

MEMO

F-3

TO: Larry D. Voyles, Director

FROM: Anthony Guiles, Legislative Liaison *AG*

PRESENTER: Anthony Guiles, Legislative Liaison

TITLE: State and Federal Legislation

DESCRIPTION: The Commission will be briefed on the status of State and Federal legislation. The Commission may vote to take a position or provide direction to the Department for coordination, action, or proposed changes to legislation or other elective issues related to Department responsibilities.

DATE: February 12, 2010

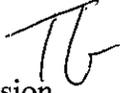
Summary

The Department will report on the current status of selected state and federal legislation. The Commission may be asked to take action or vote to direct the Department for coordination, action, or changes to any or all of the topics or legislation discussed.

MEMO

F - 4

TO: Larry D. Voyles, Director

FROM: Ty Gray, Assistant Director
Information and Education Division 

PRESENTER: Ty Gray, Assistant Director
Information and Education Division

TITLE: Information, Education and Wildlife Recreation Activities Briefing

DESCRIPTION: The Commission will be given an update of Department activities and events related to Information, Education and Wildlife Recreation Programs. The update covers activities and events that have occurred since the February 2010 Commission meeting. The Commission may vote to take action on, or provide the Department direction on, items covered in the update.

DATE: February 24, 2010

Summary:

The Information, Education and Wildlife Recreation Activities briefing is in fulfillment of the Department's commitment to brief the Commission on a regular basis regarding the Department's Information, Education and Wildlife Recreation programs. The Department's update will present highlights of new activities, as well as, progress toward ongoing issues and efforts related to Information, Education and Wildlife Recreation programs. The update covers activities and events that have occurred since the February 2010 Commission meeting. The Commission may vote to take action on, or provide the Department direction on, items covered in the update.

:tg

MEMO

F - 5

TO: Larry D. Voyles, Director

FROM: Ty Gray, Assistant Director
Information and Education Division

PRESENTER: Jay Cook, Shooting Range Branch Chief
Information and Education Division

TITLE: Shooting Sports Activities Briefing

DESCRIPTION: The Commission will be given an update of Department activities related to shooting sports including shooting programs and shooting range development statewide. The update covers activities that have occurred since the February 2010 Commission meeting. The Commission may vote to take action on, or provide the Department direction on, items covered in the update.

DATE: February 24, 2010

SUMMARY:

The shooting sports activities briefing is in fulfillment of the Department's commitment to brief the Commission on a regular basis regarding shooting sports. The Department's update will present new information, as well as, progress toward continuing issues and efforts related to shooting sports programs and shooting ranges statewide. The update covers activities that have occurred since the February 2010 Commission meeting. The Commission may vote to take action on, or provide the Department direction on, items covered in the update.

:tg

MEMO

F-6

TO: Larry D. Voyles, Director

FROM: Mike Senn, Assistant Director 
Wildlife Management Division

PRESENTER: Josh Avey, Habitat Branch Chief

TITLE: Lands and Habitat Program Update

DESCRIPTION: The Commission will be briefed on the latest developments relating to the implementation of land and resource management plans and projects on private, state and federal lands in Arizona and other matters related thereto. The update addresses decisions or activities since the February 2010 Commission meeting. The Commission may vote to take action on, or provide the Department direction on, items covered in the update.

DATE: February 1, 2010

Summary:

This update is in fulfillment of the Department's commitment to brief the Commission on a regular basis regarding decisions and actions on all lands in Arizona. The Department's update will present new information, as well as progress toward resolving ongoing issues and concerns, on all lands in Arizona since the February 2010 Commission meeting.

MS:mtb

MEMO

F-7

TO: Larry D. Voyles, Director

FROM: Robert D. Broscheid, Deputy Director



PRESENTER: Richard Miller, Funds and Planning Branch Manager

TITLE: Presentation to Commission on "The Arizona We Want"

DESCRIPTION: The Department will update the Commission with a presentation regarding Futuring studies conducted by the Morrison Institute. The presentation is for information only as background to the upcoming strategic plan, no action will be taken by the Commission.

DATE: February 2, 2010

RM: rm

MEMO

F-8a

TO: Larry D. Voyles, Director

FROM: Mike Senn, Assistant Director, Wildlife Management Division 

PRESENTER: Chantal O'Brien, Research Branch Chief

TITLE: Request for the Commission to approve a new Intergovernmental Agreement with Pima County to cooperate on mutually beneficial wildlife projects.

DESCRIPTION: The Commission will be asked to vote to approve an Intergovernmental Agreement with Pima County that will allow for a mutually beneficial working relationship for the common purpose of identification, design and implementation of transportation-related Critical Wildlife Linkages.

DATE: February 1, 2010

Summary:

The Regional Transportation Authority (RTA) of Pima County has identified wildlife connectivity as an important component of roadway construction projects within the County. Pima County, as part of the RTA, has a need for wildlife expertise to work with engineers and planners to identify crossing areas and include wildlife connectivity on roadway construction projects.

The Department has been involved in wildlife/roadway projects for over a decade and has the expertise and experience to help the RTA make highways safer for humans and wildlife. Therefore, matching the Department's expertise with the RTA's need under this Intergovernmental Agreement will benefit wildlife by decreasing wildlife/vehicle collisions and increasing wildlife permeability across roadways.

Recommendation:

The Department recommends that the Commission **VOTE TO AN INTERGOVERNMENTAL AGREEMENT WITH PIMA COUNTY THAT WILL ALLOW FOR A MUTUALLY BENEFICIAL WORKING RELATIONSHIP FOR THE COMMON PURPOSE OF IDENTIFICATION, DESIGN, AND IMPLEMENTATION OF TRANSPORTATION-RELATED CRITICAL WILDLIFE LINKAGES AND AUTHORIZE THE DIRECTOR, AS SECRETARY TO THE COMMISSION, TO APPROVE THE AGREEMENT AS APPROVED OR RECOMMENDED BY THE OFFICE OF THE ATTORNEY GENERAL.**

MS:co

Attachment: Intergovernmental Agreement

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE ARIZONA GAME AND FISH COMMISSION
AND THE REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY**

This Inter-governmental Agreement (“IGA”) is entered into between the Arizona Game and Fish Commission (“Commission”) and the Regional Transportation Authority of Pima County (“the RTA”) (collectively “the Parties” and singularly “Party”).

RECITALS

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

WHEREAS, the Commission has statewide responsibility for the management and preservation of wildlife;

WHEREAS, the Arizona Game and Fish Department (“Department”) acts under the authority of the Commission;

WHEREAS, the RTA is authorized to enter into this IGA pursuant to § A.R.S. 48-5304 (18), and the action of its Board of Directors;

WHEREAS, the Parties are authorized to enter into an IGA pursuant to § A.R.S. 11-952 to provide services;

WHEREAS, the RTA is an Arizona special taxing district, duly formed and existing, pursuant to A.R.S. §4 8-5302, *et seq.*, for the purposes of coordinating multi-jurisdictional cooperation in transportation planning and fund-raising as a municipal corporation through taxation and bonding, with the public’s input and approval;

WHEREAS, on November 30, 2005, pursuant to A.R.S. § 48-5309 (A), the RTA adopted a twenty-year, comprehensive, multimodal regional transportation plan (the “Plan”);

WHEREAS, the Plan includes funding for the establishment and/or preservation of Transportation-Related Critical Wildlife Linkages;

WHEREAS, the Parties wish to act cooperatively for the management and preservation of the wildlife resources of the State through the identification and protection of wildlife movement corridors.

NOW, THEREFORE, consistent with the foregoing Recitals, and for good and valuable consideration, it is the understanding of the Parties that:

1. The Commission agrees that the Department shall:

- A. Study existing wildlife patterns pursuant to a written Scope of Work which has been agreed upon by both the RTA and the Department. Provide for RTA review and comment, written information on potential locations for wildlife crossings, including the type of crossings and suggested features for each crossing. Consider and incorporate RTA comments and provide final documents to RTA.

- B. Provide the RTA with current and accurate information and data, as may be reasonable under the circumstances, for documenting study initiation, progress, and completion.
 - C. Upon execution of a Scope of Work, submit a monthly invoice to the RTA for reimbursement of time and materials utilized by the Department for the study, with the total reimbursement amount not to exceed the cost identified in the Scope of Work.
 - D. Appoint a Project Manager to interface with the RTA for each study.
2. **The RTA shall:**
- A. Remit monthly payments to the Department for study costs associated with an approved Scope of Work, upon RTA receipt and approval of a monthly invoice from the Department.
 - B. Appoint a Project Manager to interface with the Department for each study.
 - C. Review study documents and provide written comments to the Department, as necessary, through the completion of the Scope of Work and acceptance of the study.
3. **The Parties mutually agree::**
- A. To cooperate in the development of an acceptable Scope of Work for each study project which the RTA wishes the Department to perform. Said Scope of Work shall identify study deliverables, an implementation schedule, and the approved cost.
4. Effective Date and Duration. This IGA is effective as of the last signature date below, and expires five (5) years from that date, unless terminated earlier by the Parties. This IGA may be extended for additional terms through the issuance of a written modification, signed and dated by all Parties.
5. Termination Generally. Either Party may terminate this IGA upon thirty (30) days' written notice to the other Party. Upon termination, all work performed pursuant to this IGA shall cease. The RTA shall be liable for payment to the Department for only that work and materials, as stated in the Statement of Work, which was performed by the Department up to the date of termination.
6. Notices. All written notices concerning this IGA shall be delivered in person or sent by certified mail, return receipt requested, to the Parties as follows:
- A. For the Commission:
Larry D. Voyles, Director
5000 W. Carefree Highway
Phoenix, Arizona 85086
 - B. For the RTA:
Mr. Gary G. Hayes, Executive Director
177 N. Church Avenue, Suite 405
Tucson, AZ 85701
7. Non-discrimination. In carrying out the terms of this IGA, the Parties agree to comply with Executive Order 99-4 prohibiting discrimination in employment, the provisions of which are incorporated herein by reference.

8. Audit. Pursuant to A.R.S. § 35-214, all books, accounts, reports, files, electronic data, and other records relating to this IGA shall be subject at all reasonable times to inspection and audit by the State of Arizona for five (5) years after completion of this IGA.

Arbitration. To the extent required pursuant to A.R.S. § 12-1518, the Parties agree to use arbitration to resolve any dispute arising under this IGA, with each Party to bear its own attorneys' fees and costs. Unless otherwise directed by a court, any arbitration or other dispute resolution proceeding shall take place in Pima County, Arizona.

9. Termination for Conflict of Interest. This IGA is subject to termination pursuant to A.R.S. § 38-511.
10. Termination for Non-Availability of Funds. Every obligation of the Parties under this IGA is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds for the continuance of this IGA are not allocated or are not available, this IGA 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 IGA other than for payment of services rendered prior to the expiration of funding.
11. Other Agreements. This IGA in no way restricts either Party from participating in similar activities with other public or private agencies, organizations, or individuals.
12. Compliance with Applicable Law. All work performed pursuant to this IGA shall be in compliance with all applicable state and federal laws and regulations.
13. Integration. This IGA 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 IGA may be abrogated, modified, rescinded, or amended in whole or in part only by mutual written consent executed by the Parties.
14. Severability. In the event that any provision of this IGA or portion thereof is held invalid, illegal, or unenforceable, such provision or portion thereof shall be severed from this IGA and shall have no effect on the remaining provisions of this IGA, which shall remain in full force and effect.
15. No Partnership or Joint Agency. Nothing in this IGA shall be construed to create any partnership or joint agency relationship between the Department and the RTA.
16. Immigration Laws. As mandated by A.R.S. § 41-4401, the Parties are prohibited after September 30, 2008, from awarding a contract to any contractor or subcontractor that fails to comply with A.R.S. § 23-214(A). The Parties must also ensure that every contractor and subcontractor complies with federal immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A). Therefore, in signing or performing any contract, the Parties fully understand that:

1. The Parties warrant that they and any subcontractors they may use will comply with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214(A).

2. A breach of the warranty described in subsection (1), shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.
3. The Parties retain the legal right to inspect the papers of any employee who works on the contract to ensure that the contractor or subcontractor is complying with the warranty under subsection (1).

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

REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY

Gary G. Hayes
Executive Director

Date

ARIZONA GAME AND FISH COMMISSION

Larry D. Voyles
Director, Arizona Game and Fish Department

Date

ATTORNEY CERTIFICATION

The foregoing Intergovernmental Agreement by and between the Regional Transportation Authority of Pima County and the Arizona Game and Fish Department has been reviewed pursuant to A.R.S. § 11-952 by the undersigned who have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those Parties to the Intergovernmental Agreement..

Regional Transportation Authority of Pima County:

Thomas Benavidez, Attorney for the RTA

Date

Arizona Game and Fish Department:

Jim Odenkirk, Attorney for the Department

Date

MEMO

F-8b

TO: Larry D. Voyles, Director

FROM: Mike Senn, Assistant Director, Wildlife Management Division 

PRESENTER: Chantal O'Brien, Research Branch Chief

TITLE: Request for the Commission to approve an Intergovernmental Agreement with the City of Tucson

DESCRIPTION: The Commission will be asked to vote to approve an Intergovernmental Agreement with City of Tucson for a research study to determine important wildlife linkages along Houghton Road in Tucson, Arizona.

DATE: February 18, 2010

Summary:

The City of Tucson has identified wildlife connectivity as an important component of roadway construction projects within the city. The City of Tucson as part of the Regional Transportation Authority (RTA) has selected the Department as the wildlife experts to work with engineers and planners to identify potential crossing areas and implement wildlife connectivity on roadway construction projects along Houghton Road.

The Department has been involved in wildlife/roadway projects for over a decade and has the expertise and experience to help the RTA early in the development stage of road design making highways safer for humans and wildlife. Therefore, matching the Department's expertise with the RTA's need under this Intergovernmental agreement will benefit wildlife by increasing wildlife permeability across roadways.

Recommendation:

The Department recommends that the Commission **VOTE TO APPROVE AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF TUCSON TO CONDUCT A RESEARCH STUDY TO IDENTIFY IMPORTANT WILDLIFE LINKAGES ALONG HOUGHTON ROAD IN TUCSON, ARIZONA AND AUTHORIZE THE DIRECTOR, AS SECRETARY TO THE COMMISSION, TO APPROVE THE AGREEMENT AS APPROVED OR RECOMMENDED BY THE OFFICE OF THE ATTORNEY GENERAL.**

MS:co

Attachment: Intergovernmental Agreement

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF TUCSON
AND
THE ARIZONA GAME AND FISH COMMISSION
FOR THE HOUGHTON ROAD CORRIDOR WILDLIFE DEFLECTION, FUNNELING,
AND CROSSING STUDY

This Intergovernmental Agreement (IGA) is entered into by and between the City of Tucson, acting by and through its Mayor and Council ("City") and the Arizona Game and Fish Commission ("Commission") (collectively "Parties" and singularly "Party").

RECITALS

A. The City and Commission are entering into this IGA to cooperate in a wildlife deflection, funneling and crossing study for Houghton Road between Sky Castle Way and Rita Road ("Study").

B. The City and Commission may contract for services and enter into agreements with one another for joint or cooperative action pursuant to A.R.S. § 11-951, et seq.

C. The City is authorized by Tucson Charter Chapter IV, Section 1(11) to lay out, maintain, control and manage public roads and, by A.R.S. § 9-276(A)(1) and § 48-572, to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

D. The Commission has statewide responsibility for the conservation and management of all wildlife species of the State of Arizona.

E. The Commission is authorized to enter into this IGA pursuant to A.R.S. § 17-231 (B)(7).

F. The Arizona Game & Fish Department ("AGFD") acts as the administrative agent under the authority of the Commission.

G. The City has an existing IGA with the Regional Transportation Authority (RTA) to provide funding in the estimated amount of \$34,000 for the Study. The City is the administrative Lead Agency with the RTA for purposes of the Study. The existing IGA permits the City to employ consultants or contractors to perform all or part of the Study.

H. The City and Commission wish to cooperate, as part of the Study, in identifying the types of wildlife crossings and/or prevention measures such as fencing or enlarged box culverts to construct in conjunction with the RTA project to widen Houghton Road ("RTA Houghton Road Widening Project").

I. The AGFD has agreed to execute and administer the Study and provide the City with a final report at the completion of the Study. The City will incorporate the Study data into wildlife impact mitigation features when feasible in the RTA Houghton Road Widening Project.

J. The Study is scheduled to begin in spring 2010, subject to the execution of this Agreement, and scheduled to conclude after one year of study or until one spring, summer, and fall season have each been sampled.

THEREFORE, in consideration of the mutual covenants and agreements as set forth herein, the Parties agree as follows:

AGREEMENT

- 1. Purpose.** The purpose of this Agreement is to set forth the Parties' obligations for the initiation and completion of the Study.
- 2. Project Scope.** Performance of the Study to address characterization of wildlife use and identification of appropriate wildlife deflection, funneling, and crossing designs along Houghton Road between Sky Castle Way and Rita Road as more fully described in the attached Appendix A.
- 3. Effective Date, Term.** This Agreement shall become effective upon the last signature date below and shall continue in effect until the Study is completed and all eligible reimbursement payments have been made, unless sooner terminated or further extended pursuant to the provisions of this Agreement.
- 4. The City's Responsibilities.**
 - A. The City shall provide design/construction plans for the Houghton Road widening project for comparison of planned culvert and bridge structures to existing structures within the Project Area.
 - B. The City shall furnish a Representative to communicate with the AGFD Project Coordinator. The Project Coordinator and the City Representative will cooperate and consult with each other.
 - C. The City shall have the usual rights of the owner of a public contract, including the authority to approve changes and make payments.
 - D. The City shall provide AGFD Study personnel and their equipment access to City roadway and transportation improvements as necessary for the Study.
 - F. The City shall be the lead agency for funding the project through a separate agreement between the City and the Regional Transportation Authority (RTA).
 - E. The City shall issue timely payments to AGFD upon the receipt and acceptance of each invoice beginning May 2010 and monthly thereafter until AGFD provides a final report. Total amount is estimated at \$34,000 (the "budget amount").

5. The Commission agrees that AGFD will have the following Responsibilities.

- A. AGFD shall ensure that the Study is completed.**
- B. AGFD shall furnish a Project Coordinator contact during the contract period.
- C. AGFD shall acquire any and all wildlife permits necessary for the Study.
- D. AGFD shall execute and administer all contracts and field studies necessary to complete the Agreement.
- E. AGFD shall submit monthly invoices to the City beginning in May 2010 and thereafter until AGFD submits the final report.
- F. AGFD shall have the usual rights of the owner of a public contract, including the authority to approve changes and accept payments.

However, any changes to the Project which would result in the final project cost deviating by ten percent or more from the City's budget amount for the Study must be approved by the City in advance of those changes being made, regardless of the fact that the City will not be paying for them.

6. Financing of the Project. The cost of the Study in the estimated amount of \$34,000 will be funded with RTA funds paid to the City under a separate agreement between the City and RTA.

7. Termination. Either Party may terminate this Agreement for material breach of the Agreement by the other Party. Prior to any termination under this paragraph, the Party allegedly in default shall be given written notice by the other Party of the nature of the alleged default. The Party said to be in default shall have forty-five days to cure the default. If the default is not cured within that time, the other Party may terminate this Agreement. Any such termination shall not relieve either Party from liabilities or costs already incurred under this Agreement.

8. Non-Assignment. Neither Party to this Agreement shall assign its rights under this Agreement to any other Party without written permission from the other Party to this Agreement.

9. Construction of Agreement.

A. Entire Agreement. This instrument and its attached exhibits constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. Any exhibits to this Agreement are incorporated herein by this reference.

B. Amendment. This Agreement may be modified, amended, altered, or changed only by written Amendment, signed and dated by both Parties.

C. Construction and Interpretation. All provisions of this Agreement shall be construed to be consistent with the intention of the Parties as expressed in the Recitals hereof.

D. **Captions and Headings.** The headings used in this Agreement are for convenience only and are not intended to affect the meaning of any provision of this Agreement.

E. **Severability.** In the event that any provision of this Agreement or the application thereof is declared invalid or void by statute or judicial decision, such action shall have no effect on other provisions and their application, which can be given effect without the invalid or void provision or application, and to this extent the provisions of the Agreement are severable. In the event that any provision of this Agreement is declared invalid or void, the Parties agree to meet promptly upon request of the other Party in an attempt to reach an agreement on a substitute provision.

F. This Agreement is subject to the provisions of A.R.S. § 38-511, which provides for cancellation by a public body in certain instances involving conflicts of interest.

10. Ownership of Improvements. Ownership and title to all materials purchased as part of this Study shall automatically vest in the City. Upon completion of the Study and all required reimbursements, AGFD shall submit four copies of the final report to the City.

11. Legal Jurisdiction. Nothing in this Agreement shall be construed as either limiting or extending the legal jurisdiction of the City, the Commission or AGFD.

12. No Joint Venture. It is not intended by this Agreement to, and nothing contained in this Agreement shall be construed to, create any partnership, joint venture or employment relationship between the Parties or create any employer-employee relationship between City and AGFD. The Parties shall not be liable for any debts, accounts, obligations or other liabilities whatsoever of the other, including (without limitation) the other Party's obligation to withhold Social Security and income taxes for itself or any of its employees.

13. No Third Party Beneficiaries. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third Parties not Parties to this Agreement or affect the legal liability of either Party to the Agreement by imposing any standard of care different from the standard of care imposed by law.

14. Compliance With Laws. The Parties shall comply with all applicable federal, state, and local laws, rules, regulations, standards, and executive orders, without limitation to those designated within this Agreement.

A. **Anti-Discrimination.** The provisions of A.R.S. § 41-1463 and Executive Order Number 99-4 issued by the Governor of the State of Arizona are incorporated by this reference as a part of this Agreement.

B. **Americans with Disabilities Act.** This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

C. **Workers' Compensation.** An employee of either Party shall be deemed to be an "employee" of both public agencies, while performing pursuant to this Agreement, only for

purposes of A.R.S. § 23-1022 and the Arizona Workers' Compensation laws. The primary employer shall be solely liable for any workers' compensation benefits, which may accrue. Each Party shall comply with the employee notice provisions of A.R.S. §§ 23-906(D) and 23-1022(E).

D. **Federal Immigration Laws - A.R.S. § 41-4401.** Each Party and each subcontractor it uses warrants its compliance with all federal immigration laws and regulations that relate to its employees, and compliance with A.R.S. § 23-214(A).

E. In the event of any controversy which may arise out of this Agreement, the Parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

15. Indemnification.

A. **Mutual Indemnity.** 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.

B. **Notice.** Each Party shall notify the other in writing within thirty (30) days of the receipt of any claim, demand, suit, or judgment against the receiving Party for which the receiving Party intends to invoke the provisions of this section. Each Party shall keep the other Party informed on a current basis of its defense of any claims, demands, suits, or judgments under this Article.

C. **Survival of Termination.** This section shall survive the termination, cancellation, or revocation, whether in whole or in part, of this Agreement.

16. Non-Appropriation. It is acknowledged that all obligations hereunder to make payments to or to incur costs under this Agreement shall be subject to annual appropriation or allocation by the respective governing bodies and to any limitation imposed by budget laws or other applicable state or local law or regulation. Notwithstanding any other provision contained herein, this Agreement shall be terminated in the event the Legislature, the Commission, AGFD or the Tucson City Council (a) does not appropriate sufficient monies for the purpose of maintaining this Agreement or (b), the RTA provides insufficient funding to the City as lead agency to complete the Project. In the event of such termination, AGFD and City shall have no further obligation to the other except for payment for services rendered prior to such termination.

17. Insurance. The Parties acknowledge that each Party to this Agreement is self-insured for the purposes of this Agreement. When requested by the other Party, each Party shall provide proof to the other of their worker's compensation, automobile, accident, property damage, and liability coverage or program of self-insurance. The RTA shall be named as an additional insured in any contracts for the Study.

18. Books and Records. Pursuant to A.R.S. § 35-214, each Party shall keep and maintain proper and complete books, accounts, reports, files, electronic data, and other records relating to

this Agreement , which shall be open for inspection and audit by duly authorized representatives of any other Party during normal business hours for five (5) years after completion of this Agreement.

19. Waiver. Waiver by any Party of any breach of any term, covenant, or condition herein contained shall not be deemed a waiver of any other term, covenant, or condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

20. Notification. All notices or demands upon any Party to this Agreement shall be in writing, unless other forms are designated elsewhere, and shall be delivered in person or sent by mail addressed as follows:

Arizona Game and Fish Department
Director
5000 West Carefree Highway
Phoenix, Arizona 85086

City of Tucson
Jim Glock, Director
Department of Transportation
P.O. Box 27210
Tucson, Arizona 85701

21. Force Majeure. A Party shall not be in default under this Agreement if it does not fulfill any of its obligations under this Agreement because it is prevented or delayed in doing so by reason of uncontrollable forces. The term “uncontrollable forces” shall mean, for the purpose of this Agreement, any cause beyond the control of the Party affected, including but not limited to failure of facilities, breakage or accident to machinery or transmission facilities, weather conditions, flood, earthquake, lightning, fire, epidemic, war, riot, civil disturbance, sabotage, strike, lockout, labor dispute, boycott, material or energy shortage, casualty loss, acts of God, or action or non-action by governmental bodies in approving or failing to act upon applications for approvals or permits which are not due to the negligence or willful action of the Parties, order of any government officer or court (excluding orders promulgated by the Parties themselves), and declared local, state or national emergency, which, by exercise of due diligence and foresight, such Party could not reasonably have been expected to avoid. Either Party rendered unable to fulfill any obligations by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.

22. Remedies. Either Party may pursue any remedies provided by law for the breach of this Agreement. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or in equity or by virtue of this Agreement.

23. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterpart may be removed from such counterpart and attached to a single instrument.

24. Other Agreements. This Agreement in no way restricts either Party from participating in similar activities with other public or private agencies, organizations, or individuals.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by the Mayor of the City of Tucson, upon resolution of the Mayor and Council attested to by the City

Clerk, and the Commission has caused this Intergovernmental Agreement to be executed by the Director of the Arizona Game and Fish Department.

CITY OF TUCSON

ARIZONA GAME AND FISH DEPARTMENT

Robert Walkup, Mayor

Larry D. Voyles, Director

Date: _____

Date: _____

ATTEST:

Roger Randolph, City Clerk

The foregoing Agreement between the City of Tucson and the AGFD has been approved as to content and is hereby recommended by the undersigned.

James W. Glock, P.E., Director
City of Tucson Transportation Department

Date

ATTORNEY CERTIFICATION

The foregoing Agreement by and between the City of Tucson and the Arizona Game and Fish Department has been reviewed pursuant to A.R.S. § 11-952 by the undersigned who have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those Parties to the Agreement.

CITY OF TUCSON:

Principal Assistant City Attorney

Date

ARIZONA GAME AND FISH DEPARTMENT

Jim Odenkirk, Attorney for the Department

Date

MEMO:

TO: Larry D. Voyles, Director

FROM: Leonard L. Ordway, Assistant Director, Field Operations Division 

PRESENTER: Ron Sieg, Flagstaff Regional Supervisor

TITLE: Consideration of the Unit 12A Habitat Stamp Fund Budget for Calendar Year 2010

DESCRIPTION: The Commission will be asked to approve the Unit 12A Habitat Stamp Fund Budget for Calendar Year 2010 for spending funds generated under the Cooperative Agreement between the Kaibab National Forest and the Department. The Commission may vote to take action on, or provide the Department direction on, this item.

DATE: January 27, 2010

Summary:

Each year the Commission is asked to approve the budget for the Unit 12A Habitat Stamp Fund for the calendar year. The Kaibab National Forest and the Department jointly develop this budget proposal. A synopsis of expenditures during calendar year 2009, revenue for calendar year 2009 and planned expenditures for calendar year 2010 will be presented.

Recommendation:

The Department recommends that the Commission **VOTE TO APPROVE THE UNIT 12A HABITAT STAMP FUND BUDGET FOR CALENDAR YEAR 2010.**

LDV:LO:rs

**12A Habitat Stamp Fund
2009 Budget Summary**

Calendar Year 2009

Category	Planned Expenditure	Actual Expenditure
Construction of 3 wildlife waters on Westside	\$150,000	\$149,996.96
Support for Westside project – funded contractor for checkstation	\$28,784.50	\$3,252
Total	\$178,784.50	\$153,248.96

Additional projects were completed using other funding sources:

- 3rd year of Northern Arizona University research on seeding and herbicide
- Collection of local cliffrose seed for future seeding
- 158 acres of pinyon-juniper grinding to improve browse, 16 acres seeded with ATV seeder and grass seed
- 221 acres of shrub seeding in Slide Fire area

Calendar Year 2010

Carryover funds	\$25,535.54
2009 calendar year stamp sales	
• 2,089 stamps @ \$15	\$31,335
Available funds	\$56,870.54

Proposed activities

- Support of ongoing seeding, herbicide, Pinyon-juniper clearing, archeological survey/ Clearance, check station staffing \$56,870.54

MEMO:

TO: Larry D. Voyles, Director

FROM: Leonard L. Ordway, Assistant Director, Field Operations Division 

PRESENTER: Ron Sieg, Flagstaff Regional Supervisor

TITLE: Informational update on discussions on the House Rock Bison Herd

DESCRIPTION: The Commission will be provided an informational update regarding ongoing discussions between the Department, Grand Canyon National Park, the Kaibab National Forest and Northern Arizona University concerning the House Rock bison herd. The presentation is for information only; no action will be taken by the Commission.

DATE: January 27, 2010

Summary:

Since the mid-1990s Grand Canyon National Park (Park) has been raising concerns over increased bison use of the Park and potential resource damage. There have been several previous discussions and workgroups between the Department and the Park, including Commission presentations.

Over the past year there have been renewed discussions and this informational presentation will update the Commission on this ongoing effort to look at bison management options.

LDV:LO:rs

MEMO:

TO: Larry D. Voyles, Director

FROM: Leonard L. Ordway, Assistant Director, Field Operations Division *LLO*

PRESENTER: Gene F. Elms, Law Enforcement Branch Chief

TITLE: Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments for the Illegal Taking and/or Possession of Wildlife at Time Certain 2:00 p.m.

DESCRIPTION: The Commission will consider and take action on the license revocations and/or civil assessments for the individuals listed below.

DATE: February 1, 2010

Summary:

Pursuant to A.R.S. §§17-314, 17-340, and 17-502, the below named persons are subject to consideration by the Commission for license revocation and/or civil assessment for unlawful acts covered by these sections. Pursuant to A.R.S. §17-245, the Commission may also require the subject(s) to complete a Hunter Education Course. These subjects have been notified by certified mail, or in person, as required in A.R.S. §17-340.E, that the Commission will conduct a hearing at the **Arizona Game and Fish Department, Main Auditorium, 5000 West Carefree Highway, Phoenix, Arizona, on March 5, 2010, time certain 2:00 p.m.**

<u>Name</u>	<u>Docket #</u>	<u>Count</u>	<u>Conviction</u>
Leonard L. Sniff, II	2010-0001	Count A:	Take Wildlife w/o Valid License (Trap)
Henry R. Borrás	2010-0012	Count A:	Take Two Deer w/o Valid License
		Count B:	Possess/Transport Unlawful Taken Deer
		Count C:	Take Two Deer Closed Season
Carlos B. Villalobos	2010-0013	Count A:	Take Two Deer w/o Valid License
		Count B:	Possess/Transport Unlawful Taken Deer
		Count C:	Take Two Deer Closed Season
Joaquin R. Lopez	2010-0014	Count A:	Take Two Deer w/o Valid License
		Count B:	Possess/Transport Unlawful Taken Deer
		Count C:	Take Two Deer Closed Season

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Josue V. Lopez	2010-0015	Count A: Count B: Count C:	Take Two Deer w/o Valid License Possess/Transport Unlawful Taken Deer Take Two Deer Closed Season
Seth Anderson Wilson	2010-0016	Count A: Count C:	Discharge Firearm Within ¼ Mile of Residence Possess Unlawfully Taken Wildlife (Deer)
Anthony Passmore Ybarra	2010-0017	Count A: Count B: Count C:	Hunt From Vehicle Take Wildlife Closed Area Discharge Firearm Within ¼ Mile of Residence
Jared H. Tackett	2010-0018	Count A:	Take Wildlife During Closed Season
John K. Parks	2010-0019	Cit#222920 Count B:	Take Wildlife During Closed Season
Simon Acosta	2010-0020	Count A:	Take Mule Deer Doe Closed Season

Attached for Commission review are the case summaries and other pertinent information relating to these cases.

Recommendation:

The Department recommends **THE ABOVE SUBJECTS BE CONSIDERED FOR LICENSE REVOCATION, HUNTER EDUCATION REQUIREMENT, AND/OR CIVIL LIABILITY ASSESSMENT.**

LLO:GE:eb

Attachments

MEMO

F-13

TO: Larry D. Voyles, Director

FROM: Gary R. Hovatter, Deputy Director, F.O.D./I.E.D.

PRESENTER: Gary R. Hovatter, Deputy Director, F.O.D./I.E.D. 

TITLE: 2009/2010 Director's Goals and Objectives

DESCRIPTION: The Commission will be provided the status of 2009 Director's Goals and Objectives and how these goals transition into the 2010 Goals and Objectives, including the possibility of adding new Goals and Objectives for 2010. The Commission may vote to take action on, or provide the Department direction on, items covered in this update.

DATE: February 10, 2010

GRH:mf

MEMO

F-14

TO: Larry D. Voyles, Director

FROM: Gary R. Hovatter, Deputy Director, F.O.D./I.E.D. *GRH*

PRESENTER: Gary R. Hovatter, Deputy Director, F.O.D./I.E.D.

TITLE: 2010 On-the-Road Commission Events

DESCRIPTION: The Department will provide the Commission with a presentation on alternative approaches and venue options to conduct two on-the-road Commission events in 2010. The Commission may vote to take action or provide the Department direction on this item.

DATE: February 12, 2010

GRH:mf

MEMO

F-15

TO: Larry D. Voyles, Director

FROM: John Bullington, Assistant Director, Special Services Division 

PRESENTER: Mark Weise, Development Branch Chief

TITLE: Landowner-Lessee/Sportsman Relations Committee Appointment

DESCRIPTION: The Department's Landowner Relations Program has received nominations for three individuals to fill the two vacant sportsman's representative spots on the Landowner-Lessee/Sportsman Relations Committee. Mr. Steven Carmickle, Mr. George Reiners, and Mr. Frank Hayes are all avid sportsmen and very interested in access issues. The Commission may vote to take action on, or provide the Department direction on this item.

DATE: February 4, 2010

Summary:

The Department's Landowner Relations Program has received nominations from three individuals who would like to fill the two vacant sportsman's representative spots on the Landowner-Lessee/Sportsman Relations Committee. Mr. Steven Carmickle, Mr. George Reiners, and Mr. Frank Hayes are all avid sportsmen and very interested in access issues.

Biographies are included to exhibit each nominee's qualifications.

Recommendation:

The Commission may **VOTE TO TAKE ACTION ON, OR PROVIDE THE DEPARTMENT DIRECTIONS ON THIS ITEM.**

JB:tc

Attachments

Nominee for the Landowner-Lessee/Sportsman Relations Committee:

George Reiners

Yuma, AZ 928-314-3890

Retired, Sergeant Major USMC, George A. Reiners was assigned to Marine Corps Air Station, Yuma in December 1997 and has been a member of Yuma Valley Rod and Gun Club since January 1998. He has been a club Board member since 1999 and served as the Vice President from 2000 to 2004. He is currently a board member.

An avid hunter and outdoorsman, he organized the first Yuma area Junior Dove Hunts in 2005 and 2006, which led to Yuma area Junior Waterfowl Hunts.

George instituted the "Water for Wildlife" program in 2002, which is now known as the Southwest Arizona Wildlife Foundation. "Water for Wildlife" and the SWAZWF funds, and provides volunteers in the desert southwest for water developments and other areas of habitat concern.

Aware of the many issues between Landowners and Sportsmen that threaten the ability of the public to enjoy all outdoors within Arizona, he seeks to better educate the public and to build a spirit of cooperation.

He was previously a Board Member of the Kaneohe Bay Rod and Gun Club, Kaneohe Hawaii.

Nominee for the Landowner-Lessee/Sportsman Relations Committee:

Steven Carmickle

Phoenix, AZ 602-569-9469

Steve has been involved in Arizona land management issues for 25 years. He is a member of the Bradshaw Foothills Coalition, working with a diverse group of land owners and agencies to enable access for public recreation. He is a certified National Rifle Association instructor and is past president of the Arizona Off-Highway Vehicle Coalition.

Steve has been instrumental in developing, implementing and completing complex projects working with the Bureau of Land Management, U.S. Forest Service, Arizona State Land Trust, Arizona Game and Fish and Arizona State Parks as well as County parks in Pinal, Pima, Maricopa, Yavapai, Coconino and Apache Counties. Steve has an excellent track record of collaboration with various horseman and cattlemen associations and many private land owners.

He is currently the Chief Executive Officer of SDC Engineering in Phoenix, a position he has held for the past eight years.

In light of the foregoing, I therefore nominate Steven Carmickle for the LLSRC.

Thanks,

Sanford Cohen

Chairman of the Landowner/Lessee-Sportsman Relations Committee

Nominee for the Landowner-Lessee/Sportsman Relations Committee:

Frank Hayes

Duncan, AZ 928-965-8690

- * Owner/manager of Heart and Horn Ecological Services LLC, environmental consulting services specializing in range and ecological assessments and landscape ecology including fire management.
- * Partner in ranching operation in NM, which includes a significant amount of private land.
- * Member of Arizona Elk Society, Rocky Mountain Elk Foundation, and SE AZ Sportsman's Association.
- * Retired from Forest Service and BLM after 33+ years; District Ranger at Clifton RD, Apache-Sitgreaves NF 1991-2008; Forest Wildlife/T&E biologist/program manager on Cibola National Forest 1988-1991; District Range/Wildlife staff Guadalupe RD, Lincoln NF 1980-1988.

Some Noteworthy accomplishments with Forest Service career:

Pilot project initiation and Statewide implementation of the Sykes Act Habitat Program in NM 1986-1991; Restoration and recovery efforts on over 65 miles of streams on the Clifton Ranger District 1991-2008; Forest Service representative on the Interdisciplinary Team for the Re-introduction of the Mexican Grey wolf in the Southwest 1995-1998; Leadership in the development and recognition of the Upper Eagle Creek Watershed Association (UECWA) 2001-2002; Leadership and guidance in planning and implementation of District wide landscape restoration of wildlife habitats using managed wildland fire, thinning, prescribed burning, and applied grazing practices across 200,000 acres of forest and rangeland vegetation on Clifton RD; Leadership and guidance in support of grazing permittees to obtain significant funding for range improvement infrastructure refurbishment program (2003-2009) from various AZ State grant programs; Establishment of partnerships in applied restoration, grazing management, and applied wildlife habitat improvement on each Forest Service unit served on during career including Guadalupe RD (Sykes Act program), Cibola Forest (Sykes Act and Challenge Cost Share programs), and Clifton RD (UECWA, Gila Watershed Partnership, Arizona Game and Fish, and numerous conservation organizations. Dealt with road and public access issues a lot. His was one of first FS Districts to capitalize on the AZGF Access program for assistance to open travelways and close roads that were damaging resources, including access into and out of the San Carlos Reservation. Very proactive with public access and has a lot of experience with travel management and road restoration with the county. Avid sportsman and enjoys hiking and horseback riding.

Let me know if you need anything else.

MEMO

F-16

TO: Larry D. Voyles, Director

FROM: John Bullington, Assistant Director, Special Services Division

ARB Feb 25, 2010

PRESENTER: Mark Weise, Development Branch Chief

TITLE: Butterfly Access Issue Update

DESCRIPTION: The Department will update the Commission by outlining the issues related to butterfly corners located within checkerboard sections of private and State Trust lands. The Commission may vote to take action on or provide the Department direction on this item. The presentation is for information only; no action will be taken by the Commission.

DATE: February 18, 2010

Summary:

The Department will provide the Commission with a definition of "butterfly access" associated within checkerboard sections of private and State Trust lands. In addition, a brief legal analysis will be provided that can be used to formulate associated recommendations/opportunities for resolving these types of issues.

Recommendation:

The presentation is for information only, no action will be taken by the Commission.