

Minutes of the Meeting of the  
Arizona Game and Fish Commission  
Friday, December 2, 2011  
Saturday, December 3, 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. This meeting followed an agenda revision #1 dated November 30, 2011. Commissioner Harris left the meeting at noon on Friday and was not present for the rest of the day. For Saturday's meeting Commissioner Harris called in and was present by telephone.

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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:

- Currently, the Commission has the authority to accept donations, but does not have the authority to actively solicit donations. The Department recommends that the Commission direct the Department to add "Solicitation of Funds" to the Game and Fish Omnibus proposed legislation. The following is proposed draft language: Solicitation of Funds - The Commission may solicit and accept grants, gifts or donations of money or other property from any source, which may be used for any purpose consistent with ARS 17-231(B)(13).

**Motion:** Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO DIRECT THE DEPARTMENT TO ADD "SOLICITATION OF FUNDS" TO THE GAME AND FISH OMNIBUS BILL.

**Vote:** Unanimous

- The Department is working to amend the current OHV legislation for the purposes of addressing issues related with the resident/non-resident definition, the Decal Program, and fund/administrative issues. The Department is working with MVD on the language.
- The Rotenone Review Advisory Committee met on Monday, November 21, 2011; Subcommittee Chairs presented draft reports and recommendations. The final report is due December 31, 2011.

Mr. Guiles recommended that the Commission vote to approve two new Commission Legislative Representatives for 2012.

Chairman Woodhouse nominated Commissioner Freeman and Commissioner Harris nominated Commissioner Husted.

**Motion:** Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO ELECT COMMISSIONER FREEMAN AND COMMISSIONER HUSTED AS THE COMMISSION'S LEGISLATIVE REPRESENTATIVES FOR 2012.

**Vote:** Unanimous

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## 2. Information, Education and Wildlife Recreation Activities Briefing

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

Mr. Gray provided the Commission with an 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. The updates are provided in fulfillment of the Department's commitment to brief the Commission on a regular basis. Mr. Gray also provided a Power Point presentation that included the following:

- Audio/Visual staff, Gary Schafer and Carol Lynde won another award. This award was for the Environmental Program from the Rocky Mountain Southwest Chapter of the National Academy College of Arts and Sciences. This is the 16<sup>th</sup> Emmy Gary and Carol have won while doing work with the Arizona Wildlife Television Program.
- Department Staff, Kevin Bergersen and Ed Huntsman were presented with the National Safe Boating Council 2011 Horizon Award for their work with the National Safe Boating Councils Close Quarters Boat Handling Course and Aware Arizona Boating Education Safety Initiative.

Mr. Gray continued with the final report on the Director's Goals and Objectives – Goal #12 that included the following:

### Resident vs. Non-resident Definition (Included in Game and Fish Omnibus Bill)

- ARS 17-341. Applying for or obtaining license or permit by fraud or misrepresentation; classification
  - A. It is unlawful for a person to purchase, apply for, accept, obtain or use, by fraud or misrepresentation a license, permit, tag, or stamp to take wildlife and a license or permit so obtained is void and of no effect from the date of issuance thereof.
  - B. Any person who violates this section is guilty of a class 2 misdemeanor.

### Consistent Youth Definition

The Department proposes defining a “Youth” as a person under the age of 18, and to remove references to “Junior” and “Child” and retain “Youth” as the only qualifying description.

The Commission was provided with Alternatives A, B, and C (below). The Department recommended that the Commission direct the Department to pursue Youth Definition Alternative A as part of the 2012 Director’s Goal and Objectives.

### Alternative A:

- Licenses not required for small game, predator/furbearers, sportfish for youth under 16
- Youth under 18 would be eligible for Youth/Junior hunts
- Class F Youth Combination license (Only license for youth under 18 -except Urban, 1 day-); (Required to apply for or hunt big game (10-17 years of age)
- 18 and older required to purchase adult licenses

(Estimated annual negative revenue impact - \$20,000; Does not account recruitment potential – 2 yrs; Consistent with Migratory Bird and Federal Duck Stamp requirements; Consistent with other benchmarked states; Consistent with recognizable social norms (16 for drivers license; 18 years for voting and military service); 70% of survey respondents agreed that <16 should be able to hunt small game and fish without a license)

### Alternative B:

- License not required for small game, predator/furbearers, and sportfish for youth under 18
- Youth under 18 would be eligible for Youth/Junior hunts
- Class F Youth Combination license (Only license for youth under 18 except Urban, 1 day; Required to apply for or hunting big game (10-17 years of age)
- 18 and older required to purchase adult licenses

(Estimated annual negative revenue impact - \$140,000; Does not account recruitment potential – 4 yrs; Inconsistent with Migratory Bird and Federal Duck stamps; 2/50 states allowed up to 18 years to fish without license; 0/50 allowed up to 18 years to hunt without license).

### Potential Financial Impacts of Alternatives A and B:

- Currently, < 21 years old can purchase Class F Youth Combo (Under alternatives A and B, 18-20 year olds are adult;
- 2007-2009 Age Class (resident) data suggests minimal impact (20 year olds - 2,523 Youth Combo, 1,660 Fish (adult), 524 Hunt (adult) - (4,707); 21 year olds - 1,402 Adult Combo, 2,195 Fish, 1,186 hunt - (4,783)

Potential Impacts to Federal Aid:

- Raising minimum age = fewer licenses = < Fed Aid
- Impact expected to be small to insignificant (1-2%) (10-17 age classes still purchase licenses to apply for big game; Class F Youth Combo counted twice for SFR and WR)

Required Stature and Rule Changes:

- ARS 17-333. Licenses; classes; fees; definition - Change “juvenile” to “youth” and age references; Repeal license classes that will no longer be applicable
- ARS 17-335 Minors; blind residents - Change age references
- R12-4-102 Fees for licenses, Tags, Stamps, and Permits - Repeal license classes that will no longer be applicable; Change age reference provided under Youth Class F Combo; Change all references from “junior” to “youth”
- R12-4-307 Trapping Regulations: Licensing; Methods; Tagging of Bobcat Pelts - Change age references
- R12-4-318. Seasons for Lawfully Taking Wild Mammals, Birds, and Reptiles - Change reference from “junior’s-only” to “youth-only” hunt
- Other – 365 Day may require additional statute/rule amendments

Alternative C:

- Maintain current Youth descriptions and license requirements

Due to the complexities and interconnectedness of the required statute/rule changes related to licensing, the Department recommends this proposal be combined with the Future License Structure proposal and associated implementation timeline.

**Motion:** Harris moved and Freeman seconded THAT THE COMMISSION VOTE TO DIRECT THE DEPARTMENT TO PURSUE YOUTH DEFINITION ALTERNATIVE A AS PART OF THE 2012 DIRECTOR’S GOALS AN OBJECTIVES.

**Vote:** Unanimous

Future License Structure

The Commission was provided with Alternatives A, B, and C (below) for future licensing structure. The Department recommended that the Commission Direct the Department to pursue implementation of Future License Structure Alternative A, in conjunction with a consistent Youth definition, as part of the 2012 Director’s Goal and Objectives.

Alternative A: Assumes 365 Day License/POS

<b>Proposed License Options (Basic)</b>	<b>Notes</b>
Resident Fishing	Includes Urban, trout and 2-pole
Non-Resident Fishing	Includes Urban, trout and 2-pole
Resident Hunt	
Non-Resident Hunt	
Resident Combo	Includes Urban, Trout and 2-pole
NR Combo	Includes Urban, Trout and 2-pole

Youth combo (R&NR)	Includes Urban, Trout and 2-pole. Youth aged 10-17 must possess to apply for draw. Youth 16-17 must possess to hunt small game and fish. Only license option available for youth under 18 (except for 1 day and Urban Fish)
Resident /Non Res 1 day Hunt/Fish Combo	Authorizes hunting and fishing (including Urban), consecutive or non- consecutive days, unlimited number. Counted twice for SFR/WR certification.
Urban Fishing	Consider R vs. NR differential, CDF contribution

<b>Licenses/Stamps Removed</b>	<b>Notes</b>
NR 4-month Fishing	Replace with annual 365 day
50% R and NR Fishing (all classes)	Replace with annual 365 day
NR 5 Day Fish	Replace with annual 365 day or 1 day combo
NR Colorado River Only	Replace with annual 365 day or 1 day combo
R & NR additional Day	Replace with annual 365 day or 1 day combo
NR Fishing	Replace with NR Fish (old NR Sup Fish was cheaper)
Child General Hunt (\$15)	Replace with Youth Combo
Child Combo (\$20)	Replace with Youth Combo
NR 3 Day Hunt	Replace with 1 day combo
R & NR 1 day Fish	Replace with 1 day combo
R and NR Super Hunt	Replace with new Hunt or Combo, 170 sold
R and NR Super Combo	Replace with new Combo, 800 sold
R and NR Super Fish	Replace with new Fish, R -12,800 NR - 1,800
Family Hunt/Fish/Combo Licenses	New youth age - obsolete, + extra years
R & NR Trout Stamp	Include in annual licenses
R & NR Two Pole Stamp	Include in annual, consider selling additional stamp?

<b>Licenses/Stamps Retained or Modified (Specialty)</b>	<b>Notes</b>
Lifetime (5 options)	Consider grandfather Urban, Trout , & 2-pole
Pioneer	
Disabled Vet	
Honorary Scout License	Recruitment
Resident Youth Group 2 Day	Recruitment
Apprentice Hunting	Recruitment, consider adding Fish
Fishing Permit in R12-4-310	Physical, developmental, or mentally disabled
Unit 12A Stamp	Consider include with Tags, sell for non-permit tags
AZ Duck Stamp	Duck stamp collectors and JR Duck stamp
Migratory Bird	FWS data requirement

Federal Duck Stamp	Federal requirement
UT/NV/CA Fish Stamps	Other State's requirement

Alternative B:

- Modify Alternative A as directed

Alternative C:

- Maintain Current License Structure

Implementation

- Identify any and all changes to rule/statute (2-4 mos.)
- Conduct an independent review (6 mos.)
- Economic analysis - price points, ceilings, FA (12 mos.)
- Draft language to revise ARS 17-333 (2 mos.) - Pursue authority to establish licenses/fees in rule
- Build constituent support (12 mos.)
- Run legislation requiring 2/3 approval (12-24 mos.)
- Rulemaking –Youth and License Structure (12-15 mos.) - Some rulemaking may have to follow Legislative changes
- Implement Point of Sale (Goal to implement in 2014)
- Online Programming (9 mos.)
- Internal Programming (registers, regulations books, etc.) (4-6 mos.)
- Dealer and AGFD Staff Training (6 mos.)
- Public Information campaign (6 mos. prior to January 1st effective date)

It will take approximately 3-5 years to fully implement Alternative A or a modified version.

Commissioner Harris commented on access and access issues. Many states have habitat stamp issues and the western state Commissioners will be discussing these issues at the upcoming WAFWA meeting. Commissioner Harris asked Mr. Gray to keep these discussions in mind as things progress.

**Motion:** Husted moved and Mansell seconded THAT THE COMMISSION VOTE TO DIRECT THE DEPARTMENT TO PURSUE IMPLEMENTATION OF FUTURE LICENSE STRUCTURE ALTERNATIVE A, IN CONJUNCTION WITH A CONSISTENT YOUTH DEFINITION, AS PART OF THE 2012 DIRECTOR'S GOAL AND OBJECTIVES.

**Vote:** Unanimous

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### 3. Wildlife Center Project Briefing

**Presenter:** Kellie Tharp, Education Branch Chief

Ms. Tharp provided the Commission with a Power Point presentation on the Department's proposed objective for the Wildlife Center Project. The presentation included a request for Commission

approval of the objective, a Phase I progress update, Phase II options, legislative considerations, and alternative funding strategies. The presentation included the following:

### Wildlife Center Objective

Construct a Wildlife Education Facility to include a Wildlife Center, interpretive trail, classroom and amphitheater located at the Department's Headquarters site. The purpose of this objective is to:

- (Phase I) Construct a Wildlife Center that will provide triage for sick, injured or orphaned wildlife, and will serve as a holding facility for quarantined, seized and resident education wildlife.
- (Phase II) Construct a classroom, interpretive trail and amphitheater that will provide educational programs for the public to learn about wildlife education topics, including the North American Model of Wildlife Conservation. The public will also be introduced to outdoor activities, such as hunting, fishing, wildlife watching and other outdoor recreational activities.

**Motion:** Freeman moved and Husted seconded THAT THE COMMISSION VOTE TO APPROVE THE WILDLIFE CENTER OBJECTIVE AS PRESENTED.

**Vote:** Unanimous

### Phase I Progress Update:

- Environmental Assessment Checklist (EAC) reviewed and authorized (November 2011)
- Existing architectural plans require updating (Estimated cost: \$40,000-\$60,000; Estimated time: 4-6 months)
- Wildlife for Tomorrow has funding set aside to contribute to the project and are willing to assist with fundraising efforts
- At the end of Phase I the Department can shut down the current Wildlife Center, move existing supplies and resources, move animals, return leased property (estimated moving/demolition cost: \$50,000; purchase furniture and supplies to operate at new facility (estimated cost: \$40,000); continue current programmatic delivery.

Commissioner Harris asked if the Department could start the process of educational outreach at the new Wildlife Center in between Phase I and Phase II.

Ms. Tharp stated the Department will have some areas where students can come and visit and the Department will be able to have some informal classroom settings with discussions and tours.

Commissioner Freeman suggested using some of the facilities at the Department's Headquarters during the transition from Phase I to Phase II.

### Phase II – Option A (Designed to allow for expansion)

Classroom/"wet lab" building and public restrooms	\$ 765,000
Outdoor exhibits, landscaping, and infrastructure	\$ 775,000
Outdoor amphitheater	\$ 90,000

Total	\$1,630,000
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#### Option A - Outreach Potential

- School Program availability – 150 days per year, 120 students per day
- Using the 4<sup>th</sup> grade program as an example – 2 programs per day (included outdoor recreation activity)

#### Option B – Double Student Outreach

- Expand Phase II to accommodate 250 students per day
- Would require: Paved parking area to accommodate 4 buses; additional restroom facilities; larger classroom & amphitheater; larger interpretive trail; increased staff and volunteer resources
- Increase cost total to \$3,012,000

	Option A	Option B
Price	\$1,630,000	\$3,012,000
Annual Student Outreach Potential	18,000	37,500

**Motion:** Husted moved and Freeman seconded THAT THE COMMISSION VOTE TO DIRECT THE DEPARTMENT TO PROCEED WITH OPTION B IN PHASE II OF THE WILDLIFE CENTER PROJECT.

**Vote:** Unanimous

Commissioner Husted stated that the Commission needs to have a fundraising campaign outline, and suggested that at least two of the Commissioners meet with the 501c3 organizations that are willing to participate in a fundraising effort for this project.

The Commission requested that the Department put together an informational package regarding the plans for the new Wildlife Center and that the information include detailed information of what Option B entails.

#### Legislation

Currently, the Commission has the authority to accept donations, but does not have the authority to actively solicit donations. The Department has received direction from the Commission to add “Solicitation of Funds” to the Game and Fish Omnibus proposed legislation (see agenda item #1).

#### Alternative Funding Strategies

- 501c3 Non-profit organizations – Wildlife for Tomorrow and Adobe Mountain Wildlife Center Auxiliary
- Grants – The Department continues to search for grant opportunities

- Installment Purchase of Facilities – Title 17-246 allows the Commission to enter into an installment agreement; Must demonstrate the capability to make the annual installment payment

Commissioner Mansell asked about putting a check-off box for donating on license applications.

Lizette Morgan, CFO, Finance and Accounting, addressed the Commission and stated that she would look into it.

Commissioners Husted and Freeman will meet with Ms. Tharp and Mr. Odenkirk and others in the near future to discuss some options for financing.

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Meeting recessed for a break at 9:30 a.m.

Meeting reconvened at 9:50 a.m.

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#### 4. Monthly Update on Recreational Access Issues within Arizona.

**Presenter:** Al Eiden, Landowner Relations Program Manager

Mr. Eiden provided the Commission with a couple of updates: 1) The Department has sent out a survey to landowners and sportsmen. Preliminary survey results should be in by January and a final analysis should be done by February; and 2) Working in partnership with the Natural Resource Conservation Service the Department was able to get a grant to hire two new positions, one in Region VI and one in Region V. The primary roles for these two positions will be to deal with access, private lands, habitat, and restoration types of issues.

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#### 5. 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 additional update. The Department went live with HabiMap this week on Wednesday. The website had 700 hits on the first day and 3000 hits on the second day.

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6. Request for the Commission to authorize the Department to Enter into Five Conservation Easement Agreements with Private Landowners along the Upper San Pedro River, and to Approve of the Accompanying Memorandum of Understanding (MOU) with The Nature Conservancy (TNC) for Monitoring Each Conservation Easement, Cochise County, Arizona.

**Presenter:** Josh Avey, Habitat Branch Chief

The Department requested the Commission to authorize the Department entering into five conservation easements and accompanying Memorandum of Understanding (MOU) with The Nature Conservancy (TNC) for monitoring each easement. The conservation easement agreements will be completed one by one, with the Estoe-Callegary property being the first. The Department is working closely with TNC and the AZ State Forestry Division to protect important riparian habitat along the Upper San Pedro River. If approved, the Conservation Easement Agreement would serve to protect approximately 40 acres, and a total of 694 acres under all five conservation easements of private land along the Upper San Pedro River.

The Department will incur no costs associated with establishing these conservation easements. Federal Forest Legacy Program (USDA – Forest Service via AZ State Forestry Division) funding is being matched at 32% from partnering landowners and TNC. TNC has also agreed to take on the responsibility of the annual monitoring required of all such easements, which is the purpose of the MOU. The MOU includes monitoring for all five conservation easements in this area as they are approved and implemented. TNC has also performed much of the administrative tasks associated with establishing the easements, including preparing the agreements and MOU, scheduling the necessary due diligence, outreach and transactional assistance.

**Motion:** Freeman moved and Woodhouse seconded THAT THE COMMISSION VOTE TO AUTHORIZE THE DEPARTMENT ENTERING INTO FIVE CONSERVATION EASEMENT AGREEMENTS WITH LANDOWNERS ALONG THE UPPER SAN PEDRO RIVER, AND TO APPROVE THE ACCOMPANYING MEMORANDUM OF UNDERSTANDING WITH THE NATURE CONSERVANCY FOR MONITORING EACH CONSERVATION EASEMENT, COCHISE COUNTY, ARIZONA, AND EXECUTE THE AGREEMENTS AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL. THE COMMISSION MAY VOTE TO TAKE ACTION ON, OR PROVIDE THE DEPARTMENT DIRECTION ON THIS ITEM.

**Vote:** Unanimous

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6A. Informational Update on Sonoran Pronghorn Recovery Efforts

**Presenter:** Pat Barber, Yuma Regional Supervisor

Mr. Barber introduced John Hervert, Region IV Wildlife Program Manager, who provided the Commission with a brief overview and PowerPoint presentation of the history of the Sonoran Pronghorn project. The Sonoran pronghorn has been listed as endangered by the Endangered Species Act since 1967. Although the Department has consistently expressed concern for the sub-species, and consistently advocated for active recovery management programs, little

progress was made until after 2002 when the entire U.S. population fell to an estimated 21 animals. Since 2002 there has been significant progress in recovery efforts, culminating in the establishment of a second population of Sonoran pronghorn of the Kofa National Wildlife Refuge later this month. This was a cooperative effort and could not have been done without the partnering of other agencies. Initial funding was provided by the U.S. Marine Corp and additional funding was provided by the U.S. Air Force, USFWS, National Park Service, and BLM.

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Meeting recessed for a break at 10:35 a.m.

Meeting reconvened at 10:45 a.m.

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

**Presenter:** Lawrence M. Riley, Assistant Director for Wildlife Management

Mr. Riley provided the Commission with a briefing and a PowerPoint presentation on the Mexican wolf reintroduction program and other management and recovery efforts. Arizona's intensive involvement in Mexican wolf conservation began in the mid-1980s, by exploring the feasibility of reintroduction in Arizona. It continues to date, with the Arizona Game and Fish Department (AGFD or Department) a leader in a multi-agency reintroduction project in Arizona (AZ) and striving to contribute to range-wide recovery. Department participation is and always has been subject to policy guidance from the Commission, which typically has been provided in public session. After this presentation on December 2, 2011, the Commission will be asked to reaffirm its current guidance and/or to provide new guidance.

Current Commission guidance on Mexican wolf conservation stems largely from an October 10, 2008 briefing by the Department. After the presentation, the Commission gave detailed guidance through 2013 and requested comprehensive annual updates from the Department over the same period. The 2009 update was given in public session on February 5, 2010. The December 4, 2010 update again focused on reintroduction in the Blue Range Wolf Recovery Area (BRWRA) of Arizona and New Mexico and on the Fort Apache Indian Reservation (FAIR). It also addressed reintroduction in Mexico and concerns the Department and Arizona stakeholders have expressed.

As a result of the 2008 briefing, the Commission provided policy guidance to the Department on continuation of Mexican wolf conservation efforts, including reintroduction and recovery. By 5-0 vote, the Commission instructed the Department Director, as a condition of Commission support for wolf conservation, to employ various principles and actions over the next five years (2009 through 2013) to ensure measurable progress. On February 5, 2010, in public session the Commission revisited the guidance and again reaffirmed it by a by 5-0 vote. The following outlines that guidance followed by a current update:

1. Continue to provide leadership and assertively represent the interests of the Commission and the State of Arizona in all areas of Mexican wolf conservation. Update 12/2/2011: The Department continues to provide leadership with regard to the Wolf program in Arizona and

to assertively represent the interests of the Commission and the State of Arizona at every opportunity.

2. Collaborate with the U.S. Fish and Wildlife Service (USFWS) to complete a revised Mexican Wolf Recovery Plan that provides recovery context (i.e. achievable and legally-defensible population objectives adequate to justify and sustain delisting) for wolf conservation efforts in Arizona and elsewhere. Update 12/2/2011: The Department is participating in the current recovery planning effort in both the Agency Liaison and the Science subgroups.
3. Renew the existing Memorandum of Understanding (MOU) among the Blue Range Wolf Recovery Area reintroduction project's signatory cooperators, to continue providing a foundation for collaborative adaptive management of the project. Update 12/2/2011: In December 2009, USFWS determined in a consent decree with NGO litigants that for its purposes the MOU had expired and USFWS was no longer a signatory participant in the Reintroduction Project's Adaptive Management Oversight Committee (AMOC). AMOC and USFWS reconvened in March 2010 to discuss revision of the existing MOU or creation of one or more replacements. Although no agency, including USFWS, ever submitted the required written notification for withdrawing from the 2003 MOU, in June 2010 a new MOU was established among County, Federal, State, and Tribal parties that have regulatory jurisdiction and management authority over Mexican wolves in Arizona and New Mexico during July-August 2010. AMOC has essentially ceased to exist, although by USFWS instruction and cooperator consensus in December 2009 the agencies cooperating in the field are still supposed to adhere to the "AMOC" standards operating procedures (except SOP 13.0, which now serves only as a guidance document for non-USFWS cooperators). An 'Interdiction Stakeholder Council' has been convened by USFWS and the Department is a participant; however, contrary to the original concept the Department is limited to an advisory role and does not have a decisional agency role. The MOU Cooperators met twice in 2011, and a meeting of the Executives is scheduled for February 2012. As noted to USFWS by cooperators in May and September 2011 cooperator meetings, with the partial exception of the Interdiction Council, None of the objectives set forth in the MOU or discussed and agreed to among the cooperator Executives on March 31, 2011 has been achieved.
4. Continue to commit funds sufficient to sustain all Department commitments under the renewed MOU. Update 12/2/2011: The Department has continued to commit sufficient funding, staff and other resources to meet our obligations. Discussions with Arizona stakeholders continue to indicate that, other than some elements of the conservation community, they are very appreciative of the Department's level of commitment and engagement.
5. Secure private and Federal funding sufficient to provide incentives for and underwrite full participation in the renewed MOU by willing Native American Tribes within the existing experimental population area in Arizona, particularly the White Mountain Apache Tribe(WMAT), which has demonstrated its substantial commitment to wolf conservation over these past several years. Update 12/2/2011: WMAT is actively engaged in the Reintroduction Project but continues to be concerned that they are significantly underfunded without apparent remedy. The San Carlos Apache Tribe (SCAT) is not a project cooperator and has yet to come to agreement with USFWS on sufficient funding support to enable

integration into the project. WMAT and SCAT are members of the Interdiction Stakeholder Council.

6. Secure commitment of financial and other resources by the State of New Mexico that are sufficient to sustain New Mexico Department of Game and Fish commitments under the renewed MOU, such that State of Arizona and Federal resources needed for wolf conservation efforts in Arizona are not directed to operations in New Mexico. Update 12/2/2011: NMDGF effectively withdrew from direct engagement in management of wolves in July of 2011.
7. Pursue Congressional funding for an interdiction, incentives and compensation program that appropriately addresses the impacts of Mexican wolf reintroduction and recovery on the private sector and creates incentives for enhanced conservation and stewardship. Update 12/2/2011: In 2009 Congress appropriated funding for an enhanced incentives (interdiction and compensation) program for the gray wolf. The Department has at this point secured access to so-called Tester monies. The Department and WMAT continue to discuss a pilot program on Fort Apache Indian Reservation (FAIR).
8. Productively engage public lands grazing permittees and private lands livestock operators in voluntary, incentives-based Mexican wolf conservation measures. Update 12/2/2011: The Department has significantly increased its efforts and success in this area. Local ranchers in Arizona who are most affected by wolf presence are increasingly engaged and several have expressed considerable appreciation for the Department's efforts and financial commitment. This has translated into considerable support from the ranching community for retention of Heritage and Wildlife Conservation funding. Department engagement with affected stakeholders has generated some recent concern in the conservation community that outreach activities targeted at identifying proactive management needs are not as open as they should be.
9. Continue, as incentives-based conservation measures are developed and deployed, to modify reintroduction project operating procedures and management efforts as necessary to:
  - a. Offset unlawful killing of Mexican wolves and enforce applicable laws. Update 12/2/2011: No meaningful progress.
  - b. Achieve the project's annual population objectives. Update 12/2/2011: The population count for 2011 will occur in January. Our end-of-year goal for 2011 is greater than 55 wolves with 3 breeding pairs – a 10% increase over last year with at least 1 more breeding pair. The 2010 end-of-year count was: 50 wolves (AZ: 29 with no breeding pairs; NM: 21 with 2 breeding pairs). This was an increase from 2009: (42 total with 2 breeding pairs).
  - c. Increase genetic diversity of the wild population to reflect better representation by all three Mexican wolf lineages and reduce inbreeding coefficients to acceptable levels. Update 12/2/2011: This is a long-term objective; progress or lack thereof since October 2008 is difficult to measure per se. The USFWS reports that the captive breeding population consists of approximately 300 wolves in 52 facilities in the United States and Mexico. All of these wolves are managed according to the

- Mexican Wolf Species Survival Plan with the goal of “captive propagation and management of wolves that are genetically, physically, and behaviorally suitable for reestablishment in the wild.” All releases of wolves released into the Blue Range Wolf Reintroduction Area (BRWRA) are done to increase genetic diversity and reduce mean kinship. The Science and Planning Subgroup of the Recovery Team is addressing the issue of genetics as well.
- d. Ensure that wolf conservation benefits accrued through the project are appropriately balanced by on-the-ground interdiction, incentive and compensation measures that offset impacts on the private sector. Update 12/2/2011: This is a long-term objective but significant increases since October 2008 in interdiction and incentive measures in Arizona and in New Mexico have not resulted in increased wolf conservation benefits (as measured by population size). Since 2007 no wolves have been removed from Arizona non tribal lands within the BRWRA due to excessive depredation incidents. The USFWS reports that the Interdiction Stakeholder Council developed short-term guidelines for depredation compensation. The Council is now working on a long-term coexistence plan.
10. With regard to the phrase “applicable circumstances” in clarification 9a of the public review draft SOP 13.0 Clarification Memo, ensure that the final Clarification Memo affirms that the following information will be considered in reaching a Project decision regarding management response for the wolf or wolves under review:
- a. Depredation and nuisance history.
  - b. Response to previous management actions.
  - c. Past, current, and likely future alpha status (including age and breeding potential).
  - d. Certainty of existence of dependent pup(s).
  - e. Effects of removal on pack continuity through the current and next breeding season.
  - f. Genetic lineage and inbreeding coefficient.
  - g. External factors contributing to most recent depredation incident(s).
  - h. Total number of permanent removals and unlawful killings within the Project area during the past 12 months.
  - i. Any other relevant factors or information.
- Update 12/2/2011: The USFWS reports that it is managing in accordance with the 1998 Management plan, 10(j) rule, and the EIS. The USFWS indicated in settlement language that it is not governed by SOP 13.0. It serves as a framework for discussion among cooperators.
11. Continue to ensure that, in accordance with reintroduction project operating procedures, responses to potential depredation incidents in Arizona are initiated within 24 hours of receiving such reports and that initial releases and planned translocations of Mexican wolves in Arizona are vetted with the public. Update 12/2/2011: This standard continues to be met for initial releases and translocations and more than 95% of the time for depredation response. The latter is a result of excellent permittee-IFT cooperation and IFT response (particularly by USDA Wildlife Services). Recent focused outreach efforts to Arizona stakeholders regarding an initial release proposal drew concern that Department outreach efforts were not reaching out to elements of the conservation community.

12. Collaborate with the USFWS through the National Environmental Policy Act (NEPA) process and an Environmental Impact Statement (EIS) to objectively evaluate the potential benefits and costs, in terms of wildlife and social capital, of any changes in the current nonessential experimental population boundaries, management guidelines, and population objectives for Mexican wolf reintroduction in the Southwest, and to bring recommendations on the draft EIS to the Commission for discussion and approval prior to submittal to the USFWS. Update 12/2/2011: No progress as yet. The USFWS is currently addressing an Interim Management Plan for wolves that may move into the United States and occupy non-10(j) areas. Modification of the 10(j) rule and accompanying NEPA compliance would follow completion of a recovery plan, but the time line is extended (2016 or beyond).
13. Provide briefings on each of the preceding actions at the Commission's October meeting each year through 2013, which would be the final year of the renewed MOU. Update 12/2/2011: Briefings were provided in August 2009, February 2010, December 2010 and in December 2011.
14. Coordinate with USFWS and Mexico on wolf reintroduction in northern Mexico and obtain answers to 12 questions [see below] posed by the Commission in August 2009. Update 12/2/2011: USFWS has provided answers to several of the questions (see following). The Department strives to compensate by coordinating directly with Mexico, but the results have been uneven.

The Commission also posed 12 questions about potential wolf reintroduction in northern Mexico in August 2009. The following are a list of those questions followed by a current update:

1. Have recovery and reintroduction plans been approved for Mexico? If so, how and by which agencies were they developed and approved and how and where can copies be obtained? Update 12/2/2011: A recovery plan (Programa de Accion para la Especie: Lobo Gris Mexicana [*Canis lupus baileyi*]) has been published by SEMARNAT (Secretaria de Medio Ambiente y Recursos Naturales) and CONANP (Comision Nacional de Areas Naturales Protegidas). CONANP has also developed a reintroduction plan for northern Mexico. Naturalia, the NGO that CONANP has contracted to carry out reintroduction, has developed various protocols for use in reintroduction projects. These documents are all available from CONANP.
2. How and by whom were agency, stakeholder and public concerns in the United States about release of Mexican wolves within normal dispersal-distance of the US-Mexico border identified and addressed? Update 12/2/2011: Agency and stakeholder concerns were first surfaced by the Department in May 2009. The USFWS is drafting an Interim Management Plan that would address the status and handling of wolves that enter the United States from Mexico. The Department has provided agency feedback. The plan addresses how the wolves would be treated principally, but not the determination of public concerns or addressing them as yet. The Mexican wolf recovery permit, which was issued to AGFD and other cooperating agencies in November 2011, provides authorization for managing wolves that come into the U.S., in accordance with the interim management plan. These wolves are listed as endangered by the USFWS. The USFWS is developing a NEPA document that assesses the effects of the management

plan on the human environment. The draft NEPA document and management plan will be provided to the public for review and comment in February 2012. The USFWS will revise and reissue the recovery permit based on that public review and comment.

3. Does participation of a U.S. agency in planning and/or implementing Mexican wolf reintroduction in Mexico require NEPA compliance? If so, how and by whom was compliance achieved for the planned release(s) in Mexico or how and by whom will it be secured? Update 12/2/2011: In September 2009, USFWS staff advised the Department that internal discussion had determined no further NEPA compliance would be necessary but further information on this issue would be forthcoming. We anticipate NEPA compliance in 2012.
4. What are the Mexican wolf population objectives for Mexico and how do they relate to measurable progress toward rangewide (i.e. defined by USFWS) recovery, downlisting, and delisting criteria/objectives? Update 12/2/2011: Mexico has not established quantitative population objectives, nor are there rangewide population objectives or recovery, downlisting, or delisting criteria/objectives. A recovery team convened by the USFWS is addressing development of recovery criteria and the geography of recovery. Mexico participates on both the Agency Liaison Subgroup and the Science and Planning Subgroup of the Recovery Team.
5. When, where, and how will be wolves be released in Mexico? Update 12/2/2011: In October 2011, five wolves were released in northern Sonora (ca. 60 mi south of the US border). The animals are radio-collared. Mexican officials estimate the probability of movement into the United States at this time as “low.” Dispersal from release sites has been reported to be ‘southerly.’ That information was based on a few initial days of monitoring. Northerly movement toward the U.S. – Mexico border is possible.
6. How will wolves released in Mexico (and pups born in the wild to wolves released in Mexico) be permanently marked so they (whether free-ranging or captive) can be identified as to their origin? Update 12/2/2011: Released wolves have unique radio-collars. The Department does not know at this time if there are other marks or tags to identify the animals. Other than the radio collar, at a distance there will likely be no way to distinguish wolves released in Mexico from other wild wolves (i.e. wolves released in AZ-NM). If a wolf is handled, blood samples can be taken for use in determining the animal’s origin.
7. What will the federal legal (protected) status in the United States be of wolves released in Mexico (and their progeny) that disperse into southern AZ or NM? Update 12/2/2011: Any wolves released in Mexico (or born in Mexico) that disperse to the United States will be treated as follows: (a) wolves will be considered nonessential experimental if they occur within the nonessential experimental population area that was established by federal rule in 1998, under the Endangered Species Act of 1973 (as amended); (b) dispersing wolves from Mexico that occur outside the currently defined nonessential experimental population area in AZ-NM will be considered endangered and subject to management under the Interim Management Plan; (c) wolves that disperse from the nonessential experimental population area to areas outside the 10(j) area would be returned to the 10(j) area; and (d)wolves that may occur outside the 10(j) area that do not

demonstrate evidence that they originated from the 10(j) releases would be treated as endangered and subject to management under the Interim Management Plan.

8. Wolf management in the AZ-NM borderlands after releases are initiated in Mexico:
  - a. How and by whom will the AZ-NM borderlands be monitored to detect presence of wolves after releases are initiated in Mexico? Update 12/2/2011: There is no plan for routine monitoring in the AZ-NM borderlands by Mexico or USFWS. If wolves are reported in the AZ-NM borderlands, USFWS would investigate with available staff and resources. Wolves that enter the U.S. would be addressed by the USFWS under the Interim Management Plan.
  - b. Will wolves known to be of Mexican origin be left in the AZ-NM borderlands or will they be recaptured and returned to Mexico? Update 12/2/2011: They will be managed by the USFWS in accordance with the Interim Management Plan, and the authority of the Mexican wolf recovery permit.
  - c. If re-captured wolves are to be returned to Mexico, who will capture them and how will they be captured and transported to Mexico? Update 12/2/2011: The USFWS will work with Mexico on a case-by-case basis if a wolf needs to be removed from the wild to determine the best location for it. Returning the wolf to Mexico will require a CITES permit.
  - d. How and to whom will incidents of nuisance or livestock depredation problems be reported to the managing agency or agencies and how and by whom and under what response timeframes will they be investigated? Update 12/2/2011: Unknown.
  - e. Before wolves are released, will federal funding be available for interdiction and incentive measures on private and public lands to prevent or mitigate nuisance and livestock depredation problems and for compensation programs to offset livestock losses? If so, what processes are or will be in place to manage the funds, evaluate project proposals and loss claims and approve grant or payment allocations? Update 12/2/2011: No monies have been made available for these kinds of issues in the U.S., to our knowledge.
  - f. How and by whom will wolf predation impacts on game populations be monitored and measured? If impacts occur, at what loss levels will mitigation measures be federally funded and implemented? Update 12/2/2011: Unknown.
9. Will state and federal agencies be required to consult on ongoing or future activities that might result in take (whether unavoidable or intentional) of wolves in the AZ-NM borderlands (e.g. mountain lion and black bear research, predator control)? Update 12/2/2011: USFWS has not provided specific guidance on this but a need for addressing these wolves in consultations seems likely. The U.S. Fish and Wildlife Service completed an ESA biological opinion with USDA Wildlife Services in 2011, which addresses the effects of their activities on Mexican wolves outside of the 10(j) boundaries. It could be assumed that other federal agencies would need to do likewise for ongoing and future actions.

10. What will be the framework for adaptive management of the U.S.-Mexico borderlands relative to wolf management after wolves are released in Mexico and how will it ensure that, in addition to federal and state government agencies, other stakeholders and interested parties in the affected area on either side of the border will be afforded appropriate opportunities to engage in adaptive management of the wolf population and affected public and private resources? Update 12/2/2011: Unknown.
11. How will reintroduction in Mexico and post-release occupancy (whether documented or presumed) of the AZ-NM borderlands affect (in terms of substance and timeframes) reconsideration of the federal nonessential experimental population rule that is now in effect in AZ and NM? Update 12/2/2011: Uncertain, but the U.S. Fish and Wildlife Service has indicated that revision of the current 10(j) rule would follow completion of the recovery plan. Presence of wolves in Mexico in proximity to the borderlands might make adjustment of the 10(j) boundaries unlikely. The USFWS indicates that, from their perspective, revision of the current 10(j) rule would follow the recovery plan, with regard to boundaries and management. The revision of the 10(j) will require an EIS. The boundaries won't be changed due to the interim management plan.
12. How and by whom will outreach be conducted in the United States to ensure that appropriate state and federal agencies, local communities, and other stakeholders and interested parties are made aware of and afforded opportunities to comment on the potential for, and possible consequences of, dispersal of wolves into southern Arizona and New Mexico from Mexico? Update 12/2/2011: Unknown.

The issues and the guidance provided by the Commission continue to be relevant. While certainly challenging, the Department believes that continued operation under this guidance is prudent.

#### Public Comment

Dr. Benjamin Tuggle, Regional Director, USFWS addressed the Commission. The USFWS services values the participation and collaboration on the part of the State of Arizona. At the end of the administrative process, this species will be successful because we have collaborated. This species will be successful because we have looked at the scientific profiles and have made good management decisions in terms of how science will help manage this species. This species will be successful because we have done the necessary outreach as it relates to making sure that the people on the ground are not having to bear an unfair burden in terms of reintroduction and recovery. This species will also be successful because, at the end of the day when we've done what we need to do for reintroduction and for recovery, our participation and our collaboration with our state partners is absolutely critical because at that point it becomes a state management species. So along that trail, if we deviate significantly from having to be in a situation where we are making decisions that are not in a partnership mode, then we have failed. That is why he appreciates the opportunity to come before the Commission and have this discussion, to make sure the Commission sees him as a viable partner from the standpoint of the federal and state relationship that needs to be successful as we move forward.

Commissioner Husted stated that he assisted in the first wolf release and considered it a grand experiment. He is not anti-wolf as some have portrayed him to be. He would like to discuss

how to re-build the partnership with the USFWS because he does not believe there is a partnership right now. He could not get a copy of the draft Management Plan from the Department because they indicated that the draft deliberative plan could not be shared, but he did indicate that he managed to get one off the Internet. Commissioner Husted is concerned for the area where he lives and for the North American Model of Wildlife Conservation when he sees in the draft Management Plan a target number of wolves go from 100 to 1,000 or maybe even as high as 1,325 as recommended by the Science Committee. He has serious concerns about depredation on elk herds and livestock. In the past 20 years, at every turn, it seems the rules of engagement have been violated and promises have been broken. The USFWS has adopted strategies that are contrary to the previously agreed to SOP 13 governing removal of offending wolves. It appears to us that this change in approach has been motivated by a unilateral desire by USFWS to resolve threatened litigation with environmental advocacy groups to the detriment of the other partners. Rather than a partnership with the USFWS, he sees the federal government yielding to the people who seem interested in litigation, rather than partnership. So he doesn't understand how the USFWS expects the Arizona Game and Fish Department - who has earned credibility with the people on the ground that have changed their lives to accommodate the wolf - to go back to those people and say that we are now talking about 1,325 wolves.

Dr. Tuggle stated that when he first came here the SOP 13.0 was in place and codified. The issue of the Code of Federal Regulations (CFR) as it relates to the three strikes rule, he and Commissioner Husted may have different interpretations. What he has tried to do is provide some transparency in that process. We are not talking about not dealing with depredating wolves, we are talking about an agency that has a responsibility to look at the biological parameters that are associated with what that species is doing and then implement management actions to make corrections. What Dr. Tuggle has said is that he would be the person who will sign the document that explains why we are removing or not removing a wolf, and to him that was a greater degree of transparency. But it didn't work from the standpoint of people that helped develop SOP 13.0 and with the environmental community that fought that. The AMOC, from Dr. Tuggle's perspective, had taken over the processes that related to making decisions about depredating wolves. So, on one side it was said that we (USFWS) did not adhere to the SOP 13.0 and on the other side it was said that we were just removing every wolf without making those biological determinations. But his commitment is still the same. If we have depredating wolves taking livestock and there is no opportunity to haze those wolves or there is no opportunity to compensate the landowners, then we (USFWS) will implement actions to remove those wolves.

Commissioner Husted discussed other concerns like what is going to happen in Mexico with wolf reintroduction and with being told that NEPA doesn't apply. Also discussed was the Science Team that was talking about 1,325 wolves and the dispersal of wolves outside of historical range (North of the Colorado River in Utah and Colorado). Other concerns are the divergence of the draft Management Plan and how difficult it was to get a Department staff person on the Science Team. So from Commissioner Husted's perspective, it has not been a partnership.

Commissioner Harris commented on the initial difficulty of getting a Department person on the Science Team. Now we have a person on the Science Team, a very qualified person, and that person believes his input is disregarded. Commissioner Harris has huge concerns with a partner that doesn't actively seek assistance as a true partner.

Dr. Tuggle stated that he did not know Arizona wanted someone on the Science Team until he received the letter from the Commission. The Department representative was absolutely value added and he was happy to put him on the Team. The way that the Team will operate is that, if there are minority perspectives that are not being represented in the decisions, those minority opinions will be a matter of record, so we will have a chance to look at those opinions as well as the majority opinions. So it will go forward in terms of consideration.

Commissioner Woodhouse asked about the 1,325 wolves.

Dr. Tuggle stated that the number is the Science Team's interpretation of what they would consider, but that recommendation would have to go before an entirely different group of people as it relates to verifying the science and looking at it from the standpoint of what can really be instituted, management wise, in terms of meeting the goals and objectives. Dr. Tuggle assured the Commission the he will not take verbatim those draft numbers because it is premature to look at those numbers and be able to have a direct correlation to that being representative of a Recovery Plan.

Commissioner Freeman commented that he appreciated this discussion and he appreciated Dr. Tuggle coming before the Commission today. A lot of people in this room draw lines in the sand over numbers, all kinds of numbers for various things, but numbers change day to day. This is where there is a big challenge for more science and more study to understand the impacts that these wolves are really going to have.

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Meeting recessed for lunch at 12:15 p.m.

Meeting reconvened at 1:50 p.m.

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(Commissioner Harris was not present for the rest of Friday's meeting)

9. (continued) Commission Briefing on the Department's Involvement in Mexican Wolf Reintroduction in Arizona and New Mexico and Related Mexican Wolf Recovery and Conservation Issues.

**Presenter:** Lawrence M. Riley, Assistant Director for Wildlife Management

Public Comment

Steve Clark, President, Arizona Elk Society: Encouraged the Department to press the USFWS to allow the State of Arizona to manage the Mexican gray wolf reintroduction.

John Koloszar, President, Arizona Deer Association: Opposed the Mexican wolf reintroduction program in Arizona.

Eva Sargent, Director, Southwest Program, Defenders of Wildlife: Encouraged the Commission to step up and do what they can to work with the White Mountain Apache Tribe on wolf issues;

requested that the Commission reconsider their recommendation to support the delisting of the Mexican gray wolf.

Daniel Sayre, National Wolfwatcher Coalition: Asked the Commission to do more to achieve the recovery of wolves and more to prevent depredation on cattle.

Arch Brown, President of Board of Trustees, Arizona Sonoran Desert Museum: Supports the Mexican gray wolf recovery program.

Beth Woodin, President of the Board, Arizona Heritage Alliance (and former Game and Fish Commissioner): Requested the Commission continue to do the great work they do with the Mexican gray wolf recovery program.

Patrick Bray, Executive Vice President, Arizona Cattlemen's Association: His organization is committed to continuing their work in support of the Mexican gray wolf program; Echoed concerns about the USFWS acting from a partnership perspective; Encourages the Department to continue to work as a partner with the USFWS.

Ed Coleman, representing himself (not present but submitted a speaker card): Supports the Mexican wolf reintroduction and management.

Mike Sorum, representing himself: The Commission should do what the general public wants and the general public wants Mexican wolf reintroduction; supports more wolves for the genetic pool.

Bob Hernbrode, representing himself (former Game and Fish Commissioner): Supports the Mexican wolf program and asked the Commission to reaffirm its 2008 guidelines concerning Mexican wolf reintroduction.

Emily Nelson, Program Director, Grand Canyon Wolf Recovery Project (from Flagstaff Regional Office): Strongly supports the Mexican wolf program in her area.

Larry Stephenson, Executive Director, Eastern Arizona Counties Organization: Urged the Commission to direct the Department to coordinate their interdiction efforts better with the Council's efforts; also requested the Commission to direct the Department to develop a process to use part of federal funds for matching 50/50 with the Council for Arizona livestock losses to Mexican wolves.

Pat Jayson, representing self (not present but submitted speaker card): Supports Mexican wolf reintroductions.

Sandy Bahr, Sierra Club: The Commission has a responsibility to all Arizona's wildlife and all Arizona's constituents, and not just the ones they agree with; supports the Mexican gray wolf reintroduction; encouraged the Commission to work with the USFWS to support a strong sustainable Mexican gray wolf population, to support additional reintroduction of these animals in order to encourage and ensure genetic viability, and to support the protection of this species as an endangered species.

Karen LeRoy, representing herself (from Flagstaff Regional Office): Encouraged the Commission to consider all of the best available science regarding wolf recovery and to act in a manner that promotes wolf recovery.

Barbara Marks, Blue livestock producer: Sent comments from Pinetop Regional Office to be read into the record; Chairman Woodhouse read her comments (attached).

Roxane George, representing self (from Flagstaff Regional Office): Strongly supports the Mexican gray wolf recovery program and strongly supports many more releases into the recovery area.

Terry Herndon, representing self: Not present, but shared with the Chairman on break that he supported the Commission in whatever decision they make.

Stephanie Nichols-Young, Animal Defense League of Arizona: Strongly supports the Mexican wolf reintroduction program.

Terry Johnson, representing himself (retired Game and Fish employee and longtime Department lead on the Mexican wolf project): A lot of the statements made by USFWS today are not factually true. There is a lot of misinformation and propaganda out there about this subject that is put out by the media or groups and organizations that is just not true. The science is not an immutable approach that results in 100 percent facts. The science results inform insights that help shape decisions, but there are always alternatives that can be debated with equal scientific validity. The decision the Commission is facing is how many years do you stay involved in a project and continue to invest a half million dollars or more when a simple element is absent, and that element is trust. Since 2007, the USFWS has repeatedly broken its commitments to the stakeholders. This is an opinion that has been shared repeatedly with the USFWS by every one of the cooperating agencies in wolf reintroduction. The 1998 Management Plan that the USFWS approved are the rules of engagement. We cannot engage with people when the rules continue to change on a case by case basis. If the rules are wrong, then they should be re-written. Lastly, Mr. Johnson disagreed with Dr. Tuggle's statement about AMOC and wolf removal. Since 1998 when the first wolf hit the ground, there has not been a permanent removal, live or lethal, by any agent of government except under USFWS approval.

**Motion:** Husted moved and Mansell seconded THAT THE COMMISSION VOTE TO REAFFIRM EXISTING POLICY GUIDANCE TO THE DEPARTMENT ON MEXICAN WOLF CONSERVATION, INCLUDING REINTRODUCTION AND RANGE-WIDE RECOVERY WITH THE EXCEPTION THAT THE COMMISSION NOT SUPPORT ANY NEW RELEASES UNTIL SUCH TIME AS THERE IS A NEW RECOVERY PLAN, A NEW MANAGEMENT PLAN, A NEW EIS, AND A NEW 10J.

Commissioner Mansell commented for the record that he was little taken back to see Dr. Tuggle walk out right when Mr. Johnson addressed the Commission.

Chairman Woodhouse stated that Dr. Tuggle had a flight to catch and had already stayed late so he believed that was coincidental.

Commissioner Freeman stated that he would not support the motion because he is concerned that it will actually slow the recovery process down and lead to more lack of communication and more

lack of the Department being at the table. He believed Dr. Tuggle showed good faith today by coming to the meeting and he believed the Commission should show good faith too and work together.

**Vote:** Aye - Woodhouse, Husted, Mansell  
Nay - Freeman  
Passed 3 to 1  
Harris not present

(Director Voyles clarified this motion following agenda item #12)

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#### 7. Cooperative Agreement for Livestock Operations at Horseshoe Ranch

**Presenter:** Rod Lucas, Mesa Regional Manager

Mr. Lucas presented the Commission with a request for approval of a Cooperative Agreement with JH Cattle Company, which will facilitate the required federal Base Property Lease for livestock operations based out of the Commission-owned Horseshoe Ranch. In March of 2011, the Arizona Game and Fish Commission (Commission) acquired the Horseshoe Ranch property in Yavapai County, Arizona. As a part of that purchase, the Commission also acquired a property interest in the appraised value and assets associated with two federal grazing leases historically attached to the Horseshoe Ranch. The Horseshoe Allotment is administered by the U.S. Bureau of Land Management (BLM) and the Copper Creek Allotment is administered by the U.S. Forest Service (USFS). Additionally, in June 2011, a Cooperative Agreement was signed among the Arizona Game and Fish Department (Department), the BLM, and the USFS outlining the particulars of how the livestock permit and management was to be administered and conducted on the allotments associated with the Ranch.

This agreement retains the Horseshoe Ranch as the base property for the associated federal grazing lands and requires the Department to develop a Base Property Lease within 180 days with a qualified livestock operator who will run the livestock operation on those lands. This agreement is for a three-year interim period only until the outcome of multiple factors in the future management, including the Commission-directed Coordinated Resource Management Plan (CRMP) of the Horseshoe Ranch associated allotments, are determined. The Cooperative Agreement will be allowed to expire at the end of the three years, with a new agreement taking its place under the circumstances operant at that time. This Base Property Lease, in the form of a Cooperative Agreement, was provided to the Commission prior to this meeting for their review.

**Motion:** Mansell moved and Husted seconded THAT THE COMMISSION VOTE TO APPROVE THE COOPERATIVE AGREEMENT WITH JH CATTLE COMPANY AS SUBMITTED AND AUTHORIZE THE DIRECTOR TO SIGN THIS AGREEMENT ON BEHALF OF THE COMMISSION.

**Vote:** Unanimous  
4-0  
Harris not present

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## 12. Call to the Public

Benjamin Haney, representing himself: Expressed his gratitude to the dedicated folks at the Department who have made exciting and positive differences that have forever changed his life for the better. Because of the efforts of the Department and its constituents he has discovered many outdoor passions that he would not have known existed.

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## 9. (re-opened) Commission Briefing on the Department's Involvement in Mexican Wolf Reintroduction in Arizona and New Mexico and Related Mexican Wolf Recovery and Conservation Issues.

**Presenter:** Lawrence M. Riley, Assistant Director for Wildlife Management

Director Voyles asked for confirmation from the Commission that their vote included the following: That the Commission would not support any new wolf releases until there was a new 10j, EIS, and Management Plan.

Commissioner Husted stated that he prefaced his motion by asking that the Department continue to be very involved and show the utmost support for the Mexican wolf recovery program as the directions have been given in the past, and that secondly, we would in fact stay involved in the wolf recovery program, but not support new releases until such time as there was a new Recovery Plan, a new Management Plan, a new EIS and a new 10j.

Commissioner Mansell confirmed that he seconded that motion.

Chairman Woodhouse asked each Commissioner to re-affirm his vote.

Commissioner Husted stated aye.

Commissioner Mansell stated aye.

Chairman Woodhouse stated aye and acknowledged that Commissioner Freeman voted nay.

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## 14. 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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Meeting recessed for a break at 3:25 p.m.

Meeting reconvened at 3:35 p.m.

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## 8. Consent Agenda

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

### a. Request for the Commission to Approve a Memorandum of Understanding with Sul Ross State University.

**Presenter:** Brian F. Wakeling, Game Branch Chief

The Department works with a variety of universities who provide specialized expertise and technical services that support the Department's mission and benefit Arizona's wildlife resources. This MOU would establish formal lines of communication and provide a legal and procedural framework for subsequent collaboration at the project level, both of which will help assure the quality and high standards of the Department's work. Texas shares a number of our state's species, habitat types, and management issues. Sul Ross State University conducts research that has relevance to wildlife management in the U.S. Southwest, has recognized expertise in wildlife research, and, therefore, represents a valuable partner. This MOU would establish a working partnership with Sul Ross State University for mutually beneficial management investigations and research opportunities for the common purpose of informing wildlife management decisions.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE A MEMORANDUM OF UNDERSTANDING WITH SUL ROSS STATE UNIVERSITY 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.

### b. Request for the Commission to Approve the License Agreement to Permit the City of Phoenix Police Department to Use a Portion of Ben Avery Shooting Facility for Conducting Employment-related Firearms Training and Qualifying for the City of Phoenix Police Officers, Maricopa County, Arizona.

**Presenter:** Jay Cook, Shooting Sports Branch Chief

The City of Phoenix Police Department (City) has been using the Ben Avery Shooting Facility (BASF) for employment-related firearms training and qualifying police officers on a pay by use basis. This method was proving to be administratively cumbersome for both the Department and the City. If approved, the new 10-year license agreement (Agreement) would serve to grant the City access to specified ranges within BASF Monday through Friday, or as scheduled. The yearly fee is \$18,000 and will be reevaluated every three years based on the City's use. The

Agreement benefits the Department by minimizing administrative tasks and creating a partnership with local government, and is consistent and compatible with the operation of the BASF.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE THE LICENSE AGREEMENT TO PERMIT THE CITY OF PHOENIX POLICE DEPARTMENT TO USE A PORTION OF BEN AVERY SHOOTING FACILITY FOR CONDUCTING EMPLOYMENT-RELATED FIREARMS TRAINING AND QUALIFYING FOR THE CITY OF PHOENIX POLICE OFFICERS, MARICOPA COUNTY, ARIZONA, AND EXECUTE THE AGREEMENT AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

c. Request for the Commission to Approve Amending the Existing Department of Public Safety Lease at Ben Avery Shooting Facility to Allow the Construction of a 300 Yard Range, Restrooms, Education Building and extend the lease to 2028.

**Presenter:** Jay Cook, Shooting Sports Branch Chief

The Commission has had a lease agreement (Agreement) with the Arizona Department of Public Safety (DPS) for the development, construction, maintenance and operation of a shooting range complex for public use and official law enforcement training since 1998. The agreement expires in 2018. At this time, DPS is requesting that the Agreement be amended (Amendment) to authorize the addition of a 300 yard range, restroom facilities, an education building and extend the lease an additional ten (10) years, to 2028. These structures will be available to the public when not in use for officer training. The Shooting Sports Branch considers the terms and conditions included in the Amendment to be in the best interest of the Ben Avery Shooting Facility. The Amendment has been reviewed and approved by the Attorney General's Office.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE AMENDING THE EXISTING DEPARTMENT OF PUBLIC SAFETY LEASE AT THE BEN AVERY SHOOTING FACILITY TO ALLOW THE CONSTRUCTION OF A 300 YARD RANGE, RESTROOMS , AN EDUCATION BUILDING, TEN (10) YEAR LEASE EXTENSION AND TO EXECUTE THE PROPOSED AMENDMENTS AS RECOMMENDED BY THE OFFICE OF THE ATTORNEY GENERAL.

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

**Vote:** Unanimous  
4-0  
Harris not present

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## 11. Mission Statement Revision

**Presenter:** Lawrence M. Riley, Assistant Director for Wildlife Management

**Motion:** Husted moved and Mansell seconded THAT THE COMMISSION VOTE TO TABLE THIS ITEM UNTIL THE JANUARY MEETING.

**Vote:** Unanimous  
4-0  
Harris not present

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### 13. Law Enforcement Program Briefing

**Presenter:** John Romero, Acting Law Enforcement Branch Chief

Mr. Romero 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 written report (also available to the public) and a Power Point presentation by Mr. Romero 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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### 15. 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

Jennifer Stewart, Rule and Risk Branch Chief, provided a brief overview of the rulemaking process.

Mr. McGehee briefed the Commission and provided a PowerPoint presentation on House Bill 2396 authorizing the Department to amend R12-4-304 Lawful Methods for Taking Wild Mammals, Birds, and Reptiles using the exempt rulemaking process. 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 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 of 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
- Modifying language to clarify the use of foothold traps and align it with AFWA best management practices
- Defining Daylong to prescribe shooting hours for seasons where artificial light may be used.

The Commission approved the draft Notice of Exempt Rulemaking at the October 14, 2011 Commission Meeting. The Rules and Risk Section published the draft Notice of Exempt Rulemaking to the Department's website for public comment from October 16 to November 16. A summary of the comments received during the public comment period was provided to the Commission for review prior to this meeting. The Department also hosted an information session and live webcast for the public on November 8, 2011 to outline proposed changes. This webcast was recorded for members of the public to access online. If approved by the Commission, the Department will file the Notice of Exempt Rulemaking with the Secretary of State's office for publication in the *Arizona Administrative Register*.

Commissioner Husted clarified that should the Department get a report of someone taking vicious dogs into the field for the act of ripping apart wildlife, the Department would aggressively investigate that case for cruelty. That is not the intent of this rule and he wanted to make that very clear.

Commissioner Freeman asked if there was any kind of analysis from other states that allowed night hunting on the effect it has on their budgets and staffing levels for enforcement on the night hunting, or if there were any issues with safety or lawsuits.

Mr. McGehee stated that information on budgets, staffing and other issues were not included when gathering information on the laws in other states. Part of the reason for that was because since 82% of other states allowed night hunting it was not perceived as an issue.

#### Public Comment

Paul Delaney, representing himself: Hunts with dogs and supports clarification of the rules related to hunting with dogs; hunting dogs don't rip apart their quarry, it just doesn't happen.

Tice Supple, representing herself: Supports this rule package.

Mike Sorum, representing himself: Opposed to all the rule changes, especially night hunting; opposes the shotgun for mountain lion; opposes the dog hunting because the dogs behavior will depend on its training.

Steve Sams, President, Arizona Chapter National Wild Turkey Federation: Opposes using rimfire pistols for the take of turkey; should use shotgun shooting shot only; should be the same in the rule as in the regulations; rules should also prohibit using bait for turkey and shooting turkeys on the roost.

Pat Jayson, representing self (not present but submitted speaker card): Opposed to night hunting and opposed to dog hunting.

Jim Shea, representing himself: Opposed to night hunting or any kind of night shooting, and opposed to dog hunting.

Suzanne Stevenson, representing self: Supports the dog hunting rules and clarifications.

Bob Hernbrode, representing himself (former Game and Fish Commissioner): Opposed to night hunting; believes it is too dangerous for law enforcement and night hunting of predators sullies the public image of hunters and contributes to poor relations in the future and future hunting.

Margaret Bohannon, Former Master, Paradise Valley Beagles: Supports the dog hunting rules and clarification.

Lloyd Wundrock, representing self (from Tucson Regional Office): If the Commission is going to allow shotgun shooting shot for mountain lions there should be a restriction of #4 buck or greater; opposes rimfire handguns for take of turkey.

Laura Parker, representing self: Supports the dog hunting rules and clarification.

Julianne French (submitted written comments): Opposed to night hunting.

Stephanie Nichols-Young, Animal Defense League of Arizona: Strongly opposed to artificial lights to hunt mountain lions and coyotes; opposed to take of mountain lion with shotgun shot and opposed to take by dogs.

Sandy Bahr, Chapter Director, Sierra Club – Grand Canyon Chapter: Opposed to night hunting; rulemaking through intimidation by the Legislature is not a good way to develop rule packages; the Commission should support only the highest ethical hunting.

Karen Michael, representing self (not present but submitted speaker card): Opposed to night hunting of lions and coyotes.

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Meeting recessed for a break at 6:30 p.m.

Meeting reconvened at 6:35 p.m.

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15. (continued) 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

Brian Wakeling briefed the Commission on how the Department would proceed with implementation of R12-4-304 if this rulemaking package were adopted. For mountain lions, Commission Order 10 would be amended for those Units where artificial lights could be used. Those Units currently have multiple bag limits. The exception would be Bear Canyon and Pipestem in Unit 27 because they are in the wolf recovery area and there would be no hunting with artificial lights in the area where jaguar and ocelot capture might be a concern. The objective with this implementation will not be to increase sport harvest but is designed to be a management tool to help achieve management objectives for prey species. For Commission Order 13, the take of coyotes, the Department is proposing a shotgun shooting season and this would be during the months of March, April and May. Those are the months when fawn recruitment for pronghorn can best be demonstrated to benefit. Research has demonstrated that reducing coyote populations during this time of year can improve fawn recruitment. The Units this is proposed for are Units 2A, 17A, 17B, 31, 32, 34B, 35B and 36B and where active predator management is occurring, Units 4A, 10, and 13A. None of the Units the Department is proposing are within the wolf recovery area. These hunts would be for shotgun shooting shot only in March, April and May. This would be the Department's recommendation if the Commission approves the use of artificial lights for hunting mountain lions and coyotes.

The Commission discussed the taking of turkey with rimfire handguns and asked about the rule being changed but not the Commission Order.

Director Voyles explained that the Commission Orders can only be done according to the rules that the Commission establishes. The Commission can establish a rule that would allow rimfire magnum handguns for the take of turkey but it won't be lawful for the take of turkey unless the Commission also establishes an Order and season in which that can be done. So if they don't follow up with a companion Order that implements the change, then rimfire handguns will still not be lawful because only shotgun shooting shot are lawful under the Order.

Commissioner Freeman stated that this seemed like the beginning of a process to get there. If the majority of the people don't want rimfire handguns for turkey, then it shouldn't be in the rule. He is concerned with this and with several things in this package.

Commissioner Husted stated that he would not want to take away any of items and that they are tools in the toolbox for the Commission to use down the road if they choose.

Commissioner Freeman asked for a tally of support and oppose from the public comments received during the comment period on this rulemaking package.

Ms. Stewart, Rules and Risk Branch Chief, stated that the Department received more comments opposing this rulemaking package than those that supported it.

Commissioner Woodhouse commented that he was not comfortable with the rimfire handguns for turkey and javelina.

Commissioner Freeman agreed and stated he was also not comfortable with using shotgun shooting shot for mountain lions. Further, he has a lot of issues with the night hunting. He is not sure how that came to be and he doesn't believe it is safe.

Commissioner Mansell stated that using shotgun shooting shot is extremely lethal and should not be an issue with mountain lions, and regarding the rimfire handguns, this would only be a tool in the tool box. He does not see himself approving the use of rimfire for turkey in the Commission Order.

**Motion:** Husted 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 AS PRESENTED.

**Motion to Amend:** Woodhouse moved THAT THE COMMISSION VOTE TO AMEND THE MOTION SO THAT JAVELINA AND TURKEY DOES NOT CHANGE BUT REMAINS AS THEY ARE CURRENTLY

**Motion died for lack of second.**

**Amended Motion:** Husted 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 AS PRESENTED WITH THE EXCEPTION THAT THAT JAVELINA AND TURKEY DOES NOT CHANGE BUT REMAINS AS THEY ARE CURRENTLY.

**Vote:** Aye - Woodhouse, Husted, Mansell  
Nay - Freeman  
Passed 3 to 1  
Harris not present

Director Voyles recommended that the Commission go ahead and address a portion of Saturday's agenda item that pertains to Commission Orders 10 (mountain lion) and 13 (predatory and furbearing mammals) so that the public will know the manner of the implementation of the night hunting portion of the rulemaking package the Commission just voted on.

Portion of Saturday's Agenda #7. Consideration of Amendments to Commission Orders 10 (mountain lion) and 13 (predatory and furbearing mammals) for 2011-2012 Hunting Seasons.

**Presenter:** Brian F. Wakeling, Game Branch Chief

Mr. Wakeling briefed the Commission. The Department prepared a recommendation so that if the Commission approved the final rulemaking for R12-4-304 as recommended by the Department, the Department would also recommend amending Commission Orders 10 (mountain lion) and 13 (predatory and furbearing mammals) so as to immediately implement opportunities to pursue predators in those areas that may benefit prey populations with newly authorized methods of take as defined in R12-4-304.

Mountain lion general seasons are recommended for amendment within most units managed under multiple bag limits (specifically 6A South; 13B South; 15B [west of Temple Bar Rd], 15C, and 15D; 16A South and 18B South; 22 [south of AZ Hwy 87 and FR 143, and west of AZ Hwy 188]; 31 and 32; 37B [north of the Gila River]; 40A; 42 [south of the Buckeye-Aguila Rd and west of 355th Ave] and 44A [east of Cunningham Wash]). Further, coyote seasons are recommended for amendment within those units where pronghorn recruitment is below management objectives (specifically Units 2A, 17A, 17B, 31, 32, 34B, 35A, 35B, and 36B) and where active predator management is occurring (Units 4A, 10, and 13A). While mountain lion seasons are recommended for amendment (listed seasons open for daylong seasons) throughout the year, coyote seasons are recommended for amendment (daylong seasons) specifically during those months when fawn recruitment may be best influenced by predator management (March–May), with a recommended limited weapon shotgun shooting season for the daylong hours.

#### Public Comment

Stephanie Nichols-Young, Animal Defense League of Arizona: Opposes the proposed amendments; no longer believes she can have an impact by coming to Commission meetings; is extremely disappointed.

Bob Hernbrode, representing himself (former Game and Fish Commissioner): Opposes the night hunting and the daylong hunting hours; opposes coyote hunting in Unit 34B because of the homes in there; better alternatives could be found.

**Motion:** Husted moved and Mansell seconded THAT THE COMMISSION VOTE TO APPROVED AMENDMENTS TO COMMISSION ORDERS 10 AND 13 AS PRESENTED.

**Vote:** Aye - Woodhouse, Husted, Harris  
Nay - Freeman  
Passed 3 to 1  
Harris not present

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#### 16. Request to Approve the Draft Notice of Exempt Rulemaking to Amend Article 8 addressing wildlife areas and Department property.

**Presenter:** Jennifer Stewart, Rules and Risk Branch Chief

Ms. Stewart briefed the Commission on the Department's recommendation for the Commission to approve a Draft Notice of Exempt Rulemaking amending rules within Article 8, addressing wildlife areas and Department property. The Department received permission from the

Governor's Office to proceed with this rulemaking on May 20, 2011. The Department proposes to amend Article 8 rules, addressing Wildlife Areas and Department Property, to implement recommendations resulting from field input received for specific wildlife areas.

The Department proposes the following substantive rule amendments:

R12-4-801 General Provisions – allow the Department to have control over management and access of all its property and facilities, to benefit wildlife, protect property, ensure public safety and manage for public use.

R12-4-802 Wildlife Areas and Other Properties:

- Cibola Valley Conservation and Wildlife Area – restrict motorized vehicle traffic to designated and administrative roads only.
- Fool Hollow Lake Wildlife Area – establish restrictions for this newly acquired wildlife area.
- Hirsch Conservation Education Area and Biscuit Tank – establish that public access and use of the area is subject to Department authorization.
- Raymond Wildlife area - establish restrictions for overnight public camping.
- R12-4-803 Wildlife Area Boundaries - establish the Fool Hollow Lake Wildlife Area and Hirsch Conservation Education Area and Biscuit Tank Boundary descriptions.

If approved by the Commission, the Department will publish the draft Notice of Exempt Rulemaking to the Department's Intranet for a period of 30 days for public comment. Once this public comment period closes the Department will present the final Notice of Exempt Rulemaking for the Commission's review and approval. Upon final approval the rulemaking package will be filed with the Secretary of State's office for publication in the *Arizona Administrative Register*.

**Motion:** Husted moved and Mansell seconded THAT THE COMMISSION VOTE TO APPROVE THE DRAFT NOTICE OF EXEMPT RULEMAKING TO AMEND ARTICLE 8 RULES ADDRESSING WILDLIFE AREAS AND DEPARTMENT PROPERTY.

**Vote:** Unanimous

4-0

Harris not present

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17. Request to Approve Notices of Rulemaking Docket Opening and Proposed Rulemaking and Economic Impact Statement Amending Rules Within Article 1 Addressing Management Unit Boundaries and 3 Addressing Taking and Handling of Wildlife to Implement House Bill 2543 and Senate Bill 1334.

**Presenter:** Jennifer Stewart, Rules and Risk Branch Chief

Ms. Stewart briefed the Commission on the Department's recommendation for the Commission to approve a Notice of Docket Opening, Notice of Proposed Rulemaking, and Economic Impact Statement amending rules within Article 1 addressing management unit boundaries and Article 3

addressing taking and handling of wildlife to implement House Bill 2543 and Senate Bill 1334. The Department proposes to amend R12-4-108 to update game management unit landmark references and rules within Article 3 to implement legislative amendments to A.R.S. §§13-3107 and 13-3108, which transferred the authority to regulate the use of firearms for the take wildlife within municipal boundaries to the Arizona Game and Fish Commission.

The Department proposes the following substantive rule amendments:

R12-4-108. Management Unit Boundaries:

- Updating management unit boundary descriptions.

R12-4-301. Definitions

- Establishing a rule that provides definitions for terms used within Article 3 to conform with GRRC requirements.

R12-4-318. Seasons for Lawfully Taking Wild Mammals, Birds, and Reptiles:

- Establishing limited weapon pneumatic, limited weapon hand or hand-held implement seasons as lawful for the species hunted to allow an individual to lawfully take small game and reptiles in a city or county park or preserve.
- Including falconry as a method of take during an archery-only season as this request has been asked for by public stakeholders during hunt guideline discussions.
- Exempting falconers hunting with exotic raptors from falconry license established under R12-4-422 to bring the rule into alignment with statutory amendments to A.R.S. § 17-236.
- Replacing references to “non-hunting handgun” with “personal protection handgun.”
- Expanding the authorization to possess a personal protection handgun for personal protection to individuals participating in limited weapon hunts to increase consistency between all limited weapon seasons within the rule.
- Establishing a “restricted” season in which any approved method or device authorized under R12-4-304 may be used, except pursuit with dogs to ensure harvest objectives for bear and mountain lion are not exceeded.
- Clarifying Junior-only hunt age requirements. This is proposed to increase opportunity for those hunters nearing their 18th birthday and improve clarity.
- Renumbering seasons to place them in a logical order.

R12-4-321, Restrictions for Taking Wildlife in City Parks, City Preserves, County Parks, and County Preserves:

- Amending the rule to reflect recent statutory amendments to A.R.S. §§ 13-3107 and 13-3108.
- Establishing that all city and county parks and preserves are closed to hunting, unless authorized by Commission Order.
- Authorizing cities and counties to implement restrictions when not in conflict with Commission Rule or Order.

If approved by the Commission, the Department will submit this rulemaking to the Secretary of State’s office in accordance with the exemption authorized under item #4 of Executive Order 2011-05 State Regulatory Rulemaking Moratorium, 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.

Commissioner Freeman asked if the Department could publish maps as it relates to boundaries or do they have to still be textual.

Mr. Odenkirk advised that a map may not meet the legal requirements as adequate notice to the public of what the boundary is. The advice has always been that the Department needs to have a narrative description of the boundary as a more legally defensible position for enforcing hunting in the right Unit.

Commissioner Husted requested that Ms. Stewart meet with him in the near future to discuss private property in the State of Arizona where ranchers cannot hunt on their own property because they are inholdings inside the Navajo Nation and not within a Unit boundary.

**Motion:** Husted moved and Woodhouse seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF DOCKET OPENING, PROPOSED RULEMAKING, AND ECONOMIC IMPACT STATEMENT AMENDING RULES WITHIN ARTICLE 1 ADDRESSING GAME MANAGEMENT UNIT BOUNDARIES AND RULES WITHIN ARTICLE 3 ADDRESSING TAKING AND HANDLING WILDLIFE.

**Vote:** Unanimous  
4-0  
Harris not present

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18. Request to Approve a Notice of Final Rulemaking and Economic Impact Statement amending R12-4-422 to ensure compliance with amendments made to federal sport falconry regulations.

**Presenter:** Jennifer Stewart, Rules and Risk Branch Chief

Ms. Stewart briefed the Commission on the Department's recommendation for the Commission to approve the Notice of Final Rulemaking and Economic Impact Statement amending R12-4-422 to ensure compliance with amendments made to federal sport falconry regulations. The Governor's office approved the Department's request to pursue rulemaking on July 8, 2010.

On October 8, 2008 the U.S. Fish and Wildlife Service (USFWS) amended federal regulations governing falconry, transferring falconry permit administration to the individual states pending certification. Federal regulations require states to have statutes and rules that comply with amended federal regulations, an effective permitting and tracking process and USFWS certification by July 2013 in order to continue to allow the sport of falconry using Migratory Bird Treaty Act species. It is important to note that on January 1, 2014, the federal falconry permitting program will cease to exist and if the Department has not received USFWS certification prior to September 1, 2013, falconers will not be able to practice sport falconry in

Arizona. The existing rule is written to complement the previous federal regulations; however, the elimination of the federal permitting system requires a complete rewrite of the existing rule.

The Department proposes to amend R12-4-422 to ensure compliance with the new federal regulations by:

- Reducing the age requirement for all sport falconry levels
- Increasing take and possession allowances
- Expanding the species of raptors that may be possessed
- Clarifying acquisition and transfer requirements and allowances
- Clarifying capture requirements
- Clarifying banding and microchipping requirements
- Establishing hacking requirements and allowances
- Clarifying facility requirements
- Establishing reporting requirements, including paperless reporting
- Establishing disposition requirements for recaptured, injured, or deceased raptors.

The Commission approved the Notices of Rulemaking Docket Opening and Proposed Rulemaking at the August 6, 2011 Commission Meeting. The notices were published in the *Arizona Administrative Register* on September 2, 2010. The rulemaking record was open for public comment from September 2 to October 2, 2011; public stakeholder comments received and the Department's responses were provided in the Notice of final Rulemaking. The Notice of Final Rulemaking and Economic Impact Statement for R12-4-422 were provided to the Commission prior to this meeting for review and consideration.

In addition, the team engaged affected constituents during the rulemaking process and will continue to work with them as the package is submitted to the USFWS for approval.

If the Commission approves, the Department will submit the Notice of Final Rulemaking and Economic Impact Statement for R12-4-442 to the Governor's Regulatory Review Council (G.R.R.C.) for review and placement on the G.R.R.C. March 2012 agenda.

**Motion:** Freeman moved and Husted seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF FINAL RULEMAKING AND ECONOMIC IMPACT STATEMENT TO AMEND R12-4-422, ADDRESSING SPORT FALCONRY REGULATIONS.

**Vote:** Unanimous

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#### 19. Call to the Public

There were no requests from the public to speak.

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Meeting recessed for the day at 7:30 p.m.

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Meeting reconvened Saturday at 8:00 a.m.

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Chairman Woodhouse called the meeting back to order at 8:00 a.m. Commissioner Harris was present via telephone conferencing.

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### Awards and Recognition

Director Voyles introduced this year's junior duck stamp artist for 2011, Sydney Kim. The U.S. Fish and Wildlife Service has been conducting a junior duck stamp competition since 1989. All 50 states conduct state competitions and winners at the state level are sent to the national competition where one winner is chosen each year. Sydney Kim was one of those competitors last year and her painting of a wood duck was chosen as a winner in the Kindergarten through Sixth grade category. Director Voyles presented Sydney with her original artwork, framed and matted, and with the number one stamp signed by Governor Jan Brewer.

Deputy Director Hovatter presented the Commission with the Department's Federal Highway Administration Exemplary Ecosystem Initiative Award for 2011 for the U.S. 93 Hoover Dam Bighorn Sheep Overpass. This was one of twelve awards presented nationally by the Federal Highway Administration. This is the third national award that the U.S. 93 Hoover Dam Bighorn Sheep Overpass project has been awarded. Mr. Hovatter recognized and thanked the Department's Region III, the new Contracts Branch, the Arizona Desert Bighorn Sheep Society, the Arizona Department of Transportation and others for their contributions to this project.

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### 1. Shooting Sports Activities Briefing

**Presenter:** Jay Cook, Shooting Sports Branch Chief

Mr. Cook provided the Commission with a Power Point presentation that highlighted several items in the Shooting Sports Activities Briefing (provided to the Commission prior to this meeting and available to the public). The briefing included information about 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.

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### 2. Request Commission to Approve Acquisition of a Federal Patent from the BLM Kingman Office for the Development of the Tri-State Shooting Range, Along With Associated Documents and Agreements.

**Presenter:** Jay Cook, Shooting Sports Branch Chief

In 1998, the Bullhead City Gun Club was notified that the BLM intended to let the lease for the property they were using as a shooting range expire, and they would need to relocate. Since that time, the BLM and the Department have been working to find a suitable relocation site. After rigorous coordination with various agencies, tribal councils, and the public, in 2002, the BLM issued a Record of Decision which amended the Kingman Resource Management Plan to allow for the disposal of 315 acres to the Department for a shooting range and also designated 470 acres for special management as a buffer zone. The lands involved are located in the Boundary Cone Road area near Oatman Arizona, more specifically described as in T19N, R21W, Sections 25, 26, 35, and 36.

The Decision record included several Pre-Patent requirements which included 1) acquisition of the mineral estate or a non-development agreement for the mineral estate that lies beneath the patented and buffer areas, 2) provide a Plan of Development (POD) for the range, and 3) development of a Cooperative Management Agreement between the BLM and the Department for management of the buffer lands. Furthermore, the POD was to be developed in coordination with local tribal councils.

At this time, those conditions have been met and the Department is requesting approval from the Commission to accept the land patent prior to submitting the required documents to the BLM for final approval.

**Motion:** Freeman moved and Husted seconded THAT THE COMMISSION VOTE TO APPROVE ACQUISITION OF A DEED FROM THE BLM KINGMAN OFFICE FOR THE DEVELOPMENT OF THE TRI-STATE SHOOTING RANGE, ALONG WITH ASSOCIATED DOCUMENTS AND AGREEMENTS, 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.

**Vote:** Unanimous

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3. Request for Commission Approval to Transfer the Dedication of the Adair Shooting Park in Yuma County, Arizona, from Yuma County to the AZ Game and Fish Commission.

**Presenter:** Jay Cook, Shooting Sports Branch Chief

The Department has been working with the BOR and Yuma County on the transfer of the dedication of Adair Shooting Park from County ownership. The shooting park consists of 340.67 acres and includes improvements on the property. The Range is currently managed by Adair, Inc., and the Department would enter into an Agreement for continued operation by this organization. By assuming the dedication of this shooting park, the Department will maintain and update the existing facilities through the regular means of acquiring funds for such projects.

**Motion:** Woodhouse moved and Freeman seconded THAT THE COMMISSION VOTE TO APPROVE TRANSFER OF THE DEDICATION OF THE ADAIR SHOOTING PARK IN

YUMA COUNTY, ARIZONA, FROM YUMA COUNTY TO THE ARIZONA GAME AND FISH COMMISSION AND TO AUTHORIZE THE DIRECTOR, AS SECRETARY TO THE COMMISSION, TO EXECUTE ALL DOCUMENTS ASSOCIATED WITH THE ACQUISITION AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

**Vote:** Unanimous

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#### Executive Session

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

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

**Vote:** Unanimous

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Public Session reconvened at 9:28 a.m.

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#### 4. Consideration of Proposed Amendments to the Guidelines for the 2012–2013 and 2013–2014 Hunting Seasons

**Presenter:** Brian F. Wakeling, Game Branch Chief

Mr. Wakeling briefed the Commission on amendments to the hunt guideline process. During the Commission Workshop held November 4–5, 2011, the Commission discussed the necessary steps to ensure that the public and Commission's input were adequately addressed within the hunt guidelines process. The Commission discussed moving solicitation of formal public input to a point earlier in the year, (January–February), while maintaining the Commission workshop in March to discuss topics for additional public input (this step was adopted by the Commission on August 27, 2011), and a July Commission workshop at which specific guideline options may be discussed. The Department has amended the process timeline with additional steps to address the concerns brought up by the Commission.

Commissioner Mansell requested that the new Commissioner be briefed on the guidelines in January even though confirmation by the Legislature has not occurred yet.

Director Voyles stated that the process for briefing the new Commissioner will be changed so that the new Commissioner is better prepared once he/she takes their seat on the Commission.

Commissioner Mansell requested that the Commission receive the hunt guideline recommendations about a week prior to its release to the public so that Commission can be prepared for public questions.

Mr. Wakeling suggested that the Commission be provided with the hunt guideline information on Friday and then it could be posted on the Website the following Tuesday.

Commissioner Mansell suggested also that when the draft hunt guidelines are provided to Executive Staff for review, that the Commission also receive a copy via email.

Commissioner Freeman stated that if changes are then made to that document based on input from one Commissioner or even one special interest group, he would like that redlined and highlighted so that he can differentiate between the Department recommendations that are made from a multitude of different input sources to other influences that come later.

Mr. Wakeling continued his briefing on the proposed amendment to the guidelines for the 2012–2013 and 2013–2014 Hunting Seasons. When approved in August 2011, the Hunt Guidelines did not specifically address the collaborative effort regarding hunter access and hunting permit allocations on Hopi Trust Lands (sovereign lands) in Units 4A, 5A, and 5B because a new agreement had not yet been signed. A new agreement is ready for Director approval under an existing Memorandum of Understanding (MOU). The hunt guidelines may be amended to direct the Department to continue pursuing a reciprocal agreement that allows general populace hunting access and allocates a proportion of applicable big game permits to Hopi tribal members. The Commission was provided with the amended Hunt Guidelines that reflects this proposed direction.

Ron Sieg, Flagstaff Regional Supervisor, briefed the Commission on the Hopi Tribe agreement. In 1996, in order to settle a land dispute between the Navajo and Hopi Tribes, Congress authorized the Hopi to purchase up to 500,000 acres of land in Northern Arizona, as long as those lands were at least five miles from a community, and then be able to place those lands into trust status with no further Congressional action. For our purposes, trust status probably carries the same weight as reservation status. The Secretary of the Interior also has the authority to condemn interspersed state trust lands as long as the state is compensated for those lands.

Starting in 1997, the Hopi acquired the following:

- Clear Creek Ranch (71,959 acres of private, 74,350 acres of state land)
- 10X and Hart Ranch (39,350 acres of private, 30,813 acres of state land)
- Drye Ranch (3,177 acres of private, 3,939 acres of state land)
- Aja Ranch (57,002 acres of private, 48,124 acres of state land)
- 26 Bar Ranch (2,170 acres of private, 22,290 acres of state land)

Most of these ranches also have associated Forest Service or BLM grazing allotments. From 1997 to 2008 the Department worked with these ranches the same as with any other private ranch in Arizona. The Department cooperated on Habitat Partnership Committee (HPC) and Natural Resource Conservation Service (NRCS) funded projects and other habitat work and shared annual hunting proposals with them through the Forage Resources Study Group. On December 8, 2008, 160,000 acres of private land within these ranches were placed into trust status. There are 157,000 acres of interspersed checker-boarded state lands within the ranches. Based on the Commission approved Memorandum of Understanding (MOU) from 2002, the Department started discussions with Hopi staff on joint management of these interspersed lands. The Cooperative Agreement for Hunting Management from 2009 recently expired. The Department

has done joint surveys with Hopi staff and worked with them to make associated management decisions based on the surveys. Department Wildlife Managers reviewed suitable habitat by ownership in their districts and this served as a starting point for discussions with the Hopi. So this discussion is to “allocate permits equitably with the Hopi tribe in proportion to the area and populations of big game that occupy Hopi sovereign lands when a reciprocal access agreement exists” and this is identical wording to what was in the hunt guidelines after the 2009 discussion.

#### Public Comment

Micah Lomaomuaya, speaking on behalf of the Hopi Tribal Chairman’s Office, addressed the Commission. The Hopi Tribe Office of the Chairman is proud of the government to government partnership that they have with the Arizona Game and Fish Department. Both have been partners committed to stewardship and effective management of wildlife resources and habitats for present and future generations. The Hopi supports a mutual process for understanding and implementing hunt guidelines and any amendments or changes affecting established or perspective agreements.

**Motion:** Husted moved and Freeman seconded THAT THE COMMISSION VOTE TO APPROVE AMENDMENTS TO THE GUIDELINES FOR THE 2012–2013 AND 2013–2014 HUNTING SEASONS AS PRESENTED WITH THE ADDITION OF AN ANNUAL IN-DEPTH BRIEFING OF NEW COMMISSIONERS AND DISTRIBUTION OF DRAFT HUNT RECOMMENDATIONS AND HUNT GUIDELINES TO THE COMMISSION WHEN IT IS DISTRIBUTED TO EXECUTIVE STAFF.

**Vote:** Unanimous

\* \* \* \* \*

#### 5. Consideration of Proposed Commission Orders 3, 4, and 26 for 2012 Hunting Season.

**Presenter:** Brian F. Wakeling, Game Branch Chief

Mr. Wakeling presented the Commission with Department recommendations for Commission Orders 3 (pronghorn antelope), 4 (elk), and 26 (population management) establishing seasons and season dates, bag and possession limits, permit numbers or authorized limits, and open areas for the respective 2012 fall hunting season. Mr. Wakeling provided a Power Point presentation that included charts and graphs of historical and current survey data, as well as weapon type data and fawn/doe and buck/doe ratios. A detailed description of all proposals were provided to the Commission prior to this meeting for review and consideration, and was available for public review at all Department offices.

Hunt structures and recommendations were formulated based on the two-year hunt guideline package approved in September 2011. The following hunt recommendations for fall 2012 pronghorn antelope, elk, and population management seasons are based on the guidance provided by that document. Regions 1, 2, 3, and 6 held public meetings after analyzing current year survey data and prior to meeting with the Game Branch to discuss permit recommendations. These meetings were held during October 5–19, 2011. Zero to 6 people attended each meeting.

At each of these meetings, Regional staff shared recommended management direction regarding harvest with those in attendance.

In accordance with Hunt Guidelines, the Department will continue to allocate a proportion of the permits for pronghorn and elk within Units 4A, 5A, and 5B to Hopi tribal members based on the estimated populations of pronghorn and elk that occupy those lands. In exchange, the Hopi tribe will grant access to Hopi Trust Lands for permit draw hunters within the open hunt area. Likewise, Hopi tribal members that draw from their allotted permits will have access to the entire open area in the hunt area.

The Department has revised the Pronghorn and Elk Management Plans and shared these with the Arizona Elk Society, Rocky Mountain Elk Foundation, and Arizona Antelope Foundation on November 6, 2011 for their review and comment. The plans were posted on the Department's web site on November 18, 2011 along with this memo and the recommended permit numbers.

Specific information about pronghorn, elk, and population management seasons follow.

#### Commission Order 3 – Pronghorn Antelope

Statewide buck to doe ratios are within guidelines at 27:100, whereas fawn to doe ratios dropped slightly, remaining below guidelines at 29:100. Favorable winter precipitation was followed in many parts of the state with a dry spring, which did not help recruitment of fawns. In Region 3, closure of private ranches to public access is an ongoing concern and influences permit recommendations. Unit 19B is recommended to have permits for general, muzzleloader, and archery seasons (5 permits each), and the Chino Grande Ranch is working with the Department to provide access for a limited number of permit holders that may be willing to sign a permission and release agreement.

General season permits are recommended to decrease by 8 from last year for a total of 417 permits. The archery-only pronghorn permit recommendation is 307 permits, which is a decrease of 5 permits from last year. Muzzleloader pronghorn seasons are recommended for 64 permits, a decrease of 8 permits from last year. Hopi tribal members are recommended to be allocated 10 general permits, 3 archery-only permits and no muzzleloader permits in Units 4A, 5A, and 5B.

The hunt for pronghorn on Fort Huachuca in Unit 35A is recommended to continue with a single general permit.

Bob Posey, Kingman Regional Supervisor, addressed the Commission and answered questions regarding the Chino Grande Ranch in Unit 19B and the permission and release agreement that must be signed by hunters.

The Commission discussed all the stipulations in the agreement and how several parts of it were not very palatable to them, but overall the Commission was pleased that the ranch will be open to hunting.

Commissioner Freeman expressed his concern over the reduction in tags in Unit 19B from 65 in the recommendation in December 2010 to the 15 in this recommendation, and the inability to

mange wildlife through hunting. There is also public land involved in Unit 19B and a lot of the hunting public will feel strongly that they should have a right to go onto those lands.

Commissioner Woodhouse asked if it would be noted in the hunt regulations that the hunt in Unit 19B will be by permission only.

Mr. Wakeling stated that the regulations state that "Hunter access in this Unit is restricted. Applicants should secure access before applying."

**Motion:** Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO APPROVE COMMISSION ORDER 3 – PRONGHORN ANTELOPE AS PROPOSED.

**Vote:** Aye - Woodhouse, Husted, Harris, Mansell  
Nay - Freeman  
Passed 4 to 1

#### Commission Order 4 – Elk

Statewide bull to cow ratios are within the newly established guidelines at 31:100; calf to cow ratios remain within guidelines at 41:100. Populations in many units are stable or slightly declining. As with pronghorn, a proportion of the permits in Units 4A, 5A, and 5B are recommended to be allocated to Hopi tribal members.

Elk harvest is recommended to allow limited population growth in some areas where growth is possible as identified in the Elk Management Plan; individual populations may be managed according to current habitat and environmental conditions.

This recommendation package will continue to adjust bull to cow ratios to meet or move toward management guidelines. General season permits are recommended at 14,060 permits, a decrease of 788 permits from last year (the change comprises a decrease of 542 bull elk permits and a decrease of 246 antlerless elk permits from last year). An additional 38 general bull and 14 general antlerless permits are recommended for allocation to Hopi tribal members in Units 4A, 5A, and 5B.

Juniors-only general antlerless elk permit opportunities are recommended at 1,027 permits, a decrease of 105 permits, and 6 permits are recommended to be allocated to Hopi tribal members in Unit 4A (juniors-only permits are at 5.0% of standard opportunity).

Archery-only elk permits are recommended to decrease by 157 to 5,166 (the change comprises an increase of 41 bull elk permits and a decrease of 198 antlerless elk permits). Hopi tribal members are recommended to receive 24 archery-only bull and 4 archery-only antlerless permits in Units 4A, 5A, and 5B. Muzzleloader permits are recommended to decrease by 5 permits to 1,113 (the change comprises an increase of 20 bull elk permits and a decrease of 25 antlerless elk permits). Zero muzzleloader permits are recommended for Hopi tribal members since there are no muzzleloader hunts in Units 4A, 5A, or 5B.

A new 10-permit any elk hunt in Unit 10 is recommended this year, which will provide CHAMP hunters with 45 any elk permits, which is an increase of 10 from last year.

The Department's recommendation is consistent with the weapons allocation formula in hunt guidelines. Bull and antlerless elk harvests are allocated by sex and weapon type using five-year averages of first-choice application demand and five-year averages of hunt success by weapon type; limited opportunity hunts and November archery-only bull hunts are excluded from this allocation determination. The Commission directed the Department to allocate at least 5% of the total available elk permits as antlerless elk permits to juniors-only seasons. The permit allocation in this package for juniors-only antlerless elk permits represents 5.0% of the total recommended elk permits.

Not including limited opportunity, CHAMP, juniors-only, or November archery-only bull seasons, the targeted and recommended allocations for bull and antlerless elk permits are as follows:

<b>Bull Elk:</b>	<u>Target</u>	<u>Recommended</u>
General	59.1%	59.8%
Archery	35.6%	34.6%
Muzzleloader	5.3%	5.6%

<b>Antlerless Elk:</b>	<u>Target</u>	<u>Recommended</u>
General	83.4%	82.5%
Archery	12.2%	12.2%
Muzzleloader	4.4%	5.3%

Projected harvest for both bull and antlerless seasons are expected to be within one percent of targeted allocation.

Limited opportunity general hunts are recommended to increase by 45 general permits to 1,782 and limited opportunity archery-only hunts are recommended to decrease by 25 permits to 275. No muzzleloader limited opportunity hunts are recommended. Hopi tribal members are recommended to receive 38 any general and 25 antlerless general limited opportunity permits in Units 5A and 5B.

No changes were recommended to the nonpermit over-the-counter elk seasons.

The hunt recommendation package was coordinated with land management agencies, local habitat partnership committees, and the Forage Resource Study Group in Region 2. Permits for bull and antlerless harvest were managed to meet management guidelines for bull to cow ratios and forage use as noted in the hunt guidelines and the Elk Management Plan.

#### Public Comment

Steve Clark, President, Arizona Elk Society: Thanked the Department for doing a great job in addressing the aspen issues in 7E with the Peaks hunt.

**Motion:** Husted moved and Woodhouse seconded THAT THE COMMISSION VOTE TO APPROVE COMMISSION ORDER 4 – ELK AS PROPOSED.

Commissioner Mansell questioned why the 25 early rifle tags were in Unit 4A and not in one of the alternative Units, and asked what the implications would be if that hunt were cancelled or moved to another Unit.

Rick Langley, Game Specialist from Region I, explained how the Department arrived at its recommendation for the early bull hunt in Unit 4A which included the consideration of data and several other factors. One factor was that the bull to cow ratio was above the guidelines and another was that the early bull hunts have been moved around to accommodate requests from hunters for more alternative opportunities.

**Motion to Amend:** Mansell moved and Woodhouse seconded THAT THE COMMISSION VOTE TO AMEND THE MOTION AS FOLLOWS: CANCEL THE UNIT 4A EARLY BULL HUNT AND ALLOW THE DEPARTMENT TO SELECT ANOTHER UNIT FOR AN EARLY BULL HUNT.

Director Voyles suggested that the Department look at some alternatives to the Unit 4A early bull hunt and bring that back to the Commission following the lunch break.

\* \* \* \* \*

Meeting recessed for lunch at 11:50 p.m.

Meeting reconvened at 1:05 p.m.

\* \* \* \* \*

#### Commission Order 4 – Elk (continued)

Mr. Wakeling briefed the Commission on the Department's recommendation if the 25 early bull tags were removed from Unit 4A. The Department would recommend adding the 25 tags to the general November bull hunt. That would be 24 to the general populace bringing those permits up to 414 and 1 additional Hopi tag, which would bring that total to 11, for a grand total of 425 tags. Also, for the archery bull hunt (September 14-27) the Department would recommend adding 25 tags, 24 for the general populace and 1 to the Hopi, for a total of 243 to the general populace and 7 Hopi tags.

(Vote on Motion to Amend)

**Vote:** Unanimous

**Amended Motion:** Husted moved and Woodhouse seconded THAT THE COMMISSION VOTE TO APPROVE COMMISSION ORDER 4 – ELK AS PROPOSED, EXCEPT FOR THE FOLLOWING: UNIT 4A EARLY BULL HUNT WILL BE REMOVED (SEPTEMBER 28 TO OCTOBER 4 EARLY BULL SEASON – 24 GENERAL POPULACE TAGS AND 1 HOPI TAG); ADD 25 TAGS TO THE NOVEMBER 30 TO DECEMBER 6 GENERAL BULL (24 GENERAL POPULACE AND 1 HOPI), AND ADD 25 ARCHERY BULL TO THE SEPTEMBER 14 TO SEPTEMBER 27 (24 TO GENERAL POPULACE AND 1 TO HOPI). THE TOTALS WILL BE 414 AND 11 HOPI FOR THE GENERAL HUNT AND 243 AND 7 HOPI FOR THE ARCHERY BULL HUNT.

**Vote:** Unanimous

Commission Order 26 – Population Management Seasons

Population management seasons are recommended for implementation in generally the same units, seasons, and permit levels as last year. "Designated elk," "designated buffalo," or "designated deer" is the legal wildlife in each of the population management seasons so that the Director may designate the desired legal animal for harvest when the permits are issued. Although the Department is recommending that the Commission authorize 1,525 deer (1,475 general and 50 archery only), 1,500 elk (945 general, 100 muzzleloader, 25 HAM, and 405 archery only), 745 javelina (360 general, 250 HAM, and 135 archery only), 160 buffalo (all general), and 122 bear (68 general, 26 HAM, and 28 archery only), these tags will not be issued unless approved by the Director following a determination from the population management hunt review and approval process.

**Motion:** Husted moved and Mansell seconded THAT THE COMMISSION VOTE TO APPROVE COMMISSION ORDER 26 – POPULATION MANAGEMENT SEASONS AS PROPOSED.

**Vote:** Unanimous

\* \* \* \* \*

6. Hunt Permit-Tag Application Schedule for Winter 2012 Hunts

**Presenter:** Lizette Morgan, CFO, Business & Finance

Ms. Lizette provided a brief presentation relating to the hunt permit-tag application schedule for the Winter 2012 hunting seasons (attached). The application schedule identifies proposed acceptance dates and deadline dates for all hunts associated with the draw process. In addition, the proposed dates for when hunt permit-tags and refund warrants will be mailed are also identified, along with information relating to the first-come/first-serve process for any permits that may still be available.

**Motion:** Husted moved and Mansell seconded THAT THE COMMISSION VOTE TO APPROVE THE APPLICATION SCHEDULE FOR THE 2012 WINTER HUNTS.

**Vote:** Unanimous

\* \* \* \* \*

7. Consideration of Amendments to Commission Orders 11, 12, 14, 16 (small game), 19 (dove), 21 (waterfowl), and 22 (snipe) for 2011–2012 Hunting Seasons.

(Amendments to Commissioner Orders 10 (mountain lion) and 13 (predatory and furbearing mammals) for 2011–2012 Hunting Seasons was considered at Friday's meeting, December 2, 2011)

**Presenter:** Brian F. Wakeling, Game Branch Chief

The Department brought amendments to Commission Orders on August 6, 2011 to comply with the intent of changes to A.R.S. 13-3107(C)(3) and 13-3108 as amended by SB 1334. At that time, the Commission approved amendments that effectively closed the take of several municipal areas to the take of tree squirrel (Commission Order [CO] 11), cottontail rabbit (CO 12), other birds and mammals (CO 14), pheasant (CO 15), quail (CO 16), dove (CO 19), waterfowl (CO 21), and snipe (CO 22) by falconry. This closure was inadvertent and unintentional and the Department now recommends opening falconry-only seasons for these species through amendments to Commission Orders 11, 12, 14, 15, 16, 19, 21, and 22.

**Motion:** Mansell moved and Husted seconded THAT THE COMMISSION VOTE TO APPROVE AMENDMENTS TO COMMISSION ORDERS 11, 12, 14, 15, 16, 19, 21, AND 22 AS PRESENTED.

**Vote:** Unanimous

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#### 8. Request to Reinstate Bonus Points for Mr. Bruce Lane

**Presenter:** Lizette Morgan, CFO, Business & Finance

Mr. Bruce Lane was drawn for elk in Unit 1, 2B, and 2C for hunt dates November 25, 2011 to December 1, 2011 and expressed concern over hunting conditions in those units as a result of the Wallow Fire. In a letter received by the Department on August 26, 2011, Mr. Lane requested the Department allow him to surrender his tag and have his bonus points reinstated. On September 2, 2011, the Department responded in a letter, indicating that statute and rule only permit reinstatement of bonus points due to Department error, or for a member of the military being deployed. Because Mr. Lane's request did not meet either of those criteria, the Director was not authorized to reinstate his bonus points. Mr. Lane was advised of his right to petition the Commission for a hearing in the matter per R12-4-611 because no administrative remedy exists in his circumstance.

**Motion:** Husted moved and Mansell seconded THAT THE COMMISSION VOTE TO DENY BRUCE LANE'S PETITION TO SURRENDER HIS ELK TAG HAVE HIS BONUS POINTS REINSTATED.

**Vote:** Unanimous

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#### 9. Call to the Public

There were no requests to speak at this time.

\* \* \* \* \*

### 10. Executive Session

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

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

**Vote:** Unanimous

\* \* \* \* \*

Public meeting reconvened at 5:50 p.m.

\* \* \* \* \*

### 11. Litigation Report

There were no additional updates and the Commission had no comments or questions. (Written report attached).

\* \* \* \* \*

### 12. Approval of Minutes and Signing of Minutes.

**Motion:** Mansell moved and Husted seconded THAT THE COMMISSION VOTE TO APPROVE THE MINUTES FROM AUGUST 26-27, 2011, OCTOBER 14, 2011, AND NOVEMBER 4-5, 2011.

**Vote:** Unanimous

The Commission signed the minutes following approval.

\* \* \* \* \*

### 13. Director's and Chairman's Reports

Director Voyles reported the following activities:

- Testified at the Sunset Review hearing and the Department received a unanimous recommendation for a 10-year extension
- Participated in strategy discussions with the Alaska Department of Fish and Game related to issues and litigation over public lands
- Participated in telephonic interviews for coordinator for the Desert Landscape Conservation Cooperative (DLCC) and agreed to Chair the DLCC for a period of one year
- Attended the regional meeting in Region II, Flagstaff
- Met with RJ Cardin to discuss opportunities for partnering with Maricopa County Parks
- Met in Washington DC with the Director of the Wildlife and Sportfish Restoration Program, Hannibal Bolton

- Met with Sarah Porter and Roger Ferland of Arizona Audubon Society to discuss partnership efforts
- Participated in the Wilderness Coalition Campout
- Traveled to Salt Lake City for a meeting with Dr. Tuggle, and others regarding wolf conservation
- Attended the Wildlife and Hunting Heritage Conservation Council meetings in Washington DC
- Met with Babbitt Ranches and discussed their approach to managing checkerboard lands
- Gave a presentation to the National Assembly of Sportsmen's Caucus in Farmington Pennsylvania.

\* \* \* \* \*

#### 14. Commissioners' Reports

The Commission was in agreement to suspend all Commissioners' reports.

\* \* \* \* \*

#### 15. Future Agenda Items and Action Items

Deputy Director Broscheid reported the action items captured during this meeting:

- Regarding the Adobe Mountain Wildlife Center: 1) Develop a complete package for strategy and a campaigning for the new Adobe Mountain Wildlife Center, 2) Agenda for the next Executive Session an overview and discussion of the Department's solicitation and donations, 3) Provide contact information and set up meetings with the two 501C organizations and Commissioners Husted and Freeman, 4) Develop an informational packet for a complete campaign, including informational brochures, 5) Investigate an online check-off box with the draw, 6) Schedule a meeting with Commissioners Husted and Freeman, Bob Broscheid, Kellie Tharp and Jim Odenkirk to discuss soliciting private industries
- Keep the Commission informed on the buffalo management related to the Grand Canyon National Parks Service via memos and schedule for discussion at a future Commission meeting
- Keep the Commission informed on the Horseshoe CRMP process and that moves forward; bring back to the Commission at the appropriate time to provide an overview of the progress and the major components of that plan.

\* \* \* \* \*

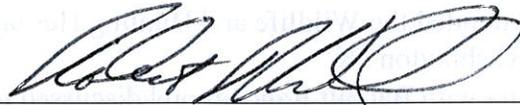
**Motion:** Husted moved and Woodhouse seconded THAT THE COMMISSION VOTE TO ADJOURN THIS MEETING.

**Vote:** Unanimous

\* \* \* \* \*

Meeting adjourned at 2:30 p.m.

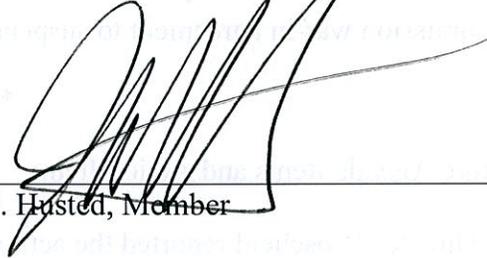
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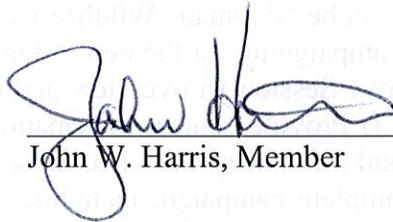
Robert R. Woodhouse, Chair



Norman W. Freeman, Vice Chair



Jack F. Husted, Member

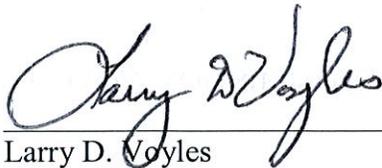


John W. Harris, Member



Robert E. Mansell, Member

ATTEST:



Larry D. Voyles  
Secretary and Director

**Game and Fish Litigation Report  
Presented at the Commission Meeting  
December 2, 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 15<sup>th</sup>.

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.

**The parties filed a stipulated briefing schedule on October 31, 2011, and the Court entered an order on November 1, 2011, requiring the plaintiffs to file a motion for injunctive relief by December 16, 2011, defendants' and interveners' response by January 27, 2012, and plaintiffs' reply by February 24, 2012.**

**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. 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) challenges the road designations in the Plans by alleging violations of the NEPA, FLPMA, NHPA and presidential proclamations for the Vermillion Cliffs and Grand Canyon-Parashant.

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. On October 17 the Wilderness Society filed a notice of appeal to the Ninth Circuit Court of Appeals.

**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. **The plaintiffs filed an opening brief on October 14, 2011 and the Commission's answering brief is due December 13, 2011.**

**Lands Update**  
For the Arizona Game and Fish Commission  
November 25, 2011  
Phoenix, Arizona

**FOREST SERVICE LAND AND TRAVEL MANAGEMENT PLANNING**

**Coconino National Forest**

The Coconino National Forest released its Record of Decision (Decision) and FONSI for its Travel Management Rule. The Department is in the process of reviewing the Decision. It is our understanding that this rule does 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 was due out to the public in October but has been delayed. 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 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. We continue to be active in the 4FRI Stakeholder Group as well, where the current focus is collaboratively developing and monitoring an Adaptive Management Framework with the USFS. Stakeholders will be delivering this framework to the USFS on Jan 15, 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 Rule establishing

the 10(j) as an allowed activity for this population. The notice focuses on the Kaibab National Forest, although the document does not specify if the NOIs are only for the Kaibab National forest, the 6 Arizona forests mentioned, or for all National Forests.

### **Apache-Sitgreaves National Forest**

The Apache-Sitgreaves National Forests (A-S) have completed the Environmental Assessment for the Rodeo-Chediski Fire Prescribed Burn Project. It is open for review for a 30 day objection period. The Proposed Action would provide for prescribed burning treatments on approximately 148,190 acres of National Forest System Land (approx. 5,000-15,000 acres per year) within the fire perimeter area of the 2002 Rodeo-Chediski Fire (R-C Fire). Treatments would occur on the Black Mesa and Lakeside Ranger Districts in Navajo and Coconino Counties. The Department has advocated for the implementation of prescribed burning within the R-C Fire area.

The A-S is in the early stages of initiating the Wallow West Fuel Reduction and Forest Recovery Project analysis. The project would focus on reducing fuels and facilitating forest recovery and wildlife habitat impacted by the Wallow Fire. The Project would likely include the application of prescribed burning, mechanical thinning, timber salvage, road improvement and maintenance, reforestation, and forest restoration. Although the project boundary has not yet been finalized, it is anticipated to encompass approximately 100,000 acres. The A-S plans to begin public scoping for this project in December.

### **Coconino National Forest**

In an effort to continue momentum on our cooperative efforts to recover aspen, the Department met with the Forest to view a recent 10-acre jackstraw treatment designed to recruit new aspen within the Hart Prairie Project area, north of the San Francisco Peaks and located within the Peaks Sub-Unit 7E. Early indications are positive. Aspen recruitment and deer browse continues, but there is no sign of elk use within the treatment area. 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.

The Department attended the Fossil Creek Stakeholders Meeting on November 17<sup>th</sup>. The stakeholders met with the Coconino National Forest to address recreational impacts to Fossil Creek and discuss the Comprehensive River Management Plan (CRMP). The CRMP is a NEPA compliance process required per Fossil Creek's designation as a Wild and Scenic River. A decision is expected on the CRMP by December 2012, which is a delay from the original schedule. At issue are the high levels of recreational use and damage occurring on the creek. For example, Labor Day weekend saw 1,711 vehicles parked along the single-lane 708 road with over 7,600 visitors attempting to access 4 miles of creek via one primary parking lot and trailhead. Litter and human waste continue to pollute the creek; and human injuries and alcohol and drug use continue to pose problems for limited FS and AGFD law enforcement. Many stakeholders are concerned about interim management of recreation impacts in light of this timeline as well as expected reductions in FS budgets that supply necessary funding for law enforcement and recreational management at Fossil Creek. Currently the FS is not offering much to the stakeholders group in the way of collaboration on the CRMP planning process, and the Department is likely going to respond to the CRMP EA alongside other members of the public.

### **Kaibab National Forest**

Working in collaboration with Arizona Wildlife Federation, the Department contributed Waterfowl Conservation Funds to rebuild exclosure fences at Duck and Dry Lakes in Unit 7W. These cable fences are designed to exclude livestock and OHV access from wetland wildlife habitats.

### **Tonto National Forest**

The Globe and Tonto Basin Ranger Districts are preparing an environmental impact statement (EIS) that will analyze management strategies to maintain and improve ecological conditions on six grazing allotments along the Salt River corridor, between Roosevelt Lake and the Fort Apache Indian Reservation. The Department is currently working with Forest to develop wildlife resource objectives that translate into proactive habitat management strategies as components of a range of alternatives for analysis in the EIS. We are currently mapping priority areas for game species, evaluating existing conditions and developing habitat management prescriptions and recommendations for enhancements. Special status species will be addressed individually and the Department is working to include SWAP species and the SHCG within the planning.

### **U. S. FISH AND WILDLIFE**

The Buenos Aires Wildlife Refuge has changed its hunting regulations to allow hunting of all “rabbits”. The Department pursued this change from the previous language which specified “cottontail rabbits” to allow for the take of jackrabbits on the refuge. The refuge encompasses some of the best antelope jackrabbit habitat in the state. This underutilized species is becoming more popular with hunters due to its large size, sporting qualities, palatability, and efforts by the Department to elevate its underdog status in hunting culture.

### **BUREAU OF LAND MANAGEMENT (BLM)**

#### **AZ Strip Field Office**

##### Uranium DEIS

The Uranium FEIS was released in late October and is now within the appeal period. The preferred alternative would allow continued mining on the Strip for existing valid claims, but withdraw over 1 million acres from new mining claims. The earliest possible day for Secretary Salazaar’s decision would be November 28<sup>th</sup>. At that time, the decision would be subject to appeal. The temporary mineral withdrawal expires January 20, 2012.

#### **Kingman BLM Field Office**

##### Burro-vehicle collisions on SR 95 North of Lake Havasu City

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.

Short term Resolutions:

- Following the interagency meeting between BLM, AGFD, and ADOT, BLM initiated an aggressive burro capture, successfully removing roughly 60 burros from GMU’s 16A and 16B. During AGFD helicopter bighorn sheep surveys that took place shortly after the

burro-trapping began, very few burros were sighted, suggesting that BLM carried out a very effective capture.

- In a follow-up meeting with BLM and ADOT, the two agencies resolved to fence the entire 20 miles of SR 95's ROW, extending from the travel stops near the junction of SR 95 and I-40 all the way to the airport traffic signal on the north end of Lake Havasu City. BLM and ADOT are investigating funding for this measure, but it will take an extended period of time to complete the National Environmental Policy Act compliance work that will enable this project to move forward.

### **Havasu Field Office**

During the week of September 26<sup>th</sup>, 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.

### **Yuma Field Office**

Department personnel participated in route evaluations for the Cibola-Ehrenberg Travel Management Area during October and should complete them in December.

## **BLM NATIONAL MONUMENTS & CONSERVATION AREAS**

### **Grand Canyon-Parashant National Monument / Vermillion Cliffs National Monument**

#### **Parashant Partnership**

The Department continues to engage in the Parashant Partnership, which is a group of stakeholders interested in management of the monument. The group has had three information-only workshops that have explored management issues from Mojave desert to ponderosa pine vegetation, wildlife, fire management, grazing management, and threatened and endangered issues. Issues and interests are very diverse in this group; therefore the next step being considered is a stakeholder values-mapping exercise. A values-mapping exercise aims to spatially designate areas of potential interest and management based on variables such as ecological need, areas of least controversy or broadest agreement, and perhaps those that already have BLM planning completed. This type of values workshop has been successful in other collaborative groups in AZ as well as the Pacific Northwest. The values workshop will be planned over the winter and conducted March/April of 2012.

### Lawsuits by the Wilderness Society and the Center for Biological Diversity

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 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. On October 17 the Wilderness Society filed a notice of appeal to the Ninth Circuit Court of Appeals.

### **Ironwood Forest National Monument**

The Department filed a protest on the *Ironwood Forest National Monument Proposed Resource Management Plan (PRMP) and Final Environmental Impact Statement (FEIS)* on October 24, 2011. The PRMP would close the monument to recreational firearms use and discharge except for hunting. The Department has consistently supported the continued ability for the public to use and discharge firearms on the monument, and has consistently coordinated with the BLM Tucson Field Office (TFO) to address concerns associated with recreational shooting beginning in 2003 when the Department sponsored the *Tucson Basin Shooting on Public Lands Workshop Project* facilitated by the U.S. Institute for Environmental Conflict Resolution. Significant findings of this workshop clearly did not support the closure. The Department continued to coordinate through the entire National Environmental Policy Act process, providing both written and verbal comments on the various drafts. Details of Department coordination with a timeline and comments on the coordination can be found in Attachment I to our protest (attached).

Regulations governing the protest of an EIS state that the BLM Director "shall promptly render a decision on the protest" and that the "decision shall be in writing and shall set forth the reasons for the decision." The law states that this decision "shall be the final decision of the Department of the Interior." Once received, the Department will review the final DOI decision to present to the Commission and to discuss further actions if necessary.

### **Lower Sonoran and Sonoran Desert National Monument**

The Department is currently reviewing the proposed Resource Management Plan (Plan) and Environmental Impact Statement. The Department met with the BLM in October to discuss concerns and provide comments. Some of the Department concerns included the prohibition of target shooting in the Monument, route closures, priority species list, inconsistency with dispersed camping, prohibition of dead and down firewood collection, OHV staging areas, wildlife connectivity, and ground water pumping restrictions.

### **Sonoran Desert Conservation Plan**

On November 3<sup>rd</sup> Department personnel attended a meeting held by the Sonoran Desert Heritage for their conservation initiative, which aims to protect approximately 750,000 acres of BLM land for recreational access, wildlife, and archaeological significance in the region west and south of the White Tank Mountains. The Sonoran Desert Heritage plan to take their proposal to Congress once it has been examined by the public.

## **BUREAU OF RECLAMATION & NATIONAL PARK SERVICE**

Public scoping has begun for the Long Term Experimental and Management Plan (LTEMP) Environmental Impact Statement (EIS) for the operations of Glen Canyon Dam. The Bureau of Reclamation (Reclamation) and National Park Service (NPS) are co-leads for the EIS. The purpose is to evaluate dam operations and provide the basis for decisions that identify management actions and experimental options that will provide a framework for adaptively managing Glen Canyon Dam over the next 15 to 20 years. The last EIS for Glen Canyon Dam, which was led by Reclamation, was completed in 1995. The purpose of this EIS is to use scientific information developed over the past 15 years to better inform decisions on dam operations and other management and experimental actions so that the Secretary of Interior may continue to meet statutory responsibilities for protecting downstream resources. Reclamation and NPS have conducted 6 public scoping meetings during the weeks of November 7<sup>th</sup> and November 14<sup>th</sup> in Phoenix, Flagstaff, Page, Las Vegas, Salt Lake City, and Denver, and one web-based meeting. Arizona Game and Fish personnel attended the three scoping meetings in Arizona and will request cooperator status near the end of the scoping period. The public scoping period ends December 30<sup>th</sup> 2011. It is anticipated that a draft EIS will be completed by December 2012 with the final EIS completed by fall 2013. A website has been developed to track the progress of this EIS: <http://itempeis.anl.gov/index.cfm>

### **GENERAL UPDATES**

#### **Access Agreements**

##### Bar S Ranch

Department personnel met with Bar S Ranch in Game Management Unit (GMU) 16A to evaluate wildlife waters and other proposed and already completed projects. At the meeting, the Rancher indicated his willingness to enter into a 7 year access agreement with the Department as well as develop a number of waters that will provide benefit to resident wildlife. The new access agreement will be initiated in February when his existing access agreement sunsets.

##### D'Ambro Pond

The Department recently signed a two year access agreement extension with the owner of D'Ambro Pond in GMU 15A. Access funding will be utilized for the support and maintenance of the fishing ponds and for purchase of fish to stock the ponds. This individual has partnered closely with the Department in numerous annual fishing clinics over the past several years.

##### Anvil Rock Ranch

The Department conducted a rangeland inventory assessment on the Anvil Rock Ranch (Ranch) as part of developing a Natural Resources Conservation Service (NRCS) Conservation Plan for the ranch. The plan will provide ranch ownership with the means for identifying resource/habitat concerns and for applying for future assistance through Farm Bill grant funding programs. While on location, an access agreement was discussed with the owner, resulting in a verbal commitment from the land owner to enter into the agreement. A follow-up meeting with the Ranch will take place in the near future to sign this agreement.

#### **Basin Well Bighorn Sheep Drinker (*Willow Springs Ranch*)**

It has been nearly two and one half years since the Department entered into a 10-Year Cooperative Stewardship Access Agreement with Willow Springs Ranch, LLC on the BLM's Gediondia Allotment in the Black Mountains of GMU 15D. In partnership with the Arizona

Desert Bighorn Sheep Society, the Rancher and Kingman BLM, the Department renovated Basin Well, with the expectation that perennial water for bighorn sheep be constructed as well. Following a drawn-out change in Ranch ownership, construction of that drinker has finally begun. The project will likely be complete by the end of November. This water, located proximate to desert bighorn sheep lambing grounds, will provide water to resident wildlife including mule deer, desert bighorn sheep, and other assorted small game.

### **Central Arizona Grasslands Strategy Projects**

There is an estimated 3,116 acres remaining for treatment pending future funding. 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 continues to participate in meetings to review ongoing modeling of three future growth scenarios in support of the Flagstaff Area Regional Land Use Plan. At the City's request the Department facilitated incorporation of the Department's crucial habitats into the City's GIS evaluation of potential impacts to wildlife and habitat under these different growth scenarios.

### **Laguna Restoration Area**

The Department is partnered with The Bureau of Reclamation in developing the Laguna Reach of the Colorado River, north of Yuma, Arizona, as part of the Lower Colorado River Multi-Species Conservation Program (LCR MSCP). Clearing of the 1,300 acre project area recently began with work to be completed in 2014. The purpose of this project is to restore marsh, riparian, and upland habitat for species such as the Yuma clapper rail, yellow billed cuckoo, and the Yuma hispid cotton rat.

### **Proposed Rosemont Copper Project**

The Department is reviewing the Draft Environmental Impact Statement (DEIS) for the proposed Rosemont Copper Mine. The Coronado National Forest (Forest) released the DEIS with a 90-day public review period on October 21. Comments on the 845 page document are due to the Forest on January 18<sup>th</sup> of 2012.

The DEIS has been made available to species leads within the Department for their input on impacts to species that will be affected by the mine. Two internal meetings have been scheduled for Department staff to compile input on potential mitigation opportunities which the Department may request as compensation for the affected species losses, reduction of ecosystem services, loss of habitat, reduction of public access, and loss of recreational opportunities. The mine will be located on the north end of the Santa Rita Mountains which is a biologically rich habitat in close proximity to the Tucson Metro area and extensively utilized by hunters, watchable wildlife enthusiasts, and a diverse constituency of outdoor recreationists. The Department expects significant impacts on our customers. On November 4<sup>th</sup> the Forest Service issued a press release (attached) with a revised public meeting schedule.

## **Renewable Energy Development**

### ***Wind***

#### **Boquillas Wind Project**

The Department, in conjunction with the U.S. Fish and Wildlife Service's Ecological Services Sub-office in Flagstaff, continues to assist Coconino County Planning and Zoning with their review of Boquillas Wind, LLC's request to renew a conditional use permit for three existing meteorological testing towers on the Aubrey Cliffs. The case has been continued until the Planning and Zoning Public Hearing at the end of November to allow further refinement of conditions of approval for the permit renewal. Department staff accompanied members of the Planning and Zoning Commission on a site visit to the Boquillas Wind project area which included the Department's raptor migration survey point on Aubrey Cliffs to learn more about the area's biological resources and landscape. The applicants include Edison Mission Energy of California and the Navajo Tribal Utility Authority (NTUA). While no formal application has yet been made for a permit for a wind farm, the applicants have secured a power purchase agreement from Salt River Project and are proceeding with biological and meteorological studies at the site.

The Department's migration surveys at the Boquillas project site were completed at the end of October and the results will be shared with Coconino County, the project proponents and USFWS. A meeting was held at the Region 2 office on October 20<sup>th</sup> at which the project biological consultant, WEST, Inc., shared results of their golden eagle studies at Boquillas and Department personnel presented interim results raptor migration surveys. WEST intends to share results from the remainder of their studies on other birds and bats with the Department and USFWS later this year and release a final summary report in January 2012. Department biologists will continue to coordinate internally and with USFWS on this project as more monitoring results become available and will produce an evaluation of these studies to be shared with the County and applicant.

#### **Chevelon Butte**

Department personnel have provided comments to Coconino County and the State Land Department concerning Horizon Wind's (Horizon) Chevelon Butte wind project south of Winslow. The Chevelon Butte Wind Resource Area (CBWRA) consists of approximately 44,938 acres of State and private (O'Haco Ranch) land. Construction of the project is anticipated to occur in 2012 or later. Horizon has installed two meteorological towers and are currently working through their pre-construction surveys on the CBWRA. Department personnel continue to coordinate with Horizon on the CBWRA project.

#### **Disgen Marcou Mesa**

The Navajo County Planning and Zoning Commission approved the Special Use Permit (SUP) request by Disgen Marcou Mesa, LLC, (Disgen) to place up to 194 wind power generating turbines and related facilities for a 390 MW wind power generation facility known as "Disgen Marcou Mesa" on approximately 33,709 acres (State and private land) north of Holbrook. The number of turbines (130 to 194) and their height (410 to 495 feet blade tip height) will depend upon the type of turbine selected for the site. Set backs from adjacent land owners and residences were discussed along with the fact that Disgen will not have a Power Purchase Agreement (PPA) for this project to move forward. This will be a Merchant Plan facility that will generate the power and send it through the tie in at the Cholla Power Plant, then up to the Four Corners. From there it will be sold into an open market. There is an option at a later date for a PPA with an energy company. Disgen will complete their wildlife studies in May 2012. They have been

coordinating with the Department since fall of 2009. The Planning and Zoning Commission approved the SUP with the following stipulation relating to the Department and USFWS:

“13. Arizona Game & Fish Department and U.S. Fish & Wildlife Service:

Before the start of construction and as development progresses, the applicant shall consult with and obtain final written comments from the Arizona Game & Fish Department and the U.S. Fish & Wildlife Service (Flagstaff Ecological Services Field Office) regarding measures to minimize the impact on bats, birds and on wildlife by the facilities and operations authorized by this Special Use Permit. The applicant shall give due consideration to the concerns and recommendations of these agencies and shall use all reasonable efforts to satisfy their concerns and to minimize the impact on bats, birds and wildlife. The location and construction of facilities shall be generally consistent with the Arizona Game & Fish Department’s “Guidelines for Reducing Impacts to Wildlife from Wind Energy Development in Arizona” and shall incorporate best available technologies and industry practices to minimize the impact on bats, birds and wildlife.”

Dry Lake Pronghorn Wind Research Project

On September 21<sup>st</sup>, the Department conducted a second pronghorn capture as part of a research project to help determine what impact, if any, the Dry Lake Wind Generation Facilities (61 turbines) have on the pronghorn movement patterns in GMU 3A. This two-year research project is being jointly funded by the Department, Iberdrola Renewables (Dry Lake Wind Facility) and Horizon Energy, and is in response to concerns raised by the Department over the extent of potential wind energy projects across northern Arizona and their potential impacts to already fragmented pronghorn herds. On November 9, 2010, 15 pronghorn were captured and GPS collared. The September 21<sup>st</sup> effort brings the total sample size of monitored individuals to 24.

Grapevine

Within the next few weeks, the Department is expecting to review the first draft of the Avian and Bat Protection Plan for the Grapevine wind project. The Grapevine project, if built out completely, could be a 500 MW facility southeast of Flagstaff. It would likely be built in several 100 MW phases. The developers have not yet procured a Power Purchase Agreement from a power company or a Conditional Use Permit from Coconino County.

Hurricane Wind

The Department commented on a met tower renewal for the Hurricane Cliffs area located on BLM lands administered by the Arizona Strip Field Office. While this application for a Right-of-Way renewal is only for one met tower at this time, future wind energy development at this site could have significant impacts on wildlife. Like the Aubrey cliffs, the north/south orientation of the cliffs coupled with western facing cliffs/slopes provides compelling topographic indication that the area is likely a major raptor migration corridor. The Hurricane Cliffs and Vermillion Cliffs were the original release sites for the California condor in 1996, and condors have been known to use the area. In addition, Department data indicates several golden eagle nests are in the area. The Department has made their concerns known and will stay heavily engaged in any and all plans to develop this area.

### Mohave County Wind Project

The Mohave County Wind Farm Project has issued Chapter 1 through Chapter 6 of the Environmental Impact Statement (EIS) to be reviewed by the core participating organizations for comments and draft changes. Once the comments are received and reviewed, a final EIS will be formatted and submitted. Biological sections have been updated to include the new baseline reports and visual analysis for nighttime simulations at the project site. The executive summary is being prepared and will be submitted before the Thanksgiving holiday. BP Wind Energy gave an eagle conservation plan update at the Bureau of Land Management (BLM) Kingman office on November 9, 2011. BP Wind Energy provided a forum through internet access and personal attendance where participants could discuss eagle mitigation options, ideas and legalities of the proposed project. Members of the Eagle Strike Task Force will review a final draft from BP Wind Energy to determine the viability of the proposed ideas and mitigation recommendations.

### Perrin Ranch

The Department attended the first Wildlife Technical Advisory Committee (TAC) meeting for the Perrin Ranch wind project. The Perrin wind project has half of the 62 turbines up near Williams and plans to be operational before 2012. The TAC has members from the Department and USFWS, Coconino county, NAU, NextEra (the developer), and the public. The goal of the TAC is to review and make adaptive management changes to mitigation and operations based on post construction data on wildlife. The TAC plans to have their next meeting be a site visit to the wind farm in March 2012.

### Yavapai Ranch Wind Project

NextEra Energy, Yavapai Ranch Wind's project proponent, is in continued negotiations with Prescott National Forest for requisite project-related easements and rights-of-way. Earlier, NextEra provisionally agreed to fund a Department research project that would monitor pronghorn use of the project area before, during, and after construction of the project. However, funding was contingent on favorable negotiations with the Forest. Recent communications with the project's environmental consultant have revealed that funding for the research proposal has become unlikely, possibly indicating that those negotiations with the Forest have not been going well. In earlier communication with the same consultant, it was revealed that if the above-mentioned negotiations did not go as desired NextEra would potentially forego further investment and involvement in the Yavapai Ranch Wind project. Recent communications with the company have revealed that they will not be moving forward with this project unless the federal tax credits are extended past 2012.

### ***Solar***

#### Arlington Valley Solar Energy

Located in Maricopa County, Arlington Valley Solar Energy has submitted an application to the Arizona State Land Department seeking a 24-foot right-of-way to allow for emergency access to their property. If permitted, the right-of-way will pass through state land that is currently under lease for grazing. Department personnel will provide comments to help reduce environmental impacts this right-of-way may cause.

#### Aurora Solar

The amendment to the Pinal County Comprehensive Plan included a proposed solar facility. The Department provided comments on the proposed amendment to include consideration of the Department's solar guidelines, surveys for desert tortoise, burrowing owl and Tucson shovel-nosed snake.

### NextEra - Sonoran Solar Project

The Department continues to work closely as a cooperating agency with the BLM on the environmental impact analysis for the Sonoran Solar Project. The BLM recently released the Final Environmental Impact Statement (FEIS) October 2011. The proposed facility will require approximately 3,702 acres of public land. The BLM analyzed 5 alternatives including the no action: 1) proposed action – concentrated solar utilizing parabolic trough solar thermal technology 2) reduced water use – using a dry-cooling technology 3) photovoltaic alternative – using the least amount of water 4) reduced footprint alternative – same as proposed action but with a smaller level of development (250 MW vs. 375 MW). The photovoltaic alternative was developed after release of the Draft EIS in response to public and agency concerns with water consumption. Advancements in technology and a change in market conditions allowed reconsideration of the alternative as a viable business consideration for NextEra. The use of photovoltaic would not require any consumptive water use to generate electricity, would minimize impacts to wildlife habitat and floodplains, and would eliminate air quality point sources and vapor plumes. The Department supports the photovoltaic alternative (Sub-Alternative A1).

NextEra applied for a Certificate of Environmental Compatibility (CEC) for the Sonoran Solar Energy Project – Generation Tie Line. The Department sent a letter of support to the Arizona Corporation Commission and commended NextEra on their collaborative efforts to minimize impacts to wildlife as a result of the project.

Additionally, NextEra has committed to mitigation in the form of wildlife research to evaluate the spatial extent of impact a large-scale solar development may have on the surrounding environment. The results of this research will be used to inform evaluations of future utility scale solar developments in order to apply fair and adequate mitigation and environmental protection measures. A Memorandum of Understanding has been finalized and the Department will be working with NextEra to implement the wildlife research work upon project initiation.

### **Rincon Wildlife Water Catchment**

Department's personnel began work on a new wildlife water catchment in game management unit 18A over the first three weeks of November, 2011. At present, the tanks and drinker have been set and back-filled, the pipe-rail exclusion fencing has been completed, and substructure for the catchment apron has been completed. Development Branch and Regional personnel hope to complete the project before the end of the current calendar year. The Rincon Wildlife Water will provide a much needed permanent water source to big game species throughout the area. The Rincon Wildlife Water development was submitted as an HPC proposal, approved and funded by special big game license tags funding program. When completed the new wildlife water will provide over 11,000 gallons of available water for Arizona wildlife.

### **SunZia Draft Environmental Impact Statement**

The Department commented on Chapter 3 of the Administrative Draft of the Environmental Impact Statement (DEIS) for the SunZia Transmission Line Project. As a cooperating agency, the Department received Chapter 3 of the SunZia DEIS prior to release for public comment.

Four general routes have been proposed with multiple segments that may be alternatives within the four routes. Route alternatives include segments spanning the San Pedro Valley from Benson to Mammoth, a segment within the Sulphur Springs Valley, a segment along hwy 91 from Bowie north toward Safford and east to Klondyke, several segments along I-10 from New

Mexico to Bowie, one segment following a corridor north of I-10 through Tucson, and one segment traversing the important wildlife connectivity area between the Aravaipa and Galiuro bighorn sheep habitat areas. A preferred alternative has not yet been selected.

The Department's primary concern remains the probable impacts arising from the construction and operation of the proposed double 500kV transmission line and associated substations. We also recognize the transmission line itself poses potential negative impacts to wildlife and their habitat, both direct (e.g., loss of habitat and disruption of normal wildlife activities) and indirect (e.g., introduction of invasive and/or undesirable nonnative species, increased predation).

The Department believes the presence of the transmission line may attract additional development, such as renewable energy projects and we have asked that the DEIS address cumulative effects analysis which includes all potential development that may occur as a result of the power line (i.e., commercial/residential growth due to increased energy supply, solar development, wind development, etc.).

Some of the proposed route segments may be acceptable only if adequate mitigation is provided. Examples of mitigation might include tower construction via helicopter to avoid the construction of new roads, or compensation to acquire or protect wildlife habitat or hunting opportunities in another location.

Because existing linear infrastructure often clears the way for future linear infrastructure, a foreseeable cumulative impact of this project is the potential for future adjacent infrastructure projects. The Department previously negotiated effective mitigation for cumulative impacts foreseen as a result of the Central Arizona Project (CAP). This mitigation, The Tucson Mitigation Corridor, between the Tucson Mountains and the Tohono O'odham Nation is an example of effective mitigation for this potential impact, the value of which has been demonstrated time and again since its creation. The Department has identified the need for such restrictive corridors within the project area and has requested that such mitigation be considered in the DEIS.

### **Town of Tusayan Annexation**

Tusayan Town Council approved the Ten X property annexation in early November. Stilo group, the developer, plans to build homes and commercial space in this area which is located 3 miles east of Tusayan in GMU 9. The biggest issue for wildlife will be the increase in urban wildlife nuisance calls, but hunting will not be affected in the adjacent FS lands due to the new hunting within municipalities' legislation. The developer is still uncertain where water would come from for this property, and opponents of the annexation are most concerned about this issue.

### **Transportation**

#### ADOT Intercity Rail Project

Department staff participated in an Arizona Department of Transportation multiple agency initial coordination meeting/webinar for the Intercity Rail Project between Phoenix and Tucson. Department staff emphasized the importance of maintaining habitat connectivity throughout all planning phases and possible future implementation/construction of the project.

### Hidden Waters Parkway

The Department continues to participate on the Technical Advisory Committee (TAC) for the parkway corridor feasibility study. Hidden Valley Parkway North is a proposed 8 lane parkway that would connect I-10 north to SR74 immediately west of the Hassayampa River corridor. In October the Maricopa County Department of Transportation (MCDOT) released Tech Memo 5: Detailed Preferred Alignment. At this time the Department does not support the proposed alignment but instead supports portions of Alignment 1 and 3 combined. Alignment 3 minimizes the number of wash crossings and potential impacts to wildlife; Alignment 1 would avoid lands designated by a local housing developer as open space for local wildlife and their movement (Belmont Wildlife Mitigation Plan), as well as lands along the CAP canal considered a potential wildlife linkage opportunity within the context of future development. Wildlife have been documented using CAP crossings within the proposed alignment and a future parkway would eliminate that crossing. Discussions included ways to mitigate and relocate the crossing opportunity, however it remains undetermined what level of local commitment there will be to preserve open space as wildlife linkages in addition to CAP crossing opportunities. The Department provided MCDOT with spatial datasets that identify important wildlife linkages within the planning area in hopes that alignments could be designed to minimize impacts.

### I-17 Flagstaff to SR 179

The Department had the opportunity to comment on an early version of a draft Environmental Assessment for the I-17 Flagstaff to SR 179 (Sedona exit) highway widening project. I-17 exhibits very high wildlife strikes when compared to national averages. Overall, the Department is very pleased with ADOT's willingness to incorporate wildlife crossing features within project design. Data from elk collars from the Department will determine best locations for crossing along this corridor. ADOT's willingness to incorporate crossings is reflective of the work of the Department in cooperation with ADOT over many years.

### Beardsley Parkway

The Maricopa County Department of Transportation (MCDOT) has initiated planning for the Beardsley Parkway alignment between US 60 and the Hassayampa River corridor. The proposed parkway will traverse proposed wildlife linkages within the City of Surprise that were recently adopted as a Major General Plan Amendment, in addition to others proposed further west. The Department's primary concerns at this time are wildlife habitat fragmentation and loss, impacts to proposed White Tank Mountains linkages, and potential direct roadway impacts to Mule Deer and special status species known to occur in the area including Sonoran Desert Tortoise. Technical Advisory Committee meetings have begun and the Department will be participating.

### 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 alternative route segments. These included the support of routes utilizing existing infrastructure, and those routes west of the CAP canal. We are working to provide further information on wildlife connectivity in the area to the project team.

### 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 Draft Concept Design evaluation criteria for biological resources has been modified to some degree, based on our comments. The November core team meeting was cancelled and the December 20<sup>th</sup> meeting is still scheduled. The status currently includes the preliminary alignments plan and profile to be out for team review by the next meeting. The biological documentation for the Queen Creek section is being developed.

### US 60 Silverking to Superior

The kick-off meeting for this transportation and bridge infrastructure project took place in November. The project begins west of the existing Queen Creek Bridge with a new alignment heading northeasterly to the Magma Railroad and tying back into US60 where it will be widened up to 5 lanes. The existing portion that fronts Boyce-Thompson Arboretum will be rehabilitated. The superior streets portion of the project will include widening and bridge replacements. The Department is participating on the project team for incorporation of wildlife and recreational access concerns. This project will also have opportunities for retrofitting infrastructure for increased wildlife connectivity in the area.

### South Mountain Corridor Study

As presented in the 1988 Environmental Assessment, the purpose of this study is to provide alternatives for a freeway connecting Interstate 10 south of Phoenix with Interstate 10 in the West Valley, following an east-west alignment along Pecos Road, through the western tip of South Mountain Park, then north to Interstate 10 between 55th and 63rd avenues. The north-south leg of the freeway would pass near the community of Laveen and through agricultural lands within the city of Phoenix. After it passes South Mountain Park and turns to the east, the freeway would pass through the Ahwatukee Foothills community, following an alignment along Pecos Road.

The current study process is evaluating the 1988 route, as well as a full range of alternative routes and the consequences of taking no action on the proposed roadway. The Arizona Department of Transportation and the Federal Highway Administration continue to follow the federal process to complete a Draft Environmental Impact Statement. ADOT is revising the Administrative Draft EIS and Location and Design Concept Report to include changes to the Maricopa Association of Government's [\*Regional Transportation Plan\*](#). These changes include reducing the overall "footprint" of the freeway to eight lanes (three general-purpose lanes and one HOV lane in each direction) and evaluating a revised connection with Interstate 10 at 59th Avenue. This study has been ongoing for several years and the Department is re-engaging in the process. The next meeting is scheduled for November 18<sup>th</sup> for discussion of the draft EIS.

### **Wallow Fire – Impacts to Streams and Lakes**

Department personnel have completed the huge task of monitoring numerous streams within the Wallow Fire area in Apache and Greenlee Counties. The surveys were completed in the fall to evaluate the full impact after the summer monsoon rains carried ash, debris, and flood flows through these systems. The survey crews completed surveys on 13 Apache trout streams, 3 Little Colorado spinedace streams, 4 Gila trout streams (or candidate streams), 4 loach minnow streams, several other general wild trout streams, and 3 sportfish lakes. Some streams were

severely impacted, resulting in complete fish kills and significant aquatic habitat damage, while other streams were not impacted or very minimally. The highlights of these surveys include:

#### Apache trout

Five Apache trout streams suffered significant fish kills, including recovery streams Fish Creek, South Fork LCR, and Bear Wallow Creek. The fish barrier on Fish Creek was also totally washed out. The loss of these large streams is a significant impact to recovery efforts. Hannagan Creek and Centerfire Creek, non-recovery streams that contained primarily hybrids with an occasional pure individual Apache trout, also suffered significant fish kills, but will not impact broader recovery efforts.

Seven Apache trout streams had no detectable or minor impacts, including West Fork Black River, East Fork Little Colorado River, West Fork Little Colorado River, Soldier Creek, Stinky Creek, Hayground Creek, and Coyote Creek.

One Apache trout recovery stream, Conklin Creek, was fishless when the fire occurred, but the barrier was removed by Forest Service crews to prevent the loss of a Forest Road crossing. This action will set back efforts on this stream to prepare it for Apache trout reintroductions.

Three streams, upper Nutrioso Creek, Paddy Creek, and Colter Creek, previously contained hybrid populations of trout but suffered complete fish kills. These streams were not recovery streams for Apache trout but were identified in management plans for reintroduction of Apache trout after the species is delisted. These fish kills may open opportunities for earlier reintroduction than originally planned.

#### Loach minnow

Four loach minnow streams had no detectable or minor impacts, including the East Fork Black River, North Fork of East Fork Black River, Boneyard Creek, and Coyote Creek. Although loach minnow have not been found in these streams since 2005, all or portions of these streams contain proposed Critical Habitat for the species.

The Blue River, a significant loach minnow stream with proposed Critical Habitat, was not surveyed by AGFD crews, however, a contracted survey by the Forest Service found significant impacts in the lower half of the river, while the upper half suffered moderate impacts. Loach minnow were still present in the upper half, however, nearly all trout were lost from the whole river. Trout still surviving in some tributaries will eventually repopulate the Blue River.

#### Little Colorado spinedace

One stream, Rudd Creek, had minor impacts. Spinedace and other native fish were found in good numbers in their pre-fire range, including the Sipe Wildlife Area.

One Stream, Nutrioso Creek, suffered a significant fish kill in the upper reaches above Nelson Reservoir. No spinedace were found in Nutrioso Creek. The reaches below Nelson Reservoir were not impacted, however, spinedace were not present in these reaches prior to the fire.

One river, the Little Colorado River, suffered minor impacts to fish populations in the lower elevation reaches. All native species are still present, including Little Colorado spinedace, however, the numbers are lower than would be expected. The trout populations in the upper Little Colorado River through Greer and upstream of Springerville had no detectable impact.

#### Gila trout

One stream that contained pure Gila trout, Raspberry Creek, suffered a complete fish kill.

Three streams that contained hybrid trout but have been identified as recovery streams for Gila trout suffered significant fish kills, including Coleman Creek, KP Creek, and Grant Creek. The fish kill was a complete kill in Coleman Creek, nearly complete in KP Creek, and extensive in Grant Creek. These fish kills may open opportunities for recovery of Gila trout earlier than originally planned if the habitat is not too severely damaged.

#### Other Streams

The Black River suffered a significant fish kill, as did tributaries Bear Creek and Snake Creek. Other tributaries, including Reservation Creek and Beaver Creek, had no or minor impacts. The Black River was a popular sportfishery, thus is a significant loss. However, wild brown trout present in the headwater forks (West Fork and East Fork) and other tributaries will repopulate this stream. The native fishes may need some intervention to repopulate quickly.

Sportfishing in the Wallow Fire area has suffered some losses, but overall is still doing well. As previously mentioned, the Black River kill was a significant impact to anglers. Also, the Fish Creek population of Apache trout was progressing so well that managers were planning to reopen this recovery stream to angling in the next Commission Order 40 cycle, however, the fish kill in this stream and loss of the barrier will be a huge setback to these plans. Nelson Reservoir suffered a moderate fish kill in early August due to monsoon runoff of ash and debris, and Hulsey Lake was drained entirely to buffer flood flows towards the Town of Nutrioso.

However, there are a number of sportfish opportunities that were not impacted or minimally impacted. As widely advertised, Big Lake and Crescent Lake were not impacted by the fire or monsoon runoff. The Greer lakes may have been stressed by ash runoff, but suffered no fish kills, and are now fishing well. Nelson Reservoir is also now fishing very well, despite its earlier moderate fish kill.

Streams such as the West Fork Black River, West Fork Little Colorado River, upper Little Colorado River, and East Fork Black River offer continued good angling opportunities.

### **Wildlife Areas**

#### Cibola Valley Conservation and Wildlife Area

The Department participated in a post-fire season meeting concerning fire management and response of the Lower Colorado River Multi-Species Conservation Program (LCR MSCP). The meeting focused on management activities at LCR MSCP restoration sites and coordination of fire management resources.

### Colorado River Nature Center

On Saturday, November 19<sup>th</sup>, AGFD, BLM and Bullhead City hosted Public Lands Day event at the Colorado River Nature Center. At this event, the Department unveiled its new wildlife viewing platform and picnic area for the center that was installed late the week before by Department personnel.

### Horseshoe Ranch

The Department, BLM, Tonto NF, TNC and NRCS continue to move forward with coordination for the Coordinated Resource Management Planning process. The initial stakeholders workshop was a success with over 50 participants and diversity of groups represented. Several of the participants also attended the field trip to further discussion, share information and gain insight into the area of management. The results from the break out group activities are currently being compiled and synthesized. The results will then be presented and discussed in the next stakeholders workshop after the first of the year.

### Lamar Haines Wildlife Area

Coconino National Forest biologists and a National Park Service hydrologist recently accompanied the Department on the field trip to look at the developed springs at Lamar Haines Wildlife Area. Currently the springs are non-functioning and not providing for wildlife. The Department is seeking agency collaboration to develop a plan to restore water to Veit Spring and create pond habitat for wildlife such as the northern leopard frog. This process is in the early planning stage. Department staff are working on water right claims for these springs as well.

### **Wildlife Linkages**

#### Pima County Wildlife Linkages

The second and final Pima County Wildlife Linkages stakeholder workshop was hosted by the Department on October 4th. Participants included representatives from agencies, conservation groups, utilities, universities, private consultants, and private individuals. Participants were asked to review maps containing input from the initial stakeholder workshop and provide any further clarification or refinement to be incorporated into the final GIS layers and report. Department GIS staff are in the process of running a least cost habitat connectivity model (used for the Arizona Missing Linkages prepared by Beier et al.) for the highest priority stakeholder-identified linkages. A final report similar to the one prepared for Coconino County (The Coconino County Wildlife Connectivity Assessment: Report on Stakeholder Input) will be prepared as well as four or five detailed Missing Linkage reports. Planned completion date for this work is August 2012.

### **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 recently reviewed and submitted comments on the pre-draft Environmental and Open Space components of the Plan. As additional Chapters of the Plan become available, the Department has been invited to participate in their review as well. To date, Yavapai County has been proactive in working with the Department on the development of this Plan.

## **IFNM Coordination Timeline and Comments – Attachment I**

### **2003 - 2006**

Department cosponsors Tucson Basin Shooting on Public Lands Workshop Project.

Starting in 2003, The Department, along with the Coronado National Forest and BLM Tucson Field Office, sponsored the *Tucson Basin Shooting on Public Lands Workshop Project* facilitated by the U.S. Institute for Environmental Conflict Resolution (IFECR.) The result of this project was a report dated June 2006 (Attachment II). This report found that “No one that we interviewed advocated elimination of shooting opportunities, even if they did not use, or particularly support the use of firearms. All recognized the Second Amendment guarantee of the right to bear arms. We also repeatedly heard from individuals across every interest group that the vast majority of recreational shooters behave responsibly, and that it is their perception that a small minority of irresponsible, unorganized shooters causes the problems with safety and vandalism that have been reported on public lands. *All interviewees expressed the desire for resolution of issues rather than elimination of shooting activities*” [emphasis added.] In the PRMP, the BLM cited parts of the report that supported closing the IFNM to shooting, but did not reference this significant finding of the report which clearly *does not* support the closure.

### **March 2, 2007**

BLM Tucson Field Office released the Draft Resource Management Plan and Environmental Impact Statement for the Ironwood Forest National Monument.

### **May 1, 2007**

Arizona Game and Fish Commission sends Resolution with cover letter (Attachment III) to Arizona State Director concerning the Management of Target Shooting on the Ironwood Forest National Monument.

“in response to a draft decision to prohibit the use and discharge of firearms within the Ironwood Forest National Monument (IFNM) in the IFNM Draft Resource Management Plan and Environmental Impact Statement”, the Arizona Game and Fish Commission formally opposed recreational shooting restrictions on Public Land in Arizona through adoption of a resolution to that effect. This resolution specifically referenced the IFECR report and the Federal Lands Hunting, Fishing, and Shooting Sports Roundtable Memorandum of Understanding (Attachment IV). The Commission also asked the BLM to define dispersed recreational shooting as “any shooting that is carried out in a safe manner, does not cause resource damage, and does not result in litter.” Finally, the Commission asked the BLM to develop a law enforcement coordination plan. The BLM’s assumption that recreational shooters will cause resource damage and litter is unreasonable. Again, the BLM’s analysis assumes unregulated, intense, and concentrated shooting throughout the monument and assumes that the only solution is complete closure of impacted areas, completely failing to consider reduction of impacts that would occur if existing laws and less restrictive management prescriptions were enforced.

In response to this letter, the PRMP states that the IFECR report found that “the group did not come to agreement on any substantive decisions regarding shooting within the IFNM or elsewhere in the Tucson area, and did not provide any specific recommendations or criteria by which to evaluate areas for their suitability as shooting areas. In fact, the project report explicitly states that the group was unable to come to agreement on these points when they were discussed.” The BLM’s response is arbitrary because it conspicuously fails to consider the

important finding of the report (see above) that “*all interviewees expressed the desire for resolution of issues rather than elimination of shooting activities.*” If the BLM finds it important that the stakeholder group could not agree on what *to do* to resolve the problem, the BLM should assign at least as much importance to the fact that the stakeholder group *did agree* on what *not to do*; namely to *not close the monument to shooting*. Also, the response does not address the requested law enforcement coordination plan. In addition, the BLM declined the Commission’s request to define dispersed recreational shooting ostensibly because “target shooting, even when carried out in a safe and legal manner, *can have damaging effects on resources*”. This assessment is overly speculative and capricious in that it can be said that *any activity*, even when carried out in a safe and legal manner *can have damaging effects on resources* (e.g., hiking, horseback riding, driving, geocaching, etc.) Although the Department concedes that safe and legal shooting *can* have damaging effects on resources, the Department also asserts that safe and legal shooting *need not* have a damaging effect on resources when managed in a way that concentration and intensity is reduced. Reduced intensity occurs on the monument away from the intensively used areas. The analysis however assumes intensive and concentrated shooting activity throughout the monument when considering impacts. The Department notes that the BLM did not say that firearm discharge, even though conducted in a safe and legal way, *cannot* be conducted without having damaging effects on resources.

### **May 29, 2007**

#### Department sends formal comment letter on Draft RMP/EIS to BLM (Attachment V)

On page 3 of our letter, the Department stated that dispersed recreational shooting can be consistent with the Monument Proclamation and that we continue to support dispersed recreational shooting, referencing and including the Commission resolution.

In the PRMP/FEIS, in response to this comment, the BLM states that the Proposed Plan “is consistent with the monument designation to protect objects of scientific interest and meets the BLM mandate for multiple use. BLM has considered continued recreational shooting under Alternative A” (pg J-197) and “all four alternatives” (including those allowing continued use of firearms) comply with the Proclamation establishing the monument “including the protection of the objects of the monument, and with all other applicable laws, regulations, and policies.” BLM’s response states that recreational shooting is consistent with the purposes of the monument and that the monument should be managed in accord with its multiple use mandate. BLM’s decision to eliminate recreational shooting on the entire monument is not supported by its prior statements and is therefore an arbitrary decision.

On page 8 and 9 of our letter dated May 29, 2007 commenting on page 2-63 of the Draft RMP, we stated that: “*It is recommended that Alternative A or D be selected as the preferred alternative to allow dispersed recreational shooting within the Monument. (See attached Resolution)*”

*The preferred Alternative C prohibits the use and discharge of firearms, except for hunting activities conducted in accordance with AGFD hunting regulations was proposed to negate the effects of littering, resource damage, and safety hazards. Alternative C is not enforceable without additional law enforcement on the ground. Similar restrictions on AZ State Land are also not enforceable nor effective in preventing wildcat shooting ranges. One of the most significant wildcat shooting areas within the Monument is currently on State Land where*

Brenda Hudgens-Williams  
IFMN PRMP/FEIS Protest

*shooting bans are in effect. Increased enforcement of existing laws on littering, vandalism, and misuse of firearms is necessary to adequately address these concerns.*

*Many people learn to shoot and become hunters through recreational shooting on public lands, not by going to developed shooting ranges. Recreational shooting is an appropriate use of public lands, and the public demand for dispersed recreational shooting is more than evident.”*

**August 13, 2007**

Department meets with Tucson Field Office (TFO).

TFO informed the Department that they had met with the State Director on this issue and emphasized that no decision had been made in terms of a preferred alternative. They informed us, however, that TFO was looking into areas of the Monument that could possibly accommodate recreational shooting.

**May 5, 2009**

Department meets with TFO– firearm use has been decided.

TFO informed the Department that: BLM has conducted an analysis of the IFNM for the purpose of identifying areas where shooting could safely take place without major conflicts with protection of monument objects. The shooting analysis identified 2 locations where several criteria were met that would make the areas amenable to shooting activity. However, additional problems were identified under the scenario of limiting shooting to these 2 small areas within the IFNM, primarily having to do with intensive use leading to resource damage, and increased safety concerns related to confining all shooters to two small areas. As a result, the PRMP/FEIS would propose prohibiting recreational target shooting in the IFNM.

Although the Department has received informal verbal response at the two meetings documented above in writing by the BLM, no response to our comment on page 2-63 of the DEIS appears to be included in the PRMP/FEIS.

**Sept 15, 2011**

Department meets with TFO. TFO advises that PRMP will be released at the end of month and Department will not receive advance copy.

**September 24, 2011**

Proposed RMP and Final EIS for the IFNM is released to public.

**News Release**  
**USDA Forest Service**  
**Coronado National Forest**  
[www.fs.fed.us/r3/coronado](http://www.fs.fed.us/r3/coronado)



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**Effective Immediately**

**ROSEMONT COPPER PROJECT**  
**DRAFT ENVIRONMENTAL IMPACT STATEMENT**  
**Update on Public Meeting Schedule**

Tucson, AZ (November 4, 2011) – Two public meetings regarding the Rosemont Copper Project Draft Environmental Impact Statement (DEIS) are being rescheduled due to potential conflicts with local events. The first and last meetings, scheduled to be held at the Desert Diamond Conference Center in Sahuarita, Arizona on October 22 and January 7, have been postponed. One has been rescheduled (see below) and arrangements are being made for the second meeting and a possible additional meeting.

The Coronado National Forest is accepting public comments on the DEIS in a variety of formats. The DEIS is available online at [www.RosemontEIS.us](http://www.RosemontEIS.us). Citizens are encouraged to review this document before submitting comments. Although comments may be submitted in many ways, citizens need only provide comments once for them to receive full consideration. The 90-day comment period began on October 21, following publication of the Environmental Protection Agency's Notice of Availability of the DEIS in the Federal Register. Requirements for commenting may be found at 36 Code of Federal Regulations Part 215.

The Coronado National Forest is planning to host the following public meetings to share information about and take comments on the DEIS. Each meeting will include both informational sessions and comment sessions. Oral statements made during the comment session will be recorded. Written comments will also be taken at the meetings. Citizens do not need to be present at any meetings to comment on the DEIS.

- **November 12, 2011, 1:00 p.m. to 5:00 p.m.**  
Palo Verde High School, 1302 S. Avenida Vega, Tucson, AZ
- **November 19, 2011, 1:00 p.m. to 5:00 p.m.**  
Empire High School, 10701 E. Mary Ann Cleveland Way, Tucson, AZ
- **December 1, 2011, 5:00 to 9:00 p.m.**  
Corona Middle School, 16705 S. Houghton Road, Corona, AZ
- **December 7, 2011, 5:30 p.m. to 8:00 p.m.**  
Benson High School, 360 S. Patagonia Street, Benson, AZ
- **December 10, 2011, 1:00 p.m. to 5:00 p.m.**  
Elgin Elementary School, 23 Elgin Rd., Elgin, AZ

Arrangements are being made for a meeting in Sahuarita, and a meeting in Green Valley if a suitable facility can be contracted.

Arrangements are also being made for shuttle bus transportation to some of the meetings. Details will be posted to the project website at [www.RosemontEIS.us](http://www.RosemontEIS.us).

Brief oral comments can be made by calling toll-free (888) 654-6646.

Comments may be submitted electronically on the project website at [www.RosemontEIS.us](http://www.RosemontEIS.us) by following the link to “Comment Here.”

Written comments may be mailed to: Rosemont Comments, P.O. Box 4207, Logan, UT 84323. Written comments may also be submitted by facsimile to (435) 750-8799 and by electronic mail (e-mail) to [CoronadoNF@RosemontEIS.us](mailto:CoronadoNF@RosemontEIS.us). The subject line of facsimiles and e-mails should include the words “Rosemont Copper Project DEIS”. E-mail attachments should be in Word (.docx), rich-text format (.rtf), or portable document format (.pdf).

For questions or special needs regarding the public meetings or the comment period, the public may call (520) 388-8300 voice or (520) 388-8304 TTY.

Additional information about the Rosemont Copper Project DEIS is available online at [www.RosemontEIS.us](http://www.RosemontEIS.us).

Comments to read into the record / minutes

**Lynn Roe**

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**From:** Jon Cooley  
**Sent:** Friday, December 02, 2011 10:03 AM  
**To:** Leonard Ordway; Gary R. Hovatter; Larry Riley; Lynn Roe  
**Subject:** FW: Commission meeting today  
**Attachments:** Wolf201112releasescomments.doc

All  
I just recieved this email from Barbara Marks and am forwarding to you from my cell since we still have no power at RO. Barbara is a Blue livestock producer very familiar to us all.

I do not know how you want to handle from a "blue card" perspective but I'm forwarding so you know of its existence. Thx

Sent with Good ([www.good.com](http://www.good.com))  
Jon Cooley  
Region I Manager  
AZ Game & Fish Department

-----Original Message-----

**From:** [bmarks@frontiernet.net](mailto:bmarks@frontiernet.net) [[bmarks@frontiernet.net](mailto:bmarks@frontiernet.net)]  
**Sent:** Friday, December 02, 2011 09:54 AM US Mountain Standard Time  
**To:** Husted; Jon Cooley; Chris Bagnoli  
**Subject:** Commission meeting today

Good morning, Gentlemen, or should I say Merry Christmas?!

Needless to say, I won't be coming over today. I had planned on it, but not with the road conditions from the snow. What a relief to see some moisture.

Attached are our comments submitted for the proposed releases. We still beleive that in order to better evaluate the effects of the Wallow Fire on the wildlife, more time needs to be given, at least one year and more like 2-3 years. In Yellowstone following those fires, they felt it provided a more accurate picture of the situation. The fact was, wolves were all ready starting to move in. Over the years in this area, the wolf numbers have remained static between 40-60, with or without wolf deaths. Let's wait and see what happens with the current wolves without adding naive wolves to the mix.

I also learned from looking at your agenda that the discussion about the Department's involvement/management in the wolf project will be discussed. With the FWS going ahead with the Mexico-partnered release of wolves into that country with questions unanswered by the US, AZ & NM, especially status and management if they cross the border, we feel it would be best for AzGFD to not be involved, especially financially, if that happens. It is our understanding that NMGFD is requiring FWS to handle all wolf issues & problems. With such extreme budget concerns in the US & AZ, could you delay any decision in regards to the wolf project until a later date so livestock groups, wildlife groups, etc could more fully investigate alternatives, etc? We would like to consult with other professionals, including wildlife managers in order to reach a meaningful idea.

Many thanks and I wish I could have been there. After Bill leaves to blade snow I will do the webcam!

Barbara Marks

Dear Chris, (Bagnoli - A6FD)

Here are some of our points on the proposed Mexican Wolf releases into this year's Wallow Fire burn areas or near there.

The recognition of the tremendous financial burden put onto livestock permittees and then the mitigation measures put into the proposal, with funds attached, are to be applauded and are appreciated. We've all been enlightened as to realistic costs - experience is one of the best teachers.

There are several concerns not even related to livestock that we feel have great merit and should be addressed before any releases are made.

1. It is too early following the Wallow Fire to determine what its impact has been on the wildlife.

a. Numerous people have observed an unusual breeding season for the elk with limited bugling by bulls.

b. Elk calf & deer fawn survival rates are unclear, with good sightings in some places and poor in others. This, coupled with the above concern, could mean a much lower adult/young-of-the-year ratio for 2 years, decreasing the prey base considerably. This could significantly impact the current on-the-ground wolves and the other predators also inhabiting the area, not to mention the elk & deer themselves.

c. Usage of the forage by grazing wildlife is unclear at this point, clearly seen by hunters trying to bag elk this fall. It is impossible to say if the wildlife will be in the proposed release site areas or not.

2. The proposal mentioned that in some areas livestock grazing may be delayed past 2012 for undetermined reasons. Could these releases potentially affect rebuilding the pasture infrastructure (ie fences, water improvements, etc) right away or even future grazing plans? It has been widely discussed to use livestock as grass & other forbs restoration tools quickly after a fire. As extensive as the fire was, having every tool available to use in our toolbox will help speed the healing process and we can learn what is effective and what isn't.

Science needs to be behind this decision. Considering the magnitude of the Wallow Fire, we feel it is in the best interest of all to delay these releases for at least a year until the above mentioned questions can be answered. They should be EVERYONE'S concern as the uncertainty could be damaging to all, including the wolves.

Thank you for the opportunity to comment. Your willingness to consult us on not only livestock issues but also because of our experience living here shows you want a balanced view of on the ground conditions. We also know it took a lot to come up with the funding. If you have any questions, please feel free to contact us.

Sincerely,

Bill & Barbara Marks

# Hunt Permit-tag Application Schedule – Winter 2012

Hunt permit-tag applications will be accepted and processed in accordance with R12-4-104 and R12-4-114 and this schedule.

<b>Drawing</b>				
	<b>ACCEPTANCE DATES<sup>1</sup></b>	<b>CORRECTION PERIOD<sup>2</sup></b>	<b>DEADLINE DATES<sup>3</sup></b>	
<b>HUNT</b>	<b>Applications accepted on or after:</b>	<b>Deadline 5 p.m. (MST) in Department offices</b>	<b>Deadline 7 p.m. (MST) in Department offices on:</b>	<b>Hunt permit-tags and refund warrants mailed out by:</b>
Antelope	(See note 1)	Jan. 20, 2012	Feb. 14, 2012	April 20, 2012
Elk	(See note 1)	Jan. 20 2012	Feb. 14, 2012	April 20, 2012

<b>First Come<sup>4</sup></b>		
	<b>Applications accepted by mail on or after 8:00 a.m. (MST):</b>	<b>Permits available for purchase with a completed application at all Department offices after 8:00 a.m. (MST)</b>
<b>HUNT</b>	<b>ACCEPTANCE DATES</b>	<b>ACCEPTANCE DATES</b>
Antelope	April 23, 2012	April 30, 2012
Elk	April 23, 2012	April 30, 2012

## Notes:

- The Department will accept Hunt Permit-tag Applications for big game listed above as soon as the applicable year hunt information is available on the Department's website ([www.azgfd.gov](http://www.azgfd.gov)), or from any Game and Fish Department office or license dealer, unless otherwise noted in the Hunt Permit-tag Application schedule.
- If a paper Hunt Permit-tag Application that is submitted contains an error and is received by Jan. 20, 2012, the Department will make three attempts within a 24-hour period to notify the applicant by telephone (if a phone number is provided).
- Department offices in Flagstaff, Kingman, Mesa, Phoenix, Pinetop, Tucson and Yuma will close for business at 5:00 p.m. (MST); completed applications will be accepted at these locations until 7:00 p.m. (MST) on deadline days. No applications will be accepted after this time regardless of the postmark. Deadline dates and times will apply to online as well as paper applications. Deadline dates may be extended in the event of a Department-related system failure.
- First come permits are issued if available and will sell very quickly. Applicants are advised to check with the Department before submitting an application for leftover permits. A listing of leftover permits is available online at [www.azgfd.gov](http://www.azgfd.gov) under "Big Game Draw" or at any Department office.

## Thank You Hunters and Recreational Shooters

Arizona's rich outdoor heritage is enjoyed by all – thanks to hunters like you, whose purchase of hunting and recreational shooting equipment supports wildlife management and habitat enhancement in the Grand Canyon State. When you purchase a rifle, ammunition, archery equipment, and other sporting gear, you pay a federal excise tax and import duties.

Since 1937, this money has been collected by the federal government and redistributed to the states using a formula based on hunting license sales and the state's



land area. In 2010, that meant over \$11.8 million for game management in Arizona. This money paid for game surveys, hunter education classes, wildlife water catchment construction, wildlife research and shooting range development and operations, among other projects.

Hunters like you are part of the largest and most successful wildlife conservation programs in the world... thank you! To learn more visit [www.azgfd.gov/h\\_f/federal-aid-cycle.shtml](http://www.azgfd.gov/h_f/federal-aid-cycle.shtml).