

**American Rivers • Arizona Riparian Council • Arizona Wilderness Coalition
Arizona Wildlife Federation • Center for Biological Diversity • Friends of Arizona Rivers
Maricopa Audubon Society • Northern Arizona Audubon Society
Sierra Club – Grand Canyon Chapter**

September 11, 2007

Nora Rasure, Supervisor
Coconino National Forest
1824 S. Thompson St.
Flagstaff, AZ 86001

Gene Blankenbaker, Supervisor
Tonto National Forest
2324 E. McDowell Road
Phoenix, AZ 85006

Re: Request for Fossil Creek Emergency Order

Dear Supervisors:

On behalf of the American Rivers, Arizona Riparian Council, Arizona Wilderness Coalition, Arizona Wildlife Federation, Center for Biological Diversity, Friends of Arizona Rivers, Maricopa Audubon Society, Northern Arizona Audubon Society, and Sierra Club – Grand Canyon Chapter, we request an emergency order to limit recreational use at Fossil Creek.

American Rivers is the national voice for healthy rivers and the communities that depend upon them. Through national advocacy, innovative solutions and our growing network of strategic partners, they protect and promote rivers as valuable community assets that are vital to health, safety and quality of life. Founded in 1973, American Rivers has more than 65,000 members and online supporters nationwide, with offices in Washington, DC and the Mid-Atlantic, Northeast, Midwest, Southeast, California and Northwest regions.

The Arizona Riparian Council was formed in 1986 to respond to the statewide loss of Arizona's riparian areas. The 120 members of the Council include scientists from a variety of disciplines with expertise in the functions of riparian areas. In addition, the Council includes regulators from local, state, and federal agencies; scholars; researchers; and other Arizona citizens who value healthy streams and their associated stream bank habitats.

The Arizona Wilderness Coalition (AWC) works to permanently protect and restore Wilderness and other wild lands and waters in Arizona for the enjoyment of all citizens and to ensure that Arizona's native plants and animals have a lasting home in wild nature. AWC represents 1,500 members throughout Arizona. AWC members and staff use the lands within the planning area for recreation.

The Arizona Wildlife Federation (AWF) represents 1,000 fully vested members and has an outreach to a much wider audience, including other organizations, agencies, and interested

individuals. The AWF is dedicated to the conservation, enhancement, protection, and science based management of the wildlife and wildlife habitat of Arizona.

The Center for Biological Diversity is a national, nonprofit organization based in Arizona with over 35,000 members whose mission is to protect and restore endangered species and wild places through science, policy, education, advocacy, and environmental law.

The Friends of Arizona Rivers is a small group of citizens who both enjoy recreating in the streams of our state, and in assuring that the natural resources of streams are conserved for the benefit of future generations.

Maricopa Audubon Society, with 2,300 members, is an organization of volunteers dedicated to the enjoyment of birds and other wildlife with a primary focus on the protection and restoration of the habitat of the Southwest through fellowship, education, and community involvement.

Northern Arizona Audubon Society's 650 members are dedicated to promoting the understanding and appreciation of birds and to conserve and restore natural ecosystems focusing on birds and other wildlife, for the benefit of humanity and earth's biological diversity. Their members, spanning the northern part of the state from the Verde Valley to Grand Canyon and Holbrook to Kingman, are active in volunteer work for the Forest Service, National Park Service and the Arizona Game and Fish Department.

The Sierra Club is America's oldest, largest and most influential grassroots environmental organization. Inspired by nature, the Sierra Club's nearly 800,000 members—including 14,000 in Arizona—work together to protect our communities and the planet. Their members have a significant interest in promoting protective management of our public lands including rivers and streams and have a special interest in protecting Fossil Creek.

Since the signing of the Settlement Agreement in 2000 and return of full flows to Fossil Creek in June 2005, the increase in recreation has reached an unacceptable level. Fossil Creek is a sensitive riparian ecosystem that is in the beginning stages of restoration after 100 years of depleted flows due to damming and diversion to the Irving and Childs power plants. Public recognition of this site has launched it into an increasingly popular place for recreation. However, no facilities are available for camping or day use, and no area-specific management plan is in place to guide U.S. Forest Service management at Fossil Creek.

During an organized service trip along Fossil Creek on Saturday, July 28, 2007, some 50 participants, many of them members of the aforementioned groups, witnessed first-hand the excessive and damaging impacts of recreational uses on the creek and riparian habitat. Noted impacts include shooting in a congested area (shell casings were observed), vehicles crushing vegetation, proliferation of social trails, kayak impacts, and severe sanitation deficiencies. An exceptional amount of trash was encountered during the clean-up, despite the fact that Friends of the Forest provide regular clean-up visits every other week. Even more disturbing was the amount of human excrement within the riparian zone of the creek, much of it within a few feet of surface flows.

Immediate relief from these excessive recreational impacts is required. We, the undersigned groups, therefore implore the U.S. Forest Service to issue an emergency order to limit use at Fossil Creek to day-use only; position porta-johns at key parking areas; and initiate water quality monitoring for fecal coliform if such monitoring hasn't already been established. A law enforcement presence will also be required. This emergency order should remain in effect until a special area management plan for Fossil Creek is in place or until such measures take effect that would eliminate the need for the order.

Under 36 CFR 261.50 (a), the "...Forest Supervisor may issue orders which close or restrict the use of described areas within the area over which he has jurisdiction. An order may close an area to entry or may restrict the use of an area by applying any or all of the prohibitions authorized in this subpart or any portion thereof." This includes restricting camping and being in the area after sundown or before sunrise (36 CFR 261.58 [e], [I]).

It would also benefit the Fossil Creek area to have the sanitation restrictions clearly posted at parking lots and trailheads, as well as enforced. Under 36 CFR 261.11, the following are prohibited:

- (a) Depositing in any toilet, toilet vault, or plumbing fixture any substance which could damage or interfere with the operation or maintenance of the fixture.
- (b) Possessing or leaving refuse, debris, or litter in an exposed or unsanitary condition.
- (c) Placing in or near a stream, lake, or other water any substance which does or may pollute a stream, lake, or other water.
- (d) Failing to dispose of all garbage, including any paper, can, bottle, sewage, waste water or material, or rubbish either by removal from the site or area, or by depositing it into receptacles or at places provided for such purposes.
- (e) Dumping of any refuse, debris, trash or litter brought as such from private property or from land occupied under permit, except, where a container, dump or similar facility has been provided and is identified as such, to receive trash generated from private lands or lands occupied under permit.

Restoration of full flows to Fossil Creek represented a singular, monumental exception to the unrelenting loss of Arizona's rivers. Arizona Public Service (APS) committed \$13 million to the decommissioning of its Irving and Childs power plants, revegetation of impacted lands, and restoration of the creek. The Arizona Game and Fish Department, U.S. Bureau of Reclamation, U.S. Fish and Wildlife Service, Northern Arizona University, your agency and several additional university, agency and individual biologists contributed to a massive stream restoration project to remove non-native fish. Although the Forest Service committed to managing the Fossil Creek Planning Area as a State natural area, no final management plan has been forthcoming. Steps must be taken immediately to guarantee that this rare stream that has received multi-agency and multi-group restoration participation survives for current and future generations.

Given the historic loss already of more than 90% of our riparian areas, the restoration of full flows to Fossil Creek certainly reflects the interests and welfare of the public. The restoration effort by APS, state and federal agencies, Northern Arizona University, the Yavapai-Apache tribe and numerous conservation groups has been widely acclaimed in the media, including a documentary, "A River Reborn: the Restoration of Fossil Creek," shown on PBS locally and throughout the country.

In addition to the restoration of a rare riparian treasure, a national recreational destination, and an invaluable cultural area, restoration of Fossil Creek creates a "crown jewel" of native fish streams in Arizona. Owing primarily to the loss of habitat, Arizona's native fish are in trouble. Of Arizona's total 36 native fish species, one is extinct, 22 are either listed as threatened or endangered or are candidates for listing, and two have been extirpated from Arizona. Understandably, Arizona Game and Fish Department, as well as the federal agencies responsible for Arizona's native fish survival, the Forest Service, Bureau of Reclamation and the Fish and Wildlife Service, also recognize the great importance of the restoration of Fossil Creek.

Colorado pikeminnow, desert sucker, Gila topminnow, loach minnow, longfin dace, razorback sucker, roundtail chub, headwater chub, Sonora sucker, speckled dace, and spikedace existed historically in Fossil Creek or at the convergence of Fossil Creek and the Verde River. Only desert sucker, Sonora sucker, roundtail chub, headwater chub, speckled dace, and longfin dace still exist there. None of the populations of these fish are stable on the Tonto or Coconino National Forests. In fact, on both the Tonto and Coconino National Forests, habitat for all of these species continues declining.

The Tonto and Coconino National Forests continue to violate the National Forest Management Act requirement "to maintain viable populations of existing native... vertebrate species in the planning area." (36 CFR 219.19) The restoration of full flows to Fossil Creek and a commitment to native fish restoration will only go so far in helping to help correct this situation if recreational impacts are not immediately addressed.

Public sentiment clearly supports the restoration and long-term protection of Fossil Creek. Restoration and protection are dependent on management of the area in a relatively primitive state. The immediate implementation of an emergency order under 36 CFR 261.50 is required and must remain in effect until a special area management plan for Fossil Creek is in place or until such time that measures are implemented that eliminate the need for the order.

We would welcome a field trip with you and/or your primary recreation staff to survey the activities and damaging impacts at Fossil Creek, preferably during the weekend when activity is at its peak.

We look forward to your response. Please contact Ms. Michelle Harrington at (602) 628-9909 or mharrington@biologicaldiversity.org for any further information or to arrange the fieldtrip. Our mailing address is Center for Biological Diversity, P.O. Box 39629, Phoenix, AZ 85069-9629.

Sincerely,



Michelle Harrington, Rivers Program Director
Center for Biological Diversity

On behalf of:

Andrew Fahlund, Vice President for Conservation
American Rivers

Tom Hildebrandt, President
Arizona Riparian Council

Jason Williams, Regional Director
Arizona Wilderness Coalition

Don Hoffman, Director
Arizona Wildlife Federation

Robin Silver, Board Chair
Center for Biological Diversity

Tim Flood, Conservation Director
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Bob Witzeman, Conservation Chair
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Jim Logan, Conservation Chair
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Don Steuter, Conservation Chair
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