

**Wilderness Watch  
Arizona Wilderness Coalition  
Grand Canyon Chapter of the Sierra Club  
Grand Canyon Wildlands Council  
Western Watersheds Project**

**NEWS RELEASE**

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**Conservation Groups Take Action to Protect Kofa Wilderness**

*Construction of artificial water tanks violates the Wilderness Act.*

A coalition of local and national conservation groups, including Wilderness Watch, Arizona Wilderness Coalition, Grand Canyon Wildlands Council, Western Watersheds Project, and Grand Canyon Chapter of the Sierra Club, filed an appeal of the US District Court of Arizona's ruling in favor of a US Fish and Wildlife Service (USFWS) decision to construct water developments, called "guzzlers," in the Kofa Wilderness. Conservation groups had filed a lawsuit in June of 2007 after learning that the USFWS had constructed a 13,000-gallon guzzler within the Kofa Wilderness and was planning to install another similar structure.

"Wilderness is a place where natural processes are allowed to operate without human interference, and where motor vehicles and permanent structures are banned," stated George Nickas, Executive Director of Wilderness Watch. "Constructing artificial water developments in an attempt to artificially inflate bighorn sheep numbers is contrary to preserving the area as wilderness. In doing so, the US Fish and Wildlife Service has clearly violated the Wilderness Act."

Congress designated the 516,000-acre Kofa Wilderness in 1990. The Wilderness comprises more than 80 percent of the Kofa National Wildlife Refuge, which was established by President Franklin D. Roosevelt in 1939 as the Kofa Game Range. The Refuge is home to such native wildlife as the desert tortoise, white-winged dove, mountain lion, mule deer, and desert bighorn sheep.

Following a decline in the desert bighorn population in 2006, the USFWS issued a Categorical Exclusion (CE) under the National Environmental Policy Act (NEPA) to construct the guzzlers. The agency provided no public notice of—or opportunity to comment on—the CE or the decision to construct the guzzlers. Arizona Game and Fish and the Yuma Valley Rod and Gun Club partnered with the USFWS in the building the guzzlers. In 2008, the District Court in Phoenix ruled in favor of the USFWS. The court concluded that the USFWS appropriately balanced its refuge management goals with its responsibilities under the Wilderness Act. The ruling contrasts with other courts that have held the agency cannot compromise an area's wilderness character when conducting its other refuge programs.

"Wilderness is a place for everyone to enjoy, including hunters," said Kevin Gaither-Banchoff, Executive Director for the statewide-focused Arizona Wilderness Coalition. "But this decision ignores the letter and spirit of two historic environmental laws. The National Environmental Policy Act is meant to hold agencies

accountable to the public for their actions, but this illogical ruling essentially says it's okay to put our public resources into the hands of private interest groups.”

“The Kofa Wilderness is an amazing area with diverse species of plants and animals that thrive under the protection afforded by wilderness,” said Sandy Bahr of the Sierra Club. “The Wilderness Act gives these lands greater statutory and practical protection. The conclusion of the district court judge in this case—that the Refuge’s management guidelines trump the Wilderness Act—weakens those protections and undercuts this critical act.”

The conservation groups are asking the U.S. Court of Appeals for the Ninth Circuit to find that the action of the USFWS violated the Wilderness Act in that:

- 1) The water developments fail to preserve the wilderness character of the Kofa Wilderness, as the artificial structures alter wildlife species distribution and the area’s natural hydrology
- 2) The water developments violate the Wilderness Act’s prohibition against structures, installations, and the use of motor vehicles; and
- 3) The USFWS violated NEPA by failing to give public notice of, or prepare a public analysis of, the environmental impacts of building the two water development structures.

The lawsuit asks the Court of Appeals to reverse the district court’s decision, vacate the USFWS’s decision to build the new water development structures, and order their removal by non-mechanized means.

The plaintiffs are represented by Peter M.K. Frost of Western Environmental Law Center, and Erik Ryberg, a Tucson, Arizona-based attorney.

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