

Minutes of the Telephonic Meeting of the
Arizona Game and Fish Commission
Wednesday, September 30, 2009 – 1:00 p.m.
Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, Arizona 85086

PRESENT: (Commission)

(Director's Staff)

In Person:

Chairman Robert D. Hernbrode
Vice-Chair Jennifer L. Martin
Commissioner Norman W. Freeman
Commissioner Jack F. Husted

In person:

Director Larry D. Voyles
Deputy Director Gary R. Hovatter
Deputy Director Bob Broscheid
Assistant Attorney General Jim Odenkirk

Via telephone:

Commissioner Robert R. Woodhouse

Chairman Hernbrode called the meeting to order and requested that Director Voyles conduct roll call. Chairman Hernbrode and Commissioners Martin, Freeman, and Husted were present in person and Commissioner Woodhouse confirmed he was present via telephone. Assistant Attorney General Mr. Skardon was also present via telephone and may assist the Department in legal matters. There were several Department staff members and members of the public present. This meeting followed an agenda dated September 28, 2009.

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1. Executive Session

The Commission voted to go into Executive Session pursuant to A.R.S. § 38-431.03(A)(3) and (4) for discussion and consultation with legal counsel in order to instruct legal counsel regarding Center for Biological Diversity v. Voyles. Also, for discussion or consultation for legal advice with the Commission's legal counsel concerning a petition to close Fossil Creek to fishing.

Motion: Martin moved and Freeman seconded THAT THE COMMISSION VOTE TO GO INTO EXECUTIVE SESSION.

Vote: Unanimous

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The Public Meeting reconvened at 2:25 p.m.

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2. Hearing on a Petition from Center for Biodiversity to Close Fossil Creek to Sport Fishing and Consideration of Amendments to Commission Order 40 to Remedy Issues Raised in the Petition.

Presenter: Kirk Young, Fisheries Branch Chief

Mr. Young briefed the Commission on the petition and also provided a Power Point presentation with maps of the specified area. A special regulation roundtail chub season for Fossil Creek was approved by the Commission in October of last year. The Commission established a seven month season, from the first Saturday in October through April 30, for a 4.5 mile stretch of the creek. Methods approved for the season were catch and release only, artificial fly and lure and single barbless hook only.

On September 18, 2009, a petition to close Fossil Creek and its watershed to sport fishing was received from the Center for Biodiversity. The petition includes genetic information that indicates the majority of chubs in the reach to be opened for fishing are headwater chubs, a closely allied species to the roundtail chub. Both species are candidates for federal listing and are physically and genetically similar. In July, Director Voyles forwarded an information memo to the Commission providing input on the new genetic information from Fossil Creek and related issues. As the information memo summarizes, the angling season at Fossil Creek poses no harm to chub populations or anglers, rather the management scheme provides great opportunity to promote a native fish fishery and the conservation of native species overall.

Commissioner Husted confirmed with Mr. Odenkirk that it is within the authority of Commission to open the season to one species or the other or both.

Public Comment:

Ronald Robinson, AZ Flycasters: Has been a fisherman since 1946 and it's a great opportunity to use our angling community to benefit and educate fly fisherman and is for keeping the fishing season open.

David Mayl, AZ Flycasters: Fossil Creek is remarkable and a great opportunity in that area. You can't find a physical difference between the two fish, it's just not possible.

Michelle Harrington, Director, Arizona Rivers (new Arizona conservation organization): Believes that opening up Fossil Creek to catch and release fishing will do more harm than good for Fossil Creek and the native fish there. Asks the Commission to keep Fossil Creek closed to fishing and increase enforcement; believes it is too soon to open it up for fishing.

Steve Spangle, Field Supervisor, USFWS: Affirmed his favorable advocacy of this program and provided a letter to the Commission asking that it be included in the record (attached to these minutes).

Dr. Robin Silver, Sierra Club, and representing the petitioners: Professors that have been studying these species claim it is too early to start fishing in Fossil Creek.

Commissioner Woodhouse confirmed with Mr. Young that if there was any risk to the fish in Fossil Creek the Department would execute an immediate closure for that area, and that the Department will be monitoring during the season.

Motion: Martin moved and Husted seconded THAT THE COMMISSION VOTE TO APPROVE TO MOVE THE OPENING OF ROUNDTAIL FISHING TO OPEN TEN DAYS FROM THE DAY OF THIS MEETING SO THE SEASON STARTS WITH BOTH

ROUNDTAIL AND HEADWATER CHUB FISHING PERMITTED ON THE ALREADY APPROVED SEASON FOR FISHING ROUNDTAIL CHUB.

Commissioner Freeman expressed concern about confusing the anglers by changing the opening dates, and suggested amending the motion to keep roundtail as scheduled and add headwater effective ten days from today.

Mr. Young noted that it was a catch and release only for both species and so during the interim, the result would be the same.

Motion to Amend: Freeman moved and Husted seconded THAT THE COMMISSION VOTE TO AMEND THE MOTION.

Vote: Unanimous

Amended Motion: Martin moved and Husted seconded THAT THE COMMISSION VOTE TO APPROVE KEEPING THE ROUNDTAIL SEASON AS SCHEDULED AND ADD HEADWATER SEASON EFFECTIVE TEN DAYS FROM TODAY'S DATE

Vote: Unanimous

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3. Call to the Public

There were no requests to speak to the Commission.

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Motion: Martin moved and Woodhouse seconded THAT THE COMMISSION VOTE TO ADJOURN THIS MEETING.

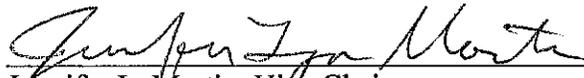
Vote: Unanimous

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Meeting adjourned at 4:23 p.m.

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Robert D. Hernbrode, Chair



Jennifer L. Martin, Vice Chair



Robert R. Woodhouse, Member



Norman W. Freeman, Member



Jack F. Husted, Member

ATTEST:



Larry D. Voyles
Secretary and Director



United States Department of the Interior

U.S. Fish and Wildlife Service

Arizona Ecological Services Field Office

2321 West Royal Palm Road, Suite 103

Phoenix, Arizona 85021-4951

Telephone: (602) 242-0210 Fax: (602) 242-2513



In Reply Refer to:

AESO/SE
22410-2009-TA-0456

September 29, 2009

Mr. Bob Hernbrode, Chairman
Arizona Game and Fish Commission
5000 West Carefree Highway
Phoenix, Arizona 85086

Dear Mr. Hernbrode:

The Fish and Wildlife Service is writing in support of the Arizona Game and Fish Department's (AGFD) planned catch-and-release fishery for native chub in Fossil Creek. In October 2008, I presented my agency's support for this action to the Commission. Today, I am pleased to say that our position has not changed. Whether the species at hand is roundtail (*Gila robusta*) or headwater (*Gila nigra*) chub does not change our support of this native fishery and the sportfishing opportunity Fossil Creek presents.

The Fish and Wildlife Service strongly supports AGFD's efforts to conserve and enhance native fish species status through implementation of the North American Fish and Wildlife Conservation Model and the Arizona Statewide Conservation Agreement (SCA) for the roundtail chub, headwater chub, and other native fish species. The North American Wildlife Conservation Model consists of two basic principles—that our fish and wildlife belong to all North American citizens, and that they are to be managed in such a way that their populations will be sustained forever. One way for our agencies to work together to strengthen the participation of the public in native fish conservation is to allow for the regulated harvest of native sport fish. We believe that allowing for a catch-and-release fishery in Fossil Creek for one of our most remarkable fishes will aid our efforts to convey to the public how important the long-term conservation of all native aquatic species is to the health of our environment. In addition, the opportunity for children to learn to fish in Fossil Creek and for the first fish they catch to be a native chub is a unique experience that they will not soon forget.

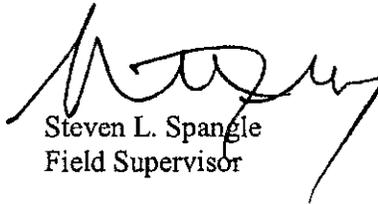
We also believe that implementation of this fishery will result in meeting the goals and objectives of the SCA. By actively managing the thriving chub population in Fossil Creek and increasing the amount of on-the-ground education through the extensive outreach that is planned as part of the fishery, we will be reducing threats to Fossil Creek, making native fish more relevant to the public, and creating a new user group in the area that will aid our multi-stakeholder efforts to protect this stream and its species.

Mr. Bob Hernbrode, Chairman

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In conclusion, we are very pleased that AGFD is implementing this action, and we and we look forward to assisting the Commission and the Department in ensuring that we are successful in this endeavor. Should you require further assistance or if you have any questions, please contact Shaula Hedwall at (928) 226-0614 (x103) or Brenda Smith (x101) of our Flagstaff Suboffice.

Sincerely,



Steven L. Spangle
Field Supervisor

cc: Regional Director, Fish and Wildlife Service, Albuquerque, NM
Chief, Fisheries Branch, Arizona Game and Fish Department, Phoenix, AZ
Chief, Nongame Branch, Arizona Game and Fish Department, Phoenix, AZ
Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ
Regional Supervisor, Arizona Game and Fish Department, Flagstaff, AZ
Glen Knowles, Fish and Wildlife Service, Phoenix, AZ

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