

October 29, 2020

*Via email*

Paul Souza, Regional Director  
 U.S. Fish & Wildlife Service  
 Pacific Southwest Region  
 [REDACTED]

David Bess, Chief of Enforcement  
 California Department of Fish and Wildlife  
 [REDACTED]

Dear Messrs. Souza and Bess:

I am counsel to People for the Ethical Treatment of Animals (PETA), and I am writing to urge your offices to investigate Ivan Geronimo Gomez, arrested on charges of arson to forest land in connection with the Dolan Fire in September 2020,<sup>1</sup> for the fatalities of legally protected species and damage to their habitats, and to file any and all appropriate charges should it be determined Gomez did in fact start the Dolan Fire.

The Dolan Fire has scorched more than 125,000 acres in areas that are home to several species deemed endangered or threatened under the federal Endangered Species Act (ESA), 16 U.S.C. § 1531, *et seq.*, and the California Endangered Species Act (CESA), Cal. Fish and Game Code § 2050, *et seq.* Most notably, the Dolan Fire burned down an 80-acre sanctuary in Big Sur for the critically endangered California condor, killing nine condors.<sup>2</sup> Only about 340 California condors remain in the wild, and any loss constitutes a devastating setback to the species' survival.<sup>3</sup>

Furthermore, the Dolan Fire began in the Los Padres National Forest, which “ha[s] the largest number of threatened, endangered or sensitive species of wildlife within the National Forests of California.”<sup>4</sup> Los Padres serves as the habitat for at least twenty-three state and/or federal endangered or threatened species, many of whom are found in Monterey County, the location of the Dolan

<sup>1</sup> Kate Cimini, *Man Who Claims He Lit Dolan Fire to Hide Murders Undergoing Mental Health Evaluation*, The Californian (Sept. 18, 2020), <https://www.thecalifornian.com/story/news/2020/09/18/california-wildfires-dolan-fire-arson-murders-mental-health-evaluation/5825074002/>.

<sup>2</sup> John Fitzrandolph, *9 California Condors Died in Dolan Fire. Juvenile Birds Will Soon Join Survivors*, San Luis Obispo Tribune (Sept. 21, 2020), <https://www.sanluisobispo.com/news/local/environment/article245810215.html>.

<sup>3</sup> *Fate of California Condors Unknown After Sanctuary Burns*, Associated Press (Aug. 26, 2020), <https://www.nbcnews.com/science/science-news/fate-california-condors-unknown-after-sanctuary-burns-n1238175>.

<sup>4</sup> *Id.*; Los Padres Nat'l Forest Threatened, Endangered, or Sensitive Species, USDA Forest Service, [https://www.fs.usda.gov/detail/lpnf/learning/nature-science?cid=fsm9\\_034070](https://www.fs.usda.gov/detail/lpnf/learning/nature-science?cid=fsm9_034070) (last visited Oct. 13, 2020).

PEOPLE FOR  
 THE ETHICAL  
 TREATMENT  
 OF ANIMALS  
 FOUNDATION

Washington  
 1536 16th St. N.W.  
 Washington, DC 20036  
 202-483-PETA

Los Angeles  
 2154 W. Sunset Blvd.  
 Los Angeles, CA 90026  
 323-644-PETA

Norfolk  
 501 Front St.  
 Norfolk, VA 23510  
 757-622-PETA

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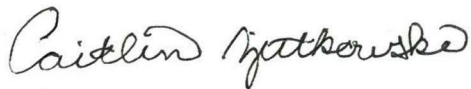
Fire,<sup>5</sup> including the California least tern, the western snowy plover, the marbled murrelet, the California red-legged frog, and the Smith’s blue butterfly.<sup>6</sup> There is a high likelihood that the fire killed, harmed, or otherwise resulted in illegally “taking” members of these and other legally protected species.<sup>7</sup>

The CESA prohibits the killing of listed species,<sup>8</sup> and the ESA broadly defines “take” to include killing, harassing, or harming listed species.<sup>9</sup> The ESA regulations, in turn, define “harm” to include “significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering,”<sup>10</sup> and “harass” to include an act “which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering.”<sup>11</sup> The killing of protected wildlife by arson unquestionably constitutes a take in violation of the CESA and ESA, and setting a fire that razes thousands of acres known to serve as habitat for legally protected species further constitutes harm and harassment in violation of the ESA.<sup>12</sup>

If Gomez did in fact start the Dolan Fire, his actions have resulted in the illegal taking of nine California condors and likely many other protected animals in violation of the ESA, 16 U.S.C. §§ 1532(19) and 1538(a)(1)(B), and the CESA, Cal. Fish and Game Code §§ 86 and 2080. If your investigations find Gomez did violate federal or state law, please assess the maximum penalties and refer the case to the appropriate offices for prosecution.

Thank you for your time and consideration of this important matter.

Very truly yours,



Caitlin Zittkowski  
Counsel  
PETA Foundation  
2154 W. Sunset Blvd.  
Los Angeles, CA 90026  
caitlinz@petaf.org

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<sup>5</sup> See *Dolan Fire in Monterey County Nearly Contained*, Mercury News (Oct. 3, 2020), <https://www.mercurynews.com/2020/10/03/dolan-fire-in-monterey-county-nearly-contained/>.

<sup>6</sup> Los Padres National Forest, About the Forest, Animals and Plants, USDA Forest Service, <https://www.fs.usda.gov> (search “Los Padres National Forest Animals”; then follow first search result titled “Los Padres National Forest—About the Forest”) (last visited Oct. 13, 2020); *Threatened and Endangered Species of Los Padres Nat’l Forest*, USDA Forest Service (2016), [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd570353.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd570353.pdf).

<sup>7</sup> See 16 U.S.C. § 1532(19); *id.* § 1538(a)(1)(B).

<sup>8</sup> Cal. Fish and Game Code §§ 86 and 2080

<sup>9</sup> 16 U.S.C. § 1532(19).

<sup>10</sup> *Id.*

<sup>11</sup> 50 C.F.R. § 17.3.

<sup>12</sup> See *id.*; see also *Babbitt v. Sweet Home Chapter of Communities for a Great Or.*, 515 U.S. 687, 696-97 (1995); *Marbled Murrelet v. Babbitt*, 83 F.3d 1060, 1066 (9th Cir. 1996) (threat of imminent harm to protected species’ habitat constituted sufficient grounds for granting injunctive relief under the ESA).