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**Congress of the United States**  
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June 13, 2016

U.S. Fish and Wildlife Service  
Havasu National Wildlife Refuge  
Attn: Draft Recreational Boating CD  
317 Mesquite Avenue  
Needles, CA 92363

**Re: Comments of U.S. Representative Paul A. Gosar, D.D.S. on the Havasu National  
Wildlife Refuge Draft Compatibility Determination for Recreational Boating**

Dear Director Dan Ashe, Regional Director Benjamin Tuggle and Refuge Manager Linda Miller:

I have reviewed the draft recreational boating Compatibility Determination (CD) for Havasu National Wildlife Refuge announced by the U.S. Fish and Wildlife Service (Service) on April 12, 2016. Further, I attended the public meeting in Lake Havasu City on May 2, 2016 that was attended by more than 1,000 concerned citizens.

As you know, the CD aims to implement new motorized boating restrictions on Lake Havasu, effectively prohibiting waterskiing, tubing, wake boarding and other recreational towed devices within the 4,000-acre manmade Topock marsh and on an additional 520 acres of the Havasu Reservoir. The Service only has jurisdiction over 700 acres on the reservoir and motorized boating is already restricted by the Service on 17 ½ miles of the approximately 30 river miles on the refuge. As written, the proposed restrictions for Topock Marsh would also prohibit bass boats and other large fishing boats from entering these popular fishing destinations.

The CD falls on the heels of a closure made by the Service last May that prohibited motorized boating activities within the reservoir in a ½ mile area that had been utilized by recreational enthusiasts for several decades. Specifically, on May 20, 2015, the Service posted an alert on its website that established new boating restrictions and expanded the “no wake zone.” This order was “effective immediately” and the newly closed areas were quickly marked with regulatory buoys and signs. The Service enacted these new restrictions two days before Memorial Day Weekend without engaging local stakeholders, without notice and without providing any opportunity for public comment. The Arizona Game and Fish Department submitted formal comments stating that the Service did not “justify this additional restriction and that the impacts to recreation could be significant.”

Prohibiting tubing, waterskiing and wake boarding in an area utilized by recreational enthusiasts for decades, two days before Memorial Day Weekend, without public comment and without merit is appalling. Pursuing massive new unwarranted boating restrictions not based on science less than a year later is shameful. I strongly oppose the CD and the ½ mile expansion of the no wake zone outlined in the “Minor Modification to Boating Restrictions at Havasu Wildlife Refuge” as published in the news release issued by the U.S. Fish and Wildlife Service on May 20, 2015. I insist that the Service formally withdraw the CD following closure of the comment period and also withdraw the ½ mile expansion of the no wake zone from May 20, 2015.

## **General Comments**

### *The CD Will Negatively Impact Tourism and Cause Significant Harm to Local Communities*

Numerous tourists have written my office to inform me that they will no longer be visiting Lake Havasu because they had been told that the reservoir is closed to boating and wakeboarding activities. Some have even stated that they intend to sell their vacation homes in Lake Havasu City. The lost revenue from these visitors harms the citizens of Mohave County, many of whom rely on this seasonal income. According to the Service, “the majority of recreational boating use occurs between Memorial Day and Labor Day.” According to the Service’s own estimates, nearly three million visitors vacation at Lake Havasu each year and a typical holiday weekend draws nearly 50,000 boaters to the area. The agency also estimates that 50,000 people visit the lake during Memorial Day Weekend alone. According to a 2008 Lake Havasu City Tourism Survey, nearly 75% of tourists are interested in waterskiing, wakeboarding or boating while visiting Lake Havasu. The survey also revealed tourists spend more than \$200 million and support nearly 4,000 full-time equivalent jobs.

The Lake Havasu Area Chamber of Commerce has stated, “The Lake Havasu Area Chamber of Commerce Board of Directors voted unanimously Tuesday of this week in opposition of the proposed regulations that would close portions of Lake Havasu to motorized watercraft within the Havasu National Wildlife Refuge...Our businesses are still struggling as we move slowly out of the Great Recession. I am sure you are aware that our region of the country has been one of the slowest to recover. The federal government's proposed action in the Refuge will be like a nail in the coffin for Lake Havasu City and our neighboring river communities with any efforts we are currently working on or have planned to create a sharing, strong, local economy. We are not advocating that protection of native wildlife and fish should be ignored, but we are also not satisfied with the information provided that supports your desire to take this action. There are also many questions from community stakeholders that require answers.”

Lake Havasu City Mayor Nexsen has also stated, “The restrictions on motorized boats being contemplated by [the Service] will have detrimental effects on recreational boaters using Lake Havasu...What began as temporary holiday restrictions in [May] of 2015 has now grown into a plan for widespread closures and restriction of areas commonly used for exploration, transportation and overall enjoyment by our boating public...We must have reasonable consultation with you before any change in your Refuge management plan which affects our citizens, the visiting public, and our local and regional economy.”

### Harms Public Safety

The May 2015 no wake expansion prohibited waterskiing, wakeboarding and tubing in a safe area that recreational enthusiasts had been using for decades. This is the only place on the reservoir that some families felt comfortable because of the high speeds at which boats travel on other parts of the lake. Parents have taught their children, including multiple children with special needs, to waterski and wakeboard in the vary area shutdown by the Service. The CD aims to close further backwaters on the Reservoir and push more people out onto the open lake where boats regularly travel at speeds as high as 70 miles per hour. By closing these areas to motorized boating activities, the Service has effectively closed the reservoir to a large population of tourists and locals. Further, the Service has jeopardized the safety of the people that do want to continue to use the reservoir by cramming more people into a smaller space where boats are traveling at high speeds.

### Poor Justification

I looked through the CD and I see a lot “mays”, “coulds” and documents from 10-20 years ago. The Service has also claimed, “Recreational boating has the ‘potential’ to adversely impact Refuge habitats and wildlife.” Very weak justification for these new restrictions. As the Arizona Game and Fish Department stated, “The documentation provided does not [even] document impacts at the refuge.” Further, the Service admitted to my staff on a conference call that the agency does not track all the locations of boating incidents and that the agency has no environmental studies documenting actual incidents of wash outs of threatened or endangered species nests in the proposed restricted areas. If you don’t have the science or track all citations, then these proposed closures are based on an agenda, not science or need. The CD lacks clarity and a significant amount of data.

### Lack of Transparency

The Service has failed to adequately explain and justify the CD. To date, the agency has refused to answer several questions about the CD submitted by Lake Havasu Mayor Mark Nexsen. Further, the agency has also failed to answer questions about the CD that I submitted for the record at multiple committee hearings on March 22, April 19, and April 21. While the Service has since made available some updated maps, the map published in the CD was poorly done, created much confusion appeared to cutoff through-passage to Havasu. Furthermore, the Service failed to engage any of its eleven partners that the agency signed a Memorandum of Understanding with in November of 2014 for collaboratively managing Lake Havasu. Finally, the CD is poorly written and open to interpretation in numerous instances.

### Attempts to Silence Local Communities

It shouldn’t have taken significant efforts from Mayor Nexsen and I just to get a public meeting in Lake Havasu City on May 2, 2016. This CD originally allowed only 30 days for public comments and scheduled only two public meetings, just a few hours apart, on a weekday, in Laughlin, Nevada – a city that contains no portion of Lake Havasu or the Refuge. 21 bipartisan members of the House of Representatives expressed concern about the CD and requested a 60-day extension of the comment period. This same request was made by Lake Havasu City Mayor Mark Nexsen, the Arizona Game and Fish Department, the Lake Havasu Area Chamber of Commerce and the Mohave County Board of Supervisors. While the Service did grant a 30-day extension, the agency provided no justification for failing to extend the comment period 60-days



as requested by numerous local stakeholders and 21 bipartisan members of Congress.

Further, the Service expanded the no wake zone in May 2015 two days before Memorial Day Weekend without engaging local stakeholders, without notice and without providing any opportunity for public comment.

#### Failure to Follow Agency Regulations

The Service stated that the initial May 2015 no wake expansion was necessary because of safety issues. However, thanks to a Freedom of Information Act (FOIA) request that I submitted, we learned that this was at best a pretext and at worst a fabrication. The Arizona Game and Fish Department also recently commented that in the area shut down in May 2015 that there were only four incidents, three groundings and one swamping, and that “the reported events do not support the existence of a safety concern.” While the Service is able to make temporary emergency closures, it is obvious that this closure was neither temporary nor an emergency.

Multiple emails from the acting refugee manager obtained through the FOIA request revealed that the agency believed it couldn’t arbitrarily expand the no wake zone and if they chose to pursue such boating restrictions then the agency would be required to hold a 30-60 day public comment period. An email from the acting refugee manager’s boss stated that a closure would likely meet resistance and require compliance with the National Environmental Policy Act (NEPA). Ultimately, the Service failed to comply with NEPA prior to making the May 2015 expansion.

The Service initially stated that the arbitrary May 2015 no wake expansion was allowed under its regulations in the form of (50 CFR 32.22). These regulations deal with hunting and fishing within the Refuge.

The Service has since changed its justification as the CD states the May 2015 expansion is lawful under 50 CFR 25.21 (e). This regulation allows closures in the “event of a threat or emergency endangering the health of the general public or Refuge resources.” This isn’t the EPA Animas Spill and there is no pending threat or emergency. Further, the CD states that a NEPA categorical exclusion was allowed for the May 2015 restrictions “due to the absence of controversy related to environmental impacts.” There was plenty of controversy and the local refuge manager knew about it as documented in multiple Freedom of Information Act requests.

The Service again failed to comply with NEPA prior to releasing the CD. Something with this much controversy and with such significant restrictions should go through the normal scoping process which includes preparing an environmental impact statement and fully complying with NEPA from the outset. The turnout and comments at the May 2 public meeting in Lake Havasu City alone meet the Council for Environmental Quality’s requirements for public controversy and following such a process.

#### Significant Community Opposition

On May 2nd, I joined more than 1,000 concerned citizens who showed up to voice opposition and make comments about the CD at a public meeting in Lake Havasu City. In addition, to the hundreds of objections I heard at this public meeting, I have received significant correspondence

from concerned citizens in Arizona about the Service's proposed boating restrictions for Havasu including:

*"It's crazy that a federal agency like the Fish and Wildlife Service can basically just do what they want. These proposed restrictions will obviously have a huge economic impact on Havasu. I'm just one example but we bought a second home in Havasu specifically to enjoy watersports (wake boarding and skiing) and we used the area closed in May of 2015 for years with no issues. I'm selling our Havasu house within the next few weeks and plan to reinvest that money into the local economy. So, just my family within the next six weeks will bring in around 40k to Havasu locals. My point is that these boating restrictions will end up chasing families like mine out of the area."*

*"You shut down boating and you will turn Lake Havasu City into a ghost town. Their economy is based around the lake and tourism."*

*"Thank you for your efforts. We need [government] officials to follow the procedures as written and not make decisions without allowing the due process."*

*"If this happens, we're moving."*

*"Hopefully, Tuggle can understand that if the local USFWS would of followed any kind of proper protocol on the restrictions implemented a year ago and involved the public and did not ignore us, this big mess would not be happening right now. We were willing to compromise. They never even gave us the time of day. I don't think this is the perception the USFWS is aiming for. Feel free to forward this comment to anyone you deem necessary."*

*"Thank you for standing up for our rights! I have boated on Lake Havasu since 1970. We have a vacation home there and my husband and I have raised our kids on the Lake as well. Families that play together, stay together!"*

*"Sad thing is in the end Pirates Cove and Topock will be shut down [by the CD]. Havasu's economy will suffer. Bass masters will never be back. Possibly lose Desert Storm. Who knows what else."*

*"People wonder why Americans are so pissed off and a revolution movement is forming in the polls. From [the Service] messing up Willow Beach Hatchery to this."*

*"I am writing to inform you of the new bouys at the River mouth, into Lake Havasu, that make it a no wake and no skiing area. I have been skiing in this area for the last 25 years and it has provided safety from all the boats on Lake Havasu. This spot is very special to me because as a kid I would go there with my family and I learned how to Barefoot ski and wake skate in this area. The last 12 years, I have been able to share this piece of heaven with my kids. This was the very first spot I took both my kids when they were 2-months-old and have been going there regularly with them since then. Both my kids learned how to wake board and kneeboard in this area. My kids ask me all the time to go to the river mouth so they can wake board. This year they wanted to learn how to slalom ski and this area provides a safe area for them to learn. I ask that this matter be given immediate attention."*

*"Unfortunately, last night my family and I were surprised to see no ski/wake signage at our local ski spot... I am a native Lake Havasu City resident born and raised here since 1977. I did move but relocated back here to raise my child and enjoy life on the lake. I have a special needs child that loves the lake and enjoys many activities on it. I'm extremely disappointed there was no public feedback or input before this action was taken. I am aware there were maybe 1 or 2 instances of conflict between boaters and kayakers. I do not think 1 or 2 instances are enough to close a place considering the thousands that use that area every summer. I've been up there probably more than anybody for the past 10 years and have never had 1 conflict or contact with Game and Fish or any other law agency. I also have never heard of an injury up there where safety personal had to be called out to come up there. Hopefully, you understand my side and realize this is probably the safest place on the lake to enjoy skiing etc. especially on a big weekend like we have coming up."*

*"I was informed yesterday that my family's favorite water ski spot on Lake Havasu has been turned into a No Ski Zone. This was extremely disappointing!...When I heard Lake Havasu turned this place into a no wake zone, I immediately thought to sell our vacation house and relocate it to a place where my son, family and friends can water ski safely. I believe there are countless families like myself that have enjoyed this location for years that are effected the same way. This could be a fairly large impact to the revenue we bring to the city. We have spent thousands on gas, property taxes,*

*sales tax, boats, food, people to clean my house and take care of my yard... etc. I really hope there is consideration for removing the no ski buoys. I also hope this helps put in perspective how the impact of a simple No Ski buoy can affect so many families and revenue to the city of Lake Havasu."*

## **Closing**

Again, I strongly oppose the CD and the ½ mile expansion of the no wake zone outlined in the "Minor Modification to Boating Restrictions at Havasu Wildlife Refuge" as published in the news release issued by the U.S. Fish and Wildlife Service on May 20, 2015. The Service should formally withdraw the CD as soon as possible following closure of the comment period and also withdraw the ½ mile expansion of the no wake zone from May 20, 2015. More information and comments on this matter can be found on my website at <http://gosar.house.gov/fighting-keep-lake-havasu-all-users>.

Thank you for taking the time to consider my comments. As always, I ask that this matter be handled in strict accordance with the existing rules, regulations, and ethical guidelines. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul A. Gosar". The signature is stylized and includes a large, looped initial "P" on the left side.

Paul A. Gosar, D.D.S.  
Member of Congress