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Despite lawsuit threat, fort stands firm

By Bill Hess
Herald/Review

Published on Friday, August 24, 2007

FORT HUACHUCA — This Southern Arizona Army post has again been informed it will be sued if the most recent biological opinion with the U.S. Fish and Wildlife Service is not renegotiated.

However, Garrison Commander Col. Melissa Sturgeon said the fort stands by the 2007 opinion as being sound science.

Earthjustice, a nonprofit public interest law firm, informed the fort, other military officials and the Fish and Wildlife Service of the intent to file a lawsuit in 60 days from Wednesday unless the post takes action to correct what it considers violations of the Endangered Species Act.

If another biological opinion is negotiated, it will be the fourth since 1999.

The notice of intent was filed on behalf of the Tucson-based Center for Biological Diversity and the Maricopa Audubon Society.

A longtime critic of the fort, Center for Biological Diversity chairman Robin Silver, a Phoenix physician, has caused a number of lawsuits, or threats of them, to be filed against the fort claiming its existence drains water needed to continue the flow of the San Pedro River.

The center has never agreed with any of the biological opinions.

Silver also claims the increased expenditures of fort funds in the area, which he said is up 81 percent since the 2002 biological opinion, shows the fort is growing and using more water.

While the post "continues to do an exemplary job of mitigating their ground water use," the same cannot be said of the fort's impact off the installation, Silver says.

"Off post, the base continues its attempts to avoid responsibility for the San Pedro-harming

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groundwater pumping that would not take place but for DoD's (Department of Defense's) local funding," he said.

The newest opinion allows for "a huge new Fort Huachuca expansion, while failing to increase the base's mitigation requirement," Silver said.

In the "Notice of Intent to Sue for Violations of the Endangered Species Act," Earthjustice said past biological opinions and the new one continue to fail to address the root problem, which is the fort isn't doing enough to address the groundwater pumping issue.

"The Army is violating this substantive duty by relying on an arbitrary and capricious biological opinion issued by the U.S. Fish and Wildlife Service on June 14, 2007, and by failing to mitigate for the cumulative effects of its actions combined with the actions of state, local and private entities," the Earthjustice document states.

Harm being done to the Huachuca water umbel, a small aquatic plant, and the southwestern willow flycatcher, a migratory songbird, is of specific concern, the document states.

Sturgeon disagrees.

"The biological opinion issued by the U.S. Fish and Wildlife Service is sound and is based on the best available science," she said.

And the fort is not working in a vacuum on the issue, the colonel added.

"The fort is an active member of the Upper San Pedro Partnership and continually implements effective water management strategies," Sturgeon said.

The partnership is a consortium of local, state and federal agencies, conservation groups, including the National Audubon Society, and business groups that came together to address the water issues of the Upper San Pedro Basin, specifically the Sierra Vista Subwatershed.

"The fort is an active member of the Upper San Pedro Partnership and continually implements effective water management strategies," Sturgeon said.

While balancing area environmental concerns, post officials are also aware of its national defense mission, the colonel added.

"The fort meticulously balances its national defense missions with its responsibilities to protect its natural resources for future generations. The fort will continue to stay this course in the future," Sturgeon said.

herald/Review senior reporter Bill Hess can be reached at 515-4615 or by e-mail at bill.hess@svherald.com.


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Bruce Brown wrote on Aug 25, 2007 8:43 AM:

" Wow. Now that is about the same way we feel in Bowie about SV/Bisbee/other bunches of people who don't live in Bowie telling us we can't have a power plant. I agree with you in SV, it is none of Silver's business and the CBD doesn't care about people other than themselves. The CBD could find a hundred years worth of lawsuits in the Great State of Maricopa, including an endangered specie called common sense. "

kdl wrote on Aug 24, 2007 6:09 PM:

" Silver is once again poking his snoot in where it doesn't belong. No one cares about his opinion, and everyone has one. Go back to your Pina Coladas, and get out of our city's business. Cheers Missy Sturgeon! "

John wrote on Aug 24, 2007 5:28 PM:

" Don't these people have a life? What do they want? Shut down the fort so THEY can buy the land and make a profit? "

Debra Bengé wrote on Aug 24, 2007 1:10 PM:

" Am I understanding this right? Not only is Ft. Huachuca responsible for water use ON post (understandably), but it is responsible for water use OFF post?? How in the world is Ft. Huachuca responsible for Off-Post water use? "

Pat wrote on Aug 24, 2007 10:57 AM:

" Dr. Silver does not live here. Why is he butting in, where he has no business? Keep your energies where you live, Dr. Silver! Phoenicians use a lot more water than we do !! Are you jealous that we have such beautiful wilderness areas here? "

RJE wrote on Aug 24, 2007 9:38 AM:

" I've lived in SV most of my life (all of it in Southern Arizona). These threats have been going on for as long as I can remember. Regardless of how many endangered species magically show up here out of the blue the Fort is never going to close over water use issues. Maybe we should create our own Center and sue Phoenix for its impact on the Colorado River, the existence of it's "over 200 spectacular golf courses" it has to supply water for, and the inevitable destruction of endangered species from its sprawl building developments! "

BY ROBIN SILVER WROTE ON AUG 24, 2007 1:00 PM:

" Robin Silver, a Phoenix physician, and his cronies, need to worry more about the Phoenix areas problems and butt out of our community. "

Dan wrote on Aug 24, 2007 6:53 AM:

" I commend Garrison Commander Col. Melissa Sturgeon for her firm stance against this special interest environmentalist group. We all know Robin Silver, the Center for Biological Diversity and the Audubon Society are well funded and should have plenty of funds to pay attorney's fees and court costs back to the Fort (tax payers) when it prevails in this case. Next time you see a bird watcher at the San Pedro, make sure to let them know how you feel about the "Society" they belong to and the junk science and people they rely on to promote their special interest. "