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VIA COURIER

July 8, 2005

The Hon. Irwin Cotler, P.C., M.P.
Minister of Justice and Attorney General of Canada
East Memorial Building, 4th Floor
284 Wellington Street
Ottawa, Ontario K1A 0H8

Dear Mr. Cotler:

Re: Revisions to the Animal Cruelty Provisions of the *Criminal Code*

We are writing to you on behalf of the hunting and fishing membership associations of seven provinces and two hunting and fishing industry associations in Canada, listed below (collectively the "Associations"), who together represent over 300,000 hunters and anglers across Canada.

We wish to register our strong support for the swift passage of Bill S-24 introduced by Liberal Senator John Bryden and to state our opposition to the passage of Bill C-50.

Bill S-24 accomplishes the Government's primary objective in the reform of animal cruelty provisions, namely increasing the maximum penalties for existing offences of animal cruelty, as is done in Bill C-50. We object to the balance of Bill C-50 because, as Senator Bryden says of Bill C-22 and Bill C-50, they would substantively change the law of animal cruelty, and negatively impact "Canadians who hunt and fish lawfully".¹

Specifically, we object to s. 182.2(1)(b), which, for the first time in Canadian history, makes it an offence to kill an animal brutally or viciously without defining those terms and does not exempt from this offence normal hunting and fishing. This new offence will be used by animal rights activists who will employ provisions of the *Criminal Code* to bring private prosecutions to harass lawful anglers and hunters.

For the reasons cited below, the oft-cited defences of legal justification, excuse, and colour of right in the *Criminal Code* would not be of much assistance to an angler or hunter charged under Bill C-50.

¹ *Canada Senate Debates* (8 February 2005, p. 647) Sen. John G. Bryden.

While you and your Department have said that the offence of cruelty to animals is not intended to forbid conduct that is socially acceptable or authorized by law, such as hunting and fishing,² Bill C-50 will have the ultimate effect of intimidating anglers and hunters who will be discouraged from participating in the outdoor heritage activities of hunting and fishing for fear of prosecution.

Support of Bill S-24

According to the Department of Justice, the primary objective in revising the *Criminal Code*'s animal cruelty sections is to enable the courts to impose longer sentences commensurate with the severity of the animal cruelty offences. Bill S-24 achieves the goal of increasing penalties that may be imposed in cases of animal cruelty and allows the Crown to proceed either summarily or by indictment to achieve a result suitable to the crime committed. Bill S-24 also retains many current sections and offences under the *Criminal Code*, which has the additional advantage of leading to certainty of interpretation of these sections owing to the well established body of decided cases on the current animal cruelty provisions of the *Criminal Code*.

Anglers and Hunters Do Not Support Bill C-50

The Associations on whose behalf we are writing to you do not support Bill C-50. We understand that you received a letter dated November 22, 2004 (the "Coalition letter") purporting to be from all of Canada's animal-based sectors, which outlines the group's position of support for the "swift passage" of certain amendments to the *Criminal Code* "as rapidly as possible", namely the proposed animal cruelty provisions as contained in Bill C-22, which are the same as Bill C-50, with the exception of the provision for the protection of existing aboriginal or treaty rights in s. 182.6.

The Coalition letter did not in any way represent the interests of Canadian anglers and hunters. We note that these Coalition members have since sent a letter to Senator Bryden joining the Associations in registering their full support of Bill S-24 and their support of the rationale presented by Senator Bryden in moving second reading of Bill S-24.

Problems with Bill C-50

We have serious concerns about Bill C-50 and we have set out below what these concerns are.

The Department of Justice has clarified that beyond increasing penalties for existing animal cruelty offences, the objective of Bill C-22, and accordingly Bill C-50, is to "simplify, modernize and fill gaps in the offence structure of the animal cruelty regime".³ As Senator Bryden says, the changes to animal cruelty law in Bill C-22 and Bill C-50, other than the increasing of penalties, amount to **significant changes to the law**, which should require very careful and open debate.

² Minister of Justice and Attorney General of Canada, *Crimes Against Animals: A Consultation Paper* (Ottawa: Communications and Executive Services Branch, 1998) online: <<http://canada.justice.gc.ca/en/cons/caa/index.html>>.

³ *Canada Senate Debates* (10 March 2005; 15:10 – 15:40) Sen. John G. Bryden.