

C. D. MICHEL

SPECIAL COUNSEL  
VICTOR J. OTTEN  
W. LEE SMITH

ASSOCIATES  
SEAN A. BRADY  
SCOTT M. FRANKLIN  
HILLARY J. GREEN  
THOMAS E. MACIEJEWSKI  
CLINT B. MONFORT  
JOSEPH A. SILVOSO, III  
LOS ANGELES, CA

C.D. Michel:  
(562) 216-4441  
cmichel@michelandassociates.com

**MICHEL & ASSOCIATES, P.C.**  
Attorneys at Law

OF COUNSEL  
DON B. KATES  
SAN FRANCISCO, CA

RUTH P. HARING  
LOS ANGELES, CA

GLENN S. MCROBERTS  
SAN DIEGO, CA

AFFILIATE COUNSEL  
JOHN F. MACHTINGER  
JEFFREY M. COHON  
LOS ANGELES, CA

DAVID T. HARDY  
TUCSON, AZ

June 17, 2010

Hon. Committee Members  
Senate Committee on Natural Resources and Water  
State Capitol, Room 4035  
Sacramento, CA 95814  
c/o Patricia Hanson  
**VIA FAX (916) 323-2232 AND EMAIL**  
Patricia.hanson@sen.ca.gov

A rectangular stamp with the word "COPY" in a bold, sans-serif font. To the left of the word is a small square icon containing a stylized letter 'C'.

**Re: *NRA Opposition to Assembly Bill 2223***

Honorable Committee Members:

We write in opposition to Assembly Bill 2223 (AB 2223) on behalf of our client, the National Rifle Association ("NRA").

Proponents of AB 2223 incorrectly claim that there is an established "cause and effect" relationship between lead projectiles used in traditional ammunition and the lead detected in California condor blood samples. But the California Department of Fish and Game has reported for two years in a row (2009 and 2010) that the available and relevant scientific data does not establish a "cause and effect relationship"<sup>1</sup> between the use of traditional ammunition by hunters and elevated lead levels found in condors. This acknowledgment can be found in the Annual Reports attached hereto as Exhibits A and B. These reports are provided to the legislature as required under Section 3004.5 of the Fish and Game Code (the Ridley-Tree Condor Preservation Act, formerly Assembly Bill 821).

In fact, there is no scientific consensus that lead ammunition is a threat to the environment or upland game. All dove, crow, and snipe hunting regulations must be approved by the U.S. Fish & Wildlife Service each year. (See 2004 DFG EIR on Migratory Upland Game Hunt). The U.S. Fish & Wildlife Service has not required a ban of lead shot for the hunting of mourning dove, whitewing dove,

---

<sup>1</sup> "The Department and Commission have concluded that this information, representing the second year of data after adoption of the regulation to prohibit lead in condor range, should not be considered conclusive of any 'cause and effect' relationship between the prohibition of lead projectiles in condor range and blood lead levels detected in condors."

or crows for California or any other state for the 2009 season. The U.S. Fish & Wildlife Service is beginning to study lead shot issues and mourning dove with the current National Dove Hunter Survey, but so far study results have not caused in a change in federal policy.

The California Department of Fish & Game has issued “negative declarations” to the continued hunting of upland game in such lands as the Portero Conservation Unit of the San Jacinto Wildlife Area. Other wildlife areas, such as the Spenceville Wildlife Area or the Yolo Bypass Wildlife Area, have environmental histories indicating that continued use of lead shot as currently allowed would be ruled as having “no negative effect” by the Department.

AB 2223 proponents base their claims primarily on the “Church Study,” a debunked report that incorrectly alleges a direct forensic link between ammunition containing lead and blood lead ratios in condors. The Church study was thoroughly discredited by other scientists (including peer reviewed studies) as unsupported, founded on selective and subjective incorporation of data, and based on incomplete science. Perhaps most notably the Church Study was debunked Dr. Erik Randich in a report and public testimony to the Fish & Game Commission. (See California Department of Fish and Game Commission Public Record, August 6, 2009, and Dr. Randich’s report attached hereto as Exhibit C). Dr. Randich is best known for his lead studies which led the Federal Bureau of Investigation (FBI) to abandon its claims that lead isotopic comparisons could be used to trace the source of lead bullets found at crime scenes. As a result of his findings, the FBI crime lab no longer uses these isotopic tests - upon which the claims of a relationship between lead ammunition and Condor blood-lead levels are primarily based.

There are regulatory and scientific indications that the lead alternative, so-called “non-toxic” ammunition may actually be more problematic than traditional lead projectile ammunition. The “non-toxic” ammunition approved for use by the U.S. Fish & Wildlife Service for migratory waterfowl hunting, or as promulgated by regulation under the Ridley-Tree Condor Preservation Act, is potentially extremely toxic and could actually be a hazard to hunters and shooters when used. The National Park Service banned the use of tungsten ammunition by its personnel in July 2006 based on concerns stemming from environmental data indicating tungsten was not safe and was in fact toxic. The U.S. Department of Defense has likewise banned the use of tungsten small arms ammunition for training purposes based on the same concerns. Yet the vast majority of U.S. Fish & Wildlife Service-approved waterfowl ammunition contain tungsten.

The California Department of Fish and Game does not have data addressing the safety hazards of using steel shot in conditions involving upland game hunting (e.g., ricochet hazard), which is different from waterfowl hunting over water. The safety of steel ammunition use in upland game situations cannot be addressed without significant further investigation and environmental review by the Department.

Senate Committee on Natural Resources and Water

June 17, 2010

Page 3

In light of the foregoing, NRA urges you to vote against the proposed legislation.

Sincerely,

**MICHEL & ASSOCIATES, P.C.**



C.D. Michel

(S.M.F.)

Enclosures

(Enclosures omitted from fax)

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 1306  
CONNECTION TEL 19163232232  
SUBADDRESS  
CONNECTION ID  
ST. TIME 06/17 18:17  
USAGE T 01'03  
PGS. SENT 4  
RESULT OK



Writer's Direct Contact:  
(562) 216-4441  
CMichel@michellawyers.com

FAX TRANSMITTAL SHEET

TO: *Patricia Hanson*  
FIRM: Senate Committee on Natural Resources and Water  
TEL. NO.  
FAX NO. 916.323.2232  
FROM: C.D. Michel  
DATE: June 17, 2010  
RE: NRA Opposition to Assembly Bill 2223

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

SPECIAL INSTRUCTIONS



Writer's Direct Contact:  
(562) 216-4441  
CMichel@michellawyers.com

## FAX TRANSMITTAL SHEET

TO: *Patricia Hanson*  
FIRM: Senate Committee on Natural Resources and Water  
TEL. NO.  
FAX NO. 916.323.2232  
FROM: C.D. Michel  
DATE: June 17, 2010  
RE: NRA Opposition to Assembly Bill 2223

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

### SPECIAL INSTRUCTIONS

THIS MESSAGE IS INTENDED FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY REVIEW, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS BELOW VIA THE U.S. POSTAL SERVICE. THANK YOU.