R. JOHN LEE CHAIRMAN, OF THE BOARD DISTRICT HI P.O. Box 438, St. Johns, AZ 85936

JIM CLAW VICE CHAIR, OF THE BOARD DISTRICT I P.O BOX 1952, Chinle, AZ 86503

TOM M. WHITE, JR.
MEMBER OF THE BOARD
DISTRICT II
P.O. BOX 994, Ganado, AZ 86505

BOARD OF SUPERVISORS OF APACHE COUNTY

P.O. BOX 428 ST. JOHNS, ARIZONA 85936

TELEPHONE: (928) 337-7503 FACSIMILE: (928) 337-7636



DELWIN P. WENGERT, MANAGER-CLERK ST. JOHNS, AZ 85936

Resolution # 2011-

DECLARING THE EXCLUSIVE AUTHORITY OF APACHE COUNTY, ARIZONA OVER CERTAIN ROADS, RIGHTS-OF-WAY AND ROUTES OF TRAVEL WITHIN THE BOUNDARIES OF APACHE COUNTY AND LOCATED ON CERTAIN LANDS ALSO MANAGED BY THE UNITED STATES FOREST SERVICE OR BUREAU OF LAND MANAGMENT

WHEREAS, the inherent authority to control and protect free travel on the network of roads and rights-of-way within the boundaries of Apache County is held by Apache County to protect the health, safety, welfare and commercial opportunities of all people within Apache County; and

WHEREAS, the network of roads within the boundaries of Apache County are necessary and essential for those purposes; and

WHEREAS, the free use of the public roads and rights of way within Apache County is essential for the use of emergency medical personnel, Apache County Law Enforcement personnel, search and rescue personnel, fire fighting activities and commerce; and

WHEREAS, Apache County also has a compelling interest in protecting the wise and productive use of our natural resources whether those uses are consumptive or non-consumptive; and

WHEREAS, the free use of several roads which are essentially tied to the access of these resources and for other uses set forth above has been encumbered and impeded by obstructions placed in various locations by non-county agencies. And such obstructions create an unauthorized and potentially dangerous impediment to the free use of our roadways, routes of travel and rights-of way and pose a clear threat to the health, safety, welfare and economic well being of our citizens; and

NOW THEREFORE, hereby be it resolved that The Board of Supervisors of Apache County hereby asserts its inherent right to control and manage the roads, rights-of-way and routes of travel located within the United States Forest Service land and Bureau of Land Management land located within the boundaries of Apache County but not located on any nationally recognized Indian reservation, tribal trust land, or otherwise located on Indian Country; and

ENVIRONMENTAL QUALITY COUNCIL. 2013-14

BE IT FUTHER RESOLVED, that placing or maintaining any physical obstruction, gate or other impediment to the free use of said public roads, routes or rights-of-way is hereby prohibited unless such is authorized and permitted in writing by the Apache County Sheriff in advance; and

BE IT FUTHER RESOLVED that any existing physical obstructions, gates or other impediments on any roads, rights-of-way or routes of travel located on National Forest Service or Bureau of Land Management lands be immediately removed. The Apache County Sheriff is directed to ensure the removal of such obstructions or to execute such removals at the expense of the persons or agencies responsible for their placement or maintenance. Placing or maintaining any unauthorized physical obstruction, gate or other impediment on, in or around any road, route of travel or right-of way in Apache County as described herein so as to prevent or impede the free use of that road, route of travel or right-of-way is hereby designated a Class Two Misdemeanor and punishable pursuant to Title 13 of the Arizona Revised Statutes; and

BE IT FURTHER RESOLVED, by order of the Board of Supervisors of Apache County and the Apache County Sheriff that all said public roads, rights-of-way and routes of travel in Apache County are to remain open to the free use of our citizens and for such other purposes as set forth herein.

PASSED, APPROVED AND ADOPTED on this 6th day of December, 2011.

R. John Lee, Chairman

BOÁRD OF SUPERVISORS

APACHE COUNTY, ARIZONA

ATTEST:

Delwin Wengert

Clerk of the Board

County Summit Award

The Arizona Association of Counties & AACo Foundation award

APACHE COUNTY

with

2012 County Summit Award for

Community & Economic Development

For the implementation of innovative solutions to community challenges through the

COUNTY STEWARDSHIP PROGRAM

November 16, 2012 \

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1223	07479	25	9999	999	CUSTER NATIONAL FOREST	4	1905	1960	1,097,784.0								
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	MONTANA
	AGRICULTURE FOREST SERVICE
J223 07478 25 9999	999 BEAVERHEAD NAT L FOREST
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	923 DEERLODGE 057 MADISON
	093 STLVERBOM
1223 07479 25 9999	999 CUSTER NATIONAL FOREST
	009 CARBON 011 CARTER
	_067_PARK
	075 POWDER RIVER 087 ROSEBUD
	095 STILLMATER
	097 SWEETGRASS
1223 07480 25 9999	999 GALLATIN NAT & FOREST
	009 CARBON 031 GALLATIN
	057_HAD1SON
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	097 SWEET GRASS
1222 02401 25 0000	1900 LOLO HATTONA CORCE
1443 01481 55 9999	999 LOLO NATIONAL FOREST 029 FLATHEAD
	039 GRANITE
	047 LAKE 049 LEWIS CLARK
	061 MINERAL
	063 MISSOULA 077 POWELL
	QBI RAVALLI 089 SANDERS
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1223 07482 25 9999	999 DEERLODGE NAT L FOREST
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JURISDICTIONAL	STATUS OF FEDERAL LAND AREAS RULTIPLE COUNTY LISTINGS
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	037 GOLDEN VALLEY 039 GRANITE
	041 HILL 043 JEFFERSON
	045 JUDIJH BASIN 047 LAKE
	059 LEWIS AND CLARK 051 LIBERTY
	053 LINCOLN 055 MCCONE 057 MADISON
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Laws, regulations and Guides for Federal Agency-County Government Coordination and Cooperation Compiled 2010 - Veritas Research Consulting

A. Federal Requirements

Forest and Rangeland Renewable Resources Planning Act of 1974 (16 USC 1600) (RPA). Sec. 1604(a) of the RPA provides that resource management plans of the National Forest System be coordinated with the land and resource management planning processes of State and local governments. Priority consideration of economically dependent forest communities is specifically mentioned in Sec. 14.

Multiple-Use Sustained-Yield Act of 1960 (16 USC 530)(MUSY). Sec. 3 of this act states: "In the effectuation of this Act the Secretary of Agriculture is authorized to cooperate with interested State and local government agencies and others in the development and management of the national forests."

Forest Service Manual (FSM). 1921.63(a) states: The Responsible Official shall provide opportunities for **coordination** with State, <u>local</u>, and other Federal agencies and Tribal governments).

National Environmental Policy Act of 1969 Sec. 101(a) "...declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

Sec.102(C) states: Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved Copies of such statement and the comments and views of the appropriate Federal, State, and <u>local agencies</u>, which are authorized to develop and enforce environmental standards shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of Title 5, United States Code, and shall accompany the proposal through the existing agency review processes;

NEPA also directs federal agencies "...to improve and coordinate Federal plans, functions, programs, and resources to to... achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities;" (42 USC § 4331(b)(5))

President's Council of Environmental Quality statement that "Agencies shall cooperate to the fullest extent possible to reduce duplication of effort", 40 CFR §1506.2. (as well as Federal Register, Vol. 57, No. 182 (9/18/92, §25.2).

Sec. (b) such cooperation shall to the fullest extent possible include:

- 1. Joint planning processes.
- 2. Joint environmental research and studies.
- 3. Joint public hearings (except where otherwise provided by statute).
- 4. Joint environmental assessments.

Sec. (c) Agencies shall cooperate with State and local agencies to the <u>fullest extent</u> possible to reduce duplication between NEPA and comparable State and local requirements... such cooperation shall to the fullest extent possible include joint environmental impact statements. In such cases one or more Federal agencies and one or more State or local agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to but not in conflict with those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws.

Sec. (d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law."

<u>40 CFR Sec. 1501.6</u> Cooperating agencies. states: "The purpose of this section is to emphasize agency cooperation early in the NEPA process... An agency may request the lead agency to designate it a cooperating agency.

(a) The lead agency shall:

- 1. Request the participation of each cooperating agency in the NEPA process at the earliest possible time.
- 2. Use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with its responsibility as lead agency.
- 3. Meet with a cooperating agency at the latter's request.

(b) Each cooperating agency shall:

- 4. Participate in the NEPA process at the earliest possible time.
- 5. Participate in the scoping process (described below in Sec. 1501.7).

- 6. Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise.
- 7. Make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability.
- 8. Normally use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies. Potential lead agencies shall include such funding requirements in their budget requests.

Memorandum for Heads of Federal Agencies: Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act, , from James Connaughton, Chair, January 30, 2002., states:

"to ensure that all Federal agencies are actively considering designation of Federal and non-federal cooperating agencies in the preparation of analyses and documentation required by the National Environmental Policy Act (NEPA), The CEQ regulations addressing cooperating agencies status (40 C.F.R. §§ 1501.6 & 1508.5) implement the NEPA mandate that Federal agencies responsible for preparing NEPA analyses and documentation do so "in cooperation with State and local governments" and other agencies with jurisdiction by law or special expertise. (42 U.S.C. §§ 4331(a), 4332(2)). The benefits of enhanced cooperating agency participation in the preparation of NEPA analyses include: disclosing relevant information early in the analytical process; applying available technical expertise and staff support; avoiding duplication with other Federal, State, Tribal and local procedures; and establishing a mechanism for addressing intergovernmental issues. Other benefits of enhanced cooperating agency participation include fostering intra and intergovernmental trust (e.g., partnerships at the community level) and a common understanding and appreciation for various governmental roles in the NEPA process, as well as enhancing agencies' ability to adopt environmental documents.

It is incumbent on Federal agency officials to identify as early as practicable in the environmental planning process those Federal, State, Tribal and local government agencies that have jurisdiction by law and special expertise with respect to all reasonable alternatives or significant environmental, social or economic impacts associated with a proposed action that requires NEPA analysis.

The Federal agency responsible for the NEPA analysis should determine whether such agencies are interested and appear capable of assuming the responsibilities of becoming a cooperating agency under 40 C.F.R. § 1501.6. Whenever invited Federal, State, Tribal and local agencies elect not to become cooperating agencies, they should still be considered for inclusion in **interdisciplinary teams** engaged in the NEPA process and on distribution lists for review and comment on the NEPA documents.

In order to assure that the NEPA process proceeds efficiently, agencies responsible for NEPA analysis are urged to set time limits, identify milestones, assign responsibilities for analysis and documentation, specify the scope and detail of the cooperating agency's contribution, and establish other appropriate ground-rules addressing issues such as availability of pre-decisional information. Agencies are encouraged in appropriate cases to consider documenting their expectations, roles and responsibilities (e.g., Memorandum of Agreement or correspondence). Establishing such a relationship neither creates a requirement nor constitutes a presumption that a lead agency provides financial assistance to a cooperating agency.

Integrated Resource Management Guide for the USFS Southwest Region III.(Sept. 1993) (Also, refer to 36 CFR §219.7(A-E))

- Cooperate to develop joint planning, research, public hearings, and environmental assessments when there are duplications between NEPA and local requirements to the fullest extent possible.
- Prepare joint environmental impact statements whenever possible.
- In environmental assessments discuss any inconsistencies between a proposed action and local plans or policies to the extent effects on local plans and policies have been raised as issues.
- Consult local governments early and invite their participation and comments on all proposed actions.
- Consult on significance of <u>preliminary issues</u> with local governments.
- <u>Inform local government of scoping</u> results using personal contacts.
- Consider designating local agencies as joint lead or cooperating agencies for EIS and EA preparation.
- Make monitoring results available.

To comply with all of the NEPA and NFMA requirements Forest Service employees should consider:

- Developing memoranda of understanding to define how joint planning will be carried out.
- Becoming familiar with local government requirements and the issues affecting local communities.
- Inviting local agency participation on <u>all proposed actions in writing early in the process</u>.
- Making an extra effort to keep local agencies informed as planning progresses.
- Recognizing and displaying the conflicts between proposed actions and local agency requirements.

(Abstracted from IRM, Page 24)

Executive Order -- Facilitation of Cooperative Conservation, George W. Bush, The White House, August 26, 2004 states:

"Sec 1. The purpose of this order is to ensure that the Departments of the Interior, Agriculture, Commerce, and Defense and the Environmental Protection Agency implement laws relating to the environment and natural resources in a manner that promotes cooperative conservation, with an emphasis on appropriate inclusion of local

participation in Federal decisionmaking, in accordance with their respective agency missions, policies, and regulations."

R. JOHN LEE CHAIRMAN OF THE BOARD DISTRICT III P.O. BOX 428, St. Johns, AZ 85936

JIM, CLAW VICE CHAIR. OF THE BOARD DISTRICT I P.O. BOX 1952, Chinle, AZ 86503

TOM M. WHITE, JR. MEMBER OF THE BOARD DISTRICT II P.O. BOX 994, Ganado, AZ 86505

BOARD OF SUPERVISORS OF APACHE COUNTY

P.O. BOX 428 ST. JOHNS, ARIZONA 85936

TELEPHONE: (928) 337-7503 FACSIMILE: (928) 337-2003



DELWIN P. WENGERT, MANAGER-CLERK ST. JOHNS, AZ 85936

RESOLUTION # 2011-14

DECLARING AN EMERGENCY IN APACHE COUNTY, ARIZONA

DUE TO THE WALLOW FIRE, DEGRADED FOREST CONDITIONS, IMMINENT

THREAT FROM CATASTROPHIC FIRES AND EXTREME DROUGHT

WHEREAS, it is the responsibility and within the scope of authority of the Board of Supervisors of Apache County to exercise powers necessary and proper to protect public safety, health, promote public prosperity and improve the morals, order, comfort and convenience of the inhabitants of Apache County pursuant to the provisions of the Constitution of laws of this State.

WHEREAS, historically, the Board of Supervisors of Apache County has been periodically required to exercise those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and welfare of the County in appropriate instances; and

WHEREAS, by Resolution No. 2011-08, the Board of Supervisors of Apache County has declared a Flood emergency due to severe rains and resource damage surrounding the Wallow Fire and the aggravated factor of the general lack of health on our forest lands due to federal mismanagement driven by ill-advised environmental policies;

WHEREAS, the White Mountain Stewardship has been severely and adversely effected with the Wallow Fire, curtailing needful work to be done on the Apache-Sitgreaves National Forest for Wildland Urban Interface, Community Fire Protection and Rehabilitation measures;

WHEREAS, the Board of Supervisors of Apache County has an obligation to give effect to the Arizona Coordination Act, SB-1398; and

WHEREAS, The Apache County Sheriff's Office has an obligation to protect the health, safety and welfare of the residents and visitors of Apache County; and that existing state and local laws are not being routinely followed on federally managed forest lands in Apache County; and

WHEREAS, Federal laws (e.g. the National Environmental Policy Act, etc.) and regulations contain reciprocal requirements concerning cooperation, consultation and coordination by Federal agencies with state and local governments and such cooperation has not been forthcoming and

WHEREAS, Multiple-Use Management, Timber Sales and Livestock Grazing have been curtailed to the point of causing greatly diminished health on our forests and have created catastrophic health, safety, welfare and economic affects to Apache County;

NOW THEREFORE, hereby be it resolved that the Board of Supervisors of Apache County declares a State of Emergency and Disaster to exist in and around the communities and watershed both around and within the Apache-Sitgreaves National Forest including the Wildland Urban Interface areas identified as critical in the Apache County Community Wildfire Protection Plan; and

BE IT FURTHER RESOLVED that the Board of Supervisors of Apache County hereby formally demands that State and Federal officials take immediate action to eliminate hazardous conditions in and around the communities and watersheds in and around the Apache-Sitgreaves national Forest and any other Federally Managed land in Apache County, including the Wildland Urban interface areas identified as critical in the Apache County Community Wildfire Protection Plan; and

BE IT FURTHER RESOLVED that the Board of Supervisors of Apache County invoking the inherent police powers of the state hereby formally gives notice to all relevant State and Federal officials that pursuant to its duty outlined above, after consulting with the State Forester and the Regional United States Forester, taking surveys, holding those public hearings as may be necessary and developing a plan to mitigate the effects of the disaster and as a county in which a disaster has been declared, we intend to unilaterally take such actions as are necessary to clear and thin undergrowth and to remove or log fire-damaged trees within the area of the disaster and to assess all attendant costs to those agencies charged with wise management of our forests and whose neglect has caused the dangerous conditions therein;

BE IT FURTHER RESOLVED that this Resolution be called immediately to the attention of the Secretary of Agriculture, Arizona Congressional Delegation, Governor Jan Brewer, the Arizona Legislature and the Arizona Division of Emergency Management, and

BE IT FURTHER RESOLVED, that the Governor of the State of Arizona and the Arizona Division of Emergency Management are hereby called upon in the name of the State of Arizona to declare a State of Emergency and Disaster in Apache County and its national forests effected by severe drought conditions, high fire danger and catastrophic losses caused by wild fires; and

BE IT FUTHER RESOLVED, that United States Forest Service personnel are hereby called upon to immediately respond to the communication, consultation and coordination with, and provide immediate notification to Apache County of all their activities, programs, planning, NEPA processes etc. having as their object to abate fire and flooding dangers in Apache County; and

BE IT FUTHER RESOLVED, that the Apache County Board of Supervisors calls upon the U.S. Department of Agriculture, U.S. Congress, the Arizona Legislature, and the Arizona Governor's office to immediately provide emergency funding to accomplish tree thinning, timber sales, dead tree removal, fuel-load reduction and livestock grazing to protect affected areas from catastrophic wildfire; and

BE IT FUTHER RESOLVED that the Board of Supervisors of Apache County calls on State and Federal officials to immediately coordinate a meeting to address the issues raised by this resolution; and

BE IT FUTHER RESOLVED that the Board of Supervisors of Apache County calls upon the U.S. Department of Agriculture and the U.S. Congress to conduct an investigation to determine why the requirements of County, State and Federal ordinances, laws and regulations are not being routinely followed in relation to public safety, recreation, wildfire and economic issues of Apache County forest lands and other federally managed lands.

PASSED, APPROVED AND ADOPTED on this 18th day of October, 2011.

BOARD OF SUPERVISORS APACHE COUNTY, ARIZONA

ATTEST:

Delwin Wengert Clerk of the Board JOE SHIRLEY, JR, MEMBER OF THE BOARD DISTRICT I P.O. Box 1952, Chinle, AZ 86503

TOM M. WHITE, JR. CHAIRMAN OF THE BOARD DISTRICT II P.O. Box 994, Ganado, AZ 86505

BARRY WELLER VICE-CHAIR OF THE BOARD DISTRICT III P.O. Box 428, St. Johns, AZ 85936

BOARD OF SUPERVISORS OF APACHE COUNTY

P.O. BOX 428 ST. JOHNS, ARIZONA 85936

TELEPHONE: (928) 337-7503 FACSIMILE: (928) 337-2003



DELWIN P. WENGERT, MANAGER-CLERK ST. JOHNS, AZ 85936

Ordinance # 2013-<u>07</u>

AN ORDINANCE SETTING FORTH EMERGENCY PREDATOR-HUMAN INCIDENT PROTECTIVE MEASURES

WHEREAS, the Apache County Board of Supervisors finds and determines that the increase of dangerous predators, including introduced, experimental and managed species, will result in an increase in human-predator encounters that can result in threats, attacks, injuries and death to humans, especially vulnerable, handicapped, elderly and children throughout the county; and,

WHEREAS, the Apache County Board of Supervisors finds and determines that predatory animals, including introduced, experimental and managed species, and predator-human encounters pose serious threats to human settlements, family households, expose children to health and safety risks, and threaten the economic well-being of families and businesses within the County; and,

WHEREAS, the Apache County Board of Supervisors has received numerous testimonials from those affected by predators, including introduced, experimental and managed species; and,

WHEREAS, disease and spread of disease by predators including introduced, experimental and managed species and rodents is not being addressed sufficiently/effectively by the agencies at hand; and,

WHEREAS, increasing pressure on livestock from predatory animals, including introduced, experimental and managed species, has shown to impact and have detrimental affects to yearling operations; and,

WHEREAS, increased pressure from predatory animals, including introduced, experimental and managed species, has led to drastic and negative impacts on big game animals throughout the western U.S.; and,

WHEREAS, psychological impacts and damages have been proven and testified to, by licensed mental health professionals, concerning the impacts of predators, including introduced, experimental and managed species such as the wolf, with no relief forthcoming; and,

WHEREAS, many experts on predators, including introduced, experimental and managed species, have legitimate concerns and suspicions about the genetic purity of introduced and/or protected/specially-protected species, deeming in the case of the Mexican Gray Wolf, a wolf-dog hybrid; and,

WHEREAS, Apache County questions the legality and viability of introduced and experimental species of questionable historic or genetic lineage; and,

WHEREAS, many experts on predators, including introduced, experimental and managed species to include wolves, demonstrate that habituated predators may cause danger to the citizens of Apache County because these predators may have lost their fear of humans; and,

WHEREAS, many of these experts have documented that the very practices indulged in by the United States Fish and Wildlife Service (USFWS) lead to habituation and fearlessness; and,

WHEREAS, the Board desires to increase its ability to protect humans, the general well being of humans, livestock and domesticated animals from predatory animals, including introduced, experimental and managed species; and,

WHEREAS, the 10th Amendment to the Constitution for the United States is clear when stating, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the States respectively, or to the people."; and,

WHEREAS, the states and their political subdivisions, the counties, have derived specific and reserved powers from the 10th Amendment of the Constitution for the United States, referred to as Police Powers Of The State; and,

WHEREAS, the counties under these 10th Amendment and subsequent state powers has the duty to pass laws and regulations to protect the safety, health, welfare and morals for the benefit of their communities; and,

WHEREAS, the Board has a fiduciary responsibility under its statutory police powers to protect the health, safety and welfare of its residents; and, the County reserves the right to take whatever actions necessary to do so; and,

WHEREAS, pursuant to Arizona law, the Apache County Board of Supervisors has the authority to "Adopt provisions necessary to preserve the health of the county, and provide for the expenses thereof," and "Make and enforce all local, police, sanitary and other regulations not in conflict with general law" all according to A.R.S. § 11-251; and,

WHEREAS, pursuant to Arizona law, the Director of Agriculture "may also enter into cooperative agreements with other governmental agencies and counties of the state to promote the control and destruction of predatory wildlife, noxious rodents and related animals", which does not include big game animals as defined in section 17-101, except:

- 1. Bear and mountain lion taken pursuant to section 17-302.
- 2. To protect public health and safety, all according to ARS 3-2401; and,

WHEREAS, pursuant to Arizona law, the Director of Agriculture "may approve expenditures for equipment, materials, supplies, transportation and other expenses, including personal services, necessary to discharge the powers imposed by this article" all according to ARS 3-2402; and,

WHEREAS, pursuant to Arizona Law, "The boards of supervisors of the several counties may within their respective counties:

- 1. Control and destroy predatory wildlife, noxious rodents and related animals as defined by ARS Section 3-2401.
- 2. Enter into cooperative agreements with the department and the animal and plant health inspection service of the United States department of agriculture.
- 3. Make necessary expenditures from any special, contingent or general county fund available for the purposes specified in this section." All according to ARS Section 3-2405; and,

WHEREAS, the cooperation and participation with the USFWS is not sufficient to address the needs of the County health, safety and welfare; and,

WHEREAS, multiple attempts have been made by Apache County to coordinate with Arizona Game and Fish Department (AZGFD) and the USFWS, to no avail; and,

WHEREAS, there has been a rise in political posturing and intimidation, including blackmail, surrounding predatory, introduced, experimental and managed species; and,

WHEREAS, there has been an increase of threatening rhetoric and conjecture concerning predatory, introduced, experimental and managed species; and,

WHEREAS, information critical to local governing bodies to fulfill their obligations to protect safety, health, welfare and morals has not been forthcoming from management agencies; and,

WHEREAS, the USFWS final rule implementing the introduction of the experimental wolf population allows Mexican Gray Wolves ("wolf") to be "taken" in certain instances. See 63 C.F.R. §§ 1752, 1759; This process is ineffective, protracted in time and to which the USFWS is non-responsive; and,

WHEREAS, the USFWS, Arizona Game and Fish Department, New Mexico Game and Fish Commission, USDA-Animal and Plant Health Inspection Service (APHIS), the U.S. Forest Service and others, in a document called *Mexican Wolf Encounter Safety Tips*, states that "if in imminent danger, do what is necessary to protect yourself, your family, or the lives of others"; and,

WHEREAS, on January 2, 2013, Arizona Game & Fish along with the U.S. Fish and Wildlife Service announced another Mexican Gray Wolf would be released into Apache County; and,

WHEREAS, previous documents prepared by U.S. Fish and Wildlife and Arizona Game and Fish Department show the intent to introduce more wolves into Apache County and surrounding areas, including the proposal of a "Southwestern Gray Wolf" management plan announced on December 18, 2012; and,

WHEREAS, the Apache County Board of Supervisors finds and determines that the USFWS actions to address Mexican Gray Wolf threats to human settlement's, households and residents of the County are not sufficient to reduce and eliminate these threats to human populations; and,

WHEREAS, the Board determines that measures used by other counties have provided some relief to predator-human encounters; the County realizes that as human incidents with wolves and other predations are increasing rather than decreasing; that the risk of wolf and other predator attacks on humans has become more likely as human/wolf incidents

increase, certain measures are necessary for the protection of the safety, health, welfare and morals of the residents and businesses in Apache County; and, these escalating incidents include human suffering, possible loss of life, loss of income, loss and damage to private property, and disruption of the normal functioning of government and communities in Apache County; and,

WHEREAS, the Board desires an emergency response/measures that is/are more effective, direct and immediate, when residents ask for assistance when the residents are threatened by predator encounters (including wolves), and the Board desires to establish expectations of law enforcement within the County when responding to such dangers, to include livestock predation;

NOW THEREFORE, BE IT RESOLVED, the Board of Supervisors of Apache County hereby adopts this Apache County Ordinance No. 2013-007: *An Ordinance Setting Forth Emergency Predator-Human Incident Protective Measures*. Procedures for implementing the emergency measures for this proclamation shall have the force and effect of law.

BE IT FURTHER RESOLVED, the purpose of this ordinance is to set forth and specify emergency response to resident requests for help to remove threatening predators (including wolves) in order to protect families and the lives of others. In implementing this ordinance, priority response will be to requests from disadvantaged or vulnerable individuals and families, including but not limited to children, elderly, mentally or physically handicapped, other impaired individuals as defined by the Americans with Disabilities Act.

BE IT FURTHER RESOLVED, Apache County predator protection management objectives are to:

- 1. Prevent human death and injury;
- 2. Assist County residents who encounter predators and fear for their lives;
- 3. Provide rapid response to residents who cannot safely protect themselves from predator encounters that present a

threat, as described above:

- 4. Prevent loss of livestock and any other property that may be damaged or destroyed by predators;
 - 5. Reduce predator-human interactions; and,
 - 6. Reduce habituated predators from human encounters.

BE IT FURTHER RESOLVED, impeding the Apache County Sheriff, any designated Apache County Deputy, any designated Officer or other designee or contractor of Apache County who is performing the task of protecting the safety, health, welfare and morals of humans from predatory animals is hereby designated a Class 2 Misdemeanor and punishable pursuant to Title 13 of the Arizona Revised Statutes.

BE IT FURTHER RESOLVED, it is illegal to translocate, introduce or allow to be introduced, any predatory, experimental, nonnative, or any other species into Apache County, without either fully coordinating with the County prior to any planning efforts, or ensuring compliance with all applicable federal laws and regulations.

BE IT FURTHER RESOLVED, that this Ordinance be called immediately to the attention of Governor Jan Brewer, Arizona Game and Fish Department, Unites States Fish and Wildlife Service, Arizona Congressional Delegation and the Arizona Legislature, and meetings will, as needed, be coordinated as soon as possible.

BE IT FURTHER RESOLVED, the County will, as needed, enter into coordinated agreements with the Arizona Agricultural Department and Director.

BE IT FURTHER RESOLVED, the County will, as needed, enter into coordinated agreements with the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture.

BE IT FURTHER RESOLVED, the Apache County Board of Supervisors may, as needed, contract with a qualified predator officer, from either another county or another agency, to provide an instructional course on predatory animal behavior, identification and familiarization for the Apache County Sheriff's Office's deputy first-responders.

BE IT FURTHER RESOLVED, since response time is critical, the County Sheriff or designee may issue a dispatch order, to lethally remove a predator(s), when there's an imminent threat of serious bodily injury to members of the effected household(s).

BE IT FURTHER RESOLVED, the Board specifies the following procedures in responding to immediate assistance from requests by county residents, as described above.

SECTION 1:

Procedures are hereby established for responding to complaints or need for immediate assistance to remove predators that are threats or danger to humans, including children or other defenseless persons, domestic animals and/or livestock. The County responding sheriff deputy will quickly respond to any of the following predator-related activities:

- 1.1 Frequently approaching people or domestic animals and/or livestock;
 - 1.2 Frequently entering human developments;
- 1.3 Behavior indicating habituation to humans and human food items;
 - 1.4 Acquiring human foods on more than one occasion;
- 1.5 Attacking, injuring or showing aggressive behavior towards a human;
- 1.6 Where and when residents are unable or disadvantaged to protect themselves from predators, the County may intervene as a third party to assist said residents in removing threatening predators.

SECTION 2:

The Investigating Office of the Sheriff's Department shall assume the following actions:

- 2.1 Upon receiving a request for assistance, the designated Deputy of the Sheriff's Department will make the determination to respond to the request;
- 2.2 The designated Deputy of the Sheriff's Department will immediately respond to the scene of the threat and check the resident(s), and make an initial observation for obvious physical effects and/or danger to humans, livestock or domestic animals.

SECTION 3:

The Investigating Officer of the Sheriff's Department will assume the following actions:

- 3.1 Confirm the threatening incident;
- 3.2 Identify and document the presence of predator(s) and determine if such presence is causing an imminent threat of physical or bodily danger or harm;
- 3.3 If there is an imminent threat of serious bodily harm to any human, the Sheriff's Deputy may act in defense of others to alleviate the threat if such actions are reasonably necessary to protect such person from death or serious bodily injury. Further, Lethal take of a predator is only appropriate if the officer determines that (1) there is an apparent, danger of death or bodily harm to others, (2) the apparent danger would have caused a reasonable person to act the same way in the same circumstances;
 - 3.4 Provide comfort and apply first aid, if necessary.
- 3.5 Contact EMS and County Sheriff to treat and investigate as necessary;
 - 3.6 Complete investigation;
 - 3.7 Document incident;
- 3.8 Notify Apache County Board of Supervisors and County Sheriff;
- 3.9 In the case of a lethal take of a predator that is not threatened or endangered, as can be reasonably determined by the designated Deputy with available resources according to the Endangered Species Act, the designated Deputy will contact the Arizona Fish and Game Department within 24 hours;

- 3.10 In the case of a lethal take of a confirmed or perceived predator listed as threatened or endangered, according to the Endangered Species Act, the designated Deputy will preserve the site with the minimum of disturbance and call the USFWS as soon as possible, but in all cases within 24 hours;
 - 3.11 Inspect and document physical effects;
 - 3.12 Photograph all scenes where physical effects occurred;
 - 3.13 Measure canine spread in millimeters;
- 3.14 Prepare incident report including all non-confidential information described above and transmit to the Apache County Board of Supervisors, FWS and US Wildlife Service and Arizona Fish and Game Department within seven (7) days.

SECTION 4:

Definitions:

Habituated Predator: A predator that more than once approaches people and/or repeatedly visits human use areas in the presence of people without displaying an avoidance response; an habituated predator that stands, looks at people in a fearless manner, cannot be scared off by yelling, clapping hands, waving arms, throwing objects and/or discharging a firearm. Habituation is a decreasing response to a repeated, non-consequential stimulus; the loss of a fear response to people, which arises from frequent non-consequential encounters.

Problem Predator: A predator that:

- (1) Has depredated lawfully present livestock; or any other domestic animal;
- (2) As some predators, can be a member of a group or pack (including adults, yearlings, and young-of-the-year) that were directly involved in livestock depredations;
- (3) Was fed by or are dependent upon adults involved with livestock or domestic animal depredations (because young animals will likely acquire the pack's livestock or domestic animal depredation habits);
- (4) Has depredated domestic animals other than livestock on private or tribal lands, two times in an area within one year; or,
- (5) Is habituated to humans, human residences, or other related or similar facilities.

Predation: Orientation towards the prey followed by: stalking, chasing, catching, biting, shaking the prey, carrying or dragging off. The predator may not show prior threat display or vocalization; it may continue attack on targeted prey, even with interference. Children are particularly susceptible to predation. **Predator:** Any animal including but not limited to mountain lions, black and Grizzly bears, jaguars, wolves and coyotes, that live by preying on other animals, to include introduced, experimental and managed species, as well as those defined by ARS 3-2401. **Predator-Human Interaction:** Any incident in which the behavior of a predator has a direct physical or mental effect upon a human.

Threat: Any predator-related circumstance or event with the potential for adverse physical or psychological impact upon a human. A predator is considered to be a threat to a human any time the predator demonstrates menacing or fearless behavior while in proximity to a human

Wild Predator: A predator with wild characteristics; not tame or domesticated. A wild predator is free ranging exclusively in the wild and has an avoidance response to humans and human use areas.

PASSED, APPROVED AND ADOPTED this 21st day of May 2013.

Tom M. White, Jr., Chairman BOARD OF SUPERVISORS APACHE COUNTY, ARIZONA

ATTEST:

Delwin Wengert Clerk of the Board

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wildfires

Feds. Apache County launch first-ever partnership to thin forests, tame

service-apache-county-launch-first-ever-

partnership-to-thin-forests-tame-fires/)

(http://cronkitenewsonline.com/2012/06/forest-

Friday, July 20, 2012 By Samantha Bare Cronkite News

WASHINGTON - Apache County's forest-stewardship agreement with the U.S. Forest Service was held up at a congressional hearing Friday as a model for other governments trying to tame the growing problem of wildfires.

Rep. Paul Gosar, R-Flagstaff, said programs like Apache County's contract to help thin the Apache-Sitgreaves National Forest should be part of a national strategy of forest management – not merely lire suppression – to combat catastrophic wildfires.

"Our forests have been mismanaged for a long time and it is way past due to change our strategy," Gosar told the House Natural Resources

Committee (http://naturalresources.house.gov/Calendar/EventSingle.aspx?EventID=302930). "Although the need to suppress fires is never going to go away, we must shift priority towards proactive management."

He was testifying in support of https://ihomas.loc.gov/home/gpoxmlc112/h5744 ih.xmil that would encourage federal officials to enter into timber-harvesting and grazing projects to reduce the amount of potential wildfire fuel on federal lands.

"When you have a drought, all the trees compete for that same drop of water," said David Cook, a member of the Arizona Cattlemen's Association (http://www.azcattlemensassoc.org/). who testified Friday. "That's why the forest needs to be thinned."

Gosar's was one of three bills aimed at dealing with forest mismanagement, drought and insect infestations – specifically the invasive bark beetle – that have contributed to a rise in catastrophic wildfires. Gosar said the five largest wildfires in Arizona history have come in the last 10 years.

He blamed the Forest Service for some of the problem, saying it took until June to award a contract that was supposed to be awarded in December for the Four Forests Restoration Initiative, among other issues.

"I see a lack of trust by the government with the counties and states. I absolutely see that," Gosar said. "And that's got to stop."

His said his bill would streamline the process for creating agreements like the one with Apache County, which began in May.

Apache County Natural Resources Coordinator Doyel Shamley said the program has worked well, and that his county's contract needs to be replicated throughout the country.

"The catastrophic wildfires are just a symptom of the disease" of forest mismanagement, Shamley said. "We need to get both back into control - the fire and the government."

Witnesses said another "imminent threat" to the nation's forests is infestation by invasive beetles. Mary Wagner (http://naturalresources.house.gov/UploadedFiles/WegnerTestimony07-20-12.pdf), associate chief of the Forest Service, said that 30 million federal acres are infested, stressing trees and making them more susceptible to burning. Beetles have infested 43 million acres total, she said.

The solution to restoring the health of national forests in the face of all those factors must come from a strategic plan, said Hank Kashdan of the National Association of Forest Service Retirees (http://www.fsx.org/).

"We all know that increasing budgets is not a fix," Kashdan said. "From a legislative approach, it has to be a focus on public partnerships to reduce the process and much greater recognition of the crisis."

Gosar said that's why his bill streamlines the process of restoring forests.

"Our ecosystem is suffocating," he said. "We simply need to make ecological restoration simpler."

But Rep. Ed Markey (http://www.gpo.gov/fdsys/pkg/BILLS-112hr5960ih/pdf/BILLS-112hr5960ih.pdf), D-Mass., said bills by Gosar and Rep. Scott Tipton (http://www.gpo.gov/fdsys/pkg/BILLS-112hr6989ih.pdf), R-Colo., do not place responsibility for catastrophic wildfires in the right place. He said climate change is responsible for the wildfires – and the droughts and record temperatures across the country – and that curbing human impact on the environment is the only way to mitigate the fires' impact.

"If you think that the drought, heat wave and catastrophic wildfires are a coincidence, you're in deep denial," Markey said. "Once we get chemicals out of the climate, wildfires will go down."

(Search)



(http://cronkitenews.asu.edu/assets/images/12/07/20-forest-trio-full.ipg)

From left, Rep. Paul Gosar, R-Flagstaff, Apache County Natural Resources Coordinator Doyel Shamley and David Cook of the Arizona Cattlemen's Association after a hearing in Washington on wildfire prevention bills. All said management is needed before fires break out.

Photo by Samantha Bare



(http://cronkitenews.asu.edu/assets/images/12/07/20-forest-doyel-full.jpg)

Apache County Natural Resources Coordinator Doyel Shamley told the House Natural Resources Committee that forest stewardship agreements like the one his county has with the U.S. Forest Service are needed to keep wildfires under control.

Photo by Samantha Bare



(http://cronkitenews.asu.edu/assets/Images/12/06/13-fire-saw-full.jpg)

Apache County crews began clearing brush, low-hanging limbs and small-diameter trees in the Apache-Sitgreaves National Forest in May, part of a program aimed at limiting wildfire outbreaks.

Photo by Veritas Research Consulting

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