

MODIFICATION NO. 1
to
COOPERATIVE STEWARDSHIP AGREEMENT
FOR RECREATIONAL ACCESS
Between
THE ARIZONA GAME AND FISH COMMISSION
and
ELKHORN RANCH, INC.

The purpose of this Modification is to increase funding, add six (6) additional years of Recreational Access and add the Elkhorn Ranch to the Landowner Compact Program.

WHEREAS, The Arizona Game and Fish Department ("Department"), under the authority of the Arizona Game and Fish Commission, and Elkhorn Ranch Inc., as represented by Charles G. Miller and Mary T. Miller ("Cooperator), entered into a Cooperative Stewardship Agreement for Recreational Access ("Agreement"), dated May 28, 2012, for the purpose of providing public recreational access through, upon, or across lands owned or legally controlled by the Cooperator ("Subject Property") as illustrated on Exhibit A attached hereto;

WHEREAS, The Department and the Cooperator desire to continue to share in this mutually beneficial stewardship agreement and Partner in the Landowner Compact Program;

THEREFORE, The Parties agree to modify the Agreement to provide additional funding to the Cooperator and for the Cooperator to allow public recreational access through, upon, or across Subject Property in areas as illustrated on Exhibit A for an additional six (6) years, ensuring public recreational access through May 28, 2028;

The Agreement is hereby modified as follows:

I. DEFINITIONS.

- A. "Landowner Compact" is a program that promotes a close working relationship between landowners and the Department to facilitate access to private, state trust, and public lands that would otherwise be inaccessible. This group of cooperators allow access that is managed through individual agreements with the Department, to the mutual benefit of both parties as well as Recreational Users.
- B. "Recreational User" means any person accessing the ranch to hunt, fish, scout, camp, hike, view wildlife, or any other permitted recreational activity.
- C. "Ranch Rules" mean those conditions that are mutually agreed upon by the Ranch (Landowner) and the Department that must be followed and are required of a Recreational User to access the Subject Property. (See map of subject property Exhibit A). Violation of these rules may result in loss of access privileges on all compact ranches and citation for trespassing.
- D. "Ranch Access Pass" means the pass a Recreational User must obtain authorizing access to the restricted access portions of Subject Property.

II. TERMS AND CONDITIONS.

A. The Department shall:

1. Assist the Cooperator with implementing this Agreement and implement the Ranch Rules, attached hereto as Exhibit B.
2. Provide law enforcement/patrol and wildlife management support for Game Management Unit (GMU) 36C and the Subject Property, based on available resources and when deemed appropriate by the Department.
3. At the discretion of the Department, provide the Cooperator with the names of those persons the Department has contacted regarding or issued a citation for a violation of statute or Ranch Rule occurring on the Subject Property.
4. Provide signed notice stating that the Cooperator may suspend the Ranch Access privileges for a failure to comply with the Ranch Rules or statutes. It is unlawful for the Recreational User to enter or remain on the Subject Property if the Ranch Access privileges are suspended, and that the notice constitutes a reasonable request to leave the Subject Property. Department officers may provide notice on behalf of a landowner.
5. Provide a one-time payment to the Cooperator in the amount of Fifty-Two thousand dollars (\$52,000.00) for recreational access through May 29, 2028 upon signature of this agreement by both parties.

B. The Cooperator shall:

1. Voluntarily enter into the Department's Landowner Compact with mutually agreed upon Ranch Rules as defined in Exhibit B.
2. Coordinate with the Department to act on the Cooperator's behalf to notify and notice any person(s) in violation of Ranch Rule or statute of the loss of privilege to access Department Landowner Compact member properties.
3. Allow Recreational User access to the subject property as illustrated on Exhibit A commencing on the last effective date of this Agreement and remaining in effect for through May 29, 2028 unless otherwise terminated as provided for in this Agreement.
4. Adhere to applicable state laws that prohibit a person from locking gates on State Trust Lands or denying access to State Trust Lands.
5. Allow Department personnel unrestricted access to the Subject Property to perform official duties authorized under state law.
6. Should the property rights to the Subject Property be transferred to another Party during the term of this Agreement, the terms and conditions of this Agreement shall be transferred,

with the Subject Property, to such other Party, unless the Agreement has been terminated or expired.

C. The Department and the Cooperator shall:

1. Meet at least twice annually, once prior to the scheduled hunts for the purpose of discussing information needs, Ranch Rules, offer assistance with managing hunters on the Elkhorn Ranch, and discuss any other concerns, and again after the scheduled hunts to discuss any issues and opportunities with the hunts and potential amendments to this agreement.
2. Work to seek outside funding sources to complete mutually agreed on habitat projects.

III. MISCELANEOUS TERMS AND CONDITIONS.

- A. The term of the Agreement shall be from the last date of signature through May 29, 2028, unless earlier terminated or replaced or superseded by another agreement. If the Parties agree to renew this Agreement, the Parties shall complete the renewal no later than February 29, 2028, unless the Parties mutually agree to a later date.
- B. The Department and Cooperator recognize that Ranch Rules will apply to the private and Arizona State Trust Land (accessed by crossing private lands) on the Elkhorn Ranch with the following conditions:
 - i. As a condition of access, Recreational Users who enter private lands on the ranch agree to follow Ranch Rules on private and Arizona State Trust Lands.
 - ii. The Department has no lawful authority to enforce a violation of Ranch Rules on Arizona State Trust Lands unless the violation is also a violation of current Arizona statute or rule.
 - iii. The Cooperator or their representative may notice Recreational Users (permitted or not) who violate Ranch Rules on private or Arizona State Trust Lands within the Elkhorn Ranch that they are no longer welcome on the private lands within the Elkhorn Ranch.
 - iv. The Department may enforce Ranch Rules on private lands within the Elkhorn Ranch as an act of trespass subject to probable cause indicating that the elements of trespass have been satisfied.
- C. The Parties may mutually agree in writing to terminate this Agreement. Any Party may unilaterally terminate this Agreement when a Party is in material non-compliance with the Agreement, provided the Party in non-compliance receives written notice of the non-compliance and fails to correct the non-compliance within thirty (30) days of the notice. Upon termination, the Parties shall have no further obligations under this Agreement.
- D. All written notices concerning this Agreement shall be delivered in person or

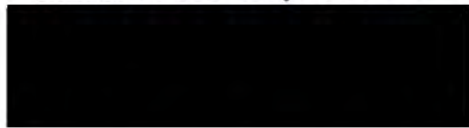
sent by certified mail, return receipt requested, to the Parties as follows:

For the Commission:

Don Larsen, Landowner Relations Program Manager
Arizona Game and Fish Department
5000 West Carefree Highway
Phoenix, AZ 85086
623-236-7624
dlarsen@azgfd.gov

For the Landowner:

Elkhorn Ranch, Inc.
Charles G. and Mary T. Miller



- E. The Wildlife Manager assigned to GMU 36C shall be the Department representative regarding the operation of this Agreement.
- F. Every obligation of the Parties under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds for the continuance of this Agreement are not allocated or are not available, this Agreement shall terminate automatically on the date of expiration of funding. In the event of such termination, the Parties shall incur no further obligation or liability under this Agreement other than for payment of services rendered prior to the expiration of funding.
- G. Modification within the scope of this Agreement shall be made by mutual consent of the Parties by the issuance of a written modification, signed and dated by both Parties, prior to any changes being performed.
- H. All work performed pursuant to this Agreement shall be in compliance with all applicable state and federal laws and regulations.
- I. To the extent required pursuant to A.R.S. § 12-1518, the parties agree to use arbitration to resolve any dispute arising under the Agreement, with each party to bear its own attorneys' fees and costs.
- J. This Agreement is subject to termination pursuant to A.R.S. § 38-511.
- K. This Agreement in no way restricts any Party from participating in similar activities with other public or private agencies, organizations, or individuals.
- L. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter herein and accurately sets forth the rights, duties, and obligations of each Party. All prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. The

provisions of this Agreement may be abrogated, modified, rescinded, or amended in whole or in part only by mutual written consent executed by the Parties.

- M. In the event that any provision of this Agreement or portion thereof is held invalid, illegal, or unenforceable, such provision or portion thereof shall be severed from this Agreement and shall have no effect on the remaining provisions of this Agreement, which shall remain in full force and effect.
- N. All payments received by the Cooperator through this Agreement may be subject to federal and local income tax. Any questions regarding the tax status of payments should be directed to the Lessee's personal tax consultant.

Except as provided herein, all other Terms and Conditions of the original Agreement will remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date below, and each person signing this Agreement warrants that he/she has the capacity and authority to execute this Agreement and consummate the transactions contemplated herein:

IN WITNESS WHEREOF, the Parties hereto have executed this Modification as of the last signature date below:

APPROVED:

Elkhorn Ranch, Inc.



Charles G. Miller
President

8/30/19
DATE



Mary T. Miller
Secretary and Treasurer

8/30/2019
DATE

APPROVED:

Arizona Game and Fish Commission

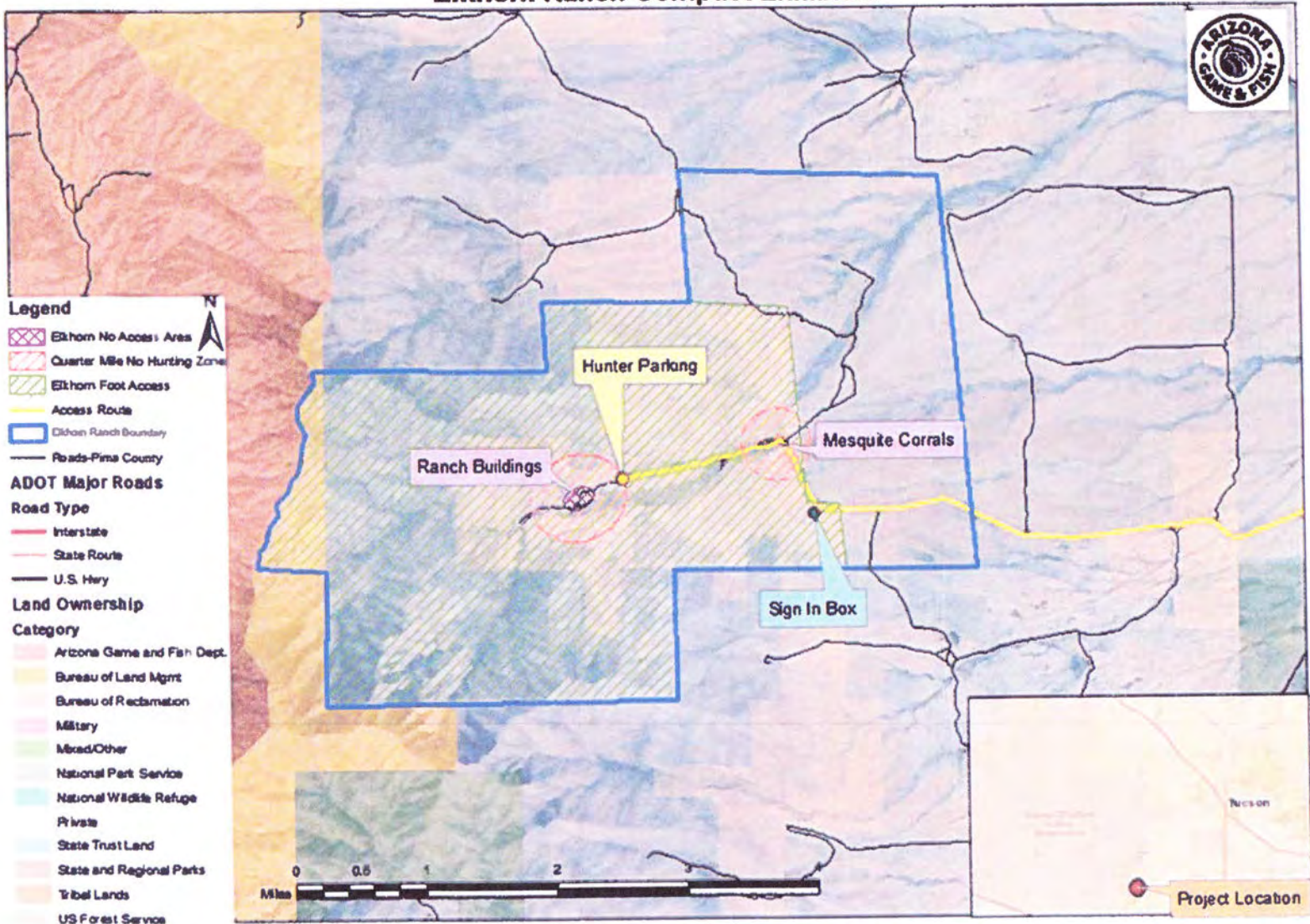


Jim deVos, Assistant Director
Wildlife Management Division

8-27-19
DATE

Elkhorn Ranch Compact Exhibit A

Exhibit A



Service Layer Credits Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri

Exhibit B
Ranch Rules

- 1) All Recreational Users must obey all state and federal laws while recreating on the ranch.
- 2) All Recreational Users must sign in at a designated access point and display an access pass available at the sign in point.
- 3) If an individual loses access privileges on a ranch within the Department's Landowner Compact, that individual is not allowed access to Elkhorn Ranch property.
- 4) No vehicular access past designated hunter parking spot. Foot access only.
- 5) No camping between the mesquite corrals and the Elkhorn Ranch buildings, including designated hunter parking area.
- 6) No discharging of weapons near ranch corrals or buildings.
- 7) No wood cutting allowed.
- 8) No watering of livestock in ranch tanks or troughs.
- 9) All persons must follow Ranch Rules and state laws and regulations. Any person who violates Ranch Rules or state law or regulation may be subject to trespass charges and immediate cancellation of their access pass or privilege. These violations can result in permanent ineligibility to obtain access privileges on all Landowner Compact Areas enrolled in the Arizona Game and Fish Department Landowner Compact. These rules apply to all private lands, and public or state lands accessed by crossing private lands in the Landowner Compact Area. Future access for hunting depends on compliance with these Ranch Rules and state laws and regulations.

Ranch Rules Violation Penalty Schedule

1. First offense - 7-year loss of access privileges to all Landowner Compact Ranches and Farms.
2. Second offense - Lifetime loss of access privileges to all Landowner Compact Ranches and Farms.

First offense with criminal violation, other than trespass, will result in a lifetime loss of access.