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9 **UNITED STATES DISTRICT COURT**  
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 KIM RHODE, et al.,  
12 Plaintiffs,

13 v.

14 XAVIER BECERRA, in his official  
capacity as Attorney General of the State  
15 of California,

16 Defendant.

Case No.: 3:18-cv-00802-BEN-JLB

**REQUEST FOR JUDICIAL NOTICE  
IN SUPPORT OF SUPPLEMENTAL  
BRIEF IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

Judge: Hon. Roger T. Benitez  
Courtroom: 5A

1 **REQUEST FOR JUDICIAL NOTICE**

2 Under Federal Rule of Evidence 201, Plaintiffs Kim Rhode, Gary Brennan, Cory  
3 Henry, Edward Johnson, Scott Lindemuth, Richard Ricks, Denise Welvang, Able’s  
4 Sporting, Inc., a Texas corporation, AMDEP Holdings, LLC, a Florida limited liability  
5 company d/b/a Ammunition Depot, R&S Firearms, Inc., an Arizona corporation d/b/a  
6 Sam’s Shooters’ Emporium, and California Rifle & Pistol Association, Incorporated, a  
7 California corporation (“Plaintiffs”), through their counsel, respectfully request that the  
8 Court take judicial notice of the following documents in support of Plaintiffs’  
9 supplemental brief in support of motion for a preliminary injunction:

10 1. *Hunters Encouraged to Purchase Ammunition Now as California’s 2019-20*  
11 *Waterfowl Season Is Fast Approaching*, California Department of Fish and Wildlife,  
12 [https://cdfgnews.wordpress.com/2019/10/08/hunters-encouraged-to-purchase-](https://cdfgnews.wordpress.com/2019/10/08/hunters-encouraged-to-purchase-ammunition-now-as-californias-2019-20-waterfowl-season-is-fast-approaching/)  
13 [ammunition-now-as-californias-2019-20-waterfowl-season-is-fast-approaching/](https://cdfgnews.wordpress.com/2019/10/08/hunters-encouraged-to-purchase-ammunition-now-as-californias-2019-20-waterfowl-season-is-fast-approaching/) (Oct. 8,  
14 2019). A true and correct copy of this document is attached as Exhibit 1.

15 Judicial notice is proper because the documents for which this request is made are  
16 “capable of accurate and ready determination by resort to sources whose accuracy cannot  
17 reasonably be questioned.” Fed. R. Evid. 201(b)(2). “A trial court may presume that  
18 public records are authentic and trustworthy.” *Gilbrook v. City of Westminster*, 177 F.3d  
19 839, 858 (9th Cir. 1999) (taking judicial notice of agency report). A court shall take  
20 judicial notice of such a fact if requested by a party and supplied with the necessary  
21 information. Fed. R. Evid. 201(d).

22 “Legislative history is properly a subject of judicial notice.” *Anderson v. Holder*,  
23 673 F.3d 1089, 1094 n.1 (9th Cir. 2012); *Chaker v. Crogan*, 428 F.3d 1215, 1223 n.8 (9th  
24 Cir. 2005) (discussing legislative history of California statute). Further, “a federal court  
25 must take judicial notice of state statutes ‘without plea or proof.’” *Getty Petroleum Mktg.,*  
26 *Inc. v. Capital Terminal Co.*, 391 F.3d 312, 323 (1st Cir. 2004) (citing *Lamar v. Micou*,  
27 114 U.S. 218, 223 (1885)).

28 ///

1 Here, the accuracy of all the public records subject to Plaintiffs' Request for  
2 Judicial Notice, consisting of enacted legislation and legislative history, cannot  
3 reasonably be questioned. Judicial notice of these records is therefore appropriate.  
4

5 Dated: October 29, 2019

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

6  
7 *s/ Sean A. Brady*

8 Sean A. Brady  
9 Email: sbrady@michellawyers.com  
10 Attorneys for Plaintiffs  
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# **EXHIBIT 1**



California Department of  
**Fish and Wildlife**

## CDFW News



# Hunters Encouraged to Purchase Ammunition Now as California's 2019-20 Waterfowl Season Is Fast Approaching

October 8, 2019

California's 2019-20 waterfowl hunting season opens Oct. 19 throughout much of the state and waterfowl hunters are encouraged to stock up on their favorite duck and goose loads sooner rather than later so as not to miss out on any hunting opportunities.

“Waterfowl hunters tend to be very generous people, and one of the best things about the season are those special invitations to be a guest at a private duck club or a last-minute offer to join in on a waterfowl reservation at a public hunting area,” said Melanie Weaver, who oversees the California Department of Fish and Wildlife's (CDFW) waterfowl program. “We don't want any of our waterfowl hunters to miss out on these experiences because they had difficulty finding or buying ammunition the night before their hunt.”

New, more stringent ammunition purchasing regulations took effect in California July 1, 2019, requiring background checks, often multiple forms of personal identification, and a current and accurate record within the California Department of Justice's Automated Firearms System. Hunters who haven't purchased a shotgun or rifle in California since 2014 or had one transferred or recorded through a licensed firearm dealer in California may have difficulty purchasing ammunition. More information is available at the [California Department of Justice website](#).

Specific [opening and closing waterfowl season dates](#) vary by [zone](#). Detailed information about daily bag and possession limits can be found on the [Fish and Game Commission website](#).

Quality public hunting is available on more than two dozen national wildlife refuges and state [wildlife areas and ecological reserves](#) managed by CDFW. Nontoxic shot certified by the U.S. Fish and Wildlife Service has been required nationwide for waterfowl hunting since 1991. For more information, please see the CDFW [nonlead ammunition webpage](#).

It is common for waterfowl hunting areas to close periodically throughout the season due to safety concerns caused by flooding. Areas that most commonly experience flood closures include Yolo Bypass Wildlife Area, Sutter National Wildlife Area, Delevan National Wildlife Refuge, and Little Dry Creek and Howard Slough Units of Upper Butte Basin Wildlife Area. Hunters should keep informed regarding potential closures [on the public area status website](#), which will be updated throughout the season. Reservations for state-operated wildlife areas that are closed due to flooding will not be accepted at other hunting areas, and refunds will not be issued for applications submitted to areas that are closed or where reservations are not available.

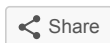
A [valid California hunting license](#), appropriate validations and a signed federal duck stamp or the electronic duck stamp must be obtained before entering the field. In addition, a wildlife area hunting pass is required to hunt on many state-operated wildlife areas. Licenses, validations and passes are not sold at wildlife areas, so hunters must purchase these items in advance.

California hunters are required to complete a [hunter education training course](#) before purchasing a hunting license for the first time in California. Approximately 30,000 students complete this requirement annually.

CDFW Photo: Black brant hunting in Humboldt Bay.

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**CERTIFICATE OF SERVICE**  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Case Name: *Rhode, et al. v. Becerra*  
Case No.: 3:18-cv-00802-JM-JMA

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, declare under penalty of perjury that I am a citizen of the United States over 18 years of age. My business address is 180 East Ocean Boulevard, Suite 200 Long Beach, CA 90802. I am not a party to the above-entitled action.

I have caused service of the following documents, described as:

**REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF  
SUPPLEMENTAL BRIEF IN SUPPORT OF PLAINTIFFS'  
MOTION FOR PRELIMINARY INJUNCTION**

on the following parties by electronically filing the foregoing on October 29, 2019, with the Clerk of the District Court using its ECF System, which electronically notifies them.

Nelson R. Richards  
Deputy Attorney General  
nelson.richards@doj.ca.gov  
2550 Mariposa Mall, Room 5090  
Fresno, CA 93721  
*Attorneys for Defendant Attorney  
General Xavier Becerra*

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 29, 2019, at Long Beach, CA.

*s/ Laura Palmerin*  
Laura Palmerin