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Hon. Assembly Members
California State Assembly
Capitol Office
1021 O Street
Sacramento, CA 95814

Hon. State Senators
California State Senate
Capitol Office
1021 O Street
Sacramento, CA 95814

RE: Litigation risk pertaining to Senate Bill 818

Dear Hon. State Senators and Asembly Members:

I am writing on behalf of the Mountain Lion Foundation to urge you to oppose Senate Bill 818. This proposed legislation not only directly conflicts with the California Wildlife Protection Act, enacted by voter approval of Proposition 117 in 1990, but would require state wildlife managers to endorse unnecessary and inhumane practices. Moreover, as this bill was introduced recently, it has not been adequately examined to assess the potential consequences of privatization of wildlife management and removal, contrary to the intent and purpose of Proposition 117.

As you know, Senate Bill 818 proposes to legalize non-lethal hound hunting in El Dorado County by establishing a five-year pilot program that would require the state to authorize private hound-handlers to unleash their dogs to pursue and "tree" mountain lions to "collect data" on whether this is even a good idea. Although the initial five-year pilot would be geographically limited to El Dorado County, the primary purpose of the pilot study is not to examine whether the program is effective, but to "evaluate the feasibility and cost of expanding the program to other areas experiencing an *increased risk* of encounters with problem mountain lions." (S.B.

818, § 2, subd. (d).) Notably, the mere risk of lion encounters is a far cry from the imminent threat to public health and safety standard enshrined in current law. (Cal. Fish & Game Code § 4801.) This language could significantly expand the circumstances under which private hound hunting could be authorized.

Importantly, the California Wildlife Protection Act of 1990 designated the mountain lion as a specially protected mammal, making it unlawful to take, injure, possess, transport, import, or sell any mountain lion or any part or product thereof. (*See* Cal. Fish & Game Code § 4800.) Under California law, the term *take* means "[to] hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (Cal. Fish & Game Code § 86.) There is no question that harassing mountain lions with hounds would constitute the pursuit and capture, or an attempt to pursue and capture mountain lions in plain violation of the Fish and Game Code and Proposition 117.

Furthermore, with the exception of certain funding provisions, the Wildlife Protection Act provides that, "[T]his act shall be amended only by a statute approved by a vote of four-fifths of the members of both houses of the Legislature [and] [a]ny amendment of this act shall be consistent with, and further the purposes of, this act." (Cal. Fish & Game Code § 4800.) There is no exception for pilot studies. Even if Senate Bill 818 were able to meet the four-fifths threshold required for passage, it would still be inconsistent with the Wildlife Protection Act because it does not further the purposes of the Act, which is plainly to "preserve, maintain, and enhance California's diverse wildlife heritage and the habitats upon which it depends," and to prohibit the take of mountain lions. (Cal. Fish & Game Code §§ 2780, 4800.) Simply declaring consistency does not make it so. (S.B. 818, § 6).

Indeed, the declarations in section one of the proposed bill would encode the assertion that the special protections established by Proposition 117 were "a 'political designation', with no basis in population abundance or trend." (S.B. 818, § 1, subd. (h).) The bill also makes the unsubstantiated claim that, "[A]bsence of houndspersons placing nonlethal pressure on mountain lions for the past 35 years has resulted in changes in their behavior. . . . resulting in substantially heightened public safety concerns and an *exponential increase* in the depredation of livestock and pets." (*Id.* § 1, subds. (l) & (t).) While the bill asserts vaguely that scientific studies support the use of hound hunting, no actual studies are referenced. This is almost certainly because no studies exist. The bill makes broad claims about the benefits of hound hunting, but it would effectively undermine the discretion of the state's wildlife agency to determine whether hounding is consistent with the Wildlife Protection Act's purposes and its prohibition on *take* of mountain lions.

The bill is also unnecessary, since the California Department of Fish and Wildlife (CDFW) is already authorized by Section 4801 of the Fish & Game Code to remove individual mountain lions if it determines the animal poses an imminent threat to public health or safety, or certain fully protected sheep species, or to authorize local agencies to do so. (Cal. Fish & Game Code § 4801.) Such decisions are properly made by wildlife experts based on sound biology and ecological science, and should not be broadened to circumvent CDFW's primary authority to make such determinations. In contrast, S.B. 818, would create a new section of the Fish and Game Code allowing such decisions to be made not solely by CDFW, but also by an "animal damage control officer, or local enforcement agency." (S.B. 818, § 2, subd. (a).) This would

substantially broaden who can authorize wildlife removal operations, which are currently subject to oversight by CDFW. In addition, section three of the bill includes a broad definition of the term "agent" that appears to bestow special authority on hound hunters but lacks any clear explanation or application. (S.B. 818, § 3, subd. (a).) The bill would also require CDFW to "collaborate with federal, state, and county trapping experts and interested nonprofit organizations that have goals and objectives directly related to *the interests of houndspersons* in developing the criteria and procedure for registering authorized or permitted houndspersons," S.B. 818, § 3, subd. (b), but notably omits any role for mountain lion advocates or nonprofit organizations interested in preserving and enhancing California's diverse wildlife heritage and the habitats.

The bill is incoherent and inconsistent with the Wildlife Protection Act and should be rejected. Indeed, the characterization of such a program as "tree and free" is misleading in suggesting that mountain lions would be unharmed in this process. When an animal is chased by hounds, it is likely to panic and undergo extreme stress, which may of itself impair the targeted animal's health and welfare.

Moreover, a program allowing private hound-handlers to remove lions raises a variety of additional concerns. For example, this would create new incentives for mountain lion removal and promote private hound hunting as a public benefit, while in effect establishing what amounts to a bounty program. The promotion of private hound-hunting introduces recreational and economic incentives for raising and training hounds, and services or contracting, that may popularize wildlife removal and improperly influence decisions to harass lions unnecessarily. If enacted, hound-handlers and hound-hunting enthusiasts would have a strong incentive to promote their services, which could lead to false characterizations of the threat posed by mountain lions, and reinforce negative attitudes towards mountain lions, for the purpose of advancing this private interest. It is unclear how such abuses would be prevented to ensure that any necessary lion removals are based on objective standards and sound biological science. This could undermine the protections established for mountain lions and overshadow the availability of more humane alternatives for resolving wildlife conflicts—including proactive measures for preventing conflicts before removal is deemed necessary.

Though exempt from environmental review, S.B. 818 also appears to conflict with the intent and purpose of the California Environmental Quality Act.

- Impacts to lions have not been examined; including but not limited to the physical stress and risk of injury from being hounded, dislocation from familiar habitat, potential impacts on orphaned kittens, and impacts on other species adversely impacted by hounding or the reduction in mountain lion food leavings.
- Analysis is also needed to examine the feasibility of relocating mountain lions and to examine the potential environmental impacts of introducing relocated lions into other habitats.
- The California Supreme Court has also made clear that CEQA analysis of environmental impacts should take place *before* committing to a course of action that may have significant impacts on the environment. (See e.g., *Save Tara v. City of W. Hollywood*, 45 Cal. 4th 116, 138 (2008).)

The Legislature may be exempt from complying with CEQA, but individual projects funded in connection with the "pilot program" will require compliance with CEQA, a hurdle advocates will no doubt have difficulty clearing given the wholesale lack of environmental benefit compared to extraordinary risk. (Cal. Fish & Game Code § 2799 ("[E]very expenditure made pursuant to this chapter shall comply with the California Environmental Quality Act (commencing with Section 21000) of the Public Resources Code.))"

Accordingly, we urge you to oppose S.B. 818, which is contrary to existing law, not needed to address conflicts, and has not been properly examined to assess its environmental impacts and potential to harm mountain lions and the species that rely on them.

Sincerely,

Jessica L. Blome
Greenfire Law, PC