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9 Save Our Birds

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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 FOR THE COUNTY OF LOS ANGELES — CENTRAL DISTRICT  
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14 **Save Our Birds,**

15 Plaintiff,

16 vs.

17 **Dr. Annette Jones, et al.,**

18 Defendants.

Case No.: 19STCV18398

Assigned for all purposes to:  
Hon. Holly J. Fujie, Dept. 56

**Ex Parte Application to Conduct Early  
Discovery;  
Declaration of Chad D. Morgan**

Action Filed: May 28, 2019  
Trial Date: Not Set

**Ex Parte Hearing:**

Date: Jun. 10, 2019  
Time: 8:30 a.m.  
Dept.: 56  
Judge: Hon. Holly J. Fujie

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24 **To all parties and their attorneys of record:**

25 **Please Take Notice** that Plaintiff Save Our Birds applies ex parte for an order permitting  
26 early discovery and shortening the time for two depositions and written discovery responses. The  
27 Application will be considered in **Department 56** of the Los Angeles County Superior Court,  
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1 Central District located at 111 N. Hill Street, Los Angeles, CA 90012 at 8:30 a.m. on Monday,  
2 **June 10, 2019.**

3 The Civil Discovery Act permits this application to serve discovery earlier than is  
4 otherwise permitted. (Code Civ. Proc. §§ 2031.020(d) [demand for production], 2030.020(d)  
5 [written interrogatories] & 2025.210 [oral depositions].) The Act also permits this application to  
6 shorten time for Defendants' response to the requests (Code Civ. Proc. §§ 2031.020(c)(1)  
7 [demands for production] & 2030.260(a) [written interrogatories]) and to require a party to sit  
8 for deposition on less than 10 days' notice (Code Civ. Proc. § 2025.270 [shorten notice for oral  
9 deposition]).

10 Ex parte relief is necessary because Defendants are engaged in forced destruction of  
11 poultry in a manner that Plaintiff contends violates, *inter alia*, Food and Agricultural Code  
12 section 9562. (Complaint for Injunctive Relief, filed May 28, 2019 (Compl.) p. 4 et seq.) These  
13 killings are occurring on a daily basis and will continue to occur unabated unless the Court  
14 intervenes. Plaintiff requests immediate discovery for the purpose of preparing and pursuing an  
15 application for a temporary restraining order and/or a motion for preliminary injunction  
16 preventing inhumane euthanizations. Plaintiff seeks to obtain discovery responses as early as 10  
17 days from the date of this application, shorting a process that would otherwise take  
18 approximately 40 days. This will allow Plaintiff to file a more complete TRO application or  
19 preliminary injunction motion 30 days sooner than might otherwise be possible. (See Morgan  
20 Decl. ¶ 17.)

21 The parties were given sufficient notice of this Application, as required by California  
22 Rules of Court, Rule 3.1203. (Declaration of Chad D. Morgan, set forth below (Morgan Decl.  
23 ¶ 3.) Plaintiff does not know whether Defendants' will oppose this application. (*Ibid.*) It is not  
24 known who will present Defendants in this matter, but they can be contacted through the  
25 General Counsel for the California Department of Agriculture.

1 Michele Dias, General Counsel  
2 Cal. Dept. of Food and Agriculture  
3 1220 N Street, Suite 320  
4 Sacramento, California 95814

Tel: [916] 654.1393  
Fax: [916] 653.1293  
Email: michele.dias@cdfa.ca.gov

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DATE: June 7, 2019

Respectfully Submitted,  
LAW OFFICE OF CHAD D. MORGAN

By: \_\_\_\_\_ /s/  
Chad D. Morgan Esq., attorney for  
Plaintiff, Save Our Birds

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**MEMORANDUM OF POINTS AND AUTHORITIES**

In this action, Plaintiff seeks to prevent continued inhumane killings of back-yard pets by the California Department of Food and Agriculture (CDFA), which has targeted all birds in certain areas for depopulation in response to a purported outbreak of a virulent Newcastle disease (vND). In those areas, CDFA is killing all birds, regardless of whether they are part of commercial flocks or pets, regardless of whether they are infected with the disease.

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In this application, Plaintiff seeks the early discovery necessary to ascertain the need for the quarantine and to establish CDFA’s policies and procedures relating to the depopulation in anticipation of pre-trial proceedings such as an application for a TRO or a motion for preliminary injunction. Plaintiff cannot obtain this information by any other means because CDFA has not been forthcoming with the public about its activities. An example of this is counsel’s request for public records containing CDFA’s orders relating to the quarantine. CDFA responded that no such documents exist. (Morgan Decl. ¶ 18.) CDFA’s General Counsel later clarified that it issues “notices,” not orders, and has been in the process of gathering those records for nearly two weeks. (*Ibid.*)

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**STATEMENT OF FACTS**

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In or about May 2018, Dr. Annette Jones, the California State Veterinarian, imposed a quarantine on poultry<sup>1</sup> to combat the vND. (Morgan Decl. ¶ 5.) The current quarantine area includes all of Los Angeles County and large portions of Riverside and San Bernardino Counties. (Morgan Decl. ¶ 5.)

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In public communications regarding the quarantine, Dr. Jones has asserted that all poultry connected with diseased birds will be humanely euthanized. (Morgan Decl. ¶ 6.) As of early April, 2019, nearly 1.2 million birds, mostly chickens, had been killed. (Wisckol, *Battle Expands to Save Poultry*, The Press Enterprise (Apr. 11, 2019) p. A1.) Euthanizations in connection with the quarantine are occurring on an almost daily basis and include healthy animals that have not tested positive for vND. (Morgan Decl. ¶¶ 11-12.)

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<sup>1</sup> Under Food and Agriculture Code section 9503, “poultry” is defined to include all domestic and captive birds.

1 Plaintiff questions the validity of the quarantine and resulting depopulation orders in the  
2 first instance but focuses primarily on CDFA's treatment of the birds it kills. (See Compl. ¶ 73  
3 et seq.) Concerns about the quarantine generally arise from Defendants' communication failures  
4 and refusal to provide justification for their actions (Compl. ¶¶ 24-25), as well as their callous  
5 treatment towards pet owners whose birds are being killed against their will (Compl. ¶¶ 34-40).  
6 (See also Morgan Decl. ¶ 20.) The Complaint also alleges that CDFA has not been euthanizing  
7 birds in accordance with the applicable standard of care, which is established in part by guidelines  
8 published by the American Veterinary Medical Association (AVMA). (See e.g. Compl. ¶¶ 26  
9 & 79; Morgan Decl. ¶ 7.) Applicable AVMA guidelines include their Depopulation Guidelines  
10 (Morgan Decl. ¶ 7, Exh. I [Depopulation Guidelines]) and the incorporated Euthanasia  
11 Guidelines (Morgan Decl. ¶ 8 Exh. J [Euthanasia Guidelines]; see also Depopulation Guidelines  
12 at p. 8 [incorporation].) The United States Department of Agriculture has adopted these  
13 guidelines as best practices for depopulation. (Morgan Decl. ¶ 9, Exh. K.)

14 For companion birds, which these are (Morgan Decl. ¶ 11), the AVMA has set forth  
15 specific guidelines for depopulating poultry that are different from those used at commercial  
16 farms. (Depopulation Guidelines at p. 55.) Containerized gassing is a preferred method. (*Ibid.*)  
17 The guidelines require, among other things, a rapid death and that the animals be separated and  
18 restrained so they do not cause injuries to themselves or others. (Euthanasia Guidelines at p. 19.)  
19 CDFA agents have been observed piling birds into trash cans, one on top of another, leaving  
20 them there until the can is full before capping it and turning on the gas. (Morgan Decl. ¶ 14.) As  
21 an alternative to trashcans, AVMA guidelines prefer the use of a portable MAK Cart, which has  
22 individual gas chambers that can render birds unconscious in 30-60 seconds. (Depopulation  
23 Guidelines at p. 58.) This is less than the uncounted number of minutes CDFA's approach  
24 requires. (Morgan Decl. ¶ 14.)

25 When containerized gassing is not possible, other methods are permitted. (Depopulation  
26 Guidelines at p. 8.) A less preferred method is gunshot. (Depopulation Guidelines at p. 55.)  
27 Gunshot is permitted only when capture is not possible. (Euthanasia Guidelines at p. 63.) Video  
28 evidence appears to show a CDFA agent using gunshot to kill a restrained bird. (Morgan Decl.

1 ¶ 15.) CDFA agents have also been observed using blunt force trauma to kill birds. (Compl.  
2 ¶¶ 63-74; Morgan Decl. ¶ 16.) Applicable guidelines do not permit this method of euthanasia.  
3 (Depopulation Guidelines at p. 61; Euthanasia Guidelines at p. 36; see also Compl. ¶¶ 63-74.)

4 Plaintiff will ultimately seek a restraining order preventing, among other things, inhumane  
5 treatment of animals killed by CDFA. (Compl. at p. 17.) Before making that request, Plaintiff  
6 seeks discovery from Defendants relating generally to the quarantine's justification and CDFA's  
7 policies and procedures. While Plaintiff believes that existing evidence justifies a TRO, even if  
8 limited in scope to the treatment of animals, early discovery will quickly evaluate other related  
9 issues (such as biosecurity or justification) and may help to reduce the number of issues to be  
10 litigated in the future.

### 11 PROPOSED DISCOVERY

12 In this application, Plaintiff seeks leave of court to immediately serve the following  
13 discovery requests:

- 14 • **Written Discovery from Defendant Dr. Annette Jones.** Special interrogatories  
15 and requests for production to seek information and documents about Dr. Jones's  
16 justification for the quarantine. (Morgan Decl. ¶ 4(a) & (b), Exhs. A & B.) This  
17 can be obtained only from her because the power to impose the quarantine rests  
18 with her and her alone. (Food & Agr. Code § 9562.)
- 19 • **Written Discovery from Defendant CDFA.** Special interrogatories and requests  
20 for production to seek information and documents about
  - 21 ○ CDFA's depopulation plan;
  - 22 ○ The scope and location of depopulation activities (useful to for  
23 determining whether birds are being depopulated in accordance with  
24 CDFA's plan);
  - 25 ○ CDFA policies and procedures to relating to various depopulation  
26 activities from euthanasia to disposal; and
  - 27 ○ Other information to assist in the depositions described below.

28 (Morgan Decl. ¶ 4(d) and (e), Exhs. D & E.)

- 1           • **Deposition Notice for Dr. Annette Jones.** Since she has the sole power to  
2 impose a quarantine, Plaintiff seeks her deposition testimony to explain the  
3 requisite belief that justifies the quarantine and the supporting documents sought  
4 above. (Morgan Decl. ¶ 4(c), Exh. C.)
- 5           • **Deposition Notice for CDFA’s Person Most Qualified** to testify about its  
6 response plan to the quarantine. (Morgan Decl. ¶ 4(f), Exh. F.) This information  
7 is necessary to determine whether the plan complies with applicable laws,  
8 regulations, and/or best practices concerning humane euthanasia and biosecurity.  
9 It will also help find the common ground the parties agree on to expedite this  
10 process and reduce the cost of litigation. More specifically, Plaintiff seeks  
11 information about the following plans:
- 12           a. approved and prohibited euthanasia methods;
  - 13           b. hiring, training, and supervision of employees and contractors charged  
14           with carrying-out the plan;
  - 15           c. testing of poultry within and outside the quarantine area;
  - 16           d. enforcement of the quarantine and related orders, including obtaining  
17           warrants to search for, test, and destroy poultry in the quarantine area;
  - 18           e. disposal of carcasses of birds that have tested positive for or been exposed  
19           to vND;
  - 20           f. decontamination of properties exposed to vND; and
  - 21           g. biosecurity methods employed by CDFA personnel.

22           Plaintiff also requests to shorten the time for Defendants’ responses to the written  
23 discovery such that all responses to all written discovery must be served electronically within 10  
24 days. If written discovery responses are served within 10 days, it is Plaintiff’s intent to take the  
25 Depositions (if still needed) after its receipt of the written discovery responses and would not  
26 need shorten the 10-day deposition notice requirement. As an alternative to the proposed  
27 schedule, Plaintiff would request the right to take immediate depositions with written discovery  
28 responses to follow (if still needed).



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**ARGUMENT**

Generally plaintiffs must wait ten days until after service of a summons or the appearance of that defendant before serving written discovery on a defendant. (Code Civ. Proc. §§ 2031.020(b) [demand for production] & 2030.020(b) [written interrogatories].) However, upon application to the court (with or without notice) and for good cause shown, a plaintiff may make a demand at an earlier time. (Code Civ. Proc. §§ 2031.020(d) [demand for production] & 2030.020(d) [written interrogatories].) A similar rule applies to oral depositions except the general rule is that 20 days must pass rather than ten. (Code Civ. Proc. § 2025.210.)

Parties must generally respond to written discovery within 30 days unless the court has shortened time for a response. (Code Civ. Proc. §§ 2031.020(c)(1) [demands for production] & 2030.260(a) [written interrogatories].) Oral depositions must be scheduled no less than ten days after service of the notice, unless the court shortens time. (Code Civ. Proc. § 2025.270.)

**I. GOOD CAUSE EXISTS TO PERMIT EARLY DISCOVERY.**

One justification of good cause to permit early discovery is the need for evidence in an imminent pretrial hearing. (Cal. Civil Discovery Practice (4th ed Cal. CEB) § 5.18.) This is the basis here.

Plaintiff intends to seek a temporary restraining order or preliminary injunction at the earliest possible time. The issues are (1) whether Defendants’ quarantine complies with Food and Agricultural Code section 9562; and/or (2) if so, whether Defendants’ execution and implementation of the depopulation orders issued under that section comply with state law. Based on authority under section 9562, Defendants are destroying animals — backyard pets included — on a daily basis. (Morgan Decl. ¶¶ 5 & 12-13.) For every day that passes without relief, pets will continue to die inhumane deaths in front of their owners. (Morgan Decl. ¶ 17.)

**A. Early discovery from Dr. Jones will evaluate whether depopulation orders are justified.**

The question of whether the quarantine is justified turns largely on the question of Defendant Dr. Annette Jones’s belief because she “shall impose a quarantine if [she] believes, upon any basis reasonably supportable by standard epidemiological practice or credible scientific research, that a population of domestic animals or food product from animals has contracted, or

1 may carry, an illness ... that, without intervention, could transmit an illness that could kill or  
2 seriously damage other animals ....” (Food & Agr. Code § 9562, subd. (a).)

3 This is a broad power (see also Food & Agr. Code § 9562, subd. (b)), but so far,  
4 Defendants’ justification to Plaintiff is their conclusory assertion that the quarantine is necessary  
5 because they it is necessary. That is not enough, and Plaintiff is entitled to discovery into the  
6 basis of Defendant’s belief. Even if the bar is low, Defendants need to meet it and must do so  
7 quickly because (1) the information should be readily accessible, and (2) if Defendant does not  
8 actually have information to support her belief, Plaintiff should be entitled to a TRO to  
9 immediately halt the killing of backyard pets.

10 **B. Early discover from CDFA will evaluate whether depopulation orders are executed**  
11 **humanely.**

12 Even if the quarantine is justified, the depopulation order must be carried-out in  
13 accordance to applicable state and federal law. This raises at least two questions: (1) does  
14 CDFA’s plan comply with the law; and (2) have CDFA agents acted in accordance with the plan.  
15 Plaintiff’s discovery requests relate to the following inquires:

- 16 • Are depopulation orders being issued in accordance with the depopulation plan?
- 17 • Are CDFA agents adequately trained to implement the plan?
- 18 • What euthanasia methods are CDFA using and how are they being implemented?
- 19 • What are CDFA’s biosecurity measures?

20 Just as there is urgency to the question of justification for the quarantine, there is also  
21 urgency as to whether the quarantine and related depopulation orders are being executed  
22 properly. If not, CDFA’s actions should be corrected at the earliest opportunity. There is  
23 evidence and allegations that birds are being killed in an inhumane manner that violates American  
24 Veterinary Medical Association (and therefore, USDA) guidelines. Are there other problems that  
25 can be resolved at the same time?

26 **C. Defendants’ time to respond to the written discovery should be shortened.**

27 Plaintiff requests that Defendants be given 10 days to respond to written discovery. This  
28 should not be burdensome as the requests are limited and narrowly tailored to the most pressing  
issues in this case. The interrogatories could be answered quickly, and the documents should be

1 readily accessible. If Defendants provide written discovery responses in less than 10 days, then  
2 Plaintiff does not need to take their depositions on less than 10 days' notice. As an alternative,  
3 however, if the Court does not shorten time for written discovery responses, then Plaintiff  
4 requests to short time for the depositions.

5 **II. EX PARTE RELIEF IS NECESSARY AND APPROPRIATE.**

6 California Rules of Court require a showing of "irreparable harm, immediate danger, or  
7 any other statutory basis for granting relief ex parte." (Cal. Rules of Court, Rule 3.1202, subd.  
8 (c).) Plaintiff acknowledges that ex parte motions are rarely justified. (See e.g. *Mission Power*  
9 *Eng'g Co. v. Continental Cas. Co.* (C.D. Cal. 1995) 883 F.Supp. 488, 490 (*Mission Power*).) While  
10 there is abuse of the ex parte process (see e.g. *id.* at p. 489 citing *In re termagnetics America, Inc.*  
11 (C.D. Cal. 1989) 101 Bankr. 191), this case is an exception.

12 Here, ex parte relief is authorized by statute. There is statutory authorization for an ex  
13 parte application to permit service of discovery before it would otherwise be authorized. (Code  
14 Civ. Proc. §§ 2031.020(d) [demand for production], 2030.020(d) [written interrogatories],  
15 2033.020(d) [requests for admission] & 2025.210 [oral depositions].) There is also statutory  
16 authorization to shorten the response time for written discovery responses (Code Civ. Proc.  
17 §§ 2031.020(c)(1) [demands for production], 2030.260(a) [written interrogatories]  
18 & 2033.250(a) [requests for admission]) and the notice requirement for an oral deposition (Code  
19 Civ. Proc. § 2025.270 [shorten notice for oral deposition]). In both instances, the applicability of  
20 ex parte relief is reinforced by the fact that Plaintiff can seek relief with or without notice to  
21 Defendants. Here, Defendants have notice. (Morgan Decl. ¶ 3.)

22 Denial of ex parte relief would cause irreparable harm because it would extend the time  
23 for Plaintiff's application for a temporary restraining order or motion for preliminary injunction  
24 by at least 30 days. During this time, the behavior Plaintiff is complaining of will continue and  
25 pets will continue be killed by the inhumane means. (See Morgan Decl. ¶ 17.)  
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**CONCLUSION**

To allow Plaintiff to fully evaluate and prepare a TRO application or motion for preliminary injunction at the earliest possible time, it should be permitted to obtain the early discovery described above. Plaintiff's application should be granted.

DATE: June 7, 2019

Respectfully Submitted,  
LAW OFFICE OF CHAD D. MORGAN

By: \_\_\_\_\_ /s/  
Chad D. Morgan Esq., attorney for  
Plaintiff, Save Our Birds

1 DECLARATION OF CHAD D. MORGAN

2 I, Chad D. Morgan, declare:

3 1. I am a counsel for Plaintiff Save Our Birds in this action. I am a member of the  
4 California State Bar and I am admitted to practice before this California Court. I make this  
5 declaration of my personal knowledge of the facts stated herein and could and would competently  
6 testify to them if called to do so.

7 2. I make this declaration in support of Plaintiff's Ex Parte Application to Conduct  
8 Early Discovery.

9 3. At 9:36 a.m. on Thursday, June 7, 2019, I provided notice of this application by  
10 sending email to Michele Dias, General Counsel for CDFA which, has been my usual means of  
11 communicating with her. My email stated:

12 This email is notice that I will appearing ex parte at 8:30 a.m. on Monday, June 10,  
13 2019 in the Los Angeles County Superior Court in Department 56 of the Stanley  
14 Mosk Courthouse located at 111 N. Hill Street, Los Angeles CA 90012. I will be  
15 requesting an order permitting early discovery and an order shortening time for  
responses to the discovery requests.

16 I will forward a copy of the ex parte application shortly. Please let me know if  
Defendants will oppose the ex parte application.

17 4. Through this application, Plaintiff seeks permission to serve the following  
18 discovery requests earlier than otherwise permitted:

- 19 a. Special Interrogatories to Defendant Dr. Annette Jones: A true and correct  
20 copy of the Special Interrogatories Plaintiff seeks to serve are attached as  
21 **Exhibit A.**
- 22 b. Requests for Production to Defendant Dr. Annette Jones: A true and  
23 correct copy of the Requests for Production Plaintiff seeks to serve are  
24 attached as **Exhibit B.**
- 25 c. Notice of Deposition of Dr. Annette Jones: A true and correct copy of the  
26 Deposition Notice Plaintiff seeks to serve is attached as **Exhibit C.**
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- 1 d. Special Interrogatories to Defendant California Department of Food and  
2 Agriculture: A true and correct copy of the Special Interrogatories Plaintiff  
3 seeks to serve are attached as **Exhibit D**.
- 4 e. Requests for Production to Defendant California Department of Food and  
5 Agriculture: A true and correct copy of the Requests for Production  
6 Plaintiff seeks to serve are attached as **Exhibit E**.
- 7 f. Notice of Deposition of a California Department of Food and Agriculture  
8 PMQ: A true and correct copy of the Deposition Notice Plaintiff seeks to  
9 serve is attached as **Exhibit F**.

10 5. As recently as 2018, Dr. Annette Jones, the State Veterinarian, quarantined  
11 poultry in Los Angeles and parts of Riverside and San Bernardino Counties to combat a virulent  
12 Newcastle disease (vND). I am informed and believe that most recent quarantine order was  
13 issued on February 27, 2019. A true and correct copy of the February 27 2019 order, which I  
14 accessed from the California Department of Food and Agriculture (CDFA) website on May 15,  
15 2019 at [https://www.cdfa.ca.gov/ahfss/Animal\\_Health/pdfs/VND\\_RegionalQuarantine\\_1.pdf](https://www.cdfa.ca.gov/ahfss/Animal_Health/pdfs/VND_RegionalQuarantine_1.pdf)  
16 is attached as **Exhibit G**.

17 6. CDFA maintains a webpage with information about Newcastle disease. On the  
18 that website, located at  
19 [https://www.cdfa.ca.gov/AHFSS/Animal\\_Health/Newcastle\\_Disease\\_Info.html](https://www.cdfa.ca.gov/AHFSS/Animal_Health/Newcastle_Disease_Info.html) and accessed  
20 by me on May 15, 2019, I saw a section titled “Message from State Veterinarian, Dr. Annette  
21 Jones.” The message included the following pasasge

22 Due to progression and duration of a virulent Newcastle Disease (vND) outbreak  
23 in parts of Southern California, the State Veterinarian has ordered that all  
24 poultry\* epidemiologically associated (connected) with diseased birds are  
**humanely euthanized**. (Emphasis Added)

25 A true and correct copy of the webpage, which I printed on May 15, 2019, is attached as  
26 **Exhibit H**. This statement is highlighted on page two of the exhibit.

27 7. In conducting research for this case, I learned that the American Veterinary  
28 Medical Association (AVMA) publishes guidelines that many Veterinarians believe set the

1 standard of care with respect to treatment and euthanization of animals. During the course of my  
2 research, I found AVMA guidelines on depopulation. Attached as **Exhibit I** is a true and correct  
3 copy of a selection from the 2019 version of AVMA’s Depopulation Guidelines. The Exhibit  
4 includes the cover, table of contents, and selected pages from the guidelines. I accessed the  
5 guidelines from [https://www.avma.org/KB/Policies/documents/AVMA-Guidelines-for-the-](https://www.avma.org/KB/Policies/documents/AVMA-Guidelines-for-the-Depopulation-of-Animals.pdf)  
6 [Depopulation-of-Animals.pdf](https://www.avma.org/KB/Policies/documents/AVMA-Guidelines-for-the-Depopulation-of-Animals.pdf).

7 8. The AVMA Depopulation guidelines reference the AVMA Euthanasia  
8 Guidelines. I located these guidelines on the AVMA website. Attached as **Exhibit J** is a true and  
9 correct copy of a selection from the 2013 version of AVMA’s Euthanasia Guidelines. The Exhibit  
10 includes the cover/title page, table of contents, and selected pages from the guidelines. I accessed  
11 the guidelines from <https://www.avma.org/KB/Policies/Documents/euthanasia.pdf>.

12 9. In the course of my research, I located a United States Department of Agriculture  
13 (USDA) vND Response policy on the USDA website. Attached as **Exhibit K** is a true and  
14 correct copy of that document, which I accessed on June 6, 2019 from  
15 [https://www.aphis.usda.gov/animal\\_health/emergency\\_management/downloads/vnd/depopul](https://www.aphis.usda.gov/animal_health/emergency_management/downloads/vnd/depopul)  
16 [ation-policy.pdf](https://www.aphis.usda.gov/animal_health/emergency_management/downloads/vnd/depopulation-policy.pdf). The document is dated May 30, 2019.

17 10. I am informed and believe that CDFA and USDA are cooperating agencies and  
18 working together to implement the quarantine and carry-out related kill orders.

19 11. Since agreeing to represent Save Our Birds in this matter, I have been contacted  
20 by numerous bird owners whose birds have been killed or the subject of a CDFA “kill order.” I  
21 hear about birds getting killed on a daily basis. These birds are back-yard pets, have been named  
22 and loved by their owners, and are treated as companions with a status that equals or exceeds that  
23 which I regularly observe in people’s treatment of their cats and dogs. As this case proceeds, I  
24 expect that many of these individuals would testify to these facts. With respect to the frequency  
25 of depopulation, I do not anticipate a dispute from CDFA that depopulation orders are being  
26 carried out on an on-going basis. Indeed, through this discovery, I hope to obtain an exact  
27 number, which is available only from CDFA.

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1           12.     Furthermore, based on research and information I have obtained, it is my  
2 knowledge and belief that CDFa is euthanizing healthy birds that have come into close proximity  
3 of birds that have tested positive for vND. It is my understanding that CDFa's policy is  
4 euthanize all such birds, regardless of whether they have tested positive themselves or otherwise  
5 exhibit symptoms of the disease. Discovery is necessary to answer this question.

6           13.     I have insufficient information to form a belief about the criteria CDFa uses to  
7 determine which healthy birds are killed. This information is necessary to evaluate (1) the  
8 reasonableness of whatever policy CDFa has implemented, and (2) whether CDFa is following  
9 its policy or is arbitrarily killing birds outside demonstrated hotspots. This is an issue because  
10 many owners believe that CDFa is arbitrarily targeting them for speaking out about its  
11 depopulation orders. Based on my interactions with these individuals, I believe they actually hold  
12 these beliefs and need discovery from CDFa to test those beliefs.

13           14.     In reviewing this case, I have reviewed numerous videos of what I am informed  
14 and believe to be CDFa agents killing birds by using trash cans as gas chambers. The videos show  
15 birds being piled one on top of another and left there for extended periods of time until the can is  
16 sufficiently full before CDFa closes the can and fills it with gas to kill the birds. In these videos,  
17 birds are left in the cans waiting for gas for more minutes than I have had time to watch. As this  
18 case develops, I anticipate written and/or oral testimony from the creators of the videos and the  
19 owners of the birds that is consistent with my observations. While I anticipate CDFa to dispute  
20 that such claims are improper, I do not anticipate any reasonable dispute as to the underlying fact  
21 that CDFa gases birds in trashcans and that birds are typically left in the cans for more than one  
22 minute before they are gassed.

23           15.     One video I have received shows a person I believe to be a CDFa agent holding a  
24 chicken to the ground with his foot and pointing a gun at it. I received the video, which has the  
25 filename video.MOV from Kerri Hand, who is known to me as a member of the Save Our Birds  
26 unincorporated association and administrator of the Save Our Birds Facebook group. I am  
27 informed and believe that the video was captured by a home surveillance system and the actions  
28 of CDFa agents who did not know their actions were being recorded. I will bring a thumb drive



1 with a copy of the video, designated as **Exhibit L**, to the hearing on this application and  
2 anticipate testimony from the video “creator”/owner in future proceedings.

3 16. I have received other reports that CDFA agents have killed chicks by stepping on  
4 them, smashing their heads with their boots. Unlike the circumstances described in paragraph 15,  
5 above, which was captured on a surveillance camera, I am not aware that any CDFA agent has  
6 done this on camera. I am aware, however, that CDFA has aggressively attempted to prohibit the  
7 use of recording devices to document their activities, which I think lends credence to allegations  
8 of improper behavior when they are not being filmed. I anticipate appropriate written or oral  
9 testimony in future proceedings from witnesses who observed this behavior.

10 17. Plaintiff and its members continue to be in immediate danger of irreparable harm  
11 each day Defendants conduct continues unabated. If the quarantine is not justified, their pets are  
12 being killed without justification. But even if the quarantine is justified, pets are dying inhumane  
13 deaths that could be prevented by Defendants’ adherence to the applicable standard of care.

14 18. For its part, CDFA has not been forthcoming with the public. Demonstrative of  
15 this is my request for public records for orders issued that relate to the quarantine. CDFA  
16 responded that it had no such records. That might have been the end of the road for most  
17 requesters, but I pushed harder, and CDFA’s general counsel later clarified that CDFA has  
18 “notices” not “orders.” It is this type of “hide-the-ball” tactics that contributes public distrust  
19 of CDFA’s actions. A true and correct copy of this email exchange is attached as **Exhibit M**. The  
20 email from CDFA’s general counsel is on page three of this document and highlighted with a box.

21  
22 I declare under the penalty of perjury under the laws of the State of California that the foregoing  
23 is true and correct.

24 Dated: June 7, 2019

25   
26 CHAD MORGAN

**EXHIBIT  
A**

1 LAW OFFICE OF CHAD D. MORGAN  
2 **Chad D. Morgan, Esq. SBN 291282**  
3 1101 California Ave., Ste. 100  
4 Corona, CA 92881  
5 Tel: (951) 667-1927  
6 Fax: (866) 495-9985  
7 chad@chadmorgan.com

8 Attorney for Plaintiff, Save Our Birds

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF LOS ANGELES ~ CENTRAL DISTRICT  
12

13 **Save Our Birds,**

14 Plaintiff,

15 vs.

16 **Dr. Annette Jones, et al.,**

17 Defendants.

Case No.: 19STCV18398

Assigned for All Purposes to:  
Hon. Holly J. Fujie, Dept. 56

**Plaintiff's First Set of Special  
Interrogatories Propounded Upon  
Defendant Dr. Annette Jones**

18 **SPECIAL INTERROGATORIES**

19 Propounding Party: PLAINTIFF, SAVE OUR BIRDS  
20 Responding Party: DEFENDANT, DR. ANNETTE JONES  
21 Set Number: ONE  
22  
23  
24  
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1           **To all parties and their counsel of record:**

2           Notice is hereby given that Plaintiff Save Our Birds, by and through its attorneys of  
3 record, requests that Defendant, Dr. Annette Jones, the California State Veterinarian (the  
4 Responding Party), provide written responses to each of the following interrogatories. The  
5 interrogatories must be answered fully, separately, and completely, in writing and under oath in  
6 the manner and time provided by California Code of Civil Procedure section 2030 *et seq.*

7           In answering these interrogatories, the Responding Party is required to furnish all  
8 information which is available to her, including without limitation, information in the possession  
9 of her agents, attorneys, and investigators and not merely such information as may be known of  
10 her own personal knowledge.

11          If Responding Party cannot answer the following interrogatories in full, after exercising  
12 due diligence to secure the information to do so, so state, and answer to the extent possible,  
13 specifying Responding Party’s inability to answer the remainder and stating whatever  
14 information or knowledge is has concerning the unanswered portion.

15  
16   **SPECIAL INTERROGATORIES**

17  
18          **SPECIAL INTERROGATORY No. 1:**       DESCRIBE FULLY the basis of your belief,  
19   as supported by standard epidemiological practice, that POULTRY in the  
20   QUARANTINE AREA has contracted a virulent Newcastle Disease that, without  
21   intervention, could kill or seriously damage other animals.

22          For the purpose of these interrogatories, the term “DESCRIBE FULLY” means to (1)  
23 describe and explain in as much factual detail as you intend to present, or would be required to  
24 present, at trial, in opposition to an application for a temporary restraining order or motion for  
25 preliminary injunction, or in any other proceeding related to this case; (2) to IDENTIFY each  
26 and every DOCUMENT supporting of your description and explanation that you intend to  
27 present, or would be required to present, at trial, a hearing on a motion for writ of mandate, or  
28 any other proceeding in this action; and (3) to IDENTIFY each and every person with knowledge

1 of your description and explanation that you intend to either (a) depose prior to trial and/or call  
2 as a witness at trial or in any other hearing or (b) from whom you intend to submit a written  
3 declaration.

4 For the purpose of these interrogatories, the term “IDENTIFY,” when requesting  
5 identification of a DOCUMENT, means to provide the title of the DOCUMENT, and its date,  
6 author, recipient, and subject matter.

7 For the purpose of these interrogatories, the term “DOCUMENT” shall include,  
8 without limiting any of the foregoing, all manner of electronically stored information, or “ESI.”

9 For the purpose of these interrogatories, the term “ESI” shall mean and refer to any and  
10 all forms of electronically stored information, including but not limited to e-mail, web pages,  
11 word-processing files, audio and video files, images, computer databases, and anything that is  
12 stored on a computing device—including but not limited to servers, desktops, laptops, cell  
13 phones, hard drives, flash drives, PDAs, and MP3 players. The term “ESI” shall also include any  
14 information that exists in a medium that can only be read through the use of computers. Such  
15 media include cache memory, magnetic disks (such as computer hard drives or floppy disks),  
16 optical disks (such as DVDs or CDs), and magnetic tapes and the like).

17 For the purpose of these interrogatories, the term “IDENTIFY,” when requesting  
18 identification of a person, means to state the full name or designation of the person, the present  
19 or last known address, the position held, and, where applicable, the person’s position or title, and  
20 the address of the person’s place of employment or business during the time to which the  
21 interrogatory relates.

22 For the purpose of these interrogatories, the term “POULTRY” includes all  
23 domesticated fowl and any wild fowl or bird which is reduced to captivity.

24 For the purpose of these interrogatories, the term “QUARANTINE AREA” is the  
25 geographic area in Los Angeles, Riverside, and San Bernardino Counties for which you have  
26 established a quarantine of POULTRY pursuant to your powers under Food and Agricultural  
27 Code section 9561 et seq.

28

1       **SPECIAL INTERROGATORY No. 2:**       DESCRIBE FULLY the basis of your belief,  
2             as supported by standard epidemiological practice, that POULTRY in the  
3             QUARANTINE AREA may carry a virulent Newcastle Disease that, without  
4             intervention, could kill or seriously damage other animals.

5       **SPECIAL INTERROGATORY No. 3:**       DESCRIBE FULLY the basis of your belief,  
6             as supported by credible scientific research, that POULTRY in the QUARANTINE  
7             AREA has contracted a virulent Newcastle Disease that, without intervention, could  
8             kill or seriously damage other animals.

9       **SPECIAL INTERROGATORY No. 4:**       DESCRIBE FULLY the basis of your belief,  
10            as supported by credible scientific research, that POULTRY in the QUARANTINE  
11            AREA may carry a virulent Newcastle Disease that, without intervention, could kill or  
12            seriously damage other animals.

13       **SPECIAL INTERROGATORY No. 5:**       IDENTIFY each DOCUMENT you relied  
14            upon to form your belief, as supported by standard epidemiological practice, that  
15            POULTRY in the QUARANTINE AREA has contracted a virulent Newcastle Disease  
16            that, without intervention, could kill or seriously damage other animals.

17       **SPECIAL INTERROGATORY No. 6:**       IDENTIFY each DOCUMENT you relied  
18            upon to form your belief, as supported by standard epidemiological practice, that  
19            POULTRY in the QUARANTINE AREA may carry a virulent Newcastle Disease  
20            that, without intervention, could kill or seriously damage other animals.

21       **SPECIAL INTERROGATORY No. 7:**       IDENTIFY each DOCUMENT you relied  
22            upon to form your belief, as supported by credible scientific research, that POULTRY  
23            in the QUARANTINE AREA has contracted a virulent Newcastle Disease that,  
24            without intervention, could kill or seriously damage other animals.

1 **SPECIAL INTERROGATORY No. 8:** IDENTIFY each DOCUMENT you relied  
2 upon to form your belief, as supported by credible scientific research, that POULTRY  
3 in the QUARANTINE AREA may carry a virulent Newcastle Disease that, without  
4 intervention, could kill or seriously damage other animals.

5 **SPECIAL INTERROGATORY No. 9:** Do you contend that POULTRY in the  
6 QUARANTINE AREA must be quarantined due to any disease other than a virulent  
7 Newcastle Disease, including but not limited to avian influenza?  
8

9 **SPECIAL INTERROGATORY No. 10:** If your response to Special Interrogatory  
10 Number 9 is “yes,” state each disease you contend justifies a quarantine of POULTRY  
11 in the QUARANTINE AREA.

12 **SPECIAL INTERROGATORY No. 11:** If your response to Special Interrogatory  
13 Number 9 is “yes,” DESCRIBE FULLY the basis of your belief, which you contend  
14 justifies a quarantine of POULTRY in the QUARANTINE AREA for each of the  
15 diseases stated in your response to Special Interrogatory Number 10.  
16

17 **SPECIAL INTERROGATORY No. 12:** IDENTIFY each DOCUMENT you relied  
18 upon to form the belief that you contend justifies a quarantine of POULTRY in the  
19 QUARANTINE AREA for each of the diseases stated in your response to Special  
20 Interrogatory Number 10.  
21

22  
23 DATE: June 4, 2019

Respectfully Submitted,  
LAW OFFICE OF CHAD D. MORGAN

24  
25  
26 By: \_\_\_\_\_  
Chad D. Morgan Esq.  
27 Attorney for Plaintiff, Save Our Birds  
28

PROOF OF SERVICE

**Case: Save Our Birds v. Dr. Annette Jones, et al.**  
**Case No: 19STCV18398**

I, the undersigned, declare:

I am a citizen of the United States, over the age of 18, and not a party to this action. My business address is 1101 California Ave., Ste. 100, Corona, CA 92881.

On the date specified below, I served the following:

**1. Plaintiff’s First Set of Special Interrogatories Propounded Upon Defendant Dr. Annette Jones**

on the following party(ies) in this action:

**Attorney for Defendants**

Michelle Dias, General Counsel	Tel: (916) 654-1393
California Dept. of Agriculture	Fax: (916) 653-1293
1220 N Street, Suite 315	Email: michele.dias@cdfa.ca.gov
Sacramento, CA 95814	CC:

     **By Mail:** I placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business’s practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully paid.

     **By Overnight Delivery:** I enclosed the documents in an envelope addressed to the parties at the addresses listed above. I placed the envelope or package for collection and overnight delivery at an office or regularly utilized drop box of the overnight delivery carrier.

     **By Fax:** By causing said document(s) to be faxed to said party(ies) at the fax number(s) listed above. The fax number from which I served the electronic documents is (866) 495-9985.

     **By Electronic Mail:** By causing true copy(ies) of PDF versions of said document(s) to be sent to the e-mail addresses of each party listed pursuant to California Rules of Court Rule 2-251. The email address from which I served the documents is chad@chadmorgan.com.

     **Personal Service:** By arranging for personal service to be completed no later than

\_\_\_\_\_.



1 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
2 true and correct, and that this declaration was executed on June 4, 2019 at Corona, California.

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5 CHAD D. MORGAN  
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# **EXHIBIT B**

1 LAW OFFICE OF CHAD D. MORGAN  
2 **Chad D. Morgan, Esq. SBN 291282**  
3 1101 California Ave., Ste. 100  
4 Corona, CA 92881  
5 Tel: (951) 667-1927  
6 Fax: (866) 495-9985  
7 chad@chadmorgan.com

8 Attorney for Plaintiff, Save Our Birds

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF LOS ANGELES ~ CENTRAL DISTRICT  
12

13 **Save Our Birds,**

14 Plaintiff,

15 vs.

16 **Dr. Annette Jones, et al.,**

17 Defendants.

Case No.: 19STCV18398

Assigned for All Purposes to:  
Hon. Holly J. Fujie, Dept. 56

**Plaintiff's First Set of Requests for  
Production Propounded Upon Defendant  
Dr. Annette Jones.**

18 **REQUESTS FOR PRODUCTION**

19 Propounding Party: Plaintiff, Save our Birds  
20 Responding Party: Defendant Dr. Annette Jones  
21 Set Number: One  
22  
23  
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1 **To all parties and their counsel of record:**

2 Notice is hereby given that Plaintiff, Save Our Birds, by and through its attorneys of  
3 record, requests that Defendant, Dr. Annette Jones, California State Veterinarian, (the  
4 Responding Party), respond in writing to these requests within the time period prescribed by the  
5 Code of Civil Procedure, and then produce the documents and tangible items described below for  
6 inspection and photocopying at the Law Office of Chad D. Morgan, 1101 California Ave., Ste.  
7 100, Corona, CA 92881 at 10:00 a.m. on \_\_\_\_\_.

8 The documents may be produced without the necessity of a personal appearance if true  
9 and correct copies of the documents are received by the Law Office of Chad D. Morgan, at 1101  
10 California Ave., Ste. 100, Corona, CA 92881 or, with separate agreement, by email to  
11 chad@chadmorgan.com, on or before the date the Code of Civil Procedure requires for a  
12 response, and are accompanied by a declaration, signed under penalty of perjury by Responding  
13 Party, stating that the documents are true and correct copies of all documents within the scope of  
14 this request that are in Responding Party's possession, custody, or control. Electronically stored  
15 records can be produced on CD/DVD, USB thumb drive, external hard drive, or in any other  
16 means agreed upon by the parties.

17 **DEFINITIONS**

18  
19 The words used in these requests are to be interpreted according to their plain meanings.  
20 The following definitions are provided in the spirit of good faith and cooperation to assist the  
21 deposed party in responding to each of the requests for documents below.  
22 For purposes of this set of discovery, the following definitions apply:

- 23 A. The words "ANY" and "ALL" both mean any and all.
- 24 B. The terms "DOCUMENT" and/or "DOCUMENTS" shall mean and include, without  
25 limitation, all "writings" as defined under California Evidence Code Section 250, all files,  
26 folders, file folders, notes, memoranda, messages, photographs, drawings, graphs, charts,  
27 photorecords, computer records, e-mails, letters, written communications, chat-room  
28 comments, blog posts, or social media posts, and other data compilations of whatever kind

1 or description, including video and/or audio tapes, whether in draft or final form, and  
2 whether an original or reproduction of the original. The term “DOCUMENT” is  
3 specifically defined to include, without limiting any of the foregoing, “all duplicates” as  
4 defined under California Evidence Code Section 260, that differ from the originals by  
5 virtue of any writing, notation, symbol, character, impression, or other mark thereon.  
6 Further, the term “DOCUMENT” shall include, without limiting any of the foregoing, all  
7 manner of electronically stored information, or “ESI.” To the extent these requests seek  
8 e-mails, letters, communications, logs, files, or other DOCUMENTS that exist only in  
9 electronic format, the requesting party requests that the deponent produce print-outs of  
10 the responsive items, as well as an electronic version thereof. The term “ESI” shall mean  
11 and refer to any and all forms of electronically stored information, including but not  
12 limited to e-mail, web pages, word-processing files, audio and video files, images,  
13 computer databases, and anything that is stored on a computing device—including but not  
14 limited to servers, desktops, laptops, cell phones, hard drives, flash drives, PDAs, and  
15 MP3 players.

16 C. The term “ESI” shall also include any information that exists in a medium that can only  
17 be read through the use of computers. Such media include cache memory, magnetic disks  
18 (such as computer hard drives or floppy disks), optical disks (such as DVDs or CDs), and  
19 magnetic tapes and the like).

20 D. The terms “PERSON” and/or “PERSONS” shall mean individuals, corporations,  
21 partnerships, limited partnerships, LLCs, government agencies (such as states, cities,  
22 counties, and school boards), and any other form of legal entity.

23 E. The terms “WRITING,” and/or “WRITINGS,” are synonymous with  
24 “DOCUMENT” and/or “DOCUMENTS.”

25 F. The terms “YOU” and/or “YOUR,” as used herein, shall mean and refer to Responding  
26 Party, Dr. Annette Jones, the California State Veterinarian, and her present and former  
27 agents, employees, executives, officers, members of its governing board or legislative body,  
28

1 insurance companies, managers, attorneys, investigators, predecessors, parents, and  
2 subsidiaries, if any, and other PERSONS acting on its behalf or at her direction. These  
3 terms also include agents OR employees of anyone acting on Responding Party's behalf.  
4

### 5 INSTRUCTIONS

6 In YOUR written response to each Request YOU are directed to make the following  
7 statements about the responsive DOCUMENTS clearly and with specificity:

8 1. That the DOCUMENTS that are responsive to the request will be produced for  
9 inspection and copying as requested; or

10 2. If YOU have ANY DOCUMENTS that are responsive to the request that YOU  
11 are not producing in full, YOU are directed to: (1) describe any portion of every responsive  
12 DOCUMENT that has been redacted; and (2) state in writing with particularity the reason each  
13 such DOCUMENT has been redacted; or

14 3. If YOU are aware of ANY DOCUMENTS that are responsive to the Request that  
15 YOU are not producing at all, YOU are directed to state in writing:  
16

17 a. Whether YOU have withheld the DOCUMENT on a claim of privilege. If  
18 a responsive DOCUMENT is withheld, or if any part of a responsive DOCUMENT is redacted,  
19 because of a claim of privilege, work product, confidentiality, or any related ground, YOU are  
20 directed to (1) identify the DOCUMENT YOU claim is privileged, or for which YOU object,  
21 with sufficient particularity to support a motion to produce, specify the particular privilege or  
22 privileges upon which YOU rely, and set forth in complete detail each and every fact or ground  
23 upon which YOUR claim of privilege, or YOUR objection, is based, including sufficient facts for  
24 a court to make a full determination whether the claim of privilege or objection is valid.

25 b. Whether YOU are aware of a responsive DOCUMENT that is not being  
26 produced because, despite diligent effort, Responding Party has been unable to locate the  
27 DOCUMENT, the DOCUMENT has been lost, stolen, or destroyed, or the DOCUMENT was  
28 not prepared in the usual course of business. If so, you are directed to state in writing the name

1 and address of any natural person or organization known or believed to have possession, custody,  
2 or control, of the DOCUMENT or category of DOCUMENTS.

3 **REQUESTS FOR PRODUCTION**

4 **REQUEST NO. 1:** Please produce all DOCUMENTS identified in your response to  
5 Plaintiff's First Set of Special Interrogatories which accompanies these requests.  
6

7 **REQUEST NO. 2:** Please produce the most recent version of your *curriculum vitae* and  
8 resume.  
9

10  
11  
12 DATE: June 4, 2019

12 Respectfully Submitted,  
13 LAW OFFICE OF CHAD D. MORGAN

14  
15 By: \_\_\_\_\_  
16 Chad D. Morgan Esq.  
17 Attorney for Plaintiff, Save Our Bird  
18  
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**PROOF OF SERVICE**

**Case:** Save Our Birds v. Jones, et al.  
**Case No:** 19STCV18398

I, the undersigned, declare:

I am a citizen of the United States, over the age of 18, and not a party to this action. My business address is 1101 California Ave., Ste. 100, Corona, CA 92881.

On the date specified below, I served the following:

**1. Plaintiff’s First Set of Requests for Production Propounded Upon Defendant Dr. Annette Jones**

on the following party(ies) in this action:

**Attorney for Defendants**

Michelle Dias, General Counsel	Tel: (916) 654-1393
California Dept. of Agriculture	Fax: (916) 653-1293
1220 N Street, Suite 315	Email: michele.dias@cdfa.ca.gov
Sacramento, CA 95814	CC:

\_\_\_ **By Mail:** I placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business’s practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully paid.

\_\_\_ **By Overnight Delivery:** I enclosed the documents in an envelope addressed to the parties at the addresses listed above. I placed the envelope or package for collection and overnight delivery at an office or regularly utilized drop box of the overnight delivery carrier.

\_\_\_ **By Fax:** By causing said document(s) to be faxed to said party(ies) at the fax number(s) listed above. The fax number from which I served the electronic documents is (866) 495-9985.

\_\_\_ **By Electronic Mail:** By causing true copy(ies) of PDF versions of said document(s) to be sent to the e-mail addresses of each party listed pursuant to California Rules of Court Rule 2-251. The email address from which I served the documents is chad@chadmorgan.com.

\_\_\_ **Personal Service:** By arranging for personal service to be completed no later than \_\_\_\_\_.



1 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
2 true and correct, and that this declaration was executed on June 4, 2019 at Corona, California.

3  
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5 CHAD D. MORGAN  
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# **EXHIBIT C**

1 LAW OFFICE OF CHAD D. MORGAN  
2 **Chad D. Morgan, Esq. SBN 291282**  
3 1101 California Ave., Ste. 100  
4 Corona, CA 92881  
5 Tel: (951) 667-1927  
6 Fax: (866) 495-9985  
7 chad@chadmorgan.com

8 Attorney for Plaintiff, Save Our Birds

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF LOS ANGELES ~ CENTRAL DISTRICT  
12

13 **Save Our Birds,**

14 Plaintiff,

15 vs.

16 **Dr. Annette Jones, et al.,**

17 Defendants.

18 Case No.: 19STCV18398

19 Assigned for All Purposes to:  
20 Hon. Holly J. Fujie, Dept. 56

21 **Plaintiff's Notice of Deposition of  
22 Defendant Dr. Annette Jones with  
23 Production of Documents**

24 **Deposition**

25 Date:

26 Time:

27 Location: Cal. Dept. of Agriculture  
28 Legal Office  
1220 N Street, Ste. 315  
Sacramento, CA 95814

29 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

30 **PLEASE TAKE NOTICE** that Plaintiff Save Our Birds will take the deposition on oral  
31 examination of Defendant Dr. Annette Jones. The deposition will be taken on

32 \_\_\_\_\_ at \_\_\_\_\_ at the Legal Office of the California

33 Department of Agriculture, located at 1220 N Street, Suite 315, Sacramento, CA 95814. This  
34 deposition will be taken pursuant to California Code of Civil Procedure section 2025.010 et seq.

35 The deposition will be recorded stenographically before an officer authorized to  
36 administer oaths by the laws of the State of California and will continue from day to day,

1 Saturdays, Sundays, and holidays excluded, until completed. Notice is further given that the  
2 deposition testimony may be recorded by videotape and/or audiotape to be used at the time of  
3 trial. If an interpreter is required to translate testimony, notice of the same must be given at least  
4 five days before the deposition date, including the special language and/or dialect needed.

5 **PLEASE ALSO TAKE NOTICE** that Plaintiff requires, pursuant to Code of Civil  
6 Procedure section 2025.280, subdivision (a), production of the documents listed in **Exhibit A** at  
7 the time of the deposition.

8  
9  
10 Dated: June 4, 2019

Respectfully submitted,  
LAW OFFICE OF CHAD D. MORGAN

11 By:

12 \_\_\_\_\_  
13 CHAD D. MORGAN  
14 Attorney for Plaintiff,  
15 Save Our Birds  
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EXHIBIT A

1           The words used in these requests are to be interpreted according to their plain meanings.  
2  
3           The following definitions are provided in the spirit of good faith and cooperation to assist the  
4           deposed party in responding to each of the requests for documents below.

5           For purposes of this set of discovery, the following definitions apply:

- 6           A. The words “ANY” and “ALL” both mean any and all.
- 7           B. The terms “DOCUMENT” and/or “DOCUMENTS” shall mean and include, without  
8           limitation, all “writings” as defined under California Evidence Code Section 250, all files,  
9           folders, file folders, notes, memoranda, messages, photographs, drawings, graphs, charts,  
10           photorecords, computer records, e-mails, letters, written communications, chat-room  
11           comments, blog posts, or social media posts, and other data compilations of whatever kind  
12           or description, including video and/or audio tapes, whether in draft or final form, and  
13           whether an original or reproduction of the original. The term “DOCUMENT” is  
14           specifically defined to include, without limiting any of the foregoing, “all duplicates” as  
15           defined under California Evidence Code Section 260, that differ from the originals by  
16           virtue of any writing, notation, symbol, character, impression, or other mark thereon.  
17           Further, the term “DOCUMENT” shall include, without limiting any of the foregoing, all  
18           manner of electronically stored information, or “ESI.” To the extent these requests seek  
19           e-mails, letters, communications, logs, files, or other DOCUMENTS that exist only in  
20           electronic format, the requesting party requests that the deponent produce print-outs of  
21           the responsive items, as well as an electronic version thereof.
- 22           C. The term “ESI” shall mean and refer to any and all forms of electronically stored  
23           information, including but not limited to e-mail, web pages, word-processing files, audio  
24           and video files, images, computer databases, and anything that is stored on a computing  
25           device—including but not limited to servers, desktops, laptops, cell phones, hard drives,  
26           flash drives, PDAs, and MP3 players. The term “ESI” shall also include any information  
27           that exists in a medium that can only be read through the use of computers. Such media  
28

1 include cache memory, magnetic disks (such as computer hard drives or floppy disks),  
2 optical disks (such as DVDs or CDs), and magnetic tapes and the like).

3 D. The term "POULTRY" includes all domesticated fowl and any wild fowl or bird which is  
4 reduced to captivity.

5 E. The term "QUARANTINE AREA" is the geographic area in Los Angeles, Riverside, and  
6 San Bernardino Counties for which YOU have established a quarantine of POULTRY  
7 pursuant to YOUR powers under Food and Agricultural Code section 9561 et seq.

8 F. The terms "YOU" and/or "YOUR," as used herein, shall mean and refer to the deposed  
9 party, Defendant Dr. Annette Jones, the California State Veterinarian and her present and  
10 former agents, employees, executives, officers, members of its governing board or  
11 legislative body, insurance companies, managers, attorneys, investigators, predecessors,  
12 parents, and subsidiaries, if any, and other PERSONS acting on her behalf or at her  
13 direction. These terms also include agents OR employees of anyone acting on Dr. Jones's  
14 behalf.  
15

#### 16 INSTRUCTIONS

17  
18 In YOUR written response to each Request, YOU are directed to make the following  
19 statements about the responsive DOCUMENTS clearly and with specificity:

20 1. That the DOCUMENTS that are responsive to the request will be produced for  
21 inspection and copying as requested; or

22 2. If YOU have ANY DOCUMENTS that are responsive to the request that YOU  
23 are not producing in full, YOU are directed to: (1) describe any portion of every responsive  
24 DOCUMENT that has been redacted; and (2) state in writing with particularity the reason each  
25 such DOCUMENT has been redacted; or

26 3. If YOU are aware of ANY DOCUMENTS that are responsive to the Request that  
27 YOU are not producing at all, YOU are directed to state in writing:  
28

1 a. Whether YOU have withheld the DOCUMENT on a claim of privilege. If  
2 a responsive DOCUMENT is withheld, or if any part of a responsive DOCUMENT is redacted,  
3 because of a claim of privilege, work product, confidentiality, or any related ground, YOU are  
4 directed to (1) identify the DOCUMENT YOU claim is privileged, or for which YOU object,  
5 with sufficient particularity to support a motion to produce, specify the particular privilege or  
6 privileges upon which YOU rely, and set forth in complete detail each and every fact or ground  
7 upon which YOUR claim of privilege, or YOUR objection, is based, including sufficient facts for  
8 a court to make a full determination whether the claim of privilege or objection is valid.

9 4. Whether YOU are aware of a responsive DOCUMENT that is not being  
10 produced because, despite diligent effort, Responding Party has been unable to locate the  
11 DOCUMENT, the DOCUMENT has been lost, stolen, or destroyed, or the DOCUMENT was  
12 not prepared in the usual course of business. If so, you are directed to state in writing the name  
13 and address of any natural person or organization known or believed to have possession, custody,  
14 or control, of the DOCUMENT or category of DOCUMENTS.

#### 15 **REQUESTS FOR PRODUCTION**

16  
17 **REQUEST NO. 1:** Please produce each DOCUMENT YOU relied upon to form  
18 YOUR belief, as supported by standard epidemiological practice or credible scientific  
19 research, that POULTRY in the QUARANTINE AREA has contracted or may carry  
20 any disease that without intervention, could kill or seriously damage other animals.

21  
22 **REQUEST NO. 2:** Please produce the most recent version of your *curriculum vitae* and  
23 resume.

**PROOF OF SERVICE**

**Case: Save Our Birds v. Jones et al.**  
**Case No: 19STCV18398**

I, the undersigned, declare:

I am a citizen of the United States, over the age of 18, and not a party to this action. My business address is 1101 California Ave., Ste. 100, Corona, CA 92881.

On the date specified below, I served the following:

**1. Plaintiff’s Notice of Deposition of Dr. Annette Jones with Production of Documents**

on the following party(ies) in this action:

**Attorney for Defendants**

Michelle Dias, General Counsel	Tel: (916) 654-1393
California Dept. of Agriculture	Fax: (916) 653-1293
1220 N Street, Suite 315	Email: michele.dias@cdfa.ca.gov
Sacramento, CA 95814	CC:

       **By Mail:** I placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business’s practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully paid.

       **By Overnight Delivery:** I enclosed the documents in an envelope addressed to the parties at the addresses listed above. I placed the envelope or package for collection and overnight delivery at an office or regularly utilized drop box of the overnight delivery carrier.

       **By Fax:** By causing said document(s) to be faxed to said party(ies) at the fax number(s) listed above. The fax number from which I served the electronic documents is (866) 495-9985.

       **By Electronic Mail:** By causing true copy(ies) of PDF versions of said document(s) to be sent to the e-mail addresses of each party listed pursuant to California Rules of Court Rule 2-251. The email address from which I served the documents is chad@chadmorgan.com.

       **By Electronic Service:** By, at the time of e-filing, requesting e-service through the electronic filing provider which provides service of the documents pursuant to California Rules of Court, rule 2-251.



1 **Personal Service:** By personally serving the document(s) on the person(s) indicated above  
2 at the stated address. Service was complete at \_\_\_\_\_ on \_\_\_\_\_ .

3 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
4 true and correct, and that this declaration was executed on June 4, 2019 at Corona, California.

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7 CHAD D. MORGAN  
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# **EXHIBIT D**

1 LAW OFFICE OF CHAD D. MORGAN  
2 **Chad D. Morgan, Esq. SBN 291282**  
3 1101 California Ave., Ste. 100  
4 Corona, CA 92881  
5 Tel: (951) 667-1927  
6 Fax: (866) 495-9985  
7 chad@chadmorgan.com

8 Attorney for Plaintiff, Save Our Birds

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF LOS ANGELES ~ CENTRAL DISTRICT  
12

13 **Save Our Birds,**

14 Plaintiff,

15 vs.

16 **Dr. Annette Jones, et al.,**

17 Defendants.

Case No.: 19STCV18398

Assigned for All Purposes to:  
Hon. Holly J. Fujie, Dept. 56

**Plaintiff's First Set of Special  
Interrogatories Propounded Upon  
Defendant California Department of Food  
and Agriculture**

Action Filed: May 28, 2019  
Trial Date: Not Set

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20 **SPECIAL INTERROGATORIES**

21 Propounding Party: Plaintiff, Save Our Birds  
22 Responding Party: Defendant, Cal Dept. of Food & Agriculture  
23 Set Number: One  
24  
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1           **To all parties and their counsel of record:**

2           Notice is hereby given that Plaintiff Save Our Birds, by and through his attorneys of  
3 record, requests that Defendant California Department of Food and Agriculture (the Responding  
4 Party), provide written responses to each of the following interrogatories. The interrogatories  
5 must be answered fully, separately, and completely, in writing and under oath in the manner and  
6 time provided by California Code of Civil Procedure §§ 2030 *et seq.*

7           In answering these interrogatories, the Responding Party is required to furnish all  
8 information which is available to it, including without limitation, information in the possession of  
9 its agents, attorneys, and investigators and not merely such information as may be known of its  
10 own personal knowledge.

11          If Responding Party cannot answer the following interrogatories in full, after exercising  
12 due diligence to secure the information to do so, so state, and answer to the extent possible,  
13 specifying Responding Party’s inability to answer the remainder and stating whatever  
14 information or knowledge is has concerning the unanswered portion.

15  
16   **SPECIAL INTERROGATORIES**

17  
18          **SPECIAL INTERROGATORY No. 1:**       IDENTIFY each positive test result for  
19   NEWCASTLE DISEASE YOU have obtained or identified in the QUARANTINE  
20   AREA from January 1, 2018 through the date of your response to these interrogatories.

21          For the purpose of this interrogatory, the term “IDENTIFY” means to (1) state the  
22 complete address of the property where each positive test result was found, (2) identify the type  
23 and number of POULTRY that tested positive; (3) the date of each of each positive test.

24          For the purpose of these interrogatories, the term “NEWCASTLE DISEASE” is the  
25 virulent Newcastle Disease that is the reason for the quarantine in Los Angeles, Riverside, and  
26 San Bernardino Counties which is the subject of this lawsuit.

27          For the purpose of these interrogatories, the term “QUARANTINE AREA” is the  
28 geographic area in Los Angeles, Riverside, and San Bernardino Counties for which you have

1 established a quarantine of POULTRY pursuant to your powers under Food and Agricultural  
2 Code section 9561 et seq.

3 For the purpose of these interrogatories, the terms “YOU” and/or “YOUR,” mean and  
4 refer to Responding Party and its present and former agents, employees, executives, officers,  
5 members of its governing board or legislative body, insurance companies, managers, attorneys,  
6 investigators, predecessors, parents, and subsidiaries, if any, and other PERSONS acting on its  
7 behalf or at her direction. These terms also include agents OR employees of anyone acting on  
8 Responding Party’s behalf.

9 For the purpose of these interrogatories, the term “POULTRY” includes all  
10 domesticated fowl and any wild fowl or bird which is reduced to captivity.

11  
12 **SPECIAL INTERROGATORY NO. 2:** For each positive test result identified in  
13 YOUR response to Special Interrogatory Number 1, IDENTIFY each LABORATORY  
14 that performed the test.

15 For the purpose of this interrogatory, the term “IDENTIFY” means to (1) state the  
16 complete address of the laboratory that performed the test, if an outside laboratory was used, or  
17 (2) identify each employee or independent contractor who performed the test by name, job title,  
18 and business address, if YOU performed the test internally.

19 For the purpose of this interrogatory, the term “LABORATORY” can mean an outside  
20 laboratory or one of YOUR employees or independent contractors.

21  
22 **SPECIAL INTERROGATORY NO. 3:** For each positive test result identified in  
23 YOUR response to Special Interrogatory Number 1, IDENTIFY each DOCUMENT  
24 that demonstrates the positive test result.

25 For the purpose of these interrogatories, the term “IDENTIFY,” when requesting  
26 identification of a DOCUMENT, means to provide the title of the DOCUMENT, and its date,  
27 author, recipient, and subject matter.  
28

1  
2 **SPECIAL INTERROGATORY No. 4:** DESCRIBE FULLY each method of  
3 euthanasia YOU have authorized for the depopulation of POULTRY in the  
4 QUARATINE AREA.

5  
6 For the purpose of this interrogatory, the term “DESCRIBE FULLY” means to (1) state  
7 the method of euthanasia; (2) describe its use; (3) state the conditions upon which it may be  
8 used; (4) describe the conditions upon which it may not be used; and (4) IDENTIFY each and  
9 every DOCUMENT RELATING TO your description.

10  
11 **SPECIAL INTERROGATORY No. 5:** DESCRIBE FULLY each method of  
12 euthanasia YOU have prohibited for the depopulation of POULTRY in the  
13 QUARATINE AREA.

14  
15 For the purpose of this interrogatory, the term “DESCRIBE FULLY” has the same  
16 meaning it had in Special Interrogatory Number 4.

17 **SPECIAL INTERROGATORY No. 6:** State the gasses YOU use to euthanize  
18 POULTRY by any form of euthanization by gassing.

19  
20 **SPECIAL INTERROGATORY No. 7:** DESCRIBE FULLY each type of  
21 FIREARM YOU have authorized for depopulation of POULTRY in the  
22 QUARANTINE AREA when euthanizing POULTRY by gun shot.

23 For the purpose of this interrogatory, the term “DESCRIBE FULLY” means to state (1)  
24 the make and model of the FIREARM; (2) the type of ammunition or other projective it shoots;  
25 (3) the conditions upon which it may be used; (4) the conditions upon which it may not be used;  
26 and (4) IDENTIFY each and every DOCUMENT RELATING TO your description.  
27  
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1 For the purpose of this interrogatory, the term “FIREARM” includes all devices  
2 commonly described as “guns” as well as any other device that shoots a projectile from a  
3 chamber of any form, including pellet guns, BB guns, blow guns and other types of guns,  
4 regardless of whether they shoot projectiles commonly described as ammunition or other items  
5 such as pellets, BBS, or darts and regardless of whether the projectiles are powered by explosive  
6 charge such as gun power, compressed air, or uncompressed air.

7  
8 **SPECIAL INTERROGATORY No. 8:** Are there any circumstances upon which  
9 YOUR employees or agents may kill a bird by gun shot using any FIREARM other than  
10 one of those listed in your response to Special Interrogatory Number 7.

11 **SPECIAL INTERROGATORY No. 9:** If your answer to Special Interrogatory  
12 Number 8 is “yes,” DESCRIBE FULLY the circumstances upon which YOUR  
13 employees or agents may kill a bird by gun shot using a FIREARM other than one of  
14 those listed in your response to Special Interrogatory Number 7.

15 For the purpose of this interrogatory, the term “DESCRIBE FULLY” means to (1)  
16 describe and explain in as much factual detail as you intend to present, or would be required to  
17 present, at trial, in opposition to an application for a temporary restraining order or motion for  
18 preliminary injunction, or in any other proceeding related to this case; (2) to IDENTIFY each  
19 and every DOCUMENT supporting of your description and explanation that you intend to  
20 present, or would be required to present, at trial, a hearing on a motion for writ of mandate, or  
21 any other proceeding in this action; and (3) to IDENTIFY each and every person with knowledge  
22 of your description and explanation that you intend to either (a) depose prior to trial and/or call  
23 as a witness at trial or in any other hearing or (b) from whom you intend to submit a written  
24 declaration.

25 **SPECIAL INTERROGATORY No. 10:** How many POULTRY have YOU  
26 DESTROYED in the QUARANTINE AREA from January 1, 2018 through the date of  
27 your response?  
28

1 **SPECIAL INTERROGATORY No. 11:** At how many different properties have YOU  
2 DESTROYED POULTRY in the QUARANTINE AREA from January 1, 2018  
3 through the date of your response.

4 **SPECIAL INTERROGATORY No. 12:** How many owners have voluntarily allowed  
5 YOU to destroy their POULTRY as the result of YOUR request or order in the  
6 QUARANTINE AREA from January 1, 2018 to present?  
7

8 **SPECIAL INTERROGATORY No. 13:** At how many properties have YOU  
9 DESTROYED POULTRY in the QUARANTINE AREA from January 1, 2018  
10 through the date of your response where the owner voluntarily allowed YOU to kill  
11 their POULTRY?

12 **SPECIAL INTERROGATORY No. 14:** How many owners have voluntarily  
13 destroyed their POULTRY themselves or through persons other than YOUR  
14 employees or agents as the result of YOUR request or order in the QUARANTINE  
15 AREA from January 1, 2018 to present?  
16

17 **SPECIAL INTERROGATORY No. 15:** At how many properties have owners  
18 voluntarily destroyed their POULTRY themselves or through persons other than  
19 YOUR agents as the result of YOUR request or order in the QUARANTINE AREA  
20 from January 1, 2018 to present?

21 **SPECIAL INTERROGATORY No. 16:** At how many properties have YOU  
22 involuntarily destroyed POULTRY in the QUARANTINE AREA, whether by search  
23 warrant or other means, in the QUARANTINE AREA from January 1, 2018 through  
24 present?  
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26 **SPECIAL INTERROGATORY No. 17:** How many POULTRY have you  
27 involuntarily destroyed, whether by search warrant or other means, in the  
28 QUARANTINE AREA from January 1, 2018 to present.



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**SPECIAL INTERROGATORY No. 18:** IDENTIFY YOUR employee or employees with ultimate responsibility for preparing any written plan relating to any form of the Newcastle Disease in the QUARANTINE AREA at any time in the last five years.

**SPECIAL INTERROGATORY No. 19:** IDENTIFY each of YOUR employees, agents, and/or contractors who participated in the preparation of a written plan relating to the current quarantine in the QUARANTINE AREA.

DATE: June 4, 2019

Respectfully Submitted,  
LAW OFFICE OF CHAD D. MORGAN

By: \_\_\_\_\_  
Chad D. Morgan Esq.  
Attorney for, Plaintiff  
Save Our Birds

**PROOF OF SERVICE**

**Case: Save Our Birds v. Dr. Annette Jones, et al.**  
**Case No: 19STCV18398**

I, the undersigned, declare:

I am a citizen of the United States, over the age of 18, and not a party to this action. My business address is 1101 California Ave., Ste. 100, Corona, CA 92881.

On the date specified below, I served the following:

**1. Plaintiff’s First Set of Special Interrogatories Propounded Upon Defendant California Department of Agriculture**

on the following party(ies) in this action:

**Attorney for Defendants**

Michelle Dias, General Counsel	Tel: (916) 654-1393
California Dept. of Agriculture	Fax: (916) 653-1293
1220 N Street, Suite 315	Email: michele.dias@cdfa.ca.gov
Sacramento, CA 95814	CC:

         **By Mail:** I placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business’s practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully paid.

         **By Overnight Delivery:** I enclosed the documents in an envelope addressed to the parties at the addresses listed above. I placed the envelope or package for collection and overnight delivery at an office or regularly utilized drop box of the overnight delivery carrier.

         **By Fax:** By causing said document(s) to be faxed to said party(ies) at the fax number(s) listed above. The fax number from which I served the electronic documents is (866) 495-9985.

         **By Electronic Mail:** By causing true copy(ies) of PDF versions of said document(s) to be sent to the e-mail addresses of each party listed pursuant to California Rules of Court Rule 2-251. The email address from which I served the documents is chad@chadmorgan.com.

         **Personal Service:** By arranging for personal service to be completed no later than

\_\_\_\_\_.

1 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
2 true and correct, and that this declaration was executed on June 4, 2019 at Corona, California.

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5 CHAD D. MORGAN  
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# **EXHIBIT E**

1 LAW OFFICE OF CHAD D. MORGAN  
2 **Chad D. Morgan, Esq. SBN 291282**  
3 1101 California Ave., Ste. 100  
4 Corona, CA 92881  
5 Tel: (951) 667-1927  
6 Fax: (866) 495-9985  
7 chad@chadmorgan.com

8 Attorney for Plaintiff, Save Our Birds

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF LOS ANGELES ~ CENTRAL DISTRICT  
12

13 **Save Our Birds,**

14 Plaintiff,

15 vs.

16 **Dr. Annette Jones, et al.,**

17 Defendants.

Case No.: 19STCV18398

Assigned for All Purposes to:  
Hon. Holly J. Fujie, Dept. 56

**Plaintiff's First Set of Requests for  
Production Propounded Upon Defendant  
California Department of Food and  
Agriculture**

Action Filed: May 28, 2019

Trial Date: Not Set

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20 **REQUESTS FOR PRODUCTION**

21 Propounding Party: Plaintiff Save Our Birds

22 Responding Party: Defendant Cal. Dept. of Food and Agriculture

23 Set Number: One  
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1 **To all parties and their counsel of record:**

2 Notice is hereby given that Plaintiff, Save Our Birds, by and through its attorneys of  
3 record, requests that Defendant, California Department of Food and Agriculture (the  
4 Responding Party), respond in writing to these requests within the time period prescribed by the  
5 Code of Civil Procedure, and then produce the documents and tangible items described below for  
6 inspection and photocopying at the Law Office of Chad D. Morgan, 1101 California Ave., Ste.  
7 100, Corona, CA 92881 at 10:30 a.m. on \_\_\_\_\_.

8 The documents may be produced without the necessity of a personal appearance if true  
9 and correct copies of the documents are received by the Law Office of Chad D. Morgan, at 1101  
10 California Ave., Ste. 100, Corona, CA 92881 or, with separate agreement, by email to  
11 chad@chadmorgan.com, on or before the date the Code of Civil Procedure requires for a  
12 response, and are accompanied by a declaration, signed under penalty of perjury by Responding  
13 Party, stating that the documents are true and correct copies of all documents within the scope of  
14 this request that are in Responding Party’s possession, custody, or control. Electronically stored  
15 records can be produced on CD/DVD, USB thumb drive, external hard drive, or in any other  
16 means agreed upon by the parties.

17 **DEFINITIONS**

18 The words used in these requests are to be interpreted according to their plain meanings.  
19 The following definitions are provided in the spirit of good faith and cooperation to assist the  
20 deposed party in responding to each of the requests for documents below.  
21

22 For purposes of this set of discovery, the following definitions apply:

- 23 A. The words “ANY” and “ALL” both mean any and all.  
24  
25 B. The terms “DOCUMENT” and/or “DOCUMENTS” shall mean and include, without  
26 limitation, all “writings” as defined under California Evidence Code Section 250, all files,  
27 folders, file folders, notes, memoranda, messages, photographs, drawings, graphs, charts,  
28 photorecords, computer records, e-mails, letters, written communications, chat-room

1 comments, blog posts, or social media posts, and other data compilations of whatever kind  
2 or description, including video and/or audio tapes, whether in draft or final form, and  
3 whether an original or reproduction of the original. The term “DOCUMENT” is  
4 specifically defined to include, without limiting any of the foregoing, “all duplicates” as  
5 defined under California Evidence Code Section 260, that differ from the originals by  
6 virtue of any writing, notation, symbol, character, impression, or other mark thereon.  
7 Further, the term “DOCUMENT” shall include, without limiting any of the foregoing, all  
8 manner of electronically stored information, or “ESI.” To the extent these requests seek  
9 e-mails, letters, communications, logs, files, or other DOCUMENTS that exist only in  
10 electronic format, the requesting party requests that the deponent produce print-outs of  
11 the responsive items, as well as an electronic version thereof. The term “ESI” shall mean  
12 and refer to any and all forms of electronically stored information, including but not  
13 limited to e-mail, web pages, word-processing files, audio and video files, images,  
14 computer databases, and anything that is stored on a computing device—including but not  
15 limited to servers, desktops, laptops, cell phones, hard drives, flash drives, PDAs, and  
16 MP3 players.

- 17 C. The term “ESI” shall also include any information that exists in a medium that can only  
18 be read through the use of computers. Such media include cache memory, magnetic disks  
19 (such as computer hard drives or floppy disks), optical disks (such as DVDs or CDs), and  
20 magnetic tapes and the like).
- 21 D. The terms “PERSON” and/or “PERSONS” shall mean individuals, corporations,  
22 partnerships, limited partnerships, LLCs, government agencies (such as states, cities,  
23 counties, and school boards), and any other form of legal entity.
- 24 E. The term “POULTRY” includes all domesticated fowl and any wild fowl or bird which is  
25 reduced to captivity.  
26  
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- 1 F. The term “QUARANTINE AREA” is the geographic area in Los Angeles, Riverside, and  
2 San Bernardino Counties for which you have established a quarantine of POULTRY  
3 pursuant to your powers under Food and Agricultural Code section 9561 et seq.
- 4 G. The terms RELATE(S), RELATED TO, RELATING TO, REFLECT(ING), and IN  
5 RELATION TO mean any connection that RELATES in any way to the relationship  
6 addressed, including anything referring to, pertaining to, stating, concerning, describing,  
7 recording, evidencing, embodying, memorializing, mentioning, studying, analyzing,  
8 discussing, commenting on, specifying, listing, summarizing, reviewing, or identifying, and  
9 shall mean any document that constitutes, reflects, refers to, evidences, is a part of, grows  
10 out of, or RELATES in any way to, an event, thing, subject, topic, fact, or allegation  
11 specified in the Complaint.
- 12 H. The terms “WRITING,” and/or “WRITINGS,” are synonymous with  
13 “DOCUMENT” and/or “DOCUMENTS.”
- 14 I. The terms “YOU” and/or “YOUR,” as used herein, shall mean and refer to Responding  
15 Party, California Department of Food and Agriculture, and its present and former agents,  
16 employees, executives, officers, members of its governing board or legislative body,  
17 insurance companies, managers, attorneys, investigators, predecessors, parents, and  
18 subsidiaries, if any, and other PERSONS acting on its behalf or at her direction. These  
19 terms also include agents OR employees of anyone acting on Responding Party’s behalf.  
20

## 21 INSTRUCTIONS

22 In YOUR written response to each Request YOU are directed to make the following  
23 statements about the responsive DOCUMENTS clearly and with specificity:  
24

25 1. That the DOCUMENTS that are responsive to the request will be produced for  
26 inspection and copying as requested; or

27 2. If YOU have ANY DOCUMENTS that are responsive to the request that YOU  
28 are not producing in full, YOU are directed to: (1) describe any portion of every responsive



1 DOCUMENT that has been redacted; and (2) state in writing with particularity the reason each  
2 such DOCUMENT has been redacted; or

3 3. If YOU are aware of ANY DOCUMENTS that are responsive to the Request that  
4 YOU are not producing at all, YOU are directed to state in writing:

5 a. Whether YOU have withheld the DOCUMENT on a claim of privilege. If  
6 a responsive DOCUMENT is withheld, or if any part of a responsive DOCUMENT is redacted,  
7 because of a claim of privilege, work product, confidentiality, or any related ground, YOU are  
8 directed to (1) identify the DOCUMENT YOU claim is privileged, or for which YOU object,  
9 with sufficient particularity to support a motion to produce, specify the particular privilege or  
10 privileges upon which YOU rely, and set forth in complete detail each and every fact or ground  
11 upon which YOUR claim of privilege, or YOUR objection, is based, including sufficient facts for  
12 a court to make a full determination whether the claim of privilege or objection is valid.

13 b. Whether YOU are aware of a responsive DOCUMENT that is not being  
14 produced because, despite diligent effort, Responding Party has been unable to locate the  
15 DOCUMENT, the DOCUMENT has been lost, stolen, or destroyed, or the DOCUMENT was  
16 not prepared in the usual course of business. If so, you are directed to state in writing the name  
17 and address of any natural person or organization known or believed to have possession, custody,  
18 or control, of the DOCUMENT or category of DOCUMENTS.

### 19 REQUESTS FOR PRODUCTION

20  
21 **REQUEST NO. 1:** Please produce all DOCUMENTS identified in your response to  
22 Plaintiff's First Set of Special Interrogatories which accompanies these requests.

23  
24 **REQUEST NO. 2:** Please produce ALL search warrants, including the accompanying  
25 probable cause affidavits, YOU have served or executed searching for POULTRY in  
26 the QUARANTINE AREA whether the purpose of the search was to locate, test, or  
27 destroy the POULTRY.

1       **REQUEST NO. 3:**    Please produce ANY written plan in your possession, regardless of  
2                   author, RELATING TO any form of Newcastle Disease that was prepared or published  
3                   at any time in the last five years. (This request is not limited to Newcastle Disease in  
4                   California and could relate to any other state or country.)

5       **REQUEST NO. 4:**    Please produce ANY written plan YOU prepared that RELATES  
6                   TO the current quarantine in the QUARANTINE AREA. (To the extent YOU have  
7                   prepared more than one version of such a plan, this request seeks ALL versions of the  
8                   plan.)

9       **REQUEST NO. 5:**    Please produce ALL YOU have created or use or give to YOUR  
10                  employees and/or contractors RELATING TO the depopulation of POULTRY in the  
11                  QUARANTINE AREA.

12       **REQUEST NO. 6:**    Please produce ALL DOCUMENTS YOU have created or use or  
13                  give to YOUR employees and/or contractors RELATING TO approved or prohibited  
14                  euthanasia methods for the depopulation of POULTRY in the QUARANTINE AREA.

15       **REQUEST NO. 7:**    Please produce ALL DOCUMENTS YOU have created or use or  
16                  give to YOUR employees and/or contractors RELATING TO approved or prohibited  
17                  means of executing or carrying-out any approved method of euthanasia for the  
18                  depopulation of POULTRY in the QUARANTINE AREA.

19       **REQUEST NO. 8:**    Please produce ALL DOCUMENTS YOU have created or use or  
20                  give to YOUR employees and/or contractors RELATING TO biosecurity protocols or  
21                  procedures to be utilized in the QUARANTINE AREA.

22       **REQUEST NO. 9:**    Please produce ALL DOCUMENTS YOU have created or use or  
23                  give to YOUR employees and/or contractors RELATING TO the use of firearms when  
24                  carrying-out euthanasia in the QUARANTINE AREA.  
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1       **REQUEST NO. 10:** Please produce ALL DOCUMENTS YOU have created or use or  
2               give to YOUR employees and/or contractors RELATING TO the disposal of dead  
3               POULTRY in the QUARANTINE AREA.

4       **REQUEST NO. 11:** Please produce ALL DOCUMENTS YOU have created or use or  
5               give to YOUR employees and/or contractors RELATING TO the disposal of dead  
6               POULTRY destroyed as the result of a depopulation order in the QUARANTINE  
7               AREA.

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9       **REQUEST NO. 12:** Please produce ALL DOCUMENTS YOU have created or use or  
10              give to YOUR employees and/or contractors RELATING TO the disposal of dead  
11              biohazard waste collected in the QUARANTINE AREA.

12       **REQUEST NO. 13:** Please produce the job application YOU received from Dr. Annette  
13              Jones, including any attachments (e.g. resume and/or *curriculum vitae*), when she  
14              applied for employment with CDFA.

15  
16       **REQUEST NO. 14:** Please produce the job application YOU received from the person  
17              you intend to designate as your person most qualified to testify about YOUR response  
18              plan for the eradication of the virulent Newcastle Disease (vND) that has resulted in a  
19              poultry quarantine in Los Angeles, Riverside, and San Bernardino Counties (as  
20              described more completely in the accompanying deposition notice), including any  
21              attachments (e.g. resume and/or *curriculum vitae*), you received when he or she  
22              applied for employment with CDFA.

23  
24       DATE: June 4, 2019

Respectfully Submitted,  
LAW OFFICE OF CHAD D. MORGAN

25  
26  
27       By: \_\_\_\_\_  
28       Chad D. Morgan Esq.  
Attorney for Plaintiff, Save Our Birds

1 **PROOF OF SERVICE**

2 **Case: Save Our Birds v. Jones, et al.**  
3 **Case No: 19STCV18398**

4 I, the undersigned, declare:

5  
6 I am a citizen of the United States, over the age of 18, and not a party to this action. My business  
7 address is 1101 California Ave., Ste. 100, Corona, CA 92881.

8 On the date specified below, I served the following:

9 **1. Plaintiff's First Set of Requests for Production Propounded Upon Defendant**  
10 **California Department of Food and Agriculture**

11 on the following party(ies) in this action:

12 **Attorney for Defendants**

13 Michelle Dias, General Counsel Tel: (916) 654-1393  
14 California Dept. of Agriculture Fax: (916) 653-1293  
15 1220 N Street, Suite 315 Email: michele.dias@cdfa.ca.gov  
16 Sacramento, CA 95814 CC:

17 \_\_\_ **By Mail:** I placed the envelope for collection and mailing, following our ordinary business  
18 practices. I am readily familiar with this business's practice for collecting and processing  
19 correspondence for mailing. On the same day that correspondence is placed for collection and  
20 mailing, it is deposited in the ordinary course of business with the United States Postal Service in  
21 a sealed envelope with postage fully paid.

22 \_\_\_ **By Overnight Delivery:** I enclosed the documents in an envelope addressed to the parties  
23 at the addresses listed above. I placed the envelope or package for collection and overnight  
24 delivery at an office or regularly utilized drop box of the overnight delivery carrier.

25 \_\_\_ **By Fax:** By causing said document(s) to be faxed to said party(ies) at the fax number(s)  
26 listed above. The fax number from which I served the electronic documents is (866) 495-9985.

27 \_\_\_ **By Electronic Mail:** By causing true copy(ies) of PDF versions of said document(s) to be  
28 sent to the e-mail addresses of each party listed pursuant to California Rules of Court Rule 2-251.  
The email address from which I served the documents is chad@chadmorgan.com.

\_\_\_ **Personal Service:** By arranging for personal service to be completed no later than  
\_\_\_\_\_.

1 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
2 true and correct, and that this declaration was executed on May 26, 2019 at Corona, California.

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4  
5 CHAD D. MORGAN  
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# **EXHIBIT F**

1 LAW OFFICE OF CHAD D. MORGAN  
2 **Chad D. Morgan, Esq. SBN 291282**  
3 1101 California Ave., Ste. 100  
4 Corona, CA 92881  
5 Tel: (951) 667-1927  
6 Fax: (866) 495-9985  
7 chad@chadmorgan.com

8 Attorney for Plaintiff, Save Our Birds

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF LOS ANGELES ~ CENTRAL DISTRICT  
12

13 **Save Our Birds,**

14 Plaintiff,

15 vs.

16 **Dr. Annette Jones, et al.,**

17 Defendants.

18 Case No.: 19STCV18398

Assigned for All Purposes to:  
Hon. Holly J. Fujie, Dept. 56

**Plaintiff's Notice of Deposition of  
Defendant California Department of Food  
and Agriculture's Person Most Qualified**

**Deposition**

Date:

Time:

Location:

19 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

20 **PLEASE TAKE NOTICE** that Plaintiff Save Our Birds will take the deposition on oral  
21 examination of Defendant California Department of Food and Agriculture's Person Most  
22 Qualified to testify to the following subjects:

- 23 1. CDFA's response plan for the eradication of the virulent Newcastle Disease  
24 (vND) that has resulted in a poultry quarantine in Los Angeles, Riverside, and San  
25 Bernardino Counties, including but not limited to planning for  
26 a. approved and prohibited euthanasia methods;  
27 b. hiring, training, and supervision of employees and contractors charged  
28 with carrying-out the plan;

- c. testing of poultry within and outside the quarantine area;
- d. enforcement of the quarantine and related orders, including obtaining warrants to search for, test, and destroy poultry in the quarantine area;
- e. disposal of carcasses of birds that have tested positive for or been exposed to vND;
- f. decontamination of properties exposed to vND;
- g. biosecurity methods employed by CDFA personnel; and
- h. CDFA's public information plan.

The deposition will be taken on \_\_\_\_\_ at \_\_\_\_\_ at the Legal Office of the California Department of Agriculture, located at 1220 N Street, Suite 315, Sacramento, CA 95814. This deposition will be taken pursuant to California Code of Civil Procedure section 2025.010 et seq.

The deposition will be recorded stenographically before an officer authorized to administer oaths by the laws of the State of California and will continue from day to day, Saturdays, Sundays, and holidays excluded, until completed. Notice is further given that the deposition testimony may be recorded by videotape and/or audiotape to be used at the time of trial. If an interpreter is required to translate testimony, notice of the same must be given at least five days before the deposition date, including the special language and/or dialect needed.

**PLEASE ALSO TAKE NOTICE** that Plaintiff requires, pursuant to Code of Civil Procedure section 2025.280, subdivision (a), production of the documents listed in Exhibit A at the time of the deposition.

Dated: June 4, 2019

Respectfully submitted,  
LAW OFFICE OF CHAD D. MORGAN

By:

\_\_\_\_\_  
CHAD D. MORGAN  
Attorney for Plaintiff,  
Save Our Birds



1  
2 **EXHIBIT A**

3 The words used in these requests are to be interpreted according to their plain meanings.  
4 The following definitions are provided in the spirit of good faith and cooperation to assist the  
5 deposed party in responding to each of the requests for documents below.

6 For purposes of this set of discovery, the following definitions apply:

- 7 A. The words “ANY” and “ALL” both mean any and all.  
8  
9 B. The terms “DOCUMENT” and/or “DOCUMENTS” shall mean and include, without  
10 limitation, all “writings” as defined under California Evidence Code Section 250, all files,  
11 folders, file folders, notes, memoranda, messages, photographs, drawings, graphs, charts,  
12 photorecords, computer records, e-mails, letters, written communications, chat-room  
13 comments, blog posts, or social media posts, and other data compilations of whatever kind  
14 or description, including video and/or audio tapes, whether in draft or final form, and  
15 whether an original or reproduction of the original. The term “DOCUMENT” is  
16 specifically defined to include, without limiting any of the foregoing, “all duplicates” as  
17 defined under California Evidence Code Section 260, that differ from the originals by  
18 virtue of any writing, notation, symbol, character, impression, or other mark thereon.  
19 Further, the term “DOCUMENT” shall include, without limiting any of the foregoing, all  
20 manner of electronically stored information, or “ESI.” To the extent these requests seek  
21 e-mails, letters, communications, logs, files, or other DOCUMENTS that exist only in  
22 electronic format, the requesting party requests that the deponent produce print-outs of  
23 the responsive items, as well as an electronic version thereof.  
24 C. The term “ESI” shall mean and refer to any and all forms of electronically stored  
25 information, including but not limited to e-mail, web pages, word-processing files, audio  
26 and video files, images, computer databases, and anything that is stored on a computing  
27 device—including but not limited to servers, desktops, laptops, cell phones, hard drives,  
28 flash drives, PDAs, and MP3 players. The term “ESI” shall also include any information

1 that exists in a medium that can only be read through the use of computers. Such media  
2 include cache memory, magnetic disks (such as computer hard drives or floppy disks),  
3 optical disks (such as DVDs or CDs), and magnetic tapes and the like).

4 D. The term “NEWCASTLE DISEASE” means the virulent Newcastle Disease that is the  
5 reason for the POULTRY quarantine in the QUARANTINE AREA.

6 E. The term “POULTRY” includes all domesticated fowl and any wild fowl or bird which is  
7 reduced to captivity.

8  
9 F. The term “QUARANTINE AREA” is the geographic area in Los Angeles, Riverside, and  
10 San Bernardino Counties for which YOU have established a quarantine of POULTRY  
11 pursuant to YOUR powers under Food and Agricultural Code section 9561 et seq.

12 G. The terms “YOU” and/or “YOUR,” as used herein, shall mean and refer to the deposed  
13 party, Defendant Dr. Annette Jones, the California State Veterinarian and her present and  
14 former agents, employees, executives, officers, members of its governing board or  
15 legislative body, insurance companies, managers, attorneys, investigators, predecessors,  
16 parents, and subsidiaries, if any, and other PERSONS acting on her behalf or at her  
17 direction. These terms also include agents OR employees of anyone acting on Dr. Jones’s  
18 behalf.

19  
20 **INSTRUCTIONS**

21 In YOUR written response to each Request, YOU are directed to make the following  
22 statements about the responsive DOCUMENTS clearly and with specificity:

23 1. That the DOCUMENTS that are responsive to the request will be produced for  
24 inspection and copying as requested; or

25 2. If YOU have ANY DOCUMENTS that are responsive to the request that YOU  
26 are not producing in full, YOU are directed to: (1) describe any portion of every responsive  
27 DOCUMENT that has been redacted; and (2) state in writing with particularity the reason each  
28 such DOCUMENT has been redacted; or

1 3. If YOU are aware of ANY DOCUMENTS that are responsive to the Request that  
2 YOU are not producing at all, YOU are directed to state in writing:

3 a. Whether YOU have withheld the DOCUMENT on a claim of privilege. If  
4 a responsive DOCUMENT is withheld, or if any part of a responsive DOCUMENT is redacted,  
5 because of a claim of privilege, work product, confidentiality, or any related ground, YOU are  
6 directed to (1) identify the DOCUMENT YOU claim is privileged, or for which YOU object,  
7 with sufficient particularity to support a motion to produce, specify the particular privilege or  
8 privileges upon which YOU rely, and set forth in complete detail each and every fact or ground  
9 upon which YOUR claim of privilege, or YOUR objection, is based, including sufficient facts for  
10 a court to make a full determination whether the claim of privilege or objection is valid.

11 4. Whether YOU are aware of a responsive DOCUMENT that is not being  
12 produced because, despite diligent effort, Responding Party has been unable to locate the  
13 DOCUMENT, the DOCUMENT has been lost, stolen, or destroyed, or the DOCUMENT was  
14 not prepared in the usual course of business. If so, you are directed to state in writing the name  
15 and address of any natural person or organization known or believed to have possession, custody,  
16 or control, of the DOCUMENT or category of DOCUMENTS.

### 18 **REQUESTS FOR PRODUCTION**

19 **REQUEST NO. 1:** Please produce ANY plan, manual, guideline, or any similar  
20 document prepared or created by YOU or at YOUR direction relating to  
21 NEWCASTLE DISEASE, CDFA's response to the NEWCASTLE DISEASE, the  
22 quarantine, or depopulation orders and procedures as a result of the quarantine.

23 **REQUEST NO. 2:** Please produce the most recent version of your *curriculum vitae* and  
24 resume.

25 **REQUEST NO. 3:** Please produce ALL COMMUNICATION between YOU and Dr.  
26 Annette Jones RELATING TO NEWCASTLE DISEASE.  
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**REQUEST No. 4:** Please produce ALL COMMUNICATION between YOU and Dr. Annette Jones RELATING TO the quarantine for NEWCASTLE DISEASE.

**PROOF OF SERVICE**

**Case:** Save Our Birds v. Jones et al.

**Case No:** 19STCV18398

I, the undersigned, declare:

I am a citizen of the United States, over the age of 18, and not a party to this action. My business address is 1101 California Ave., Ste. 100, Corona, CA 92881.

On the date specified below, I served the following:

**1. Plaintiff’s Notice of Deposition of CDFA’s Person Most Qualified to Testify**

on the following party(ies) in this action:

**Attorney for Defendants**

Michelle Dias, General Counsel  
California Dept. of Agriculture  
1220 N Street, Suite 315  
Sacramento, CA 95814

Tel: (916) 654-1393  
Fax: (916) 653-1293  
Email: michele.dias@cdfa.ca.gov  
CC:

\_\_\_ **By Mail:** I placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business’s practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully paid.

\_\_\_ **By Overnight Delivery:** I enclosed the documents in an envelope addressed to the parties at the addresses listed above. I placed the envelope or package for collection and overnight delivery at an office or regularly utilized drop box of the overnight delivery carrier.

\_\_\_ **By Fax:** By causing said document(s) to be faxed to said party(ies) at the fax number(s) listed above. The fax number from which I served the electronic documents is (866) 495-9985.

\_\_\_ **By Electronic Mail:** By causing true copy(ies) of PDF versions of said document(s) to be sent to the e-mail addresses of each party listed pursuant to California Rules of Court Rule 2-251. The email address from which I served the documents is chad@chadmorgan.com.

\_\_\_ **By Electronic Service:** By, at the time of e-filing, requesting e-service through the electronic filing provider which provides service of the documents pursuant to California Rules of Court, rule 2-251.

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**Personal Service:** By personally serving the document(s) on the person(s) indicated above at the stated address. Service was complete at \_\_\_\_\_ on \_\_\_\_\_ .

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on June 4, 2019 at Corona, California.

\_\_\_\_\_  
**CHAD D. MORGAN**

# **EXHIBIT G**

State of California  
California Department of Food and Agriculture  
Animal Health and Food Safety Services

#REGIONAL-ON-VND1

1220 N Street  
Sacramento, California 95814

Telephone: (916) 900-5002  
(909) 947-4462  
Facsimile: (916) 900-5333

**NOTICE OF REQUIRED ACTION PURSUANT TO QUARANTINE**

**Applies to:** **Owners of all poultry and non-poultry species, and operators of poultry-related businesses in the quarantined region.**

**Region:** **All of Los Angeles County. That portion of San Bernardino County to the south and west of the boundary delineated by State Highway 58 from the Kern County line to Interstate Highway 15, Interstate Highway 15 from State Highway 58 to State Highway 247, State Highway 247 from Interstate Highway 15 to State Highway 62, State Highway 62 west from State Highway 247 to the Riverside County line. That portion of Riverside County west of the boundary delineated by State Highway 62 from the San Bernardino County line to Interstate Highway 10, Interstate Highway 10 from State Highway 62 to State Highway 86, State Highway 86 from Interstate Highway 10 to the Imperial County line.**

**You are hereby notified that the State Veterinarian has imposed a Quarantine pursuant to Food and Agricultural Code, Section 9562 on the following population of animals or animal product:**

**Description of Population of Animals or Animal Product:** **Poultry species including all chickens, turkeys, turkins, pheasants, peafowl, guinea fowl, quail, ducks, geese, swans, gallinules, doves, pigeons, grouse, partridges, francolin, tinamou, ostriches, and other ratites (including but not limited to the rhea, emu, and cassowary), and hatching or embryonated eggs; poultry products including eggs, manure, feed, carcasses, feathers, used poultry equipment; non-poultry species (all other avian species).**

**Present location:** **All of Los Angeles County, and those portions of San Bernardino and Riverside Counties as described above.**

**Reason for Quarantine:** This Quarantine is imposed because the population of animals or animal product described above may be infected with **virulent Newcastle disease virus (VND)**, or may have been exposed to VND and could transmit an illness that could kill or seriously damage other birds, or may be at risk for such exposure.

**Required Action:** Pursuant to Food and Agricultural Code, Section 9562 and Title 3, California Code of Regulations, Section 1301 et seq., you are required to:

**Hold, Cease, Segregate, Isolate, and Treat** the population of animals or animal product described above from other animals or products no later than **9:00 PM on February 27, 2019**. The method of isolation, segregation, and treatment shall be as specified in **Attachment A: Notice of Virulent Newcastle Disease Regional Quarantine Affecting Bird Owners**, and includes:

- **All bird owners shall immediately report any clinical signs suggestive of VND to the Sick Bird Hotline (866-922-2473).**
- **All commercial/independent/small poultry businesses shall immediately report any clinical signs suggestive of VND and any significant changes to their health and/or production monitoring records as required by CDFA.\***
- **All bird owners shall allow diagnostic testing of their birds for VND.**
- **All commercial/independent/small poultry businesses shall test their poultry for VND as required by CDFA.\***
- **All poultry must be isolated from all non-poultry species.**
- **All poultry must be confined to a premises in a pen, cage or some other means that prevents poultry from moving off the premises.**
- **No poultry can move off a premises without prior written permission from CDFA.\***
- **All commercial/independent/small poultry businesses must receive prior written permission from the CDFA before movements into, within, or out of this region of poultry, poultry products, poultry associated materials or other items that could spread VND (due to contact with poultry, poultry products or poultry associated materials).\***
- **No movement of any non-poultry species from premises that also house poultry without prior written permission from CDFA.\***
- **No exhibitions of poultry (including racing pigeons) or non-poultry species without prior written permission from CDFA.\***
- **No live poultry shall leave any live bird market, pet store, feed store or other retail establishment without prior written permission from CDFA.\***
- **No shipping, transporting, or receiving live poultry or poultry hatching eggs out of or into this regional quarantine area without prior written permission from CDFA.\* This includes shipments via the United States Postal Service, private package shipping companies or similar methods.**
- **All commercial/independent/small poultry businesses shall enhance their biosecurity as required by CDFA.\***
- **All retail establishments selling poultry feed shall enhance their biosecurity as required by CDFA.\***

**\*For more information about movement restrictions, biosecurity and testing requirements, please call 866-922-2473 or email SFSPermits@cdfa.ca.gov.**

The State Veterinarian may modify the action(s) required in this Notice. Failure to comply with this Notice of Required Action is a violation of Title 3, California Code of Regulations, Section 1301.8 and will result in the Department of Food and Agriculture pursuing appropriate remedies, including but not limited to law enforcement involvement, and may interfere with your receiving indemnity payments to which you might be entitled.

Notice issued by: (A Jones – signature on file) Title: State Veterinarian Date: February 27, 2019 Time: 9:00 PM

**YOUR APPEAL RIGHTS:** You may appeal the imposition of the Quarantine in an informal hearing process, pursuant to Chapter 4.5 (commencing with Section 11400) of Division 3 of Title 2 of the Government Code and Title 3, California Code of Regulations, Section 1301.2 and 1301.3, by contacting the **State Veterinarian** at [cdfa.qna@cdfa.ca.gov](mailto:cdfa.qna@cdfa.ca.gov) and requesting an informal hearing. Due to the immediate need to contain this outbreak, **YOUR REQUEST FOR A HEARING MUST BE RECEIVED NO LATER THAN 9:00 PM ON FEBRUARY 28, 2019.**



**Notice of Virulent Newcastle Disease Regional Quarantine  
Affecting Bird Owners: Effective 9:00 P.M. February 27, 2019**

Virulent Newcastle Disease (VND), a severe disease in poultry, has been found in backyard and commercial/independent/small poultry businesses in Southern California. The California Department of Food and Agriculture (CDFA) and the United States Department of Agriculture is actively engaged in eradicating the disease. To prevent on-going spread of VND, the State Veterinarian has imposed a Quarantine, pursuant to Food and Agricultural Code, Section 9562, on the owners of all poultry, poultry products, associated poultry materials and non-poultry species in **all of Los Angeles County and specified sections of San Bernardino and Riverside Counties.**

**Quarantine Boundaries:** All of Los Angeles County. That portion of San Bernardino County to the south and west of the boundary delineated by State Highway 58 from the Kern County line to Interstate Highway 15, Interstate Highway 15 from State Highway 58 to State Highway 247, State Highway 247 from Interstate Highway 15 to State Highway 62, State Highway 62 west from State Highway 247 to the Riverside County line. That portion of Riverside County west of the boundary delineated by State Highway 62 from the San Bernardino County line to Interstate Highway 10, Interstate Highway 10 from State Highway 62 to State Highway 86, State Highway 86 from Interstate Highway 10 to the Imperial County line. See quarantine map at: [www.cdfa.ca.gov/go/vnd](http://www.cdfa.ca.gov/go/vnd).

**Required Actions:** (Pursuant to Food and Agricultural Code 9562 and Title 3 California Code of Regulations, Section 1301 *et seq*) you are required to:

1. **Report:**
  - a) All bird owners shall immediately report any clinical signs suggestive of VND to the Sick Bird Hotline (866-922-2473).
  - b) All commercial/independent/small poultry businesses shall immediately report any clinical signs suggestive of VND and any significant changes to their health and/or production monitoring records as required by CDFA.\*
2. **Test:**
  - a) All bird owners shall allow diagnostic testing of their birds for VND.
  - b) All commercial/independent/small poultry businesses shall test their poultry for VND as required by CDFA.\*
3. **Isolate:**
  - a) All poultry must be isolated from all non-poultry species.
  - b) All poultry must be confined to a premises in a pen, cage or some other means that prevents poultry from moving off the premises.
  - c) No poultry can move off a premises without prior written permission from CDFA.\*
  - d) All commercial/independent/small poultry businesses must receive prior written permission from the CDFA before movements into, within, or out of this region of poultry, poultry products, poultry associated materials or other items that could spread VND (due to contact with poultry, poultry products or poultry associated materials).\*
  - e) No movement of any non-poultry species from premises that also house poultry without prior written permission from CDFA.\*

4. **Cease:**

- a) No exhibitions of poultry (including racing pigeons) or non-poultry species without prior written permission from CDFA.\*
- b) No **live** poultry shall leave any live bird market, pet store, feed store or other retail establishment without prior written permission from CDFA.\*
- c) No shipping, transporting, or receiving live poultry or poultry hatching eggs out of or into this regional quarantine area without prior written permission from CDFA.\* This includes shipments via the United States Postal Service, private package shipping companies or similar methods.

5. **Enhance Biosecurity:**

- a) All commercial/independent/small poultry businesses shall enhance their biosecurity as required by CDFA.\*
- b) All retail establishments selling poultry feed shall enhance their biosecurity as required by CDFA.\*

**\*For more information about movement restrictions, biosecurity and testing requirements, please call 866-922-2473 or email [SFSPermits@cdfa.ca.gov](mailto:SFSPermits@cdfa.ca.gov).**

**Definitions:**

**Poultry:** Including all chickens, turkeys, turkins, pheasants, peafowl, guinea fowl, quail, ducks, geese, swans, gallinules, doves, pigeons, grouse, partridges, francolin, tinamou, ostriches, and other ratites (including but not limited to the rhea, emu, and cassowary), and hatching or embryonated eggs.

**Poultry Products:** Eggs, manure, feed, carcasses, feathers, used poultry equipment.

**Non-poultry species:** All other avian species.

**Owner:** Owners of all poultry and non-poultry species, and operators of poultry-related businesses in the quarantined region.

**Exhibition:** Any event, gathering or activity where live poultry from various sources are brought together for public display, competitive or non-competitive showing, racing, fighting or trade at venues that include, but are not limited to auctions, bird shows, fair exhibits, swap meets, flea markets, poultry sporting events and at individual residences.

**VND Clinical Signs:** <https://www.cdfa.ca.gov/go/signsofVND>

- General Appearance- **swelling around the eyes & neck, twisted head & neck**, circling, complete paralysis, muscle tremors, drooping wings
- Respiratory-**gasping for air**, nasal discharge, coughing, sneezing
- Digestive- **greenish, watery diarrhea**
- Egg Production- medium to big drop in production, thin-shelled eggs
- Death- increased death loss in flock, **sudden death**

**Violations:** Failure to comply with the requirements of this Quarantine Notice may result in a fine (FAC 9166). If the violation causes VND to spread beyond the quarantine boundaries, the violator may be civilly liable for an amount not to exceed \$25,000 for each act that constitutes a violation (FAC 9574).

**Appeal Rights:** The owner may appeal the imposition of the quarantine and request an informal hearing pursuant to Chapter 4.5 (commencing with Section 11400) of Division 3 of Title 2 of the Government Code and Title 3, California Code of Regulations, Section 1301.2 and 1301.3. You may appeal by contacting the State Veterinarian at [cdfa.qna@cdfa.ca.gov](mailto:cdfa.qna@cdfa.ca.gov) and requesting an informal hearing. Due to the immediate need to contain this outbreak, **YOUR REQUEST FOR A HEARING MUST BE RECEIVED NO LATER THAN 9:00 P.M. ON FEBRUARY 28, 2019.**

# **EXHIBIT H**



# Virulent Newcastle Disease

En Español

- ▼ [Sick Bird Hotline](#)
- ▼ [Area Quarantines](#)
- ▼ [Resources](#)
- ▼ [Avian Health](#)



Get the facts about Virulent Newcastle Disease

## Virulent Newcastle Disease Alert

For a list of virulent Newcastle disease cases since the outbreak began in May 2018, visit the [USDA VND website](#).

## Secure Food Supply (SFS) Plans

**Notice: Per the Area Quarantine issued February 27, 2019, all commercial/independent/small poultry businesses shall enhance their biosecurity as required by CDFA.** CDFA enhanced biosecurity requirements are contained in the [California Secure Food Supply Guidance](#) document and [Secure Food Supply Plan template](#). CDFA and USDA are currently enforcing these requirements. One of the conditions for movement of poultry, eggs, supplies and other items that can spread vND, is approved and verified minimum biosecurity as outlined in the Secure Food Supply Guidance and Plan Template. If a farm is not meeting these biosecurity standards, movement permits will be revoked. Finally, violations of disease prevention minimum requirements can put indemnity in jeopardy if a farm becomes infected. Poultry related businesses not meeting these biosecurity standards will be subject to violations and fines.

**For more information, please visit the [California Secure Food Supply Page](#).**

### **⚠ Attention: Residents in Areas of Active vND Virus Spread**

#### **Message from State Veterinarian, Dr. Annette Jones**

Due to progression and duration of a virulent Newcastle Disease (vND) outbreak in parts of Southern California, the State Veterinarian has ordered that all poultry\* epidemiologically associated (connected) with diseased birds are **humanely euthanized**. The most heavily impacted neighborhoods are within or near:

- **Compton and Whittier (Los Angeles County)**
- **Eastvale, Menifee, Mira Loma/Jurupa Valley, Norco, Nuevo, Perris, and Riverside City (Riverside County)**
- **Chino, Fontana, Hesperia, Highland, Muscoy, and Ontario (San Bernardino County)**

Unfortunately, even individual birds and flocks that previously tested negative, but later become exposed to the disease, must be euthanized. USDA/CDFA staff will contact affected bird owners with orders specific to their property.

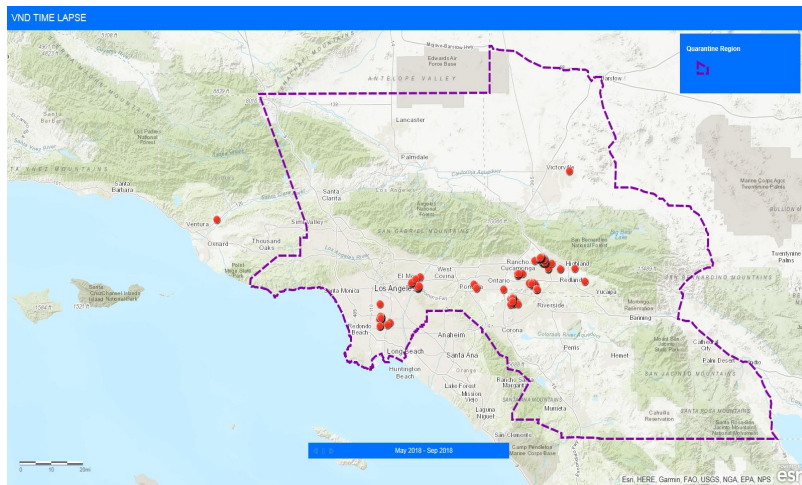
**While this action is difficult for all involved, it MUST be done to eradicate VND. Otherwise, the disease will continue to spread and kill additional flocks.**

For more information please refer to: [Virulent Newcastle Disease FAQs](#)  or call the Sick Bird Hotline at [866-922-2473](tel:866-922-2473).

\* Poultry species are defined as: chickens, turkeys, turkins, pheasants, peafowl, guinea fowl, quail, ducks, geese, swans, gallinules, doves, pigeons, grouse, partridges, francolin, tinamou, ostriches, and other ratites (including but not limited to the rhea, emu, and cassowary), and hatching or embryonated eggs.

## Maps

### Time Lapse of 2018-19 VND Detections



### VND Regional Quarantine



- > Most Recent Detections 
- > Overall Detections 

## News Articles

- May 3, 2019: [Valley News - Virulent Newcastle disease quarantine continues, public needs to stay informed](#)
- 

## Virulent Newcastle Disease Public Service Announcement (PSA)

### Virulent Newcastle Disease PSA ENGLISH



## Public Service Announcement: Virulent Newcastle Disease

In English. (0:30)

### Virulent Newcastle Disease PSA SPANISH



## Anuncio de Servicio Público: Enfermedad Virulenta Newcastle

En Español. (0:30)

## Virulent Newcastle Disease (VND)

Virulent Newcastle disease (VND), formerly known as Exotic Newcastle Disease, is a serious, highly contagious viral disease that can affect poultry and other birds. In rare cases, humans that have exposure to infected birds may get eye inflammation or mild fever-like symptoms. These signs generally resolve without treatment, however, medical care should be sought if symptoms persist. Infection is easily

prevented by using standard personal protective equipment. Virulent Newcastle disease is not a food safety concern. No human cases of Newcastle disease have ever occurred from eating poultry products. Properly cooked poultry products are safe to eat.

The virus is found in respiratory discharges and feces and may cause high rates of sickness and death in susceptible birds. For poultry, chickens are most susceptible and ducks and geese are the least susceptible. Mortality rates for Psittacine birds (parrots) can range from zero up to 75%. Certain parrots, especially Amazon parrots, can shed VND virus intermittently in excess of one year. Other birds may be infected, but may not show any symptoms and may still be able to spread the disease. Once VND is introduced into domestic avian populations, subsequent spread is normally caused by domestic bird-to-bird contact or through contact with contaminated people, feed or equipment. Other types of Newcastle disease known as lentogenic and mesogenic are less virulent and may cause mild symptoms or none at all.

There is no effective cure for virulent Newcastle Disease. It is important that all commercial and non-commercial poultry owners maintain effective barriers to mitigate the risk of VND.

- [Biosecurity tips for commercial poultry owners >](#)
- [Biosecurity tips for backyard and non-commercial poultry owners >](#)

### Historical Virulent Newcastle Disease Incidents ▶

#### More information on Virulent Newcastle Disease

[Virulent Newcastle Disease Alert](#)  [En Español](#) 

[Virulent Newcastle Disease is spreading: \*What can you do?\*](#)  [En Español](#) 

[Signs of Disease in Poultry and Pet Birds](#)  [En Español](#) 

[Necropsy Services for Backyard Poultry Owners](#)  [En Español](#) 

[Backyard Poultry Biosecurity Workshop Videos — \*Subtítulos en Español\*](#)

[USDA Biosecurity For Birds](#)

[Virulent Newcastle Disease Factsheet - for Bird Owners](#)  [En Español](#) 

[Virulent Newcastle Disease Factsheet - for Veterinarians](#) 

[USDA APHIS Virulent Newcastle Disease Factsheet](#) 



[Top Tips for Keeping Your Backyard Flock Healthy](#)  [En Español](#) 

[Center for Food Security & Public Health — En Español](#)

[USDA/CDFA Symptoms: Virulent Newcastle Disease \(Pictorial Guide\)](#) 

### Industry Information Links

[California Poultry Federation](#)

[Pacific Egg and Poultry Association](#)

[USDA CA Poultry Report Highlights](#)

### Organization for Animal Health (OIE) Information

[Newcastle Disease - Aetiology, Epidemiology, Diagnosis, Prevention and Control, References](#)



### Sick Bird Hotline

**To report an unusual number of sick/dead birds, call 866-922-BIRD (2473)**

May 8, 2019

**[Recommendation to Suspend On-Farm Poultry Area Visits & Biosecurity Guidelines](#)** 

[En Español](#) 

March 22, 2019

**[Poultry Disease Update and Biosecurity Advisory](#)**  [En Español](#) 

January 16, 2019

**[State Veterinarian Recommends Cancellation of California Poultry Exhibitions](#)** 

September 25, 2018

**[Los Angeles County – Ordinance Limiting Roosters](#)** 

**[Virulent Newcastle Disease Alert](#)** [En Español](#) 



## Area Quarantines

**February 27, 2019**

California Regional Quarantine Notice #1: Los Angeles County and Sections of Riverside County and San Bernardino County

Aviso De La Cuarentena En Español

Map

Mapa En Español

News Advisory

Aviso de Noticias En Español



## Resources

**USDA APHIS VND Page**

UCCE Poultry Page

> Poultry Contact Flowchart

> Private Veterinarians Who Treat Poultry

**New:** Guidelines for Veterinarians Collecting Samples for VND

Diagnostic Services

National Poultry Improvement Plan

Bird Disease Prevention Training Courses

CDFA - Meat, Poultry & Egg Safety Branch

Reportable Disease List

Backyard Biosecurity for Poultry

Commercial Poultry Biosecurity



## Avian Health

Animal Health and Food Safety Services

Avian Influenza Information

West Nile Virus

UC Davis Poultry Science



## 2019 Avian Health Calendar






[Download the 2019 Avian Health Calendar](#)


(7.83 MB)



Contact Us

California Department of Food and Agriculture  
Animal Health and Food Safety Services,

<p>Animal Health Branch          1220 N Street          Sacramento, California 95814</p>
<p> 916-900-5002</p>
<p> Fax: 916-900-5333</p>
<p> <a href="mailto:ahbfeedback@cdfa.ca.gov">ahbfeedback@cdfa.ca.gov</a></p>

	<b>Field Contacts</b>
<p>CDFA Modesto District          209-491-9350</p>	
<p>CDFA Ontario District          909-947-4462</p>	
<p>CDFA Redding District          530-225-2140</p>	
<p>CDFA Tulare District          559-685-3500</p>	

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# **EXHIBIT I**

# AVMA Guidelines for the Depopulation of Animals: 2019 Edition

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unpleasant for all those involved but may be a necessary evil when the priority is to reduce suffering and minimize unnecessary deaths of even larger numbers of animals. Some depopulation methods require physical handling of the animal. The amount of control and the kind of restraint required will be determined not only by the species, breed, and size of animal involved, but also by resources such as numbers of capable personnel, depopulation agents, the level of excitement and prior handling experience of animals, and competence of the personnel performing depopulation. Proper handling is vital to minimize pain and distress in animals and to ensure the safety of the person performing depopulation, other bystanders, and other animals in harm's way.

Selection of the most appropriate method of depopulation in any situation will depend on the species and number of animals involved, available means of animal restraint, skill of personnel, and other considerations such as availability of agents and biosecurity. Personnel who depopulate animals must demonstrate proficiency in the use of the technique in a closely supervised environment. Each facility where depopulation is performed is responsible for appropriately training its personnel. Experience in the humane restraint of the species of animal is critical. Where possible, training should include familiarity with the normal behavior of the species, an appreciation of how behavior affects handling and restraint, and an understanding of the mechanism by which the selected technique induces loss of consciousness and death. When direct contact with animals is possible, death should be verified before disposal of the animals. Personnel must be sufficiently trained to recognize the cessation of vital signs of different animal species.

The POD gave serious consideration to the following criteria in their assessment of the appropriateness of depopulation methods: 1) ability to induce loss of consciousness followed by death with a minimum of pain or distress; 2) time required to induce loss of consciousness and the behavior of the animal during that time; 3) reliability and irreversibility of the methods resulting in death of the animal; 4) safety of personnel; 5) compatibility with the safety of other humans, animals, and the environment; 6) potential psychological or emotional impacts on personnel; 7) ability to maintain equipment in proper working order; 8) legal and religious requirements; 9) sensitivity to public sentiment regarding the destruction of large numbers of animals; and 10) availability of agents and carcass-processing and disposal venues to handle the volume. These Guidelines do not address every contingency. In circumstances that are not clearly covered by these Guidelines, a veterinarian experienced with the species in question should apply professional judgment and knowledge of clinically acceptable techniques in selecting a method of depopulation or euthanasia (if required). Reaching out to colleagues with relevant experience may be necessary. Veterinarians will be working with other members of a crisis management

team and in some cases may not have jurisdiction or the capacity to carry out their professional activities. When exercising their professional responsibilities, veterinarians should consider whether 1) the procedure results in the best outcome for the animal; 2) their actions conform to acceptable standards of veterinary practice and are consistent with applicable federal, state, and local regulations; and 3) the choice of depopulation or euthanasia technique is consistent with the veterinarians' professional obligations and adheres to sound ethical grounding.

## 0.6 Definitions

The decisions about depopulation should be made with consideration of professional, ethical, and technical aspects as well as the availability of infrastructure, equipment, and trained personnel; human and animal welfare; and disposal and environmental outcomes. The methods involved in depopulation will also reflect the severity of the emergency in question, and responsible decisions with regard to depopulation will also include trade-offs. Depopulation methods may not be congruent with euthanasia methods since they involve the mass termination of large populations of animals.

### 0.6.1 Preferred methods

These methods are given highest priority and should be utilized preferentially when emergency response plans are developed and when circumstances allow reasonable implementation during emergencies. The methods may correspond to those outlined in the AVMA Guidelines for the Euthanasia of Animals<sup>1</sup> or the Guidelines for the Humane Slaughter of Animals<sup>2</sup> but be adjusted for situational considerations.

### 0.6.2 Permitted in constrained circumstances

These methods are permitted only when the circumstances of the emergency are deemed to constrain the ability to reasonably implement a preferred method. Potential constraints that might result in use of methods in this category include, but are not limited to, constraints on zoonotic disease response time, human safety, depopulation efficiency, deployable resources, equipment, animal access, disruption of infrastructure, and disease transmission risk.

### 0.6.3 Not recommended

These methods should be considered only when the circumstances preclude the reasonable implementation of any of the preferred methods or those permitted in constrained circumstances and when the risk of doing nothing is deemed likely to have a reasonable chance of resulting in significantly more animal suffering than that associated with the proposed depopulation technique. Examples of such situations include, but are not limited to, structural collapse or compromise of buildings housing animals, large-scale radiologic events, complete inability to safely access animals for a prolonged period of time, or any circumstance that poses a severe threat to human life.



certifications for various poultry products and the growth of the organic segment of this industry will undoubtedly continue, assuring that birds raised with outdoor access will be of significant concern in future scenarios requiring depopulation.

Poultry operations that allow outdoor access while also being able to confine birds in buildings would, in the case of an event requiring depopulation, fall into the “floor-reared broilers, turkey, duck, or layer hens” category of this document.

For poultry operations without the ability to enclose birds in buildings, gathering and confining birds before depopulation will be more time-consuming and subject to other challenges related to weather and terrain. This will require the use of temporary fencing or netting, and in all likelihood, additional personnel would be needed when compared with a similarly sized operation of cage or floor-reared birds. The recommended methods will be based on species. For free-range turkeys, once confinement is accomplished, captive bolt gun or mechanically assisted cervical dislocation would be the acceptable method of choice. In the case of younger turkeys, broiler or layer chickens and ducks, containerized gassing, mechanically assisted cervical dislocation, or cervical dislocation could be employed. As is the case with cage systems, the foam depopulation methods would probably not be feasible in outdoor-access operations.

### **6.4.1 Depopulation methods for outdoor-access poultry**

#### **6.4.1.1 Preferred methods**

Preferred methods include captive bolt gun, cervical dislocation, mechanically assisted cervical dislocation, and containerized gassing.

#### **6.4.1.2 Permitted in constrained circumstances**

Methods permitted in constrained circumstances include water-based foam generators, water-based foam nozzles, partial-house gassing, gunshot via firearm or pellet gun, exsanguination, controlled demolition, decapitation, and cervical dislocation.

#### **6.4.1.3 Not recommended**

Not-recommended methods include whole-house gassing and VSD alone.

## **6.5 Ratites**

Ratites (eg, ostriches, emus, and rheas) are raised in a variety of husbandry and housing styles in the United States, which usually offer a combination of indoor barns and outdoor access. Ratites produce red meat that is similar to beef or venison, and the hide is used for fine leather products.<sup>2</sup>

### **6.5.1 Depopulation methods for ratites**

#### **6.5.1.1 Preferred methods**

All methods contained in the AVMA Guidelines for the Euthanasia of Animals<sup>4</sup> or the AVMA Guide-

lines for the Human Slaughter of Animals<sup>5</sup> are considered preferred.

Preferred methods include mechanically assisted cervical dislocation, captive bolt gun, ingested or injected agent, and gunshot.

#### **6.5.1.2 Permitted in constrained circumstances**

Methods permitted in constrained circumstances include exsanguination (after stunning or sedation), controlled demolition, whole-house gassing, partial-house gassing, containerized gassing, water-based foam generators, compressed air foam, VSD plus, cervical dislocation, and decapitation.

#### **6.5.1.3 Not recommended**

Water-based foam nozzles and VSD alone are not recommended methods.

## **6.6 Companion, Lifestyle, or High-Value Birds**

Companion, lifestyle, or high-value birds deserve a separate category owing to their unique status as pets, companions, and members of the family. The likelihood of an event catastrophic enough to require the depopulation of these types of birds would undoubtedly be exceedingly rare. Despite this, emergency planners should ensure that responders are highly trained and empathetic individuals who possess the necessary interpersonal skills to carry out what would prove to be an extremely distasteful, heart-wrenching, and onerous task.

### **6.6.1 Depopulation methods for companion, lifestyle, or high-value birds**

#### **6.6.1.1 Preferred methods**

Preferred methods include captive bolt gun, containerized gassing, ingested or injected agent, and cervical dislocation.

#### **6.6.1.2 Permitted in constrained circumstances**

Methods that are permitted in constrained circumstances include water-based foam generators, water-based foam nozzles, compressed air foam, decapitation, and gunshot.

#### **6.6.1.3 Not recommended**

Not-recommended methods include VSD alone, controlled demolition, exsanguination, and whole-house gassing.

## **6.7 Fertilized Eggs, Embryos, or Neonates**

Bird embryos that have attained > 80% incubation should be euthanized by methods similar to those used in avian neonates. Eggs at < 80% incubation may be destroyed by prolonged exposure (> 20 minutes) to CO<sub>2</sub>, cooling (< 4°C for 4 hours), or freezing. Anesthesia can be used before euthanasia and is most easily accomplished with exposure to

where the building can be adequately sealed. They may have an advantage for dealing with waterfowl, compared with carbon dioxide.

### 6.9.3 Containerized gassing

Containerized gas depopulation methods such as the use of MAK carts with carbon dioxide can humanely induce unconsciousness within 30 seconds of a bird being removed from a cage and death within minutes. However, routine spent hen removal from a large cage-style house can take a crew of 8 to 10 people several days, and to operate faster would require a larger work force. Work flow and efficient removal of the bird from a cage house can be difficult when increasing the work force. During fast-moving disease outbreaks, death due to disease may be faster than practical depopulation and removal rates from caged scenarios.

All containerized gassing methods require catching and handling of live birds to place them into the container or into the module, which then is placed into the container. This has drawbacks when large numbers of birds must be depopulated in a short period time or when the birds carry a potentially zoonotic disease to which handlers would be exposed. The container must be sufficiently airtight to hold an adequate concentration of gas for long enough to ensure the death of birds placed inside, yet be appropriately vented to allow air to be forced out when the gas is injected. The container can be precharged before loading or charged with gas after the birds have been loaded. Owing to the limited volume of the container, a containerized gassing method can be more sparing of gas relative to whole-house gassing. Likewise, the small volume allows the target gas concentration to be reached quickly so that the birds' experience of the modified atmosphere is not prolonged. The small volume also minimizes the likelihood of uneven distribution of gas throughout the chamber, and the gas injection system can be designed to achieve good gas mixing.

Virtually any sealable container could be used for containerized gassing, from something as simple as a trash can with a lid to purpose-built units with automated gas delivery systems. The container size and number need to be appropriate for the flock size and equipment available to handle the containers. Tarp-lined dumpsters or leak-proof commodity trucks with hoses from CO<sub>2</sub> tanks have been used as well.

Containerized gas methods designed to kill poultry in transport modules were used in disease outbreaks in the United States<sup>19</sup> and the United Kingdom.<sup>12</sup> In the US outbreak, a metal chamber open at the bottom was lowered over the module after it had been removed from the house. Carbon dioxide was delivered from a 50-lb CO<sub>2</sub> cylinder through an injection port in the chamber. The cylinder was left to run until the gas stopped. A target concentration of 50% CO<sub>2</sub> was reached in one minute, and movement of birds ceased by 1 minute 45 seconds. A typi-

cal commercial broiler farm needed 6 chambers to keep up with the rate of catching. A variation of this technique was to wrap the module in plastic and introduce CO<sub>2</sub> through a small hole. Wrapping required quick work to avoid overheating the birds. The system used in the United Kingdom used a metal container into which the transport module was placed through a door, which was closed to seal the chamber. A gas mixture (80% argon, 20% carbon dioxide) was injected to achieve a residual oxygen concentration of 5%. Fill time to the target concentration was 4 minutes. The procedure was to wait until the sound of bird movement stopped, then check for and kill survivors.

The MAK cart was developed for routine depopulation of spent laying hens housed in cages.<sup>20</sup> The cart is rolled along the aisle of a layer house to the location where hens are to be caught. The chamber of the cart is prefilled with carbon dioxide from a gas supply carried on the cart, and hens are placed into the cart directly after being removed from their cages. Carbon dioxide concentration is maintained in the cart by manual injection on the basis of the operator's observation of bird behavior. Windows into the cart allow the birds to be seen. Birds lose consciousness in 30 to 60 seconds in a properly operated cart but, manual operation of the gas system allows for operator error. The system is efficient with gas, with just over 13 lb of carbon dioxide needed to kill 1,000 hens. A crew of 12 can kill 30,000 hens in 8 hours. The rate of carbon dioxide delivery into the carts is typically high enough to cause cylinders to become so chilled that the liquid carbon dioxide remaining in the cylinder cannot vaporize fast enough to maintain an adequate flow. When this happens, cylinders must be changed out before they are empty.

A MAK trailer was designed for the purpose of depopulating small flocks of poultry.<sup>21</sup> A USDA National Animal Health Monitoring System report<sup>2</sup> notes that more than 90% of small or backyard flocks have fewer than 100 birds. The chamber of the MAK trailer was sized large enough to be able to kill an entire small flock in most cases. It is possible to operate the trailer with carbon dioxide, inert gases, or gas mixtures. Carbon dioxide and nitrogen were tested. Gas injection was controlled automatically. With carbon dioxide, the cart was prefilled and the concentration maintained at 50% during loading. Time to unconsciousness averaged about 20 seconds after birds were placed in the chamber. The number of birds that could be loaded varied with bird size (ie, from 595 X 3.0-lb [1.4 kg] broilers to 79 X 15.6-lb [7.1-kg] turkeys, requiring 26.9 to 10.8 lb of carbon dioxide/load, respectively). Cylinder chilling was observed when loads of birds were killed in close succession. This would not be a problem with single loads, which is the scenario for which the MAK trailer was designed. With nitrogen, birds were loaded in batches, (ie, a batch was a single layer of birds), and the gas was injected after a batch was loaded. Time to unconscious-

ness averaged just over 4 minutes after the beginning of nitrogen injection. The time to the end of wing flapping convulsions + 30 seconds for each batch was approximately 5 to 7 minutes (the kill cycle). A full load for the size of bird tested, 8.6-lb (3.9-kg) broilers, was two batches. Residual oxygen concentration achieved was  $\leq 3\%$ . About 200 cubic feet of nitrogen were required to kill a load of birds.

In conclusion, containerized gassing can provide a rapid, humane death for poultry. It does involve catching and handling of live birds, but not more severe than normal catching before live haul to slaughter. Since the birds are exposed to the modified atmosphere shortly after catch, stress is minimized. In addition to the use of carbon dioxide, containerized gas methods also can use inert gases such as nitrogen or argon or mixtures of nitrogen and argon and carbon dioxide, which may be more effective with some waterfowl than carbon dioxide alone. Containerized gassing also lends itself to depopulation of small flocks and backyard flocks. When time, circumstances, and logistics permit, containerized gassing is a preferred method for depopulation.

#### 6.9.4 Whole-house gassing

The principles for whole-house gassing are essentially the same as for containerized gassing except that the container is the entire interior volume of the house constituting or open to the living space of a flock. Whole-house gassing allows birds to be killed in their own living space without the stress of handling. Any disease is contained within the house until the pathogen can be dealt with. Relatively few people are required to depopulate the flock, and depopulation is accomplished with minimal exposure to birds. The primary gas used for whole-house gassing is carbon dioxide, but carbon monoxide and hydrogen cyanide have been tried in disease outbreaks around the world. Carbon dioxide is relatively safe to use and will kill poultry at concentrations as low as 30% if given enough time.<sup>22</sup>

The house must be relatively gastight, and inlets, fans, and doors must be sealed sufficiently to hold adequate concentrations of carbon dioxide throughout the living space of the birds but vented sufficiently above the birds to allow air to be forced out when the gas is injected. Inadequate sealing of a house will result in the waste of CO<sub>2</sub> or pockets of surviving birds adjacent to unsealed areas. Distribution of gas within a facility is nontrivial and requires the use of a specially designed manifold to provide the proper gas distribution through the facility. Improper gas distribution can result in structural damage to the facility because of flash freezing but can be mitigated by the loosening of belts, draining of some water lines, and placement of manifolds away from sensitive structures and placement of foam board as an insulation barrier to protect against freezing. In houses with multiple rooms, the ventilation in one room may counter attempts to seal an adjacent room if depopu-

lation were to proceed on a room-by-room basis. The amount of carbon dioxide needed to depopulate a house of caged poultry varies with house design and permeability.

Reports in the literature indicate a range of 336 to 2,031 lb of CO<sub>2</sub>/1,000 birds in a variety of confinement housing systems. Whole-house gassing can be relatively inefficient in the use of gas because of the space that must be filled that is not occupied by birds. A rule of thumb is that it requires about 1 house volume of carbon dioxide injected into a house to reach 50% to 60% concentration. A field estimate for the amount of liquid carbon dioxide required is as follows:

$$W_{\text{ICO}_2} = \frac{V}{8.7}$$

where  $W_{\text{ICO}_2}$  = the weight of liquid CO<sub>2</sub> in pounds and  $V$  = volume of the barn in cubic feet.

A large modern cage layer house with an internal volume of 500,000 cubic feet would require roughly 25 to 30 tons of CO<sub>2</sub> or two 20-ton tanker loads of CO<sub>2</sub> to depopulate a barn.

The time required to administer carbon dioxide to kill a flock depends on a variety of factors, such as the house size, the target concentration of the gas, the health status of the birds, and the mechanism of gas delivery. Field studies report a range of time from 5 to 60 minutes to achieve concentrations of carbon dioxide from 40% to 65%.<sup>11,23-25</sup> When liquid carbon dioxide is injected into a house at a high rate, temperatures in the vicinity of the injection site can become very low (eg,  $-23^\circ\text{C}$ ,<sup>25</sup>  $-85^\circ\text{C}^{24}$ ); however, these studies also show that birds lost consciousness before being chilled, and there was no evidence of antemortem freezing. Foam boards or other insulating materials can be positioned around the manifolds to limit areas of localized cold temperatures for the impact on both the birds and the equipment.

Emergency depopulation of a multihouse complex by whole-house gassing would require logistic planning and a fleet of 4 to 6 tankers rotating from resupply site to complex beginning with the infected house and working out to adjacent barns. A 20-barn complex would take 5 to 6 days to depopulate assuming 4 tankers, 2 crews, and 8 gassing units were mobilized. The limiting factor may be emptying the barns and disposal of the birds in a way to control disease spread, as the described scenario would require composting or burial of 3,000,000 birds in 6 to 7 days.

Gas mixtures that incorporate an inert gas such as nitrogen with carbon dioxide, which require greater displacement of the resident atmosphere within the house than is necessary with carbon dioxide alone, would need even greater volumes injected into the house to achieve the concentration necessary to kill birds.

Whole-house gassing should be conducted according to strict standard operating procedures to protect the safety of people who might be exposed to modified atmospheres. For the safety of the depop-



ulation team, it would be advisable for one or more individuals to be equipped with breathing apparatus to operate in a dangerous atmosphere.

In conclusion, whole-house gassing can provide poultry with a humane death. Whole-house gassing allows flocks to be killed in their own living space with no disturbance from people. Involving minimal labor and minimal exposure of humans to the flock, whole-house gassing can be implemented fairly quickly, stopping further production of pathogens, and if necessary in a large disease outbreak, killed flocks can be left in place while the depopulation effort moves to deal with other flocks. The amount of gas needed to depopulate large commercial poultry houses may require preexisting supply contracts and logistic coordination with multiple CO<sub>2</sub> providers if a disease outbreak were to hit multiple farms or even a single farm with multiple houses. When circumstances and logistics permit, whole-house gassing is a preferred method for depopulation.

### 6.9.5 Partial-house gassing

Many old poultry houses and those in warm climates have open designs that do not lend themselves to whole-house gassing because they cannot feasibly be sealed to hold adequate concentrations of gas. Partial-house gassing methods involve assembly of a chamber in the house within which a flock can be gassed in one or more groups. The chamber can be constructed of panels or other material to form walls over which a plastic sheet is later pulled or may merely comprise plastic sheets that are anchored to the floor and can be pulled over the birds. The chamber generally is set up in an area cleared of birds, and the birds are driven into it when ready. This method works best with types of birds that can be driven, such as turkeys. Like whole-house gassing, partial-house gassing kills birds in their own living space.

Partial-house gassing requires a team of people to work in the living space of the birds, potentially exposing them to any pathogen the birds carry. It also requires materials to construct the chamber. With appropriate organization and drivable birds, the procedure can be conducted fairly quickly. For instance, Kingston et al<sup>19</sup> used a team of seven people to set up a ground panel enclosure inside a house to depopulate commercial turkeys. Once the chamber is closed, gas can be delivered quickly. Kingston et al<sup>19</sup> took 5 to 6 minutes to reach carbon dioxide concentrations of 48% to 58%. Bird movement ceased in 6 to 7 minutes. Estimates of gas use were not reported, but it is likely that partial-house gassing methods would be intermediate between containerized and whole-house gassing, depending on the degree of volume reduction from the whole house relative to that attained with containerized gassing.

As with whole-house gassing, partial-house gassing should be conducted according to strict standard operating procedures to protect the safety of people who might be exposed to modified atmospheres. For

the safety of the depopulation team, it would be advisable for one or more individuals to be equipped with breathing apparatus to operate in a dangerous atmosphere.

The same methodology as used for partial-house gassing might work for sizable flocks of outdoor-housed free-range poultry provided they can be driven.

In conclusion, partial-house gassing can provide a rapid, humane death for poultry. The method is more labor-intensive than whole-house gassing and requires the depopulation crew to work in the living space of the flock and to interact directly with the birds. Unless the birds are sick, this level of interaction with the birds would be less stressful than catching. Partial-house gassing lends itself better to species of poultry that can be driven, such as turkeys. If birds are already sick, partial-house gassing would be problematic if the flock cannot be driven into the location set up to hold the modified atmosphere. If the partial house is sufficiently airtight, other gases than carbon dioxide might also be effective in providing a humane death. Partial-house gassing requires a flock to be housed on the floor. For reasons of time, personnel exposure to birds, depopulation crew size, and resource availability, other nongas methods of depopulation, such as the use of foam, may be more feasible. Nonetheless, if time, circumstances, and logistics are favorable, partial-house gassing is a preferred method for depopulation.

### 6.9.6 Physical methods

Physical methods of depopulation, including captive bolt gun, mechanically assisted cervical dislocation, and cervical dislocation, can be preferred methods or methods allowed in constrained circumstances depending on the situation. All physical methods require extensive manual handling of the poultry, increasing labor requirements, time, and human and animal stress and raising welfare concerns. Physical methods, however, can be more flexible and adaptable to specific situations because they are applied on an individual animal rather than whole flock. Physical methods may need to be adapted to the specific avian species under consideration and are most appropriate when there are limited numbers of birds to depopulate.

Animals should be caught with a minimum of effort and restrained if possible. If necessary, animals should be carried with two hands.

The use of firearms is generally discouraged for most commercial poultry owing to the number and size of the birds in question. Properly performed depopulation by gunshot causes immediate insensibility and death, with the projectile penetrating the brain resulting in immediate death. While all depopulation methods require skilled personnel, the use of firearms raises the concerns to a higher level. Only skilled firearms operators should be involved in the process. Firearms may be one of the few physical

methods available for large ratites. Air rifles or pistols using BBs or pellets may be necessary to depopulate starlings and other nuisance birds that have gained access to the facility during disease response activity.

Captive bolt guns are purpose-built devices designed to cause immediate loss of consciousness and death in appropriate species. Captive bolt guns retain the bolt within the unit (ie, captive), avoiding ricochet or overpenetration. Purpose-built captive bolt guns are available for commercial broilers, layers, and turkeys. The purpose-built captive bolt guns use concussive force to render the animal unconscious and should not break the skin under proper use.

Cervical dislocation is the luxation of the cervical vertebrae without primary crushing of the vertebrae and spinal cord. Properly implemented, cervical dislocation causes rapid loss of consciousness. Cervical dislocation can be appropriate for smaller birds, immature rats, mice, and rabbits, but is not appropriate for large animals or birds.

Mechanically assisted cervical dislocation aims to achieve the same effect as cervical dislocation; however, it uses mechanical devices that increase the mechanical advantage to make it easier to effectively kill the birds. Mechanically assisted cervical dislocation devices use long lever arms, coupled with short and narrow contact at the neck, to increase the effective force on the neck.

When buildings containing birds have been declared unsafe to enter, options for depopulation may be extremely limited. However, the same ethical criteria apply and may justify steps taken to hasten death such as controlled demolition of the building.

### 6.9.7 VSD

Ventilation shutdown alone as a depopulation method is a last resort and must only be considered when all other options have been thoughtfully considered and ruled out. A primary goal in the case of an outbreak of HPAI (or other highly contagious pathogen) is to stop the spread of the virus as quickly as possible to reduce further bird suffering and economic losses and, in the case of a zoonotic agent, minimize the threat to human health. However, the most compelling reason to use VSD when all other methods have been ruled out is that, when done properly, it provides a quicker death, hence eliminating the chance for the birds to die over a longer period of time from distressing and devastating disease.

Ventilation shutdown as a whole-house depopulation method was employed sporadically in the 2015 large-scale HPAI outbreak in the United States and in the smaller outbreak in Indiana in January 2016. Both of these disease outbreaks resulted in situations where resources had become depleted and personnel were not available to depopulate a house in sufficient time to prevent further widespread dissemination of the virus to adjacent farms. Ventilation shutdown is also a method that may be a necessary alternative for the initial response, or to limit exposure, to a highly

zoonotic strain of avian influenza.

Ventilation shutdown involves closing up the house, shutting inlets, and turning off the fans. Body heat from the flock raises the temperature in the house until birds die from hyperthermia, but numerous variables can make the time to death of 100% of birds in the house subject to widely divergent time frames. The age and size of the house; the ventilation system; the ability to adequately seal fans, louvers, doors, and windows; and the number of birds in the house can all make the achievement of temperature goals problematic (outlined later in this chapter). Cage houses, which hold a large biomass in the living space, may lend themselves more readily to VSD than other housing types containing lower biomass per unit volume. Ventilation shutdown has the advantage of quickly stopping production of disease virus and containing the pathogen within the house until it can be neutralized. It also requires little labor and minimal human exposure to birds.

The USDA has published two documents pertaining to VSD. The first, HPAI Outbreak 2014–2015: Ventilation Shutdown Evidence and Policy,<sup>6</sup> describes the rationale for supporting a revised depopulation policy for HPAI, setting a goal for poultry to be depopulated within 24 hours of a presumptive positive classification, on the basis of the current case definition. This document also contains a decision tree for selecting VSD as a depopulation method. The second document, HPAI Response Guidance: Using Ventilation Shutdown to Control HPAI,<sup>26</sup> contains specifications for carrying out VSD, including general guidance, length and temperature of heating, and humidity and bird density. The USDA Response Guide states that “VSD is the last option that will be considered when selecting a depopulation method.”

The Evidence and Policy statement delineates six requirements for using VSD for HPAI:

1. Other methods are not available or will not be available in a timely manner.
2. The amplification of the virus on the premises poses a significant threat for further transmission and ongoing spread of HPAI.
3. The questions in the Ventilation Shutdown Evidence and Policy document have been reviewed and discussed by APHIS officials, state or tribal officials, and the incident management team.
4. Incident management team approval.
5. State officials' approval.
6. National Incident Coordinator approval.

The Response Guide states that the temperature of the house must be raised to 104°F or higher as quickly as possible and preferably within 30 minutes, maintaining a temperature of between 104°F and 110°F for a minimum of three hours. Recent research conducted at North Carolina State University<sup>27</sup> and the USDA Response Guidance indicate that VSD alone may not achieve this outcome and that supplemental heat may be needed to achieve this standard. While

# **EXHIBIT J**

# AVMA Guidelines for the Euthanasia of Animals: 2013 Edition

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## Part II—Methods of Euthanasia

### **M1. INHALED AGENTS**

#### **M1.1 COMMON CONSIDERATIONS**

Inhaled vapors and gases require a critical concentration within the alveoli and blood for effect; thus, all inhaled methods have the potential to adversely affect animal welfare because onset of unconsciousness is not immediate. Distress may be created by properties of the agent (eg, pungency, hypoxia, hypercarbia) or by the conditions under which the agent is administered (eg, home cage or dedicated chamber, gradual displacement or prefilling of the container), and may manifest itself behaviorally (eg, overt escape behaviors, approach-avoidance preferences [aversion]) or physiologically (eg, changes in heart rate, sympathetic nervous system [SNS] activity, hypothalamic-pituitary axis [HPA] activity). Although SNS and HPA activation are well accepted as markers of a stress response, these systems are activated in response to both physical and psychological stressors and are not necessarily associated with higher-order CNS processing and conscious experience by the animal. Furthermore, use of SNS and HPA activation to assess distress during inhalation of euthanasia agents is complicated by continued exposure to the agents during the period between loss of consciousness and death.

Distress during administration of inhaled agents has been evaluated by means of both behavioral assessment and aversion testing. While overt behavioral signs of distress have been reported in some studies, others have not consistently found these effects. Through preference and approach-avoidance testing, all inhaled agents currently used for euthanasia have been identified as being aversive to varying degrees. Aversion is a measure of preference, and while aversion does not necessarily imply that the experience is painful, forcing animals into aversive situations creates stress. The conditions of exposure used for aversion studies, however, may differ from those used for stunning or killing. In addition, agents identified as being less aversive (eg, Ar or N<sub>2</sub> gas mixtures, inhaled anesthetics) can still produce overt signs of behavioral distress (eg, open-mouth breathing) in some species under certain conditions of administration (eg, gradual displacement). As previously noted in the section on consciousness, one of the characteristics of anesthesia in people is feeling as if one is having an out-of-body experience, suggesting a disconnection between one's sense of self and one's awareness of time and space.<sup>140</sup> Although we cannot know for certain the subjective experiences of animals, one can speculate similar feelings of disorientation may contribute to the observed signs of distress.

As for physical methods, the conditions under which inhaled agents are administered for euthanasia can have profound effects on an animal's response and, thus, agent suitability. Simply placing Sprague-Dawley rats into an unfamiliar exposure chamber containing room air produces arousal, if not distress.<sup>141</sup> Pigs are social animals and prefer not to be isolated from one another; consequently, moving them to the CO<sub>2</sub> stun-

ning box in groups, rather than lining them up single file as needed for electric stunning, improves voluntary forward movement, reduces handling stress and electric prod use, and improves meat quality.<sup>142</sup>

That inhaled agents can produce distress and aversion in people raises concerns for their use in animals, in that the US Government Principles for the Utilization and Care of Vertebrate Animals Used in Testing, Research, and Training<sup>143</sup> state "Unless the contrary is established, investigators should consider that procedures that cause pain or distress in human beings may cause pain or distress in other animals." Interestingly, more than 40% of human children 2 to 10 years old display distress behaviors during sevoflurane induction, with 17% displaying significant distress and more than 30% physically resisting during induction.<sup>144</sup> Fear in children undergoing anesthesia may be due to odor, feel of the mask, or a true phobia of the mask.<sup>145</sup> Despite evidence of distress and aversion, inhaled anesthetics continue to be administered because the benefits associated with their use greatly outweigh any distress and/or aversion they may cause.

The suitability of any particular inhaled agent for euthanasia therefore depends largely on distress and/or pain experienced prior to loss of consciousness. Distress can be caused by handling, specific agent properties, or method of administration, such that a one-size-fits-all approach cannot be easily applied. Suffering can be conceptualized as the product of severity, incidence, and duration. As a general rule, a gentle death that takes longer is preferable to a rapid, but more distressing death<sup>25</sup>; however, in some species and under some circumstances, the most humane and pragmatic option may be exposure to an aversive agent or condition that results in rapid unconsciousness with few or no outward signs of distress. Our goal is to identify best practices for administering inhaled agents, defining the optimal conditions for transport, handling, and agent selection and delivery to produce the least aversive and distressing experience for each species.

The following contingencies are common to all inhaled euthanasia agents:

(1) Time to unconsciousness with inhaled agents is dependent on the displacement rate, container volume, and concentration. An understanding of the principles governing delivery of gases or vapors into enclosed spaces is necessary for appropriate application of both prefill and gradual displacement methods.

(2) Loss of consciousness will be more rapid if animals are initially exposed to a high concentration of the agent. However, for many agents and species, forced exposure to high concentrations can be aversive and distressing, such that gradual exposure may be the most pragmatic and humane option.

(3) Inhaled agents must be supplied in purified form without contaminants or adulterants, typically from a commercially supplied source, cylinder, or tank, such that an effective displacement rate and/or concentration can be readily quantified. The direct application

of products of combustion or sublimation is not acceptable due to unreliable or undesirable composition and/or displacement rate.

(4) The equipment used to deliver and maintain inhaled agents must be in good working order and in compliance with state and federal regulations. Leaky or faulty equipment may lead to slow, distressful death and may be hazardous to other animals and to personnel.

(5) Most inhaled agents are hazardous to animal workers because of the risk of explosions (eg, ether, CO), narcosis (eg, halocarbon anesthetics, CO<sub>2</sub>, asphyxiating gases), hypoxia (eg, asphyxiating gases, CO), addiction or physical abuse (eg, nitrous oxide [N<sub>2</sub>O], halocarbon anesthetics), or health effects resulting from chronic exposure (eg, N<sub>2</sub>O, CO, possibly halocarbon anesthetics).

(6) In sick or depressed animals where ventilation is decreased, agitation during induction is more likely because the rise in alveolar gas concentration is delayed. A similar delayed rise in alveolar gas concentration can be observed in excited animals having increased cardiac output. Suitable premedication or noninhaled methods of euthanasia should be considered for such animals.

(7) Neonatal animals appear to be resistant to hypoxia, and because all inhaled agents ultimately cause hypoxia, neonatal animals take longer to die than adults.<sup>146</sup> Inhaled agents can be used alone in unweaned animals to induce loss of consciousness, but prolonged exposure time or a secondary method may be required to kill the unconscious animal.

(8) Reptiles, amphibians, and diving birds and mammals have a great capacity for holding their breath and for anaerobic metabolism. Therefore, induction of anesthesia and time to loss of consciousness when inhaled agents are used may be greatly prolonged. Noninhaled methods of euthanasia should be considered for these species and a secondary method is required to kill the unconscious animal.

(9) Rapid gas flows can produce noise or cold drafts leading to animal fright and escape behaviors. If high flows are required, equipment should be designed to minimize noise and gas streams blowing directly on the animals.

(10) When possible, inhaled agents should be administered under conditions where animals are most comfortable (eg, for rodents, in the home cage; for pigs, in small groups). If animals need to be combined, they should be of the same species and compatible cohorts, and, if needed, restrained or separated so that they will not hurt themselves or others. Chambers should not be overloaded and need to be kept clean to minimize odors that might cause distress in animals subsequently euthanized.

(11) Because some inhaled agents may be lighter or heavier than air, layering or loss of agent may permit animals to avoid exposure. Mixing can be maximized by ensuring incoming gas or vapor flow rates are sufficient. Chambers and containers should be as leak free as possible.

(12) Death must be verified following administration of inhaled agents. This can be done either by examination of individual animals or by adherence to validated exposure processes proven to result in death.<sup>147</sup>

If an animal is not dead, exposure must be repeated or followed with another method of euthanasia.

## **M1.2 PRINCIPLES GOVERNING ADMINISTRATION**

Changes in gas concentration within any enclosed space involve two physical processes: (1) wash-in of new gas (or washout of existing gas) and (2) the time constant required for that change to occur within the container for a known flow rate. These processes are commonly combined in the practice of anesthesia to predict how quickly a change in concentration of an inhaled anesthetic will occur within a circle rebreathing circuit.<sup>148</sup> An understanding of how these processes work together is critical for the appropriate application of both gradual displacement and prefill immersion euthanasia methods.<sup>149</sup>

The rate of change of gas concentration within any enclosed space is a special form of nonlinear change known as an exponential process, and as such can be derived from the wash-in and washout exponential functions.<sup>150</sup> Briefly, for the wash-in exponential function the quantity under consideration rises toward a limiting value, at a rate that progressively decreases in proportion to the distance it still has to rise. In theory, the quantity approaches, but never reaches, 100%. Conversely, for the wash-out exponential function the quantity under consideration falls at a rate that progressively decreases in proportion to the distance it still has to fall. Again, in theory, the quantity approaches, but never reaches, zero.

The exponential wash-in and washout equations are used to derive the time constant ( $\tau$ ) for an enclosed volume or space. This constant is mathematically equal to the enclosed volume or space undergoing wash-in or wash-out divided by the rate of flow, or displacement, into that space, where  $\tau = \text{volume} / \text{flow rate}$ .<sup>150,151</sup> Thus, the time constant represents the time at which the wash-in or washout process would have been complete had the initial rate of change continued as a linear function rather than an exponential function.<sup>150</sup> As such, the time constant is similar in concept to the half-life, although they are neither identical nor interchangeable.<sup>151</sup>

For the wash-in function,  $1(\tau)$  is required for the concentration of the inflowing gas to rise to 63.2% of the inflowing gas concentration,  $2(\tau)$  are required for the concentration to rise to 86.5%, and  $3(\tau)$  are required for the concentration to rise to 95%, with  $\infty(\tau)$  required for the gas concentration within the container to equal the inflowing gas concentration. Conversely, for the washout function,  $1(\tau)$  is required for the remaining gas concentration to fall to 36.8% of the original value,  $2(\tau)$  are required for gas concentration to fall to 13.5%,  $3(\tau)$  are required for gas concentration to fall to 5%, with  $\infty(\tau)$  required for gas concentration to fall to 0% (Figure 3). The flow, or displacement rate, therefore determines the time constant for any given enclosed volume, such that increasing the flow rate will result in a proportional reduction of the wash-in and washout time constants for any size chamber (and vice versa).

Based on Figure 3, it can be shown that a gradual



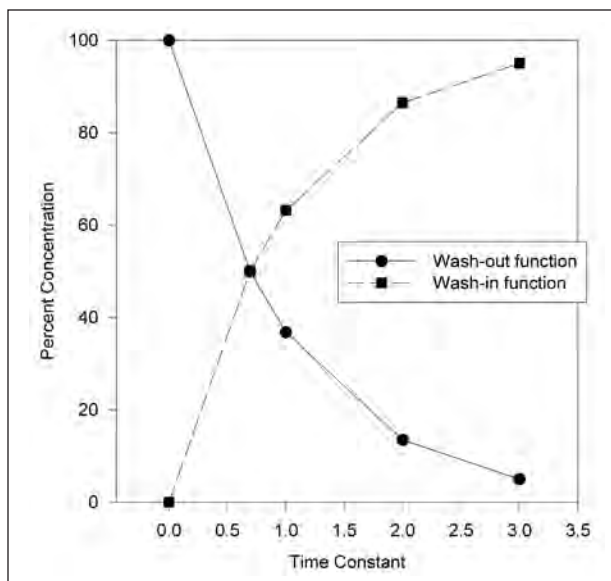


Figure 3—Graphic representation of the wash-in and wash-out exponential functions, using a hypothetical example of a closed container, originally filled with gas A into which gas B is introduced. The wash-in and wash-out functions are used to determine the time constant for the enclosed volume or space. The gas concentration within the container can be readily determined from the time constant, which is calculated by dividing the container volume by the gas displacement rate. Figure taken from Meyer RE, Morrow WEM. Carbon dioxide for emergency on-farm euthanasia of swine. *Journal of Swine Health and Production* 2005;13(4): 210–217, 2005. Reprinted with permission.

inflow or displacement rate of 20% of the chamber volume per minute represents a time constant ( $\tau$ ) value of 5 minutes (1 divided by 0.2/min) regardless of chamber volume. For example, CO<sub>2</sub> displacement rate equivalent to 20% of the chamber volume/min, as recommended by Hornett and Haynes<sup>152</sup> and Smith and Harrap,<sup>153</sup> is predicted to increase CO<sub>2</sub> concentration from zero to 63.2% in 5 minutes (1 $\tau$ ), to 86.5% in 10 minutes (2 $\tau$ ), and to 95% in 15 minutes (3 $\tau$ ). An examination of the published experimental data of Smith and Harrap confirms this, where CO<sub>2</sub> supplied at a displacement rate of 22% of chamber volume increased the CO<sub>2</sub> concentration to approximately 64% in 4.5 minutes (1 $\tau$  for their chamber). Similarly, Niel and Weary<sup>154</sup> reported 65% after 340 seconds (1 $\tau$ ) and 87% after 600 seconds (2 $\tau$ ) for a CO<sub>2</sub> displacement rate of 17.5% of chamber volume/min. Prefill methods will require displacement rates of 3 $\tau$  to attain 95% of the inflow gas concentration within the chamber.

Thus, gas displacement rate is critical to the humane application of inhaled methods, such that an appropriate pressure-reducing regulator and flow meter combination or equivalent equipment with demonstrated capability for generating the recommended displacement rate for the size container being utilized is absolutely necessary when compressed gases are used for euthanasia. Nitrogen, Ar, and CO are all commercially supplied in cylinders under high pressure, but CO<sub>2</sub> is unique in that it is supplied as a liquefied gas under high pressure. By reducing high pressure at the cylinder valve, gas flow is made constant to the flow meter as cylinder pressure decreases during use. With CO<sub>2</sub>, the regulator also acts to prevent high gas flow

rates that can lead to delivery of freezing gas and dry ice snow to the animals as well as regulator icing and cylinder freezing.

A distinction must be made between immersion, where animals are directly placed into a gas or vapor contained within a container, and the process of controlled atmospheric stunning (CAS) as employed for the commercial stunning of poultry and hogs. Although a complete description of the operation of the commercial CAS systems currently in use is beyond the scope of this document, typically the entry point is open to the atmosphere with negligible concentrations of stunning gas present. Unlike immersion, animals are introduced at a controlled rate into a tightly controlled stunning atmospheric gradient, such that CAS can be considered to be a gradual displacement method.

### M1.3 INHALED ANESTHETICS

Overdoses of inhaled anesthetics (eg, ether, halothane, methoxyflurane, isoflurane, sevoflurane, desflurane, enflurane) have been used to euthanize many species.<sup>155</sup> Presently, only isoflurane, enflurane, sevoflurane, and desflurane are clinically available in the United States, although halothane and methoxyflurane are still available elsewhere in the world. Halothane induces anesthesia rapidly and is an effective inhaled agent for euthanasia. Enflurane is less soluble in blood than halothane, but, because of its lower vapor pressure and lower potency, induction rates may be similar to those for halothane. At deep anesthetic planes, convulsions may occur. Enflurane is an effective agent for euthanasia, but the associated seizure activity may be disturbing to personnel. Isoflurane is less soluble than halothane, and it induces anesthesia more rapidly. However, it has a pungent odor and onset of unconsciousness may be delayed due to breath holding. Due to lower potency, isoflurane also may require more drug to kill an animal, compared with halothane. Sevoflurane is less potent than either isoflurane or halothane and has a lower vapor pressure. Anesthetic concentrations can be achieved and maintained rapidly but more drug will be required to kill the animal. Although sevoflurane is reported to possess less of an objectionable odor than isoflurane, some species may struggle violently and experience apnea when sevoflurane is administered by face mask or induction chamber.<sup>156</sup> Like enflurane, sevoflurane induces epileptiform electrocortical activity.<sup>157</sup> Desflurane is currently the least soluble potent inhaled anesthetic, but the vapor is quite pungent, which may slow induction. This drug is so volatile that it could displace O<sub>2</sub> and induce hypoxemia during induction if supplemental O<sub>2</sub> is not provided. Both diethyl ether and methoxyflurane are highly soluble, and may be accompanied by agitation because anesthetic induction is quite slow. Diethyl ether is irritating to the eyes, nose, and respiratory airways; poses serious risks due to flammability and explosiveness; and has been used to create a model for stress.<sup>158–161</sup>

Although inhaled anesthetics are routinely used to produce general anesthesia in humans and animals, these agents may be aversive and distressful under certain conditions. Flecknell et al<sup>156</sup> reported violent struggling accompanied by apnea and bradycardia in rabbits

method of euthanasia. However, pneumatic purpose-built nonpenetrating captive bolt guns have been used successfully to euthanize suckling pigs,<sup>c</sup> neonatal ruminants,<sup>130</sup> and turkeys.<sup>339</sup>

### **M3.4 MANUALLY APPLIED BLUNT FORCE TRAUMA TO THE HEAD**

Euthanasia by manually applied blunt force trauma to the head must be evaluated in terms of the anatomic features of the species on which it is to be performed, the skill of those performing it, the number of animals to be euthanized, and the environment in which it is to be conducted. Manually applied blunt force trauma to the head can be a humane method of euthanasia for neonatal animals with thin craniums if a single sharp blow delivered to the central skull bones with sufficient force can produce immediate depression of the CNS and destruction of brain tissue. When properly performed, loss of consciousness is rapid. Personnel performing manually applied blunt force trauma to the head must be properly trained and monitored for proficiency with this method of euthanasia, and they must be aware of its aesthetic implications.

Manually applied blunt force trauma to the head has been used primarily to euthanize small laboratory animals with thin craniums.<sup>334,340,341</sup> It has also been applied for euthanasia of young piglets. The anatomic features of neonatal calves make manually applied blunt force trauma to the head unacceptable as a method of euthanasia for this species.

Personnel who have to perform manually applied blunt force trauma to the head often find it displeasing and soon become fatigued. Fatigue can lead to inconsistency in application, creating humane concerns about its efficacious application to large numbers of animals. For this reason, the AVMA encourages those using manually applied blunt force trauma to the head as a euthanasia method to actively search for alternate approaches.

*Advantages*—(1) Blunt force trauma applied manually to the head is inexpensive and effective when performed correctly. (2) Blunt force trauma does not chemically contaminate tissues.

*Disadvantages*—(1) Manually applied blunt force trauma is displeasing for personnel who have to perform it. (2) Repeatedly performing manually applied blunt force trauma can result in personnel fatigue, loss of efficacy, and humane concerns. (3) Trauma to the cranium can damage tissues and interfere with diagnosis of brain diseases.

*General recommendations*—Replace, as much as possible, manually applied blunt force trauma to the head with alternate methods. Manually applied blunt force trauma is not acceptable for neonatal calves, because of their anatomic features.

### **M3.5 GUNSHOT**

A properly placed gunshot can cause immediate insensibility and a humane death. Under some conditions, a gunshot may be the only practical method

of euthanasia. Shooting should only be performed by highly skilled personnel trained in the use of firearms and only in jurisdictions that allow for legal firearm use. The safety of personnel, the public, and other animals that are nearby should be considered. The procedure should be performed outdoors and in areas where public access is restricted.

In applying gunshot to the head as a method of euthanasia for captive animals, the firearm should be aimed so that the projectile enters the brain, causing instant loss of consciousness.<sup>166,335,342–345</sup> This must take into account differences in brain position and skull conformation between species, as well as the energy requirement for penetration of the skull and sinus.<sup>332,343</sup> Accurate targeting for a gunshot to the head in various species has been described.<sup>343,344,346</sup> For wildlife and other freely roaming animals, the preferred target area should be the head. It may, however, not be possible or appropriate to target the head when killing is attempted from large distances (missed shots may result in jaw fractures or other nonfatal injuries) or when diagnostic samples of brain tissue are needed for diagnosis of diseases (eg, rabies, chronic wasting disease) important to public health. The appropriate firearm should be selected for the situation, with the goal being penetration and destruction of brain tissue without emergence from the contralateral side of the head.<sup>130,347</sup> A gunshot to the heart or neck does not immediately render animals unconscious, but may be required when it is not possible to meet the POE's definition of euthanasia.<sup>348</sup>

#### **M3.5.1 Basic Principles of Firearms**

To determine whether a firearm or type of ammunition is appropriate for euthanizing animals, some basic principles must be understood. The kinetic energy of an object increases as the speed and weight or mass of the object increase. In reference to firearms, the bullet's kinetic energy (muzzle energy) is the energy of a bullet as it leaves the end of the barrel when the firearm is discharged. Muzzle energy is frequently used as an indicator of a bullet's destructive potential. The heavier the bullet and the greater its velocity, the higher its muzzle energy and capacity for destruction of objects in its path.

Muzzle energy (E) can be expressed as the mass of the bullet (M) times its velocity (V) squared, divided by 2.<sup>349</sup> However, to accommodate units of measure commonly used in the United States for civilian firearms, energy (E) is expressed in foot-pounds. This is calculated by multiplication of the bullet's weight (W) times its velocity in feet per second (V) squared, divided by 450,450. The International System of Units expresses muzzle energy in joules (J).

Representative ballistics data for various types of firearms are provided in Table 1. The muzzle energy of commercially available ammunition varies greatly. For example, the difference in muzzle energy generated from a .357 Magnum handgun loaded with a 180 grain compared with a 110 grain bullet may differ by as much as 180 foot-pounds.<sup>349</sup> Velocity has an even greater impact on bullet energy than bullet mass. Selection of an appropriate bullet and firearm is critical to good performance when conducting euthanasia procedures.

tively search for alternatives to ensure that criteria for euthanasia can be consistently met.

### **S3.4 POULTRY**

Euthanasia methods for poultry (domesticated birds used for egg, meat, or feather production [eg, chickens, turkeys, quail, pheasants, ducks, geese]) include gas inhalation, manually applied blunt force trauma, cervical dislocation, decapitation, electrocution, gunshot, captive bolt, and injectable agents. Where appropriate, additional comments are included to address physiologic differences among avian species, variations in environment, and the size or age of birds.

#### **S3.4.1 Acceptable Methods**

##### **S3.4.1.1 Noninhaled Agents**

*Overdoses of injectable anesthetics, including barbiturates and barbituric acid derivatives*—Poultry may be euthanized by IV injection of overdoses of anesthetics, including barbiturate and barbituric acid derivatives. Because these drugs are controlled substances they must be administered by personnel who are registered with the US DEA, and extralabel use requires administration by or under the supervision of a veterinarian. Strict record keeping is required of all who use and store these drugs.

Many find administration of an anesthetic less displeasing than administration of CO<sub>2</sub>, CO, captive bolt, manually applied blunt force trauma, cervical dislocation, decapitation, or electrocution. Therefore, it may be preferred in some settings. A disadvantage of this method is that tissues from animals euthanized with barbiturates may not be used for food and may not be suitable for diagnostic evaluation. Furthermore, options for disposal of animals euthanized with barbiturates are complicated by concerns for residues that create risks for scavengers, other domesticated animals that may consume portions of the animal's remains, and humans.

#### **S3.4.2 Acceptable With Conditions Methods**

##### **S3.4.2.1 Inhaled Agents**

Inhaled gases may be used satisfactorily for euthanasia of poultry, and detailed information about the various types of inhaled gases is available in the Inhaled Agents section of the Guidelines. When inhaled gases are used for euthanasia, birds should be checked to verify death because they may appear dead but can regain consciousness if the exposure time or the concentration of the agent is insufficient. Gases must be supplied in purified forms without contaminants or adulterants, typically from a commercially supplied cylinder or tank. The gas-dispensing system should have sufficient capacity and control to maintain the necessary gas concentrations in the container being utilized, and the container itself should be sufficiently airtight to hold the gas at appropriate levels.

*Carbon dioxide*—The most common gas used for euthanasia of poultry is CO<sub>2</sub>, and its application has been extensively studied for chickens, turkeys, and ducks with information available about behavioral re-

sponses, times to collapse, unconsciousness, death, loss of somatosensory evoked potentials, loss of visually evoked responses, and changes in EEG and ECG (see Inhaled Agents section of the Guidelines). Carbon dioxide has successfully been applied for euthanasia of nonhatched eggs (pips), newly hatched poultry in hatcheries, and adult birds (including routine euthanasia of large commercial laying hen flocks<sup>356,522</sup>) and on farms keeping birds for research or elite genetics. Because neonatal birds may be more accustomed to high concentrations of CO<sub>2</sub> (incubation environments typically include more CO<sub>2</sub>), concentrations necessary to achieve rapid euthanasia of piped eggs or newly hatched chicks may be substantially greater (as high as 80% to 90%) than for adults of the same species.

Carbon dioxide may invoke involuntary (unconscious) motor activity in birds, such as flapping of the wings or other terminal movements, which can damage tissues and be disconcerting for observers.<sup>248,270</sup> Slower induction of euthanasia in hypercapnic atmospheres reduces the severity of convulsions after loss of consciousness.<sup>204,205</sup> Death normally occurs within minutes, depending on the species and the concentration of CO<sub>2</sub> present in the closed chamber.

*Carbon monoxide*—Carbon monoxide may also be used for euthanasia of poultry. More convulsions may be observed in the presence of CO than normally occur when CO<sub>2</sub> is used for euthanasia.<sup>188</sup> The CO flow rate should be sufficient to rapidly achieve a uniform concentration of at least 6% after birds are placed in the chamber (see Inhaled Agents section). Only pure, commercially available CO should be used. The direct application of products of combustion or sublimation is not acceptable due to unreliable or undesirable composition and or displacement rate. Appropriate precautions must be taken to ensure human safety because CO has a cumulative effect in binding hemoglobin.

*Nitrogen or argon*—Nitrogen or Ar, mixed or used alone, with approximately 30% CO<sub>2</sub> is acceptable with conditions for euthanasia of poultry provided the residual atmospheric O<sub>2</sub> level can be reduced to and held at sufficiently low levels (eg, 2% to 3%).<sup>267,523</sup> These agents tend to cause more convulsions (eg, wing flapping) than CO<sub>2</sub> in air (see Inhaled Agents section of the Guidelines).<sup>204,269</sup> It has also been noted that convulsions may start when consciousness, at least to some degree, may still be a possibility.<sup>256,524</sup>

##### **S3.4.2.2 Physical Methods**

The following methods are acceptable with conditions for euthanasia of poultry. Euthanasia methods should be chosen based on the welfare of the bird, human safety, skill and training of personnel, availability of equipment, and the ability to adequately restrain the bird.

*Cervical dislocation*—When performed on conscious poultry, cervical dislocation must result in luxation of the cervical vertebrae without primary crushing of the vertebrae and spinal cord. Manual or mechanical cervical dislocation may be used for poultry of an appropriate size and species when performed by compe-

tent personnel who correctly apply the technique. In some classes of poultry there is evidence that cervical dislocation may not cause immediate unconsciousness.<sup>337–339,354</sup> The legs of the bird should be grasped (or wings if grasped at the base) and the neck stretched by pulling on the head while applying a ventrodorsal rotational force to the skull. Crushing of cervical vertebrae and spinal cord is not acceptable unless the bird is first rendered unconscious.

**Decapitation**—Decapitation is acceptable with conditions for the euthanasia of poultry when performed by competent personnel. Decapitation should be executed with a sharp instrument, ensuring rapid and unobstructed severing of the head from the neck. Use of a bleeding cone may facilitate restraint.

**Manually applied blunt force trauma**—Euthanasia by manually applied blunt force trauma to the head is acceptable with conditions for turkeys or broiler breeder birds that are too large for cervical dislocation. Manually applied blunt force trauma must be correctly applied by competent personnel. Operator fatigue can lead to inconsistency in application, creating concern that the technique may be difficult to apply humanely to large numbers of birds. For this reason, the AVMA encourages those using manually applied blunt force trauma to the head as a euthanasia method to search for alternatives.

**Electrocution**—Electrocution is acceptable with conditions for euthanasia of individual birds. Birds subjected to electrocution should be observed to ensure death or an adjunctive method, such as exsanguination or cervical dislocation, should be performed immediately afterwards to ensure death. A small percentage of birds do not develop ventricular fibrillation even when exposed to high amperage current.

**Gunshot**—Gunshot is acceptable with conditions for free-ranging poultry and ratites when capture or restraint would potentially be highly stressful for the animal or dangerous for humans. Gunshot is not recommended for captive poultry where restraint is feasible.

**Penetrating and nonpenetrating captive bolt**—Captive bolts (penetrating or nonpenetrating) are acceptable with conditions for euthanasia of large poultry (turkeys, broiler breeders, ratites, waterfowl, etc) when performed by competent personnel. The captive bolt pistol must be used in accordance with the manufacturer's recommendations and the bird should be appropriately restrained to avoid injury to personnel. Birds should be observed following captive bolt administration to ensure that death occurs. Any bird showing signs of recovery must receive a second shot or be killed by some other means that is acceptable for a conscious bird.

### **S3.4.3 Adjunctive Methods**

**Potassium chloride or magnesium sulfate**—Although IV or intracardiac administration of potassium chloride or magnesium sulfate to a conscious bird as a sole method of euthanasia is unacceptable, it is acceptable

to administer these agents to a bird that is fully anesthetized or otherwise unconscious as a means to ensure death.

**Exsanguination**—Although exsanguination of a conscious bird is an unacceptable method of euthanasia, it is acceptable to exsanguinate birds that are fully anesthetized or otherwise unconscious as a means to ensure death. Biosecurity precautions during and following exsanguination should be observed as part of appropriate disease control.

### **S3.4.4 Embryos and Neonates**

In addition to methods involving inhaled agents mentioned previously, the following methods are acceptable with conditions for euthanasia of embryos or neonates.

Embryonated eggs may be destroyed by prolonged exposure (20 minutes) to CO<sub>2</sub>, cooling (4 hours at 40°F), or freezing.<sup>52</sup> In some cases inhaled anesthetics can be administered through the air cell at the large end of the egg. Egg addling can also be used.<sup>416</sup> Embryos in eggs that may have been opened may be decapitated.

Maceration, via use of a specially designed mechanical apparatus having rotating blades or projections, causes immediate fragmentation and death of newly hatched poultry and embryonated eggs.<sup>271</sup> A review by the American Association of Avian Pathologists<sup>406</sup> of the use of commercially available macerators for euthanasia of chicks, poults, and pipped eggs indicates that death by maceration in poultry up to 72 hours old occurs immediately with minimal pain and distress. Maceration is an alternative to the use of CO<sub>2</sub> for euthanasia of poultry up to 72 hours old. Maceration is believed to be equivalent to cervical dislocation and cranial compression as to time to death, and is considered to be an acceptable means of euthanasia for newly hatched poultry by the Federation of Animal Science Societies,<sup>407</sup> Agriculture Canada,<sup>408</sup> World Organisation for Animal Health,<sup>342</sup> and European Council.<sup>525</sup>

Maceration requires special equipment that must be kept in excellent working order. Newly hatched poultry must be delivered to the macerator in a way and at a rate that prevents a backlog at the point of entry into the macerator and without causing injury, suffocation, or avoidable distress before maceration.

## **S4. EQUIDS**

Methods acceptable with conditions are equivalent to acceptable methods when all criteria for application of a method are met.

### **S4.1 GENERAL CONSIDERATIONS**

#### **S4.1.1 Human Safety**

When equids are euthanized, consideration should be given to the unpredictability of a falling or thrashing equid. Most methods of euthanasia will result in some degree of exaggerated muscular activity after the equid falls even if the equid is not experiencing pain or distress. Whatever euthanasia method is used should not put personnel at unnecessary risk.



# **EXHIBIT K**



Please note: This policy may be revised as the situation develops.

## VIRULENT NEWCASTLE DISEASE (vND) VIRUS RESPONSE GOALS AND POLICY (STAMPING-OUT)

The USDA Animal and Plant Health Inspection Service (APHIS) goals for a vND virus outbreak are to (1) detect, control, and contain vND virus as quickly as possible; (2) eradicate vND using strategies to protect public health and the environment, and stabilize animal agriculture, the food supply, and the economy; and (3) provide science- and risk-based approaches and systems to facilitate continuity of business for non-infected animals and non-contaminated animal products.

Achieving these three goals will allow individual facilities, States, Tribes, regions, and industries to resume normal production as rapidly as possible. The objective is to allow the United States to regain disease-free status without the response effort causing more disruption and damage than the disease outbreak itself.

The United States' primary control and eradication strategy for vND **in domestic poultry and backyard production premises**, as defined by international standards and the World Organization for Animal Health (OIE), is "stamping-out."

"Stamping-out" is defined in the OIE Terrestrial Animal Health Code as the "Killing of animals which are affected and those suspected of being affected in the herd and, where appropriate, those in other herds which have been exposed to infection by direct animal to animal contact, or by indirect contact with the causal pathogen; this includes all susceptible animals, vaccinated or unvaccinated, on infected establishments."

USDA will continue to evaluate with States, producers, and industry the potential use of any vND virus vaccine. However, stamping-out will always be part of any vND response policy, even if a protective vaccination strategy is implemented.

## APHIS EPIDEMIOLOGICAL PRINCIPLES OF vND VIRUS RESPONSE

Three basic epidemiological principles form the foundation to contain, control, and eradicate vND in United States:

1. *Prevent contact between the vND virus and susceptible poultry.*
  - a. This is accomplished through quarantine of infected poultry and movement controls in the Infected Zone(s) and Buffer Zone(s) (Control Area), along with biosecurity procedures to protect non-infected poultry.
  - b. Certain circumstances may warrant accelerating the depopulation or slaughter of poultry at risk for exposure to vND virus to decrease the population density of susceptible poultry.
  - c. There is a serious transmission risk posed by other people, material, conveyances, and animals that may have been in contact with vND virus and

serve as mechanical vectors. Contact between poultry and these items should be prevented, and transmission risk mitigated through stringent biosecurity and cleaning and disinfection measures.

2. *Stop the production of vND virus by infected or exposed animals.* This is accomplished by rapid depopulation (and subsequent disposal) of infected and potentially infected poultry.
3. *Increase the disease resistance of susceptible poultry to the vND virus.* This may be accomplished by strategic emergency vaccination if a suitable vaccine is available and can be administered in a timely manner.

## MASS DEPOPULATION AND EUTHANASIA

Mass depopulation and euthanasia are not synonymous, and APHIS recognizes a clear distinction. Euthanasia involves transitioning an animal to death as painlessly and stress-free as possible. Mass depopulation is a method by which large numbers of animals must be destroyed quickly and efficiently with as much consideration given to the welfare of animals as practicable, given extenuating circumstances.

Mass depopulation is employed in a vND response to prevent or mitigate the spread of vND virus through elimination of infected or potentially infected poultry. In 2007, the American Veterinary Medical Association (AVMA) issued best practice guidance that stated “Under unusual conditions, such as disease eradication and natural disasters, euthanasia options may be limited. In these situations, the most appropriate technique that minimizes human and animal health concerns must be used.”

In 2013, the *AVMA Guidelines for the Euthanasia of Animals* continues to recognize depopulation, defining it as “The killing of animals in large numbers in response to an animal health emergency (e.g., catastrophic infectious disease, mass intoxication, natural disaster) where all due consideration is given to the terminal experience of the animal, but the circumstances surrounding the event are understood to be exigent and extenuating. Depopulation may not meet the requirements of euthanasia due to situational constraints.” This document also provides that further recommendations related to depopulation will be addressed in a separate document, the *AVMA Guidelines for the Depopulation of Animals*. This document continues to be under development.

In any event, euthanasia or mass depopulation should be provided to affected **domestic poultry and backyard exhibition poultry** as safely, quickly, efficiently, and humanely as possible. In addition, the emotional and psychological impact on animal owners, caretakers, their families, and other personnel should be carefully considered and minimized.

## APHIS STAMPING-OUT AND DEPOPULATION POLICY

**For an initial detection in any State, when criteria for a confirmed positive have been met** (per the current vND Case Definition, updated in May 2018), the APHIS Administrator or Veterinary Services Deputy Administrator (Chief Veterinary Officer of the United States) or their designee will authorize APHIS personnel—in conjunction with State and Tribal officials, and Incident Command personnel—to initiate depopulation,

disposal, cleaning, and disinfection procedures on the Infected Premises. Investigation of Contact Premises is also authorized at this time. **Indemnity funds for depopulated poultry and reimbursement for cleaning, disinfection, and disposal activities are authorized by APHIS as funds are available.**

For subsequent detections in a State, when criteria for a presumptive positive have been met (per the current vND Case Definition), depopulation and other response activities may be authorized by APHIS and State/Tribal officials.

Best practices for containment and eradication of vND require rapid depopulation of infected poultry. Swift stamping-out is required to prevent the amplification of vND virus and subsequent environmental contamination. In all cases, depopulation activities must incorporate excellent biosecurity practices to control the vND virus and prevent further transmission: contaminated fomites (e.g., people and equipment) are a threat to the containment and eradication of the virus in domestic flocks.

## APHIS DEPOPULATION GOAL

Due to the risk of virus amplification in infected poultry, poultry will be depopulated as soon as possible, with the depopulation goal of 24-hours or less after the criteria for a confirmed positive (initial detection in a new State) or presumptive positive (subsequent detections) have been met. The final determination to depopulate the entire Infected Premises, or specific houses on Infected Premises, will be made by State Animal Health Officials, or Tribal officials, and APHIS.

## APHIS DEPOPULATION METHODS

In almost all cases, water based foam, carbon dioxide, or alternative methods will be the depopulation methods available to rapidly “stamp-out” the vND virus in poultry. Each premises will be evaluated individually, considering epidemiological information, housing and environmental conditions, currently available resources and personnel, and other relevant factors.

# **EXHIBIT L**

# **EXHIBIT M**



Chad Morgan <chad@chadmorgan.com>

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## PID 10421 C. Morgan vND PRA Request

8 messages

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Rutherfordale, Keli@CDFA <Keli.Rutherfordale@cdfa.ca.gov>

Mon, May 20, 2019 at 11:39 AM

To: "chad@chadmorgan.com" <chad@chadmorgan.com>

Cc: "Dias, Michele@CDFA" <michele.dias@cdfa.ca.gov>, "Valenton, Lucy@CDFA" <lucy.valenton@cdfa.ca.gov>

Good morning, Mr. Morgan,

The California Department of Food and Agriculture (CDFA or Department) is in receipt of your Public Records Act (PRA) request by voicemail received May 17, 2019. You request "signed orders from the state veterinarian regarding the quarantine area, particularly in Riverside County but also for San Bernardino and L.A."

The Legal Office has been advised that there are no responsive records; therefore, I am closing the file. Please contact me if you have any questions and include PID 10421 on all communications regarding this request. Thank you.

Keli Rutherfordale

Staff Services Analyst

Department of Food and Agriculture Legal Office

916-403-6866

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Chad Morgan <chad@chadmorgan.com>

Mon, May 20, 2019 at 1:30 PM

To: Keli.Rutherfordale@cdfa.ca.gov

Cc: "Dias, Michele@CDFA" <michele.dias@cdfa.ca.gov>, "Valenton, Lucy@CDFA" <lucy.valenton@cdfa.ca.gov>

I suppose a broad purpose of my request is to obtain documents exercising the State Vet's authority under Food & Ag § 9562. Did she just state the quarantine verbally to someone and it was so? Or was there a document or documents conveying the order?

Exhibit M - Page 1 of 3

If the order was not conveyed by the State Vet, are a bunch of rouge CDFA agents acting without her authorization?

Gov Code 6253.9 requires that you help me identify documents that are consistent with the purpose of my request. If you cannot help me with this, I anticipate that I would file suit much sooner than I normally would in a CPRA case to file an ex parte request for an alternative writ seeking compliance with 6253.9.

If no such orders exist, then I suppose I should file suit seeking a TRO to stop enforcement of a quarantine that hasn't been ordered.

Do you have any thoughts on the best way to proceed?

Law Office of Chad D. Morgan  
1101 California Ave., Ste. 100  
Corona, CA 92881  
Tel: 951-667-1927  
Fax: 866-495-9985  
[chad@chadmorgan.com](mailto:chad@chadmorgan.com)

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**Dias, Michele@CDFA** <michele.dias@cdfa.ca.gov> Tue, May 21, 2019 at 1:59 PM  
To: Chad Morgan <chad@chadmorgan.com>, "Rutherfordale, Keli@CDFA" <Keli.Rutherfordale@cdfa.ca.gov>  
Cc: "Valenton, Lucy@CDFA" <lucy.valenton@cdfa.ca.gov>

Mr. Morgan,

Based on your email below, you would like any documents citing the Food and Agricultural Code section 9562 as authority for activities carried out in the vND program. Is that correct? If so, how far back in time would you like to reach?

Michele Dias

General Counsel

California Department of Food and Agriculture

[1220 N Street, Suite 320](#)

[Sacramento, California 95814](#)

[916] 654.1393

[michele.dias@cdfa.ca.gov](mailto:michele.dias@cdfa.ca.gov)

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**Chad Morgan** <chad@chadmorgan.com> Tue, May 21, 2019 at 2:22 PM  
To: "Dias, Michele@CDFA" <michele.dias@cdfa.ca.gov>  
Cc: "Rutherfordale, Keli@CDFA" <Keli.Rutherfordale@cdfa.ca.gov>, "Valenton, Lucy@CDFA" <lucy.valenton@cdfa.ca.gov>



Let's go back to January 1, 2018 to present. I am not looking to narrow the scope of the request only to those documents citing § 9562 but that search would be a start. However, I think it is reasonable that an order issued to carry out the powers under that section does not necessarily need to reference or cite to that section.

I think it is a pretty straight forward request and your questions come across as unreasonably trying to confuse the issue for the purpose of narrowing the request or restricting my client's right to documents under the CPRA. If I am mistaken in this perception, perhaps a phone call will help clear up any confusion.

But it is my understanding that depopulation orders are being carried out on a daily (or almost daily basis). Certainly there is a paper trail (whether electronic or actual paper) that communicates orders from the State Vet or other managers in her department to those responsible for enforcing and carrying out those orders. Indeed, I am aware of some (but do not yet possess) orders that have been taped to the doors of homes. Certainly CDFA has retained a copy of those orders.

Separate from orders specific to individual properties, I'm also sure that there are broader orders specific to the quarantine area as a whole. It's my understanding that those orders have changed with time as the the quarantine area has expanded and the scope of CDFA's activities has expanded. It stands to reason that some of these would be more accessible than others. Given that this is a declared emergency of sorts (at least with respect to CDFA's operations) it stands to reason that much of this should be readily accessible and can be promptly provided to me a rolling basis even if you need to gather/collect some documents that might be more specific to individual properties from the CDFA field offices.

Chad Morgan

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**Dias, Michele@CDFA** <michele.dias@cdfa.ca.gov>

Tue, May 21, 2019 at 2:32 PM

To: Chad Morgan <chad@chadmorgan.com>

Cc: "Rutherfordale, Keli@CDFA" <Keli.Rutherfordale@cdfa.ca.gov>, "Valenton, Lucy@CDFA" <lucy.valenton@cdfa.ca.gov>

I will direct staff to begin processing your request. To clarify terminology, the Department does not issue depopulation "orders." The document used to carry out activities pursuant to section 9562 are quarantine notices. Again, I will assume those are the records you seek.

[Quoted text hidden]

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**Chad Morgan** <chad@chadmorgan.com>

Tue, May 21, 2019 at 4:47 PM

To: "Dias, Michele@CDFA" <michele.dias@cdfa.ca.gov>

Cc: "Rutherfordale, Keli@CDFA" <Keli.Rutherfordale@cdfa.ca.gov>, "Valenton, Lucy@CDFA" <lucy.valenton@cdfa.ca.gov>

Thank you. I appreciate the clarification.

Chad Morgan

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**PROOF OF SERVICE**

**Case: Save our Birds v. Jones**  
**Case No: 19STCV18398**

I, the undersigned, declare:

I am a citizen of the United States, over the age of 18, and not a party to this action. My business address is 1101 California Ave., Ste 100, Corona, CA 92881.

On the date specified below, I served the following:

- 1. **Ex Parte Application to Permit Early Discovery; Declaration of Chad D. Morgan**
- 2. **Proposed Order**

on the following party(ies) in this action:

**Attorney for Defendants**

Michele Dias, General Counsel	Tel: [916] 654.1393
Cal. Dept. of Food and Agriculture	Fax: [916] 653.1293
1220 N Street, Suite 320	Email: michele.dias@cdfa.ca.gov
Sacramento, California 95814	

X **By Electronic Mail:** By causing true copy(ies) of PDF versions of said document(s) to be sent to the e-mail addresses of each party listed pursuant to California Rules of Court Rule 2-251. The email address from which I served the documents is chad@chadmorgan.com.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on June 7, 2019 at Anaheim, California.

  
**CHAD D. MORGAN**