

1 C.D. Michel – SBN 144258  
Sean A. Brady – SBN 262007  
2 Tiffany D. Cheuvront – SBN 317144  
MICHEL & ASSOCIATES, P.C.  
3 180 East Ocean Blvd., Suite 200  
Long Beach, CA 90802  
4 Telephone: (562) 216-4444  
Facsimile: (562) 216-4445  
5 Email: cmichel@michellawyers.com

6 *Attorneys for Plaintiffs-Petitioners*  
*California Rifle & Pistol Association Incorporated,*  
7 *California Bowmen Hunters/State Archer Association,*  
8 *and California Deer Association*

Sean M. Sherlock, Bar No. 161627  
9 ssherlock@swlaw.com  
Cameron J. Schlagel, Bar No. 320732  
10 cschlagel@swlaw.com  
SNELL & WILMER LLP  
11 Plaza Tower  
600 Anton Boulevard  
12 Suite 1400  
Costa Mesa, California 92626-7689  
13 Telephone: 714.427.7000  
Facsimile: 714.427.7799  
14

*Attorneys for Plaintiffs-Petitioners*  
15 *Safari Club International, HOWL for Wildlife, Inc.,*  
16 *and Coalition to Save Catalina Island Deer*

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA

18 COUNTY OF LOS ANGELES

19 SAFARI CLUB INTERNATIONAL;  
CALIFORNIA RIFLE & PISTOL  
20 ASSOCIATION, INCORPORATED;  
CALIFORNIA BOWMEN HUNTERS/STATE  
21 ARCHERY ASSOCIATION; HOWL FOR  
WILDLIFE, INC.; CALIFORNIA DEER  
22 ASSOCIATION; and COALITION TO SAVE  
CATALINA ISLAND DEER,

23 Plaintiffs-Petitioners,

24 v.

25 CALIFORNIA DEPARTMENT OF FISH  
26 AND WILDLIFE; CATALINA ISLAND  
CONSERVANCY ; and DOES 1-10,

27 Defendants-Respondents.  
28

Case No. 26STCP00987

**STIPULATION AND [PROPOSED]  
ORDER: (1) GRANTING LEAVE TO  
FILE SECOND AMENDED  
COMPLAINT & PETITION FOR WRIT  
OF MANDATE; AND (2) SPECIALLY  
SETTING DEMURRER HEARINGS,  
BRIEFING SCHEDULE, AND  
GRANTING ADMINISTRATIVE  
RECORD EXTENSION**

1 Plaintiffs-Petitioners Safari Club International; California Rifle & Pistol Association,  
2 Incorporated; California Bowmen Hunters/State Archery Association; HOWL for Wildlife, Inc.;  
3 California Deer Association; and Coalition to Save Catalina Island Deer (collectively,  
4 “Petitioners”), Defendant-Respondent California Department of Fish and Wildlife (“Department”),  
5 and Real Party in Interest/Defendant-Respondent Catalina Island Conservancy (“Conservancy”),  
6 by and through their respective counsel of record, hereby enter into the following stipulation in the  
7 above-captioned action, Case No. 26STCP00987 (the “Action”).

8 **RECITALS**

9 WHEREAS, on March 10, 2026, Petitioners filed a Verified Petition for Writ of Mandate  
10 or Other Appropriate Relief (the “Petition”), alleging that the Department failed to comply with the  
11 California Environmental Quality Act (CEQA) when it issued a Restoration Management Permit  
12 for the Catalina Island Restoration Project (the “Project”);

13 WHEREAS, on March 18, 2026, Petitioners filed a Motion to Conform Filing Date to  
14 Attempted Transmission Date or Other Appropriate Relief (the “Motion to Conform”);

15 WHEREAS, on May 15, 2026, and May 17, 2026, respectively, the Department and the  
16 Conservancy each filed a demurrer to the Petition;

17 WHEREAS, on May 27, 2026, in lieu of filing an opposition to the Department’s and the  
18 Conservancy’s demurrers, Petitioners filed a Verified First Amended Complaint & Petition for Writ  
19 of Mandate or Other Appropriate Relief (the “First Amended Complaint”);

20 WHEREAS, on June 11, 2026, this Court held a hearing on Petitioners’ Motion to Conform  
21 and denied the motion;

22 WHEREAS, the Conservancy has reserved a hearing date of September 22, 2026, and the  
23 Department has reserved a hearing date of October 1, 2026, for demurrers to the First Amendment  
24 Complaint;

25 WHEREAS, Petitioners now seek leave to file a Verified Second Amended Complaint &  
26 Petition for Writ of Mandate or Other Appropriate Relief (the “Second Amended Complaint”) to  
27 add a new Fifth Cause of Action for Writ of Administrative Mandate, which challenges Restoration  
28 Management Permit No. RMP 2025-0017-R5 (the “RMP”), issued by the Department to the

1 Conservancy on January 30, 2026;

2 WHEREAS, the proposed Second Amended Complaint also makes conforming edits  
3 throughout to reflect that the Action is brought in part under Code of Civil Procedure section  
4 1094.5, and to add references to common law public trust alongside Fish and Game Code section  
5 711.7;

6 WHEREAS, Petitioners, the Department, and the Conservancy have met and conferred and  
7 agree that Petitioners should be granted leave to file the Second Amended Complaint in the form  
8 described above, subject to the Department's and the Conservancy's respective rights to demur or  
9 otherwise respond to the Second Amended Complaint, and without waiver of any claims, rights, or  
10 defenses of any party; and

11 WHEREAS, a clean version of the Second Amended Complaint, without tracked changes  
12 or redlining, will be filed concurrently with this stipulation and is attached hereto as **Exhibit A**;

13 WHEREAS, the Conservancy and the Department intend to demur to the Second Amended  
14 Complaint in its entirety;

15 WHEREAS, the RMP's Estimated Timeline of Mule Deer Removal Effort (Table 1)  
16 identifies the "Pre-Removal Assessment" period as September–October 2026, involving "Baiting  
17 sites and mobile shooting";

18 WHEREAS, Petitioners intend to file a motion for preliminary injunction ("MPI"), seeking  
19 a preliminary injunction enjoining the Conservancy and the Department from, inter alia,  
20 implementing, authorizing, or carrying out the RMP's planned mule deer assessment, baiting,  
21 mobile shooting, capture, or removal activities on Santa Catalina Island, including the "Pre-  
22 Removal Assessment" phase scheduled for September–October 2026, pending final adjudication  
23 of the Petition;

24 WHEREAS, the parties met and conferred, and the Conservancy confirmed its intent to  
25 proceed in accordance with the existing RMP schedule, including the September "Pre-Removal  
26 Assessment" and the associated take contemplated thereunder;

27 WHEREAS, the parties agree that time is of the essence with respect to all obligations,  
28 deadlines, and milestones under this Stipulation, including the parties' agreement that all matters

1 contemplated herein shall be resolved prior to the commencement of the “Pre-Removal  
2 Assessment” phase scheduled for September–October 2026;

3 WHEREAS, Petitioners proposed a temporary stay of the September take pending  
4 resolution of the demurrers and Motion for Preliminary Injunction; Respondents declined that  
5 proposal;

6 WHEREAS, Public Resources Code section 21167.6, subdivision (c), allows the time limit  
7 for certifying the administrative record to be extended by stipulation of the parties;

8 WHEREAS, the parties now wish to stipulate to an extension until Tuesday, September 15,  
9 2026, to prepare and certify the administrative record in this case;

10 WHEREAS, the Superior Court of Los Angeles County, Local Rule, rule 2.232(d) contains  
11 various provisions for a respondent preparing the administrative record to provide a petitioner  
12 preliminary and updated cost estimates, which are not relevant given the Department’s agreement  
13 to prepare the record at its own cost, and the requirement to provide the parties with a draft index,  
14 which the parties wish to modify; and

15 WHEREAS, the parties may agree to further extensions of time as necessary.

16 **STIPULATION**

17 Therefore, all parties, by and through their respective counsel, hereby stipulate as follows:

18 **A. Leave to File Second Amended Complaint**

19 1. Petitioners are granted leave to file the Second Amended Complaint & Petition for  
20 Writ of Mandate or Other Appropriate Relief, in the clean form attached hereto as **Exhibit A**;

21 2. The Second Amended Complaint shall be deemed filed and served as of the date of  
22 this stipulation, or such other date as the Court may order;

23 3. The Department and the Conservancy each reserve all rights and defenses with  
24 respect to the Second Amended Complaint, including without limitation the right to demur to  
25 any and all causes of action alleged therein; and

26 4. Nothing in this stipulation constitutes, or shall be construed as, an admission of the  
27 truth of any allegation in the Second Amended Complaint, or a waiver of any claim, right, or  
28 defense of any party to this Action.

**B. Briefing Schedule, Hearing Date, and Administrative Record Extension**

5. The hearing on Respondents' respective demurrers and the hearing on Petitioners' MPI will be consolidated to the same date;

6. Time is of the essence, including for the following reasons: (a) Respondents seek a ruling on the demurrers and a determination of the scope of their authority under the challenged Project; (b) Petitioners maintain that no deer take by Respondents may occur pending resolution of the Petition; and (c) both parties seek resolution of these matters prior to the commencement of the Pre-Removal Assessment phase—scheduled to begin in September 2026—in order to avoid the necessity for Petitioners to file a motion for emergency ex parte relief;

7. The consolidated hearing on the demurrers and MPI shall be held on August 20, 2026, or as soon thereafter as is convenient for the Court, including August 25, August 27, or September 1;

8. Opening Briefs:

(a) The Department's and Conservancy's respective opening demurrer papers shall be filed and served on or before July 27, 2026;

(b) Petitioners' opening MPI papers shall be filed and served on or before July 27, 2026, and shall not exceed 20 pages;

9. Opposition Briefs:

(a) Petitioners' opposition brief(s) to the Department's and Conservancy's demurrers shall be filed and served on or before August 7, 2026. Petitioners may file either: (a) separate oppositions to the Department's and Conservancy's respective demurrers, each subject to the standard page limit; or (b) a single consolidated opposition not to exceed 20 pages;

(b) The Department's and Conservancy's opposition briefs to the Petitioners' MPI shall be filed and served on or before August 7, 2026;

10. Reply Briefs:

(a) The Department's and Conservancy's reply briefs in support of their respective demurrers shall be filed and served on or before August 13, 2026;

(b) Petitioners' reply brief in support of the MPI shall be filed and served on or before August 13, 2026, and shall not exceed 10 pages;

11. The deadline for preparation and certification of the administrative record shall be extended until September 15, 2026, and the parties may agree to further extensions of time as necessary; and

12. Per the Court's May 18 order, the provisions of Local Rule 2.232(d) have been waived, except that the Department will provide at least 21 days for Petitioners to review the record and record index before certifying the record, and the parties will meet and confer regarding any potential additions to or deletions from the record.

**IT IS SO STIPULATED.**

Dated: July 21, 2026

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

By: 

C.D. Michel – SBN 144258  
Sean A. Brady – SBN 262007  
Tiffany D. Cheuvront – SBN 317144  
MICHEL & ASSOCIATES, P.C.  
180 East Ocean Blvd., Suite 200  
Long Beach, CA 90802  
Telephone: (562) 216-4444  
Facsimile: (562) 216-4445  
Email: cmichel@michellawyers.com

Attorneys for Plaintiffs-Petitioners  
California Rifle & Pistol Association  
Incorporated, California Bowmen  
Hunters/State Archer Association, and  
California Deer Association

1 Dated: July 21, 2026

**SNELL & WILMER L.L.P.**

2  
3 By: 

4 Sean M. Sherlock  
Cameron J. Schlagel

5 Attorneys for Plaintiff-Petitioners  
6 Safari Club International, HOWL for  
7 Wildlife, Inc., and Coalition to Save  
Catalina Island Deer

8 Dated: July 21, 2026

**ROB BONTA**  
**Attorney General of California**  
**EVAN EICKMEYER**  
**ERIC M. KATZ**  
**Supervising Deputy Attorneys General**

9  
10  
11  
12 By: 

13 James C. Crowder  
14 Benjamin P. Lempert  
Deputy Attorneys General

15 Attorneys for Respondent California  
16 Department of Fish and Wildlife

17 Dated: July 21, 2026

**SHUTE, MIHALY & WEINBERGER LLP**

18  
19 By: 

20 Edward T. Schexnayder  
Orran Balagopalan

21 Attorneys for Real Party in Interest  
22 Catalina Island Conservancy  
23  
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28

**[PROPOSED] ORDER**

The foregoing stipulation, having been considered and appearing in all respects proper, **IT IS HEREBY ORDERED:**

**A. Leave to File Second Amended Complaint**

1. Petitioners are granted leave to file the Second Amended Complaint & Petition for Writ of Mandate or Other Appropriate Relief, in the clean form attached to the parties' stipulation as Exhibit A;

2. The Second Amended Complaint shall be deemed filed and served as of the date of this Order, or such other date as the Court may specify; and

3. Nothing in this Order constitutes, or shall be construed as, an admission of the truth of any allegation in the Second Amended Complaint, or a waiver of any claim, right, or defense of any party to this Action.

**B. Briefing Schedule, Hearing Date, and Administrative Record Extension**

4. The hearing on Respondents' respective demurrers and the hearing on Petitioners' motion for preliminary injunction (MPI) will be consolidated to the same date and the hearing dates reserved by Respondents taken off calendar;

5. The consolidated hearing on the demurrers and MPI shall be held on \_\_\_\_\_, 2026;

6. Opening Briefs:

(a) The Department's and Conservancy's respective opening demurrer papers shall be filed and served on or before July 27, 2026;

(b) Petitioners' opening MPI papers shall be filed and served on or before July 27, 2026, and shall not exceed 20 pages;

7. Opposition Briefs:

(a) Petitioners' opposition brief(s) to the Department's and Conservancy's demurrers shall be filed and served on or before August 7, 2026. Petitioners may file either: (a) separate oppositions to the Department's and Conservancy's



1           respective demurrers, each subject to the standard page limit; or (b) a single  
2           consolidated opposition not to exceed 20 pages;

3           (b)     The Department's and Conservancy's opposition briefs to Petitioners' MPI  
4           shall be filed and served on or before August 7, 2026;

5           8.     Reply Briefs:

6           (a)     The Department's and Conservancy's reply briefs in support of their  
7           respective demurrers shall be filed and served on or before August 13, 2026;

8           (b)     Petitioners' reply brief in support of the MPI shall be filed and served on or  
9           before August 13, 2026, and shall not exceed 10 pages;

10          9.     The deadline for preparation and certification of the administrative record shall be  
11          extended until September 15, 2026, and the parties may agree to further extensions of time as  
12          necessary; and

13          10.    Per the Court's May 18 order, the provisions of Local Rule 2.232(d) have been  
14          waived, except that the Department will provide at least 21 days for Petitioners to review the  
15          record and record index before certifying the record, and the parties will meet and confer  
16          regarding any potential additions to or deletions from the record.

17  
18       **IT IS SO ORDERED.**

19  
20       Dated: \_\_\_\_\_

By: \_\_\_\_\_

Hon. Curtis M. Kin  
Judge of the Superior Court

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23       2094849.1

# EXHIBIT A

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1 C.D. Michel – SBN 144258  
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MICHEL & ASSOCIATES, P.C.  
3 180 East Ocean Blvd., Suite 200  
Long Beach, CA 90802  
4 Telephone: (562) 216-4444  
Facsimile: (562) 216-4445  
5 Email: cmichel@michellawyers.com

6 *Attorneys for Plaintiffs-Petitioners*  
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Sean M. Sherlock, Bar No. 161627  
9 ssherlock@swlaw.com  
Cameron J. Schlager, Bar No. 320732  
10 cschlager@swlaw.com  
SNELL & WILMER LLP  
11 Plaza Tower  
600 Anton Boulevard  
12 Suite 1400  
Costa Mesa, California 92626-7689  
13 Telephone: 714.427.7000  
Facsimile: 714.427.7799

14 *Attorneys for Plaintiffs-Petitioners*  
15 *Safari Club International, HOWL for Wildlife, Inc.,*  
16 *and Coalition to Save Catalina Island Deer*

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA

18 COUNTY OF LOS ANGELES

19 SAFARI CLUB INTERNATIONAL;  
CALIFORNIA RIFLE & PISTOL  
20 ASSOCIATION, INCORPORATED;  
CALIFORNIA BOWMEN HUNTERS/STATE  
21 ARCHERY ASSOCIATION; HOWL FOR  
WILDLIFE, INC.; CALIFORNIA DEER  
22 ASSOCIATION; and COALITION TO SAVE  
CATALINA ISLAND DEER,

23 Plaintiffs-Petitioners,

24 v.

25 CALIFORNIA DEPARTMENT OF FISH  
26 AND WILDLIFE; CATALINA ISLAND  
CONSERVANCY ; and DOES 1-10,

27 Defendants-Respondents.  
28

Case No. 26STCP00987

**VERIFIED SECOND AMENDED  
COMPLAINT & PETITION FOR WRIT  
OF MANDATE**

(California Environmental Quality Act, Pub.  
Resources Code, § 21168.5; Fish & Game  
Code, §§ 711.7, 1600-1616; Civ. Code §§  
3479-3480, 3490, et seq.; Code of Civ.  
Proc., §§ 1060, 1085, 1094.5; Common  
Law)

**CEQA CASE**

1 Plaintiffs-Petitioners Safari Club International; California Rifle & Pistol Association,  
2 Incorporated; California Bowmen Hunters/State Archery Association; HOWL for Wildlife, Inc.;  
3 California Deer Association; and Coalition to Save Catalina Island Deer (“Plaintiffs-Petitioners”),  
4 bring this action for writ of mandate and equitable relief under Code of Civil Procedure sections  
5 1085 and 1094.5, the California Environmental Quality Act (“CEQA”), Public Resources Code  
6 sections 21000 et seq., Fish and Game Code sections 711.7 and 1600-1616, and California public  
7 nuisance law and the common law, on behalf of Plaintiffs-Petitioners’ interested members and  
8 supporters, residents, and the public interest, and allege as follows.

### 9 **INTRODUCTION**

10 1. This is an action for a writ of mandate and declaratory and injunctive relief brought  
11 pursuant to CEQA by conservation, community, and hunting non-profit organizations to challenge  
12 Defendants-Respondents CDFW and Catalina Island Conservancy’s unlawful approval and  
13 authorization of the Catalina Island Restoration Project (“Project”), including the issuance of a  
14 Restoration Management Permit (“RMP”) and related exemption and concurrence determinations  
15 authorizing the eradication of mule deer from Santa Catalina Island and related activities. Plaintiffs-  
16 Petitioners challenge Defendants-Respondents’ actions under CEQA, Fish and Game Code sections  
17 711.7, 1600-1616, public nuisance law, and Code of Civil Procedure section 1085.

18 2. Respondent California Department of Fish and Wildlife (“CDFW”) and its South  
19 Coast Region purported to exempt the Project from CEQA review pursuant to Public Resources  
20 Code section 21080.56, also known as the Statutory Exemption for Restoration Projects (“SERP”),  
21 and subsequently approved Respondent Catalina Island Conservancy’s (“Conservancy”) Project  
22 and issued the challenged RMP.

23 3. The Project authorizes a broad range of activities on Catalina Island, including  
24 experimental vegetation treatments, herbicide use, fencing, wildlife monitoring, and biosecurity  
25 measures. Most significantly, however, the Project authorizes the complete eradication of  
26 Catalina’s mule deer population through methods including aerial and ground net capture, use of  
27 dogs to locate deer, daytime and nighttime shooting, shooting from vehicles, baiting, thermal  
28 detection, and euthanasia.

4. Defendants-Respondents' exemption determination, concurrence, and approval of the Project were unlawful for several independent reasons. Defendants-Respondents failed to comply with CEQA and the mandatory requirements of Public Resources Code section 21080.56. They failed to lawfully obtain and document the CDFW director's concurrence required for SERP approval. Defendant-Respondent CDFW violated its obligations to California wildlife resources held in public trust under Fish and Game Code section 711.7 and the common law. Defendants-Respondents approved and authorized conduct constituting or facilitating a public nuisance. And Defendant-Respondent CDFW acted in excess of its lawful authority by characterizing or treating Catalina mule deer as invasive wildlife for purposes of eradication.

5. As a result, the challenged exemption determination, concurrence, and resulting RMP are invalid and invite irreversible and irreparable harm upon Plaintiffs-Petitioners, whose members and supporters use, enjoy, study, advocate for, hunt, and derive benefits from the wildlife resources on Catalina Island, including the mule deer population.

6. Plaintiffs-Petitioners therefore request that this Court issue appropriate writ, declaratory, injunctive, and equitable relief vacating and setting aside the challenged approvals and enjoining implementation of the Project unless and until Respondents comply with CEQA and all other applicable laws.

**PARTIES**

7. Plaintiff-Petitioner SAFARI CLUB INTERNATIONAL (“SCI”) is a nonprofit organization incorporated in the State of Arizona, operating under section 501(c)(4) of the Internal Revenue Code. Its principal offices are located in Washington, DC. SCI was founded in Los Angeles in 1972, with members and chapters throughout the United States and beyond. SCI’s purposes include advocating for hunters, promoting wildlife conservation, defending sustainable use of wildlife resources, and supporting hunter education and outdoor traditions. SCI and its members have interests in the conservation, maintenance, and lawful, scientifically based management of mule deer as a wildlife resource, including for wildlife observation, education, hunting, and lawful harvest for food. SCI’s members and supporters include persons who visit, use, and enjoy Santa Catalina Island and who value the continued existence of the Island’s deer herd,

1 and who support its sustainable management through regulated hunting. Defendants-Respondents'  
2 unlawful approval of the Project and authorization of deer eradication on Catalina Island injure  
3 those interests.

4 8. Plaintiff-Petitioner CALIFORNIA RIFLE & PISTOL ASSOCIATION,  
5 INCORPORATED ("CRPA") is a nonprofit membership organization incorporated under the laws  
6 of California, with headquarters in Fullerton, California. Among its purposes, CRPA advocates for  
7 the rights and interests of California firearm owners, hunters, and sportsmen, and promotes lawful,  
8 responsible firearm use, safety, education, and outdoor traditions. CRPA and its members have  
9 interests in the lawful, scientifically based management of California wildlife resources, including  
10 mule deer, and in preserving opportunities for the beneficial use and enjoyment of those resources,  
11 including hunting, outdoor recreation, and related education and advocacy. CRPA's members and  
12 supporters include people who visit, use, and enjoy Santa Catalina Island and who value the  
13 continued existence and lawful management of the Island's deer herd. Defendants-Respondents'  
14 unlawful approval of the Project and authorization of deer eradication on Catalina Island injure  
15 those interests.

16 9. Plaintiff-Petitioner CALIFORNIA BOWMEN HUNTERS/STATE ARCHERY  
17 ASSOCIATION ("CBH/SAA") is a nonprofit organization established in 1964 to promote and  
18 defend the interests of target archers and bowhunters throughout California. CBH/SAA provides  
19 education, information, advocacy, and support concerning archery, bowhunting, wildlife  
20 conservation, and hunting laws and regulations in California. CBH/SAA and its members have  
21 interests in the conservation, maintenance, and lawful, scientifically based management of mule  
22 deer as a California wildlife resource, including for outdoor recreation, education, wildlife  
23 observation, hunting, and lawful harvest for food. CBH/SAA's members and supporters include  
24 people who visit, use, and enjoy Santa Catalina Island and who value the continued existence and  
25 lawful management of the Island's deer herd. Defendants-Respondents' unlawful approval of the  
26 Project and authorization of deer eradication on Catalina Island injure those interests.

27 10. Plaintiff-Petitioner HOWL FOR WILDLIFE, INC. ("HOWL") is a nonprofit,  
28 member organization with headquarters in Pacifica, California. Its mission is to bridge the gap

1 between the public, policymakers, and wildlife biologists—ensuring that important decisions  
2 remain rooted in sound research. To that end, Howl advocates for wildlife conservation, hunting,  
3 and the rights of sportsmen and women, and educates and mobilizes its members and supporters on  
4 issues of wildlife management and outdoor policy. Howl and its members have interests in the  
5 lawful, transparent, and scientifically based management of California wildlife resources, including  
6 mule deer, and in preserving opportunities for wildlife observation, outdoor recreation, hunting,  
7 and related advocacy. Howl’s members and supporters include people who visit, use, and enjoy  
8 Santa Catalina Island and who value the continued existence and lawful management of the Island’s  
9 deer herd. Defendants-Respondents’ unlawful approval of the Project and authorization of deer  
10 eradication on Catalina Island injure those interests.

11         11. Plaintiff-Petitioner CALIFORNIA DEER ASSOCIATION (“CDA”) is a nonprofit  
12 organization with chapters and members throughout California. CDA is devoted to the conservation  
13 and stewardship of deer, deer habitat, and California’s hunting and wildlife heritage, and it  
14 envisions a diverse and healthy landscape where deer and other wildlife thrive. CDA works to  
15 ensure that science-based wildlife management remains at the heart of California’s policy  
16 decisions. CDA and its members have direct interests in the conservation, maintenance, and lawful,  
17 scientifically based management of mule deer as a California wildlife resource, including for  
18 ecological, educational, aesthetic, recreational, and hunting purposes. CDA’s members and  
19 supporters include people who visit, use, and enjoy Santa Catalina Island and who value the  
20 continued existence and lawful management of the Island’s deer herd. Defendants-Respondents’  
21 unlawful approval of the Project and authorization of deer eradication on Catalina Island injure  
22 those interests.

23         12. Plaintiff-Petitioner COALITION TO SAVE CATALINA ISLAND DEER is  
24 California nonprofit public benefit corporation serving diverse individuals, including current and  
25 former Catalina Island residents, Catalina Island business and property owners, and people who  
26 regularly visit Catalina Island and support its tourism-based economy. The Coalition was formed  
27 to protect Catalina Island’s mule deer and the Island’s associated cultural, community,  
28 environmental, and economic values, and to promote lawful and transparent agency decision-

1 making. The Coalition and its members use, visit, enjoy, and advocate for Santa Catalina Island  
2 and its wildlife, including the Island’s deer herd, and are directly aggrieved by Defendants-  
3 Respondents’ unlawful approval of the Project and authorization of deer eradication. The Coalition  
4 sues in the name by which it is known under Code of Civil Procedure section 369.5.

5 13. Defendant-Respondent CALIFORNIA DEPARTMENT OF FISH AND  
6 WILDLIFE (“CDFW”) is an agency of the state of California. It is CDFW’s mission and  
7 responsibility to “manage California’s diverse fish, wildlife, and plant resources, and the habitats  
8 upon which they depend, for their ecological values and for their use and enjoyment by the public.”<sup>1</sup>  
9 CDFW is thus charged with the administration and enforcement of California’s fish and wildlife  
10 laws and with the conservation, management, and protection of the State’s wildlife resources.  
11 CDFW, acting through its officers, employees, divisions, and regions, participated in and approved  
12 the challenged exemption determination and related Project approvals at issue in this action.

13 14. Defendant-Respondent CATALINA ISLAND CONSERVANCY (“Conservancy”)  
14 is a 501(c)(3) non-profit public benefit corporation with its principal place of business in Long  
15 Beach, California. The Conservancy is the applicant for, beneficiary of, and holder of the RMP  
16 challenged here. The Conservancy proposed the Project, sought the statutory exemption and related  
17 approvals at issue, and claims an interest in the validity of those approvals adverse to Plaintiffs-  
18 Petitioners.

19 15. Plaintiffs-Petitioners are unaware and genuinely ignorant of the true identities of  
20 DOES 1 through 10. Doe Defendants-Respondents are fictitiously named. The true names and  
21 capacities, whether an individual, corporation, heirs, assigns, successor in interest, or otherwise, of  
22 any Doe Defendants-Respondents, are unknown to Plaintiffs-Petitioners at the time of filing of this  
23 petition. Plaintiffs-Petitioners will amend this petition to show the true names and capacities of  
24 these Doe Defendants-Respondents when the same have been ascertained. Plaintiffs-Petitioners are  
25 informed and believe, and on that basis allege, that at all times herein mentioned, Defendants-  
26 Respondents fictitiously designated, and each of them, were the agents, servants, employees,  
27 representatives, or other persons or entities acting or purporting to act on Defendants-Respondents

28 <sup>1</sup> (State of Cal., Dept. of Fish & Wildlife, <<https://wildlife.ca.gov/>> [as of Mar. 9, 2026].)



1 CDFW's behalf or over whom Defendants-Respondents exercise management and control, and  
2 were at all times herein mentioned within the course and scope of such agency and/or employment  
3 Plaintiffs-Petitioners are informed, and believe, and on that basis allege, that each of the  
4 Defendants-Respondents named as DOES 1 through 10 were in some manner acting unlawfully or  
5 otherwise responsible for the events and happenings hereinafter alleged.

6 **JURISDICTION AND VENUE**

7 16. This Court has jurisdiction under Code of Civil Procedure section 1085, Public  
8 Resources Code section 21168.5, and California Civil Code sections 3490, et seq.

9 17. Venue for this action is proper because the Project and its associated impacts are  
10 authorized to occur in the County of Los Angeles. (Code Civ. Proc., § 393, subd. (b).)

11 18. Defendants-Respondents have taken final agency actions by approving the Project  
12 pursuant to a statutory CEQA exemption found in Public Resources Code section 21080.56.  
13 Defendants-Respondents have a duty to comply with applicable state laws in exercising their  
14 discretion to approve the Project at issue in this lawsuit, which duty they have failed to carry out.

15 19. Plaintiffs-Petitioners have complied with the requirements of Public Resources  
16 Code section 21167.5 by serving via U.S. Mail a written notice of Plaintiffs-Petitioners' intention  
17 to commence this action on Defendant-Respondent CDFW on March 4, 2026. Attached hereto as  
18 **Exhibit A** is a true and correct copy of the written notice and proof of its service.

19 20. Before serving that written notice of their intention to commence this action,  
20 Plaintiffs-Petitioners also notified Defendants-Respondents of their objections to the Project's  
21 approval in a letter submitted by electronic mail (e-mail) to Defendants-Respondents'  
22 representatives, Meghan Hertel and Erinn Wilson-Olgin, on February 11, 2026. Attached hereto as  
23 **Exhibit B** is a true and correct copy of the letter, including its attachments.

24 21. Plaintiffs-Petitioners have complied with the requirements of Public Resources  
25 Code section 21167.6 by concurrently notifying Defendants-Respondents of Plaintiffs-Petitioners'  
26 request to prepare the record of administrative proceedings relating to this action. Attached hereto  
27 as **Exhibit C** is a true and correct copy of the Plaintiffs-Petitioners' Election to Prepare  
28 Administrative Record of Proceedings. On or about March 17, 2026, counsel for Defendant-

1 Respondent CDFW served Plaintiffs-Petitioners with a Notice of Denial of Petitioners' Election to  
2 Prepare Administrative Record.

3 22. Plaintiffs-Petitioners have performed any and all conditions required of them to file  
4 this action. Plaintiffs-Petitioners were not required to exhaust administrative remedies under Public  
5 Resources Code section 2117<sup>2</sup> because "there was no public hearing or other opportunity for  
6 members of the public to raise [] objections orally or in writing before the approval of the [P]roject  
7 . . . ." (Pub. Resources Code § 21177, subd. (e).) "While Public Resources Code section 21080.56  
8 does not include a public comment requirement, CDFW encourages and supports lead agency  
9 efforts to meet and confer with interested parties, neighbors, public officials, and California Native  
10 American tribes prior to submittal of a SERP concurrence request to CDFW.<sup>3</sup> For some reason,  
11 Defendants-Respondents here dismissed their own advice. Instead, they privately proceeded with  
12 approval of the Project on the premise that the Project was exempt from CEQA. To be sure, the  
13 record lists various "public engagement" activities that the *Conservancy* supposedly engaged in  
14 with the public, which Plaintiffs-Petitioners contend are misleading. Attached hereto as **Exhibit E**  
15 is a true and correct copy of the First Notice of Exemption. Attached hereto as **Exhibit F** is a true  
16 and correct copy of the Second Notice of Exemption. (See Exhibit E [First NOE], attach. 1, pp. 4-  
17 6, and Exhibit F [Second NOE], attach. 1, pp. 4-6.) But what is glaringly absent from the record is  
18 *Defendants-Respondents'* engagement with the public on the Project. That is because there was  
19 virtually none.

20 23. The Conservancy supposedly submitted its application for the RMP at issue in this  
21 matter in September 2025. (Exhibit E, [First NOE], attach 1., p. 5; Exhibit F [Second NOE], attach.  
22 1, p. 5.) The South Coast Region of Defendant-Respondent CDFW, identified as the Lead Agency,  
23 then submitted its concurrence request to exempt the Project from CEQA review on January 12,  
24

25 <sup>2</sup> Section 21177 generally provides that an action alleging noncompliance with CEQA may not be  
26 maintained unless the alleged grounds for noncompliance were presented to the public agency  
during any public comment period or public hearing on the project. (Pub. Resources Code, §  
21177, subd. (a).)

27 <sup>3</sup> (State of Cal., Dept. of Fish & Wildlife, *SERP Questions and Answers*  
28 <[https://wildlife.ca.gov/Conservation/Cutting-Green-Tape/SERP/QA#570063372-will-the-  
public-haveopportunities-to-comment-on-a-project-that-is-utilizing-the-serp-process](https://wildlife.ca.gov/Conservation/Cutting-Green-Tape/SERP/QA#570063372-will-the-public-haveopportunities-to-comment-on-a-project-that-is-utilizing-the-serp-process)> [as of Mar.  
9, 2026].)

2026; a CDFW official (not the Director) purported to issue a concurrence on January 26, 2026; the South Coast Region of Defendant-Respondent CDFW determined the Project exempt on January 28, 2026, and filed a Notice of Exemption that same day; the RMP was issued to the Conservancy on January 30, 2026; and CDFW filed a second Notice of Exemption on February 2, 2026. Defendants-Respondents did not provide public notice to review or address any of these steps. Defendants-Respondents thus did not provide a CEQA-compliant public comment period, public hearing, or any meaningful opportunity for members of the public, including Plaintiffs-Petitioners, to raise objections to Defendants-Respondents' reliance on a statutory exemption, the adequacy of the Project's scientific support, the Project's compliance with Public Resources Code section 21080.56, or the Project's compliance with other applicable federal, state, and local law. As a result, Plaintiffs-Petitioners were not required to exhaust administrative remedies under Public Resources Code section 21177. (Pub. Resources Code, § 21177, subd. (e).)

24. The Conservancy's supposed "public engagement" activities do not change that conclusion. First, none of those events constitutes a CEQA-compliant noticed public hearing before the actual decisionmaker (CDFW) on the approvals at issue here, let alone one with a public comment period; they are thus irrelevant under Public Resources Code section 21177. Additionally, virtually none of them was directly related to the specific Project being challenged here. Rather, they concerned the Conservancy's previous efforts to eradicate mule deer on Santa Catalina Island. The Conservancy has pursued efforts to reduce, remove, or eliminate Catalina's mule deer through various legal and administrative mechanisms over many years before its most recent RMP application. As early as 2000, a deer-management report prepared for the Conservancy identified an eradication objective. (Exhibit M, [pp. 2, 10-11, 15-16].) On information and belief, after Catalina's 2007 "Island Fire," the Conservancy sought extraordinary deer-removal authority from CDFW, representing that the herd needed to be substantially reduced. On information and belief, CDFW denied those requests. In 2016, the Conservancy submitted to CDFW a Scientific Collecting Permit ("SCP") proposal under Fish and Game Code sections 1002, 1002.5, 1003, which would

1 have allowed for the eradication of deer on Catalina. (Exhibit L.)<sup>4</sup> CDFW rejected that proposal.  
2 (*Ibid.*) In August 2023, the Conservancy tried again by submitting another SCP application to  
3 CDFW seeking deer-removal authority, including via aerial gunning and other methods. (Exhibit  
4 M.)<sup>5</sup> That application generated intense public controversy. As the South Coast Region of  
5 Defendant-Respondent CDFW explains, the Conservancy ultimately withdrew its SCP application  
6 in September 2025 but followed up almost immediately with its application for the RMP, which is  
7 challenged in this matter and includes changes from the previous effort and operates under a wholly  
8 separate regulatory regime. (Exhibit F [Second NOE], attach. 1, p. 5.) In sum, because the  
9 Conservancy was pursuing a different type of project, albeit one that included the eradication of  
10 deer, until September 2025, all of its purported public engagement efforts before then concerned  
11 previous, now abandoned project, not the one at issue here. Plaintiffs-Petitioners thus had no  
12 meaningful way to review or comment on the Project before it was proposed or authorized.

13 25. To the extent Plaintiffs-Petitioners were required to exhaust administrative remedies  
14 under any applicable law or doctrine, they have certainly done so with their actions both before and  
15 after Defendants-Respondents' approval of the Project. As explained above, the current Project was  
16 initiated only after the Conservancy's previous efforts to eradicate deer did not bear fruit.  
17 Responding to those previous efforts, Plaintiffs-Petitioners and other members of the public  
18 continuously and extensively weighed in with objections to the Conservancy's longstanding  
19 attempts to eradicate deer from Catalina, as explained in detail below in the Standing section. In  
20 sum, the public, including Plaintiffs-Petitioners, had limited opportunities to provide input on  
21 Defendants-Respondents' approval of the Project but undeniably attempted to put Defendants-  
22 Respondents and the Conservancy on notice that there were meaningful objections to the Project.

23 26. On March 10, 2026, Plaintiffs-Petitioners will comply with Public Resources Code  
24 section 21167.7 and Code of Civil Procedure section 388 by furnishing the Attorney General of the  
25

26 <sup>4</sup> **Exhibit L** is a true and correct copy of the 2016 SCP proposal and denial produced in response  
27 to a request for public records submitted to CDFW pursuant to the Public Records Act,  
Government Code, §7920.000 et seq.

28 <sup>5</sup> **Exhibit M** is a true and correct copy of the Conservancy's August 2023 Scientific Collecting  
Permit, Specific Use – Application to CDFW.

1 State of California with a copy of the Petition. A true and correct copy of Plaintiffs-Petitioners'  
2 letter transmitting the Petition to the Attorney General is attached as **Exhibit D**.

3 27. This Petition is timely filed in accordance with Title 14 of the Code of Regulations  
4 (CEQA Guidelines) section 15062(d).

5 **PRIVATE ATTORNEY GENERAL DOCTRINE**

6 28. Plaintiffs-Petitioners bring this action as private attorneys general under California  
7 Code of Civil Procedure section 1021.5, and any other applicable legal theory, to enforce important  
8 rights affecting the public interest. Issuance of the relief requested in this petition will confer  
9 significant benefits on the general public by, among other things, preventing the unlawful  
10 eradication of a public resource, thereby allowing the public to continue to enjoy it, and protecting  
11 the public from environmental and other harms as alleged herein. Issuance of the relief requested  
12 in this Petition will result in the enforcement of important rights affecting the public interest by,  
13 among other things, compelling Defendants-Respondents to comply with applicable laws in  
14 managing public resources and vindicating the public's right under CEQA to have a voice in  
15 projects that impact the environment and public resources.

16 29. The necessity and financial burden of enforcement are such as to make an award of  
17 attorneys' fees under California Code of Civil Procedure section 1021.5 appropriate in this  
18 proceeding. Absent enforcement by Plaintiffs-Petitioners, the Project might otherwise move  
19 forward, despite it being unlawful.

20 **STANDING**

21 30. Plaintiffs-Petitioners have standing to bring this action because they are aggrieved  
22 by Defendants-Respondents' unlawful approval of the Project and issuance of the RMP. Plaintiffs-  
23 Petitioners' members and supporters include persons having concrete recreational, aesthetic,  
24 educational, conservation, wildlife-viewing, scientific, organizational, cultural, or economic  
25 interests in Santa Catalina Island, including its mule deer, and in lawful, scientifically-based  
26 wildlife management, all of which are directly affected by the Project's authorization of deer  
27 eradication and related implementation activities.

1           31.     Plaintiffs-Petitioners' members and supporters include persons who use, visit,  
2     enjoy, study, photograph, advocate for, and derive benefit from Santa Catalina Island and its  
3     wildlife, including mule deer. Plaintiffs-Petitioners also have direct interests in the conservation,  
4     maintenance, and lawful management of mule deer as a California wildlife resource; in the  
5     continued existence of the Catalina deer herd; in opportunities for wildlife observation, and  
6     education; and, for some members, in the lawful hunting, harvest and consumption of deer as a  
7     source of food. Defendants-Respondents' approval of an island-wide, multi-year deer-eradication  
8     program injures those interests by threatening the existence of the deer herd, impairing Plaintiffs-  
9     Petitioners' ability to view, study, enjoy, use, and advocate for those animals, foreclosing lawful  
10    harvest opportunities, and undermining Plaintiffs-Petitioners' interests in lawful and scientifically  
11    grounded wildlife management.

12           32.     Plaintiffs-Petitioners' members and supporters include persons who regularly reside  
13    on, visit, recreate on, study, photograph, hunt, and maintain longstanding personal, recreational,  
14    educational, conservation, and/or economic relationships with Catalina Island and its wildlife  
15    resources. The Project directly impairs those concrete uses and relationships through the permanent  
16    elimination of the mule deer population and resulting alteration of wildlife resources and  
17    opportunities regularly used and enjoyed by Plaintiffs-Petitioners' members and supporters.

18           33.     California wildlife resources are held in trust for the people of the State. Plaintiffs-  
19    Petitioners and their members and supporters are among the beneficiaries of that public trust and  
20    possess beneficial interests in the lawful stewardship, management, continued existence, and public  
21    enjoyment of wildlife resources affected by the Project.

22           34.     Plaintiffs-Petitioners also suffered injury as a result of Defendants-Respondents'  
23    lack of public process in authorizing the Project. By proceeding unlawfully under a statutory  
24    exemption and without the environmental review and public process required by CEQA,  
25    Defendants-Respondents deprived Plaintiffs-Petitioners of a meaningful opportunity to evaluate  
26    the Project's impacts, test its asserted scientific basis, assess alternatives and mitigation, and  
27    participate in a legally adequate decision-making process before approval of a project that  
28    undeniably has drastic, irreversible consequences on Catalina's wildlife and ecosystem. Plaintiffs-

1 Petitioners SCI, CRPA, CBH/SSA, HOWL, and CDA bring this action on behalf of those members  
2 and supporters. The interests Plaintiffs-Petitioners seek to protect are germane to their  
3 organizational purposes, and neither the claims asserted nor the relief requested require the  
4 participation of individual members or supporters.

5 35. Plaintiff-Petitioner Coalition to Save Catalina Island Deer is an unincorporated  
6 association comprised of individuals including current and former Catalina Island residents,  
7 business and property owners, and persons who regularly visit Catalina Island and support its  
8 tourism-based economy. The Coalition was formed for the common purposes of protecting Catalina  
9 Island's mule deer and the Island's associated cultural, community, environmental, and economic  
10 values, and of promoting lawful and transparent agency decision-making. The Coalition and its  
11 members are beneficially interested in this proceeding and are directly aggrieved by the Project for  
12 the reasons alleged herein. The Coalition sues in the name by which it is known pursuant to Code  
13 of Civil Procedure section 369.5.

14 36. Plaintiffs-Petitioners took substantial steps to protect their interests long before  
15 Defendants-Respondents approved the Project. After the Conservancy's deer-eradication plans  
16 became public in October 2023, Plaintiffs-Petitioners and their members and supporters organized  
17 sustained opposition. They formed the Coalition to Save Catalina Island Deer; launched a public  
18 petition opposing deer eradication that now has more than 31,000 signatures; organized letter-  
19 writing campaigns to CDFW and the Conservancy; submitted objection letters to CDFW; submitted  
20 questions in advance of the Conservancy's January 31, 2024 community forum, which were not  
21 selected for response; met directly with CDFW officials, including at least one meeting with  
22 CDFW's Deputy Director on November 27, 2023, and a separate meeting between HOWL  
23 representatives and CDFW leadership on October 20, 2023; provided public comment at the  
24 October 17, 2023 Avalon City Council meeting, the December 13, 2023 Fish and Game  
25 Commission meeting, and the November 18, 2025 Avalon City Council meeting; protested  
26 peacefully outside the Conservancy's Avalon office on October 17, 2023, at the ferry dock near the  
27 Conservancy's office on October 20, 2023, and at the 2024 Conservancy Ball; and submitted  
28 written objections to CDFW on November 18, 2025 opposing deer eradication. (See Exhibit B.)

1           37. Through these efforts, Plaintiffs-Petitioners repeatedly attempted to place their  
2 concerns before decision-makers and to oppose the eradication of Catalina's mule deer through  
3 available public channels, despite the absence of any CEQA-compliant public process for the  
4 Project itself.

5           38. Additionally, from December 2022 through February 2026, representatives of  
6 Plaintiff-Petitioner SCI regularly met with interested officials, including Fish and Game  
7 Commissioners Darius Anderson, Eric Sklar, Samantha Murray, and Erika Zavaleta, County  
8 Supervisor Janice Hahn, State Senators Lena Gonzalez and Ben Allen, and Senator Allen's Chief  
9 of Staff. SCI representatives also testified under the CDFW Director's report at the Fish and Game  
10 Commission meeting on February 11, 2026.

11           39. Plaintiff-Petitioner HOWL sent multiple emails, petitions, and public feedback to  
12 CDFW and the Fish and Game Commission from 2023 through 2026. Through its online action  
13 center, HOWL submitted thousands of sign-on actions from members of the public. Representatives  
14 from HOWL also participated in at least two meetings with CDFW Wildlife & Fisheries Division  
15 Deputy Director Chad Dibble and Branch Chief Scott Gardner. Finally, in 2026, HOWL offered to  
16 work with CDFW and the Conservancy to conduct an island-wide thermal drone survey—at  
17 HOWL's expense—to better inform the agency of the size and impact of the mule deer population  
18 on the Island. The Conservancy rejected the offer.

19           40. In December 2023, representatives from Plaintiff-Petitioner CRPA spoke at the  
20 California Game Commission meeting in San Diego, opposing the proposed plan to eradicate the  
21 Island's mule deer population. From April 2024 through December 2025, representatives of  
22 Plaintiff-Petitioner CRPA met regularly with interested officials, including State Senator Brian  
23 Jones and County Supervisor Hahn, as well as staff from the offices of State Senators Lena  
24 Gonzalez and Josh Lowenthal. On September 16, 2024, CRPA representatives met with then-  
25 Director Bonham and other organizations. CRPA has also made substantial efforts to educate the  
26 public about the plans to eradicate the Island's beloved deer.

27           41. Plaintiffs-Petitioners' injuries are caused by Defendants-Respondents' challenged  
28 actions and would be redressed by the relief requested herein. Vacating and setting aside the



1 challenged SERP concurrence, CEQA-exemption determination, RMP approval, and related  
2 unlawful actions, and enjoining implementation of the Project unless and until Defendants-  
3 Respondents comply with all applicable laws would protect Plaintiffs-Petitioners' procedural and  
4 substantive interests and prevent or lessen the injuries alleged in herein.

### 5 **FACTUAL BACKGROUND**

6 42. Under Fish and Game Code section 1672, CDFW may, subject to conditions, issue  
7 a restoration management permit, authorizing otherwise restricted take of or impacts on wildlife by  
8 its holder, if undertaken in association with a qualifying restoration project.

9 43. On a date unknown to Plaintiffs-Petitioners because it was not made public by  
10 CDFW, but apparently in September 2025, the Conservancy submitted to Respondent CDFW,  
11 South Coast Region, an application for a restoration management permit under Fish and Game  
12 Code section 1672. (Exhibit F [Second NOE], attach. 1, p. 5.) That application sought authorization  
13 for an Island-wide, multi-year project involving various ecosystem restoration and other activities  
14 across Catalina Island. (*Id.* at pp. 2, 5.)

15 44. Among other things, the application sought authorization to eradicate mule deer  
16 from the Island via various activities, including baiting, aerial trapping with nets, shooting with air  
17 guns and rifles, sterilization and release of sentinel deer, and euthanasia. (Exhibit F [Second NOE],  
18 p. 6; Exhibit K [RMP], pp. 6-8.) The application also sought authorization for extensive vegetation-  
19 management activities, including fencing, invasive vegetation removal, native seed collection and  
20 reseeding, and experimental herbicide treatment and monitoring involving monocot-specific,  
21 broad-spectrum, and broadleaf-specific herbicides, including possible use of glyphosate and  
22 triclopyr. (Exhibit H [Workplan], pp. 5-8, 15; Exhibit K [RMP], pp. 4-6.) The Project also included  
23 biosecurity and wildlife-management measures, including island fox monitoring, infectious disease  
24 surveillance, vaccination and mortality tracking, as well as island-wide biological monitoring and  
25 documentation involving birds, Lepidoptera, shrews, small mammals, reptiles, amphibians, and  
26 vegetation. (Exhibit H [Workplan], pp. 21-33; Exhibit K [RMP], pp. 12-15.) In response, on January  
27 12, 2026, the South Coast Region of Defendant-Respondent CDFW, identified as the Lead Agency,  
28 submitted to Defendant-Respondent CDFW a "CEQA Statutory Exemption for Restoration

1 Projects Concurrence Request” seeking the Director’s concurrence that the Project meets the  
2 eligibility requirements of subdivisions (a) through (d) of Public Resources Code section 21080.56.  
3 (Exhibit F [Second NOE], attach. 1, pp. 1-12). This submission was not made publicly, so  
4 Plaintiffs-Petitioners, like the rest of the public, were unaware of it at the time.

5 45. The South Coast Region’s January 12, 2026, request for Defendant-Respondent  
6 CDFW’s concurrence states that its determination “is based on the information provided by the  
7 Conservancy in the attached RMP Application Package.” (Exhibit F [Second NOE], attach. 1, p.  
8 6.) The request describes the contents of that “Application Package” as consisting of the following  
9 four documents: “the RMP application, Catalina Island Restoration Project 10-Year Workplan  
10 (Workplan), Island Restoration Scientific Assessment (IRSA), and Habitat Restoration and  
11 Monitoring Plan (HRMP).” (*Id.* at attach. 1, p. 2.) Despite stating that those four documents are  
12 attached to and incorporated by the concurrence request, none of them is. (*Ibid.*) Plaintiffs-  
13 Petitioners have located what they believe to be the documents and attached true and correct copies  
14 of the documents hereto. (**Exhibit G** [a true and correct copy of what is believed to be the RMP  
15 Application]; **Exhibit H** [a true and correct copy of what is believed to be the Catalina Island  
16 Restoration Project 10-Year Workplan (“Workplan”)]; **Exhibit I** [a true and correct copy of what  
17 is believed to be the Island Restoration Scientific Assessment (“IRSA”)]; and **Exhibit J** [a true and  
18 correct copy of what is believed to be the Habitat Restoration and Monitoring Plan (“HRMP”).])

19 46. On January 26, 2026, Joshua Grover, Deputy Director of CDFW’s Ecosystem  
20 Conservation Division, purported to issue a concurrence decision to exempt the Project under  
21 Section 21080.56, subdivision (e) (“Concurrence”). (Exhibit F [Second NOE, attach. 2.]) While it  
22 appears that CDFW posted this Concurrence online when it was issued, there was no public  
23 outreach to Plaintiffs-Petitioners or otherwise about its posting.

24 47. On January 28, 2026, the South Coast Region of Defendant-Respondent CDFW  
25 filed a Notice of Exemption (“NOE”) that the Project is exempt from CEQA under Section  
26 21080.56, subdivision (g), notifying the public for the first time of its decision (“NOE #1”). (See  
27 Exhibit E [First NOE].) According to NOE #1, the South Coast Region considered the Concurrence  
28 to be from “the Director’s designee” and apparently sufficient to satisfy Section 21080.56,

subdivision (e)’s requirement that “the director” provide a concurrence. (*Id.* at p. 2.) It does not cite to any law or rule that allows for a supposed “designee” to satisfy that requirement.

48. On January 30, 2026, the South Coast Region of Defendant-Respondent CDFW approved the RMP, which authorized the eradication of mule deer from Catalina, and issued it to the Conservancy that same day. (Attached hereto as **Exhibit K** is a true and correct copy of the final, approved RMP for the Project.)

49. On February 2, 2026, the South Coast Region of Defendant-Respondent CDFW, identified as the Lead Agency, filed a second Notice of Exemption (NOE #2) for the purported purpose of complying with CEQA Guidelines section 15062 (Cal. Code Regs., tit. 14, § 15062), which requires the Lead Agency to file a NOE within five days after a project’s approval.

50. The attachments to both NOE #1 and NOE #2 appear to be identical, or essentially identical.

51. As a result of the RMP’s issuance, the Conservancy is currently permitted to act under the RMP and, on information and belief, is currently taking action under the RMP that Plaintiffs-Petitioners seek to prevent.

## **LEGAL BACKGROUND**

### **I. California Environmental Quality Act**

52. CEQA is a comprehensive legal regime designed to provide long-term protection of the environment. (Pub. Resources Code, §§ 21000-21189.) CEQA exists to, among other things, “[i]nform decision makers and the public about the potential, significant environmental effects of proposed activities.” (Cal. Code Regs., tit. 14, § 15002(a)(1).)

53. CEQA declares that it is the policy of California to “[p]revent the elimination of fish or wildlife species due to man’s activities, ensure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities and examples of the major periods of California history.” (Pub. Resources Code, § 21001.)

54. To that end, CEQA mandates public agencies “to avoid or minimize environmental damage where feasible.” (Cal. Code Regs., tit. 14, § 15021.) They must “give major consideration

1 to preventing environmental damage” and “should not approve a project as proposed if there are  
2 feasible alternatives or mitigation measures available that would substantially lessen any significant  
3 effects that the project would have on the environment.” (*Ibid.*; see also Pub. Resources Code, §  
4 21002.)

5 55. To achieve the objectives of CEQA, “state and local agencies [are required] to  
6 disclose and require mitigation of the potentially significant environmental impacts of  
7 ‘discretionary’ projects that they may approve.” (*California Environmental Quality Act*  
8 Informational Flyer <<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=202608&inline>> [as  
9 of March 4, 2026].)

10 56. To identify environmental impacts and the means to mitigate them, CEQA requires  
11 various sorts of public notice and/or comment periods, notifying and soliciting input and  
12 participation from key stakeholders and the general public. This includes, inter alia:

13 a. If the Lead Agency determines that a Negative Declaration (“ND”) or  
14 Mitigated Negative Declaration (“MND”) will be used for the project, filing of the Notice  
15 of Intent to Adopt ND/MND and notice to relevant agencies and interested organizations  
16 and members of the public, (Cal. Code Regs., tit. 14, § 15072, subds. (a)-(b));

17 b. Public comment period for the ND/MND of at least 20 days, or 30 days if a  
18 proposed ND/MND is submitted to the State Clearinghouse for review by state agencies,  
19 (Pub. Resources Code, § 21091, subd. (b));

20 c. Notice of Preparation (“NOP”) to Responsible Agencies, trustee agencies,  
21 the Office of Planning and Research, relevant federal agencies, and the public that the Lead  
22 Agency plans to prepare an Environmental Impact Report (“EIR”) for the project, (Cal.  
23 Code Regs., tit. 14, § 15082);

24 d. Comment and engagement period for NOP of 30 days, (Cal. Code Regs., tit.  
25 14, §§ 15082-15083);

26 e. Notice of Availability (“NOA”) to the public that a Draft EIR is available  
27 for review and public comment, (Cal. Code Regs., tit. 14, § 15087, subd. (a));

28 f. Public comment period for Draft EIR of 30-90 days, and response to every

comment submitted for the Draft EIR, (Pub. Resources Code, § 21091, subds. (a) & (d); Cal. Code Regs., tit. 14, § 15088).

57. Public Resources Code Section 21080.56 provides a Statutory Exemption for Restoration Projects (SERP), creating a streamlined process that avoids CEQA review (and the process for public review and comment described above) for projects that are found to be “exclusively” either “(1) A project to conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend”; or “(2) A project to restore or provide habitat for California native fish and wildlife.” (Pub. Resources Code, § 21080.56, subd. (a)(1)-(2).)

58. To qualify for a SERP under section 21080.56, the project must “[r]esult[] in long-term net benefits to climate resiliency, biodiversity, and sensitive species recovery,” *and* “[i]nclude[] procedures and ongoing management for the protection of the environment.” (Pub. Resources Code, § 21080.56, subd. (c)(1)-(2).)

59. Section 21080.56, subdivision (e), provides that a lead agency seeking to rely upon SERP “shall obtain the concurrence of the *Director* of Fish and Wildlife” regarding the statutory determinations required by that section. It further provides that “the director shall document the director’s concurrence using substantial evidence and best available science.” (Pub. Resources Code, § 21080.56, subd. (e).) Neither section 21080.56 nor any other provision of law authorizes issuance of SERP concurrence by a “Director’s Designee” or other delegatee.

60. “Both the CEQA Lead Agency and the California Department of Fish and Wildlife (CDFW) have specific roles under SERP. For a project to qualify, the CEQA Lead Agency must first make its own independent determination that the statutory exemption applies. Once the CEQA Lead Agency has done so, it must then seek concurrence from the CDFW *Director* that the project meets the qualifying criteria.... The *Director’s concurrence* must be based on substantial evidence and best available science.” (*CEQA Statutory Exemption for Restoration Projects (SERP)* <<https://wildlife.ca.gov/Conservation/Cutting-Green-Tape/SERP#569973311-things-to-know-before-requesting>> [as of Mar. 4, 2026], italics added; Pub. Resources Code, § 21080.56, subd. (e).)

1           61. Finally, even if a project otherwise qualifies for a SERP, the project remains “subject  
2 to all other applicable federal, state, and local laws and regulations, and shall not weaken or violate  
3 any applicable environmental or public health standards.” (Pub. Resources Code, § 21080.56, subd.  
4 (f).)

5           62. CDFW is tasked with managing California’s natural resources, *including deer*.  
6 Indeed, it is the express policy of the State “to encourage the conservation, restoration,  
7 maintenance, and utilization of California’s wild deer populations.” (Fish & G. Code, § 450; see  
8 also *id.* § 1801 [“It is hereby declared to be the policy of the state to encourage the preservation,  
9 conservation, and maintenance of wildlife resources under the jurisdiction and influence of the  
10 state.”].)

11           63. Specifically, California aims, among other things:

12                   (a) To maintain sufficient populations of all species of wildlife and  
13                   the habitat necessary to achieve the objectives stated in subdivisions  
                     (b), (c), and (d).”

14                   (b) To provide for the beneficial use and enjoyment of wildlife by all  
15                   citizens of the state.

16                   (c) To perpetuate all species of wildlife for their intrinsic and  
                     ecological values, as well as for their direct benefits to all persons.

17                   (d) To provide for aesthetic, educational, and nonappropriative uses  
18                   of the various wildlife species.

19                   (e) To maintain diversified recreational uses of wildlife, including  
20                   the sport of hunting, as proper uses of certain designated species of  
21                   wildlife, subject to regulations consistent with the maintenance of  
                     healthy, viable wildlife resources, the public safety, and a quality  
                     outdoor experience.

22           (Fish & G. Code, § 1801, subds. (a)-(e).)

23           64. Plaintiffs-Petitioners contend, as the City of Avalon stated in its written protest to  
24 the Project, that “the mass elimination of deer . . . would violate the Department’s mandate to  
25 preserve and protect these animals for the benefit and enjoyment of the people.” (Exhibit N.) Such  
26 a drastic endeavor, coupled with the intrusive and unlawful methods that Defendants-Respondents  
27 authorized to carry it out, is precisely the type of project that warrants CEQA review. Rather than  
28

1 adhere to CEQA's mandates, however, Defendants-Respondents allowed the Conservancy to  
2 bypass them by authorizing the SERP for the Project. Plaintiffs-Petitioners challenge that decision.

3 65. "In any action or proceeding, other than an action or proceeding under Section  
4 21168, to attack, review, set aside, void or annul a determination, finding, or decision of a public  
5 agency on the grounds of noncompliance with this division, the inquiry shall extend only to whether  
6 there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not  
7 proceeded in a manner required by law or if the determination or decision is not supported by  
8 substantial evidence." (Pub. Resources Code, § 21168.5.) Section 21168 does not apply here  
9 because this is not an action to review an agency's decision under CEQA, but to challenge an  
10 exemption from CEQA review.

11 **II. Wildlife Public Trust and Defendants-Respondents' Duties Under the Fish & Game**  
12 **Code**

13 66. California's fish and wildlife are the common property of all Californians. (Cal. Fish  
14 & Game Code, § 1600 ("Fish and wildlife are the property of the people.").)

15 67. These resources are held in trust for the benefit of the people of the state of  
16 California under statute and the common law. CDFW is the trustee of California's wildlife  
17 resources and is charged with conserving, protecting, and managing those resources for present and  
18 future generations. (Cal. Fish & Game Code, § 711.7, subd. (a) ("The fish and wildlife resources  
19 are held in trust for the people of the state by and through the department [of Fish and Game].").)

20 68. CDFW must exercise its discretion concerning wildlife resources in a manner  
21 consistent with its statutory obligations as trustee and the conservation purposes of the Fish and  
22 Game Code. In exercising authority affecting wildlife resources, CDFW must meaningfully  
23 consider its trustee obligations and comply with mandatory legal requirements governing wildlife  
24 and habitat protection.

25 69. Fish and Game Code sections 1600 through 1616 establish mandatory duties  
26 governing activities that may substantially divert or obstruct the natural flow of, or substantially  
27 change or use material from, rivers, streams, lakes, or associated riparian habitat and wildlife  
28 resources. (Fish & G. Code, § 1602, subd. (a).) Under section 1672, subdivision (f), where a

1 qualifying restoration project includes activities involving substantial diversion, obstruction, or  
2 change to rivers, streams, or lakes and may substantially adversely affect fish or wildlife resources,  
3 Defendant-Respondent CDFW may authorize such activities through an RMP but must determine  
4 whether such effects may occur and include reasonable measures necessary to protect affected  
5 resources.

6 70. Catalina mule deer constitute wildlife resources within the meaning of Fish and  
7 Game Code section 711.7. They are thus resources held in trust for the people of the state through  
8 CDFW.

9 71. Any member of the general public, including both individuals and organizations,  
10 may raise a claim of harm to the public trust and seek protection of wildlife resources held in trust  
11 for the people of California. CDFW, as trustee under section 711.7 and under the common law, is  
12 obligated to exercise its authority consistently with those trust duties. Plaintiffs-Petitioners  
13 therefore possess standing to challenge CDFW's concurrence facilitating injury to public trust  
14 wildlife resources.

### 15 **III. Public Nuisance**

16 72. At common law, public nuisances are ““offenses against, or interferences with, the  
17 exercise of *rights common to the public*,’ such as public health, safety, peace, comfort, or  
18 convenience.” (*Citizens for Odor Nuisance Abatement v. City of San Diego* (“*Citizens for Odor*  
19 *Nuisance Abatement*”) (2017) 8 Cal.App.5th 350, 358, quoting *People ex rel. Gallo v. Acuna* (1997)  
20 14 Cal.4th 1090, 1103.)

21 73. Civil Code section 3479 defines a nuisance as “anything which is injurious to health,  
22 including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to  
23 the senses, or an obstruction to the free use of property, so as to interfere with the comfortable  
24 enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary  
25 manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square,  
26 street, or highway.” Relatedly, under Civil Code section 3480, a public nuisance as “one which  
27 affects at the same time an entire community or neighborhood, or any considerable number of  
28



1 persons, although the extent of the annoyance or damage inflicted upon individuals may be  
2 unequal.”

3 74. To qualify as public nuisance, the interference with the rights of the public must be  
4 both “substantial” and “unreasonable.” (*Citizens for Odor Nuisance Abatement, supra*, 8  
5 Cal.App.5th at p. 358.) A substantial interference is one involving real and appreciable harm to  
6 public rights, public resources, or the public’s use and enjoyment thereof.

7 75. California law recognizes that fish and wildlife resources are public property held  
8 for the benefit of the people and that interference with those resources may constitute an actionable  
9 public nuisance. (See *People v. Truckee Lumber Co.* (“*Truckee Lumber*”) (1897) 116 Cal. 397, 399-  
10 400 [holding that conduct interfering with public rights in fish constituted a public nuisance subject  
11 to injunction]; *id.* at p. 399 [recognizing that “an obstruction to the free use of property so as to  
12 interfere with the comfortable enjoyment of life or property by an entire community or  
13 neighborhood, or any considerable number of persons,” is a public nuisance].)

14 76. California’s fish and wildlife resources are held in trust for the people of California,  
15 and the State possesses sovereign authority and responsibility to protect and preserve those  
16 resources. (Fish & G. Code, §§ 711.7, 1600.) The Fish and Game Code further recognizes the  
17 importance of maintaining populations of all wildlife and their habitat sufficient “[t]o provide for  
18 the beneficial use and enjoyment of wildlife by all citizens of the state,” “[t]o perpetuate all species  
19 of wildlife for their intrinsic and ecological values, as well as for their direct benefits to all persons,”  
20 and “[t]o provide for aesthetic, educational, and nonappropriative uses of the various wildlife  
21 species.” (Fish & G. Code, § 1801, subds. (a)-(d).)

#### 22 **IV. Wildlife Classification, Agency Authority, and Ultra Vires Action**

23 77. California administrative agencies, including CDFW, possess only those powers  
24 expressly conferred by statute or necessarily implied from statutory authority. Agencies may not  
25 enlarge or extend their authority through administrative practice or policy preference.

26 78. Wildlife management in California is governed by the California Constitution, the  
27 Fish and Game Code, and duly enacted statutes and regulations adopted by the California Fish and  
28

1 Game Commission and administered by Defendant-Respondent CDFW. (Cal. Const., art. IV, § 20;  
2 Fish & G. Code, §§ 200 et seq., 711.7)

3 79. California law recognizes deer, including mule deer (*Odocoileus hemionus*), as  
4 wildlife resources and “game mammals” subject to conservation, management, and regulated take.  
5 (Fish & G. Code, §§ 450-462, 3950, subd. (a) [identifying “deer (genus *Odocoileus*)” as “game  
6 mammals”].) The Legislature has expressly declared that it is the policy of this State “to encourage  
7 the conservation, restoration, maintenance, and utilization of California’s wild deer populations.”  
8 (*Id.*, § 450.)

9 80. As “game mammals,” the management of California deer herds occur pursuant to  
10 statutes and regulations governing hunting seasons, lawful take, license and tag requirements,  
11 depredation authority, and deer herd management plans established the California Fish and Game  
12 Commission and administered by Defendant-Respondent CDFW. (See, e.g., Fish & G. Code, §§  
13 450-462, 4301-4371; Cal. Code Regs., tit. 14, §§ 350, 360 [identifying zones where deer may be  
14 taken].) Santa Catalina Island is designated within Deer Zone D-15. (Cal. Code Regs., tit. 14, §  
15 360, subd. (a)(4).) The Legislature has directed that deer herd management pursue the dual  
16 objectives of “the *restoration and maintenance of healthy deer herds* in the wild state” and  
17 “provid[ing] for high quality and diversified use of deer in California.” (Fish & G. Code, § 453,  
18 italics added.)

19 81. California law separately maintains legal frameworks governing nonnative,  
20 restricted, and invasive species. Those frameworks are distinct from the laws governing “game  
21 mammals” and authorize species-specific management and take only pursuant to statutes or  
22 regulations adopted for that purpose. (See, e.g., Fish & G. Code, § 2189 [regulating the importation,  
23 transportation, and possession of nonnative wild animals, which are defined as “any nonnative  
24 animal species, or hybrid thereof, that is not normally domesticated pursuant to this code or  
25 regulations adopted pursuant thereto *and that is not designated* as a furbearing, *game*, nongame,  
26 threatened, or endangered animal”], italics added; *id.*, § 3950 [designating deer as “game  
27 mammals”]; *id.*, §§ 4301-4371 [wildlife management and harvest statutes for deer]; *id.*, § 4181.5  
28

1 [regulating and requiring a permit to kill deer that have damaged or destroyed or threaten to damage  
2 or destroy private property”).

3 82. Fish and Game Code section 2189 defines “nonnative wild animal” for purposes of  
4 California wildlife regulation and expressly excludes animals designated as game, nongame,  
5 threatened, endangered, or furbearing species. Deer, by contrast, are expressly designated by  
6 California law as game mammals. (Fish & G. Code, §§ 2189, 3950.)

7 83. This is materially different from how California treats truly “invasive” species.  
8 Indeed, California maintains a legal framework governing “invasive” or “nonnative” species that  
9 is separate from the laws governing “game mammals.” (See, e.g., Fish & G. Code, § ; The legal  
10 status and management of wildlife resources are matters governed by statutes adopted or amended  
11 by the Legislature or by regulation adopted by the California Fish and Game Commission, not  
12 informal characterization by CDFW in connection with a policy preference or any individual RMP.

13 84. Neither Public Resources Code section 21080.56 nor the Restoration Management  
14 Permit Act (Fish & G. Code, §§ 1670 et seq.) nor any other provision of law grants Defendant-  
15 Respondent CDFW authority to reclassify or otherwise alter the legal status of wildlife resources  
16 or game mammals, including mule deer, established under California law.

17 85. A statutory exemption from CEQA and issuance of an RMP may authorize certain  
18 project activities if otherwise lawful, but neither creates substantive authority that an agency  
19 otherwise lacks nor expands CDFW’s delegated powers under California law.

## 20 **FIRST CAUSE OF ACTION**

### 21 **Against All Defendants-Respondents**

### 22 **Writ of Mandate (Code of Civ. Proc., § 1085)**

### 23 **(Violation of CEQA – Invalid CEQA Exemption)**

24 86. Plaintiffs-Petitioners reallege Paragraphs 1 through 85 and incorporate them as  
25 though fully set forth herein.

26 87. As stated *supra*, and as articulated in Plaintiffs-Petitioners’ and other persons’ and  
27 organizations’ comments on the Project, issuance of the SERP and RMP was unlawful for the  
28 following reasons.

1     **I.     The SERP Lacks Required CDFW Director’s Concurrence and Documentation**

2             88.     The SERP fails out of the gate because Defendants-Respondents did not comply  
3 with Public Resources Code section 21080.56’s procedural mandates. Subdivision (e) of section  
4 21080.56 requires the Lead Agency to “obtain the concurrence of the **Director** of Fish and Wildlife  
5 for the determinations required pursuant to subdivisions (a) to (d), inclusive.” Yet, the purported  
6 concurrence for the SERP was issued by Joshua Grover, Deputy Director of CDFW’s Ecosystem  
7 Conservation Division, not the **Director**. (Exhibit F [Second NOE], attach. 2.) The NOE describes  
8 Mr. Grover as the “Director’s *designee*.” (*Id.* at attach. 2, p. 2.) The NOE cites no law, regulation,  
9 or rule that authorizes a “designee” of the Director to satisfy this requirement. Plaintiffs-Petitioners  
10 are unaware of any such law, regulation, or rule. Nor does the Concurrence from the supposed  
11 “designee” explain the source of his authority or how the Director conferred such authority on him,  
12 assuming that would even be legal. Tellingly, every other SERP concurrence issued by CDFW  
13 since the exemption took effect (over 85 in total) has been authorized by the actual Director.  
14 Because this one was not, it is invalid.

15             89.     Because there was no concurrence from “the Director,” “the Director” necessarily  
16 did not “document the director’s concurrence using substantial evidence and best available  
17 science,” as Section 21080.56(e) demands.

18             90.     Because the South Coast Region of Defendant-Respondent CDFW, identified as the  
19 Lead Agency, failed to obtain “the concurrence of the **Director**” or the Director’s required  
20 documentation of the SERP concurrence, Defendant-Respondent CDFW has not satisfied the  
21 mandates of Section 21080.56. Defendant-Respondent CDFW has therefore abused their discretion  
22 by not proceeding in a manner required by law in deciding to approve the SERP and resulting RMP.  
23 That alone dooms both.

24     **II.    The Project Does Not Qualify for the Narrow Statutory Exemption Under Section**  
25     **21080.56 Because It Is Not “Exclusively” a Restoration Project**

26             91.     Even had Defendant-Respondent CDFW had satisfied the procedural mandates of  
27 Public Resources Code section 21080.56, subdivision (e), the Project does not qualify for an  
28 exemption under section 21080.56 in the first place. That exemption is only available to “a project

1 that is exclusively one of” two narrowly defined categories: “(1) A project to conserve, restore,  
2 protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat  
3 upon which they depend; [or] (2) A project to restore or provide habitat for California native fish  
4 and wildlife.” (Pub. Resources Code, § 21080.56, subd. (a).) The Project does not meet that  
5 standard.

6 92. The Project’s own governing documents establish that it is not “exclusively” a  
7 restoration or habitat-provision project. Rather, the RMP and supporting Workplan describe a  
8 broad, multi-component island-management program involving not merely restoration activities,  
9 but also wildlife removal and depopulation, biosecurity programs, wildlife capture and disease  
10 surveillance, experimental herbicide testing, landscape-scale monitoring and documentation, public  
11 outreach and workforce development, and operational and public-safety measures. (Exhibit K  
12 [RMP], pp. 1-2, 13-15; Exhibit H [Workplan], table of contents, pp. 1-3, 21-33.)

13 93. The Project itself distinguishes restoration activities from other categories of work.  
14 The RMP separately identifies “active restoration” activities and “biosecurity programs,” the latter  
15 including mule deer removal and island fox monitoring and infectious-disease surveillance.  
16 (Exhibit K [RMP], pp. 1-2.) Likewise, the Workplan separately categorizes “Landscape-Level  
17 Active Restoration,” “Biosecurity Measures in Place to Reduce Threats to Ecosystem,”  
18 “Monitoring and Documentation,” and “Outreach, Education, Engagement, and Workforce  
19 Development.” (Exhibit H [Workplan], pp. 1-3.) These documents thus acknowledge that the  
20 Project encompasses activities distinct from restoration itself.

21 94. The deer-eradication component itself confirms that the Project is not “exclusively”  
22 restoration. The Workplan expressly states that “[f]inally, invasive Mule deer will be removed from  
23 the landscape to allow for Island-wide passive restoration and active habitat restoration to occur.”  
24 (Exhibit H [Workplan], p. 4.) By the Project’s own terms, deer removal is not restoration but a  
25 separate management activity intended to facilitate future restoration.

26 95. That deer-removal program itself is a years-long wildlife-management and  
27 depopulation operation extending across nearly the entire Island. The RMP authorizes mule deer  
28 removal “across the island over multiple years” (Exhibit K [RMP], p. 6) through methods including

1 professional shooting, nocturnal ground shooting with drone support, aerial net capture, ground  
2 shooting with helicopter support and detection dogs, baiting, sterilization, GPS-collared sentinel  
3 deer, euthanasia, carcass handling and shipment, and separate operational protocols for Avalon and  
4 non-Avalon areas. (Exhibit K [RMP], pp. 6-8.)

5 96. The Project further includes broad biological monitoring and biosecurity measures  
6 unrelated to restoration itself, including: Catalina Island fox disease surveillance, vaccination,  
7 mortality tracking, and threat detection (Exhibit H [Workplan], p. 2; Exhibit K [RMP] pp. 1, 12-  
8 13), Lepidoptera monitoring, bird acoustic surveys, and small-mammal and herpetofauna surveys,  
9 and adaptive management based on monitoring results (Exhibit H [Workplan], p. 21-31; Exhibit K  
10 [RMP] pp. 1, 13-15), volunteer programming, workforce development, and public outreach and  
11 education. (Exhibit H [Workplan], pp. 32-33). It also includes experimental herbicide testing  
12 involving randomized plot design, repeated treatment and monitoring over multiple years, and  
13 possible use of glyphosate, triclopyr, and helicopter-based application. (Exhibit H [Workplan], pp.  
14 4-7; Exhibit K [RMP], pp. 4-6.) These activities confirm that the Project is an expansive Island-  
15 management program containing numerous components beyond restoration or habitat provision.

16 97. Further, the Conservancy has demonstrated its desire to eradicate deer from  
17 Catalina, separate from the overall scope of the Project, for many years. The Conservancy seeks to  
18 bootstrap that separate policy aim into the camouflage of this vast, multi-faceted Project. That  
19 ulterior motive independently disqualifies the Project, at least the deer eradication component, from  
20 being “*exclusively*” for assisting or providing habitat for California native wildlife.

21 98. Defendants-Respondents attempt to justify eradication by characterizing Catalina  
22 mule deer as “non-native” and “invasive.” (Exhibit F [Second NOE], attach. 2, p. 2.) Plaintiffs-  
23 Petitioners dispute that characterization, and the Project record cites no authority supporting claims  
24 that the mule deer are a “non-native” or “invasive” species—because there is none. On the contrary,  
25 mule deer are a California native species whose conservation and management are expressly  
26 recognized by California law. (Fish & G. Code, § 450 [“It is hereby declared to be the policy of the  
27 Legislature to encourage the conservation, restoration, maintenance, and utilization of California’s  
28 wild deer populations ....”]; *id.* at § 3950 [declaring mule deer to be a “game mammal” in

1 California].) Their designation as a “game mammal” confirms that the deer are not some legally  
2 alien organism under California law, but a wildlife resource that the State affirmatively classifies,  
3 regulates, and manages for conservation, use, and enjoyment by the public, which entitles them to  
4 various, significant protections. (See *id.* §§ 450-462.) That dynamic eviscerates the entire premise  
5 of the Project’s (mis)treatment of these mule deer.

6 99. Tellingly, neither Defendants-Respondents nor the Conservancy consulted the  
7 Invasive Species Council of California on this Project, the sole purpose of which is to help  
8 coordinate and advise state agencies on the best practices for controlling invasive species. (Food &  
9 Ag. Code § 7700.) That is because they know mule deer are not invasive. The real reason that the  
10 Conservancy tried to affix the “invasive” label to the Catalina deer was a pretext in hopes to finally  
11 achieve its longstanding goal of eradicating them after the years of failed efforts to do so. If the  
12 Conservancy was genuinely concerned about “invasive species” on the Island that harm plants, the  
13 Project would address the bison on the island. The bison’s omission from the RMP confirms it is  
14 not serious about removing invasive species, but just wants the deer removed.

15 100. At bottom, the complete eradication of a species from an ecosystem—particularly a  
16 legally and socially venerated species like deer on a uniquely venerated ecosystem like Santa  
17 Catalina Island—does not qualify as the type of project that is exempt from CEQA review under  
18 Section 21080.56, subdivision (a). In any event, the Conservancy’s longstanding efforts to eradicate  
19 Catalina mule deer separate from this Project (discussed *supra*) reinforce that the Project is not  
20 “exclusively” for the purposes that Section 21080.56, subdivision (a) sanctions. As a result, the  
21 Project requires CEQA review. Indeed, not long ago, just before the adoption of Section 21080.56,  
22 the Conservancy itself acknowledged that its efforts to eradicate the deer would require CEQA  
23 review. (Attached hereto as **Exhibit P** is a true and correct copy of Catalina Island Climate  
24 Resiliency & Restoration Strategy, co-authored by the Project Proponent, Lauren Dennhardt, dated  
25 December 28, 2022 [p. 8].) To hold otherwise would mean that CDFW has authority to eradicate  
26 entire herds of California native species using whatever methods, without the environmental  
27 oversight and public input that CEQA demands.

1 **III. The Exemption Determination and Concurrence Are Not Supported by Substantial**  
2 **Evidence and Best Available Science**

3 101. Even assuming the eradication of an entire California native species from an  
4 ecosystem is a project contemplated by Public Resources Code section 21080.56, subdivision (a),  
5 for exemption from CEQA review, Defendant-Respondent CDFW's (already invalid) concurrence  
6 cannot be said to be based on "substantial evidence" or "best available science," as it must be under  
7 section 21080.56, subdivision (e). Similarly, approval of the SERP exemption and issuance of the  
8 RMP constitutes a "prejudicial abuse of discretion" because the "decision is not supported by  
9 substantial evidence," as it must be. (Pub. Resources Code, § 21168.5.)

10 102. The South Coast Region's request for Defendant-Respondent CDFW's concurrence  
11 with the SERP for the Project states that its exemption determination "is based on the information  
12 provided by the Conservancy in the attached RMP Application Package." (Exhibit F [Second  
13 NOE], attach. 1, p. 6.) Defendant-Respondent CDFW's purported concurrence was likewise based  
14 on "CDFW's administrative record of proceedings for the Project," as well as "the proposed Project  
15 as described by the Lead Agency Determination and the Request." (Exhibit F [Second NOE],  
16 attach. 2, pp. 4, 8.)

17 103. Plaintiffs-Petitioners do not merely claim that different conclusions from those of  
18 Defendants-Respondents, as reflected in the SERP documents, could have been reached. Rather,  
19 Plaintiffs-Petitioners contend that the Defendant-Respondent CDFW did not have enough relevant  
20 information before it to concur in the exemption determination where it allows: (1) the eradication  
21 of an entire herd of a California native species (mule deer), which is an otherwise protected game  
22 mammal, via use of tracking dogs, helicopter-netting, and sharp-shooters; (2) the incidental take of  
23 or disturbance pathways for federally protected species; and (3) extensive use of herbicides  
24 intentionally directed at water-tables that are the source of drinking water for the population of  
25 Catalina, as explained above.

26 104. Indeed, the record supporting the RMP is the product of a biased, closed-off  
27 "process" that did not afford a meaningful opportunity to known interested parties like Plaintiffs-  
28 Petitioners and others to raise valid concerns about scientific, environmental, social, and economic



1 impacts associated with eradicating an entire species from an ecosystem. Despite Plaintiffs-  
2 Petitioners best efforts to convey their concerns, the SERP documents show that they were ignored.  
3 Without this input, the information in the SERP documents cannot be considered “enough” to  
4 support Defendants-Respondents’ radical decision.

5 105. In short, the exemption determination and purported concurrence were not  
6 supported by “substantial evidence” or the best available science.” The evidence on the record lacks  
7 robust scientific rigor and the scrutiny from public participation, comments, and hearings associated  
8 with CEQA review.

9 106. **Supposed Wildfire Risk Mitigation:** Defendants-Respondents accepted the  
10 Conservancy’s representation that the Project would reduce wildfire risk by promoting recovery of  
11 native vegetation and reducing conversion to invasive annual grasslands. (Exhibit F [Second NOE],  
12 attach. 1, pp. 3, 6-7.) But the record does not reflect the reasoned use of the best available science  
13 on that question. To the contrary, the lead public official responsible for fire management on  
14 Catalina, Los Angeles County Fire Chief Anthony Marrone, advised before the RMP’s approval  
15 that complete removal of mule deer from Catalina would *increase* wildfire risk there, not reduce it.  
16 (Attached hereto as **Exhibit O** is a true and correct copy of Anthony C. Marrone, Fire Chief, Los  
17 Angeles County Fire Department, memorandum to Supervisor Janice Hahn re: Mule Deer  
18 Management on Catalina Island (Jan. 7, 2026).) Chief Marrone, who also serves as Los Angeles  
19 County Forester and Fire Warden, concluded that complete removal of mule deer “presents  
20 operational concerns” from a wildfire risk perspective (*id.* at p. 2); that “[i]n the absence of  
21 herbivory, chaparral fuel loads would increase, resulting in higher tons per acre and elevated ERC  
22 [Energy Release Component] values” (*ibid.*); that “fuel age classes exceeding 25 years are  
23 extremely difficult to manage during wildfire incidents”( *ibid.*); that complete removal of mule deer  
24 “would elevate wildfire risk to developed areas, particularly in Avalon” (*ibid.*); and that “active  
25 population management represents a lower-cost alternative with measurable fire risk reduction  
26 benefits” (*ibid.*). The SERP documentation does not meaningfully acknowledge, analyze, or  
27 reconcile that contrary expert view. On a claimed Project benefit as consequential as wildfire  
28 mitigation, Defendants-Respondents’ failure to grapple with directly conflicting expert input

undermines any claim of reliance on the best available science and underscores the importance of CEQA review here.

107. That omission is especially significant because wildfire risk is a site-specific fuels and vegetation management question, not a matter that can be resolved by a generalized assumption that browse reduction will necessarily decrease fire danger. California's wildfire-resilience and fuels-reduction programs emphasize strategic vegetation management, prescribed fire, thinning, clearance, and fuel breaks to alter fire behavior and protect communities. (See CAL FIRE, *Fuels Reduction* <<https://www.fire.ca.gov/what-we-do/natural-resource-management/fuels-reduction>> [as of Mar. 9, 2026]; Cal. Dept. of Water Resources, *California's Wildfire and Forest Resilience Action Plan* (Jan. 2021) <<https://wildfiretaskforce.org/wp-content/uploads/2023/04/californiawildfireandforestresilienceactionplan.pdf>><sup>6</sup>.) Defendants-Respondents therefore had no reasonable basis to accept the Conservancy's asserted wildfire benefit at face value without meaningfully addressing the site-specific contrary opinion from the official charged with managing fire risk on Catalina.

108. What's more, the materials that Proponents rely on to support the Project's deer-removal as supposedly mitigating wildfire risk support no such thing. Those materials say that the fire cycle driving plant-type conversion (from native chaparral to invasive grassland) is caused by fire frequency

(Exhibit J [HRMP], p. 125, citing Keeley, *Native American Impacts on Fire Regimes in California Coastal Ranges*, J. of Biogeography (2002)), and that fire frequency is driven by wind and human ignition—not by vegetation conditions deer removal would change. (*Id.*, citing Keeley & Syphard, *Different Historical Fire-climate Patterns in California* (2017) 26 Intl. J. Wildland Fire 253; Moritz et al., *Relationship Between Topographic Heterogeneity and Vegetation Patterns in a Californian Salt Marsh* (2010) 15 J. Vegetation Sci. 253; Syphard and Keeley, *Location, Timing and Extent of Wildfire Vary by Cause of Ignition* (2015) 24 Intl. J. Wildland Fire 37; Keeley 2004

<sup>6</sup> CDFW has this very plan linked on its website. (State of Cal., Dept. of Fish & Wildlife, *Wildfire Resiliency Initiative*, <<https://wildlife.ca.gov/Lands/Wildfire>> [as of Mar. 8, 2026].)

1 [sic].) Proponents' own planning document thus does not support its narrative presenting deer as a  
2 primary driver of plant-type conversion that increases wildfire risk.

3 109. In light of this conflicting expert input regarding wildfire effects, and the Project's  
4 acknowledgment that Catalina's vegetation conditions are shaped by multiple interacting factors,  
5 Defendants-Respondents' conclusory acceptance of wildfire-mitigation benefits cannot be said to  
6 be supported by substantial evidence, let alone the best available science. (Exhibit F [Second NOE],  
7 attach. 1, pp. 3, 6-7.)

8 110. **Deer Population Numbers:** The Project's premise with respect to deer is, at least  
9 in part, that their population is excessive. SERP documents claims that the Island's mule deer  
10 population numbers around 2,000. (Exhibit K [RMP], p. 4 [noting that the population "quickly  
11 grew to a herd of over 2,000"]; *id.* at pp. 14-15 [Table 1 listing estimated deer population numbers  
12 at 1,771 in 2021; 1,800 in 2024; and 2,040 in 2025].) But outdated survey methods and  
13 extrapolations were used to reach that figure, which likely overestimates the Island's mule deer  
14 population. Indeed, on information and belief, the last peer-reviewed deer count available to  
15 Defendants-Respondents was conducted in 2021, using spotlight counting methods. (Stapp, et al.,  
16 *Status of the Introduced Mule Deer Population on Catalina Island, California, Based on Annual*  
17 *Spotlight Counts*, Proceedings of the Vertebrate Pest Conference (2022)  
18 <<https://escholarship.org/uc/item/847923z8>> [as of Mar. 9, 2026].) That data is insufficient to  
19 support the SERP exemption. The record does not explain why stale population data, supplemented  
20 by unexplained later estimates, constitute the "best available science" for purposes of approving a  
21 Project premised in substantial part on deer abundance and its alleged ecological consequences.

22 111. The record also fails to explain why Defendants-Respondents relied on spotlight-  
23 based counting methods when thermal-drone surveys, which have been offered by Plaintiff-  
24 Petitioner HOWL without charge, are generally better suited to steep, rugged, and hard-to-access  
25 terrain like Catalina. Indeed, Proponents' own Workplan acknowledges thermal drone survey as a  
26 superior methodology for assessing deer population status. (Exhibit H [Workplan], pp. 29-30.) The  
27 Workplan contemplates using thermal sensing technology, including drones, to locate deer during  
28 night shooting operations (Exhibit H [Workplan], pp. 26, 29, 34), and the Final RMP states that

1 deer will continue to be monitored using spotlighting and drone thermal cameras to assess Project  
2 success, bait-station efficacy, demographic change, and population distribution (Exhibit K [RMP],  
3 p. 7, citing Exhibit H [Workplan], p. 28). Proponents' failure to rely on that admittedly superior  
4 detection tool to establish whether deer numbers actually support their theory of ecosystem harm,  
5 while embracing it once the goal shifts to locating animals for removal, is revealing. (Exhibit H  
6 [Workplan], pp. 26, 29). It directly shows the record does not reflect the best available science on  
7 population count.

8       112.     **Unsupported Catalina Deer Dietary Assumptions:** The record describes Catalina  
9 deer diet in two separate sections citing eight studies. (Exhibit J [HRMP], p. 96; Exhibit I [IRSA],  
10 p. 23.) The cited sources include a statewide California deer herd population survey not focused on  
11 diet (Longhurst et al., *A Survey of California Deer Herds: Their Ranges and Management Problems*  
12 (1952) Cal. Dept. of Fish & Game Bulletin No. 6); a study of tame, free-ranging deer and elk on  
13 northern Utah summer range in quaking aspen and lodgepole pine habitat with limited relevance to  
14 Catalina's chaparral (Collins & Urness, *Feeding Behavior and Habitat Selection of Mule Deer and*  
15 *Elk on Northern Utah Summer Range* (1983) 47 J. Wildlife Mgmt. 646); a study of dietary shifts  
16 in white-tailed deer during acorn abundance and scarcity, involving a different species from  
17 Catalina mule deer (Harlow et al., *Deer Foods During Years of Oak Mast Abundance and Scarcity*  
18 (1975) 39 J. Wildlife Mgmt. 330); a California Department of Fish and Game report involving  
19 black-tailed deer rather than Catalina mule deer (Pine and Mansfield, *Competition Between Deer*  
20 *and Livestock in Central Coastal California*, Cal. Dept. of Fish & Wildlife Report (1980)); a  
21 general book chapter on mule and black-tailed deer diet in desert and chaparral habitats across  
22 North America (Urness, *Desert and Chaparral Habitats: Food Habits and Nutrition*, in *Mule and*  
23 *Black-tailed Deer of North America* (U. Neb. Press, 1981); a California chaparral postfire food  
24 resource study not specific to Catalina (Cronemiller, & Bartholomew, *The California Mule Deer*  
25 *in Chaparral Forests* (1950) 36 California Fish and Game 343); and additional mainland California  
26 and general deer studies. The record characterizes what Catalina mule deer specifically eat and  
27 which endemic island plants they preferentially target while relying on diet literature spanning  
28 different species, different subspecies, different habitats, and different geographies— none of it

1 specific to Catalina Island mule deer. No evidence of actual Catalina mule deer dietary behavior  
2 appears anywhere in the record. The record contains no fecal DNA analysis, micro-histological  
3 fecal analysis, rumen content study, stable isotope dietary study, or field dietary observation  
4 specific to Catalina Island mule deer.

5 113. The only study cited in the record as supporting the claim that Catalina deer prefer  
6 browsing on native plants says no such thing. The IRSA states: “In a forage palatability trial  
7 comparing plants from 10 matched taxonomic groups comprising samples from the mainland and  
8 Catalina, deer decisively favored browsing on the Island plants.” (Exhibit I [IRSA], p. 23, citing  
9 Salladay & Ramirez, *Reduced Defenses and Increased Herbivore Preference of Island Chaparral*  
10 *Shrubs Compared to Mainland Relatives* (2018) 78(4) W. N. Am. Naturalist 768.) That statement  
11 is factually incorrect. The feeding preference trials were conducted using domesticated goats  
12 (*Capra hircus*) at a commercial facility in Orinda, California. (Salladay & Ramirez, *supra*, p. 771.)  
13 The word “deer” appears twice in the paper, both times in passing contextual references. It does  
14 not appear in the methods, results, or findings. This misrepresentation matters because it is the  
15 supposed scientific authority that the RMP relies on to conclude that deer favor native plants for  
16 forage, a primary basis used by the Project’s proponents to justify deer eradication. Indeed, the  
17 paper serves as principal empirical support for the deer-driven plant decline narrative. Respondent  
18 CDFW accepted a document materially characterizing a goat-feeding study as evidence of Catalina  
19 mule deer browsing behavior while finding the Project to be supported by the “best available  
20 science” standard under Public Resources Code section 21080.56(e). That it was not.

21 114. **Lack of Scientifically Supported Connection Between Deer and Vegetation:**  
22 Many of the areas the IRSA characterizes as degraded by deer browse have always looked the way  
23 they look now—not because deer have altered them, but because south-facing slopes and sun-  
24 exposed ridgelines on Catalina do not support dense chaparral regardless of what animals are  
25 present. The published potential natural vegetation model for Catalina, using the Island’s own  
26 topographic and solar radiation data including elevation, aspect, hillshade, slope, and topographic  
27 wetness index, maps chaparral as confined to north-facing and moister aspects, with open coastal  
28 sage scrub or grassland on south-facing slopes and sun-exposed ridgelines. (Longcore et al.,

1 *Landscape Modeling of the Potential Natural Vegetation of Santa Catalina Island (California)*  
2 (2018) 78(4) W. N. Am. Naturalist 617.) The record contains no analysis distinguishing areas of  
3 genuine deer-driven change from areas where open vegetation is the naturally expected condition  
4 given the Island's topography and sun exposure. Without that analysis, the extent of actual deer-  
5 driven harm to plant communities is unknown, the type conversion narrative is overstated, and the  
6 fire-risk reduction claim built on that narrative cannot be evaluated against the substantial evidence  
7 standard.

8           a.       **Catalina Island Mountain Mahogany:** The Catalina Island mountain  
9 mahogany (*Cercocarpus traskiae*, FE/CE) was already rare when first discovered:  
10 Approximately 40-to-50 plants were counted in 1897–98, before deer were introduced in  
11 1928. (USFWS, *Cercocarpus traskiae* 5-Year Review: Summary and Evaluation (Sept.  
12 2007) <[https://ecos.fws.gov/docs/tess/species\\_nonpublish/1113.pdf](https://ecos.fws.gov/docs/tess/species_nonpublish/1113.pdf)> [as of May 27,  
13 2026].) By federal listing in 1996, only six mature plants remained. The IRSA  
14 acknowledges the species “is nearly extinct in the wild with only six known individuals  
15 remaining” and that “goats, pigs, and deer have all contributed to its decline.” (Exhibit I  
16 [IRSA], p. 27.) A fence installed by Defendant-Respondent Conservancy in 1999 has  
17 protected the population from deer for 25 years. The population has not recovered. The  
18 USFWS Five-Year Review identifies remaining primary threats as hybridization with *C.*  
19 *betuloides*, inbreeding depression, fire, and historical soil degradation, none of which deer  
20 removal addresses. The IRSA's implication that deer removal will support recovery of this  
21 species is contradicted by 25 years of the Conservancy's own data and the USFWS's  
22 assessment of the species' trajectory.

23           b.       **Malva Rosa:** The southern island mallow (*Lavatera assurgentiflora* ssp.  
24 *glabra*, CESA), referred to in the record as malva rosa, is listed among the species the project  
25 “aims to aid in the recovery of.” (Exhibit J [HRMP], p. 115.) The record simultaneously  
26 establishes two facts that directly undermine that claim. First, the record states explicitly  
27 that “malva rosa only exists naturally on Bird and Indian Rock where it is protected from  
28 browsing,” confirming that the species' entire natural population of fewer than 200 plants

1 is confined to two rocky islets deer cannot access. (Exhibit J [HRMP], p. 10; Exhibit I  
2 [IRSA], p. 27.) This islet confinement is not a recent development caused by deer. The  
3 historical botanical record reviewed to date documents this species on Catalina's rocky  
4 islets in every survey of wild populations conducted before deer were introduced. Blanche  
5 Trask's 1897 field notes describe the species growing "in a depauperate condition on Bird  
6 Island," where there was "hardly any soil," with a second occurrence on a nearby offshore  
7 rock, and state that "there are no other islets about Catalina," indicating the wild population  
8 was confined to two islets before deer were introduced. (Trask, *Field Notes from Santa*  
9 *Catalina Island*, Erythea: A Journal of Botany, West American and General 7:135-143,  
10 1899, at 140.) No historical botanical survey reviewed to date documents a naturally  
11 occurring wild population of this species on the main island of Catalina. Second, Defendant-  
12 Respondent Conservancy installed 100 nursery-propagated malva rosa specimens in the  
13 Little Harbor Exclosure in 2022 specifically because the species has been "nearly extirpated  
14 from Catalina" and no longer exists naturally on the main island. (Exhibit J [HRMP], p. 10.)  
15 The plants are entirely nursery-grown, not naturally recruited. The record contains no  
16 analysis of whether deer removal alone, without continued nursery propagation and  
17 planting, would allow natural reestablishment on the main island. The record's recovery  
18 claim rests on an assumption that the species' documented historical distribution and the  
19 Conservancy's own management history do not support.

20 c. **Lyon's Pygmydaisy:** The Lyon's pygmydaisy (*Pentachaeta lyonii*, FE/CE)  
21 is identified in the record as a species whose endemics are "expected to recover the most  
22 once deer are removed" and that "will remain on the Endangered Species List if the threats  
23 of deer are still present on Catalina." (Exhibit G [RMP Application], p. 3; Exhibit I [IRSA],  
24 p. 39.) The record contains no population count, no location description, no microhabitat  
25 analysis, and no species-specific recovery analysis supporting those claims. External  
26 sources establish that the entire Catalina presence consists of a single rediscovery of 112  
27 individuals on one ridgeline near Two Harbors, presumed extirpated for decades before  
28 2011. (California Native Plant Society, *CNPS Rare Plant Inventory*, *Pentachaeta lyonia*

1 <<https://rareplants.cnps.org/Plants/Details/?taxon=Pentachaeta+lyonii>> [as of May 27,  
2 2026]; U.S. Fish & Wildlife Service, *Species Profile for Lyon's pentachaeta (Pentachaeta*  
3 *lyonii*) <<https://ecos.fws.gov/ecp/species/4699>> [as of May 27, 2026].) Its documented  
4 threats include invasive grasses, increased fire frequency, and dependence on specific rocky  
5 or clay soils with microbiotic crust, none of which deer removal addresses, and none of  
6 which are analyzed in the record. The record's assertion that this species will recover once  
7 deer are removed appears unsupported by species-specific analysis in the record.

8 d. **Island Scrub Oak:** The record describes island scrub oak (*Quercus pacifica*)  
9 as having declined 31% since 1943, stating the dieback "is driven by several factors, but  
10 ongoing acorn predation and browse on new growth by deer, as seen in Figure 713, is likely  
11 among the more significant impacts." (Exhibit I [IRSA], p. 27, citing Manuwal & Sweitzer,  
12 *Browse Impacts of Introduced Mule Deer to Island Scrub Oak Habitats on Santa Catalina*  
13 *Island, California, Catalina Island Conservancy* (2007)  
14 <<https://commons.und.edu/cgi/viewcontent.cgi?article=6608&context=theses>> [as of May  
15 27, 2026].) The record's own evidence undermines that characterization on three  
16 independent grounds.

17 i. **First**, Figure 713, the sole visual evidence cited for deer-driven  
18 decline, is a single photograph from 2003 at one unspecified location showing  
19 suppressed oak resprouts. (See Exhibit I [ISRA], p. 29, fig. 713.) The photograph  
20 contains no deer, deer tracks, or deer sign. (*Ibid.*) A single 22-year-old photograph  
21 at one unspecified location containing no trace of the target species cannot establish  
22 Island-wide causal attribution. Further, the Manuwal and Sweitzer paper the ISRA  
23 cites is not a peer-reviewed journal article but an internal Conservancy workshop  
24 report not independently reviewed.

25 ii. **Second**, the IRSA attributes "ongoing acorn predation" to deer while  
26 the Catalina ground squirrel (*Otospermophilus beecheyi nesioticus*), a distinct  
27 endemic subspecies present on the island for over 1,300 years, is one of the most  
28 documented acorn predators in California oak systems. (Compare Exhibit I [ISRA],



p. 27, with Rick et al., *Enhancing Biodiversity: Historical Ecology and Biogeography of the Santa Catalina Island Ground Squirrel*, R. Soc. Open Sci. (2024)

<<https://royalsocietypublishing.org/rsos/article/11/11/240726/92413/Enhancing-biodiversity-historical-ecology-and>> [as of May 27, 2026].) The record contains no analysis of ground squirrel acorn predation rates on Catalina and no exclosure study distinguishing deer impacts from squirrel impacts on oak regeneration. More significantly, the HRMP's own plant protection protocol prescribes specific below-ground root guards to protect restoration oak plantings against "root herbivory and damage" from "gophers and ground squirrels," treating that damage as a sufficiently serious expected threat to require hardware mitigation. (Exhibit J [HRMP], § 7.5.2.) The applicant's restoration planning document thus anticipates managing ground squirrel impacts on oak regeneration while the scientific document justifying the project presents deer as the significant driver without any comparative analysis.

iii. **Third**, a documented independent cause of large-scale woody plant dieback on Catalina since at least 1995 is entirely absent from the record's analysis. A USDA Forest Service study documents a large-scale oak die-off noted by Conservancy personnel as early as 1995, with *Armillaria* root rot fungus found across the Island, the trees "most likely infected for decades," and a call for future research to investigate contributing environmental stressors. (Knapp, *The Status of Island Scrub Oak (Quercus pacifica) on Catalina Island, California*, in Standiford, et al., tech. eds., *Proceedings of the Fifth Symposium on Oak Woodlands: Oaks in California's Challenging Landscape*, USDA Forest Service General Technical Report PSW-GTR-184 (2002) <<https://research.fs.usda.gov/download/treesearch/26180.pdf>> [as of May 27, 2026].)<sup>7</sup> *Armillaria mellea* has a broad host range affecting thousands of woody

<sup>7</sup> Notably, Denise Knapp, the paper's author, was a Vegetation Specialist at the Conservancy at the time of writing, making this a Conservancy-generated finding. Yet this research is absent from the record.

1 plants with no specificity for oaks. (UC Statewide Integrated Pest Management  
2 Program, University of California, *Agriculture: Citrus Pest Management Guidelines*  
3 - *Armillaria Root Rot*, <[https://ipm.ucanr.edu/agriculture/citrus/armillaria-root-  
4 rot/#gsc.tab=0](https://ipm.ucanr.edu/agriculture/citrus/armillaria-root-rot/#gsc.tab=0)> [as of May 27, 2026].) The record contains no Island-wide  
5 Armillaria survey and no analysis distinguishing fungal-driven dieback from deer-  
6 driven dieback across the project area.

7 115. **Additional Concerns:** The record’s reliance on AVMA “depopulation” guidance  
8 further undermines any claim that the SERP was based on the best available science. (Exhibit K  
9 [RMP], p. 9). The AVMA’s Depopulation Guidelines are expressly directed to urgent  
10 circumstances requiring the rapid destruction of animal populations, such as disease outbreaks,  
11 disasters, or immediate public health and safety emergencies,  
12 <[https://www.avma.org/sites/default/files/resources/AVMA-Guidelines-for-the-Depopulation-of-  
13 Animals.pdf](https://www.avma.org/sites/default/files/resources/AVMA-Guidelines-for-the-Depopulation-of-Animals.pdf)>. They are not applicable to a planned, multi-year wildlife-removal program like the  
14 one authorized here. Thus, invoking those guidelines does not strengthen the Project’s scientific  
15 foundation; it instead suggests that Defendants-Respondents and the Conservancy borrowed the  
16 language of professional guidance without doing the necessary, threshold analytical work to  
17 determine whether that guidance was actually applicable to the project as proposed.

18 116. What’s more, Defendants-Respondents have failed to consider the scientific value  
19 of maintaining a mule deer herd that is isolated from other California herds for the purposes of  
20 studying and responding to disease, including Chronic Wasting Disease (“CWD”). According to  
21 CDFW itself, CWD is a concern and has been detected in multiple counties in California, including  
22 Madera and Inyo. (State of Cal., Dept. of Fish & Wildlife, *Chronic Wasting Disease Surveillance*  
23 <<https://wildlife.ca.gov/Conservation/Laboratories/Wildlife-Health/Monitoring/CWD>> [as of  
24 Mar. 8, 2026].) As CWD looms, maintaining a disease-free herd for research and other purposes,  
25 such as supplementing affected herds with disease-free deer, becomes increasingly important. The  
26 SERP documents do not contemplate this issue.

27 117. In all events, the RMP’s treatment of deer is based on an abandonment of the  
28 scientifically based North American Management Model of Wildlife Conservation. (J.F. Organ et

1 al., *The North American Model of Wildlife Conservation*, The Wildlife Society Technical Review  
2 12-04, at viii, 2 (2012); Testimony of Dan Ashe, Director, U.S. Fish and Wildlife Service, “How  
3 Hunting Assists Species Conservation and Management,” before the House Comm. on Sci., Space,  
4 and Tech., Subcomm. on Investigations and Oversight (June 19, 2012).) That time-tested model  
5 considers hunting a critical tool for maintaining healthy wildlife populations and their habitats. (See  
6 e.g., U.S. Fish & Wildlife Service, *Hunting as a Tool for Wildlife Management* <available at  
7 <https://www.fws.gov/story/hunting-tool-wildlife-management>> [as of Mar. 9, 2026].) The  
8 Conservancy claims that evidence shows that hunting is insufficient to address grazing concerns  
9 with Catalina deer. (Exhibit J [HRMP], p. 98.) Even assuming the Conservancy’s data is correct,  
10 which Plaintiffs-Petitioners dispute, that is not a science-related problem, but a logistical one, which  
11 has been exacerbated by the Conservancy. Indeed, the Conservancy appears to have put its thumb  
12 on the scale by erecting barriers to hunters, such as limiting tags, forcing hunters to surrender  
13 mainland tags to hunt on Catalina, restricting hunter accommodations, etc. (Exhibit B, pp. 93-96.)  
14 No scientific evidence shows that increased hunting opportunities are unable to address the issues  
15 raised by the RMP with respect to deer. The problem is that the Conservancy will not allow the  
16 conditions for proper deer management via hunting in the first place. It cannot restrict hunting and  
17 then complain that hunting does not work; particularly when it has been proven to work throughout  
18 the country. (See e.g., Assn. of Fish and Wildlife Agencies, *Methods for Managing Deer in*  
19 *Populated Areas*, Human Wildlife Conflicts Working Group Technical Report 41-42 (2018)  
20 <[https://www.fishwildlife.org/application/files/7315/3745/9637/AFWA\\_Deer\\_Mngmt\\_Pop\\_Area](https://www.fishwildlife.org/application/files/7315/3745/9637/AFWA_Deer_Mngmt_Pop_Area_s_Au_gust_31_2018_version.pdf)  
21 [s\\_Au\\_gust\\_31\\_2018\\_version.pdf](https://www.fishwildlife.org/application/files/7315/3745/9637/AFWA_Deer_Mngmt_Pop_Area_s_Au_gust_31_2018_version.pdf)> [as of Mar. 9, 2025] [“Regulated public hunting is the most  
22 economical option for managing deer within an urban area and is the primary option used for overall  
23 deer management by state/provincial game/wildlife agencies throughout North America. ... The use  
24 of regulated public hunting is strongly supported by the North American model of wildlife  
25 conservation that has successfully guided deer management in the modern era.” “Perhaps the best  
26 option for managing overabundant deer is to allow regulated public hunting where hunters follow  
27 regulations set by the wildlife/game agency.”]).

118. The sidelining from the SERP “process” of Plaintiffs-Petitioners, the Invasive Species Council, and other organizations and individuals who are known to have valuable input on this issue, despite efforts by many of them to engage Defendants-Respondents, coupled with the biased documentation relied on and the rushed approval of the RMP, shows that this “process” was not based on evidence and science, but a special interest agenda unmoored from real science that did not account for the public interest in the affected resources.

**IV. The Project Is Ineligible for SERP Because the Record Fails to Demonstrate Compliance with Other Applicable Laws**

119. There is an express limitation on Section 21080.56’s statutory exemption for projects: “The project shall remain subject to all other applicable federal, state, and local laws and regulations, and shall not weaken or violate any applicable environmental or public health standards.” (Pub. Resources Code, § 21080.56, subd. (f).) Yet, the record shows that implementation of this Project would necessarily violate various such laws and standards and thus fails this condition.

**A. The RMP Violates Local Ordinances**

120. The record shows that the Project authorizes and contemplates activities inside Avalon city limits that: (1) necessarily implicate non-preempted municipal police-power regulation concerning wildlife feeding, luring, and public safety; and (2) are expressly conditioned on municipal permitting requirements that the record does not show were obtained. As a result, the Project cannot satisfy section 21080.56, subdivision (f), and the SERP exemption is unavailable.

121. The RMP states that “mule deer removal work in Avalon will consist of using bait to attract mule deer,” followed by capture and shooting with tranquilizer darts and subsequent sterilization or euthanasia. (Exhibit K [RMP], p. 8.) The RMP also provides that Avalon operations will include “air rifles” firing “tranquilizer darts” to capture deer. (*id.* at p. 8.) Yet, Avalon Municipal Code prohibits feeding wild animals and luring wildlife within the City. (Avalon Mun. Code, § 6-1.128, subds. (d), (f).) It also prohibits unpermitted discharge of weapons, including air guns. (Avalon Mun. Code, § 4-5.101.)

1           122. These provisions are classic exercises of local police power intended to reduce  
2 human-wildlife conflict, protect pedestrians and traffic safety, and prevent nuisance conditions—  
3 matters traditionally within municipal authority even where the State regulates wildlife take. (See  
4 *People v. Mueller* (1970) 8 Cal.App.3d 949, 954.) That the Project expressly depends on baiting  
5 deer within Avalon city limits, (Exhibit K [RMP], p. 8), confirms SERP ineligibility.

6           123. Likewise, while the RMP specifies that a permittee “shall not use any Shooting  
7 Device<sup>8</sup> in Avalon unless” the Permittee “has obtained any applicable and legally required permit  
8 from the City of Avalon” and has provided a copy to CDFW at least thirty days before use, and  
9 complies with all restrictions included in that City permit, (Exhibit K [RMP], p. 29), such permits  
10 do not appear in the record. To the contrary, the City of Avalon reported that no such permits had  
11 been obtained and that neither CDFW nor the Conservancy provided City officials any notice  
12 regarding planned operations within City limits. (Attached hereto as **Exhibit N** is a true and correct  
13 copy of Scott Haskell Campbell Letter to Christian Romberger, Cal. Dept. of Fish & Wildlife (Feb.  
14 6, 2026)].) Based on the City of Avalon’s letter to the Conservancy, the Conservancy is unlikely to  
15 obtain such permits. Section 21080.56, subdivision (f) requires the Project to remain subject to all  
16 applicable local law. The Project is not SERP-eligible unless the record demonstrates that required  
17 municipal authorizations and restrictions exist and will be complied with.

18           124. The RMP asserts that, “[t]o the extent City of Avalon Code section 6-1.128 purports  
19 to prohibit” components of the Project as authorized by CDFW, “CDFW’s authorization ... controls  
20 over any conflicting ... prohibitions.” (Exhibit K [RMP], p. 29, fn. 11.) CDFW’s position that the  
21 RMP “controls over” Avalon Municipal Code provisions underscores the RMP’s defect under  
22 section 21080.56, subdivision (f), rather than curing it. Section 21080.56, subdivision (f), does not  
23 authorize SERP based on CDFW’s unsupported claim of supremacy over local law. To the contrary,  
24 it expressly requires the Project to “remain subject to” all applicable local law and not violate  
25 applicable standards. Here, the record demonstrates that the Project includes baiting of and  
26 tranquilizer-dart discharge to capture deer in Avalon in violation of Avalon Municipal Code. The

27  
28 <sup>8</sup> The RMP defines “Shooting Device” to include “any firearm, air rifle, dart gun, or any other  
device that shoots a bullet, dart, or any other projectile through the air.” (Exhibit K [RMP], p. 29.)

1 use of shooting devices in Avalon is expressly conditioned on municipal permitting and the  
2 Conservancy has obtained no such permit. As a result, the Project is not eligible for SERP under  
3 section 21080.56, subdivision (f).

4 **B. The RMP Violates State and Federal Water Standards by Authorizing**  
5 **Intensive Herbicide Applications on Top-of-Watershed Locations Linked to**  
6 **Avalon's Freshwater Supply**

7 125. The record establishes that herbicide use for the Project is not incidental but a core  
8 restoration method. (Exhibit F [Second NOE], attach. 1, p. 10.) It authorizes repeated broadcast  
9 herbicide applications over multiple years and contemplates escalation to broad-spectrum and  
10 broadleaf-specific herbicides. It authorizes broadcast application of Poast® (sethoxydim) and oil  
11 adjuvants by "UTV-mounted boom sprayer," with "two or three applications per growing season  
12 ... for three consecutive years," and further authorizes the potential use of "a broad-spectrum  
13 herbicide, such as glyphosate," or "a broadleaf specific herbicide, such as triclopyr," depending on  
14 post-treatment dynamics. (Exhibit H [Workplan], pp. 5-8, 15 [Herbicide Methodology].) The RMP  
15 further states that herbicide application for larger restoration sites "may include helicopter-based  
16 application," with consultation with the Los Angeles County Agricultural Commissioner and  
17 additional applicator certifications. (Exhibit K [RMP], p. 6.)

18 126. Despite identifying "increased groundwater replenishment, benefiting Avalon's  
19 freshwater supply" as an anticipated incidental public benefit of the Project, (Exhibit F [Second  
20 NOE], attach. 1, p. 7), the record establishes that herbicide use is not incidental but a core  
21 restoration method. The initial herbicide site was deliberately selected because it is a "high priority  
22 top of a watershed location" expected to affect restoration conditions "both downstream and Island-  
23 wide." (Exhibit H [Workplan], pp. 5-6.) It also authorizes repeated broadcast herbicide  
24 applications, including Poast® in the initial phase and, if invasive forbs establish dominance,  
25 potential use of glyphosate or triclopyr. The Project materials further contemplate helicopter-based  
26 herbicide application at larger restoration sites. (*Id.* at pp. 5-6, 15; Exhibit K [RMP], p. 6.) Those  
27 features directly implicate concrete water-quality and public-health compliance questions under  
28 Public Resources Code section 21080.56, subdivision (f), including whether herbicide applications

1 in top-of-watershed areas affecting downstream resources and Avalon's freshwater supply are  
2 covered by, and will comply with, California's Porter-Cologne Water Quality Control Act, which  
3 requires reporting and waste discharge requirements for discharges that could affect waters of the  
4 state (Wat. Code, § 13260, subd. (a), § 13263, subd. (a), § 13264, subd. (a)), and, where applicable,  
5 the federal Clean Water Act's NPDES permitting regime (33 U.S.C. § 1342). Yet the SERP  
6 Concurrence Request offers only generalized assurances that herbicide use will comply with  
7 California Department of Pesticide Regulation rules and product labels and that erosion will be  
8 minimized. (Exhibit F [Second NOE], attach. 1, p. 10.) Section 21080.56, subdivision (f) requires  
9 more than generalized assurances. It requires a demonstrated compliance pathway demonstrating  
10 that the Project will remain subject to, and not violate, other applicable environmental and public  
11 health laws. On this record, Defendants-Respondents did not make that showing.

12 **C. The Project Allows for Unlawful Take, Harm, Harassment, or Disturbance of**  
13 **Federally Protected Species and/or Their Habitat**

14 127. Public Resources Code section 21080.56, subdivision (f) requires that the Project  
15 remain subject to all other applicable federal laws and regulations. The Project fails this condition.  
16 It contemplates and authorizes methods that foreseeably implicate federal wildlife protections,  
17 including the Endangered Species Act's prohibition on unlawful "take" of listed species (16 U.S.C.  
18 § 1538(a)(1)(B)); the Migratory Bird Treaty Act's protections for migratory birds, nests, and eggs  
19 (16 U.S.C. § 703(a)); and, where applicable, the Bald and Golden Eagle Protection Act's  
20 prohibitions on take and disturbance of eagles (16 U.S.C. § 668(a)). Yet the record does not identify,  
21 attach, or otherwise demonstrate the authorizations, consultations, approvals, or other compliance  
22 pathways necessary to lawfully implement the Project under those federal laws.

23 128. The SERP Concurrence Request Form states that mule deer removal will involve  
24 "aerial/ground net capture," "dogs for locating invasive Mule deer," "ground shooting during the  
25 day and night," "shooting from a ground vehicle," "baiting," "thermal detection," and "euthanasia."  
26 (Exhibit F [Second NOE], attach. 1, p. 3.) The RMP Application similarly describes dispatch of  
27 deer "via shooting on foot or from a land vehicle[,] ... baiting[,] ... and both daytime and nighttime  
28 dispatch," together with thermal imagery, detection dogs, aerial detection, and capture using nets

1 from air and ground. (Exhibit G [RMP Application], p. 11.) These methods create foreseeable  
2 pathways for harm, harassment, disturbance, and, where protected species are affected, unlawful  
3 take—particularly for nesting birds and other wildlife occupying the same landscape during  
4 implementation.

5 129. The HRMP materials confirm that these risks are neither speculative nor remote.  
6 The record itself recites the broad federal concept of “take” and recognizes protections extending  
7 to migratory birds, including nests and eggs. (Exhibit J [HRMP], p. 728.) The record also includes  
8 a Nesting Bird Management Plan with surveys, buffers, and related measures, underscoring that  
9 nesting-bird impacts are foreseeable during implementation. (*Id.* at pp. 5, 731.) Despite these  
10 acknowledged risks from broad, repeated, and intensive ground and aerial operations over a large  
11 landscape footprint, the record does not identify the federal compliance pathway or pathways  
12 necessary to ensure the Project remains subject to and compliant with applicable federal law.

13 130. That omission is legally significant. If implementation may affect federally listed  
14 species, the record should identify the applicable ESA compliance pathway, including whether any  
15 section 7 consultation is required if federal agency action is involved, or whether any section 10  
16 authorization is required if otherwise prohibited take may occur. (See 16 U.S.C. §§ 1536, 1539.) If  
17 implementation may disturb or take migratory birds, active nests, or eggs, the record should identify  
18 how the Project will remain compliant with the MBTA. (16 U.S.C. § 703(a).) If eagle disturbance  
19 or take is implicated, the record should identify the applicable BGEPA compliance path. (16 U.S.C.  
20 §§ 668(a), 668a; see also 50 C.F.R. pt. 22.) Instead, the record leaves these material federal  
21 compliance questions unanswered and undocumented. (Exhibit E [First NOE], attach. 1, pp. 3-4;  
22 Exhibit G [RMP Application], p. 11; Exhibit J [HRMP], p. 728.)

23 131. The RMP Application references United States Fish and Wildlife Service Permit  
24 No. ES-090990-3 in connection with monitoring and reporting requirements related to planned  
25 activities involving the Catalina Island fox. (Exhibit G [RMP Application], p. 11.) The Workplan  
26 likewise admits that federal permitting is a prerequisite, stating: “The Conservancy will only  
27 conduct monitoring if federal permits through USFWS and CDFW are active.” (Exhibit H  
28 [Workplan], p. 19.) In addition, USFWS’s amendment correspondence for Permit No. 090990, an



1 ESA section 10(a)(1)(A) recovery permit, states: “In order for your permit to be valid, you must  
2 have all other applicable State and Federal permits in place prior to the commencement of activities  
3 authorized by this permit.” (USFWS Permit 090990 Amendment Letter, p. 1.)

4 132. These admissions establish that any fox-related federal authority is narrow, activity-  
5 specific, and conditioned. Even assuming a valid USFWS recovery permit exists for fox  
6 monitoring, handling, and care activities the Conservancy is already conducting, the record does  
7 not demonstrate that such fox-specific authority extends to, authorizes, or otherwise accounts for  
8 the distinct take and disturbance risks created by the Project’s broader, multi-year implementation  
9 footprint and methods, including island-wide night operations, dog-assisted locating and net  
10 capture of deer, vehicle-associated activity, widespread herbicide application, and extensive ground  
11 disturbance. Absent that showing, the Project fails section 21080.56, subdivision (f)’s requirement  
12 that it remain demonstrably subject to and compliant with applicable federal law, and the SERP  
13 exemption is unavailable. (Exhibit H [Workplan], p. 19; USFWS Permit 090990 Amendment  
14 Letter, p. 1; Exhibit J [HRMP], p. 728.)

15 **D. The Project Violates California’s Restriction on Wanton Waste of Wildlife**

16 133. California law expressly provides that “No person shall through carelessness or  
17 neglect leave any game mammal, exotic game mammal, or game bird that is in that person’s  
18 possession, or any of the flesh of that animal usually eaten by humans, to go needlessly to waste.”  
19 (Fish & G. Code § 4304, subd. (b).) Mule deer are a “game mammal.” (*Id.* § 3950.) The Project  
20 contemplates mass lethal take of an entire herd of mule deer, yet the record does not demonstrate  
21 an enforceable plan to prevent wanton waste or ensure retrieval, salvage, or lawful disposition of  
22 carcasses across the Island. It indicates that deer taken near Avalon will be removed and potentially  
23 used to feed condors. But it does not establish any comparable retrieval or disposition plan for the  
24 remainder of the deer expected to be taken elsewhere.

25 134. The record does not demonstrate any enforceable, project-wide plan to prevent  
26 wanton waste of the mule deer carcasses generated by this mass-removal program. Instead, the  
27 record reflects shifting, qualified, and internally inconsistent descriptions of carcass handling. In  
28 the RMP, CDFW states: “Carcass handling: remove near roads/trails/public areas; freezer storage;

1 ship off-island; CWD test before leaving; possible provision of meat to condor program/tribal  
2 partners.” (Exhibit K [RMP], p. 20.) The Conservancy’s application materials are similarly  
3 equivocal. In one place, the Conservancy states under “Carcas [sic] Utilization” that only “[a]  
4 subset” of deer carcasses will be gathered and donated to support the Condor Recovery Program.  
5 (Exhibit I [IRSA], p. 12.) Elsewhere, the Conservancy states only that meat “may be recovered and  
6 used for the California Condor recovery program, depending on funding.” (Exhibit K [RMP], p.  
7 20.) The Workplan likewise indicates that carcass recovery for condor use is contingent and partial,  
8 explaining that early carcass harvesting for the condor project is “pending funding,” and that, “[a]s  
9 the Project progresses and the work becomes more challenging, carcasses will be moved away from  
10 locations visible to the public and left to naturally recycle nutrients back into the environment.”  
11 (Exhibit H [Workplan], p. 19.)

12 135. Public statements by CDFW are to the same effect. At the February 11, 2026 Fish  
13 and Game Commission meeting, Interim Director Valerie Termini stated: “And then the animal  
14 waste component, the meat that will be harvested will be used for the condor recovery program  
15 when feasible.” These shifting and qualified descriptions do not establish a concrete retrieval,  
16 salvage, or lawful-disposition plan for the many carcasses expected to result from island-wide,  
17 multi-year lethal removal. To the contrary, they indicate that carcass use is partial, discretionary,  
18 and funding-dependent, and that many carcasses will simply be abandoned on the landscape once  
19 operations become more difficult. Far from establishing compliance with Fish and Game Code  
20 section 4304, the record suggests that avoidance of waste is optional, opportunistic, and subordinate  
21 to cost and logistics. While an RMP may authorize the take of a mule deer, it does not authorize  
22 the wanton waste of their carcasses. On this record, Defendants-Respondents have not  
23 demonstrated compliance with Fish and Game Code section 4304, and SERP is therefore  
24 unavailable under Public Resources Code section 21080.56, subdivision (f).

25 \* \* \* \*

26 136. Because Public Resources Code section 21080.56, subdivision (f), is an express  
27 condition of SERP eligibility, these unresolved and inadequately documented conflicts with other  
28 applicable local, state, and federal laws independently preclude Defendants-Respondents’ reliance

1 on the statutory exemption. The record does not demonstrate that the Project will remain subject  
2 to, and compliant with, those laws and standards. Defendants-Respondents therefore failed to  
3 proceed in the manner required by law, and their approval of the SERP exemption and issuance of  
4 the RMP constitutes a prejudicial abuse of discretion.

5 **V. The Project's Unlawful Approval Is Prejudicial to Plaintiffs-Petitioners**

6 137. Defendants-Respondents' approval of the Project is prejudicial to Plaintiffs-  
7 Petitioners because Plaintiffs-Petitioners' members and supporters have an interest in the use and  
8 enjoyment of the mule deer on Catalina and in perpetuating wildlife management policy that is  
9 based on sound science and the policies of California to hold wildlife, including mule deer, in trust  
10 for the benefit of the public. Defendants-Respondents' improper issuance of the RMP deprives  
11 Plaintiffs-Petitioners and the public of those aims permanently and irreversibly.

12 138. Why the SERP and RMP were rushed through has not been explained and does not  
13 appear to have any reasonable justification typically found in a replete administrative record under  
14 CEQA; particularly when known interested parties were excluded from the process.

15 139. California law, including CEQA and the Fish and Game Code, calls for thoughtful  
16 and accountable decision-making to ensure that irreversible decisions regarding wildlife are made  
17 with the highest level of public accountability and biological integrity. Rubber-stamping the  
18 Conservancy's application displays a troubling disregard for how so-called "invasive" species—  
19 species actually native to California—are being characterized, and it risks normalizing lethal  
20 removal as a default response to ecological challenges without scientific scrutiny.

21 **SECOND CAUSE OF ACTION**

22 **Against Defendant-Respondent CDFW**

23 **Writ of Mandate (Code of Civ. Proc., § 1085)**

24 **(Violation of Wildlife Public Trust – Fish & Game Code, §§ 711.7, 1600-1616, &**  
25 **Common Law)**

26 140. Plaintiffs-Petitioners reallege Paragraphs 1 through 139 and incorporate them as  
27 though fully set forth herein.  
28

1           141. Code of Civil Procedure section 1085 authorizes issuance of a writ of mandate to  
2 compel a public agency to perform duties required by law and to correct an abuse of discretion.

3           142. Under the common law and Fish and Game Code section 711.7, CDFW serves as  
4 trustee of California's wildlife resources and is obligated to exercise its authority concerning  
5 wildlife resources consistently with its statutory obligations as trustee, the conservation purposes  
6 of the Fish and Game Code, and all applicable laws.

7           143. CDFW issued a concurrence facilitating approval of the RMP, the objective and  
8 desired result of which is not merely to manage or reduce the Catalina mule deer population, but to  
9 permanently eradicate it from the Island through, among other activities, aerial and ground net  
10 capture, use of dogs to locate deer, daytime and nighttime shooting, shooting from vehicles, baiting,  
11 thermal detection, and euthanasia. The Project also includes activities like herbicide application,  
12 vegetation treatment, fencing, and wildlife-management measures that may adversely affect  
13 additional wildlife resources, including protected bird species.

14           144. Plaintiffs-Petitioners are informed and believe, and on that basis allege, that CDFW  
15 violated and failed to discharge its trustee obligations under Fish and Game Code section 711.7 and  
16 failed to proceed in the manner required by law in multiple respects.

17           145. First, Plaintiffs-Petitioners are informed and believe, and on that basis allege, that  
18 CDFW issued its concurrence without adequately evaluating or discharging its trustee obligations  
19 concerning wildlife resources, including by concurring in a Project whose objective and desired  
20 result is the permanent eradication of a managed wildlife population and by failing to meaningfully  
21 consider the impacts on public-trust interest in wildlife resources.

22           146. Second, Public Resources Code section 21080.56 establishes mandatory  
23 requirements governing SERP concurrence determinations. Among those mandatory requirements,  
24 subdivision (e) expressly requires concurrence by the Director of CDFW and further requires that  
25 the Director document such concurrence using substantial evidence and best available science.  
26 CDFW's concurrence was not issued by the Director of CDFW (or by an Acting Director lawfully  
27 exercising the Director's authority). Nor was the purported concurrence based on substantial  
28 evidence and the best available science, as described in paragraphs 101 through 118. Defendant-

1 Respondent CDFW thus failed to comply with the mandatory requirements of subdivision (e) in  
2 issuing the concurrence underlying approval of the RMP and therefore failed to proceed according  
3 to law in exercising trustee authority over wildlife resources.

4 147. Third, Fish and Game Code sections 1600 through 1616 establish mandatory duties  
5 governing activities that may substantially divert or obstruct natural watercourses or substantially  
6 affect any river, stream, or lake, and their associated wildlife resources. The Project's authorized  
7 activities, including intensive herbicide applications expected to influence conditions downstream  
8 and Island-wide, as described in paragraphs 125 through 126, implicate duties arising under  
9 sections 1600 through 1616 and 1672, requiring Defendant-Respondent CDFW to meaningfully  
10 evaluate potential impacts on the Island's waterways and associated wildlife resources. Plaintiffs-  
11 Petitioners are informed and believe, and on that basis allege, that Defendant-Respondent CDFW  
12 failed to adequately evaluate whether Project activities implicated duties arising under sections  
13 1600-1616 and section 1672(f), and failed to ensure the RMP included the determinations and  
14 reasonable protective measures required by law.

15 148. For these reasons, including (1) failure to adequately evaluate impacts upon wildlife  
16 resources; (2) failure to comply with mandatory legal requirements governing concurrence; and (3)  
17 failure to meaningfully assess duties arising under Fish and Game Code sections 1600 through  
18 1616, Defendant-Respondent CDFW's concurrence and related actions constituted a prejudicial  
19 abuse of discretion and failure to proceed in the manner required by law in violation of its  
20 obligations concerning wildlife resources held in trust for the people of California.

21 149. There is no adequate remedy at law for the destruction of wildlife held in public  
22 trust.

23 150. Unless restrained by this Court, implementation of the challenged RMP and  
24 associated project activities will proceed, resulting in irreparable and irreversible injury including  
25 eradication of the Catalina mule deer population and associated environmental impacts.

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1 ground vehicles, baiting, thermal detection, capture, and euthanasia, as well as associated habitat  
2 modification and management activities.

3 157. Plaintiffs-Petitioners are informed and believe, and on that basis allege, that the  
4 Project further authorizes extensive habitat and vegetation manipulation, including fencing,  
5 invasive vegetation treatment, repeated herbicide application, and associated Island-wide activities.  
6 The Project also includes wildlife monitoring, disease surveillance, and related biosecurity  
7 measures affecting additional wildlife resources and ecological conditions on Catalina Island.

8 158. The Project constitutes a public nuisance because it results in an irreversible,  
9 substantial, and unreasonable interference with public rights in wildlife resources held in trust for  
10 the people of California, including but not limited to the public's ability to observe, study, hunt,  
11 and otherwise enjoy Catalina wildlife and habitats, and because it threatens continuing and  
12 irreversible injury to resources held in common for the benefit of the people of California.

13 159. Plaintiffs-Petitioners are further informed and believe, and on that basis allege, that  
14 the injuries alleged herein affect a considerable number of persons, including residents of Catalina  
15 Island, visitors to the Island, tourism-dependent businesses, conservation and hunting groups, and  
16 members of the public who use, enjoy, and derive benefit from Catalina Island and California  
17 wildlife resources.

18 160. Defendant-Respondent CDFW's purported concurrence was a substantial factor in  
19 creating and facilitating the nuisance conditions alleged herein because the Project and associated  
20 activities could not lawfully proceed absent such concurrence.

21 161. Plaintiffs-Petitioners have no adequate remedy at law.

22 162. Unless restrained by this Court, Defendants-Respondents' implementation of the  
23 RMP will proceed, resulting in irreparable injury, including the eradication of the Catalina mule  
24 deer population. The public nuisance will thus inflict irreversible injury upon public wildlife  
25 resources and the public's use and enjoyment of those resources.

1 **FOURTH CAUSE OF ACTION**

2 **Against Defendant-Respondent CDFW**

3 **Writ of Mandate (Code of Civ. Proc., § 1085)**

4 **(Ultra Vires Agency Action and Unauthorized Treatment of Wildlife as Invasive Species)**

5 163. Plaintiffs-Petitioners reallege Paragraphs 1 through 162 and incorporate them as  
6 though fully set forth herein.

7 164. Code of Civil Procedure section 1085 authorizes issuance of a writ of mandate to  
8 compel a public agency to perform duties required by law and to correct an abuse of discretion,  
9 including actions taken in excess of authority or without proceeding in the manner required by law.

10 165. California law regulates deer, including mule deer, as wildlife resources and “game  
11 mammals” subject to statutory and regulatory management. (Fish & G. Code, §§ 450-462, 3950.)  
12 Deer are managed through legal frameworks governing seasons, take, licensing, tags, depredation  
13 authority, and wildlife-management programs established by statute, regulation, and Fish and  
14 Game Commission action.

15 166. Neither Public Resources Code section 21080.56, the SERP, nor Fish and Game  
16 Code section 1672 authorizes Defendant-Respondent CDFW to redesignate, reclassify, or  
17 effectively treat a regulated game mammal population as an “invasive” or “non-native” species for  
18 purposes of eradication absent lawful statutory or regulatory authority.

19 167. The Project documents repeatedly characterize Catalina mule deer as “non-native”  
20 or “invasive” and identify their removal and eradication as a necessary component of the Project.

21 168. Plaintiffs-Petitioners are informed and believe, and on that basis allege, that  
22 Defendant-Respondent CDFW adopted or concurred in the treatment of Catalina mule deer as an  
23 “invasive” or “non-native” species and relied on that characterization in issuing its concurrence of  
24 the Project, which has the stated objective of complete eradication of Catalina mule deer.

25 169. Plaintiffs-Petitioners are informed and believe, and on that basis allege, that no  
26 statute, duly adopted regulation, Fish and Game Commission action, or other lawful authority  
27 redesignated Catalina mule deer as an invasive species, removed them from California’s game-  
28



1 mammal and wildlife-management framework, or authorized Defendant-Respondent CDFW to  
2 treat them as invasive wildlife for purposes of Island-wide eradication.

3 170. By characterizing, treating, or concurring in treatment of Catalina mule deer as an  
4 “invasive” or “non-native” species in a manner that functionally displaced California’s established  
5 wildlife-management framework and facilitated eradication authority not granted by statute,  
6 Defendant-Respondent CDFW exceeded its lawful authority and failed to proceed in the manner  
7 required by law.

8 171. Defendant-Respondent CDFW’s purported concurrence was therefore ultra vires  
9 and constituted an abuse of discretion correctable by traditional mandate.

10 172. Plaintiffs-Petitioners have no plain, speedy, or adequate remedy at law.

11 173. Unless restrained and set aside by this Court, Defendant-Respondent CDFW’s  
12 unlawful actions will continue to authorize implementation of the Project and the permanent  
13 eradication of Catalina’s mule deer population.

#### 14 **FIFTH CAUSE OF ACTION**

#### 15 **Against Defendant-Respondent CDFW**

#### 16 **Writ of Administrative Mandate (Code of Civ. Proc., §§ Code of Civ. Proc., §§ 1094.5, 1085)** 17 **(Invalid Restoration Management Permit — Absence of Required Findings on Substantial** 18 **Net Benefit Above Baseline, and Erroneous Legal Conclusion That the RMP Preempts the** 19 **City of Avalon Ordinance)**

20 174. Plaintiffs-Petitioners reallege Paragraphs 1 through 173 and incorporate them as  
21 though fully set forth herein.

22 175. This cause of action challenges Restoration Management Permit No. RMP 2025-  
23 0017-R5 (the “RMP”), issued by Defendant-Respondent CDFW to Defendant-Respondent Catalina  
24 Island Conservancy on January 30, 2026. (Brady Decl., Ex. K [RMP].) The RMP is invalid for two  
25 independent reasons. *First*, CDFW failed to make the reasoned findings the Restoration  
26 Management Permit Act requires before it may issue an RMP, including a finding, supported by  
27 analysis rather than a recital of statutory language, that the Project will yield a substantial net benefit  
28 to native resources cumulatively above baseline conditions. *Second*, the RMP rests on an erroneous

1 legal conclusion—that CDFW’s permit “controls over” and preempts the City of Avalon’s animal-  
2 protection ordinance—that no statute, regulation, or decision authorizes. Each error is a prejudicial  
3 abuse of discretion that requires the RMP to be set aside.

4 176. The RMP is a quasi-adjudicative decision. In issuing it, CDFW applied the standards  
5 of the Restoration Management Permit Act to a specific applicant and a specific project, took  
6 evidence in the form of an application package, and exercised discretion in determining the facts.  
7 A permit decision of this character is reviewable by administrative mandate. (Code Civ. Proc., §  
8 1094.5; *Travis v. County of Santa Cruz* (2004) 33 Cal.4th 757, 767–769 & n.5.) Quasi-judicial  
9 wildlife determinations by CDFW and the Fish and Game Commission are reviewed in this manner.  
10 (*See Almond Alliance of California v. Fish and Game Commission* (2022) 79 Cal.App.5th 337,  
11 352–353 [Commission’s candidate-species designation reviewed under section 1094.5 as quasi-  
12 judicial].) To the extent the issuance of the RMP is deemed ministerial or quasi-legislative rather  
13 than adjudicatory, Plaintiffs-Petitioners plead this cause of action in the alternative under Code of  
14 Civil Procedure section 1085, which authorizes a writ to compel a public agency to perform a duty  
15 required by law and to correct an abuse of discretion, and under which a writ lies to review a final  
16 agency decision that violates the law where no other adequate remedy exists. (*See Merchandising*  
17 *Concept Group, Inc. v. California Unemployment Ins. Appeals Bd.* (2010) 181 Cal.App.4th 1274,  
18 1280; *see also Travis, supra*, 33 Cal.4th 769 & n.5].)

19 177. Under Code of Civil Procedure section 1094.5, a court inquires whether the agency  
20 proceeded without or in excess of jurisdiction, whether there was a fair proceeding, and whether  
21 the agency committed a prejudicial abuse of discretion. (Code Civ. Proc., § 1094.5, subd. (b).) An  
22 abuse of discretion is established if the agency failed to proceed in the manner required by law, if  
23 its decision is not supported by the findings, or if its findings are not supported by the evidence.  
24 (*Id.*; *Sierra Club v. State Bd. of Forestry* (1994) 7 Cal.4th 1215, 1236.) The findings must  
25 themselves be adequate: implicit in section 1094.5 is a requirement that the agency “set forth  
26 findings to bridge the analytic gap between the raw evidence and ultimate decision or order.”  
27 (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.)  
28

Findings that merely track the language of the governing statute do not satisfy this requirement. (*Id.* at 516–517, n.16; *Saad v. City of Berkeley* (1994) 24 Cal.App.4th 1206, 1214–1215.)

178. Legal error is itself a ground for relief under either form of mandate. A reviewing court exercises its independent judgment on questions of law, including statutory interpretation and the application of legal doctrines such as preemption, and owes no deference to an agency’s erroneous legal conclusions. (*See Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 7–8, 11.) Where an agency applies an incorrect legal standard or reaches a legal conclusion unsupported by the authorities on which it relies, it fails to proceed in the manner required by law, and the resulting decision is a prejudicial abuse of discretion that the court may set aside. (Code Civ. Proc., § 1094.5, subd. (b); *Topanga, supra*, 11 Cal.3d at 515.)

**I. CDFW Failed to Make the Findings the Restoration Management Permit Act Requires, Including Any Reasoned Finding of a Substantial Net Benefit Cumulatively Above Baseline Conditions**

179. CDFW may issue an RMP only in association with a “qualifying restoration project.” (Fish & G. Code, § 1672, subd. (a).) A “qualifying restoration project” is a management or propagation project “that has the primary purpose of restoring native fish, wildlife, plants, or their habitat and that would result in a substantial net benefit” to native fish, native wildlife, native plants, or their habitat, “as determined by the department.” (*Id.*, § 1671, subd. (d)(1).)

180. The Act defines “substantial net benefit” as “a substantial, cumulative benefit to native fish, wildlife, plants, or their habitat, or any combination thereof, above baseline conditions that the department reasonably expects to result from a qualifying restoration project.” (Fish & G. Code, § 1671, subd. (e).) In determining whether it reasonably expects such a benefit, CDFW “shall consider the duration of the qualifying restoration project, all impacts on native fish, wildlife, plants, or their habitat, or any combination thereof, from the qualifying restoration project, and any other information the department determines to be relevant,” and the benefit must “assist either directly or indirectly in the recovery” of the resource. (*Id.*)

181. The baseline against which any net benefit must be measured is a defined term. “Baseline conditions” means the existing native population sizes and the extent and quality of

1 native habitat in the area the project would affect. (Fish & G. Code, § 1671, subd. (a).) Critically,  
2 restoration activities required to satisfy avoidance, minimization, or mitigation requirements for  
3 other regulatory permits, enforcement actions, settlements, court orders, or other enforceable legal  
4 obligations “shall be considered part of the baseline conditions,” and “those activities shall not  
5 count toward a substantial net benefit.” (*Id.*) Benefits such as flood-risk reduction, recreation, and  
6 groundwater recharge are, by statute, “secondary or incidental benefits,” not the substantial net  
7 benefit the Act requires. (*Id.*, subd. (d)(2).)

8 182. The Act reinforces that these determinations must be documented and reasoned. An  
9 applicant must supply “[a] detailed description of baseline conditions for all areas that may be  
10 affected by the project” and “[a] detailed description of how the project satisfies the definition of  
11 qualifying restoration project,” including “a detailed description of the expected benefit ... above  
12 baseline conditions.” (Fish & G. Code, § 1673, subd. (b)(8), (9).) CDFW, in turn, must “require  
13 appropriate species protection, management, monitoring, and reporting measures in each” permit.  
14 (*Id.*, § 1675, subd. (b).) Read together, these provisions require CDFW to determine, and to explain,  
15 how and why the Project achieves a substantial cumulative benefit above a defined baseline after  
16 accounting for the Project’s duration and all of its impacts on native resources.

17 183. CDFW did not do so. The RMP’s findings under the Restoration Management  
18 Permit Act appear in Section XI of the RMP. (Brady Decl., Ex. K [RMP], pp. 33–34.) Those  
19 findings do no more than restate the statutory criteria. CDFW “finds” that the Project “meets the  
20 definition of a qualifying restoration project as set forth in Fish and Game Code section 1671,  
21 subdivision (d)(1)”; that the Project “has the primary purpose of restoring native fish, wildlife,  
22 plants, or their habitat”; that the Project “will result in a substantial net benefit”; and that CDFW  
23 “reasonably expects” a “substantial, cumulative benefit . . . above baseline conditions,” having  
24 “considered the duration of the qualifying restoration project [and] all impacts.” (*Id.*) Each finding  
25 parrots the words of section 1671. None supplies the analysis those words require.

26 184. The findings identify no baseline. CDFW nowhere states the existing native  
27 population sizes or the extent and quality of native habitat against which the claimed cumulative  
28 benefit is measured. (*See* Fish & G. Code, § 1671, subd. (a); Brady Decl., Ex. K [RMP], pp. 33–

1 34.) Without a stated baseline, neither Plaintiffs-Petitioners nor this Court can trace how CDFW  
2 moved from the evidence to its conclusion that the Project yields a benefit “above” that baseline.  
3 (*Topanga, supra*, 11 Cal.3d at 515.)

4 185. The findings do not segregate restoration activities that the Act excludes from the  
5 net-benefit calculation. The application materials acknowledge that portions of the Project’s active  
6 restoration will be used to satisfy separate mitigation obligations. (*See* Brady Decl., Ex. G [RMP  
7 Application]; *id.*, Ex. H [Workplan].) Section 1671, subdivision (a), forbids counting any such  
8 mitigation-driven or otherwise legally required activity toward a substantial net benefit. The  
9 findings neither identify these activities nor exclude them, and thus cannot establish a benefit that  
10 survives the statutory exclusion.

11 186. The findings do not account for the Project’s principal impact on the very resource  
12 the Act protects—the permanent elimination of an established population of mule deer, a California  
13 native game mammal, through island-wide, multi-year lethal removal. (Brady Decl., Ex. K [RMP],  
14 pp. 6–8.) Section 1671, subdivision (e), requires CDFW to consider “all impacts” on native wildlife  
15 over the Project’s duration. The findings do not explain how the eradication of the deer herd  
16 contributes to a net benefit, or why the acknowledged adverse consequences—including the loss of  
17 a public wildlife resource and the loss of associated recreational, aesthetic, and community  
18 values—are outweighed by the benefits CDFW expects.

19 187. The findings also improperly lean on incidental benefits. CDFW recites wildfire-  
20 risk reduction, groundwater replenishment, and recreation among the Project’s effects. (Brady  
21 Decl., Ex. K [RMP], p. 34.) The Act classifies these as “secondary or incidental” benefits that  
22 cannot substitute for the substantial net benefit to native fish, wildlife, plants, or their habitat that  
23 section 1671, subdivision (d)(1), demands. Reliance on incidental benefits to sustain a net-benefit  
24 finding is contrary to the statute.

25 188. A recitation of statutory language in place of reasoned analysis is precisely what the  
26 findings requirement forbids. Findings “must expose the [agency’s] mode of analysis” and cannot  
27 be “set[] forth . . . solely in the language of the applicable legislation.” (*Topanga, supra*, 11 Cal.3d  
28 at 517, n.16.) A permit determination that “merely track[s] the general language of the statute” is

1 insufficient to bridge the analytic gap between the evidence and the decision. (*Saad, supra*, 24  
2 Cal.App.4th at 1214.) And because an RMP may issue only if the statutory prerequisites are  
3 satisfied, the failure to establish any one prerequisite—here, a supported qualifying-restoration-  
4 project and substantial-net-benefit determination—defeats the permit. (*See id.* [permit sustainable  
5 only if all statutory requisites are met].)

6 189. An agency likewise abuses its discretion when it approves a resource-affecting  
7 project on a record that lacks the information necessary to assess the project’s impacts. (*Sierra Club*  
8 *v. State Bd. of Forestry, supra*, 7 Cal.4th at pp. 1236–1237 [approval of timber harvest plans set  
9 aside where the agency acted without information necessary to evaluate effects on wildlife].) In  
10 evaluating whether substantial evidence supports an agency’s findings, the reviewing court  
11 considers the whole record, including evidence that detracts from the agency’s decision. (*California*  
12 *Youth Authority v. State Personnel Bd.* (2002) 104 Cal.App.4th 575, 585.) Measured against these  
13 standards, CDFW’s conclusory findings neither disclose its analysis nor demonstrate that the  
14 Project satisfies the Act.

15 190. For these reasons, CDFW failed to proceed in the manner required by law, its  
16 decision to issue the RMP is not supported by adequate findings, and its findings are not supported  
17 by substantial evidence in light of the whole record. CDFW’s issuance of the RMP is therefore a  
18 prejudicial abuse of discretion, and the RMP must be set aside. (Code Civ. Proc., § 1094.5, subd.  
19 (b); *Topanga, supra*, 11 Cal.3d at 514–515.)

20 **II. CDFW’s Conclusion That the RMP Preempts the City of Avalon Ordinance Is an**  
21 **Erroneous Legal Conclusion Subject to Independent Judicial Review**

22 191. The RMP asserts that CDFW’s authorization overrides a duly enacted municipal  
23 ordinance. In its terms and conditions and accompanying footnote, the RMP states: “To the extent  
24 that City of Avalon Code section 6-1.128 purports to prohibit Permittee from undertaking certain  
25 components of the Project as authorized by CDFW in this RMP, CDFW’s authorization of the  
26 Project in this RMP controls over any conflicting City of Avalon Code section 6-1.128  
27 prohibitions.” (Brady Decl., Ex. K [RMP], pp. 24, 30.) The RMP cites, in support, California  
28 Constitution, article IV, section 20; article XI, section 7; Fish and Game Code sections 711.7, 1002,

1 1672, 1802, and 2000; *Chevron U.S.A. Inc. v. County of Monterey* (2023) 15 Cal.5th 135; and  
2 *People v. Mueller* (1970) 8 Cal.App.3d 949. (*Id.* at p. 30.)

3 192. Whether a state enactment preempts a local ordinance is a pure question of law that  
4 the courts decide independently. (*Chevron U.S.A. Inc. v. County of Monterey, supra*, 15 Cal.5th at  
5 143; *Roble Vista Associates v. Bacon* (2002) 97 Cal.App.4th 335, 339.) An agency’s contrary legal  
6 conclusion receives no deference. (*Yamaha Corp. of America v. State Bd. of Equalization, supra*,  
7 19 Cal.4th at 7–8.) When an agency concludes that its permit preempts a local ordinance where it  
8 legally cannot, that conclusion is a legal error correctable by mandate—as a failure to proceed in  
9 the manner required by law, as action in excess of jurisdiction, or as a prejudicial abuse of  
10 discretion. (Code Civ. Proc., § 1094.5, subd. (b).)

11 193. The governing framework confirms the error. Article XI, section 7 of the California  
12 Constitution authorizes a city to “make and enforce within its limits all local, police, sanitary, and  
13 other ordinances and regulations not in conflict with general laws.” A local ordinance is preempted  
14 only if it conflicts with a general law—that is, only if it duplicates, contradicts, or enters an area  
15 fully occupied by general law. (*Sherwin-Williams Co. v. City of Los Angeles* (1993) 4 Cal.4th 893,  
16 897–898; *Chevron, supra*, 15 Cal.5th at 142.) The party asserting preemption bears the burden of  
17 demonstrating it. (*Big Creek Lumber Co. v. County of Santa Cruz* (2006) 38 Cal.4th 1139, 1149.)  
18 And courts presume that local regulation in an area of traditional local concern—including the  
19 protection of public health and safety within city limits—is not preempted absent a clear indication  
20 of legislative intent. (*Id.*)

21 194. A permit is not a general law. Preemption is the displacing effect that a superior  
22 enactment—a statute or a duly adopted regulation carrying the force of law—has upon a  
23 subordinate one. An RMP is neither. It is an administrative authorization issued to a private  
24 permittee, and it must itself comply with applicable law. An agency cannot, through its own  
25 findings, manufacture preemptive effect that the Legislature has not conferred. None of the  
26 authorities the RMP invokes supplies that effect. Article IV, section 20 and article XI, section 7 of  
27 the California Constitution concern, respectively, the Fish and Game Commission’s authority over  
28 fish and game and the scope of local police power; neither empowers CDFW to nullify a municipal

1 ordinance by permit. Fish and Game Code sections 711.7, 1002, 1672, 1802, and 2000 describe  
2 CDFW’s trustee role and its permitting and management authority; none purports to preempt local  
3 law or to authorize CDFW to do so. And *Chevron* is inapposite: it held that a state statute—Public  
4 Resources Code section 3106—preempted a local ban on specified oil-production methods because  
5 the ordinance contradicted the statute. (*Chevron, supra*, 15 Cal.5th at 145–150.) Chevron did not  
6 hold, and no decision holds, that an administrative permit may preempt a local ordinance.

7       195. City of Avalon Code section 6-1.128 is a valid exercise of the municipal police  
8 power addressing public health and safety. It provides that “[n]o person shall hunt, pursue, kill, or  
9 trap any domesticated or wild animal in the City” (*id.*, subd. (e)); that “[n]o person shall feed, trap,  
10 or lure any wild animal located within the City with the intent to hunt or kill such wild animal” (*id.*,  
11 subd. (f)); and it defines “hunt” to include killing or wounding an animal by trap, firearm, air gun,  
12 or other means (*id.*, subd. (g)). The ordinance expressly anticipates state and federal permits and  
13 subjects them to its terms, providing that even where such a permit issues, “such permit shall be  
14 subject to this Section 6-1.128 in order to protect public health, safety and welfare.” (Brady Decl.,  
15 Ex. K [RMP] [City of Avalon protest quoting ordinance]; *see id.*, Ex. N [City of Avalon written  
16 protest].) An ordinance protecting residents from hunting, luring, and killing activity within a  
17 residential and visitor community regulates a quintessential area of local concern and does not  
18 contradict any general law that commands the conduct it restrains.

19       196. The RMP’s own terms refute a blanket assertion of preemption. The RMP does not  
20 authorize the unrestricted use of a shooting device in Avalon; it conditions such use on the permittee  
21 “obtain[ing] any applicable and legally required permit from the City of Avalon” and complying  
22 with the City’s restrictions. (Brady Decl., Ex. K [RMP], p. 9 & § II(7)(e).) That condition  
23 acknowledges the ordinance’s continuing force. CDFW cannot simultaneously defer to the  
24 ordinance for shooting activity and declare the same ordinance preempted as to the Project’s baiting  
25 and luring activity under subdivision (f). The preemption statement is not only legally unsupported;  
26 it is internally inconsistent with the permit that contains it.

27       197. The erroneous preemption conclusion also independently undermines the RMP. A  
28 project proceeding under the Statutory Exemption for Restoration Projects “shall remain subject to



1 all other applicable federal, state, and local laws and regulations.” (Pub. Resources Code, §  
2 21080.56, subd. (f).) Because the RMP cannot lawfully displace the Avalon ordinance, the Project  
3 remains subject to that ordinance, and CDFW’s contrary premise is both a legal error in the RMP  
4 and further confirmation that the Project was not entitled to proceed as authorized.

5 198. CDFW’s determination that the RMP preempts City of Avalon Code section 6-1.128  
6 is legally incorrect and unsupported by the authorities on which CDFW relied. CDFW thereby  
7 failed to proceed in the manner required by law and acted in excess of its authority, committing a  
8 prejudicial abuse of discretion. The error is prejudicial because the preemption conclusion is woven  
9 into the permit’s authorization of Project activities within the City and affects the lawfulness of the  
10 conduct the RMP purports to sanction. The RMP must be set aside on this ground as well.

### 11 **III. Plaintiffs-Petitioners Have No Adequate Remedy and Face Irreparable Harm**

12 199. Plaintiffs-Petitioners have exhausted all administrative remedies available to them,  
13 and none remains. To the extent any exhaustion requirement applied, Plaintiffs-Petitioners and  
14 others, including the City of Avalon, presented these objections to CDFW before and after the RMP  
15 issued, and further administrative pursuit would have been futile because CDFW had already  
16 committed to its legal position. (*See* Brady Decl., Ex. N [City of Avalon written protest]; *id.*, Ex.  
17 O [Los Angeles County Fire Chief correspondence].)

18 200. Plaintiffs-Petitioners have no plain, speedy, or adequate remedy at law. Unless the  
19 RMP is set aside, Defendants-Respondents will continue to implement the Project, resulting in  
20 irreparable and irreversible injury, including the permanent eradication of the Catalina mule deer  
21 population and associated harm to public wildlife resources and the interests of Plaintiffs-  
22 Petitioners’ members and supporters.

### 23 **PRAYER FOR RELIEF**

24 Wherefore Plaintiffs-Petitioners pray for the following relief:

25 1. Issue a peremptory writ of mandate declaring the SERP invalid and directing  
26 Defendants-Respondents to vacate and set aside the determination exempting the Project from  
27 CEQA under Public Resources Code section 21080.56 and the related concurrence, approval, and  
28 NOEs;

1           2.       Issue a peremptory writ of mandate directing Defendants-Respondents to suspend  
2 all activity in furtherance of the Project, unless and until the Project undergoes a full and proper  
3 CEQA review process and is found compliant;

4           3.       Issue a declaration that Defendants-Respondents violated their trustee duties  
5 regarding California wildlife resources under Fish and Game Code section 711.7 and failed to  
6 proceed in the manner required by law in authorizing the eradication of Catalina's mule deer  
7 population and related Project activities;

8           4.       Issue a peremptory writ of mandate directing Defendants-Respondents, as well as  
9 their officers, employees, agents, contractors, successors, and all persons acting in concert with  
10 them, to suspend all activity implementing or authorizing implementation of the Project, including  
11 the deer-eradication and related activities, unless and until Respondent CDFW can meet its trustee  
12 duties regarding California wildlife resources under Fish and Game Code section 711.7.

13          5.       Issue a declaration that the Project constitutes a public nuisance;

14          6.       Issue preliminary and permanent injunctive relief abating and preventing the public  
15 nuisance alleged herein and prohibiting implementation of Project activities constituting or  
16 facilitating such nuisance unless and until authorized in accordance with law;

17          7.       Issue a declaration that Respondent CDFW acted in excess of its lawful authority  
18 and failed to proceed according to law by characterizing, treating, or concurring in treatment of  
19 Catalina mule deer as "invasive" or "non-native" wildlife for purposes of eradication;

20          8.       Issue a peremptory writ of mandate enjoining Defendant-Respondent CDFW from  
21 characterizing, treating, or concurring in treatment of Catalina mule deer as "invasive" or "non-  
22 native" wildlife unless and until the Legislature and/or the California Fish and Game Commission  
23 formally act to reclassify Catalina mule deer pursuant to applicable law;

24          9.       Issue a peremptory writ of mandate under Code of Civil Procedure sections 1094.5  
25 and 1085 directing Defendant-Respondent CDFW to vacate and set aside Restoration Management  
26 Permit No. RMP 2025-0017-R5 on the ground that CDFW failed to make the findings required by  
27 the Restoration Management Permit Act, including any reasoned finding, supported by substantial  
28

1 evidence, that the Project constitutes a qualifying restoration project yielding a substantial net  
2 benefit to native fish, wildlife, plants, or their habitat cumulatively above baseline conditions;

3 10. Issue a peremptory writ of mandate under Code of Civil Procedure sections 1094.5  
4 and 1085 directing Defendant-Respondent CDFW to vacate and set aside the RMP on the further  
5 ground that CDFW's determination that the RMP controls over and preempts City of Avalon Code  
6 section 6-1.128 is an erroneous legal conclusion, and directing CDFW to reconsider the RMP  
7 consistent with the Court's determination that the ordinance is not preempted;

8 11. Issue a declaration that Restoration Management Permit No. RMP 2025-0017-R5  
9 does not preempt City of Avalon Code section 6-1.128 and that the Project remains subject to that  
10 ordinance;

11 12. Issue preliminary and permanent injunctive relief enjoining Defendants-  
12 Respondents, and their officers, employees, agents, contractors, successors, and all persons acting  
13 in concert with them, from implementing or authorizing implementation of the Project, including  
14 the deer-eradication and related activities, unless and until CDFW issues a lawful permit supported  
15 by adequate findings and substantial evidence and in compliance with all applicable laws, including  
16 City of Avalon Code section 6-1.128;

17 13. For an award of reasonable costs of suit and attorney's fees under Code of Civil  
18 Procedure section 1021.5 and under any other state law for which such fees and costs are provided;  
19 and

20 14. For such other relief as may be just and proper.  
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1 Dated: July 21, 2026

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

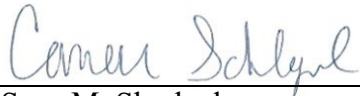
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3 By: 

C.D. Michel – SBN 144258  
Sean A. Brady – SBN 262007  
Tiffany D. Cheuvront – SBN 317144  
MICHEL & ASSOCIATES, P.C.  
180 East Ocean Blvd., Suite 200  
Long Beach, CA 90802  
Telephone: (562) 216-4444  
Facsimile: (562) 216-4445  
Email: cmichel@michellawyers.com

Attorneys for Plaintiffs-Petitioners  
California Rifle & Pistol Association,  
California Bowmen Hunters/State Archer  
Association, and California Deer  
Association

12 Dated: July 21, 2026

**SNELL & WILMER L.L.P.**

13  
14 By: 

Sean M. Sherlock  
Cameron J. Schlagel

Attorneys for Plaintiff-Petitioners  
Safari Club International, HOWL for  
Wildlife, Inc., and Coalition to Save  
Catalina Island Deer

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Particulars

Pastor Lopez, Founder  
Coalition to Save Catalina Island Deer

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 21, 2026, within the United States of America.

Charles Whitwam, Founder  
HOWL for Wildlife, Inc.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 21, 2026, within the United States of America.

Chris Hall, Chief Executive Officer  
California Deer Association



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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 21, 2026, within the United States of America.

Amanda Duchardt, Legislative Director  
California Bowmen Hunters and  
State Archery Association, Inc.

**VERIFICATION**

I, Richard Minnich, am an officer and the Treasurer for California Rifle & Pistol Association, Incorporated, a petitioner in this action, and I am authorized to make this Verification for and on its behalf and I make this Verification for that reason. I have read the **VERIFIED SECOND AMENDED COMPLAINT & PETITION FOR WRIT OF MANDATE**, and know its contents. The matters stated in it are true of my knowledge except as to those matters which are stated on information and belief and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 21, 2026, within the United States of America.

A handwritten signature in black ink, appearing to read 'Richard Minnich', written over a horizontal line.

Richard Minnich, Treasurer  
California Rifle & Pistol Association, Incorporated

3 **PROOF OF SERVICE**

4 I am employed in the County of Orange, State of California. I am over the age of 18 and  
5 not a party to the within action; my business address is 600 Anton Boulevard, Suite 1400, Costa  
6 Mesa, CA 92626-7689.

7 On July 21, 2026, I served, in the manner indicated below, the foregoing document  
8 described as **STIPULATION AND [PROPOSED] ORDER: (1) GRANTING LEAVE TO**  
9 **FILE SECOND AMENDED COMPLAINT & PETITION FOR WRIT OF MANDATE;**  
10 **AND (2) SPECIALLY SETTING DEMURRER HEARINGS, BRIEFING SCHEDULE,**  
11 **AND GRANTING ADMINISTRATIVE RECORD EXTENSION** on the interested parties in  
12 this action by placing true copies thereof, enclosed in sealed envelopes, at Costa Mesa, addressed  
13 as follows:

14 *Please see attached Service List*

- 15 ☐ BY REGULAR MAIL: I caused such envelope to be deposited in the mail at Costa  
16 Mesa, California. The envelope was mailed with postage thereon fully prepaid. I am  
17 “readily familiar” with the law firm’s practice of collection and processing  
18 correspondence for mailing. Under the practice, it would be deposited with the U.S.  
19 Postal Service on that same day with postage thereon fully prepaid at Costa Mesa,  
20 California, in the ordinary course of business.
- 21 ☒ BY ELECTRONIC MAIL: I caused such document(s) to be delivered electronically to  
22 the email addresses as set forth in the attached service list:
- 23 ☐ BY OVERNIGHT DELIVERY: I caused such envelopes to be delivered by air courier,  
24 with next day service, to the offices of the addressees as set forth on the attached Service  
25 List.
- 26 ☐ BY PERSONAL SERVICE: I caused such envelopes to be delivered by hand to the  
27 offices of the addressees.

28 I declare under penalty of perjury under the laws of the State of California that the above  
is true and correct.

Executed on July 21, 2026, at Costa Mesa, California.

24   
25 Jocelyne Poveda  
26 [jpoveda@gmail.com](mailto:jpoveda@gmail.com)

*Safari Club International, et al. v. California Department of Fish and Wildlife, et al.*  
*Los Angeles County Superior Court, Case No. 26STCP00987*

**SERVICE LIST**

|                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Evan Eickmeyer<br>Eric Katz<br>James C. Crowder<br>Benjamin P. Lempert<br><b>Deputy Attorneys General</b><br>1300 I Street, Suite 125<br>Sacramento, CA 95814               | <i>Attorney for Defendant</i><br><i>California Department of Fish and Wildlife</i><br><br>Email:<br><a href="mailto:evan.eickmeyer@doj.ca.gov">evan.eickmeyer@doj.ca.gov</a><br><a href="mailto:eric.katz@doj.ca.gov">eric.katz@doj.ca.gov</a><br><a href="mailto:james.crowder@doj.ca.gov">james.crowder@doj.ca.gov</a><br><a href="mailto:benjamin.lempert@doj.ca.gov">benjamin.lempert@doj.ca.gov</a>                                                                                                     |
| Edward T. Schexnayder<br>Orran Balagopalan<br>Emma Lewis<br><b>Shute, Mihaly &amp; Weinberger LLP</b><br>550 California Street, Suite 1200<br>San Francisco, CA 94104       | <i>Attorney for Respondent</i><br><i>Catalina Island Conservancy</i><br><br>Email:<br><a href="mailto:schexnayder@smwlaw.com">schexnayder@smwlaw.com</a><br><a href="mailto:obalagopalan@smwlaw.com">obalagopalan@smwlaw.com</a><br><a href="mailto:elewis@smwlaw.com">elewis@smwlaw.com</a>                                                                                                                                                                                                                 |
| Scott Campbell<br>Amanda Daams<br><b>Best Best &amp; Krieger LLP</b><br>300 South Grand Ave., 25th Floor<br>Los Angeles, CA 90071                                           | <i>Attorneys for Responsible Party</i><br><i>City of Avalon</i><br><br>Email:<br><a href="mailto:Scott.campbell@bbklaw.com">Scott.campbell@bbklaw.com</a><br><a href="mailto:Amanda.Daams@bbklaw.com">Amanda.Daams@bbklaw.com</a>                                                                                                                                                                                                                                                                            |
| Rory LoAllen<br><b>County of Los Angeles</b><br>Office of the County Counsel<br>Kenneth Hahn Hall of Administration<br>500 West Temple Street #648<br>Los Angeles, CA 90012 | <i>Attorneys for Responsible Party</i><br><i>County of Los Angeles</i><br><br>Email:<br><a href="mailto:rallen@counsel.lacounty.gov">rallen@counsel.lacounty.gov</a>                                                                                                                                                                                                                                                                                                                                         |
| C.D. Michael<br>Sean Brady<br>Tiffany Cheuvront<br><b>Micel &amp; Associates, P.C.</b><br>180 E. Ocean Boulevard, Suite 200<br>Long Beach, CA 90802                         | <i>Attorneys for Petitioners</i><br><i>California Rifle &amp; Pistol Association,</i><br><i>Incorporated and California Bowmen</i><br><i>Hunters/State Archery Association</i><br><br>Email:<br><a href="mailto:cmichel@michellawyers.com">cmichel@michellawyers.com</a><br><a href="mailto:sbrady@michellawyers.com">sbrady@michellawyers.com</a><br><a href="mailto:tcheuvront@michellawyers.com">tcheuvront@michellawyers.com</a><br><a href="mailto:lfera@michellawyers.com">lfera@michellawyers.com</a> |