



THE STATE OF ARIZONA  
**GAME AND FISH DEPARTMENT**

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TY E. GRAY



November 8, 2013

Mr. Cal Joyner, Regional Forester  
United States Forest Service, Region 3  
333 Broadway SE  
Albuquerque, NM 87102

Dear Mr. Joyner:

As you are aware, on August 16, 2013, the Coconino National Forest issued a press release entitled "Parking trailers in forests prohibited during hunting season." The press release is specific to the Coconino, Kaibab, and Prescott National Forests, and is directed exclusively at hunters who leave their trailers on the forest unattended for 72 hours. These hunters are now subject to enforcement action, including citations or impoundment of vehicles, trailers and/or motorhomes. This is an unprecedented application of Forest Service regulations that relies on Arizona statutes establishing a presumption of abandonment for a vehicle left unattended for 72 hours. The Arizona Game and Fish Department (Department) is opposed to this unprecedented application of state and federal law to hunters who have absolutely no intent of abandoning their property. The Department, along with the sheriffs for Coconino and Yavapai counties, requests your immediate intervention in this prejudicial enforcement approach. In the meantime, we will be implementing alternatives to prevent the misapplication of these laws.

The statutory and regulatory foundation for imposing the 72 hour restriction on hunters is based on federal regulations prohibiting the abandonment of a vehicle on the national forests, and the state law that presumes a vehicle is abandoned if left unattended for 72 hours. The state law provides an important public safety tool to law enforcement officials, enabling the timely removal of abandoned vehicles from our roadways, as well as private and public lands, if a vehicle is left unattended for a prescribed period of time. A 72 hour period establishes a presumption the vehicle is abandoned and provides law enforcement a clear measure to avoid liability when removing dumped or abandoned vehicles from our public lands. We support USFS application of this state statute to remove truly abandoned vehicles from our public lands. The state and federal laws, however, were never intended to apply to a well-accepted and longstanding practice among otherwise law abiding hunters who establish a camp site for the duration of their hunt. This practice commonly involves a hunter being away from that camp for a period of time that may exceed 72 hours, but returning within a few days to continue hunting, all without exceeding the 14 day stay limit.

The unilateral decision to implement these unprecedented measures specifically targeting hunters without any collaboration with the state wildlife agency or local law enforcement is unacceptable and serves to solve no real problem of merit.

In response to the press release, on September 12, 2013, Director Larry Voyles sent a letter to Coconino National Forest Supervisor Earl Stewart requesting the following: 1) that all forests in Arizona establish a uniform approach to address length of visitation, and 2) that forests in Arizona return to an enforcement approach that allows visitors or their property, including trailers, to remain on the forest for 14 days, whether or not the property is continuously attended.

The Department has since discussed this issue with staff from the three forests without acceptable resolution. While it is clear from these discussions that the likelihood is relatively low that those engaged in wildlife recreation will be cited or have their trailers towed, the threat of such actions will serve only to add uncertainty and inconvenience to the public. We fully support enforcement action based on the forests' current 14 day restriction; however, we remain firmly opposed to the policy restricting unattended camps to 72 hours.

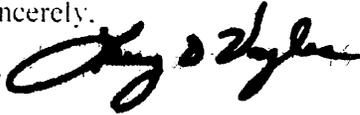
Pending your intervention, our agencies are implementing actions to protect visitors on the Coconino, Kaibab, and Prescott National Forests from unreasonable interference or property seizures while they are engaged in lawful recreational activities. Towards that end, we have begun circulation of a notification placard that visitors to Arizona's forests can affix to their property. The placard lists the dates the property will be on the forest, states that the owner has not abandoned the property during any period of absence during those dates, and establishes that the length of stay on the forest will not exceed 14 days. This placard will serve notice to Forest Service personnel that the owner has no intent to abandon the property and satisfactorily rebuts any presumption that property left unattended for 72 hours is abandoned. This should effectively eliminate an officer's authority to seize property or take other enforcement actions within the limits of an otherwise lawful 14-day visitation period. Actions to knowingly and willfully take control of personal property that has clearly not been abandoned fall outside of the lawful authority of state, local, and federal officers; as such officers may not be entitled to the limited immunity from prosecution for those actions that officers normally enjoy.

The Arizona Game and Fish Department, Yavapai and Coconino County Sheriffs are committed to protecting the rights of Arizona's citizens and recreational visitors to national forest system lands. That commitment includes working with the Arizona State Legislature and Governor Brewer to seek modification of state law, should that become necessary, to remove the statutory presumption of abandonment for licensed vehicles on federal property. We would prefer, however, to find a resolution to this matter that does not involve the need for legislative action.

We request that your office provide a written response to this letter.

Mr. Joyner  
November 8, 2013  
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Sincerely,



Larry D. Voyles, Director  
Arizona Game and Fish



Scott Masher, Sheriff  
Yavapai County



Bill Pribil, Sheriff  
Coconino County

cc: Commissioners  
Honorable John McCain  
Honorable Jeff Flake  
Honorable Ann Kirkpatrick  
Honorable Paul Gosar  
Honorable Jan Brewer  
Honorable Tom Horne  
Scott Smith, Chief of Staff, Governor Brewer's Office  
Kevin Kinsall, Natural Resource Advisor, Governor Brewer's Office  
Speaker Andy Tobin  
President Andy Biggs  
Majority Leadership & Natural Resource Chairs  
Liz Archuleta, Chairwoman, Coconino County Board of Supervisors  
Chip Davis, Chairman, Yavapai County Board of Supervisors  
Mike Williams, Forest Supervisor, Kaibab National Forest  
Earl Stewart, Forest Supervisor, Coconino National Forest  
Teresa Chase, Forest Supervisor, Prescott National Forest  
Neil Bosworth, Forest Supervisor, Tonto National Forest  
Jim Upchurch, Forest Supervisor, Coronado National Forest  
Jim Zornes, Forest Supervisor, Apache-Sitgreaves National Forest  
Robin Poague, Special Agent in Charge, Region 3  
Michael Gardiner, Assistant Special Agent in Charge, Region 3  
Aban Lucero, Patrol Commander, Region 3