

**LANDOWNER RELATIONS PROGRAM
COOPERATIVE HERITAGE STEWARDSHIP AGREEMENT FOR
HABITAT IMPROVEMENT**

THIS COOPERATIVE HERITAGE STEWARDSHIP AGREEMENT for habitat improvement is entered into between Bill and Barbara Marks ("Landowner") and the State of Arizona through the Arizona Game and Fish Commission ("Commission") and its administrative agency the Arizona Game and Fish Department ("Department") (collectively "Parties" and singularly "Party") for the purpose of executing a Cooperative Habitat Improvement Project on lands owned or controlled by the Landowner ("Subject Property"), as illustrated in the attached Exhibit A, incorporated herein by reference.

WHEREAS, the Commission is authorized to enter into this Agreement pursuant to A.R.S. § 17-231(B)(7);

WHEREAS, said Subject Property provides mutual benefits to the Landowner and wildlife, and it is the mutual desire of the Department and Landowner to cooperate for the common benefit of wildlife and the public interests of the people of Arizona;

WHEREAS, the Parties agree that the goods or services provided by the Department will be used by the Landowner for a public purpose as described herein, and that the benefit derived to the public as the result of such goods or services will equal or exceed the value of the goods or services;

NOW THEREFORE, in consideration of the mutual promises and other good and valuable consideration contained herein, the Department and the Landowner agree to implement the following described Habitat Improvement Project on the Subject Property:

Project Description: Provide funding for Wolf/Livestock conflict reduction on the Marks Ranch as part of an ongoing program.

A. The Arizona Game and Fish Department shall:

1. Work with the Cooperator to reduce wolf/calf conflicts by keeping heavy cows and cows with young calves near the house in the home pasture from February, 2015 through May, 2015 and providing feed for calving livestock in the home pasture for the purpose of Mexican Wolf population restoration.
2. Provide funding to the Cooperator to cover the cost of materials and labor identified in this Agreement. The total cost of materials and /or labor including delivery provided shall be in an amount, not to exceed, Six-thousand dollars (\$6,000.00). Payment shall be made 30 days after submission by Cooperator and approval by Department of itemized invoice.
3. Annually monitor changes during the term of this Agreement.

B. The Landowner shall:

1. 1) keep heavy cows and cows with young calves near the house in the home pasture from February, 2015 to May, 2015; 2) provide feed for calving livestock in the home pasture from February, 2015 through May, 2015; and 3) incur all labor, equipment, and material costs over and above those supplied by the Department (\$6,000) through this Agreement. The Cooperator is responsible for normal operation and maintenance of the habitat improvements after installation. Maintenance of these items is of the utmost importance and shall be carried out in a timely and workmanlike fashion, as necessary. Repair of extensive damage to the habitat improvements caused by severe acts of nature or vandalism are not included as normal operation and maintenance of the structures.
2. Allow the Department and/or its representative(s) entry upon the Subject Property, in the vicinity of the project site, to perform duties assumed pursuant to this Agreement including, but not limited to, monitoring and evaluating project effectiveness and wildlife use during the five (5) year project period.
3. 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 property to such other Party.

C. The Department and the Landowner mutually agree:

1. That unless otherwise terminated as provided herein, this Agreement shall extend for a period of five (5) years from the date of last signature on this Agreement. Project progress will be monitored and a final assessment of the project's effectiveness will be completed jointly by the Parties.
2. Nothing in this Agreement shall be construed as obligating the Department in any contract or other obligation for the future payment of money in excess of appropriation authorized by law.
3. Each Party (as Indemnitor) agrees to indemnify, defend and hold harmless the other Party (as Indemnitee) from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the Indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.
4. Either Party may terminate this Agreement upon sixty (60) days written notice to the other Party. Upon termination, all work performed pursuant to this Agreement shall cease.

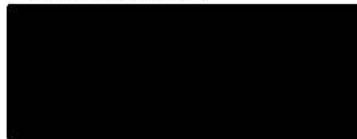
5. Notices: All written notices concerning this Agreement shall be delivered in person or sent by certified mail, return receipt requested, to the Parties as follows:

A. For the Commission:

Arizona Game and Fish Department
ATTN: Mr. Wade Zarlingo
5000 W. Carefree Highway
Phoenix, Arizona 85086
Phone: (623) 236-7503
Email: wzarlingo@agfd.gov

B. For the Landowner:

Billy and Barbara Marks
Marks Ranch



6. In accordance with A.R.S. § 35-214, all books, accounts, reports, files, electronic data and other records relating to this Agreement shall be subject at all reasonable times to inspection and audit by the State of Arizona for five (5) years after completion of this Agreement. Upon request, Party shall produce original of any and all such records.
7. Modifications 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 all Parties, prior to any changes being performed. The Parties are not obligated to fund any changes not approved in advance.
8. 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.
9. All work performed pursuant to this Agreement shall be in compliance with all applicable state and federal laws and regulations.
10. This Agreement in no way restricts either Party from participating in similar activities with other public or private agencies, organizations, or individuals.

11. In carrying out the terms of this Agreement, the Parties agree to comply with State Executive Order 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
12. 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.
13. 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.
14. In accordance with A.R.S. § 12-1518, the Parties agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review except as may be required by other applicable statutes.
15. This Agreement is subject to termination pursuant to A.R.S. § 38-511.
16. The Parties agree to comply with Executive Order 2005-30, "Ensuring Compliance with Federal Immigration Laws by State Employers and Contractors," the provisions of which are hereby incorporated by reference.
17. In accordance with A.R.S. § 41-4401, Landowner warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with A.R.S. § 23-214, Subsection A.

All payments received by the Landowner 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 Landowner's personal tax consultant.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the last signature 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.

APPROVED:

By: Bill Marks Date 10/27/14
Bill Marks

By: Barbara Marks Date 10/27/14
Barbara Marks

Mailing Address:



APPROVED:

Arizona Game and Fish Commission

By: Jan R. O. FOR LSV Date 10-3-14
Larry D. Voyles, Director
Arizona Game and Fish Department

Exhibit A

See attached map

MODIFICATION NO. 1
to
COOPERATIVE HERITAGE STEWARDSHIP AGREEMENT
Between
THE ARIZONA GAME AND FISH COMMISSION
and
BILL AND BARBARA MARKS

The purpose of this Modification is to address an administrative oversight in the original Cooperative Heritage Stewardship Agreement.

WHEREAS, The Arizona Game and Fish Department (“Department”), under the authority of the Arizona Game and Fish Commission, and Bill and Barbara Marks (“Landowner”), entered into an Agreement dated May 28, 2014 for the purpose of assisting in providing wildlife habitat on lands owned or controlled by the Landowner (“Subject Property”);

THEREFORE, The Parties agree to modify the Agreement to correct the administrative oversight and add the appropriate language into the original Agreement.

The Agreement is modified as follows:

Change the language in the second **WHEREAS** to:

WHEREAS, said Subject Property provides mutual benefits to the Landowner and wildlife, and it is the mutual desire of the Department and Landowner to cooperate for the common benefit of wildlife and the public interests of the people of Arizona and reduce conflicts with recreational use;

Except as provided herein, all other Terms and Conditions will remain the same.

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

COOPERATOR

ARIZONA GAME AND FISH
COMMISSION

Bill Marks 10/27/14
Bill Marks Date

Larry D. Voyles (clerk) 9/17/14
Larry D. Voyles, Director Date
Arizona Game and Fish Department

Barbara Marks 10/27/14
Barbara Marks Date