

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, February 5, 2010
Arizona Game and Fish Department
5000 West Carefree Highway
Phoenix, Arizona 85086

PRESENT: (Commission)

(Director's Staff)

Chairperson Jennifer L. Martin
Vice Chair Robert R. Woodhouse
Commissioner Norman W. Freeman
Commissioner Jack F. Husted
Commissioner Robert D. Hernbrode

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

Chairperson Martin called the meeting to order at 8:00 a.m. This meeting followed an agenda dated January 28, 2010. The Commission went directly into Executive Session.

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1. Executive Session

The Commission voted to meet in Executive Session in accordance with A.R.S. § 38-431.03 (A)(3) and (4) for the purpose of discussion and consultation with legal counsel.

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

Vote: Unanimous

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The Public Meeting reconvened at 9:57 a.m.

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Chairperson Martin called the meeting back to order and lead those present through the Pledge of Allegiance. The Commission introduced themselves and Chairperson Martin introduced the Director and the Director's staff.

Three Wildlife Managers, Jeremy Felish, Jaquelynn Kell, and Karen Klima were sworn in by Chairperson Martin.

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2. Litigation Report

The Litigation Report (attached to these minutes) was provided to the Commission prior to this meeting and was available to the public.

Motion: Freeman moved and Hernbrode seconded THAT THE COMMISSION VOTE TO APPROVE THE DIRECTION PROVIDED TO THE DEPARTMENT IN EXECUTIVE SESSION CONCERNING THE NEGOTIATIONS OF THE REAL PROPERTY ACQUISITION FOR THE NORTHERN ARIZONA SHOOTING RANGE.

Vote: Unanimous

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3. Legislative Engagement and State and Federal Legislation

Presenter: Anthony Guiles, Legislative Liaison

Mr. Guiles briefed the Commission using a PowerPoint presentation on the current status of selected state and federal legislation as well as state budget issues. The Department has been providing the Commission with regular daily/weekly updates on legislative matters during this legislative session, and provided informational materials at this meeting (available to the public). The presentation included updates on the following:

Budget

- The Governor called a second special session that is running concurrent with the second regular session

State Legislation

HB 2144: Wildlife; Guides; Wasted Meat

- Passed out of Committee 7 to 0

HB 2601: Eagle Scouts; Complimentary Fishing License

- Passed Committee unanimously; now goes to the House Floor

HCR 2008: Constitutional Rights; Hunting and Fishing

- Staying with the same position unless language has changed

HB 2017: Schools; Gun Safety Program; Instructors

- Same bill as last session; The Commission's position was to support this bill; The language has changed from "National Firearms Organization" to "National Rifle Association".

Motion: Hernbrode moved and Freeman seconded THAT THE COMMISSION VOTE TO SUPPORT HB 2017.

Vote: Unanimous

HB 2167: Special license plate for gun safety education

- The monies will be allocated as they currently are for any of the special license plates
- This bill has not yet moved through a Committee or had a hearing

Commissioner Freeman wanted to know more of who is sponsoring this bill before taking a position.

The Commission directed the Department to monitor this bill.

HB2526: Tax Exemption; Trap and Skeet

- The Tucson Trap and Skeet Club is going from a for-profit to a non-profit organization.

SB1371: Off-Highway Vehicles; Tax Stamps

- Recently introduced

HB2619: Game; Fish; Commission; Appointment Application.

- Requires that names of nominees to the Game and Fish Commission be provided for public inspection during the second week in December; this would make it a public document on a certain date.

Federal Legislation

Commissioner Hernbrode requested that the Department follow SB 2447: Land and Water Conservation Reallocation of Funding Act.

Public Comment

Sandy Bahr, The Sierra Club: Strongly opposed HCR 2008 as it is written. Stated that the Sierra Club believes it undermines the Commission and makes science take a back seat relative to wildlife management, and they believe it undermines the rights of other people to initiate law. Also, thanked the Commission for supporting SB 1004 and aggressively protecting the Heritage Fund.

Stephanie Nichols-Young, Animal Defense League of Arizona: Expressed concerns over the negotiations of language changes with a sponsor of a bill and requested that the public be made aware of language changes as they happen.

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3A. Presentation to Commission Regarding 2010 and 2011 Budget.

Presenter: Robert Broscheid, Deputy Director.

Mr. Broscheid updated the Commission on the Fiscal Year 2010 Budget, including the reduction of budgets, minimizing legislative sweeps, and the negotiation of 2011 Game and Fish Fund and the Watercraft Budgets that are going through the process. The Department is also drafting the 2012 and 2013 budgets that will be brought to the Commission this fall for approval. Following the Governors budget proposal on January 13, the Department has been working diligently to analyze the impacts of the loss of Heritage Fund and other measures in that package.

Public Comment

Sandy Bahr, Sierra Club: Tracking the legislative referral of the WCF to undercut the voter protection act.

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4. Shooting Sports Activities Briefing.

Presenter: Jay Cook, Shooting Ranges Branch Chief, Information and Education Division

The Commission was provided with a Shooting Sports Activities Briefing prior to this meeting (also available to the public) on Department activities related to shooting sports. The report included shooting programs and shooting range development statewide and covered activities that occurred since the January 2010 Commission meeting. This briefing is part of the Department's ongoing commitment to provide the Commission with updates on a regular basis.

Mr. Cook recapped several items in the briefing using a Power Point presentation.

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5. Information, Education and Watchable Wildlife Activities Briefing

Presenter: Ty Gray, Assistant Director, Information and Education Division

The Commission was provided with an Information, Education and Watchable Wildlife Programs Update prior to this meeting (also available to the public), which presented new information as well as progress on related activities. The update covered activities and events that occurred since the January 2010 Commission meeting and was provided in fulfillment of the Department's commitment to brief the Commission on a regular basis.

Mr. Gray had one update in addition to the report provided to the Commission. The Commissioners Cup Event for the SCTP, the skeet shoot will be held in Tucson on March 20 at the Tucson Trap and Skeet Club, the trap shoot will be on April 3 at the Tucson Trap and Skeet Club, and the sporting clays shoot will be on April 10 at the Ben Avery Facility.

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6. An Update on Current Issues, Planning Efforts, and Proposed Projects on All Lands in Arizona and Other Matters Related Thereto

Presenter: Josh Avey, Habitat Branch Chief

A copy of the Lands Update report was provided to the Commission prior to this meeting and is included as part of these minutes. The update addressed 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 related matters, and included decisions or activities since the January 2010 Commission meeting. This update is in fulfillment of the Department's commitment to

brief the Commission on a regular basis regarding decisions and actions on all State and Federal lands in Arizona.

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7. Master Memorandum of Understanding (MOU)

Presenter: Josh Avey, Habitat Branch Chief

Mr. Avey briefed the Commission on the revision of the statewide Master MOU between the Department and the U.S. Forest Service (original version was from 1991). There is an additional signatory line for the Law Enforcement component of the Forest Service.

Motion: Husted moved and Woodhouse seconded THAT THE COMMISSION VOTE TO APPROVE THE MASTER MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES FOREST SERVICE SOUTHWEST REGIONAL OFFICE AND THE STATE OF ARIZONA, ARIZONA GAME AND FISH COMMISSION, AND AUTHORIZE THE DIRECTOR TO EXECUTE ALL DOCUMENTS AS SECRETARY TO THE COMMISSION.

Vote: Unanimous

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8. Request for the Commission to Approve a State Land Use Permit with the Arizona State Land Department for the Purpose of Statewide Wildlife Water Improvements on State Trust Lands.

Presenter: Josh Avey, Habitat Branch Chief

Mr. Avey briefed the Commission with a power point presentation on the history of the use of the Department's water catchments on state land. This special land use permit encompasses all Commission owned wildlife catchments on State Trust Land and allows the Department to add or subtract any catchments during the five year term of the agreement.

Motion: Hernbrode moved Freeman seconded THAT THE COMMISSION VOTE TO APPROVE A STATE LAND USE PERMIT WITH THE ARIZONA STATE LAND DEPARTMENT FOR THE PURPOSE OF CONSTRUCTING AND MAINTAINING STATEWIDE WILDLIFE WATER IMPROVEMENTS ON STATE TRUST LAND.

Vote: Unanimous

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9. Presentation to the Commission on the current status of the Species and Habitat Conservation Guide (SHCG) and the Geospatial Planning Tool.

Presenter: Josh Avey, Habitat Branch Chief

Mr. Avey acknowledged Matthew Bullock and Joyce Francis in the audience for their work on this item. Mr. Avey briefed the Commission on this item using a power point presentation.

Commissioner Husted stated that this tool is not complete if it does not include tribal lands.

Director Voyles stated that the Department wants to have discussion and include the tribes when implanting the data on tribal lands.

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10. Consent Agenda

The following items were grouped together and noticed as consent agenda items to expedite action on routine matters. These items were provided to the Commission prior to this meeting and the Department requested that the Commission approve these matters as presented, subject to approval or recommendations of the Office of the Attorney General. Director Voyles presented each item to the Commission and none were deemed necessary to remove for discussion.

a. Request for Commission Approval of a Cooperative Agreement Between the Commission and Yuma Crossing National Heritage Area Corporation for Restored Areas of the Yuma East Wetlands in Yuma County, Arizona.

Presenter: Josh Avey, Habitat Branch Chief

The City of Yuma has prepared the Yuma East Wetlands Restoration Plan for restoration and enhancement of riparian and marsh areas within the lower Colorado River area. The Department is participating in the project with the previous acquisition of the 20.84 acre Headstream & McVey property. The Yuma Crossing National Heritage Area Corporation (Heritage), a partnership among government agencies, nonprofit groups and civic organizations, is restoring the Commission's property and continues to operate and maintain the property as part of the Yuma East Wetlands project.

This cooperative agreement will allow Heritage to continue to manage the property for wetland, cottonwood, willow, mesquite, and inland salt grass flat habitats with funding from the Bureau of Reclamation through its Lower Colorado Multi-Species Conservation Program. Funding will be used to maintain cottonwood-willow, honey mesquite, marsh and backwater habitats in support of threatened and endangered species and other sensitive and migratory wildlife along the Lower Colorado River.

The Department recommended THAT THE COMMISSION VOTE TO APPROVE THE COOPERATIVE AGREEMENT BETWEEN THE COMMISSION AND YUMA CROSSING NATIONAL HERITAGE AREA CORPORATION FOR RESTORED AREAS OF THE YUMA EAST WETLANDS IN YUMA COUNTY, ARIZONA, AND AUTHORIZE THE DIRECTOR TO EXECUTE THE AGREEMENT AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

b. Request for the Commission to Approve Amending Existing Gun Club Lease Agreements to Include New Language as Approved by the Attorney General's Office.

Presenter: Jay Cook, Shooting Range Branch Chief

The Commission currently has lease agreements with Rio Salado Sportsman's Club Inc. (Utery Mountain Shooting Range), Sierra Vista Rod and Gun Club (Sierra Vista Shooting Range), and Tucson Rifle Club Inc. (3-Points Shooting Range) to manage these Commission owned Shooting Ranges. The Shooting Range Branch and/or the Attorney General's Office have requested that these leases be amended to include the language in the attachment. The proposed amendments include language that authorizes the amendments to the agreements (with written approval by both parties), dissemination of Department funds to the Clubs for conducting approved improvements to the range, and clarification of insurance requirements for the Clubs. Each of the proposed amendments has been approved by the Attorney General's Office and clarifies and strengthens the existing agreements.

The Department recommended THAT THE COMMISSION VOTE TO APPROVE AMENDING EXISTING LEASE AGREEMENTS TO INCLUDE NEW LANGUAGE AS APPROVED BY THE ATTORNEY GENERAL'S OFFICE, AND TO EXECUTE THE PROPOSED AMENDMENTS AS RECOMMENDED BY THE OFFICE OF THE ATTORNEY GENERAL.

c. Request for the Commission to Approve an Agreement with the Mohave Sportsman's Club, Inc. for the Management and Operation of a Commission-Owned Public Shooting Facility in Mohave County, Arizona.

Presenter: Jay Cook, Shooting Range Branch Chief

The Commission currently leases 117 acres of land approximately 6 miles southwest of Kingman from the Bureau of Land Management (BLM) under the Recreation and Public Purposes Act for the Mohave Shooting Range (a.k.a. 7 Points Shooting Range). Since 1970, the Arizona Game & Fish Commission has leased the property to the Mohave Sportsmen's Club (Club) for maintenance and operation of the facility. The current ten-year agreement expires April 14, 2010, and contains an option to renew. The Club has requested renewal of the lease agreement for an additional ten year period.

The Department recommended THAT THE COMMISSION VOTE TO APPROVE AN AGREEMENT WITH THE MOHAVE SPORTSMAN'S CLUB, INC., FOR MANAGEMENT AND OPERATION OF A COMMISSION-OWNED PUBLIC SHOOTING FACILITY IN MOHAVE COUNTY, ARIZONA, AND TO EXECUTE THE AGREEMENT AS RECOMMENDED BY THE OFFICE OF THE ATTORNEY GENERAL.

Motion: Woodhouse moved and Freeman seconded THAT THE COMMISSION VOTE TO APPROVE CONSENT AGENDA ITEMS A, B, AND C AS PRESENTED.

Vote: Unanimous

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11. Call to the Public

There were no requests to speak at this time.

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12. Request to Approve the Notice of Docket Opening and Notice of Proposed Rulemaking for R12-4-309 and R12-4-318.

Presenter: Jennifer Stewart, Rules and Risk Branch Chief

Ms. Stewart presented the Commission with a Notice of Docket Opening and Notice of Proposed Rulemaking for rules 309 & 318 in Article 3. The Department recently received permission from the Governor's Office to proceed with this rulemaking during the current moratorium. The draft changes in this document were originally presented to the Commission in December 2008. However, the rulemaking process must start over with a new docket opening and proposed rulemaking because the timeframe associated with the original documents expired.

The Department recommended the following changes:

- Rule 309 – Establish a new rule addressing the authorization for use of drugs on wildlife. The rule protects public health and safety by allowing the Department to regulate the use of drugs on wildlife and define and describe the authorization process for allowable use.
- Rule 318 - Allow individuals participating in an archery-only or muzzleloader season to possess a non-hunting handgun for personal protection, which protects public safety.

If approved, the documents will be submitted to the Secretary of State's Office for publication in the Arizona Administrative Register. Public comment will be accepted 30 days after publication. Once this occurs, the Department will present a final rulemaking package to the Commission for consideration and approval.

Motion: Freeman moved and Husted seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF DOCKET OPENING AND NOTICE OF PROPOSED RULEMAKING TO PROMULGATE R12-4-309 AND AMEND R12-4-318 WITHIN ARTICLE 3.

Vote: Unanimous

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13. Request to Approve a Notice of Docket Opening and a Notice of Proposed Rulemaking to Amend Rules R12-4-601, R12-4-610, and R12-4-611.

Presenter: Jennifer Stewart, Rules and Risk Branch Chief

Ms. Stewart presented the Commission with a Notice of Docket Opening and Notice of Proposed Rulemaking for rules 601, 610, and 611 in Article 6. The Department recently received permission from the Governor's Office to proceed with this rulemaking during the current moratorium. The draft changes in this document were originally presented to the Commission in October 2008. However, the rulemaking process must start over with a new docket opening and proposed rulemaking because the timeframe associated with the original documents expired.

These rules address the various types of petitions the Commission may receive and all are being updated to reflect the Department's current address. If approved, the documents will be submitted to the Secretary of State's Office for publication in the Arizona Administrative Register. Public comment will be accepted 30 days after publication. Once this occurs, the Department will present a final rulemaking package to the Commission for consideration and approval.

Motion: Hernbrode moved and Freeman seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF DOCKET OPENING AND NOTICE OF PROPOSED RULEMAKING TO AMEND R12-4-601, R12-4-610, AND R12-4-611 WITHIN ARTICLE 6.

Vote: Unanimous

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14. Request to Approve the Notice of Exempt Rulemaking to Amend R12-4-802 and R12-4-803.

Presenter: Jennifer Stewart, Rules and Risk Branch Chief

Ms. Stewart presented the Commission with a Notice of Exempt Rulemaking for Article 8, addressing wildlife areas and Department property. The Department recently received permission from the Governor's Office to proceed with this rulemaking during the current moratorium. This article is exempt from normal rulemaking process which means it does not require a 30 day public comment period or approval from the Governor's Regulatory Review Council. The draft changes were originally presented to the Commission in December 2008. The Department posted proposed changes to its website for public review after the December meeting, and no comments were received. All proposed changes are still necessary and valid.

The Department recommended the following changes:

- Rule 802; Becker Lake - Reduce length of time posted portions are closed to the public and add a nightly closure restriction at the request of local law enforcement to reduce undesired after-hours activities; Cibola Valley - Specify conditions of use for newly acquired property; Luna Lake - Amend time posted portions closed to public entry to provide better protection for bald eagle nesting; Upper Verde River - Better manage vehicular access, prevent open fires, and clarify when dogs must be leashed
- Rule 803; Add boundary descriptions for newly acquired properties and amend boundary description for Upper Verde River WLA.

If approved today, the Department will file the exempt rulemaking directly with the Secretary of State's Office, and it will be effective as soon as it is published in the register.

Motion: Freeman moved and Hernbrode seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF EXEMPT RULEMAKING TO AMEND R12-4-802, AND R12-4-803 WITHIN ARTICLE 8.

Vote: Unanimous

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16. Request by Mr. Chad Schearer, requesting reinstatement of his bonus points for elk or re-issue of the tag he held in 2009.

Presenter: Lizette Morgan, Finance and Accounting Branch Chief

Ms. Morgan briefed the Commission on Mr. Schearer's request for the reinstatement of his bonus points for elk or reissue of the tag he held in 2009. Mr. Schearer was kicked by his mule while mounting it and broke his leg on opening day and was unable to hunt.

Chairperson Martin stated that the Commission gets these kind of requests sometimes and this is typically how we handle them because as the Commission has discussed publically many times in the past that it is just not feasible for them to offer remedies of this nature.

Motion: Husted moved and Woodhouse seconded THAT THE COMMISSION VOTE TO DENY MR. SCHEARER'S REQUESTS FOR EITHER REINSTATEMENT OF HIS ELK BONUS POINTS OR REISSUANCE OF THE TAG HE WAS UNABLE TO USE.

Vote: Unanimous

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18. Request by Dr. David Meyer, Requesting Extension of Season Dates into 2010 for Pronghorn Antelope and Buffalo Special Big Game License Tag Seasons.

Presenter: Mike Senn, Assistant Director, Wildlife Management Division

Brian Wakeling, Game Branch Chief, addressed the Commission on behalf of Mr. Senn. Mr. Wakeling briefed the Commission on Dr. David Meyer's past purchases of special big game license tags. Mr. Wakeling spoke to Dr. Meyer's wife about two days ago and she said he was coming out of surgery at that time and would not be attending the Commission Meeting.

Motion: Hernbrode moved and Husted seconded THAT THE COMMISSION VOTE TO DENY DR. DAVID MEYER'S REQUEST FOR A SEASON DATE EXTENTION FOR HIS PRONGHORN ANTELOPE AND BUFFALO SPECIAL BIG GAME LICENSE TAGS INTO 2010 AND ALSO SEND HIM A CORDIAL LETTER WITH THE APPRECIATION OF ALL THE PREVIOUS TAGS HE HAS BOUGHT.

Vote: Unanimous

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Meeting recessed for lunch at 11:54 a.m.

Meeting reconvened at 1:58 p.m.

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15. Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments for the Illegal Taking and/or Possession of Wildlife

Presenter: Gene Elms, Law Enforcement Branch Chief

Record of these proceedings is maintained in a separate minutes book in the Director's Office

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17. Petition Request from Mr. Ken Foote from Footework, Inc. to amend Commission Rule R12-4-509.

Presenter: Lizette Morgan, Finance and Accounting Branch Chief

Ms. Morgan briefed the Commission on Mr. Foote's request to allow third-party providers to become authorized boating agents and in addition to issue applications and watercraft registration, renewal of watercraft registration, registration decals and transfer of ownership of an abandoned or unreleased watercraft for new and used watercraft. The petition also requests a rule change to R12-4-509(A)(2) to allow third-party providers to become authorized agents without being a dealer for new boats. The Department believes in addition to these changes that the Department would also need two statutory changes in order to enable the Department to authorize third-party providers at this point in time.

Commissioner Hernbrode asks how much more it would cost someone to register their boat with a third-party rather than directly with the State.

Ms. Morgan was unaware how much more that would cost with a contract in place.

Public Comment

Ken Foote from Prescott, Arizona stated that he currently has a contract with the Arizona Motor Vehicle Division (MVD) to issue titles, registrations and license plates to customers in Prescott. Mr Foote also indicated that he helps customers fill out and answer questions regarding their boat registration and renewals and then sends those in to either the Phoenix or Flagstaff Game and Fish Offices.

Chairperson Martin explained that either way the Commission votes on this petition, the State is currently under a rulemaking moratorium, so it would be some time before the Department could make the rule changes, if the Commission votes in that direction.

Motion: Husted moved and Freeman seconded THAT THE COMMISSION VOTE TO CONSIDER THIS IN THE NORMAL RULEMAKING CYCLE AND THAT THE DEPARTMENT BRING THIS BACK TO THE COMMISSION WITH THE RULE PACKAGE WHEN THAT TIME COMES.

Vote: Unanimous

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19. Request by Mr. Anthony Hollars to Appeal the Departments Decision to Deny him an Aquatic Wildlife Stocking Permit.

Presenter: Raul Vega, Regional Supervisor, Region V

Mr. Vega briefed the Commission and provided the analysis and reasoning for denying Mr. Hollars request for an aquatic wildlife stocking permit. In a letter dated October 20, 2009, the Department denied an application from Mr. Hollars for an Arizona Aquatic Wildlife Stocking License to stock largemouth bass, bluegill and channel catfish for recreational purposes. The reason for denial was because the Department completed a chemical renovation of Fresno Canyon downstream of Mr. Hollars' proposed stocking location to remove non-native fish species to protect and enhance habitat for Gila topminnow, a federally endangered species, and the Department is currently managing, in cooperation and coordination with State Parks (Sonoita Creek State Natural Area), the location exclusively for native aquatic species. Because there is likelihood that the small pond will spill water downstream during flood events, it is to be expected that the non-native fish species Mr. Hollars proposes to stock will be transported downstream and into habitats occupied by Gila topminnows. The interaction between non-native and native fish species in Arizona is well documented to be a completely negative interaction for the native fish species. In every instance, non-native fish species out compete and predate on native species resulting in native species elimination from aquatic habitats. Mr. Vega also provided maps via a power point presentation to the Commission.

Commissioner Hernbrode expressed concern over the fact that Mr. Hollars currently has non-native fish species in his tank whether the Commission approves or denies this permit.

Public Comment

Anthony Hollars stated that the fish currently in this pond are more of threat and have a more likelihood of surviving when flooding of this pond takes place. His goal is to replace those fish with fish that are less likely to survive should the pond flood over and release the fish downstream to the Gila topminnow population.

Motion: Husted moved and Hernbrode seconded THAT THE COMMISSION VOTE TO TABLE THIS ITEM AND DIRECT THE DEPARTMENT LOOK INTO THE SITUATION AND TRY TO FIND SOME COMMON GROUND IN FISH SPECIES.

Vote: Unanimous

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19A. Commission Briefing on the Department's Involvement in Mexican Wolf Reintroduction in Arizona and New Mexico and Related Mexican Wolf Recovery and Conservation Issues.

Presenter: Terry B. Johnson, Endangered Species Coordinator

Since the mid-1980s, operating under policy guidance from the Commission, the Department has been engaged with a variety of state, federal, tribal, and local government agencies in planning and conducting Mexican wolf reintroduction in east-central Arizona and west-central New Mexico and has been participating in efforts to revise the 1982 federal Mexican Wolf Recovery Plan and the federal 1998 nonessential experimental population rule under which the Arizona-New Mexico reintroduction is occurring. In October 2008, the Department briefed the Commission in public

session on all aspects of range wide Mexican wolf conservation. In that meeting, the Commission provided guidance to the Department on participation in Mexican wolf conservation through 2013 and requested a comprehensive update each year through 2013. Thus, on February 5, 2010, the Department again briefed the Commission on its progress toward current objectives for participation in Mexican wolf conservation, including reintroduction in the Blue Range Wolf Recovery Area of Arizona and New Mexico, on the adjacent Fort Apache Indian Reservation, and parallel but independent efforts by Mexico. The briefing also identified and addressed significant Department and public concerns regarding Mexican wolf conservation, including range wide reintroduction and recovery.

Public Comment

Craig Miller, Defenders of Wildlife: Completely agrees with the effectiveness and professionalism of the field team. Genuinely wants to maintain a good working relationship with the Department. Also asked that the Commission continue to provide direction to the Department at the field level while respecting the USFWS responsibilities for developing and implementing a science based recovery plan that ensures the long-term recovery and survival of the population.

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20. Call to the Public

There were no requests to speak at this time.

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21. Director and Chairman's Report

Director Voyles reported the following activities since the last Commission meeting:

- Spent a lot of time dealing with budget issues including briefing each Commissioner; Held a webcast to keep employees informed
- Met with Representative Dave Gowan on a piece of legislation he was sponsoring
- Met with Mike Anable at the Governor's Office to discuss the intersection of policy issues and budget issues
- Attended a Solar Cabinet Meeting
- Had a breakfast meeting with Sam Campana of Audubon
- Met with Grady Gammage twice; provided him a briefing on the Heritage Fund
- Met with The Nature Conservancy folks, also in regards to the Heritage Fund
- Met with State Parks Director Renee Bahl
- Attended the WFT Board Meeting followed up by Arizona Wildlife Finance Corporation Board Meeting
- Traveled to Flagstaff and met with Bill Cordasco and others
- Met with Senator Steve Pearce
- Met with Maria Baier and Herb Guenther

Chairperson Martin reported the following activities since the last Commission meeting:

- Participated in a few Commission Telephonic Meetings
- Testified on one bill in the House
- Participated in an Environmental Day at the Capital
- Attended the Arizona Quality Awards Banquet to accept on behalf of the Department an award for the Bald Eagle Nestwatch Program
- Attended the Tucson Audubon Society Banquet
- Met with various members of staff and the public on matters related to this meeting

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22. Commissioner's Reports

Each Commissioner reported on their activities since the last Commission meeting.

Commissioner Woodhouse:

- Attended a budget briefing
- Attended meeting at the Capital on HCR 2008
- Participated in several telephonic meetings with NRA staff on HCR 2008
- Attended the Commission Telephonic Meetings
- Attended the Chino Valley Town Council Meeting on potential Chino Valley Shooting Range
- Toured Chino Grande Ranch
- Attended Yuma Valley Rod and Gun Club Meeting.

Commissioner Hernbrode:

- Attended a budget briefing
- Spent a day at Patagonia State Park looking at wildlife areas
- Attended the Telephonic Commission Meetings
- Attended the State Parks Rally
- Attended the Tucson Audubon Banquet
- Participated with a group in Tucson called T-break which is a Tucson area environmental community
- Had several telephone conversations on the potential loss of the Heritage Funds

Commissioner Freeman:

- Had several telephone conversation on Heritage Fund
- Attended the budget briefing
- Attended a meeting with Representative Jerry Weiers on HCR 2008
- Had telephone conversations with the NRA on language for HCR 2008
- Attended the Commission Telephonic Meetings
- Attended a meeting with the Mayor of Chino Valley about the shooting range
- Attended a meeting with Commissioner Woodhouse at the Chino Valley Town Council Meeting on potential Chino Valley Shooting Range
- Toured the Chino Grande Ranch
- Attended the hearing with staff on the guides and wasted game meat Bill

Commissioner Husted:

- Meet with a rancher on an elk issue
- Attended budget briefings
- Attended a ceremony for the celebration of World Wetlands Day representing the Commission

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23. Future Agenda Items and Action Items

- Continue to track HB 2447 and HB 3534
- Continue to work with Commissioner Freeman and HPAC for full brand new program for the Heritage Fund as discussed at the last HPAC Meeting
- In the case of Dr. Meyer draft a cordial letter for Chairperson Martin’s signature that includes appreciation for his past commitment to Arizona’s wildlife conservation and wish him a speedy recovery
- The Department will continue to work with Mr. Hollars’ crankshaft tank and to seek a much more collaborative approach to the topminnow needs downstream and to find some common ground for the Departments objectives
- Commissioner Freeman requested to include in the next Executive Session legal matters related to Big Chino Watershed and Verde River water issues that are going on now
- Commissioner Husted requested to make sure to keep as agenda items the Commission Work Sessions the Commission Committees and Sub-Committees.

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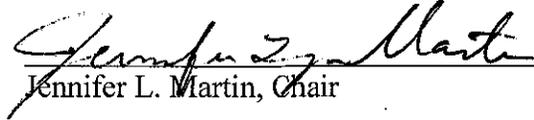
Motion: Husted moved and Freeman seconded THAT THE COMMISSION VOTE TO ADJOURN THIS MEETING.

Vote: Unanimous

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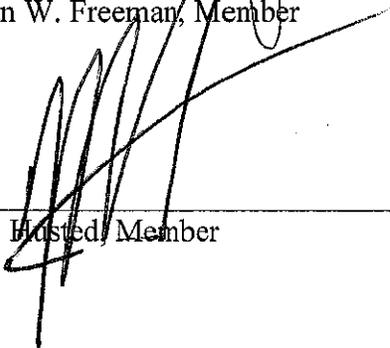
Meeting adjourned at 3:56 p.m.

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Jennifer L. Martin, Chair

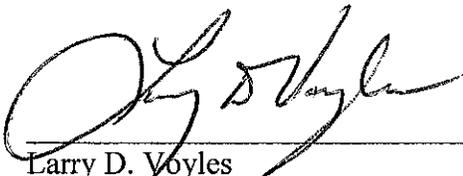

Robert R. Woodhouse, Vice Chair


Norman W. Freeman, Member


Jack F. Husted, Member

Robert D. Hernbrode, Member

ATTEST:



Larry D. Voyles
Secretary and Director

**Game and Fish Litigation Report
Presented at the Commission Meeting
February 5, 2010**

The Assistant Attorneys General for the Arizona Game and Fish Commission and the Arizona Game and Fish Department are representing these agencies in the following matters in litigation. This report does not include claims and lawsuits for damages against these agencies in which the agencies are represented by Assistant Attorneys General in the Liability Defense Section of the Attorney General's Office.

1. *Wilderness Watch, Inc. et al. v. United States Fish and Wildlife Service et al., CV01185-MHM.* Plaintiffs filed suit on June 15, 2007, challenging the decision of the U.S. Fish and Wildlife Service ("FWS") to redevelop two water structures on the Kofa National Wildlife Refuge. The water structures provide supplemental water to wildlife populations that have suffered due to persistent drought. Plaintiffs allege that these water developments violate the National Environmental Policy Act because the FWS did not first determine the environmental impact of these projects. Plaintiffs also allege that such permanent structures are prohibited by the Wilderness Act. Plaintiffs seek declaratory and injunctive relief. They are asking the court to find that the FWS violated the law and to order the FWS to remove the structures.

The Commission has voted to file an application with the court to intervene on behalf of the FWS. Any court order finding that the FWS violated federal law will impair the Commission's ability to restore the wildlife populations in the refuge and in other wilderness areas in Arizona. The Attorney General's Office anticipates that a motion to intervene will be filed by August 15th.

On August 7, 2007, the State filed its Motion to Intervene. Plaintiffs, in response to the State's motion, did not object to the State's permissive intervention, so long as the court imposes restrictions on the State's participation, such as page limits, requiring the State to file joint briefs with the other intervenors, and prohibiting the State from duplicating arguments made by the federal defendants. On August 29, 2007, the State filed a reply in support of its Motion to Intervene and opposed any restrictions on the State's intervention.

On August 20, 2007, the State also filed a response to plaintiffs' Motion for Temporary Restraining Order.

On August 30, 2007, the federal defendants filed an answer to plaintiffs First Amended Complaint.

The court has issued a scheduling order for the parties to file motions for summary judgment. The plaintiffs' motion is due December 14, 2007; the defendants' cross-motion and response is due February 1, 2008; plaintiffs' response/reply is due February 29, 2008 and defendants' reply is due March 14, 2008.

Plaintiffs have withdrawn their motion for a temporary restraining order so the status quo will remain until the court rules on the motions for summary judgment.

As for the motions to intervene filed by the State of Arizona and various conservation organizations, the court has indicated it will not likely rule on these motions prior to the time the

parties file their motions for summary judgment. The court, however, granted permission to the applicants for intervention to file motions for summary judgment. Also, the plaintiffs stated on the record that they have no objection to the State of Arizona intervening in the case.

On February 1, 2008, the State of Arizona, the federal defendants and conservation groups filed separate cross motions for summary judgment and responses to the plaintiffs' summary judgment motion.

On February 29, 2008, the plaintiffs filed a response to the cross motions for summary judgment. Defendants have until March 14, 2008, to file replies.

On March 4, 2008, the court granted the motions to intervene by the State of Arizona and the conservation groups.

On March 14, 2008, the State of Arizona and the other defendants filed replies to the plaintiffs' cross motion for summary judgment.

On April 2, 2008, the organization Public Employees for Environmental Responsibility ("PEER") filed a motion for leave to file an amicus curie brief in support of the plaintiffs' cross motion for summary judgment. At the same time, PEER lodged its amicus brief with the court clerk. Each defendant has filed a response opposing PEER's motion for leave. Not only is the motion untimely, the brief that PEER has lodged contains many additional factual assertions not included in the administrative record. This attempt to supplement the administrative record with new information violates the established law in this area.

The parties filed supplemental briefs on June 3, 2008, addressing the issue whether the Wilderness Act or the National Wildlife Refuge Improvement Act controls in this case. Oral argument on the cross motions for summary judgment took place on June 12, 2008. The court has taken the motions under advisement.

The court issued an order on September 5, 2008, denying the plaintiffs' cross motion for summary judgment and granting the defendants' and interveners' cross motions for summary judgment. Judgment in favor of the defendants was entered on September 11, 2008.

The plaintiffs filed a notice of appeal on October 29, 2008. The court entered a time schedule order on November 4, 2008. The plaintiffs (now appellants) filed an opening brief on February 13, 2009. The defendants and intervenors filed motions for thirty day extensions to file responsive briefs. The court granted the motions and extended the date to file the briefs to April 15, 2009.

The court issued an order on April 27, 2009, granting the plaintiffs an additional 21 days from the date of the order to file a reply brief. The reply is now due on May 18, 2009.

The Court of Appeals held oral argument on December 10, 2009 and has taken the case under advisement.

2. *Anderson v. Arizona Game and Fish Department, et al., C20089051.* Plaintiff Ralph Anderson seeks judicial review of the Commission's June 27, 2008 action revoking his licenses to take wildlife for ten years for taking big game in excess of bag limit (bull elk). Anderson had

previously had his hunting privileges revoked for five years for taking a Gould's turkey during closed season. The Court has denied Anderson's motion for a trial de novo. Anderson's counsel withdrew the issue about Commissioner William McLean chairing the bull elk hearing while he was a judge *pro tem* in Pinal County, when the State's brief demonstrated that McLean was not appointed a judge *pro tem* until four days after the hearing. **The Court has also dismissed individual Commissioners from the suit.** All briefs have been filed and we are awaiting a court ruling.

3. *Center for Biological Diversity v. Voyles et al., CV09-00543-JJM.* The Center for Biological Diversity ("Center") filed an action on September 24, 2009, against Director Voyles and the Department for alleged violations of the Endangered Species Act. The Center alleges that the defendants violated Section 9 of the Act when a jaguar was inadvertently captured in a leg-hold snare and was later recaptured and euthanized. The Center seeks declaratory and injunctive relief. The suit arises under the citizen suit provision of the ESA, which authorizes an action to enjoin the unlawful take of an endangered species.

On November 6, 2009, the Department and Director Voyles filed a motion to dismiss for lack of jurisdiction. The Center filed a response on December 9, 2009 and the Department and Director Voyles had until December 28, 2009 to file a reply, but the Court has granted an extension of time to file until January 18, 2009. **A reply in support of the motion to dismiss was filed on January 18, 2010. The parties are awaiting oral argument on the motion to dismiss.**

(1/11/10)

Lands Update
For the Arizona Game and Fish Commission
February 6, 2010
Phoenix, Arizona

FOREST SERVICE LAND AND TRAVEL MANAGEMENT PLANNING

The Forest Service published a Notice of Intent in the Federal Register announcing their intent to revise the forest plan and prepare an Environmental Impact Statement (EIS) under the 2000 planning rule, which allows the use of the 1982 planning rule. In addition to preparing an EIS, the Forests will be performing additional analyses including management indicator species and species viability. The Forests anticipate holding open house meetings to collect public input this spring, to have the draft EIS out for review this fall, and the final EIS completed by summer 2011.

Coconino National Forest

The Coconino National Forest Travel Management Rule Environmental Assessment was due out in January; we expect a draft out for review at any time.

Kaibab National Forest

The Forest is proceeding with Forest Plan Revision under the 1982 Planning Rule. The Forest recently invited the Department to participate in discussions of “priority needs for change” and desired conditions for mixed conifer and recreation. Results from these meetings will feed into the planning framework for a draft Kaibab Forest Plan Environmental Impact Statement which is slated to be out as early as February 2010. The Department remains actively engaged in all elements of Forest Planning as it relates to managing wildlife.

The Williams District plans on issuing their Environmental Assessment (EA) for the Travel Management Rule (TMR) in March. The Department expects that the Williams District Proposed Action will include Motorized Big Game Retrieval (MBGR) for elk. The Tusayan District plans to release their revised EA (after incorporating an alternative that looked at no motorized game retrieval) in April. Lastly, the north Kaibab is planning to release their EA sometime this summer. At a recent coordination meeting with staff from the North Kaibab Ranger District, we were updated that with respect to MBGR, the District plans (at this time) to allow for MBGR of elk and bison on the North Kaibab, but not mule deer. The District is aware that the Department will have significant concerns over this decision and its ramifications on mule deer hunters.

U.S. FOREST SERVICE

Four Forests Initiative

The US Forest Service (USFS) continues to work on an accelerated, landscape-scale forest restoration project on four forests (Coconino, Kaibab, Apache-Sitgreaves, and Tonto), aka the Four Forests Restoration Initiative (4FRI). The 4FRI calls for mechanical tree thinning and fire to restore at least one million acres of northern Arizona forests over 20 years, with restoration

costs covered by the wood product industry. The Department is working closely with its partners to ensure that wildlife habitat and forest restoration objectives are adequately addressed in the 4FRI. Controversy currently surrounds the insistence of restoration sideboards (such as a 16-inch tree diameter cap) by some groups in the collaborative. It is unclear how the collaborative group will handle its decision making process. At the January meeting, little resolution was found on controversial issues, but the Department agreed to participate in small working groups dedicated to resolving issues. Concurrently, the Forests are working on a proposal for initial project funding through the Forest Landscape Restoration Act which was part of the Federal Omnibus Bill passed earlier this year.

Apache-Sitgreaves National Forests

Department personnel began implementing actions to reduce the frequency, intensity and impacts of winter fish kills in several White Mountain Lakes on the Apache-Sitgreaves National Forest in Apache County. Biologists began collecting baseline data last winter on the limnological conditions under winter ice cover that have led to fish kills on Carnero, Crescent and Lee Valley lakes, and now have several recommendations to combat winter fish kills. One recommendation is to increase light penetration through the ice to increase oxygen producing photosynthesis from aquatic plants and algae. Initial investigations show that ice thickness has little impact on light penetration, however, snow pack on the ice does. Biologists snowplowed several test plots on Carnero Lake in early January. Initial monitoring is showing that the snowplowing does increase light penetration and results in higher oxygen levels under the ice, however, more work is needed to determine if it will be enough to offset overall oxygen depletion and prevent fish kills.

Coconino National Forest

The Department has been working closely with the Forest, Salt River Project, USFWS, and Bureau of Reclamation on a potential Little Colorado River (LCR) spinedace restoration project at CC Cragin Reservoir (a.k.a. Blue Ridge Reservoir). CC Cragin is a large reservoir in the middle of the habitat range for LCR spinedace, and poses risk to the species because it currently contains non-native warmwater fish. The reservoir will also be stocked with rainbow trout. CC Cragin is co-managed by SRP and the Forest, a relatively unique land situation with largely undefined decision authority for its management. SRP is planning to draw down water levels in the reservoir some time in 2011, which provides an opportune time for non-native removal and LCR spinedace restoration. The Department is working with all parties on an MOU which will lead to a Draft Environmental Assessment to do the fish removal. Given SRP's timeline for draw-down, there is a high degree of time sensitivity for completion of the MOU and subsequent NEPA compliance. Partners are seeking finalization of this MOU in March 2010.

Coronado National Forest

Pena Blanca Lake, which had been drained for mercury removal and remediation had been empty for over a year, but only took one day to fill up after a recent rainstorm in the Pajarito Mountains. There are currently no fish in the lake and no boat ramp.

Kaibab National Forest

The Department is working collaboratively with the North Kaibab Ranger District on an apache trout habitat restoration project in North Canyon. The goal is to restore historic barriers that provide habitat for an important apache trout refugium. The Draft Environmental Assessment is expected for release soon, and implementation is expected in Fall of 2010.

BUREAU OF LAND MANAGEMENT (BLM)

Burro Management

The Department recently drafted a letter for our director's signature, addressed to the state director of the BLM. In it, we requested that the BLM expand the scope of the current burro capture taking place in the Black Mountains from a target of 100 animals, to a minimum of 325 animals. Based on the most recent census data, it is estimated that removing only 100 animals will not bring the Black Mountain Herd Management Area (HMA) into compliance with appropriate management levels (aml).

AZ Strip Field Office

The Department may become a cooperating agency with the BLM on the development of a draft Environmental Impact Statement (EIS) for the proposed mineral withdrawal (2-year temporary segregation) on almost 1 million acres of federal lands near the Grand Canyon. Cooperating agency status is pending BLM format changes to an MOU that will be signed by both parties. In addition, the BLM has drafted a data sharing agreement that will be signed by all cooperating agencies within one document. This document is currently undergoing AG review.

The second cooperating agency meeting was held Jan 20th. USGS presented an outline of baseline studies they have been undertaking. USGS plans to have results for: 1) how much uranium is available in the withdrawal area; 2) the occurrence/extent of post mining waste from historic mining; 3) levels of naturally occurring uranium and possible contamination routes; 4) animal and plant species that may be affected (as well as exposure pathways); and 5) results from a seeps and springs investigation. In addition, USGS is doing ground water sampling throughout the proposed area, in areas of no mines, reclaimed mines, and mines on standby. The result of this ground water investigation will be the production of a ground water flow map. These results will be available mid-February.

The National Park Service (NPS) also presented an outline of the natural resource inventory that they will provide to the planning process. NPS has collected data as it relates to Threatened and Endangered species, special status species, general wildlife, caves/karsts, springs and seeps (and the vegetation and aquatic species associated with them), natural soundscapes, and ethnographic features. Much of this inventory is complete (except the ethnographic) and will be presented at a later date. In addition to the data collected by these two agencies the BLM and FS will be conducting a Socioeconomic Report, Cultural Resources Overview, A Proposed Mineral Resources Review, and a Biological Assessment (under contract with SWCA). All of this data and these reports will feed into the EIS planning. The next cooperating agency meeting will be held in Flagstaff, February 23rd and at that time draft alternatives for the EIS will be reviewed and discussed.

Hassayampa Field Office

The Bureau of Land Management is in the process of working with stakeholders and agencies in an effort to develop a functional, feasible recreation plan for the Table Mesa Road area. The draft map for the planning area is posted on the BLM website. The proposed plan/Final EA should be out for review in the near future.

Lower Sonoran Field Office

The Department began working with the Field Office on Travel Management Plan route evaluations for the Gila Bend Mountains area on July 20th. In August, route evaluations were completed for the Lower Sonoran Field Office, and a preferred alternative is being developed.

Havasu Field Office

The Department continues to coordinate closely with the Field Office in the development of subsequent implementation-level plans, including Travel Management Plans and associated route designations. Department personnel will be assisting in route evaluations from January 25 – 29 and March 1 – 5, 2010.

Kingman Field Office

The Department continues to coordinate closely with the Field Office in the development of subsequent implementation-level plans, including Travel Management Plans and associated route designations.

Phoenix District Office

The Department continues to coordinate closely with the Field Office in the development of subsequent implementation-level plans, including Travel Management Plans and associated route designations.

Yuma Field Office

The Proposed Resource Management Plan and Final Environmental Impact Statement have been released to the public. This plan has been endorsed by the BLM Arizona State Director and is currently being reviewed by the Washington Office; the Notice of Availability for the Record of Decision is scheduled to be published in the Federal Register on January 29, 2010. The Department continues to work with BLM on the development of subsequent implementation-level plans, including the La Posa Travel Management Plan. Department personnel are planning to participate in Travel Management Plan route evaluations for the Cibola-Ehrenberg areas which have been placed on hold until 2010.

Tucson Field Office (TFO)

The final Middle Gila Travel Management Plan was due out to the public in the fall of 2009 but remains under review at the State office. According to the TFO, American Recovery and Reinvestment Act projects have taken staff priority over planning efforts.

Safford Field Office (SFO)

The Department reviewed and commented on the Gila Unit Travel Management Plan for the Safford Field office. The alternatives for this plan were developed in cooperation with the Department. The Department supports Alternative C as the alternative which is most aligned with the Department's Mission. However, The Department is concerned with the status of

riparian areas within the Gila Unit. Several routes, which were identified to have sensitive elements or environmental concerns, and closed in Alternative B, were left open without adaptive management or mitigation on Alternative C. The Department recommended additional management or mitigation for routes in riparian and xeroriparian areas to ensure that motorized access is not impacting the important wildlife habitat that exists there. The Department also recommended incorporating an adaptive management component on all routes which follow or intersect riparian and xeroriparian watercourses which would include monitoring of the *ecological functions of the watercourses*, as well as the physical or hydrological function of the watercourses, and a regular review process.

BLM NATIONAL MONUMENTS & CONSERVATION AREAS

Ironwood Forest National Monument (IFNM)

The Tucson Field Office continues to work on the development of a proposed final Resource Management Plan and Environmental Impact Statement for the Ironwood Forest National Monument. This document was due out to the public for comment in the fall of 2009 but currently remains under BLM State Office and Washington Office administrative review. American Recovery and Reinvestment Act projects have delayed implementation of this plan.

Grand Canyon-Parashant National Monument / Vermillion Cliffs National Monument

On May 9, 2008, the Records of Decision and Approved Resource Management Plans (RMPs) for the Grand Canyon-Parashant and Vermillion Cliffs National Monuments were released to provide guidance for BLM-administered lands in northern Arizona. The final plan includes a series of unique route networks and designations. In *Center for Biological Diversity v. U.S. Bureau of Land Management*, No. CV 09-8011-PCT-PGR (US Dist. Ct. AZ), plaintiff CBD challenges the RMPs, alleging that BLM and FWS have failed to comply with NEPA, FLPMA, and the Endangered ESA by refusing to incorporate actions necessary to protect public land and endangered and threatened species from adverse impacts of excessive off-road vehicle use, livestock grazing, and the use of lead ammunition in their land and wildlife planning for the Monuments. A related case, *Wilderness Society et al. v. BLM, et al.*, No. CV 09-8010-PCT-PGR (US Dist. Ct. AZ) also challenges the RMPs by alleging violations of NEPA, FLPMA, NHPA and presidential proclamations, and seeking an injunction to close primitive roads and trails to motorized use.

The Court has granted the application of the National Rifle Association to participate in the case as an intervener. Safari Club International has filed a motion to file briefs as an amicus curiae. The Arizona Game and Fish Commission has voted to file a motion to appear in the case as amicus.

On January 25, 2010 plaintiff CBD, defendant BLM and Intervener National Rifle Association filed a joint stipulation to continue the February 8, 2010 scheduling conference for 30 days in order to determine whether they will engage in extended settlement negotiations. In response, the Court on January 29 vacated the February 8 scheduling conference, and ordered the parties to file a joint report of the status of their negotiations by March 8. The Court further ordered that if the parties determine that further settlement talks will not occur, they shall request the Court to re-set the scheduling conference.

Agua Fria National Monument

The Proposed Resource Management Plans and Final Environmental Impact Statement for the Agua Fria National Monument and Bradshaw-Harquahala Planning Area were released on August 8, 2008. The Department continues to work with the Field Office in the development of subsequent implementation-level plans, including Travel Management Plans and associated route designations.

Sonoran Desert National Monument (SDNM)

The BLM continues to develop its preliminary preferred alternatives for the draft Resource Management Plan in association with the Lower Sonoran management area to be released for public review. The Department continues participating to proactively develop comments throughout the planning process.

Las Cienegas National Conservation Area (LCNCA)

The Department continues to monitor the reestablishment of black-tailed prairie dog populations on BLM (site #2) and State Trust Lands (site #1) within the LCNCA. Most recently a Sky Island Alliance volunteer saw 5 prairie-dogs at release site #1. Prior to that no prairie dogs had been seen at that site since early December, when 15 were seen at site #1 and 13 at site #2. Actual population sizes are higher than what is visible during any survey because half or more of the population can be underground at any one time, and the number underground is higher during winter. Monthly monitoring during spring will continue to assess status and population changes at each site, as we expect some winter mortality, an increase of reproduction occurring at release site #1, and the possibility of reproduction at release site #2. The Department will continue to investigate the possibility of a clearing a 3rd release site this fall. The 3rd release site would also be on BLM lands within the LCNCA.

NATIONAL PARK SERVICE

Department personnel met with representatives from the National Park Service, Arizona State Parks, City of Clarkdale, the Audubon Society (Tice Suplee), Nature Conservancy, US Geological Survey, US Fish and Wildlife Service, and Natural Channel Design, Inc. to discuss restoration plans that would increase plant and animal diversity in Tavasci Marsh. Currently, the 110 acre marsh is dominated by a cattail monoculture that has successfully outcompeted other resident plant species. Limited plant diversity has consequently prevented the marsh from supporting the degree of wildlife diversity that the Technical Advisory Committee believes to be possible. Discussions involved how to address varying flows of water through the marsh (Pecks Lake discharge), outlet control challenges (beaver activity and failed weirs), Improvements to Public Access, and strategies to support greater plant community diversity. Prior to implementing any proposed actions, an EA will be developed and approved. The Department was invited to participate on the Technical Advisory Committee in the development of this plan of action.

GENERAL UPDATES

AZ Sportsman for Wildlife Conservation Memorandum of Understanding (MOU)

The MOU with Arizona Sportsmen for Wildlife Conservation was signed on January 7th and the Collection Agreement to transfer \$30,000 of match funds for the North Kaibab Westside pinyon-juniper project was signed on January 11th. Initial discussions between this group's representative, the Department, and the Kaibab National Forest took place on January 21st. The next step will be to start looking for the 10 proposed treatment areas, though field evaluation will likely not be possible for several months due to snow.

City of Flagstaff

Department staff continued their participation as core staff for the ongoing Update of the Flagstaff Area Regional Land Use Plan. The Department assisted with a Citizen's Advisory Committee (CAC) retreat held in December. At the request of a CAC member and Coconino County, the Department has begun to investigate the feasibility of developing a Conservation Lands System (CLS) for the greater Flagstaff area that will support the Plan Revision. In collaboration with Coconino County Community Development we have begun to identify local experts for a potential Science Advisory Team for the CLS and to locate existing resources from prior planning efforts. The Department expects to make an initial presentation about the scope of a CLS for the greater Flagstaff area at the CAC's April meeting.

Maricopa County Dept. of Transportation

Hidden Waters Parkway Corridor Feasibility Study

The Department continues to participate on the Technical Advisory Committee for the parkway Corridor Feasibility Study. MCDOT is evaluating the preferred alignment for a future parkway. The proposed parkway would provide a north/south transportation corridor between I-10 and Gila Bend similar to the Old US 80 alignment. A few of the transportation development issues in the area involve impacts to local agricultural operations and housing developments, archaeological and historical resources along the Gila River, impacts to the Gila River near the Gillespie Dam crossing, impacts to the Department's Gila River Wildlife Area Complex, and impacts to a wildlife linkage between the Gila Bend Mountains, Buckeye Hills and the Sonoran Desert National Monument. Many questions have been raised to MCDOT on the purpose and need for the parkway. MCDOT has responded that the purpose and need was established during the regional and statewide framework studies; and it is no longer a question of need, but now a question of the specific transportation corridor alignments. Department personnel will attend the next Technical Advisory Committee meeting on February 3, 2010.

Maricopa County Ordinances P-28 and P-27

The Maricopa County Air Quality Department has scheduled a public comment workshop for Feb 4, 2010 for the Ordinances P-27 and P-28. On December 22, 2009 the Department sent comments to the Maricopa County Air Quality Department on the draft revision of Maricopa County Ordinance P-28. The Department did not receive a response for the letter and the revision remains unchanged. The Department will continue to work with the county to find an amiable solution to the complex issue. On January 12, 2010 the Arizona Department of Environmental Quality (ADEQ) held a meeting in Casa Grande concerning the designation of the PM₁₀ non-attainment area (PM₁₀NAA) for Pinal County. In the past several months there

have been several cases of the emissions exceeding the National Ambient Air Quality Standards necessitating the designation. Areas that fall within this designation will be regulated more stringently with the goal of reducing PM₁₀ emissions in a calibrated manner. The Desert Wells Multi-Use Area currently falls within the proposed boundaries of the Pinal County PM₁₀NAA. This area is managed by the Department, Arizona State Land Department, the leasees, and other stakeholders and has the distinction of being one of the few areas with designated routes on State Trust Land. Desert Wells provides hunting and OHV recreation opportunities that would both be impacted if included in the PM₁₀NAA. The Department has drafted a letter to ADEQ detailing the concerns of the designation boundaries and the absence of scientific data to include certain areas including Desert Wells.

Northern Arizona Shooting Range (NASR)

The Department is currently reviewing the recently completed archeological surveys at the proposed Cochrane Hill. EcoPlan (consultant) is completing the Winona archeological survey and will provide it to the Department for review. Pending approval by the Joint Committee for Capital Improvement, further due diligence investigations will be undertaken at the Cochrane Hill site and Title report, ALTA survey, Geotechnical survey, and aerial photography mapping are being coordinated for the 160-acre Foster Ranch deeded property. The NASR Team will meet on February 3rd, to discuss recent developments and coordinate a Department “plan of attack” for the above actions. The Department continues to coordinate with the Coconino National Forest regarding the proposed Willard Springs Land Exchange and pending decisions on the Agreement To Initiate (ATI) the National Environmental Policy Act process. Additionally, the Forest will undertake a review of the final ATI provided to the Department on September 18th, 2009.

Renewable Energy Development

Solar

Hualapai Valley Solar Plants

The Arizona Power Plant and Line Siting Commission unanimously approved plans for the proposed Hualapai Valley Solar project in Mohave County. During the course of the hearing and deliberations, the project proponent conceded that if any listed, proposed, candidate or sensitive species was identified, the proponent would consult with the Department and/or USFWS and adhere to our species guidance. A temporary 3,000 acre-ft/year water-extraction cap was placed on the facility, until it makes a complete transition to effluent water produced by the soon-to-be constructed Kingman Wastewater treatment plant. According to testimony, an agreement has been reached between the proponent and the City of Kingman for the sale of effluent water to the project proponent.

Wind

British Petroleum’s White Hills/Mohave Wind Energy Project

The Department continues to coordinate closely with the BLM Kingman Field Office, project proponent, and environmental consultants producing the Environmental Impact Statement in compliance with NEPA for the White Hills Wind Energy Project. Department is still reviewing a proposed memorandum of understanding that will formalize its cooperating agency status in the process.

Navajo County

Navajo County is in the process of initiating the development of a Wind Ordinance to facilitate the County's special use permitting process. The County expressed an interest in the Department's review of the draft Wind Ordinance as well as the potential to incorporate some of the recommendations from the Department's Wind Guidelines document.

Rosemont Copper Project

The Department continues to participate closely with the Coronado Forest and with the cooperating agencies on the Rosemont Copper Project. The Department is particularly concerned about the potential effect on the hydrology of the area resulting from the hydraulic sink caused by the open pit, specifically any potential affect on flows of Cienega Creek and Sonoita Creek; both of which are perennial waters with high wildlife values including several threatened and endangered species. The Department's Coalmine Spring property is part of the Sonoita Creek watershed which could be affected also.

Wildlife Linkages/Corridors

Coconino County

The Department and Coconino County have scheduled a second stakeholders' workshop to be held in Flagstaff on March 2nd 2010 for the County Wildlife Corridors project. This project is part of the Department's statewide effort to define and model wildlife corridors on a county by county basis and develop reports that will be useful to local and regional planners. Department staff is working with the statewide steering committee of the Arizona Wildlife Linkages Workgroup to guide the Coconino County effort.

Regional Transportation Authority Wildlife Linkages Working Group (RTA)

The Regional Transportation Authority is a government entity that manages the \$2.1 billion, 20-year RTA plan, for Pima County approved by voters in 2006. The Department has a voting seat on the working group and participates monthly in reviewing transportation project proposals that benefit wildlife by: 1) restoring regional connectivity between habitat blocks, 2) maintaining existing permeability between habitat blocks, or 3) general research regarding transportation and wildlife. Approximately \$45 million dollars was originally allocated to wildlife projects. No substantive projects were proposed or evaluated at this meeting.

Pinal Wildlife Linkages Stakeholder Workshop

Pinal County is next in line for a Wildlife Linkages Stakeholder Workshop. The workshop is scheduled to be held on May 5th in Florence and will be hosted by the County. The effort will build on and refine the results of the 2006 Arizona Missing Linkages Report at the county scale, helping to identify large habitat blocks in Pinal County, and define important connectivity between them.