

Minutes of the Telephonic Meeting of the
Arizona Game and Fish Commission
Friday, February 3, 2012 – 1:00 p.m.
Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, Arizona 85086

PRESENT: (Commission)

(Director's Staff)

Via telephone:
Chairman Norman W. Freeman
Vice Chair Jack F. Husted
Commissioner John W. Harris
Commissioner Robert E. Mansell
Commissioner Kurt R. Davis

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

Chairman Freeman called the meeting to order at 1:00 p.m. Director Voyles conducted roll call and all Commissioners were present via telephone conferencing. Several Department staff members were present and no members of the public were present. This meeting followed an agenda dated February 2, 2012.

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1. Call to the Public

There were no requests to speak to the Commission.

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2. Legislative Update

Presenter: Anthony Guiles, Legislative Liaison

Mr. Guiles presented several bills to the Commission that have been scheduled for legislative committee hearings and could have significant impact to the Department. The following bills were discussed and/or the Commission took a position to support or oppose:

HB 2457; possession of weapons while hunting

This bill was discussed at the January 25, 2012 Telephonic Commission meeting. The Commission directed Mr. Guiles to talk with the sponsor of the bill to see if she was amenable to some language changes that the Commission would like to see. The results of those discussions resulted in the attached strike-everything bill.

Chairman Freeman asked if Mr. Guiles had discussed with the sponsor that the Commission could make these changes in rule and that it did not have to be legislated. He would like to see this in rule rather than have legislation take away the Commission's ability to manage weapon types statewide.

Mr. Guiles stated that the sponsor is aware, but as discussed at the January 25, 2012 Commission meeting, Legislators are more comfortable with legislative statutes than they are with rules and tend to go in that direction.

Commissioner Husted stated that he is satisfied with the new language in the bill and appreciates that the sponsor was willing to work with the Commission on the language.

Commissioner Harris agreed and stated that with this language the Commission has the ability to make sure that the other weapons types are not used for hunting, and this legislation will allow people to carry other weapon types for personal safety, particularly in the southern part of the state.

Motion: Harris moved and Husted seconded THAT THE COMMISSION VOTE TO SUPPORT HB 2457.

Vote: Unanimous

HB 2640; hunting, firearm magazine capacity

This bill will be heard Wednesday morning in the Military Affairs and Public Safety Committee. This bill would not allow the Commission to limit or restrict the magazine capacity of any authorized firearm.

Commissioner Harris stated that he has some concerns with this one because it may be confusing for some folks when it comes to federal statutes related to migratory birds.

Mr. Guiles stated that in discussions with the sponsor, he has asked that language be added regarding the Migratory Bird Treaty Act.

Commissioner Husted expressed concern about ethical standards and he is not supportive of people being able to use the additional magazine capacity to take wildlife. Carrying is fine, but using is not.

Chairman Freeman agreed and added that he has concerns from the law enforcement standpoint.

Commissioner Davis stated that he would like to see the same amendment in this bill as HB 2457, allowing the possession of magazine capacity of choice, but not allowing take with any other magazine capacity than what is established for the taking of wildlife. This could create some confusion, but at the same time it lays out the issue of safety versus sportsmanship. We could ask for this language as well as language to address the Migratory Bird Treaty Act.

Commissioner Harris stated that magazine capacity for hunting is already covered in the strike everything bill HB 2457 (attached).

Commissioner Mansell agreed with Commissioner Harris and added that most modern sporting rifles have a five shot magazine capacity and so he doesn't think this is much of an issue.

Commissioner Davis agreed that it was covered in HB 2457, but stated that you need to be repetitive in statute and repeating that same language would make it simple.

The Commission was in consensus to direct Mr. Guiles to talk with the sponsor about these concerns.

HB 2728; firearms, sound suppressors, hunting

Commissioner Husted stated that he has no issue with this legislation. Suppressors are controlled and this not something that goes against sportsman ethics.

Chairman Freeman stated that he has some concerns about safety regarding situational awareness when a person is out in the field. Knowing where folks are hunting is important to him. Also, again, he has an issue with the Commission losing authority over some of these things.

Commissioner Harris stated that he had no issues with this bill.

Commissioner Mansell stated that he also had no issues with this bill. An individual has to go through an ordeal in order to obtain a silencer and after obtaining it, the firearm usually has to be altered, so he does not believe there will be many of these used in the field.

Public Comment

Larry Audsley, Arizona Wildlife Federation: Asked the Commission if they had been approached by any proponents or sponsors in regards to law enforcement or biological impacts on any of the bills related to governing hunting or wildlife management policy.

The Department and Commission stated that they were not contacted.

Mr. Guiles stated that the Department was not approached in the drafting of any of these bills. It is the Department's policy to bring these bills forward once they have been introduced in the House of Origin, so that is what we are doing today.

Mr. Audsley confirmed with the Commission that they did not just let the sponsors bring these bills forward so that the Commission could avoid items that were controversial in nature. Mr. Audsley is planning to address the Legislature and he wanted to make sure that he had the facts straight.

The Commission was in consensus to be neutral on HB 2728.

SB 1300; game and fish department, continuation, sunset review

The Department recommended that the Commission vote to support this bill.

Motion: Husted moved and Harris seconded THAT THE COMMISSION VOTE TO SUPPORT SB 1300.

Vote: Unanimous

SB 1305; game and fish omnibus act

The Commission has already taken a position to support the House version of this bill. This is the Senate version. This bill was scheduled for a hearing but has been pulled from the agenda. When this bill goes before the committee, the Department intends to propose an amendment to make a clarifying change to the section on retail sales. The way it is currently written it would not allow the federal funds and the firearm safety range funds to be separated and we need to keep those separated.

Motion: Husted moved and Davis seconded THAT THE COMMISSION VOTE TO SUPPORT SB 1305 WITH THE AMENDMENTS.

Vote: Unanimous

SB 1453 applying aquatic poisons

This bill is similar to the one last year. All Commissioners except for Commissioner Davis were involved in discussions regarding this bill last year. The Director put together a Rotenone Review Advisory Committee and recommendations were developed. The Department provided the Commission with an overview of those recommendations at the January 13, 2012 Commission meeting.

Mr. Guiles provided the Commission with a comparison of Department policy and processes regarding the use of rotenone as opposed what the bill is proposing (attached).

Kirk Young, Fisheries Branch Chief, briefed the Commission on the comparison as provided and answered questions. Mr. Young stated that he believed the objective of this legislation was simply to take this tool away from the Department. The Director voluntarily suspended the use of rotenone when this issue first came up. A Blue Ribbon committee was put together that included over two dozen people from multiple agencies, State and House Legislators, EPA, ADEQ, Health Services and other health experts. The facts were examined and misconceptions were clarified. The committee had a consensus on everything. So it's hard to understand why this legislation is necessary given the work and information that is in the committee's recommendation.

Commissioner Husted commented that the sponsor of the bill, Senator Griffin, was not on the committee and that is probably why this bill came back this year.

Director Voyles stated that he personally invited Senator Griffin to be on the committee, but she declined.

Motion: Mansell moved and Freeman seconded THAT THE COMMISSION VOTE TO OPPOSE SB 1453.

Vote: Unanimous

SCM 1009; rotenone, EPA, deregistration

This bill is a postcard to Congress reiterating the deregistration of rotenone.

SB 1521; public hearing following performance audit

This bill is scheduled for a hearing on Monday in the Senate Natural Resources Committee. This bill is relating to the Heritage audits and it allows in statute that the Senate and the House Natural Resources will hold a public hearing on the performance audit.

The Department recommends that the Commission support SB 1521.

Motion: Davis moved and Husted seconded THAT THE COMMISSION VOTE TO SUPPORT SB 1521.

Vote: Unanimous

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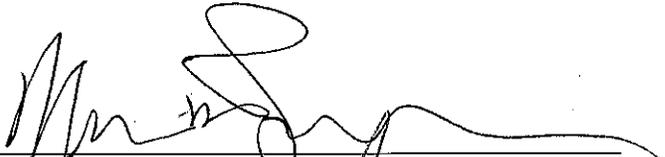
Motion: Mansell moved and Freeman seconded THAT THE COMMISSION VOTE TO ADJOURN THIS MEETING.

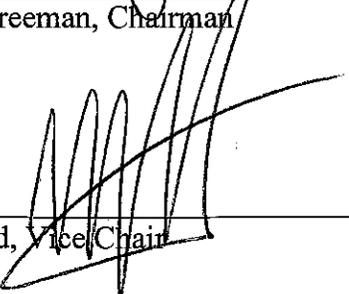
Vote: Unanimous

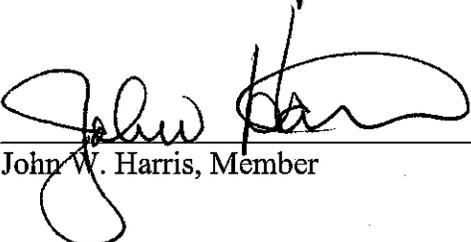
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Meeting adjourned at 2:00 p.m.

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Norman W. Freeman, Chairman

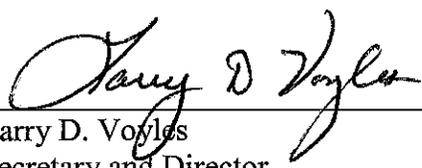

Jack F. Husted, Vice Chair


John W. Harris, Member


Robert E. Mansell, Member

Kurt R. Davis, Member

ATTEST:


Larry D. Voyles
Secretary and Director

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2457

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 17, chapter 3, article 1, Arizona Revised Statutes,
3 is amended by adding section 17-305, to read:

4 17-305. Possession of other weapons while hunting; violation;
5 classification

6 A. THE POSSESSION OF LEGAL WEAPONS, DEVICES, AMMUNITION OR MAGAZINES,
7 WHICH ARE NOT AUTHORIZED TO TAKE WILDLIFE, IS NOT PROHIBITED WHILE HUNTING IF
8 THE WEAPON OR DEVICE IS NOT USED TO TAKE WILDLIFE.

9 B. TAKING WILDLIFE BY USING A WEAPON, DEVICE, AMMUNITION OR MAGAZINE
10 THAT IS NOT AUTHORIZED TO TAKE WILDLIFE IS A CLASS 1 MISDEMEANOR."

11 Amend title to conform

BRENDA BARTON

Comparison of SB 1453 versus existing EPA/AGFD/Committee /law; policy and procedures; recommendations

Requirement	EPA/Committee/AGFD	SB 1453
Environmental Impact Analysis	<ul style="list-style-type: none"> • Extensive evaluation following National Environmental Policy Act (NEPA), required by policy, required by federal NEPA law; • Strict project specific legal requirements based on impacts to human environment: <ul style="list-style-type: none"> ○ No impacts – Categorical Exclusion ○ Impacts not significant – Environmental Assessment (EA), impacts and alternatives identified/analyzed and mitigated – A & Finding of No Significant Impacts (FONSI) ○ Significant Impacts – Environmental Impact Statement (EIS), impacts disclosed, mitigation not required. • Decisions appealable 	<ul style="list-style-type: none"> • Environmental Impact Analysis of any risk to the environment (this analysis is undefined) • Represents a new standard and process creating a state equivalent to federal NEPA – apparently the beginnings of something similar to California’s CEQA • One size fits all, no opportunity to scale to effects, e.g. stock tank renovation or stream or major lake... • Assuming a rigorous analysis similar to EIS, each project will take longer (potentially years) and cost dramatically more (\$10s-\$100s more) • Provides no increased level of protection over existing federal law and Agency policy
10-mile radius written notification	<ul style="list-style-type: none"> • Public engagement and notification required within defined project area as required by EPA/SOP and AGFD procedures • Scale of involvement dependent upon scale of project, e.g. stock tank vs. headwater stream, vs. major water system • Method of contact flexible to most effective means. 	<ul style="list-style-type: none"> • Requires notification upon a 10-mile radius of point of application. • Multiple points of applications, require multiple 10-mile radiuses • Method of contact requires written notification • Creates state requirement that exceeds Federal EPA requirements (new state EPA-exceeding legislation)
Pre-treatment soil and water analysis	<ul style="list-style-type: none"> • No pre treatment soil or water analysis required • Pesticide levels never documented to be present at background levels independent of a treatment. • No public health or environmental justification for pre-treatment analysis 	<ul style="list-style-type: none"> • New requirement to assess water and soil pre-treatment, to determine pesticide levels present. • Pre-treatment analysis of soil is entirely new requirement
Post-treatment soil and water analysis	<ul style="list-style-type: none"> • No post treatment soil monitoring required unless need for sample was determined during project development and evaluation • Post treatment water sampling required if contact with potable water source exceeding NOEL concentrations, or as determined during project development and evaluation. 	<ul style="list-style-type: none"> • Post treatment monitoring of soil, potable water supplies and livestock water supplies required until treatment levels return to baseline (which will always be 0) • The requirement establishes more restrictive standards than EPA for NOEL levels setting precedent for other pesticides.