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Intervenors National Rifle Association
of America and Safari Club International

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PRESCOTT DIVISION**

Center for Biological Diversity, et al.,

Plaintiffs,

vs.

United States Forest Service,

Defendant, and

National Rifle Association of America
and Safari Club International, and
National Shooting Sports Foundation,
Inc.,

Defendants-Intervenors.

CASE NO. 3:12-cv-08176-PCT-SMM

REQUEST FOR JUDICIAL NOTICE

1 Defendant-Intervenors National Rifle Association of America and Safari Club
2 International, by and through their attorneys, hereby request the Court to take judicial
3 notice under Federal Rule of Evidence 201, of the following:

- 4 1. Three facts stated in the Final Environmental Assessment (“Final EA”) related
5 to the introduction of a non-essential, experimental population of California
6 condors in Arizona:
- 7 a. As an express condition of the experiment, the U.S. Fish and Wildlife
8 Service, which is primarily conducting this experiment, used a Section
9 10(j) designation to “assure that all actions undertaken pursuant to the
10 proposed action [i.e., the creation of the experimental non-essential
11 population] will be compatible with existing land uses.”
 - 12 b. “[T]he nonessential, experimental population status that would apply to
13 the condors effectively means that no existing activities, including sport
14 hunting, will be disrupted by the release.”
 - 15 c. “If lead poisoning becomes a significant source of mortality for
16 California condors released in the proposed action, . . . mandatory use of
17 non-lead bullets would not be mandated under provisions of the 10(j)
18 reintroduction.”

19 A true and correct copy of the relevant portions of the Final EA are attached
20 hereto as Exhibit 1.

- 21 2. That the legislative history behind the creation of the citizen suit provision of
22 42 U.S.C. § 6972 was to allow the public to bring suit “to abate an imminent
23 and substantial endangerment pursuant to the standards or liability established
24 under [42 U.S.C. § 6973].”

25 A true and correct copy of the relevant legislative history (H.R. REP. 98-198(I),
26 53, 1984 U.S.C.C.A.N. 5576, 5612), is attached hereto as Exhibit 2.

- 27 3. That the United States “Forest Service stewards an impressive portfolio of
28 landscapes across 193 million acres of National Forests and Grasslands in the

public trust.” As stated at <https://www.fs.fed.us/managing-land/national-forests-grasslands> (last viewed Nov. 12, 2019).

4. That the United States “Bureau of Land Management administers more surface land (245 million acres or one-tenth of America’s land base) . . . than any other government agency in the United States.” As stated at <https://www.blm.gov/about/what-we-manage/national> (last viewed Nov. 12, 2019).
5. That the United States Fish and Wildlife Service “manage[s] the National Wildlife Refuge System . . . encompassing more than 150 million acres.” As stated at https://www.fws.gov/help/about_us.html (last viewed Nov. 12, 2019).

Respectfully submitted this 12th day of November, 2019.

MICHEL & ASSOCIATES, P.C.

/s/ Jeremy E. Clare
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Attorney for Defendant -Intervenor Safari Club International

/s/ C.D. Michel
C.D. Michel, *Attorneys for*
Defendant -Intervenor National Rifle Association of America

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of November, 2019, I electronically transmitted the foregoing request for judicial notice to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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