

Minutes of the Meeting of the  
Arizona Game and Fish Commission  
Saturday, November 2, 2013  
Horseshoe Ranch Wildlife Area  
22600 E. Bloody Basin Road  
Mayer, AZ 86330

PRESENT: (Commission)

(Director and Staff)

Chairman John W. Harris  
Vice Chairman Robert E. Mansell  
Commissioner Kurt R. Davis  
Commissioner Edward "Pat" Madden

Director Larry D. Voyles  
Deputy Director Ty E. Gray  
Assistant Attorney General Jim Odenkirk  
Assistant Attorney General Linda Pollock

Chairman Harris called the meeting to order at 8:00 a.m. This meeting followed an agenda dated October 30, 2013.

\* \* \* \* \*

1. U.S. Forest Service (USFS) Travel Management Planning and the 72-hour Trailer Parking Rule Briefing.

**Presenter:** Craig McMullen, Supervisor, Region II

Mr. McMullen briefed the Commission on certain National Forests in Arizona whereby enforcement action may be taken against the owner of a vehicle that is left on the forest unattended for 72 hours or more. This enforcement action threatens Arizonans access to hunting and other recreational opportunities. The briefing included available information about the USFS implementation of the rule, a review of USFS actions, and Department efforts to induce USFS officials to change their approach.

Prior to this meeting, Mr. McMullen met with the Patrol Captain of the Coconino, Kaibab and Prescott National Forests and invited him to attend this meeting, however, he was not able to attend. Also, the Supervisors for these three National Forests were made aware of this meeting and agenda item.

Mr. McMullen provided some background information on the 72-hour enforcement philosophy and what the Department has done to try to address the issue. On August 16, 2013, the USFS put out a press release (attached) stating that "When property is left unattended for more than 72 hours, it is considered to be abandoned and may be removed from the site." The press release talks about trailers and equipment, but specifically targets trailers that are left on the Forest for 72 hours. They are considered abandoned property. They may be towed and the owner may be cited. For the Department, this causes a considerable amount of concern for the inconvenience of hunters and for the Department's hunting and angling business model, which relies on citizens choosing to participate in outdoor and wildlife recreation on the National Forests and which seeks to reduce obstacles to citizens being able to enjoy the outdoors. The enforcement approach by the Forests has been in effect for some time prior to the press release and there was some awareness, but since there was no prior USFS coordination with the Department, and

constituents had not brought it to the Department's attention, it was not on the radar of the Department until the press release.

Mr. McMullen briefed the Commission on the Code of Federal Regulations and the Arizona Revised Statutes (attached) that the USFS is using for the 72-hour abandoned vehicle enforcement. From the Department's general awareness of patterns of use, it is a frequent occurrence for a hunter to leave his trailer for a period of 72 hours during a hunt. From the Department's perspective, this does not equate to abandonment.

The Department has looked into how many trailers have been towed in the past year and is aware of six, but the USFS Patrol Captain was unable to confirm this number. In most cases, when a trailer is towed, it is taken as a result of a specific complaint on a specific piece of equipment. But as officers are patrolling and happen to notice that a trailer is left unattended, they may take enforcement action. The way the USFS is implementing its decision and the enforcement resources it has, it will likely mean the majority of hunters who leave a trailer unattended for 72 hours while they are still within the 14 day period will not have their trailers removed, but that would be due to lack of USFS time and resources rather than a conscious decision of the USFS's part, but it could. What the officers do first is tag the trailer, and then have it towed by a contracted company. The trailer is impounded with a hold on it, so that when the owner picks it up, he is cited. The owner pays the tow fee, impound fee, and possibly a fine. The collateral forfeiture for this violation is \$250 and is considered a civil sanction if a person pays the fine without a bench trial. If the person chooses to have a bench trial with a federal magistrate, and is found guilty at trial, then they have a misdemeanor conviction on their record. For the person who returns to his camp to find his trailer missing, there is no calling card or anything to tell him what happened. He generally calls the police to report it stolen or missing and ends up having to figure it out and track his property down through the USFS.

Department staff has met to discuss and work on the 72-hour issue. The Coconino, Kaibab and Prescott Forests have adopted this enforcement approach and the other three Forests in Arizona have not. The Tonto, Apache-Sitgreaves and the Coronado National Forests are not likely to adopt this enforcement strategy. The fact that some Forests in Arizona differ from other Forests in Arizona creates a tremendous amount of confusion for the Department's constituents. The Department has tried to coordinate with all the Forests and has asked them to adopt an enforcement approach centered on the traditional 14-day limit that we all understand and have worked with for years. The Department's efforts to coordinate a consistent USFS 14-day approach across the state has been unsuccessful. The Director has written a letter to all the Forest Supervisors articulating the issues with the 72-hour enforcement, but has not yet received a response.

Mr. McMullen noted that the chain of command for enforcement does not go through the Forest Supervisors, but instead through the Patrol Captains, to the patrol commanders in Albuquerque to the Special Agent in Charge, also in Albuquerque. Along with meeting with Forest Supervisors, the Department has met with the Patrol Captain for the Coconino, Kaibab and Prescott Forests, and has talked to the Patrol Captain for the Tonto National Forest.

Chairman Harris asked if the Department has tried to contact the Patrol Command at the USFS regional level or the U.S. Department of Agriculture.

Mr. McMullen stated that the Department has not yet taken it to that level, but was waiting for this meeting and Commission direction.

Chairman Harris asked if a modification of the 72-hour rule in the Arizona Revised Statute would change the issue.

Mr. McMullen stated that it would change things because it is the foundation of what USFS is using to enforce the rule.

Commissioner Madden stated that we wouldn't want to get rid of the 72-hour rule due to its value in other law enforcement situations, but just to amend it.

Mr. McMullen agreed and clarified that what the Department was asking USFS for was that the 72-hour abandonment rule not be enforced during the 14-day period.

Commissioner Mansell confirmed with Mr. McMullen that the enforcement of the abandonment rule included tents and equipment.

Commissioner Davis agreed that the statute should be amended, but also that the Director's letter should be taken to the members of the Congressional Delegation that represent those Forests and get them involved.

Director Voyles asked Mr. McMullen about the Coconino County Sheriffs Office position on this issue.

Mr. McMullen stated that it is our understanding that the Coconino County Sheriff's Office is not participating or assisting the Forest in the enforcement of this approach and they are in fact opposed to it.

Director Voyles requested an Executive Session to confer with legal counsel before discussing another potential action the Department may want to suggest to the Commission.

\* \* \* \* \*

#### Executive Session

The Commission voted to meet in Executive Session in accordance with A.R.S. § 38-431.03 (A)(3) and (4) for the purpose of discussion and consultation with legal counsel.

**Motion:** Madden moved and Mansell seconded THAT THE COMMISSION VOTE TO GO INTO EXECUTIVE SESSION.

**Vote:** Unanimous  
4 to 0

\* \* \* \* \*

1. (Continued) U.S. Forest Service (USFS) Travel Management Planning and the 72-hour Trailer Parking Rule Briefing.

**Presenter:** Craig McMullen, Supervisor, Region II

Director Voyles briefed the Commission on the Department's recommended actions to address the USFS 72-hour abandoned property issue. In looking at the legal structure that the USFS law enforcement is basing their actions on, it tiers into Arizona Revised Statute 28-4801. The statute states that if there is evidence that a vehicle is left unattended for a period of 72 hours on private or public property it is prima facie evidence of abandonment. So there may be some potential to reduce the exposure to the prima facie treatment by people who camp within the 14-day stay limit but may be absent from their camp for more than 72 hours, if they were able to post a placard or notice that states "this is not an abandoned vehicle/camp – do not treat as prima facie evidence of abandonment." Further, we could work with the Coconino County and other potentially affected Sheriffs on developing a letter advising the USFS of our intentions and give them notice that, absent lawful authority for seizing a trailer/equipment, such action could be viewed as a criminal violation of Arizona Revised Statutes and could be subject to investigation by the appropriate state and county law enforcement authorities, which would include the Arizona Game and Fish Department.

Chairman Harris commented that generally when dealing with issues of abandoned property, you are trying to solve a problem, but in this case, we are seeing an arbitrary decision made that is creating problems. This is affecting people that are trying to recreate on their public lands and are being penalized. Also, in asking people to take their camp with them and then bring it back again in a few days, the usage of the Forest roads is doubled and they are actually creating more problems than they are solving with their approach to attended camps.

Chairman Harris requested that the Director look into working with the Coconino County Sheriff's Office as discussed and work out a plan with the placards, as well and to take this issue all the way up to the U.S. Department of Agriculture. We also need to start having discussions with our state legislators about how we can fix some of these problems with legislation and also talk with federal legislators and let them know about the problems this is creating. It is trying to keep people off of public grounds.

**Motion:** Harris moved and Davis seconded THAT THE COMMISSION VOTE TO DIRECT THE DEPARTMENT AND THE DIRECTOR TO TAKE THE ACTIONS AS DISCUSSED (DEVELOP A PLACARD/NOTICE FOR THE PUBLIC TO POST STATING THAT THIS PROPERTY IS NOT ABANDONED; WORK WITH COCONINO COUNTY SHERIFF'S OFFICE, AND POTENTIALLY OTHER COUNTY SHERIFF'S, TO DEVELOP A LETTER TO THE USFS ADVISING OF THE DEPARTMENT'S INTENTIONS; COMMUNICATE THE ISSUES WITH ALL THE WAY UP TO THE U.S. DEPARTMENT OF AGRICULTURE; COMMUNICATE THE ISSUES WITH CONGRESSIONAL LEGISLATORS; COMMUNICATE THE ISSUES WITH STATE LEGISLATORS AND BEGIN DISCUSSIONS REGARDING LEGISLATION).

Commissioner Davis noted for the record that, just as in other friction points that are occurring with the Forests on multiple issues, such as camping restrictions, travel management, onerous travel management changes, etc., this is just another in a series of things that are impeding the

public's ability to recreate, particularly in the Coconino, Kaibab and Prescott National Forests. After a while, if there are enough friction points occurring over and over again, a person can jump to the conclusion that there is a procedure and a process that is intended to reduce the public's ability to recreate. Having recently been turkey hunting on the north Kaibab, he noticed the least number of hunters he has ever seen since he first started hunting there.

Chairman Harris noted that our purpose behind this is that it truly affects the Department's and Commission's business model, which encourages public recreation and access to public lands.

Director Voyles stated that the North American Model of Wildlife Conservation's foundation is built on the principle of public ownership of and public access to, their wildlife and wildlife habitat. Anything that threatens that foundation, threatens our conservation system.

Commissioner Mansell asked about the recent policy that the Commission approved regarding travel management and asked how the Department could get that policy out to the public, so that they know we have the same concerns as they do.

Director Voyles stated that the Department could set up a webpage on travel management and that the Department could keep it updated with Department and Commission actions to address travel management issues. The webpage could include the Commission's policy and the work that is being done at the national level, including the Wildlife and Hunting Heritage Conservation Council.

The Commission was in consensus.

**Vote:** Unanimous

\* \* \* \* \*

**Motion:** Mansell moved and Davis seconded THAT THE COMMISSION VOTE TO ADJOURN THIS MEETING.

**Vote:** Unanimous

\* \* \* \* \*

Meeting adjourned at 9:16 a.m.

\* \* \* \* \*

\_\_\_\_\_  
John W. Harris, Chairman

\_\_\_\_\_  
Robert E. Mansell, Vice Chair

\_\_\_\_\_  
Kurt R. Davis, Member

\_\_\_\_\_  
Edward "Pat" Madden, Member

ATTEST:

\_\_\_\_\_  
Larry D. Voyles  
Secretary and Director