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December 12, 2007

Mr. Sam Hamilton

USFWS Southeastern US Regional Director

U.S. Fish and Wildlife Service

1875 Century Boulevard Northeast, Suite 400

Atlanta, GA 30345

Re: **Request to Suspend the Trapping of Feral and Free-Roaming Domestic Cats from Federal and State Lands in Big Pine Key, Key Largo Hammocks State Botanical Site, and John Pennekamp Coral Reef State Park, Which Has Resulted in Significant Trapping of Non-Target Species**

Dear Mr. Hamilton:

I am writing on behalf of The Humane Society of the United States (The HSUS) and our 10 million members and constituents nationwide, including over 694,000 members and constituents in the State of Florida, to request that the US Fish and Wildlife Service (USFWS) immediately cease and desist its trapping project currently being conducted via USDA-APHIS Wildlife Services (WS) on the National Key Deer Refuge in Big Pine Key and 2 additional sites in Key Largo, Florida. We believe this program to be in violation of the National Environmental Policy Act (NEPA), biologically unjustified, and contrary to the public interest.

According to the US Fish and Wildlife Service's interagency contract with USDA-APHIS-WS (# 401817H011- see attached), this project was initiated for the specific purpose of "mitigating feral and free-roaming domestic cat predation upon the endangered Lower Keys marsh rabbit (*Sylvilagus palustris hefneri*), Key Largo woodrat (*Neotoma floridana smalli*) and Key Largo cotton mouse (*Peromyscus gossypinus allapaticola*)." We appreciate that the goal of the program was to transfer the cats to animal shelters, which then would place them in colonies or return them to their owners.

However, we have reason to believe that this program may be in direct violation of NEPA, given the fact that no program-specific EA is available and that this particular project's multiple species and habitat-level impacts are not addressed in the state-wide EA.

The HSUS fully supports ecologically-sound, comprehensive endangered species protection efforts. However, we were disturbed to learn that under this particular project, the primary outcome has been the trapping and killing of non-target species, particularly Keys raccoons (*Procyon lotor incautus* and *P. lotor inesperatus*). At one site potentially 6-fold more raccoons than feral cats have been trapped

without any scientific justification or environmental analysis to determine the impacts of such action.

Based on a review of the scientific literature and consultation with outside experts, it appears that not only are raccoons and other native wild animals being trapped and killed outside of the parameters set by the USDA/FWS contract for the project, but one particular raccoon, the Key West raccoon (*Procyon lotor incautus*), is a morphologically unique sub-species and was a former candidate for listing under the federal Endangered Species Act. .59 Fed. Reg. 58,982 (Nov. 15, 1994)

Even more glaring is the fact that raccoons are not even a predator of significance on rabbits, including the Lower Keys marsh rabbit, (pers comm. from 11/26/07 – 11/28/07: Dr. Sam Zeveloff, Dr. John Whitaker and Dorcas MacClintock), yet hundreds of raccoons – and other non-target species – are being arbitrarily trapped and killed anyway.

Given the fact that over \$50,000 in taxpayer dollars is being spent this year on a project of dubious ecological value – while having likely detrimental impacts on non-target and morphologically unique species – we respectfully request you immediately terminate this trapping program outlined under contract # 401817H011 and immediately respond to our questions below:

* * *

Background:

Pursuant to the intergovernmental agreement form between the USFWS and the USDA-WS (# 401817H011), the primary objective of this project is to “*remove all feral and free-roaming domestic cats from federal and state lands in the project area to aid in the recovery of the endangered Key Largo woodrat, Key Largo cotton mouse, and Lower Keys marsh rabbit*”.

Under this project, it appears that only approximately 12 cats have been removed from Big Pine Key since May 2007, according to records kept by the shelter where the cats have been taken. In contrast, at least 81 raccoons and additional other non-target animals have been trapped and killed as of early September 2007 at this same site. According to WS Regional Director Parker Hall, “any potential predator of ground nesting mammals will be exterminated to prevent the extinction of the Lower Keys marsh rabbit” – a statement which makes no biological sense, much less addresses the ethical concerns involved in this issue. We note here that following our request, Mr. Hall would not disclose how many wild animals have been euthanized or of what species.

NEPA compliance:

The National Environmental Policy Act (NEPA) requires for “every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment” that an agency “shall” prepare a detailed Environmental Impact Statement (EIS) or Environmental Assessment (EA) that addresses both the “environmental impact of the proposed action” and reasonable alternatives to that action. 42 U.S.C. § 4332; 40 C.F.R. § 1501.4.

Although USFWS and WS may argue that this specific trapping project is covered under the 2001 Environmental Assessment (EA) for the Management of Predation Losses to State and Federally Endangered, and Species of Special Concern; and Feral Hog Management to Protect Other State and Federally Endangered, Threatened, Species of Special Concern, and Candidate Species of Fauna and Flora in the State of Florida, this seven year-old statewide EA by no means adequately, specifically, or sufficiently addresses the project's potential ecological and species-level impacts, particularly with respect to the impacts on non-target species. It is clear that by removing such high numbers of non-target, omnivorous mammals from this fragile coastal environment, there may be profound ecological consequences. The potential environmental ramifications of this trapping program have not been sufficiently investigated and thus may be in serious violation of NEPA.

Moreover, as an objective within the 2001 EA's Finding of No Significant Impact (FONSI) report, WS states that they will aim to "maintain the lethal take of non-target animals by WS personnel during damage management to less than 10% of the total animals taken". From the data reported by Refuge Manager Anne Morkill (pers comm.), it appears that nearly 87% of the animals trapped on Big Pine Key during this feral cat trapping project have been non-target, wildlife species. Such a gross deviation from WS' stated objective is unacceptable and draws into question not only the legitimacy, but also the competency, of WS's trapping protocols – which USFWS is facilitating under this contract.

As further outlined in the EA's FONSI report, "eradication of native wildlife populations or species is considered ecologically unsound by the Wildlife Services Program, and is not and will not be conducted by WS". Given that no scientific studies of late have identified population abundance, distribution, or density of Florida Keys raccoon populations, it may be safe to say that WS is systematically contributing to the potentially precipitous decline of this non-target species, which itself may be as genetically unique as the sub-species the USFWS seeks to conserve. This USFWS pilot project may therefore be inadvertently threatening an ecologically-important, native, seed-dispersing species from the Florida Keys ecosystem.

The USFWS is the guiding agency under the above-mentioned intergovernmental agreement form and therefore must have full knowledge and hold primary responsibility for actions carried out under this contract – even if such actions are performed by for-hire USDA - WS personnel.

In light of the aforementioned information, a project-specific EA or EIS is clearly needed here, along with a far better characterization of the overall endangered species recovery plan, the particulars and specific goals of the trapping program, identification of the population status and taxonomic identity of all populations at risk and a comprehensive assessment of the full range of impacts as outlined under NEPA. Please provide in writing a detailed justification explaining why such actions have not been taken.

Withholding of Information:

We are having difficulty getting specific statistics on this project due to the withholding of information and late filings by USDA-APHIS-WS staff. According to the intergovernmental agreement form (section 9: Special Provisions, subsection C: Interim Reports), regular status/interim reports must be submitted to the USFWS Project Officer (i.e. Cindy Schulz). The first report was due in early September, yet Ms. Schulz stated that it has yet to be filed and is now well over 3 months late. ***We request that you provide in writing an explanation of why you have allowed this reporting deadline to elapse by so many months.***

Project Goals Not Met:

The stated objectives of the project are not being met by any contemporary standard for sound wildlife management and stewardship that we can identify. For example, it was reported to us by Lee Ann Mathews of Big Pine Animal Shelter that of the dozen cats trapped on Big Pine Key and taken to the local shelter, seven were redeemed by owners (and presumably re-released), three were kittens, one feral cat was adopted out and one was euthanized after testing positive for feline leukemia. ***Given that the program goal is to trap and remove all feral and free-roaming domestic cats from the Key Deer National Refuge, what is the reason for this absurdly low number of cats being caught? Please note if steps are being taken to improve the capture rate and efficiency of the feral cat trapping program and if so, exactly what those steps are.***

Apparently the cats were returned without any educational materials or even a verbal request being made to the owners that the cats be kept indoors, thus the source of the problem is likely to continue unabated.

It seems clear that the cat-trapping protocol needs to be completely revised in the interest of efficacy. In addition, a public outreach notification and education program is sorely needed so that pet cats are not merely re-released into the outdoors to perpetuate the problem indefinitely. ***Please indicate in writing what steps USFWS is taking toward modifying the cat trapping protocol and doing public outreach to address this concern.***

Lack of Scientific Validity for Raccoon and Other Species Removal:

The stated intent of the pilot project on Big Pine Key (as outlined in Contract #401817H011) is to trap and remove feral and free-roaming domestic cats to reduce mortality upon the endangered Lower Keys marsh rabbit. The arbitrary trapping of hundreds of raccoons is unwarranted since there is absolutely no scientific evidence indicating that raccoons are anything more than an incidental predator of Lower Keys marsh rabbits or other at-risk subspecies. ***Please explain the rationale for destroying a native non-target species that doesn't have a detrimental impact on marsh rabbit abundance. Please also include any citations of studies that document raccoon predation on these species (as would be evidenced from, for example, fecal analysis).***

Based on our understanding and from consulting raccoon experts, predation upon adult rabbits simply does not occur and that any predation that does occur is so insignificant that it is considered incidental. (pers comm.: Dr. John O. Whitaker, Professor of Ecology and Organismal Biology, Indiana State University, and author of *Nat'l Audubon Society Field Guide to North American Mammals and Mammals of the Eastern US: A Field Guide*; Dr. Sam Zeveloff, Chair

of the Dept. of Zoology, Weber State University, and *author of Raccoons: A Natural History*; Dorcas MacClintock, mammologist and author of *A Natural History of Raccoons*)

Dr. Elizabeth Forys (Professor of Environmental Science and Biology, Eckerd College) wrote a dissertation in 1995 which has been cited by FWS and WS staff as substantiating the need for raccoon control to protect the Lower Keys marsh rabbit. However, her research served to underscore that raccoons cannot be considered significant predators of the marsh rabbit. She cited only 2 confirmed cases of raccoons preying on rabbits – both involving juvenile rabbits that were trapped in fenced areas. She noted that the most significant source of predation resulted from feral and free-roaming domestic cats. In terms of raccoons, her recommendation was that the surrounding community should be better educated about controlling unintended food sources which boost raccoon populations, such as open dumpsters.

The bottom line is that there appears to be no scientific validity, programmatic or ecological sense to the arbitrary killing of raccoons and other trapped non-target species. Please provide us with any science-based counterclaims to this assumption that you feel justifies the trapping program that remains extant in the Keys.

Indiscriminant trapping of a morphologically unique species:

As earlier noted, the Florida Keys raccoons appear morphologically distinct, and potentially genetically unique in comparison to their mainland counterparts. More importantly, 2 subspecies of raccoons in the Florida Keys, the Key West raccoon and Key Vaca raccoon, were identified as so imperiled that they held Category II candidate status for listing under the federal Endangered Species Act as of 1994. *See* 59 Fed. Reg. 58,982 (Nov. 15, 1994) One of these subspecies (*Procyon lotor incautus*) is present throughout the National Key Deer Refuge. At the present time, there appears to be little information available on their population status and no environmental assessment of the trapping project's impact has been conducted.

In light of the recent and cumulative effects of cyclical weather events and a devastating distemper outbreak throughout the Florida Keys, the current trapping program may therefore be killing individuals of a sub-species that may be in need of protection, which raises a whole new set of serious legal, ecological and ethical concerns. ***Please provide in writing any verifiable data USFWS may have regarding the present population status of these specific raccoon populations.***

Euthanasia methods not disclosed:

The vast majority of raccoons caught in traps have been euthanized by WS technicians. Parker Hall, from USDA – WS, stated (pers comm., Nov 15th) that from this point on, *all* raccoons and other non-target species trapped will be euthanized. When asked exactly how, he would only disclose “according to AVMA guidelines” and would not give further details, which raises additional humane concerns. ***Please identify in your response to this letter how raccoons have been euthanized, citing specifics of those procedures to include: type of traps utilized, interval between trap visits, protocols to deal with climatic conditions (e.g. excessive heat), particularly when such intervals are greater than 8 hours, handling, transport and disposition of trapped animals.*** Pursuant to the federal Freedom of Information Act (FOIA), 5 U.S.C. § 552, we will be asking for a record of each individual trapping incident and would consider it a positive and

collegial effort by USFWS to provide such records immediately without the extended delays involved in typical FOIA requests.

Related issue of relevance:

According to the scientific literature, the primary sources of the Lower Keys marsh rabbit's decline includes habitat loss, feral cat predation and road mortality. ***Please note what is being done to address these other primary sources of marsh rabbit population decline.***

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Please note that The HSUS recognizes and wholly supports comprehensive and ecologically sound efforts to protect populations of endangered species like the Lower Keys marsh rabbit and the habitats they require. However, this project seems a far cry from any legitimate endangered species protection plan.

No stretch of the imagination can justify the integrity of an endangered species protection project that is not addressing the main causes of species decline and instead is indiscriminately and needlessly killing a large number of non-target, non-predatory native wild animals whose own populations may be detrimentally impacted by the trapping action. Although the focus on the sites outside of Big Pine Key may be on the other endangered species and not the Lower Keys marsh rabbit, we see the same lack of biological rationale being applied, and the same arbitrary killing of non-target species.

For all these reasons, we request that you immediately terminate this project in light of the pivotal issues raised here.

Given the urgency of the issue, I respectfully request a response within 10 days of receiving this letter. We would like to be able to reassure our members and constituents in Florida and elsewhere that this matter had been addressed and our concerns answered without a need to make a broader public issue of this case. Thank you for your consideration of this request and immediate attention to this matter.

Sincerely,

Laura Simon
Field Director, Urban Wildlife Program

Cc: Bernice Constantin
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