

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, October 14, 2011
Arizona Game and Fish Department
5000 West Carefree Highway
Phoenix, Arizona 85086

PRESENT: (Commission)

(Director and Staff)

Chairman Robert R. Woodhouse
Vice Chair Norman W. Freeman
Commissioner Jack F. Husted
Commissioner John W. Harris
Commissioner Robert E. Mansell

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

Chairman Woodhouse called the meeting to order and lead those present through the Pledge of Allegiance. The Commission introduced themselves and Chairman Woodhouse introduced the Director and the Director's staff. Commissioner Harris was present via telephone conferencing. This meeting followed an agenda revision #1 dated October 12, 2011.

Chairman Woodhouse requested a moment of silence for Louisiana Wildlife Officer, Sgt. Paul Stuckey, who was recently killed in the line of duty.

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Awards and Recognition

Director Voyles presented Service Pin Awards to the following Department employees:

35 Year Service Pin

Cathy Laberge

30 Year Service Pin

Russ Richins

Joe Hall

Tim Baumgarten

25 Year Service Pin

Annie Houser

Bob Henry

Melanie Alcaraz

20 Year Service Pin

Dave Weedman

Mark Stewart

Mark Severson

Sabra Schwartz

Joe Sacco

Don Mitchell

Basil Coffman

Rosie Bernal

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1. Legislative Engagement and State and Federal Legislation

Presenter: Anthony Guiles, Legislative Liaison

Mr. Guiles briefed the Commission on the current status of selected state and federal legislative matters. The Department provides the Commission with regular monthly updates and provided informational materials at this meeting (also available to the public). The briefing included the following updates:

The Department has been working on several internal legislative proposal categories for 2012 including the AGFD Budget, AGFD Omnibus, Access Pilot Program, OHV Decal, Watercraft Registration, and AGFD/AGFC Sunset Bill. Mr. Guiles briefed the Commission on the following:

AGFD Omnibus

- Law Enforcement
 - Brake Light Cutouts: Currently it is a violation of A.R.S § 28-921 to operate a vehicle on a highway without lights. Seeking legislative exemption would resolve the Department from being in violation of state law. Currently this issue impacts the ability of Department law enforcement officers to conduct nighttime and covert patrols
 - Dog Law: This statutory change would address conflicts in rural and urban areas between big game and domestic and feral dogs. This would be similar to A.R.S. § 3-1311 in which dogs killing or chasing livestock are the liability of the dog owner
 - Wildlife Interstate Compact: This compact would grant wildlife officers the ability to enforce wildlife violations in adjoining states (Utah and New Mexico). Currently, the Department is a partner to the Colorado River compact with California and Nevada. This would authorize New Mexico and Utah wardens the same wildlife enforcement authority on the Arizona side within 25 miles from the state line.
- Administrative
 - Marketable Bighorn Parts: Amend A.R.S. § 17-371 (transportation, possession and sale of wildlife parts) by eliminating clause E.2 that states "*It is unlawful to sell the heads, horns, hides, feet or skin of bighorn sheep taken on or after October 1, 2005, but the Department may sell heads, horns, hides, feet or skin of bighorn sheep that were illegally taken and confiscated by or donated to the Department.*" This change would allow anyone to sell inedible parts of bighorn sheep if it had been legally acquired as is currently legal for all wildlife other than migratory bird species, which are subject to federal regulation
 - Procurement Exemptions: Current procurement code regulations do not take into account the specific, unique functions and operations (e.g. fish hatcheries, shooting ranges) of the Department. This could provide flexibility in contract negotiations and reduce costs using local sourcing options, and savings from labor, fuel, shipping costs, travel time and vehicle use
 - Retail Sales: Investigate statutes associated with allowing the Department to expand the authority to provide material goods and services at Commission-owned properties, Department offices and events
 - Youth Definition: Clarify definitions of youth used for hunting, fishing and trapping. May include changes to statute, rule, licenses etc.
 - Resident/Non-Resident Definition: Clarify definition
 - Hunter Access Pilot Program: Draft legislation to allow the Department to create a pilot program for access purposes
 - OHV Program: Amend current OHV legislation for the purposes of addressing issues related with: Resident/Non-resident status, Decal program, and Fund/Administrative issues

- Watercraft Registration Program: Propose legislation language change that removes all residency distinctions in registration fee sections of Title 5; Create legislative authority in statute for a Non-Resident Boating Safety Infrastructure Fee that authorizes the Commission to establish a fee amount in Rule.

Mr. Guiles stated that the Department would like to pursue drafting the AGFD Omnibus bill with the understanding that if things become complicated with too many other issues, that this bill may have to be put aside depending on how the legislative session proceeds.

The Commission was in consensus to direct the Department to move forward with drafting the AGFD Omnibus bill.

AGFD Sunset Review

The AGFD Sunset Review Committee hearing will be this Monday. A recommendation will come out of this committee meeting and the Department is hopeful that it will be a 10-year extension of the Department. This will also be a legislative bill that will be run in 2012.

Renewable Energy

Revise existing statutes for:

- ACC: ARS 40-360 Definitions – Change definition of “Plant” to include all electric generation of 50MW or more
- County Permitting: ARS 49-112, Section D – Add language that requires notification to the Arizona Game and Fish Department
- City Permitting: ARS 9-468, Section A1 – Add language that requires notification to the Arizona Game and Fish Department.

Commissioner Freeman stated that a 50MW project is huge and he would like to have an in-depth discussion about this issue. He is not as concerned about a 100MW hydroelectric or nuclear plant as he is about a 100 MW solar or wind energy plant, and asked the Department to look at a tiered approach depending on the type of energy.

The Commission was in consensus that this be a major topic for discussion at the November Commission Workshop.

Commissioner Freeman asked about possible federal legislation related to renewable energy issues and if it will be too late to initiate legislation after the November workshop.

Mr. Guiles stated that it will not be too late and he will create a folder to be used as a place holder in case the Commission decides to look towards legislation on this issue.

Rotenone Review Advisory Committee

The Department continues to meet with the Rotenone Review Advisory Commission. The next meeting is November 1st. The Subcommittee presentations and draft reports are due with the final report due December 31st.

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2. Shooting Sports Activities Briefing

Presenter: Jay Cook, Shooting Sports Branch Chief

Mr. Cook provided the Commission with a Power Point presentation highlighting several items in the Shooting Sports Activities Briefing that was provided to the Commission prior to this meeting and was available to the public. The report included shooting programs and shooting range development statewide and covered activities that occurred since the last regular Commission meeting. This briefing is part of the Department's ongoing commitment to provide the Commission with updates on a regular basis.

The Commission discussed potential plans for a residential development located three miles from the Northern Arizona Shooting Range, and directed the Department to ensure that homebuyers, both now and into the future, would know they are buying near a shooting range. This could be done through the property deed CC&Rs or some other method.

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3. Information, Education and Wildlife Recreation Activities Briefing

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

Mr. Gray provided the Commission with a written Information, Education and Wildlife Recreation 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 last regular Commission meeting and was provided in fulfillment of the Department's commitment to brief the Commission on a regular basis.

Additionally, Mr. Gray provided an update on Goal #12 of the Director's Goals and Objectives, Simplify the Hunt and Fish Regulations, using a Power Point presentation. The Department is currently on target to have a recommendation to the Commission by the December due date.

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Meeting recessed for a break at 9:35 a.m.

Meeting reconvened at 9:54 a.m.

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3A. Request for the Commission to Approve the Agreement with Bryson Ranch for the purpose of constructing and operating an equestrian trail through a small portion of the Page Springs Fish Hatchery property, Yavapai County, Arizona.

Presenter: Josh Avey, Habitat Branch Chief

Mr. Avey briefed the Commission using a PowerPoint presentation on a request by Bryson Ranch, LLC (Bryson Ranch) for issuance of a right-of-way for the purposes of constructing and operating an equestrian trail through a small portion of the Page Springs Fish Hatchery property. If approved,

the Agreement would serve to grant Bryson Ranch a two-year, three-foot wide by 1,300 foot long area of access across a portion of land that is not being used by the hatchery. The trail would leave the winery crossing through the Hatchery property and include a short educational blurb about the Hatchery. The initial agreement period for the equestrian trail is two years. The Department has determined that the equestrian trail will not interfere with the operation of the Page Springs Fish Hatchery and will benefit the Commission and the Department by presenting an outreach opportunity and support positive relationships with private land owners in the area. This is consistent and compatible with the operation of the Page Springs Fish Hatchery.

Mr. Avey's presentation included the following additional information:

Bryson Ranch, LLC Obligations:

- Enter into a two-year Right of Entry agreement to operate and maintain the trail on Commission-owned property
- Pay for annual ROW agreement fee
- Fund the construction of the trail
- Maintain the property in a manner conducive to safe use by the public, and in a condition that does not devalue the property
- Carry insurance on Commission-owned property
- Public shall have equal and reasonable access to the trail across Commission-owned property as constructed and maintained by Bryson Ranch

Trail Construction:

- Construction of the trail will entail clearing native mesquite and hackberry trees to establish a 3-foot wide trail
- Environmental Assessment Checklist completed
- Cultural Resources Survey planned.

Public Comment

Rod Snapp, Owner, Javelina Leap Vineyard and Winery, addressed the Commission in support of the Bryson Ranch request. In regards to Commission concerns regarding parking accessibility for the public, he has at least two acres for parking and there are no fees or requirements to park.

April Nicosia-(Bryson), Business Manager, Bryson Ranch, addressed the Commission on behalf of the Bryson Ranch request. The request is a commercial venture for the Ranch, however, it will benefit the Department as well because of the educational benefit to those who come out to use the trail.

Commissioner Husted asked the Department to assist in the educational effort with signage.

Motion: Husted moved and Harris seconded THAT THE COMMISSION VOTE TO APPROVE THE AGREEMENT WITH BRYSON RANCH FOR THE PURPOSE OF CONSTRUCTING AND OPERATING AN EQUESTRIAN TRAIL THROUGH A SMALL PORTION OF THE PAGE SPRINGS FISH HATCHERY PROPERTY, YAVAPAI COUNTY, ARIZONA, AND TO AUTHORIZE THE DIRECTOR, AS SECRETARY TO THE COMMISSION, TO EXECUTE

THE AGREEMENT AS APPROVED OR RECOMMENDED BY THE OFFICE OF THE ATTORNEY GENERAL.

Vote: Unanimous

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4. 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 (attached) was provided to the Commission prior to this meeting and was available to the public. 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 last regular 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.

Mr. Avey provided an update on the Sonoran Desert National Monument (SDNM) road closures. The following historical information was provided:

- November 14, 2007
 - BLM/AGFD Master Memorandum of Understanding (MOU) Approved
 - BLM agrees to coordinate with the AGFD on any permit system or access restriction for hunters.
- January 23, 2008
 - Letter from BLM Phoenix District Manager to AGFD Region IV Supervisor. Outlines need for planned temporary closure to motorized vehicles in Butterfield/North Maricopa Mts. Expect closure to extend for 2-3 years with a staged re-opening to restore public access (evaluating areas for re-opening on a yearly basis)
- February 8-15 2008
 - Commission votes to draft letter to BLM State Director expressing concern with the process leading to closure of northern third of SDNM to all vehicular entry
- February 15, 2008
 - Letter from Commission Chair to Director of BLM, AZ Office identifying SDNM road closures as latest example of inadequate coordination
- May 14, 2008
 - Notice of temporary closure of 88 miles of un-maintained roads.
 - Expected to be temporary (2-3 years) while rehabilitation occurs.
- August 2008
 - Western Watersheds Project files suit challenging livestock grazing within the monument.
- February 2010
 - Settlement stipulates roads will remain closed until Resource Management Plan (RMP) is completed.

- December 15, 2011
 - RMP will be completed.

The Department has been a cooperating agency throughout the EIS process for the RMP. Currently the draft EIS is out for public comment and the Department is working through what has been proposed as the RMP. There are restrictions on dispersed recreational shooting throughout the SDNM in contrast to what has been written in the RMP as it being a compatible use on portions of the Monument, so the Department is providing comment that there should be continued opportunity for dispersed recreational shooting. This adheres to the Commission's previous direction to the Department to advocate on behalf of dispersed recreational shooting. However, even though the Department has been a cooperating agency, it has not been able to maintain dispersed recreational shooting on any of the Monuments where RMPs have been done.

The Commission discussed that the Department, as a cooperating agency at the table, is providing input that is continually dismissed.

Director Voyles discussed with the Commission that the Department and Commission are not alone in their concerns to protect our hunting heritage on public lands. There are a number of avenues, administrative, political and legal, that will have to be explored. But the first step is through the administrative process of the EIS and maintaining the Department/Commission's standing through comments. Our comments also provide a position that other partners that share our concerns can utilize as they move forward and try to address the issue.

Mr. Avey provided maps and discussed with the Commission the 2008 Temporary Route Closures and the 2011 Draft SDNM Route Designations.

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4A. Presentation on communication and marketing strategies for the Department's Species and Habitat Conservation Guide and Geospatial Planning Tool.

Presenter: Josh Avey, Habitat Branch Chief

Mr. Avey provided a PowerPoint presentation that included information on the Department's efforts to develop a robust and effective communication and marketing strategy for the Department's most recent State Wildlife Action Plan products (Species and Habitat Conservation Guide and Geospatial Planning Tool). The Department has partnered with a public relations firm to assist in the development of a strategic communication plan and marketing strategy. Mr. Avey provided an overview of Department efforts and products to date including: Stakeholder Engagement and Feedback, Internal Communication Strategies, Key Messaging, HabiMap™ Logo and Tagline, and proposed Communication and Marketing Strategies.

Commissioner Husted questioned the tag line underneath the logo that read "Mapping wildlife conservation potential to support sustainable growth," and suggested not using the term "sustainable growth" because in some areas those words are inflammatory. Commissioner Husted suggested consulting with the Department's Human Dimension person, Loren Chase, on things like this.

Mr. Avey stated that the tag line will be removed.

Motion: Freeman moved and Mansell seconded THAT THE COMMISSION VOTE TO APPROVE THE DEPARTMENT'S PROPOSED COMMUNICATION PLAN AND MARKETING STRATEGY INCLUDING THE ADOPTION OF THE HabiMap™ LOGO AND PUBLIC LAUNCH TIMELINE ANTICIPATED FOR NOVEMBER 2011.

Vote: Unanimous

Director Voyles noted that Commissioner Husted's suggestion will be an action item, to involve Loren Chase in analyzing connotations among the public with anything the Department does with tag lines.

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4B. Request Commission Approval for the Acquisition of the Triangle Bar Ranch in Pinal County, Arizona, and to Enter into Associated Right-of-Way, Well Use and Lease Agreements, Contingent on Approval of the Trustees for the Use of Natural Resource Damage Assessment Funds for Purchase of State Land Grazing and Agricultural Leases.

Presenter: Josh Avey, Habitat Branch Chief

Mr. Avey briefed the Commission using a PowerPoint presentation that included maps and photos of the Triangle Bar Ranch property. The property is located along the Lower San Pedro River between the towns of Dudleyville and Mammoth, Arizona. The property consists of four large disjunct parcels totaling approximately 1012 deeded acres. The subject property also holds 36,360-acres of State grazing and agricultural leases. The acquisition will include approximately 250 acre/feet of surface water rights and several wells. Three of the four deeded parcels lie predominantly in the flood plain of the San Pedro River. Portions of the property lie immediately adjacent to the ASARCO mitigation properties located on the east side of the San Pedro River.

This acquisition is focused on the protection and recovery of species listed under the Endangered Species Act by protecting critical riparian habitat along the Lower San Pedro River. The Triangle Bar Ranch property holds significant wildlife values including federally listed threatened and endangered species such as the southwestern willow flycatcher, western yellow-billed cuckoo and loach minnow will directly benefit from this acquisition. Gila topminnow, Spikedace, desert pupfish, and Chiricahua leopard frog could also be positively affected. Acquisition of the Triangle Bar Ranch would also be an important contribution to the mounting assemblage of protected areas along the San Pedro River. These include properties owned or managed by TNC, San Carlos Reservation, State Trust Land, BOR, BLM, and the ASRCO mitigation properties.

The total cost of the acquisition will be \$5,262,000.00, including the State land leases. Fish and Wildlife Service Section 6 Grants will account for \$2,025,000.00 and Heritage funds will be used for the remaining \$2,728,000.00 of the deeded land and water rights purchase. Because of its proximity to the ASARCO properties, the Department has requested the use of Natural Resource Damage Assessment Funds to acquire the State leases in the amount of \$509,000

The landowner is withholding a portion of the ranch that includes his personal residence. He will need a right-of-way agreement allowing him access to this property. The right-of-way will be for the duration of time that he or his immediate children occupy the residence. It will automatically terminate at such time that none of them occupy the property. The residence also uses water from a well that may be located on the deeded acreage that we are acquiring, an ALTA survey is being conducted that will confirm this. If the well is on the property that we are acquiring, it will be necessary to enter into a well use agreement to provide the landowner with water for domestic use only. The agreement will be for the same duration as the right-of-way agreement above. If the well is located on the withheld property, no well use agreement will be necessary. A lease back arrangement may also be necessary to allow the resident ranch hand to remain on the site temporarily to run the cattle operation associated with the grazing and agricultural leases.

Chairman Woodhouse asked how the cost was determined for the acreage, the water rights, and the grazing lease.

Mr. Avey stated that this has been through the standard appraisal process and that it has been through the process three times, so the Department is confident that the price is fair market value.

Commissioner Harris requested that the language in the potential well use agreement “to provide the landowner with water for domestic use only” be changed to “the Department will continue to allow the landowner use of the well for domestic use only.”

Commissioner Husted requested that the Department ask the landowner to complete the work on the history of the ranch and to provide that history for the State of Arizona.

Motion: Husted moved and Freeman seconded THAT THE COMMISSION VOTE TO APPROVE THE ACQUISITION OF THE TRIANGLE BAR RANCH IN PINAL COUNTY, ARIZONA, AND TO ENTER INTO ASSOCIATED RIGHT-OF-WAY, WELL USE AND LEASE AGREEMENTS CONTINGENT ON APPROVAL OF THE TRUSTEES FOR THE USE OF NATURAL RESOURCE DAMAGE ASSESSMENT FUNDS FOR THE PURCHASE OF STATE LAND GRAZING AND AGRICULTURAL LEASES, AND TO AUTHORIZE THE DIRECTOR, AS SECRETARY TO THE COMMISSION, TO EXECUTE THE AGREEMENTS AS APPROVED OR RECOMMENDED BY THE OFFICE OF THE ATTORNEY GENERAL; AND THAT THE DEPARTMENT ASK THE LANDOWNER TO COMPLETE THE HISTORY OF THE RANCH AND TO PROVIDE THAT HISTORY TO THE STATE OF ARIZONA; AND THAT THE LANGUAGE IN THE WELL USE AGREEMENT BE CHANGED TO “ALLOW THE LANDOWNER TO CONTINUE USE OF THE WELL FOR DOMESTIC USE ONLY” INSTEAD OF “THE DEPARTMENT WILL PROVIDE THE LANDOWNER WITH WATER FOR DOMESTIC USE ONLY.”

Vote: Unanimous

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5. Monthly Update on Recreational Access Issues within Arizona.

Presenter: Al Eiden, Landowner Relations Program Manager

Mr. Eiden provided the Commission with an update using a PowerPoint presentation. Since the workshop held on April 16, 2011, the Department continues to work on recreational access issues and challenges. The following was included in the update:

Department's Current Access Program:

- Respect Program - Worked with 400 different landowners over the past 5 years
- Adopt-A-Ranch Program - Conduct 30-40 projects a year that bring landowners and recreational users together to form a relationship
- Access Program - Ensures or Maintains around 3 million acres for recreational access

Director's Goals and Objectives #3 Quarterly Update:

- Received funding through Farm Bill Program to hire GIS Specialist
- Provided training at Department School
- Creating/Updating GIS layer for current Access program
- Ongoing collection of existing access routes
- Initial analysis of available Recreational Access by GMU

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6. Petition to Lock a Gate on State Trust Land Approximately Fifteen Miles Northeast of Bonita, Arizona

Presenter: Al Eiden, Landowner Relations Program Manager

Mr. Eiden briefed the Commission on the request by Roger Warner to lock a gate on State Trust Land located approximately fifteen miles northeast of Bonita, Arizona. Roger Warner, Eureka Springs Ranch, requested a closure to vehicular access at a gate on State Trust lands in Graham County; the gate is located in Game Management Unit 32. The request is to lock a gate to prevent recreational users who have traversed over 11.5 miles of 4-wheel drive road from continuing down a steep 1.5 mile two-track road only to discover locked gates at the bottom of the hill on the private property behind the ranch headquarters. Landowner Respect Program signs have been tried, but there continues to be a problem with recreational users who think they can find a way out through the headquarters or other developed deeded parcels.

The issue relates to wildlife management in that the other option for Mr. Warner to correct this problem would be to lock another piece of his deeded property approximately 2.5 miles to the south of the proposed closure on the only access road into the area. If this other gate is locked it would deny recreational users vehicular access to over 9 sections of State and Federal lands known as the Eureka Black Hills and Paddy River. Alternately, the requested closure will not deny any access to Federal lands or to the majority of State Trust lands within this area. The only vehicular access denied will be the 1.5 mile two-track road behind private property and ranch headquarters.

If the proposed closure to vehicles is granted, non-motorized access by sportsmen and other properly permitted recreationists will continue to be allowed at the locked gate. Regional

personnel and the Arizona State Land Department support this closure for natural resource protection.

Motion: Freeman moved and Husted seconded THAT THE COMMISSION VOTE TO APPROVE THE REQUEST TO LOCK A GATE ON STATE TRUST LAND LOCATED APPROXIMATELY FIFTEEN MILES NORTHEAST OF BONITA.

Vote: Unanimous

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7. Request for the Commission to Approve a Memorandum of Understanding with Sonoran Solar Energy to conduct research associated with their solar development projects.

Presenter: Sharen Adams, Acting Wildlife Contracts Branch Chief

Ms. Adams briefed the Commission on a proposed Memorandum of Understanding (MOU) with Sonoran Solar Energy that will allow for a mutually beneficial working relationship to develop wildlife research projects. Sonoran Solar has identified wildlife research and monitoring needs as an important component of its alternative energy projects within Arizona and has a need for wildlife expertise to work with engineers and planners to investigate wildlife resource projects. The Department has the expertise and experience to help Sonoran Solar make informed decisions about wildlife resources. Therefore, this MOU will benefit wildlife by improving and expanding the information available for making wildlife resource decisions relative to solar development. This agreement will allow collaboration, cooperation, exchange of expertise, labor, materials and fund the Department in continued efforts to conserve and enhance wildlife habitat in the southwest.

Mike Engraldi, from the Department's Wildlife Contracts Branch, addressed the Commission in support of this agreement. Mr. Engraldi has been working diligently to develop a working relationship with Sonoran Solar and its parent company.

Commissioner Husted requested to be kept informed of these activities as they develop such as the scope of work and funding agreements.

Commissioner Freeman agreed and stated that he wanted to see the Department continue to use the best science available and that the Department/Commission could learn from this.

Director Voyles stated that he is keenly aware and discussions have taken place while developing the Contracts Branch, that the Department must always bring sound science to the table and never position based science when developing contracts. Any deviation from that would undercut the Department's credibility and the value of the work that the Department does.

Motion: Freeman moved and Husted seconded THAT THE COMMISSION VOTE TO APPROVE A MEMORANDUM OF UNDERSTANDING THAT WILL ALLOW FOR A MUTUALLY BENEFICIAL WORKING RELATIONSHIP FOR THE COMMON PURPOSE OF DEVELOPING WILDLIFE RESEARCH PROJECTS AND AUTHORIZE THE DIRECTOR, AS SECRETARY TO THE COMMISSION, TO APPROVE THE AGREEMENT AS APPROVED OR RECOMMENDED BY THE OFFICE OF THE ATTORNEY GENERAL.

Vote: Unanimous

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8. Request to Amend Commission Order 40: Fish, Bag and Possession Limits for Trout, Catfish, Bass, and Sunfish at Council Park Pond for calendar year 2011 and 2012.

Presenter: Kirk Young, Fisheries Branch Chief

Mr. Young presented the Commission with an amendment to Commission Order 40: Fish, establishing a bag and possession limit of 2 catfish, 2 trout, 5 sunfish, and 1 bass minimum size of 13 inches, for Council Park Pond, in the City of Somerton for Calendar Years 2011 and 2012. The current daily bag and possession limits for Council Park Pond for catfish, trout, sunfish, and bass are: 25 catfish, 6 trout, unlimited sunfish, and 6 bass.

The Department has been actively working with the City of Somerton to promote and increase fishing opportunities for youth and families in the Somerton area (south of Yuma). Council Park Pond is a 1-acre pond located in the City of Somerton. It is fed by Colorado River water via a nearby irrigation canal. The pond currently contains small numbers of catfish, sunfish, bass, carp, and most likely other species of fish found locally in the Colorado River. These fish presumably enter the pond via the water supply. The pond was historically closed to fishing but has recently been opened to public fishing. The Department and City have recently conducted several fishing clinics at the pond. The response has been very good, with approximately 300 youth attending each event. The Department and City would like to implement a stocking program to improve fishing success and interest. The Department anticipates that this pond will receive heavy fishing pressure. The proposed Commission Order 40 changes are needed to extend or sustain the desired level of opportunity and success, while minimizing the number of stockings required to maintain that level of opportunity. These proposed changes are also consistent with established regulations for urban ponds of this size (ponds < 3 acres).

Potential Benefits:

- Provide increased angling opportunities in the Somerton area by extending the length of time stockings are effective
- Reduce the amount of money spent on stockings by extending the length of time they provide reasonable angling opportunity
- Provide consistency in regulations among intensively managed urban ponds of this size (< 3 acres).

Potential Drawbacks:

- Those anglers with an expectation of keeping large limits of fish may feel that the value of their license is decreased because they cannot take the more liberal limits currently in place.

Motion: Freeman moved and Mansell seconded THAT THE COMMISSION VOTE TO ADOPT THE AMMENDMENT TO COMMISSION ORDER 40: FISH, ESTABLISHING A BAG AND POSSESSION LIMIT OF 2 CATFISH, 2 TROUT, 5 SUNFISH, AND 1 BASS

MINIMUM SIZE OF 13 INCHES, FOR COUNCIL PARK POND, IN THE CITY OF SOMERTON FOR CALENDAR YEARS 2011 AND 2012.

Vote: Unanimous

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9. Call to the Public

Karen LaFrance, Board Member, Sonoran Audubon Society, provided the Commission with a letter from the Sonoran Audubon Society and the Arizona Antelope Foundation expressing concern about the public planning process for Horseshoe Ranch and requesting to be placed on the December Commission meeting agenda so that they can provide comments and recommendations about this key planning process.

Steven Brown, Administrator, Friends of Agua Fria National Monument, expressed concerns about the management plans for Horseshoe Ranch and agreed with comments and concerns expressed by Ms. LaFrance.

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Meeting recessed for a lunch at 12:00 p.m.

Meeting reconvened at 1:30 p.m.

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10. Law Enforcement Program Briefing

Presenter: Gene Elms, Law Enforcement Branch Chief

Mr. Elms briefed the Commission on activities and developments that occurred since the last regular meeting relating to the Department's Law Enforcement Program. This briefing was in fulfillment of the Commission's request to be briefed on a monthly basis regarding the Department's Law Enforcement Program. The Commission was provided with a PowerPoint presentation by Mr. Elms which highlighted several items in the report including law enforcement training activity, wildlife enforcement activity, watercraft and OHV enforcement activities, outreach, and partnerships that were developed and fostered in this reporting period.

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12. Rehearing Request by Garabet Ovasapian Regarding Previous License Revocation/Civil Assessment.

Presenter: Gene F. Elms, Law Enforcement Branch Chief

On April 15, 2011, Garabet Ovasapian was convicted in Yuma Justice Court for obtaining a license by misrepresentation. On June 24, 2011, the Commission revoked Garabet Ovasapian's hunting, fishing and trapping license for a period of five (5) years, invoked a \$150.00 civil assessment, and further required him to complete a Hunter Education Course before obtaining any license (s) to take wildlife in the State of Arizona. Mr. Ovasapian requested a rehearing of

this matter and decision. He feels that the five year suspension is an excessive penalty for a mistake that he feels was not his fault, but that of the Wal-Mart employee who sold him the incorrect license, after questioning him at length regarding his resident status. He, therefore, is requesting that his license to take wildlife in Arizona not be suspended and he be allowed to purchase a non-resident license to continue hunting with his family.

Mr. Ovasapian was not present.

Motion: Mansell moved and Husted seconded THAT THE COMMISSION VOTE TO DENY MR. GARABET OVASAPIAN'S REQUEST FOR A REHEARING.

Vote: Unanimous

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13. Request to Approve the Aquatic Invasive Species Notice of Final Rulemaking, and Economic Impact Statement adopting Article 11 and amending affected rules within Article 4 and Article 5.

Presenter: Jennifer Stewart, Rules and Risk Branch Chief

Ms. Stewart briefed the Commission on the Aquatic Invasive Species Notice of Final Rulemaking, and Economic Impact Statement adopting Article 11 and amending affected rules within Article 4 and Article 5. The Governor's office approved the Department's request to pursue rulemaking on August 19, 2010.

The Department proposes to adopt a Final Rulemaking addressing aquatic invasive species. These rules are necessary because quagga and zebra mussels are aquatic invasive species that currently pose a threat to public health and safety in Arizona because of their potential to contaminate state waterways. The purpose of the proposed rulemaking is to establish mandatory conditions for the movement of boats and aquatic equipment to and from waters and locations in this state. These conditions are crucial in helping to prevent the accidental movement of quagga and zebra mussels, as well as other aquatic invasive species, to unaffected water bodies as well as the financial, economic, and ecological costs that will surely accompany them.

The following is an overview of the Department's proposed rules:

R12-4-406. Restricted Wildlife: • Referencing the prohibitions established under R12-4-1102.

R12-4-518. Regattas: • Requiring regatta sponsors and participants operating under a U.S. Coast Guard regatta permit to comply with the requirements established under Article 11.

R12-4-1101. Definitions: • Creating a new rule that provides definitions for terms used within Article 11.

R12-4-1102. Aquatic Invasive Species; Prohibitions; Inspection, Decontamination Protocols: Creating a new rule that establishes prohibitions designed to prevent the movement aquatic invasive species, protocols to be followed before a person may leave waters where aquatic

invasive species are present, inspection requirements, exemptions to the rule, and location where Director's Orders can be obtained.

The Commission approved an Emergency Rulemaking at the February 2011 Commission Meeting and a Proposed Rulemaking at the May 2011 Commission Meeting. The proposed rulemaking was published in the Arizona Administrative Register on June 10, 2011. The Notices of Docket Opening and Proposed Rulemaking and the draft Economic Impact Statement were approved by the Commission at the December 2010 Commission Meeting. The notices were published in the *Arizona Administrative Register* on December 31, 2010. The rulemaking record was open for public comment from June 10 to July 9, 2011; the Department did not receive any comments.

The Notice of Final Rulemaking and Economic Impact Statement for R12-4-406, R12-4-518, R12-4-1101, and R12-4-1102 were provided to the Commission prior to this meeting for review. If the Commission approves, the Department will submit the Notice of Final Rulemaking and Economic Impact Statement for R12-4-406, R12-4-518, R12-4-1101, and R12-4-1102 to the Governor's Regulatory Review Council (G.R.R.C.) for review and placement on the G.R.R.C. January 2012 agenda.

Motion: Freeman moved and Mansell seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF FINAL RULEMAKING AND ECONOMIC IMPACT STATEMENT TO AMEND R12-4-406, R12-4-518 AND ADOPT ARTICLE 11, ADDRESSING AQUATIC INVASIVE SPECIES.

Vote: Unanimous

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14. Request to Approve a Notice of Docket Opening, Notice of Proposed Rulemaking, and Economic Impact Statement Amending R12-4-121 Addressing Big Game Tag Transfers.

Presenter: Jennifer Stewart, Rules and Risk Branch Chief

Ms. Stewart briefed the Commission on a Notice of Docket Opening, Notice of Proposed Rulemaking, and Economic Impact Statement amending R12-4-121 addressing big game tag transfers. The Governor's office approved the Department's request to pursue rulemaking on May 20, 2011.

The Department proposes to amend R12-4-121 addressing the transfer of big game tags to a minor child or qualifying organization. The Department proposes to amend R12-4-121 to align the rule with recent statutory changes made to A.R.S. § 17-332 that allows a grandparent to transfer a big game permit or tag to a minor grandchild. This change was identified in a 2008 5-Year Rule Review. If approved by the Commission, the Department will file the rulemaking notices with the Secretary of State's office for publication in the *Arizona Administrative Register*. The Department will accept public comment for 30 days after the Notice of Proposed Rulemaking is published. Once the public comment period has passed, the Department will present the Notice of Final Rulemaking and Economic Impact Statement to the Commission for their consideration.

Motion: Harris moved and Freeman seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF DOCKET OPENING, NOTICE OF PROPOSED RULEMAKING, AND ECONOMIC IMPACT STATEMENT AMENDING R12-4-121, ADDRESSING BIG GAME TAG TRANSFERS.

Vote: Unanimous

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15. Request to Approve a Notice of Docket Opening, Notice of Proposed Rulemaking, and Economic Impact Statement Amending R12-4-202 Disabled Veteran's License.

Presenter: Jennifer Stewart, Rules and Risk Branch Chief

Ms. Stewart briefed the Commission on a Notice of Docket Opening, Notice of Proposed Rulemaking, and Economic Impact Statement amending R12-4-202 addressing Disabled Veteran's Services requirements for individuals applying for a Disabled Veteran's license. The Governor's office approved the Department's request to pursue rulemaking on May 20, 2011.

The Department proposes to amend R12-4-202 to repeal the requirement that the Disabled Veteran's Services Certification provide the applicant's date of birth. The date of birth information is not consistently provided on the certification creating additional work for the applicant and Department employees. The Department does not use this information for verification purposes and removing it will provide a benefit to applicants and the Department. This change was identified in a 2008 5-Year Rule Review. If approved by the Commission, the Department will file the rulemaking notices with the Secretary of State's office for publication in the *Arizona Administrative Register*. The Department will accept public comment for 30 days after the Notice of Proposed Rulemaking is published. Once the public comment period has passed, the Department will present the Notice of Final Rulemaking and Economic Impact Statement to the Commission for their consideration.

Motion: Mansell moved and Freeman seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF DOCKET OPENING, NOTICE OF PROPOSED RULEMAKING, AND ECONOMIC IMPACT STATEMENT AMENDING R12-4-202.

Vote: Unanimous

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11. 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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16. Request to Approve the Notice of Exempt Rulemaking to Amend R12-4-304 Addressing Lawful Methods of Take to implement House Bill 2396, Game and Fish; Trophies; Enforcement.

Presenter: Dana McGehee, FOR6 Wildlife Manager

Mr. McGehee briefed the Commission on a Notice of Exempt Rulemaking amending R12-4-304. House Bill 2396, Laws 2011, First Regular Session, Chapter 113E, Section 5(B), authorizes the Commission to amend R12-4-304 using the exempt rulemaking process for a period of one year from the legislative effective date, April 14, 2011. The Commission must complete this task by April 13, 2012. The Department proposes to amend R12-4-304 to implement recently passed legislation and in accordance with the exemption authorized under item #4 of Executive Order 2011-05 State Regulatory Rulemaking Moratorium. The Department also proposes to amend this rule to implement changes proposed in the Article 3 Review Report, which were approved by the Commission at the June 2011 Commission Meeting.

The Department proposes to amend R12-4-304, addressing lawful methods for taking wild mammals, birds, and reptiles. The Department proposes the following substantive rule amendments:

- Clarifying the use of crossbows to improve consistency and reduce confusion.
- Allowing crossbows and bows drawn and held with an assisting device to make the rule less restrictive, increase clarity, and improve consistency with other subsections of the rule.
- Reducing the standard pull weight for bows to reflect current technological advances.
- Allowing the take of mountain lion with a shotgun shooting shot to increase hunter opportunity, this was requested by the public during hunt guideline sessions.
- Allowing the take of upland game birds and Eurasian Collared-doves with a pneumatic weapon to increase hunter opportunity.
- Allowing the take of coyotes and mountain lions with artificial light. The Commission has the authority to open a season for the take of coyotes or mountain in units where depredation on antelope, mule deer, and bighorn sheep are considered to be a significant factor in recruitment.
- Clarifying that pursuit with dogs for cottontail rabbits, tree squirrels, upland game birds, and birds is a lawful activity.
- Clarifying that the use dogs to take predatory and furbearing animals, small game, and nongame mammals is a lawful activity.
- Referring to the Raymond Wildlife Area by providing the Game Management Units (GMU) instead of the Wildlife Area to reduce confusion regarding GMU boundaries.
- Allowing the use of steel foothold traps to align the rule with AFWA Best Management Practices.

If approved by the Commission, the Department will notify constituents of the proposed rulemaking via electronic newsletter and the Department's website. The Department will publish the Draft Notice of Exempt Rulemaking to the Department's website for public comment for a period of 30 days. Once this period closes the Department will present the Final Notice of Exempt Rulemaking to the Commission for review and approval. Upon final approval, the rulemaking package will be filed with the Secretary of State's office for publication in the *Register* and will become effective immediately upon filing as authorized under House Bill 2396.

Motion: Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF EXEMPT RULEMAKING TO AMEND R12-4-304 ADDRESSING LAWFUL METHODS FOR TAKING WILD MAMMALS, BIRDS, AND REPTILES.

Vote: Unanimous

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Meeting recessed for lunch at 3:06 p.m.

Meeting reconvened at 3:19 p.m.

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17. 2011 Annual Commission Awards Selection

Presenter: Bob Broscheid, Deputy Director

The Commission was provided with a list of 2011 Commission Award nominees and nominee background information for review and consideration prior to this meeting. Mr. Broscheid provided the Commission with an overview and facilitated the Commission's ballot selection process. The following recipients were selected:

- Award of Excellence (4): Charlie Kelly, Dian Tucker, George McKay, Sadie Snay
- Youth Environmentalist of the Year: Benjamin Haney
- Outdoor Writer of the Year: Tony Mandile
- Media of the Year: Arizona Wildlife News (Larry Audsley, Editor, AWF)
- Conservation Organization of the Year: Arizona Heritage Alliance
- Conservationist of the Year: Maggie Sacher
- Natural Resource Professional of the Year: Sam Spiller
- Volunteer of the Year: Tom Mackin and Claire Harris
- Educator of the Year: Shelly Petersen
- Mentor of the Year: Youth Outdoors Unlimited (YOU)
- Advocate of the Year: Senator Frank Antenori
- License Dealer of the Year: Western United Drug & General Store
- Buck Appleby Hunter Education Instructor of the Year: Sam and Betty Oppenheimer
- Wildlife Habitat Stewardship Award: Jim and Sue Chilton

Motion: Husted moved and Freeman seconded THAT THE COMMISSION VOTE TO APPROVE THE 2011 COMMISSION AWARD RECIPIENTS AS SELECTED.

Vote: Unanimous

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18. Call to the Public

There were no requests from the public to speak.

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19. Executive Session

The Commission did not meet in Executive Session.

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20. Litigation Report

There were no updates and the Commission had no comments or questions.

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21. Approval of Minutes and Signing of Minutes.

Motion: Husted moved and Harris seconded THAT THE COMMISSION VOTE TO APPROVE THE MINUTES FROM JULY 8, 2011, AUGUST 6, 2011 AND AUGUST 12, 2011.

Vote: Unanimous

The Commission signed the minutes following approval.

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22. Director's and Chairman's Reports

The Commission was in consensus to hear only the Director's Report.

Director Voyles reported the following activities:

- Attended a field trip to the Desert Wells area with the State Land Department and OHV constituents to discuss the potential for a Special Use Permit to enable the Desert Wells area to remain as a functional OHV area
- Met with USFWS Director Dan Ashe in Washington, DC to discuss some of the State and Federal relationship issues
- Participated in a dove hunt with folks from our constituency groups that are deeply involved with the youth recruitment and retention movement
- Lunch meeting with Kevin Kinsall and Ethan Aumack of the Grand Canyon Trust to talk about forest health issues
- Had a follow-up meeting with Kevin Kinsall
- Met with Scott Smith from ADOA to discuss their changes in how they are administering the hiring freeze
- Represented the Department at the Commander's Summit in Tucson and gave an overview presentation of the role of our agency in conservation issues important to the Department of Defense installations

- Attended the final meeting of the Full Water Resources Development Commission meeting
- Attended the AFWA meetings in Omaha; presented a short briefing to the Director's on the concerns that are drawn out of the WAFWA meetings about the role of the states and federal agencies in wildlife conservation
- Attended a Desert Wells follow up meeting with the State Land Department and State Parks
- Met with Superintendent of Public Education Huppenthal
- Met with Kevin Kinsall along with Terry Johnson who provided a briefing on Mexican wolf management
- Participated in the Navajo Nation Youth Hunt
- Participated in the Black Footed Ferret Ceremony at Phoenix Zoo
- Attended WAFWA Administrator's Meeting in Sedona and provided a welcome speech
- Attended the Annual Coordination meeting with BLM and the Forest Service at Horseshoe Ranch

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23. Commissioners Reports

The Commission was in consensus to forego the Commissioners reports for this meeting.

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24. Future Agenda Items and Action Items

Mr. Broscheid captured the following action and future agenda items:

- At the upcoming Commission Workshop, have a discussion on potential draft legislation on solar and wind ARS 43-60 and Commission policy as well as Commission and discuss how the Department is involved all aspects of wind and solar to include monitoring and research, at the local, state and National level with regard to AFWA and WAFWA work.
- Ensure that the proper procedures and policies are used to ensure that the Northern Arizona Shooting Range is adequately protected from future development as well as future landowners to be notified.
- Coordinate with Loren Chase regarding the public's perception of smart or sustainable growth in regards to the HabiMap slogan.
- The Habitat Branch and the Regional Office will work with Mr. Smith to encourage and support him in finishing his historical account and documentation regarding the Triangle Bar Ranch (possible future agenda item when Mr. Smith is finished).

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

Vote: Unanimous

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Meeting recessed for the day at 3:37 p.m.

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Robert R. Woodhouse, Chair



Norman W. Freeman, Vice Chair



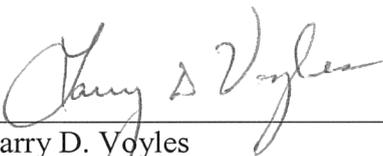
Jack F. Husted, Member

John W. Harris, Member



Robert E. Mansell, Member

ATTEST:



Larry D. Voyles
Secretary and Director

**Game and Fish Litigation Report
Presented at the Commission Meeting
October 14, 2011**

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.

The Court of Appeals issued an opinion on December 21, 2010. The Court held that wildlife conservation, and the conservation of bighorn sheep in particular, is a purpose of the Kofa Wilderness Area. The Court, however, found that the Service did not sufficiently explain

that redeveloping two water structures in the wilderness area was necessary to restore the bighorn sheep population. The Court expected the Service to evaluate alternative actions to determine whether these alternatives would increase the sheep population without the additional water. The court remanded the case back to the district court for a decision on whether to allow the Service to supplement its decision.

The Safari Club International (intervener) filed a petition for rehearing en banc. On March 1, 2011, the Ninth Circuit issued an order denying the petition. The Ninth Circuit has returned the case to the District Court for further action and Judge Bolton has been assigned the case.

The Court held a status conference on May 9, 2011, to determine how to proceed with the case. The plaintiffs and the federal defendants advised the court that they are in preliminary settlement discussions. The court will allow the parties sixty days to settle the case. If the parties do not report a settlement by July 8, 2008, the court will set a briefing schedule on what remedy the court should order.

Based on a stipulated motion filed by the federal parties and the plaintiffs, the court on August 10, 2011, issued an order granting the parties an additional 30 days to reach a settlement and to submit a status report by September 9, 2011. **Based on a stipulation from the plaintiffs and federal defendants, the court issued an additional order giving the parties until October 24, 2011 to file a status report.**

2. *Anderson v. Arizona Game and Fish Department, et al., 2 CA-CV 2010-0098* 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. On March 8, 2010 the Pinal County Superior Court affirmed the Commission's decision. Anderson appealed to the Arizona Court of Appeals. The Court of Appeals, in a decision filed November 8, 2010, reversed in part and affirmed in part. The Court held that A.R.S. §17-340(B) does not grant the Commission authority to impose consecutive sanctions on offenders for repeat offenses. The Court affirmed the Commission's power to impose additional sanctions under A.R.S. §17-340(B)(2) while a person is serving a current term of revocation and to revoke or suspend the license of a person whose license has already been revoked based on a conviction of another covered Title 17 offense. Anderson filed a petition for review to the Arizona Supreme Court seeking review of the Court of Appeal's ruling that the Commission can further sanction a person whose hunting licenses have already been revoked. The Supreme Court has denied review and the case will be remanded to the Commission for a new hearing for the purpose of imposing a non-consecutive term of revocation (or other sanction as the Commission determines) for the bull elk violation.

3. *Mojave Valley Shooting Range Appeal.* The Hualapai and Fort Mojave Indian Tribes ("Appellants") filed an administrative appeal to the Interior Board of Land Appeals ("IBLA") on March 15, 2010. The appeal seeks review of the BLM's Decision Record to transfer to AGFD 315 acres of public land in the Mojave Valley for construction and operation of a shooting range. The Appellants allege that the Decision Record violates the National Environmental Policy Act ("NEPA"), the National Historic Preservation Act ("NHPA"), and the Native American Graves Protection and Repatriation Act ("NAGPRA").

The Appellants served their Statement of Reasons on the Department on April 16, 2010. On April 30, 2010, AGFD filed a Motion to Intervene in support of the BLM's decision. The Department's Answer to the Appellants' Statement of Reasons is due on May 17, 2010.

The IBLA granted the Department's motion to intervene and extended the time for the Department to file an answer to the appellants' statement of reasons. On June 15, 2010, the Department filed its response brief to the appellants' statement of reasons.

The IBLA issued an opinion on December 7, 2010, affirming the BLM's decision to transfer land to the Department for use as a shooting range. The IBLA found that the BLM did not violate NEPA or the National Historic Preservation Act.

4. *Center for Biological Diversity v. U.S. Bureau of Land Management et al. CV-09-8011-PCT-PGR; The Wilderness Society et al. v. U.S. Bureau of Land Management et al. CV-09-8010-PCT-PGR.* On May 9, 2008, Records of Decision and Approved Resource Management Plans for the Arizona Strip, Vermillion Cliffs National Monument and portions of the Grand Canyon-Parashant National Monument were released to provide guidance for BLM-administered lands in northern Arizona. In *Center for Biological Diversity (CBD) v. U.S. Bureau of Land Management*, No. CV 09-8011-PCT-PGR (US Dist. Ct. AZ), plaintiff CBD challenges the Plans, alleging that BLM and FWS have failed to comply with the NEPA, FLPMA, and the Endangered Species Act (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. *The Wilderness Society et al. v. BLM, et al.* No. CV 09-8010-PCT-PGR (US Dist. Ct. AZ) also challenges the Plans by alleging violations of the NEPA, FLPMA, NHPA and presidential proclamations for the Vermillion Cliffs and Grand Canyon-Parashant Plans.

The National Rifle Association is an intervener. AGFD filed an amicus brief in the CBD case, which argued that BLM was not legally obligated to analyze the effects of lead ammunition on California condors in the BLM strip district, as the manner and methods of hunting are vested exclusively with the Arizona Game and Fish Commission.

CBD seeks a court order setting aside all Plans as arbitrary and capricious. The Wilderness Society seeks the same result, but only for the Vermillion Cliffs and Grand Canyon-Parashant Plans. Both plaintiffs request a remand to BLM for further proceedings. If the Court finds BLM's actions arbitrary or capricious, the Court will then conduct the "remedy" phase of the case, where the plaintiffs may seek injunctions against motorized use of roads or the use of lead ammunition during the period of time that BLM is revising its RMPs in accordance with the Court's ruling. The matter is calendared for oral argument on September 28, 2011

5. *Lorta v. Arizona Game and Fish Commission et al., CV-11-134.* Plaintiffs filed an action on February 15, 2011, seeking judicial review of the Commission's license revocation and civil assessment decisions. The case was filed in Santa Cruz County Superior Court. The Commission has until March 16, 2011 to file a responsive pleading. On March 15, 2011, we filed a motion to dismiss on the basis the court lacks subject matter jurisdiction over the civil assessment order and the license revocation decision is moot because the underlying conviction was set aside.

The plaintiffs filed a response to the motion to dismiss on April 11, 2011, and also filed a

motion for summary judgment. On April 21, 2011, we filed a reply in support to the motion to dismiss and a motion to preclude on the grounds that the plaintiffs' response was untimely and the Arizona Rules of Civil Procedure do not permit a motion for summary judgment prior to the filing of an answer. The Court scheduled an oral argument hearing on the motion to dismiss for June 21, 2011.

At the oral argument hearing, the parties stipulated to dismiss the suit on the condition that a new conviction in the second trial will require the Commission to hold a new hearing on the license revocations and civil assessment.

6. *Reed v. Arizona Game and Fish Department and Commission, C20111354.* The plaintiffs filed an action on March 3, 2011, seeking judicial review of the Commission's license revocation and civil assessment decisions. The case was filed in Pima County Superior Court. We agreed to waive service of process, and in so doing, we have sixty days to respond to the complaint.

On May 6, 2011, we filed a partial motion to dismiss the civil assessment claims and a motion to enlarge the time to file an answer. The Reeds filed a response on May 19, 2011 and we filed a reply in support of the motion to dismiss on May 27, 2011. The Court scheduled an oral argument hearing for July 5, 2011.

The Court denied the defendants' motion to dismiss on the basis that the Commission's authority to revoke license privileges until the assessment is paid in full makes the civil assessment decision a final agency decision subject to judicial review. The defendants filed their Answer on July 25, 2011, to the First Amended Complaint.

The Department filed the administrative record on September 26, 2011. The plaintiffs have 45 days from that date to file an opening brief.

Lands Update
For the Arizona Game and Fish Commission
October 7, 2011
Phoenix, Arizona

FOREST SERVICE LAND AND TRAVEL MANAGEMENT PLANNING

Coconino National Forest

The Department was notified that a Travel Management Rule Record of Decision was signed and should be publicly released any day. It is our understanding that this rule will not allow motorized big game retrieval (MBGR) except for elk, and only in Game Management Units 6A, 6B, 7, and 8.

Coronado National Forest

The Draft Environmental Impact Statement (DEIS) for the Coronado's Land Management Plan will be re-reviewed at the Forest Service Southwest Regional Office in November, the draft Plan and EIS will be reviewed at the Washington Office in January, and the earliest the Forest expects a public release is March, 2012.

Tonto National Forest

The Travel Management Plan is due out to the public in October. The Department will be submitting comments focused on motorized retrieval of big game, access restrictions, dispersed camping, and general recreation based recommendations to ensure opportunity for the public and agency management needs.

U.S. FOREST SERVICE

Four Forests Restoration Initiative (4FRI)

The Department submitted comments (attached) on the Forest Service's revised Proposed Action for the first 4FRI EIS. Included in our comments was a research proposal developed in collaboration with the Grand Canyon Trust aimed at learning how tree group size affects habitat use by songbirds, small mammals, and Abert's squirrels. The Department is currently in negotiations with the Forest Service about the inclusion of this research in the 4FRI project. The Department continues to be heavily engaged as a Cooperating Agency, assisting with the writing of the Wildlife Specialist's Report for the Draft EIS. A final decision on the EIS is expected mid 2012. The Department also continues to be involved as a stakeholder on the 4FRI Stakeholders Group. Recently the Arizona Wildlife Federation, in partnership with the Department, Arizona Sportsman for Wildlife Conservation, and the Forest Service, received a grant to restore wildlife habitat within a key wildlife corridor. The corridor connects the San Francisco Peaks to the Mogollon Rim through Woody Ridge all of which are part of the 4FRI project. This grant tiers to the ongoing forest thinning and burning work and will include soft-closing roads and trails, removing and upgrading fences, and removing invasive weeds beginning October 2011 and ending October 2012.

Notices of Intent (NOI) to sue related to California condor and the use of lead on National Forests

On behalf of Defenders of Wildlife, the Sierra Club and the Grand Canyon Wildlands Council, the Pacific Environmental Advocacy Center issued a 90-Day NOI to sue the U.S. Forest Service under the Resource Conservation and Recovery Act (RCRA) for “contributing to an imminent and substantial endangerment” and a 60-Day NOI to sue for “violations of the Endangered Species Act Related to California condors” for “knowingly allowing the use of lead ammunition on USFS-managed public land”. The alleged violations of RCRA are based heavily upon information on impacts to Arizona’s experimental, non-essential condor population, although migratory birds, other wildlife and human health concerns are also stated in the NOI. While recognizing the experimental, non-essential status of the Arizona population of condors, the NOI claims that the special status of the population does not excuse the USFS from its ESA Section 7(a)(1) duties, which requires federal agencies to evaluate the impacts of their programs on listed species. The NOI does not reference that hunting was included, in the Federal Register notice authorizing the 10(j), as an allowed activity for this population. The notices appear to focus on the Kaibab National Forest, although the document does not clarify if the NOIs are only for the Kaibab National forest, the 6 Arizona forests mentioned, or for all National Forests.

Coconino National Forest

The Flagstaff Ranger District recently released its proposed action for the Wing Mountain Fuels Reduction and Forest Health Project, which is located on approximately 11,000 acres southwest of the San Francisco Peaks north of Flagstaff. This is a strategically important fuels reduction project for reducing the risk of stand-replacing fire in the portion of the Rio de Flag watershed that eventually flows through downtown Flagstaff. The Department supports the proposed treatments which are designed to promote heterogeneous forest structure comprised of tree groups and openings with an emphasis on uneven aged conditions. A unique element of this project is a proposal to release excess water from a pipe system at Big Leroux Springs for the purposes of spring restoration, with emphasis on restoring habitat for northern leopard frogs. The Department has been working on the Interdisciplinary Team for this project, and providing technical assistance to a local organization in support of the spring restoration project known as the Friends of the Rio de Flag.

In an effort to continue momentum on our cooperative efforts to recover aspen, the Department met with the Forest to discuss aspen treatments and elk management in the San Francisco Peaks area. The goal of the meeting was to be sure the Forest is working toward completing more aspen restoration treatments on the ground to ensure effectiveness in the elk herd reductions that the Department initiated two years ago. During this past federal fiscal year, the Forest was able to treat 90 acres of aspen using a technique called jackstrawing which leaves felled trees as a natural barrier to ungulate passage allowing aspen sprout recruitment. This work took place within the newly created Peaks Sub-unit, which the Department created to address elk herbivory on aspen. The Forest has plans to treat roughly 3,000 acres of aspen habitat next fiscal year. The Department was encouraged by the Forest’s plans to greatly expand upon the amount of aspen treatments that will be done, as this vegetation work is critical to the long-term success of our coordinated efforts.

Kaibab National Forest

The Department assisted Forest biologists in removing and relocating a prairie dog colony that was becoming a nuisance at the Williams School. With four days of baiting, six days of trapping, and many collaborators, the Department assisted with trapping and relocating 123 Gunnison's prairie dogs from the Williams Elementary and Middle School's property and onto a site at Government Prairie. Partners removed 75% of the population from the school grounds, which should go a long way toward reducing property damage and improving safety. In early September, the Forest plans to meet with the school superintendent to discuss measures to prevent prairie dogs from recolonizing the area, as well as options for removing the remaining animals. Reintroduction of prairie dogs into Government Prairie should help provide habitat for wildlife that select for prairie dog colonies, and the Forest and the Department have plans to revisit the site this fall to check for survival and occupancy.

The Department will be meeting with representatives from the Williams Ranger District to discuss aspen-elk management issues this month. The goal of the meeting, similar to the recent meeting on the Coconino NF, will be to ensure that the Forest is planning to complete substantial aspen restoration treatments to complement the Department's recent elk reduction efforts in Unit 8.

The Department attended the Tusayan Town Council on Sept 21st as it related to the Ten X annexation. The Ten X property is a 190-acre parcel, which is primarily a meadow within the ponderosa pine 2.9 miles east of Tusayan off of FS Rd 302. The proposed annexation surrounding the property would bring the total to just over 5,600 acres. The lands within the annexation boundaries are comprised of Kaibab National Forest and one private parcel (Ten X) and there are no other private or state parcels within the annexation boundary. Approved annexation would bring the Ten X property into the incorporated boundaries of Tusayan, thereby expanding the city limits. Plans for development of the private land at this time include RV and mobile home sites, single and multi-family units, and a possible spa, retreat, and conference center. These plans are subject to change. In addition, the road from Tusayan to Ten X would be widened and paved. Elk and a small herd of pronghorn use this meadow as habitat during spring, summer, and fall. In addition, turkeys use the edges of this meadow for foraging. The Ten X property is one of several meadows along FS Rd 302. The annexation area of 5,600 acres is less than (1%) of the total 682,583 acres of Unit 9. If development occurs within the private parcel or the annexed area, impacts to big game will be minimal due to the availability of adjacent high quality habitat. In addition, it is not expected that permit numbers would change if the private parcel or annexed area were developed. The most noteworthy effect of development in this area would be the expected increase in nuisance wildlife calls.

Coronado National Forest

The Department attended a meeting with the Coronado Forest's Chiricahua-Dragoons-Dos Cabezas FireScape Project team. This was the first meeting since the Horseshoe Two Fire burned much of the planning area. The team agreed that the fire was largely beneficial. The team is proposing to coordinate Forest Service fire and fuels reduction activities with those of the National Park Service (NPS-Chiricahua National Monument and Fort Bowie National Historic Site) and other land managers in the Chiricahua, Dos Cabezas, and Dagoon Mountains of Cochise County in southeastern Arizona. The project is intended to create landscapes that survive wildfires in a healthy state, better protect values at risk, and return fire as a natural process to the ecosystems that require it to be healthy. The project also aims to increase fire

management flexibility, efficiency, and consistency across over 500,000 acres of grasslands, woodlands, and forests. The Coronado's Douglas Ranger District is leading this effort.

The Department is participating with Coronado National Forest on the annual census of Mt. Graham red squirrel middens. The Department surveys the red squirrel habitat on Mt. Graham every year in the fall. The recovery plan for the endangered squirrel is currently going through a revision process. Major threats to the squirrel include loss of habitat to climate change and catastrophic wildfire.

Tonto National Forest

The Forest has initiated an EIS to analyze management strategies to maintain and improve ecological conditions on six grazing allotments along the Salt River corridor. The Department provided scoping input regarding general wildlife/habitat management concerns and potential opportunities that could benefit wildlife. The Forest initiated interagency work with the Department to identify wildlife habitat goals, objectives and potential habitat improvement projects that can be incorporated into a range of alternatives and potential vegetation management prescriptions. The Department has several management goals for game species, riparian habitats, as well as aquatic wildlife associated with the Salt River and other perennial streams

U. S. FISH AND WILDLIFE

Proposed Lower San Pedro National Wildlife Refuge

The Department attended a meeting between the U.S. Fish and Wildlife Service (USFWS) and the Winkelman and Reddington Natural Resource Conservation Districts (NRCDC's) regarding the potential for a new wildlife refuge that would encompass the San Pedro River from an area near Cascabel, all the way to the confluence with the Gila River. The USFWS land put into the system would come from willing sellers and from land provided as mitigation or as a result of land trades. The refuge would include lands managed under a cooperative management plan with participating landowners. Most of the agricultural cooperators at the meeting were resistant to the idea, fearing greater government regulation of their operations. Should the refuge come to be, The Department will control a large amount of this area if the proposed Triangle Bar Ranch acquisition is completed, providing the Department with a substantial voice in the management of the refuge, should the Commission choose to participate. Participation could potentially help to provide substantial funding to the Department for management of Commission owned lands on the San Pedro.

BUREAU OF LAND MANAGEMENT (BLM)

AZ Strip Field Office

Tebuthiuron Treatments

In order to better understand the success of using Tebuthiuron to treat sagebrush, the Department, the BLM, and the NRCDC visited several sites to examine the effects of this habitat treatment on AZ Strip. Sites were located in GMU 13a and 13b within the Wolfhole and Tuweep valleys. The Department observed more positive outcomes than negative. Sites that looked the best had well developed native understory (strong grass and forb response) with a

good mosaic of vigorous, regenerating sagebrush. Other examples where results were not positive include those with widespread stands of cheatgrass and Russian thistle. Causes of this negative response are uncertain. The Department and the BLM will be delving into monitoring data from pre- and post-treatment to help determine what might be driving forces (soil type, precipitation patterns, application rates, etc) in determining success of these treatments.

Uranium DEIS

The BLM and cooperators have finished drafting the Final Environmental Impact Statement (FEIS) for the Uranium Withdrawal. It is currently available for cooperating agencies, but has not been released to the public. As per Secretary Salazaar's decision, the FEIS will be released with the preferred alternative as the Full Withdrawal Scenario. All internal review comments for the FEIS have been addressed. The Department did not submit comments beyond what was submitted during the DEIS comment period. The BLM informed us that technical edits are underway (grammar, spelling, readability, etc.) and the Department of Interior attorney comments are being addressed. The FEIS will be released to the public on October 28th, 2011. The earliest possible day for Secretary Salazaar's decision would be November 28th. At that time, the decision would be subject to appeal. The temporary mineral withdrawal expires January 20, 2012.

Kingman Field Office

In response to a number of recent burro-vehicle collisions between mileposts 191 and 192.5 on SR 95 North of Lake Havasu City, Department personnel attended a meeting called by Kingman BLM and ADOT to brainstorm short and long-term strategies to address the motorist safety issue caused by burros in the right-of-way in the Mohave Mountains of SR 95. At this meeting, the following issues were discussed:

Short term Resolutions:

Kingman Field Office (KFO):

- BLM will scout the area to identify the best locations to set up two bait traps.
- The KFO Field Office Manager will update the Colorado River District and request funding for a helicopter contract to fly the area, bring resources for a gather to the area, and address any additional needs deemed necessary to reduce accidents.
- Discussion Points: The need for population estimates throughout the KFO Herd Management Areas (HMA's) - particularly those adjacent HMA's that could be a source for burros migrating into the area north of Lake Havasu. Approximately three years ago a gather was done in this area with intent to "zero" the burro population. While the majority of the burros were caught some remained behind. Three years later there has been some reproduction among the remaining animals along with an increase in population due to migration into the area.

ADOT:

- Place lighted flashing signs at specific points along the highway 95 alerting the public of burros crossing the highway.
- ADOT District Engineer to follow up on the possibility of using Highway Safety funds for fence construction along the highway.
- Discussion points: Whether to fence the entire 20 miles, or focus on the area between MP 191-192.5 - since this was the area where the burro hits occurred. If the area between mile post 191-192.5 were fenced (not the entire 20 miles) there was concern that the

burros may follow the fence line and cross at the end of the fence. There is an underpass within this area and burros will use the underpass to cross over to the other side of the road. Fencing this area could possibly funnel the burros to cross through the underpass. Depending on funding, ADOT will focus on the area between mileposts 191-192.5 first, if the entire 20 miles can't be done in the near future. The area between mileposts 191-192.5 is State and private land, necessitating that ADOT obtain a permit from Arizona State Lands for the fence construction. Contact would also need to be made with the private land owner for fencing on the private parcels. Additionally, it was mentioned that snowbirds were feeding burros just north of the airport where they camped – potentially luring burros to the area and creating a suitable location for a gather in the area.

Long Term Resolutions:

- ADOT will investigate availability of highway safety funding for the fence portion on private and State lands.
- If funding becomes available, BLM will prepare the environmental assessment and confirm whether ADOT can sign off for the private and State lands portion.

Sheep studies:

- Due to the severity of the safety issue, the Department supported the use of fencing to reduce/eliminate accidents and liability concerns and increase public safety, but is seeking support for a sheep research study in the area to identify if and where sheep are crossing the highway.

Havasu Field Office

During the week of September 26th thru September 30th, Department personnel participated in Route Evaluation for roads in the Southern portion of GMU 16A. This week's effort was to re-evaluate routes in light of comments received from OHV groups and the tribes in the Lake Havasu area. The results from this effort will be used in the development of Travel Management Plans, proposed alternatives, and a proposed decision with NEPA compliance.

The Department continues to coordinate closely with the Field Office in the development of Travel Management Plans, including the associated route designation process, and developing alternatives for NEPA compliance. The Department participated at the Havasu Field Office Travel Management Plan meeting the week of September 19, 2011. Comments were evaluated, route evaluations were finished and the BLM will work to finish the EA. BLM will also be starting the Cactus Plain TMP in November.

Tucson Field Office

The BLM is interested in promoting Watchable Wildlife activities near Dudleyville, Winkelman, Hayden, and Kearny, and incorporating areas along the San Pedro River into the Southeast Arizona Birding Trail Map. BLM will be meeting with Pinal County to pitch the Watchable Wildlife idea, and plans to negotiate an agreement whereby the town of Winkelman would assume management of the Christmas and Shores campground. Ideas discussed included an adopt-a-campground program to clean up the area and provide for a more established "presence" at the campground than currently exists.

Yuma Field Office

The Yuma Field Office is working with the Department and others to develop and implement a Burned Area Emergency Rehabilitation Plan for the human-caused 2011 Laguna Fire, which started on 5-18-11 and was contained on 5-24-11. The fire was located west of the Colorado River and east of SR-24 and was pushed by high winds across the Colorado River and into Arizona and onto public lands. The fire later burned through Betty's Kitchen recreation site, Pratt nursery, Mittry south restoration and into the Mittry Lake Wildlife Area (approximately 240 acres). Rehabilitation of the burned area will include erosion control and bank stabilization, removing hazard trees, clearing of the weeds, seeding and planting native species, replacing the lost structures, improving the damaged historic trail, and monitoring the effects of the project.

Department personnel participated in and completed route evaluations for the Yuma BLM La Posa Travel Management Plan. Route evaluations for the Cibola-Ehrenberg Travel Management Area will be done in October.

BLM NATIONAL MONUMENTS & CONSERVATION AREAS

Grand Canyon-Parashant National Monument / Vermillion Cliffs National Monument

On September 30, 2011 the Arizona federal district court upheld BLM's Records of Decision and Resource Management Plans (RMPs) for the Arizona Strip District and the Grand Canyon-Parashant and Vermillion Cliffs National Monuments. The RMPs were challenged in separate lawsuits in 2009 by the Wilderness Society and the Center for Biological Diversity. One of the claims in the Center's lawsuit was that BLM violated NEPA by failing to analyze the effects of hunters' lead ammunition use on California condors. The NRA and Safari Club intervened in the suit and the Arizona Game and Fish Department filed an amicus brief.

The Arizona Game and Fish amicus brief argued that BLM was not required to analyze the effect of lead ammunition on California condors in the BLM strip district, as the manner and methods of hunting are vested exclusively with the Arizona Game and Fish Commission. The amicus brief also discussed the Arizona Game and Fish Department's successful condor conservation and lead reduction outreach efforts, including its free copper ammunition giveaway program for big game hunters in Arizona condor country, which enjoys an 80-90% hunter participation rate.

The court granted BLM's motions for summary judgment on all issues in both cases, agreeing with BLM, NRA, Safari Club and AGFD that the management of hunting on public lands is reserved to the states, and that BLM is not authorized by any federal regulation or policy to regulate the manner or methods of hunting on its public lands. While BLM does not regulate hunting, one of conservation measures in the RMPs for condors encourages the use of non-lead ammunition.

Ironwood Forest National Monument

The Department hosted the quarterly coordination meeting with the Tucson Field Office (TFO). Discussion topics included a review of TFO pending NEPA compliance projects, status of the Ironwood Forest National Monument RMP (IFNM RMP), and status of the Middle Gila Canyons Travel Plan implementation. More than ten years have passed since the Department first requested coordination with TFO to close Martinez Canyon to OHV use, which is damaging sensitive riparian habitat. The closure is proposed to be implemented on the ground by the end

of November. The Department has pledged to assist with law enforcement to help implement the travel plan.

The Department received the *Ironwood Forest National Monument Proposed Resource Management Plan (PRMP) and Final Environmental Impact Statement (FEIS)* on September 26. The protest period for the PRMP and FEIS closes October 24, 2011. The Department was not provided an administrative review copy prior to public release and has not been able to review the PRMP yet. Of particular interest to the Department is a detailed analysis presented in the appendix, of areas on the Ironwood Forest NM that may or may not support the continuation of target shooting. The Department will review the PRMP in October.

Lower Sonoran and Sonoran Desert National Monument

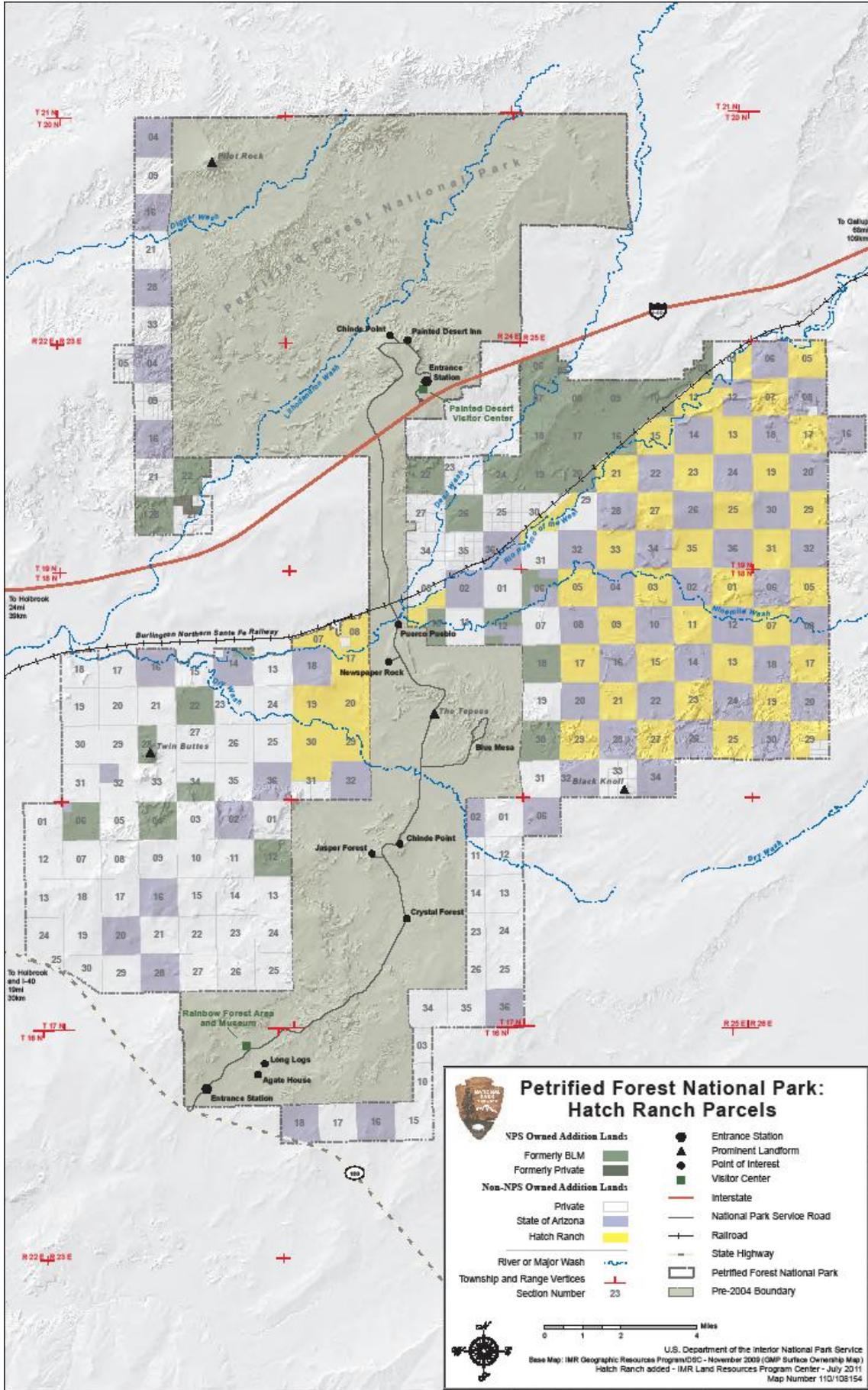
The Department is reviewing the proposed Resource Management Plan (Plan) and Environmental Impact Statement that was released 8/26/2011. Department personnel participated in an internal meeting to discuss the plan on October 3, and an interagency open house type meeting on October 4. Department personnel have noted that the preferred alternative in the draft RMP would ban recreational target shooting in the Sonoran Desert National Monument. The BLM cites concerns over potential damage to Monument resources and safety concerns due to a lack of sufficient appropriate backstops. The Department and BLM are scheduling a meeting to discuss this and other concerns in mid-late October. Comments are due to BLM by November 25, 2011. Department personnel are planning to hold a meeting with hunting constituents to discuss the plan and solicit comments in the near future.

NATIONAL PARK SERVICE

Petrified Forest National Park

On August 9, 2011, the Petrified Forest National Park (PFNP) acquired approximately 26,500 acres of private land (Hatch Ranch) as authorized by the Petrified Forest National Park Expansion Act of 2004. The Petrified Forest National Park Expansion Act of 2004 (Public Law 108-430), passed by Congress and signed by President George W. Bush, expanded the authorized PFNP boundary by approximately 125,000 acres from 93,533 acres to approximately 218,533 acres. Prior to the acquisition of the Hatch Ranch parcels, the Bureau of Land Management transferred administrative jurisdiction of approximately 15,228 acres of public lands to the National Park Service in May of 2007. To date, the PFNP has acquired approximately one third (41,728 acres) of the authorized addition lands.

Hunting does not occur on the PFNP, and as such, will not be permitted within the newly acquired lands. Hunting is not permitted in national parks unless specifically authorized by Congress. Neither the Petrified Forest National Park Act, nor the Petrified Forest National Park Expansion Act of 2004 provided allowances for hunting. Still in question, however, is the full impact of the acquisition on public access, including access for hunting on adjacent lands. Due to the checkerboard nature of the Hatch Ranch sections and adjacent ASLD sections, it is likely that the loss of access to hunting greatly exceeds the 26,500 acres which were acquired by the PFNP. The Department is currently in the process of scheduling a meeting with the PFNP to discuss various concerns and potential opportunities resulting from the acquisition of the Hatch Ranch by the PFNP.



GENERAL UPDATES

Central Arizona Grasslands Strategy Projects

There is an estimated 3,116 acres remaining for treatment pending future funding. This year the Prescott National Forest plans to contribute \$50,000 towards juniper thinning in addition to prescribed fire post-treatment by the end of their fiscal year (October). To date, \$491,596 dollars have been spent on juniper thinning contracts with an average treatment cost at \$282/acre. The Bureau of Land Management and Prescott National Forest have provided substantial contributions towards environmental compliance documentation, fire management, juniper thinning contracts, and project implementation oversight. There is currently no money in the budget dedicated to the project. A joint project for GMU21 has been funded through monies from the Prescott National Forest, BLM, and Arizona Antelope Foundation for a pronghorn movement and adaptive management project contributing to an ASU students master's thesis.

City of Flagstaff

The Department provided written comment on potential wildlife and habitat impacts of three future growth scenarios being considered to guide revision of the Flagstaff Area Regional Land Use Plan. These scenarios are being used as part of an effort to visualize potential impacts and tradeoffs associated with each scenario, and will serve as a decision tool to guide future land use in the planning area.

Illegal Closures for Hunting Access on Arizona State Trust land (STL)

Authority to close roads that provide hunter access lies with the Arizona Game and Fish Commission. The Department is developing a new strategy to deal with illegal closures on Arizona State Trust Land (STL). Previous protocols required that the Land Department take action against lessees. The Land Department has not cooperated with the Department in this, citing staffing issues and the need for a new Memorandum of Understanding (MOU). The Department has been unable to negotiate a new MOU with the Land Department after two years of coordination. Over that time more than thirty (30) closures have been documented in Region 5 alone. The Department presented Executive staff with alternative proposals for dealing with this issuer into the future.

Pima County Workshop

A local partnership of government, non-government, and university representatives in Pima County, secured funding through the Regional Transportation Authority of Pima County to identify county wildlife linkages. In May, the Department, with assistance from the partnership members, hosted a stakeholder workshop. Input obtained during the workshop from conservation groups, planners, consultants, and governmental agencies has been incorporated into GIS, with subsequent partnership meetings to further refine the data. A follow-up workshop will be held in Tucson on October 4 to present results of the first workshop and solicit any additional datasets for incorporation into a final report.

Pinal County Comprehensive Plan Major Amendment

In August, the County released the major amendments to the 2009 Comprehensive Plan for public comment. The Department submitted comments by the due date to express lack of support for the Superstition Vistas urban development, submitted by the Arizona State Land Department. This development vision and conceptual land use plan would convert a 275 sections into residential subdivisions, business/retail complexes, master planned communities, urban core areas (downtown, town center, etc.), large lots and traditional neighborhood areas. This area

would be equal to the size of Gilbert, Mesa, Chandler and Tempe combined and would be developed over the next 100 years. The Department is concerned for loss of access, decreased revenue due to loss of recreational opportunity across the area, inconsistencies with open space planning and conservation efforts ongoing in the area, habitat fragmentation and loss, wildlife movement, related economic impacts to the county through loss of recreation opportunities including OHV use. In September, public meetings were held for the Citizen's Advisory Committee and the Pinal County Planning and Zoning Commission. The amendment was not approved. The Department is currently scheduling a meeting with the Arizona State Land Department for further discussion.

Proposed Rosemont Copper Project

The Department continues to closely monitor the progress of the Draft Environmental Impact Statement (DEIS) for the proposed Rosemont Copper Mine. The Coronado Forest released an administrative draft of the document to the Cooperating Agencies on June 1 with a deadline for review of June 30. In November of 2010 the Department had requested a 90 day review period citing the language of our memorandum of understanding which required a negotiated amount of review time. The Forest declined this request. On June 9th the Department again submitted a request for an additional 45 days, which was again declined. The Department committed to a review emphasizing compliance with the National Environmental Policy Act (Purpose and Need Statement etc.) and to identify omissions in analysis, data gaps, and general inaccuracies.

On June 30th the Department submitted 17 pages of comments and a cover letter enumerating the items that were not reviewed due to lack of negotiated review period. In the comments the Department was especially critical of the Forest's lack of coordination with the Department on issues of critical importance to us.

The Department provided comments on July 7 and submitted additional comments on July 29. On August 16th the Department met with the Forest supervisors to discuss improving our working relationship on this and other projects. On September 29th Pima County denied Rosemont Copper an Air Quality Permit. Rosemont said they will appeal the decision. On September 29th the Coronado announced a meeting of the Cooperating Agencies for October 4th to discuss the release.

On October 3 the Forest Service issued a press release with the following information:

- October 9: The EIS will be released on the web.
- October 14: The hard copy of the EIS will be released and mailed to the agencies.
- October 21: The Notice of Availability will be published in the federal register starting the 90 day review period.
- January 19: Final comments due to the FS

Six public meetings will be conducted:

- October 22, 2011, 1 p.m. - 5 p.m. at Desert Diamond Conference Center, 1100 W. Pima Mine Rd., Sahuarita, AZ
- November 5, 2011, 1 p.m. - 5 p.m. at Elgin Elementary School, Elgin, AZ
- November 12, 2011, 1 p.m. - 5 p.m. at Palo Verde High School, 1302 S. Avenida Vega, Tucson, AZ

- December 7, 2011, 5:30 p.m. - 8 p.m. at Benson High School, 360 S. Patagonia St., Benson, AZ
- November 19, 2011, 1 - 5 p.m. at Empire High School, 10701 E. Mary Ann Cleveland Way, Tucson, AZ
- January 7, 2012, 1 p.m. - 5 p.m. at Desert Diamond Conference Center, 1100 W. Pima Mine Rd., Sahuarita, AZ

Renewable Energy Development

Coconino County

The Department has been invited by the Coconino County Department of Community Development to serve on a stakeholder group providing expert input and editorial comment to the County's new Energy Element. The Element will be added as an amendment to their Comprehensive Plan in 2012. The Energy Element is being developed in response to concerns expressed by the Coconino County Planning and Zoning Commission that the County requires a more systematic and specific process for permitting of alternative energy facilities than what is provided through existing ordinance. Biweekly meetings are planned for the foreseeable future. The Department will be a regular participant.

Wind

Apache County

On October 6, 2011 the Apache County Planning & Zoning Commission will hold a public hearing and possibly approve an ordinance to specify Conditional Use Permit (CUP) application requirements for utility-scale wind energy projects with an actual or planned generating capacity of at least one megawatt. The proposed ordinance includes language that would require the CUP holder to refer to the Arizona Game and Fish Department's and the U.S. Fish and Wildlife Services' wind guidelines that have been developed to aid the project proponents in reducing impacts to wildlife. A letter from the Arizona Game and Fish Department will be required prior to scheduling of the CUP application for a hearing before the Planning and Zoning Commission, detailing the Department's comments and/or recommendations for the project. Pre-construction and post-construction wildlife studies, if required, shall be developed and performed with consideration given to the Arizona Game and Fish Department and U.S. Fish and Wildlife Service guidelines.

Boquillas Wind Project

The Department provided written and in-person comment to Coconino County Planning and Zoning in support of their review of Boquillas Wind, LLC's request to renew a conditional use permit for three existing meteorological testing towers on the Aubrey Cliffs. At the request of the Planning and Zoning Commission the Department included in its letter a description of the history of Department involvement with the Boquillas Ranch wind project and Department evaluation of potential wildlife impacts of a wind farm if developed at this site. The Planning and Zoning Commission recommended that the case be continued for 30 days pending an evaluation of some conditions of approval for the permit concerning possible re-siting of the testing towers in away from the cliff edge. The Department, at the Planning and Zoning Commission's request, will consult with the U.S. Fish and Wildlife Service Ecological Services Sub-office in Flagstaff on the wording of these conditions and report back on findings.

The Department has completed the first of 2 months of fall raptor migration surveys in the Aubrey Cliffs project area. Data derived from the surveys will be shared with the project

proponent and USFWS at a meeting scheduled to take place on October 20th. Department personnel continue to coordinate closely with the USFWS on this project, with the Department hosting a project site-visit by USFWS that will take place on October 13th.

Mohave County Wind Project

- *Mitigation planning for potential effects on eagles and bats*
The Department participated in the weekly conference call with the Mohave County Wind Farm Project proponent, BP Wind Energy North America. The environmental advisor for BP is coordinating with USFWS and BLM on eagle mitigation planning and procedural clarifications. An existing memorandum requires an Eagle Conservation Plan and BP Wind Energy is retaining TetraTech to assist with that plan; which will likely be an appendix to the EIS being developed in association with this project. The USFWS has provided written comment to BP in review of their survey for eagles at the proposed Mohave County Wind Resource area site. The USFWS stated that “due to shortcomings in the data described, there is moderate uncertainty in attempting to assess risk potential to eagles”, and they advised BP to plan to incorporate features from the Eagle Conservation Plan into NEPA compliance documentation.
- *Updates to baseline wildlife studies*
Western EcoSystems Technology (WEST) has submitted a draft report for review to BP. However, this report does not include the expansion area to the southwest of the original project footprint. Revisions will need to be updated and added to the Plan of Development, but it is unclear when the updated baseline report will be available. URS, the third-party contractor for the BLM will proceed with the EIS and have gaps within the biological resource section. The revisions to this section will be submitted later so review of the balance of the EIS can proceed.
- *FAA Lighting Presentation*
At the end of September 2011, the Department attended a meeting held at the Kingman BLM office with the project proponent, BLM, the Federal Aviation Administration (FAA), the United States Air Force (USAF), one of Mohave County’s Supervisors, and interested stakeholders. The FAA gave a presentation on existing federal lighting requirements for turbines and MET tower construction. The topics covered included how new technologies are making available intelligent on-demand lighting for wind turbine towers, how this technology is being used outside of the United States, FAA work with this technology, system costs, and how this technology might be applied to the Mohave County Wind Farm Project.

Perrin Ranch

The Department has been officially invited to join the Perrin Ranch Technical Advisory Committee (TAC). The TAC kick-off meeting will be held in November to discuss the roles and responsibilities of the TAC, begin drafting an MOA, and review post-construction survey methods for the wind project. The Department believes its involvement in the TAC will be crucial in the adaptive management framework for addressing post construction wildlife and access needs. Of note, the Department will be meeting with the Perrin Ranch soon to discuss renewal of its hunter access agreement.

Yavapai Ranch Wind Project

The Department continues to coordinate with NextEra Energy in the development of plans for a utility scale wind project approved by Yavapai County for construction on Yavapai Ranch in GMU 17A. The project proponent is currently in negotiations with Prescott National Forest for

requisite easements and rights of way. Pending the results of an upcoming meeting with the Forest, NextEra has provisionally agreed to fund a research project that will monitor pronghorn use of the project area before, during, and after construction of the project. The data derived from the research project will help the Department predict the impacts to pronghorn of similar projects in the future, while also providing pronghorn movement data that will help guide habitat improvement efforts for pronghorn being carried out in conjunction with the Central Arizona Grasslands Strategy.

Solar

Saddle Mountain Solar

The Department recently participated in a TAC meeting on September 20th for the Saddle Mountain Solar development. RFB Consulting is requesting a Minor Comprehensive Plan Amendments to place a 160-acre photo-voltaic generating facility on agricultural land found in the Harquahala Valley. Development of the solar facility is expected to begin in the summer of 2012. Department personnel have provided comments to help reduce impacts this project may cause.

Sonoran Solar

The Department continues to work closely as a cooperating agency with the BLM on the preparation of what will be the Final Environmental Impact Statement (FEIS) for the project. The project will impact between 2,000 and 4,000 acres (photovoltaic vs. parabolic trough solar thermal technology) of currently undeveloped desert on public lands in southwestern Maricopa County. The Department is currently working with NextEra on applicant committed mitigation that will involve wildlife research to investigate the effective footprint and scale of impacts a utility-scale solar facility may have on adjacent wildlife. NextEra is working to develop an MOU, Scope of Work, and Collection Agreement with the Department to transfer funding for the research to be conducted by Department research biologists. Overall, the goal of the study is to identify the appropriate level of mitigation that should be discussed as future projects are proposed. NextEra has proposed to fund the research at approximately \$300,000.00.

SunZia Draft Environmental Impact Statement

Following repeated requests from the Department, the BLM has provided Chapters 1-3 of the SunZia Transmission Line project Administrative Draft EIS (ADEIS) for Department review. Proposed routes presented in the ADEIS travel through the San Pedro, Aravaipa, and Sulfur Springs Valleys, between the Aravaipa and Galiuro Wilderness, and along the Interstate 10 corridor through metro Tucson. A preferred alternative has not yet been proposed, and the Department has received no information indicating when one will be chosen. The Department will meet with the BLM contractor and a representative from the BLM Tucson Field Office on October 5 to discuss Department concerns and potential mitigation to be addressed within the ADEIS, in advance of the Department's submittal of written comments. The BLM state office has requested that the route following the I-10 corridor be analyzed in the EIS. This route would have the least impact on wildlife habitat. The Department is currently considering potential mitigation for all routes including the potential for purchase of lands or easements between Aravaipa and Galiuro Wilderness Areas to preserve the wildlife linkage between these two large blocks of unfragmented habitat.

Transportation

Hidden Waters Parkway

The Hidden Waters Parkway was identified in the I-10/Hassayampa Valley Roadwork Framework study as a necessary high capacity roadway to serve the future developments west of the White Tank Mountains. The study area includes the northern section of the Hidden Waters Parkway from I-10 north to the future alignment of SR 74. The Department provided comments on the recent technical memo on the candidate alignments and evaluations with concerns identified for wildlife movement, habitat availability, light pollution, noise, and wildlife mortality.

North South Corridor Study

The purpose of the study is to provide a connection between US 60 and I-10 through identifying and evaluating routes. The Department has provided initial comments that identified connectivity and permeability, fragmentation, degradation and access concerns. The Department continues to participate in the stakeholder meetings and recently provided comments on the detailed criteria for the alignment evaluations, specific to biological resources and wildlife corridors. We are currently putting pressure on ADOT for recognition of our participating/cooperating agency status which has been overlooked in the process and anticipate a meeting in the near future with the ADOT/consultant team for further discussion.

US 60 Superior to Globe

The purpose of the study is to develop and evaluate alternatives for the realignment and/or improvement of US 60 between Superior and Globe in order to enhance safety and traffic operations, and to meet future traffic demands. The Department continues to be a participant in the monthly core team meetings. The recent meeting included comments from the Department with regard to the proposed design concept alternative evaluation factors.

Wallow Fire – Impacts to Streams and Lakes

Department personnel have just begun the huge task of monitoring the numerous streams and lakes within the Wallow Fire in Apache and Greenlee Counties. The surveys were not initiated until after the summer monsoon rains were over because the primary impact to fish populations from wildfires come when ash and debris are carried downstream by rain events. The survey crews plan to survey 13 Apache trout streams, 3 Little Colorado spinedace streams, 4 Gila trout streams (or candidate streams), several loach minnow streams, several other general wild trout streams, and 3 sportfish lakes. To date, the following results have been observed:

- The Apache trout in the very upper West Fork of Black River were not impacted, while wild brown trout below the barriers were only slightly impacted, and wild brown trout in lower reaches were moderately impacted. The surviving brown trout in the lower West Fork will ensure a quick recovery of this population.
- The Apache trout in the South Fork Little Colorado River have suffered an almost complete fish kill, with only several individuals found over miles of stream surveyed. A positive note to the South Fork situation is that the fish barriers have not been damaged by flood flows at this point.
- The Apache trout in Fish Creek have suffered a likely full fish kill and the barrier was completely washed out by a very large flood event following the fire. Efforts to install a temporary barrier are being coordinated through the Apache-Sitgreaves

National Forest to prevent non-native trout from re-invading this now vacant stream. Losing the Apache trout population is a big loss, but having to remove non-native trout again would further delay recovery of this stream.

- The native fish populations in Rudd Creek and on the Sipe White Mountain Wildlife Area are in surprisingly good shape, despite the severe burn in the upper watershed and heavy ash flows that came through the area during the monsoon season. Little Colorado spinedace, bluehead sucker, and speckled dace were found in good numbers in lower reaches on the Forest and on the Sipe Wildlife Area. Wild brook trout in the upper watershed however were heavily impacted. The native and warm water fishes appear to survive the ash flows much better than trout species.
- Stocked rainbow trout and wild brown trout were doing well in River Reservoir, located immediately downstream of the Town of Greer on the Little Colorado River. This reservoir was hit with heavy ash and debris flows coming through Greer, but did not appear to impact the fish populations. The illegally stocked carp and yellow perch were also not impacted.

Wildlife Areas

Cibola Valley Conservation and Wildlife Area

The Department, in cooperation with Bureau of Reclamation personnel from the Lower Colorado River Multi-Species Conservation Program (LCR MSCP), recommended a temporary posted closure for entry to Phases I-III and part of Phase IV, V, and XII of the Cibola Valley Conservation and Wildlife Area (CVCWA). Managers from the LCR MSCP expressed concern regarding the late arrival and nesting of western yellow-billed cuckoo's (*Coccyzus americanus occidentalis*; YBC). The closure was lifted September 30, 2011.

Yavapai County Comprehensive Planning

The Department continues to coordinate with Yavapai County Planning and Zoning and Public Works Departments in the formulation of Yavapai County's new Comprehensive Plan. Department personnel have been participating in Citizen Action Committee meetings tasked with developing the Environment/Open space, Energy, and Transportation components of the new Comprehensive Plan. The County has been proactive in its collaboration with the Department on issues of planning, zoning, development and transportation, and has been receptive to Department recommendations relating to the new plan.

Yuma County 2020 Comprehensive Plan

On August 8, 2011 Yuma County released the draft Yuma County 2020 Comprehensive Plan. The Comprehensive Plan evaluates and directs land use development policies for the future economic growth and development within Yuma County. The Department provided comments to the plan on September 12, 2011, recommending incorporating important fish and wildlife habitat such as desert washes, open space, riparian areas, wildlife linkages and corridor areas into the plan. The Department also recommended classifying several areas as Sensitive Area and Resource Lands, such as Mittry Lake and Quigley Wildlife Areas, and important habitat areas for desert bighorn sheep, and flat-tailed horned lizards. The Department recommended identifying and refining proposed Dove Conservation Resource Areas to be included as part of the Comprehensive Plan. As Yuma County continues to grow, proactive efforts to preserve these

resources will be critical to maintaining local cultural traditions, quality of life, and economic benefits. Department personnel plan to meet with Yuma County Development Services to discuss our comments.

Yuma Proving Ground Integrated Natural Resource Management Plan

The Department is currently reviewing the Integrated Natural Resource Management Plan (INRMP). The purpose of the INRMP is to guide the manner in which the U.S. Army Proving Ground sustains the military mission on the installation while managing the ecological health of our natural resources. The draft plan has a comment period ending on November 17, 2011. The Department is working to improve habitat protection and restoration efforts, mitigation, coordination, and hunter access.



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September 2, 2011

Earl Stewart, Coconino National Forest Supervisor
Michael Williams, Kaibab National Forest Supervisor
Attn: 4FRI
1824 South Thompson Street
Flagstaff, Arizona 86001

RE: Four Forest Restoration Initiative – Coconino and Kaibab National Forest Revised Proposed Action

Dear Supervisors Stewart and Williams,

The Arizona Game and Fish Department (Department) appreciates the opportunity to provide input on the US Forest Service's Revised Proposed Action (RPA) for the Four Forests Restoration Initiative (4FRI) Coconino/Kaibab National Forests Project. Restoration of Arizona's forests is of paramount importance, and the Department enthusiastically supports the Forest Service's efforts to restore forest conditions that protect Arizona's communities, watersheds, and wildlife habitats. Time is of the essence, and the Department is committed to 4FRI's success.

The RPA proposes to conduct restoration activities within a 988,764-acre ponderosa pine ecosystem located on the Coconino and Kaibab National Forests. Restoration activities proposed include mechanical tree thinning, prescribed fire, oak and aspen restoration, spring and ephemeral channel protection/rehabilitation, and decommission/obliteration of closed or user-created roads. Activities are proposed on the Williams and Tusayan districts of the Kaibab National Forest and the on the Flagstaff, Mogollon Rim, and Red Rock districts of the Coconino National Forest (hereafter, Forests). The RPA is a revision of the Draft PA, which the Forests released in February 2011 and collected comments from the public over the following months. The Department appreciates the Forests ongoing, high level of collaboration with the Department and the 4FRI Stakeholders Group. The Department submitted comments on the Draft PA on March 14, 2011. We are also a Cooperating Agency on this project, and through this relationship we have provided wildlife information and recommendations to help inform and improve the RPA. It would appear that many of our comments from the Draft PA and our participation with the 4FRI Team have been considered and incorporated in this RPA, and in particular we appreciate the significant increase in detail you now provide for treatment descriptions. We look forward to continuing to work closely with the 4FRI Team during development of the Draft Environmental Impact Statement and beyond.

Below you will find a list of both general and specific comments on the RPA.

General Comments

- *Level of Detail:* Recognizing the efficiencies necessary to plan at the almost 1-million acre scale, getting down to site-specificity is difficult and impractical in the RPA. It is our understanding that most of that specificity is yet to come in the Draft Environmental Impact Statement as well as the implementation strategy referred to in Appendix C. That specificity is essential to understanding small- and mid-scale impacts to wildlife, and we encourage the Forest Service to collaboratively engage the Department and other 4FRI Stakeholder Group partners in the development of said implementation strategy.
- *Research Proposal:* The Department has had a long-standing interest in understanding the effects of tree-group size on a variety of wildlife species. The 4FRI's goal of developing and maintaining "the mosaic of tree groups and interspaces" provides an exciting opportunity to experimentally examine the relationships between group size and occupancy/abundance of a variety of species. Such a study would provide valuable information that can be used to better understand wildlife community response to restoration. To that end, the Department has developed a research proposal in collaboration with the Grand Canyon Trust. We recommend the Forests incorporate our experimental research project in its alternative analysis in the DEIS. Our proposal is attached to these comments, and we look forward to collaborating with you to further develop the proposal's concepts.
- *Comprehensive Restoration:* As mentioned in our comment letter on the Draft PA, we believe the importance of viewing 4FRI as a comprehensive, holistic approach to forest restoration cannot be understated. We fully support the RPA's proposals for restoring not only pine forests but also oak, aspen, grasslands, springs, ephemeral stream channels, grasslands, and decommissioned roadways. We encourage the Forest Service to seek opportunities to fund the full complement of restoration activities proposed in the RPA. To that end, we would like to begin working with the Forest Service and other conservation partners to begin leveraging funds that achieve these comprehensive restoration strategies.
- *Monitoring and Adaptive Management:* We appreciate the RPA's thorough discussion of how adaptive management will be built into the DEIS. The RPA makes reference to a monitoring and adaptive management plan that is under development. We encourage the Forests to work with the Department and the 4FRI Stakeholders Group to develop a robust, collaborative monitoring plan that informs the Forests adaptive management actions.

Specific Comments

- *Canopy openings, Page 9:* The RPA states that the desired condition is a ponderosa pine ecosystem consisting of groups of trees with an open tree canopy density mixed with grassy interspaces. Here you define 'open' as 10-39% tree canopy density. In Table 1, you also provide ranges for moderate (40-59%) and closed (60+%) tree canopy density. The Department agrees that the historic range of variability was likely dominated by an open tree canopy density, and this is well-supported by available science. However, the presence of native wildlife species that depend on moderate- to closed-canopy

forest conditions suggest those canopy conditions were historically available at some proportion that sustained populations of those species over time. We encourage the Forests to expand their desired condition to recognize the presence of moderate- and closed-canopy conditions in the historic range of variability. This expanded desired condition should be clear that those denser patches were likely limited in their distribution when compared with open-canopy forests. Expanding this desired condition helps better integrate objectives for northern goshawk (NOGO) and Mexican spotted owl (MSO) into our overall restoration goals.

- *Forest structure in NOGO and MSO habitats:* The RPA states that an even-aged tree condition is only desirable within NOGO nesting stands. However, forest plan guidelines do not call for even-aged management within nest stands, and your statement contradicts your footnote on Page 12 of the RPA.
- *Old Growth, last paragraph on Page 17:* The RPA states that most old growth allocations will occur within areas identified as MSO protected, target/threshold, and restricted habitats as well as NOGO post-fledgling family areas (PFAs) and foraging habitat. With the exception of NOGO foraging habitat, most of these wildlife designations are represented by relatively small, discontinuous patches. Old growth, as defined by forest plans, includes not only dominance by large trees but also variation in tree diameters, standing and downed dead trees, and a multi-storied tree canopy. These characteristics provide important habitat diversity for wildlife. Connectivity of this habitat type is vital for wildlife movement and dispersal. Allocation of old growth within small, discontinuous patches does not provide optimal connectivity for wildlife. The Department recommends the Forests manage old growth allocations as larger more continuous patches as opposed to small, discontinuous patches. The RPA also states that while most sites do not currently meet forest plan criteria for old growth, the habitat types for which the 20% old growth was allocated are the closest to representing that condition. We would like to see a summary of the average stand condition based on the forest plan criteria for old growth. These criteria include: live trees in the main canopy by size class, variation in tree diameters, numbers of standing and down dead trees, tree decadence, number of tree canopies, total basal area (BA), and total canopy density. Some of this information is summarized in Table 10, but would also be useful in the old growth context to better understand how close allocated areas are to achieving old growth conditions.
- *Vegetation diversity and composition, Page 21:* We support the RPA's emphasis on increasing vegetation diversity in the project area. Healthy, productive populations of Gambel's oak are essential for many wildlife including MSO, bears, turkey, songbirds, and bats. Aspen stands harbor higher wildlife species diversity relative to the surrounding conifer forests and inclusion of aspen treatments in this 4FRI project is imperative to our cooperative aspen recovery efforts which include elk population reductions in aspen areas. Grassland and savanna restoration are also important not only for pronghorn habitat connectivity but also for other sensitive wildlife such as the black-footed ferret, the Gunnison's prairie dog, and migratory birds. With regard to savanna restoration, the Department supports your proposed forest plan amendment to ensure that savanna sites can be truly restored and not beholden to forest plan NOGO guidelines.

- *Springs and seeps, Page 30:* Springs and ephemeral channels are very important for all wildlife, in particular for native aquatic species such as leopard frogs and garter snakes. We would like information on what process the Forests will use to prioritize springs and channels for restoration, and how they intend to fund such work recognizing that it is not identified as an activity in the 4FRI Request for Contract Proposals (see www.fs.usda.gov/4fri).
- *Proposed Action, Page 36, Aspen treatments:* It is unclear from the bulleted list of proposed actions what types of treatments will occur in the aspen type. Fire can be a highly effective tool for stimulating growth of new aspen ramets within clones; are areas proposed for burning within aspen included in the overall acreage proposed for prescribed burning? There is also no mention of other tools that could be used to enhance aspen re-growth such as ripping. We recommend this technique also be included, and that the overall discussion of treatments within the aspen type be expanded.
- *Proposed Action, Page 42, treatments in MSO habitat:* The Department supports the Forests and the US Fish and Wildlife Service in their efforts to protect and enhance habitat for the MSO. We support the proposed treatments within the MSO Protected Activity Centers (PACs) as well as the target/threshold and restricted habitat and we view these treatments as crucial not only for fire risk reduction but also for habitat improvement for the species as per the MSO Recovery Plan. We support the proposed forest plan amendment to harvest conifers larger than 9 inches within the identified PACs.
- *Tables 13 and 14:* It appears that Restoration Unit 2 is not being considered for any activities, including spring and channel restoration or road closure/obliteration. We recommend including a brief reasoning for the lack of restoration activities in RU 2.
- *Range of vegetation treatments, Pages 34-53:* We recommend compiling all design features related to oak, aspen, and protection of snags and downed logs into one place. Currently the RPA includes those design features in some treatment types but not all (e.g., it's missing from UEA, IT, and SI) where we assume those design features would also apply.
- *Vegetation treatments, tree groups, Page 43:* The RPA states that tree groups will generally consist of 4-20 dominant to co-dominant trees. We contend that tree groups could be larger in the historic range of variability; see White (1985) where groups of trees were documented as large as 44 trees per group. See also Appendix B, where you describe 40 trees per group at the fine scale.
- *Appendix B, Old Tree Retention Strategy:* The Department applauds the Forests for honoring the comment echoed by many 4FRI stakeholders to avoid cutting of pre-settlement trees except in rare cases where human safety is at risk or where removal of the tree is necessary to avoid further habitat degradation. Retention of pre-settlement trees is an essential objective of a forest restoration project. We offer just a few comments on this document:

- Scientific basis for old growth: we believe this section should be significantly expanded. Here is a list of references for your consideration which the Department obtained from the Ecological Restoration Institute at Northern Arizona University. References are ordered here by topic, and full references are available upon request:
 - o High genetic diversity: Kolonaski 2002
 - o Resistance to surface fire: Agee 1998
 - o High structural diversity for wildlife habitat: Bull and Hohmann 1994, Humes et al. 1999, Dodd et al. 2003, Chambers and Mast 2005
 - o Historical record of forest dynamics: Fule et al. 1997, Soule and Knapp 2006.
- Appendix B states that each age class is important and the end result of abundant old trees is dependent on providing conditions that allow younger trees to grow into older trees. This is entirely dependent on the scale of analysis. Balanced age classes are important at the landscape-scale, but the Department does not agree with your justification for cutting old, pre-settlement trees to make way for regeneration at the stand-scale. This statement creates confusion with other statements in this document which say that old trees will not be cut except in specific circumstances.
- *Appendix C Large Tree Retention Strategy (LTRS):*
 - o Historical timber projects on the Coconino and Kaibab National Forests emphasized removal of large-diameter trees, and it was not too long ago the Department stood in opposition of many of those projects because they significantly degraded wildlife habitats. Not 15 years later, the Department is enthusiastically supporting the 4FRI project because of the profound need to reduce the risk of catastrophic fire and reduce unsustainable densities of young ponderosa pine trees that have also significantly degraded wildlife habitats. Our support for the 4FRI Project is based upon the project's emphasis on removal of small-diameter trees. That having been said, the Department does not support a cap or limit on the diameter of trees to be harvested because there are many instances where young large trees need to be removed to achieve restoration objectives. Appendix C is based on the LTRS that was collaboratively developed by 4FRI Stakeholders to identify those areas where stakeholders could agree that trees greater than 16 inches diameter breast height needed to be thinned. The Department participated in this process and supported the LTRS with reservations in the interest of moving the collaborative process forward. We appreciate the Forests recognition of this document but also fully support your clear statement that this LTRS does not represent a diameter limit/cap. We encourage the Forest to analyze the impacts of the LTRS on achieving the desired conditions across the project area as part of the DEIS.
 - o The document asks for comments on what needs to be in an implementation strategy. To the extent possible, we recommend increasing site-specificity especially with regard to resulting forest structure, aspen treatments, spring/channel restoration prioritization and activities, and road decommissioning/closure prioritization and activities. A more in-depth process for how monitoring results will trigger adaptive management is also needed. The Department would also like to collaboratively pursue the concept of work-force training with the Forests and

other 4FRI Stakeholders to ensure that desired conditions accurately translate from what is written in a planning document to what the forests look like post-treatment. This will be critically important if implementation takes place using a designation by prescription strategy, as opposed to designation by tree marking. As stated above, we encourage the Forests to engage the Department and others in the development of the implementation strategy.

- *Appendix D Mechanical Treatment and Fire Prioritization Process:* In Table 21, you determine ecological restoration priorities by multiplying scores for mechanical treatment priority with scores for resources at risk. It is our understanding that mechanical treatment priorities were determined in part by how departed a site was from the desired condition and so it makes sense to consider this in a restoration priority exercise. However, in the context of strategically placing treatments, effectiveness will in large part be determined by whether we reduced the risk of large, uncharacteristic fire at the landscape scale. Therefore, we recommend you also analyze restoration priorities by multiplying scores for resources at risk by the fire priority rankings.

Again, the Department fully supports the 4FRI project and we are confident that the issues raised in these comments are ones that will be worked out throughout the planning process. 4FRI is an ambitious but critically necessary project for the future of Arizona's forests. We are committed to working with you through the planning, implementation, monitoring, and adaptive management phases of this project to ensure positive outcomes for wildlife and the public. Thank you for the opportunity to comment on the RPA. If you have any questions or need further clarification, please do not hesitate to contact me at 928-214-1253 or sreif@azgfd.gov.

Sincerely,


Sarah Reif
Habitat Program Manager