

Committee on Resources

Subcommittee on Forests & Forest Health

Witness Testimony

Testimony on
Oversight Hearing on
Tucson Rod and Gun Club
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National Forest System
US Department of Agriculture, Forest Service
Before the
House of Representatives
Subcommittee on Forests and Forest Health
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MADAM CHAIRMAN AND MEMBERS OF THE. SUBCOMMITTEE:

Thank you for the opportunity to appear before you today to discuss issues concerning administration of the Tucson Rod and Gun Club's (the Club) permit for a target range in the Coronado National Forest, Tucson, Arizona. This matter is currently in litigation.

HISTORY

The Club's target range is adjacent to the northeastern boundary of the City of Tucson, Arizona, and on the northwestern edge of the Sabino Canyon Recreation Area. A special use permit for seventeen acres to operate a target range at this location was issued on January 2, 1953. That permit was replaced by an annual permit in 1964, which was renewed annually. At the time the permit was originally issued, the area around Sabino Canyon was rural and isolated. However, not long after that, adjacent homeowners complained about the proximity of the target range to private land and homes. Over the years, the adjacent area has been almost completely developed with single family homes built along the National Forest boundary across the street from the target range.

There are two schools nearby. A new subdivision is currently being built on private land directly adjacent to and downrange from the shooting range. Inside the National Forest, Sabino Canyon receives over one million visitors a year; this number continues to grow. The Forest in and around Sabino Canyon is used extensively for hiking, birdwatching, and dispersed recreation. In fact, we had to close a hiking trail directly behind the range because of danger to hikers from ricochet bullets leaving the range.

Up until April, 1996, the Club, the Forest managers, and other interested parties had recognized the need to relocate the range based on residential development in the adjacent neighborhood. All parties were working together to locate another site. In the spring of 1997, Pima County approved a \$650,000 bond to buy land for a new target range in Tucson.

From April 1996, until October 1996, Coronado National Forest Supervisor John McGee worked

extensively with the Club to resolve the problems of safety, hazardous materials, and the sound of gunfire. In October 1996, Forest Supervisor McGee initiated an environmental analysis to gather all the facts, evidence and information and to develop alternatives to the current situation.

On March 10, 1997, Forest Supervisor McGee made a decision to immediately temporarily suspend shooting at the Sabino target range because of significant public safety concerns. Forest Supervisor McGee found that significant design and safety deficiencies at the Club posed an imminent danger to persons and property in the surrounding area. His decision to immediately temporarily suspend the Club's permit was based on a risk assessment prepared by Glen Shumsky, a safety and environmental consultant, and Paul Condon, a forensic consultant and president of Forensic Productions, Inc. Their report concluded that in its present configuration the range posed a threat both to people living nearby and to people using nearby National Forest System lands. The Club received a copy of this report.

Pursuant to the Forest Service process for review of immediate temporary suspension decisions 136 CFR 251.60(01, Deputy Regional Forester John Kirkpatrick made an on-the-ground review of the permit area to review the suspension of shooting, and met with the Club to hear their concerns regarding the suspension on March 26, 1997. He issued a decision on April 4, 1997, affirming the need for immediate action by the Forest Supervisor, concluding that the safety of local residents, visitors and schoolchildren was paramount.

On March 28, 1997, before filing an administrative appeal, the Club filed a Complaint and Motion for Preliminary Injunction in Federal District Court, requesting the judge to stay the temporary closure of the range. After a three-day evidentiary hearing, Judge John Roll concluded that there was insufficient evidence that the Club would succeed on the merits and denied the Club's request, except as to the use of the archery range. Both parties stipulated to a stay of the proceedings pending filing and resolution of the administrative appeal and filing of an amended complaint. On April 24, 1997, the Club filed an administrative appeal of the Forest Supervisor's March 10, 1997, decision to immediately temporarily suspend shooting at Sabino shooting range-

In April, 1997, CDM Federal Programs Corporation, commissioned by the Forest Service, completed a preliminary assessment (PA) of hazardous materials at the range pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The assessment found releases of lead, arsenic, antimony, and petrochemicals both on and off the permitted area. The contamination levels exceed the standard used by the State of Arizona for health based guidance levels and, in addition, lead and arsenic are migrating off the site.

In June 1997, the Club requested that the Forest Service lift the suspension of shooting for air guns and BB guns. Because the shot from air guns and BB guns was not leaving the permitted area, the Forest Supervisor lifted the suspension for those two activities on June 25, 1997. Shotgun, rifle, and pistol shooting remain suspended. Training classes, meetings, other gatherings relating to the Club and its activities as well as archery, air guns, and BB guns are all still allowed at the site.

To provide more insight into the safety concerns associated with the Club's target range, the Regional Forester commissioned an Independent expert review of the Club's range, the Shumsky/Condon Report, the Club's safety report, and the Club's proposed modifications to the range. This study, "Review Report and Design Criteria, Sabino Canyon Shooting Range", completed on August 14, 1997, was prepared by Ken Buster, Brian Danielson, and Richard C. Whiting. Richard Whiting is the author of the National Rifle Association's "Range Manual. Planning and Design." This report assesses the current range configuration, describes the need for master planning, and suggests possible design criteria for range modification. The

authors concluded that the range is unsafe and should not be operated in its present configuration. In addition, the authors concluded that modifications should be made over a predetermined period of time, and that bullets and shot should be contained within the boundaries of the permit area. The Club also received a copy of this report.

On October 8, 1997, Deputy Regional Forester Paul Johnson reviewed the Club's appeal and the entire agency record regarding the Forest Supervisor's decision to impose an immediate temporary suspension. The Deputy Regional Forester ruled that the decision was proper and based upon the best available information to protect public safety. The Chief declined to review the appeal on November 4, 1997.

On November 20, 1997, the Forest Supervisor sent a letter to the Club's attorney detailing the process for submitting and evaluating an application for a longer-term permit that would authorize modifications to the range in compliance with the National Environmental Policy Act (NEPA) and with the CERCIA process, affirming the need for a comprehensive master plan. The Forest Supervisor discussed the letter with the Club's attorney on December 17, 1997, and reaffirmed the need for a comprehensive master plan.

CURRENT SITUATION

In response to the Committee on Resources' request, we have, by letters and briefings with your staff, provided numerous documents relating to this issue, including documents from the administrative record in the litigation. The numerous documents supplied to the Committee describe in detail the Forest Service's safety concerns as associated with the Club's target range and the basis of those concerns. We have also provided your staff with the November 20, 1997, letter to the Club specifying the requisite process for considering modifications to the range. In addition, we invited your staff to visit the site to gain a better appreciation of the safety and pollution control problems at the target range. I visited the target range with your staff on January 20; the next day, I met with your staff and the Club to listen to the Club's concerns. Because the case is in litigation, we were not able to participate in discussions with congressional staff to resolve claims pending in legislation. On January 29, 1998, you requested additional documents which we are in the process of collecting.

Before the permit for the target range can be considered for all historical uses, several steps are necessary. First, the Club needs to submit a comprehensive and complete plan for modification of the existing facilities that addresses safety, hazardous materials, and the sound of gunfire. This plan for modification will be subject to the National Environmental Policy Act (NEPA) process including public comment. The Forest Supervisor has committed to work with the Club to refine the details of the Club's proposal. In addition, the plan must comply with CERCIA because of the levels of hazardous substances both on and off the site. The CERCLA process is independent of and incorporates many components of the NEPA process. The next step in the CERCIA process calls for the completion of an engineering evaluation/cost analysis (EE/CA), which is an analysis of removal alternatives for the site. The modification of the existing facilities will likely require significant new construction which must wait until the cleanup of hazardous substances. We estimate that compliance with the NEPA and CERCIA processes will take at least a year and one-half to reach the point of starting hazardous materials cleanup.

OPTIONS

We continue to seek, identify, and evaluate options to the current situation. The Forest Supervisor continues to work with Pima County officials in identifying locations for a target range. The Forest Supervisor is continuing the NEPA process to identify and analyze all viable alternatives to the current situation.

CONCLUSION

Madam Chairman, target ranges on the lands we manage provide a legitimate public service. The Sabino target range presents health and safety problems. We do not want to be responsible for someone's injury or death because of design and safety deficiencies at the range. We also have the responsibility to ensure that the hazardous substances at the range are cleaned up and that any future use of the range conforms to the requirements of applicable pollution control standards. Our objective is to continue to work with the Club, the public, and other interested parties to resolve all issues. I would be happy to answer your questions.

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