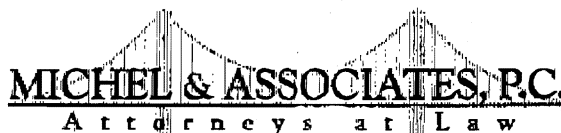
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May 6, 2013

VIA U.S. POST & FAX

Mr. Jeff Miller
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351 California St., Ste. 600
San Francisco, CA 94104

FAX: (415) 436-9683

**Re: *Request for Documents and Information Related to Non-Essential
Experimental Population of Condors in Arizona and Utah***

Mr. Miller:

We write on behalf of our clients, the National Rifle Association (NRA) and the California Rifle and Pistol Association (CRPA). As you are no doubt aware, NRA and CRPA are interested in the alleged link between hunters' use of lead-based ammunition and California condor (Condor) deaths attributed to lead poisoning (the Condor/Ammunition Issue). Accordingly, the press release posted by the Center for Biological Diversity (CBD) on April 16, 2013 (the Press Release), piqued our interest.

Specifically, the Press Release—which names you as an informational contact—contains several assertions about the Condor/Ammunition Issue, but without any citations to substantiate those assertions. The statements at issue are as follows.

Ingestion of Lead Ammunition Is *Leading* Cause of Death for Endangered Birds[;]

Seven of the 80 wild condors in Arizona and Utah have died since December; three of those deaths have been *definitively linked* to lead poisoning from ingesting spent lead ammunition fragments in carrion and lead poisoning is suspected in the other four deaths[; and]

Of the 166 condors reintroduced into Utah and Arizona since 1996, 81 have died or disappeared. When the cause of death could be determined, *more than half were due to*

poisoning from ingesting lead ammunition fragments left in gut piles or carcasses of shot game.

(Emphasis added).

Unless the statements are speculation or CBD is itself performing toxicological analysis related to the Condor/Ammunition issue, the statements must have been based on information provided to CBD by another source. Accordingly, my clients request that CBD: (1) provide copies of all documents upon which CBD relied in making the three assertions, and (2) identify the source or sources (including specific human sources and entity-level sources, as applicable) of any information used as a foundation for the three assertions. After a thorough review of sources that publish information related to the Arizona/Utah population of Condors, my office has not been able to find any publically available information that supports the statements.

The public certainly has a right to data collected by the government and non-governmental entities regarding Condors, both implicitly and pursuant to the permits that allow otherwise illegal contact with Condors. And it would be a drastic blow to the California Condor Recovery Program if it was determined that Condor-related documents were being intentionally withheld from the public, hidden in the files of non-governmental organizations that are not directly subject to public record access laws. Indeed, even a delay in production could be seen as malfeasance if it is part of a plan to withhold information to limit public participation prior to an important political event (e.g., voting on AB 711, California's proposed ban on hunting with lead-based ammunition).

To be clear, NRA and CRPA want to take part in a public discussion, *on the scientific merits*, concerning the Condor/Ammunition issue. Unless CBD objects to NRA and CRPA representing their members' interests as CBD represents the interests of its members, we presume CBD will provide the information sought so there is a "level playing field" for the analysis of the highly technical and complex Condor/Ammunition Issue. If it is CBD's position that it legally cannot disclose the information or sources requested above, or both, please provide a written explanation for that position as soon as possible.

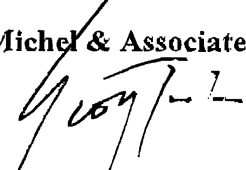
NRA and CRPA request the requested documents and information be provided to Michel & Associates, P.C. NRA and CRPA agree to pay reasonable costs for duplication and clerical time related thereto. Production of electronic documents (e.g., spreadsheets) in their native format is preferred. If you estimate such costs will be more than \$250.00, please contact the undersigned to determine what course of action is appropriate. Because of the pending legislation mentioned above, time is of the essence, and we request that CBD respond to this inquiry as soon as possible.

Mr. Jeff Miller
May 6, 2013
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Do not hesitate to contact the undersigned if you have any question regarding the foregoing.

Sincerely,

Michel & Associates, P.C.



Scott M. Franklin

SMF/ces

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