

Minutes of the Telephonic Meeting of the
Arizona Game and Fish Commission
Tuesday, November 16, 2010 – 10:00 a.m.
Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, Arizona 85086

PRESENT: (Commission)

(Director's Staff)

In Person:
Vice-Chair Robert R. Woodhouse
Commissioner Jack F. Husted

In person:
Director Larry D. Voyles
Deputy Director Bob Broscheid
Deputy Director Gary R. Hovatter
Assistant Attorney General Jim Odenkirk
Assistant Attorney General Linda Pollock

Via telephone:
Chairperson Jennifer L. Martin
Commissioner Norman W. Freeman
Commissioner John W. Harris

Chairperson Martin called the meeting to order at 10:00 a.m. Director Voyles conducted roll call and confirmed that all Commissioners were present. Several Department staff members were present along with a few members of the public. This meeting followed an agenda dated November 10, 2010.

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1. Consideration of Potential Commission Liabilities Regarding the Awarding, Marketing, and Sales of Special Big Game License Tags by Wildlife Conservation Organizations

Presenter: Brian F. Wakeling, Game Branch Chief

Mr. Wakeling provided a briefing to the Commission and discussed the benefits and challenges associated with the marketing and sales of Special Big Game License Tags (SBGLT) by nonprofit Wildlife Conservation Organizations to which the Commission awards these tags. The discussion included potential liabilities that the Commission may incur through these processes, and potential amendments to the existing Special Big Game License Tag Sale Agreements to address sales, marketing, accounting, and record keeping by Wildlife Conservation Organizations.

The essential elements of the processes by which SBGLT are awarded to nonprofit organizations and the organizations subsequently market and sell SBGLT have remained relatively unchanged since inception of the program in 1983. In 1984, the sale of 2 bighorn sheep SBGLT yielded \$146,350, whereas in 2008 (largest net fund raising year), the program brought \$1,478,935 to the Department. In 2009, \$1,325,055 was raised by the nonprofit organizations that sponsored the SBGLT sales. To date, \$18,207,091 have been raised through the sales of SBGLT. The primary changes have been the addition of a third special license tag (an increase of 1 over the 2 tags originally authorized) in 2006, and the addition of different species over time (bighorn sheep in 1984, elk, mule deer, pronghorn, and buffalo in 1985, white-tailed deer in 1991, turkey and bear in 1996, javelina in 1999, and mountain lion in 2009). Based on a 2009 Western Association of Fish and Wildlife Agencies (WAFWA) survey, Arizona's program raises the second greatest

amount of money per year (second only to Utah, which offers 361 tags each year) and the second greatest amount per SBGLT (second only to Alberta, that only offers 3 tags each year).

The Arizona Game and Fish Commission requested information on SBGLT processes to evaluate potential liabilities of the Commission in the case of an unforeseen event that might cast suspicion on the fairness and equity of these events. Specific issues that have been posed include:

1. Wildlife conservation organizations selling tags act on behalf of the Commission and the Commission wishes to ensure that these organizations act or perform in a manner that reflects favorably on the Commission and Department. The public does not always understand that these organizations are private non-profits when they sell a public asset with official Department insignia. The Commission would like the organizations to adhere to specific standards of conduct when dealing with the public.
2. The raffle sales have the potential for fraud and significant financial losses. A raffle must be strictly regulated so that the total number of raffle tickets is tracked and the proceeds from the sale match the number of raffle tickets sold. The opportunity to skim a portion of the proceeds is possible if the raffle inventory and the number of sold raffle tickets are not strictly accounted for.
3. The organizations operating a raffle must be in compliance with the raffle exception to the gambling prohibition in state law. Generally, select tax-exempt organizations that have been in existence for at least five years may operate a raffle if the management and operation of the raffle is conducted by members of the organization.
4. The Commission is concerned about organizations being held accountable for remitting all proceeds from the auctions and raffles back to the Department. Two potential options include:
 - (a) require funds from the sale of raffle tickets and auctions to be paid directly to a Department account, or
 - (b) require each organization to obtain a surety bond to cover any loss of funds.
5. Require organizations to follow appropriate accounting procedures and maintain records that are reviewed and certified annually by an independent auditor.
6. Do the organizations hold a successful bidder legally and financially responsible for the full auction price? Is there a consistent manner in which a default by the primary bidder at an auction results in an award to the secondary or tertiary bidder or is it resold at a subsequent auction? Whatever procedures are developed, each organization must apply the procedures in a consistent manner.

The Department sent letters to 10 organizations asking for information on 4 questions:

- Are potential bidders required to post any bond or insurance prior to bidding on items of extreme value (e.g., >\$10,000)?
- Does your organization have an established policy if a primary bidder were to default on a bid (e.g., offer item to secondary bidder at last bid, alternate auction event is held)?

- Is this policy written, and if so, may I obtain a copy?
- Does your organization pursue collection of fees if a bidder defaults on a bid?

Written responses were received from the Mule Deer Foundation and the Rocky Mountain Elk Foundation; the Wild Sheep Foundation provided specific feedback verbally through a telephone call in response to the letter. While the Wild Sheep Foundation has never requested nor been awarded any SBGLT from the Commission, they have worked with the Arizona Desert Bighorn Sheep Society since the inception of this program to market, auction, and sell a bighorn sheep SBGLT. Responses from all 3 wildlife conservation organizations were summarized and provided to the Commission and were available to the public.

Additionally, WAFWA Wildlife Chiefs were queried to determine if similar concerns or issues existed in other states. Responses to these questions were summarized and provided to the Commission and were available to the public.

On October 20, 2010 Commissioner Harris hosted a meeting with interested stakeholders to discuss potential solutions to perceived challenges. The meeting was attended by representatives from the Mule Deer Foundation, the National Wild Turkey Federation, the Arizona Deer Association, the Arizona Antelope Foundation, the Arizona Desert Bighorn Sheep Society, and the Arizona Big Game Super Raffle. Mr. Wakeling attended this meeting as a facilitator and note taker. The following problems and potential solutions were discussed:

- Standards of conduct for wildlife conservation organizations.
→Add language to the Special Big Game License Tag Sale Agreement that specifies which questions from the public should be answered by the Department and which should be answered by the wildlife conservation organization.
- Raffle sales verification.
→Wildlife conservation organizations should specifically identify the audit process that they will use in the letter of request for the award of the tags, or if they fail to do so, the Commission should request the audit process to be identified at the June Commission meeting prior to awarding SBGLT. Each wildlife conservation organization should submit the results of their annual audit to the Commission on completion. Confirm process within the Special Big Game License Tag Sale Agreement.
- Bonding for wildlife conservation organizations or bidders.
→No other state requires this, and this requirement could stifle potential bidders. Bonding would be especially difficult to ensure with phone bidders or bidders that may wish to remain anonymous. The group did not foresee any need for bonding of wildlife conservation organization because the Department does not issue any SBGLT until the funds are remitted to the agency.
- Default of a primary bidder.
→According to Department records, this has occurred in 3 instances.
→In 2002, Rocky Mountain Elk Foundation auctioned an elk SBGLT for \$100,000, but the primary bidder defaulted. A second phone auction was arranged, and the tag sold for \$55,000. Rocky Mountain Elk Foundation used alternate funds raised through the banquet system to make up the difference and remit the full \$100,000 to the Department.

→In 2002, the Foundation for North American Wild Sheep (now the Wild Sheep Foundation) auctioned a bighorn sheep SBGLT for the Arizona Desert Bighorn Sheep Society, which sold for \$154,000. The primary bidder defaulted, and the secondary bidder agreed to pay \$120,000 for the SBGLT (which was the point at which other bidders dropped out). The Department received \$120,000 for the sale of the SBGLT.

→In 2009, the Mule Deer Foundation auctioned a mule deer SBGLT for \$137,000, and the primary bidder defaulted. The secondary bidder agreed to pay \$125,000, which is what the Department received for the sale.

→Wildlife conservation organizations should specifically identify how they would deal with a default of the primary bidder in the letter of request for the award of the tags, or if they fail to do so, the Commission should request identification of this plan at the June Commission meeting prior to awarding SBGLT. Acceptable options might include a plan on how they might offer to secondary or tertiary bidder if primary bidder does not complete purchase within a certain number of days after the auction or how they might offer this for sale through an alternate auction. Secondary bidders at auctions often acquire other hunting opportunities at the auction and may no longer be interested or capable of purchasing the SBGLT. The plan should be included within the Special Big Game License Tag Sale Agreement.

- Should bidders and raffle ticket purchases be paid to the wildlife conservation organization or the Department.

→Essentially, there would be no difference in tax deductibility regardless of approach, but the wildlife conservation organizations may be better poised to accept payment in a variety of ways, like credit card purchases for raffle tickets online. No change is recommended to this process.

Following discussion, Chair Martin recapped the 6 specific issues (page 2) and confirmed with the Commission what they wanted to see from the Department at the December meeting:

- Draft language to be added to the Special Big Game License Tag Sale Agreements to address specific standards of conduct when dealing with the public and delineate the aspects of the agreement about which the wildlife conservation organization may address.
- Draft language to be added to the Special Big Game License Tag Sale Agreement that will require wildlife conservation organizations to specify how they will audit auction and raffle tag sales, allow for additional Commission stipulations, and report annually to the Department.
- Draft language to be added to the Special Big Game License Tag Sale Agreement that will require wildlife conservation organizations to specify how they will deal with a default by the primary auction bidder and allow for additional Commission stipulations.

Commissioner Woodhouse requested that Mr. Wakeling communicate these changes to the organizations as soon as possible so that the organizations have time to provide the Commission with any input they may have at the December Commission meeting.

Public Comment

Stephen Clark, President, Arizona Elk Society, requested that the Commission be cautious when asking a group to pay the difference if a bidder defaults. This could be difficult for smaller

organizations and could give the bigger organizations an advantage and possibly more tags, particularly the bigger national groups as opposed to the smaller Arizona groups.

The Commission was in consensus that Commissioner Harris will continue to work with Mr. Wakeling on the changes as discussed by the Commission.

2. Call to the Public

There were no requests to speak to the Commission.

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Motion: Husted moved and Harris seconded THAT THE COMMISSION VOTE TO ADJOURN THIS MEETING.

Vote: Unanimous

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Meeting adjourned at 11:27 a.m.

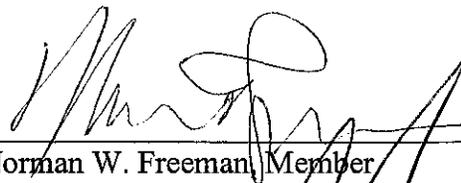
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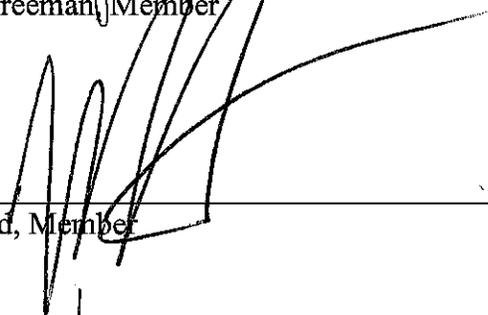
Jennifer L. Martin, Chair



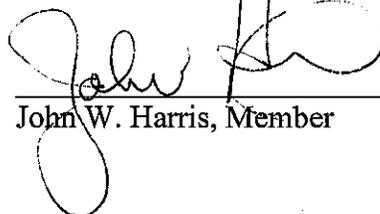
Robert R. Woodhouse, Vice-Chair



Norman W. Freeman, Member

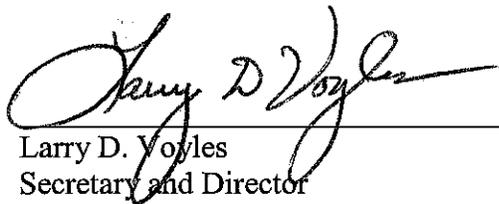


Jack F. Husted, Member



John W. Harris, Member

ATTEST:



Larry D. Voyles
Secretary and Director