

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, September 7, 2012
Saturday, September 8, 2012
Arizona Game and Fish Department
5000 West Carefree Highway
Phoenix, Arizona 85086

PRESENT: (Commission)

(Director and Staff)

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

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

Chairman Freeman called the meeting to order and led those present through the Pledge of Allegiance. The Commission introduced themselves and Director Voyles introduced his staff. This meeting followed an agenda revision #2 dated September 6, 2012.

Chairman Freeman led those present through a moment of silence in honor of: Neil A. Armstrong, the first person to set foot on the moon, who died on August 25, 2012; Staff Sgt. Richard L. Berry who died July 22, 2012 in Kandahar, Afghanistan; and the victims of the tragic mass shooting in Oak Creek, Wisconsin.

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Awards and Recognition

Shooting Sports Branch Chief Jay Cook presented the Commission with an award that the Department received from the Amateur Trap Association. The award was a 2012 Mega Target Award presented to the Department's Ben Avery Clay Target Center for being one of the top ten registered trap shooting clubs in the country.

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1. Call to the Public

There were no requests from the public to speak at this time.

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1A. Commission Rules of Practice

Presenter: Norm Freeman, Commission Chair

In March 2012, the Commission adopted the Commission Rules of Practice. However, since this meeting today is the second to the last meeting for the year and because this meeting's agenda was especially challenging due to communication issues between the Commission and the

Department, Chairman Freeman wanted the Commission to do a first read review of the rules of practice. Chairman Freeman believes it would be helpful for next year for the Commission to review, discuss, and make any necessary edits, and then have this brought back at the December Commission meeting for re-adoption by the Commission. Of particular concern is the issue of new agenda items placed on the agenda revision in the 11th hour that have not been reviewed or approved by the Chair.

Commissioner Davis suggested that if a Commissioner wants to put something on the agenda, that they should email that suggestion to the Chairman, the Director, and the other Commissioners. Also, he is not concerned about 11th hour agenda items because with the first read, second read concept, the Commission would not be taking action and the Department or the public would have time to prepare or consider the item.

The Commission discussed that for some last minute agenda items, the Commission could instead call a telephonic meeting if necessary.

Commissioner Mansell agreed with Commissioner Davis' suggestion and asked that it be incorporated into the rules of practice.

The Commission was in consensus.

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2. 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). Mr. Guiles' briefing and discussion with the Commission included the following:

- Arizona Primary Elections occurred on August 28, 2012. 15 are leaving the Legislature and 8 are running for other offices, so there will be a lot of freshmen in the next session and the Department will be working hard to educate them about the Game and Fish Department
- The Department's #1 priority legislation for 2013 will be fee flexibility and license simplification. The Department provided the Commission with the working draft of this potential legislation prior to this meeting and will bring back a finalized version to the December Commission meeting
- Legislative Tours. The Department provided a tour to the Vermillion Cliff on August 6-8, 2012. Additional tours are planned for Sipe White Mountain Wildlife Area, Hart Prairie Preserve and Horseshoe Ranch.

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3. Pilot Project for a Landowner-Departmental Compact to Manage Public Access.

Presenter: Tom Finley, Sector Supervisor Region III

Mr. Finley provided the Commission with a presentation on a proposal to evaluate a Landowner-Departmental Compact. The concept for the Landowner-Departmental Compact is rooted in the fact that there will be constant threats to maintaining Department relationships with important private land access partners. Subdividing, commercialization of hunting opportunity and relationship issues resulting from poor hunter behaviors, when they occur, will lead to more challenges. Other negative impacts from additional recreational use as well as general lawlessness (vandalism, dumping, etc.) cause additional challenges. Those impacts are often thought of by landowners as at least partially a result of their access relationship with the Department.

The objective of the Landowner-Departmental Compact would be to strengthen the relationship that the Department enjoys with core private land partners. The program would result in the Department being more assertive in its protection of that relationship by adopting some improved practices that would complement our current landowner relations efforts. Those improvements would include:

- The Department would elevate the outreach component of its landowner relations activities to often and publicly recognize (via website, regulations covers, program pages within the regulations, etc.) the importance of the private landowner in wildlife conservation and recreational access
- The Department would organize a Landowner-Departmental Compact to strengthen its commitment to that relationship. Compact membership could be used to direct Department funding for habitat improvement projects, access funds, etc.
- The compact would be used to more vigorously recognize violations of trust on those private lands that were committed to a strong relationship with the Department and its constituents. Details of the compact could include:
 - The Department runs the compact and bears the responsibility of its operation
 - Some similarities to the Interstate Wildlife Violator Compact; Individuals who, while on compact member owned private lands, participated in a listed and agreed upon poor behavior (some Title 17 and some Title 13 Violations) would be noticed (per ARS Title 13 Trespass Law) that they were no longer welcome on any of the properties that were participants in the Access Compact for a standardized and agreed upon period of time
 - Participating landowners would join the compact and agree on a standardized listing of violations that would result in elimination of an individual's privilege to enter compact properties for the standardized length of time.

This program is not meant as a complete way to strengthen the Department's relationship with private land owners. Rather it is only a small component of a stronger foundation that the Department is building through the Landowner Relations Program. It is important to remember that by more strongly addressing the poor behaviors exhibited by some recreational users (and other users) the Department will protect the interests of the majority of sportsmen and its ability to manage wildlife on private lands. There is much work to be done in developing and administering such a program and there is much research to be done, but undoubtedly there would be great benefits from such a program.

The Commission discussed and agreed that this would be a very positive thing for the Department to do and it would be good for the Department's landowner relationships. The Commission was in consensus for the Department to move forward with this project.

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Meeting recessed for a break at 9:25 a.m.

Meeting reconvened at 9:40 a.m.

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4. Request for the Commission to Approve a Memorandum of Understanding with Great Basin Bird Observatory to conduct research on and management of various bird species

Presenter: James Driscoll, Birds and Mammals Program Manager

Mr. Driscoll briefed the Commission on a potential Memorandum of Understanding with Great Basin Bird Observatory (GBBO) to conduct research on and management of various bird species. The purpose of this MOU is to establish a framework for collaboration and cooperation between the Department and GBBO to conserve and enhance bird populations in Arizona. Conservation and enhancement of bird populations may be accomplished through implementation of the "Arizona Partners in Flight Bird Conservation Plan" and through the continuation of a standing relationship between the Department and GBBO. This agreement will allow collaboration, cooperation, exchange of expertise, labor, materials and funding to assist the Department in research on and management of bird species in Arizona. The Commission was provided with a copy of the MOU for review and consideration prior to this meeting. If the Commission approves, the Department will place this item on the consent agenda for approval at the December Commission meeting.

The Commission was in consensus to place this item on the December consent agenda.

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5. Request for Commission to Approve the Memorandum of Understanding with the White Mountain Land Trust

Presenter: Lawrence M. Riley, Assistant Director

Mr. Riley briefed the Commission on a new potential Memorandum of Understanding (MOU) between the Department and the White Mountain Land Trust (WMLT) for the purposes of establishing a framework for collaboration in the conservation of lands of mutual interest to both parties. The Department strives to conserve habitats for sensitive species consistent with The Heritage Fund objectives for the acquisition of sensitive habitats for endangered, threatened, or candidate species. Collaboration with other land and resource management agencies and conservation organizations that have similar goals and objectives can facilitate new opportunities and approaches for implementing proactive habitat protection. The WMLT is a non-profit organization whose mission is working to conserve and steward in perpetuity natural areas, including open spaces, riparian zones, and wildlife habitat, to enhance the quality of life for all who enjoy and appreciate the beauty of Arizona. WMLT and the Department have worked cooperatively to develop an MOU to establish a framework for collaboration on our mutual goals

and objectives. The Commission was provided with a copy of the MOU for review and consideration prior to this meeting. If the Commission approves, the Department will place this item on the consent agenda for approval at the December Commission meeting.

Sharon Adams, the Executive Director of the White Mountain Land Trust, addressed the Commission in support of the MOU.

The Commission was in consensus to place this item on the December consent agenda.

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7. Request for Commission to Approve Disposal of a Portion of the Commission Owned Sovereign Lands Located along the Gila River.

Presenter: Lawrence M. Riley, Assistant Director

Mr. Riley briefed the Commission using a PowerPoint presentation on the potential disposal of a portion of the Commission owned Sovereign Lands located along the Gila River. Gila River Lake, LLC (GRL) wishes to purchase approximately 18 acres of the 28.66 acre Sovereign Lands, and mine it in conjunction with the rest of their neighboring property. When the mining operations are completed, they will restore all of the property (the 18 acres proposed for sale and their existing deeded lands) to native vegetation with a fishing lake and walking paths. They will then convey the entire restored area to the Town of Buckeye. GRL is amenable to having a reversionary clause in the sales agreement which would allow for the property to revert back to the Commission if the mining never commences. The Town of Buckeye has confirmed that conveyance of the lake to Buckeye has been vetted through the Town Council and they are supportive of the concept and it is part of their plans for the future. They are also anticipating partnering with the Department to have a sport fishery there.

The presentation included maps of the area and the following three options for Commission consideration:

Option 1:

- Approval to move forward with disposal of a portion of the AGFC Sovereign
 - GRL is interested buyer
 - Fishing lake managed as a sport fishery for the public

Option 2:

- Retain property and lease it to another sand and gravel operation
 - Possible disposal of whole property in the future
 - Lands may not be large enough to be profitable

Option 3:

- Retain the property
 - Habitat restoration would not be realized
 - Unauthorized public use

Commissioner Davis discussed future growth and the potential of an urban fishing lake, and stated that he would like to see the location of the lake as close as possible to the other nearby Commission holdings. In the long term, this would create other options on that property.

The Commission was in consensus for the Department to bring this back to the December Commission meeting as a stand-alone item and not on the consent agenda.

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8. Request to Approve Proposed Rulemaking Amending Article 3 Rules Addressing the Taking and Handling of Wildlife.

Presenter: Dana McGehee, FOR6 Wildlife Manager.

Jennifer Stewart, Rule and Risk Branch Chief, provided a brief overview of the rulemaking process, followed by a presentation by Mr. McGehee on the Department's request for approval of a Notice of Docket Opening, Notice of Proposed Rulemaking, and Economic Impact Statement amending rules within Article 3, Addressing the Taking and Handling of Wildlife. The Department proposes to amend rules within Article 3, governing the taking and handling of wildlife, to enact amendments developed during the preceding Five-year Review Report and incorporate recently passed legislation. In addition to non-substantive amendments made to ensure compliance with the Administrative Procedures Act, Secretary of State, and Governor's Regulatory Review Council; the Department proposes the following rule amendments:

R12-4-101. Definitions:

- Transfer definitions for terms that are applicable only to Article 3 from this rule to R12-4-301 to ensure compliance with rule formatting requirements.

R12-4-302. Use of Tags:

- Update Carcass/Transportation/Shipping Permit language to reflect the current practices.

R12-4-303. Unlawful Devices, Methods, and Ammunition:

- Remove magazine capacity restrictions to comply with recent statutory amendments made to A.R.S. §§ 17-231 and 17-305
- Remove rule language that restricts shotgun gauge to increase hunter opportunity
- Prohibit the use of electronic night vision equipment, electronically enhanced light-gathering devices, or thermal imaging devices to take wildlife. This does not include devices such as laser range finders, scopes with self-illuminating reticles, and fiber optic sights that do not project a visible light onto an animal
- Prohibit an individual from discharging a pneumatic weapon within 1/4 mile of any occupied structure unless permitted by the resident or owner to increase consistency between lawful methods
- Prohibit the use of edible or ingestible substances to attract big game for the purposes of hunting. This does not include water, salt or salt-based materials produced and manufactured for the livestock industry, or nutritional supplements produced and manufactured for the livestock industry and placed during the course of livestock or agricultural operations
- Prohibit the use of scent lures containing cervid urine to address wildlife disease transmission concerns

- Prohibit holding wildlife at bay during daylight hours and injuring, confining, or placing a tracking device on wildlife to prevent "canned" and "will call" hunts
- Prohibit the use of dogs to pursue or hold at bay any bear or lion for another hunter unless the hunter is present for the entire pursuit to more closely regulate the pursuit of bears and lions with dogs and increase consistency within Department rules
- Prohibit individuals from placing any substance, device, or object in, on, or near a water source to intentionally restrict wildlife from using the water source.

R12-4-304. Lawful Methods for Taking Wild Mammals, Birds, and Reptiles:

- Allow the use of pre-charged pneumatic weapons .40 caliber or larger for the take of all big game except buffalo, elk, and turkey to recognize technological advances in pneumatic weaponry and to increase hunter opportunity
- Require an individual who is using dogs to pursue bear or mountain lion to immediately kill or release the bear or lion after it has been treed, cornered, or held at bay to prevent "canned" and "will call" hunts
- Prohibit the use of shotguns larger than 10 gauge for the take of migratory birds to uphold Migratory Bird Treaty Act gauge restrictions.

R12-4-305. Possessing, Transporting, Importing, Exporting, and Selling Carcasses or Parts of Wildlife:

- Clarify Carcass/Transportation/Shipping Permit language to reflect current practices
- Establish requirements for the possession, transport, and importation of cervids lawfully taken outside Arizona or cervids lawfully killed or slaughtered at a game farm authorized under R12-4-413 to prevent the introduction of chronic wasting disease from nonnative cervids
- Prohibit the transport of live crayfish to help conserve native aquatic species.

R12-4-306. Buffalo Hunt Requirements:

- Allow the Department to prescribe the order of hunters and designate which buffalo may be taken during a supplemental hunt to more effectively achieve management objectives
- Require the buffalo hunter to provide a signed written acknowledgement that the hunter will comply with the requirements of this rule and establish the Commission's authority to invalidate a tag when an individual fails to comply with hunt requirements.

R12-4-307. Trapping Regulations; Licensing; Methods; Tagging of Bobcat Pelts:

- Prescribing regulations for power cable devices which are consistent with Best Management Practices (BMP) recommended by the Association of Fish and Wildlife Agencies (AFWA)
- Replace the term "bobcat permit tag" with "bobcat seal" to reduce confusion by referencing the actual name of the tag
- Clarify bobcat transportation and seal requirements
- Establish the Department's authority to deny a trapping license to a trapper who has failed to submit the required annual report until it has been submitted to maintain accurate harvest data.

R12-4-308. Wildlife Inspections, Checkpoints, and Roadblocks:

- Remove the requirement that an individual who takes a deer, elk, antelope, or buffalo under a special big game permit must submit the skull or skullcap for inspection and photographing
- Authorize the Department to conduct inspections for all lawfully taken wildlife
- Allow the establishment of harvest objectives to increase hunter opportunities while regulating harvest and allow an unlimited number of individuals to participate in a hunt.

R12-4-309. Authorization for Use of Drugs on Wildlife:

- Clarify situations where the rule does not apply to ensure it does not negatively affect operations where the use of drugs on domestic animals or wildlife is regulated by another agency.

R12-4-310. Fishing Permits:

- Establish the Department's authority to deny a fishing permit to a permit holder who failed to submit the annual report until it has been submitted to maintain accurate sport fishing data.

R12-4-311. Exemptions from Requirement to Possess an Arizona Fishing License while Taking Aquatic Wildlife NOW Exemptions from Requirement to Possess an Arizona Fishing License or Hunting License:

- Clarify "private waters" to ensure rule language is consistent with statute
- Clarify live crustacean transportation limits to help conserve native aquatic species
- Expand fishing license exemptions for National Fishing and Boating Week
- Establish requirements for a sanctioned fishing program and authorized volunteer instructor to ensure fishing education programs are conducted in the manner approved by the Department
- Establish a hunting license exemption for individuals participating in an introductory hunting event organized, sponsored or sanctioned by the Department to increase hunter opportunity/recruitment.

R12-4-313. Lawful Methods of Taking Aquatic Wildlife:

- Allow pneumatic weapons for the take of bullfrogs and bow and arrow for the take of catfish.

R12-4-316. Possession, Transportation, or Importation of Live Baitfish, Crayfish, or Waterdogs:

- Remove "red shiner" from the list of live bait minnows that can be lawfully possessed, transported, or imported by licensed anglers
- Allow anglers to collect red shiner in the wild to possess and use them as bait only on the body of water where they are captured to help conserve native aquatic species.

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

- Allow the use of pre-charged pneumatic weapons during Handgun, Archery, and Muzzleloader (HAM) season to incorporate amendments made to R12-4-304, recognize technological advances in pneumatic weapons, and to increase hunter opportunity.

R12-4-322. Pickup and Possession of Wildlife Parts:

- Adopt a new rule authorizing individuals to possess and retain wildlife parts that they pick up in the field.

If approved by the Commission and in accordance with the exemption authorized under item #4 of Executive Order 2012-03 State Regulatory Review, Moratorium and Streamlining to Promote Job Creation and Retention, the Department will submit this rulemaking to the Secretary of State's office for publication in the *Arizona Administrative Register*. The Department will accept public comment for 30 days after the Notice of Proposed Rulemaking is published. Once the public comment period has passed, the Department will present Final Rulemaking to the Commission for their consideration.

The Commission discussed that they would like to be able to change calibers as needed, with technology making weapons more and more sophisticated, without having to go through a long rules process, and requested that the rule be worded so that the Commission has the ability to do that.

Mr. Odenkirk informed the Commission that statute does not allow the Commission to determine caliber by order. The only way to do this would be to create a different season for each caliber and this would be very confusing for the public.

Regarding the inspection requirement for bighorn sheep, the Commission requested that it be clear that the super raffle bighorn sheep tag is exempt but not any other bighorn sheep tags.

Public Comment

Tony Martins (called from Region I Office): Expressed an interest in expanding airgun hunting opportunities in Arizona; shared his experience and knowledge about pneumatic weapons with the Commission, and offered to provide them with a demonstration and a hands-on opportunity to try them out.

The Commission discussed the Article 3 amendments as presented and whether they wanted it to move forward as is or make some changes.

Commissioner Davis stated that he disagrees with pneumatic weapons in a ham hunt and cannot vote for that.

Commissioner Mansell agreed with Commissioner Davis and added that he also believes we are missing the boat by not including .22 caliber. In regards to the ¼ mile restriction, the ¼ mile restriction should be for what is considered a big bore and the .35 caliber Benjamin Rogue should be considered a big bore.

Commissioner Husted expressed concern about non-primitive weapons being included in primitive hunts. The Commission needs to have some discussion about what is a primitive weapon.

Commissioner Husted asked about PRDJ and if any monies go into that from pneumatic weapons.

Sherry Crouch, Acting Funds and Planning Manager, stated that no money goes into PRDJ from pneumatic weapons or from muzzleloaders or hand loaders.

Motion: Husted moved and Mansell seconded THAT THE COMMISSION VOTE TO REMOVE THE PNEUMATICS FROM THE HAM HUNT.

Vote: Unanimous

Motion: Mansell moved and Davis seconded THAT THE COMMISSION VOTE TO INCLUDE .22 CALIBER PRECHARGED AIRRIFLES FOR FURBEARERS AND PREDATORS.

Mr. McGehee suggested that the Commission also consider adding changing the ¼ mile restriction to say greater than .22 caliber, so that we don't want to limit people from using a typical .22 caliber pellet gun within ¼ mile.

Chairman Freeman was comfortable with the .25 caliber, but is not comfortable with the .22 caliber.

Vote: Aye - Husted, Mansell, Davis
Nay - Freeman, Harris
Passed 3 to 2

The Commission discussed that they would have an opportunity to look at some pneumatic weapons at the November workshop.

Commissioner Mansell requested that the Commission also be able to see the powered cable trap device.

Motion: Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF RULEMAKING DOCKET OPENING, NOTICE OF PROPOSED RULEMAKING, AND ECONOMIC IMPACT STATEMENT AMENDING RULES WITHIN ARTICLE 3, ADDRESSING TAKING AND HANDLING WILDLIFE.

Vote: Unanimous

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9. Request to Approve Proposed Rulemaking Amending Article 7 Rules Addressing Heritage Grants and Article 9 Rules Addressing Arizona Wildlife Conservation Fund Grants.

Presenter: Jennifer Stewart, Rules and Risk Branch Chief

The Department proposes to amend rules within Article 7, governing Heritage Grants, to enact amendments developed during the preceding Five-year Review Report and incorporate approved grant task team recommendations. The purpose of the proposed rulemaking is to streamline the grant application process to make it less burdensome and easier for applicants to navigate. The

rulemaking also proposes to amend Article 9, governing the Arizona Wildlife Conservation Fund Grants to be consistent wherever possible with Article 7.

In addition to non-substantive amendments made to ensure compliance with the Administrative Procedures Act, Secretary of State, and Governor's Regulatory Review Council rulemaking format and style requirements, amendments are made to make rules clearer and more concise and for the transfer of rule language within Articles whenever determined appropriate. The Department proposes the following rule amendments:

R12-4-701. Heritage Grant Definitions:

- Remove definitions already provided in statute and reword rule language or add definitions to provide additional clarity.

R12-4-702. General Provisions:

- Allow the Department to award Heritage Grants throughout the calendar year as monies distributed under A.R.S. § 5-522 become available to provide the Department greater latitude when determining when to solicit applications
- Require participants to provide written permission from the property owner authorizing project activities and public access to ensure that the Department's investment in the project is protected
- Delete the requirement that project proposals be over \$1000 to allow the Department to award smaller Heritage Grants
- Require transferred funds be deposited in a non-interest bearing account.

R12-4-703. Heritage Grant Program Funds

- Create one overarching rule, "Heritage Grants," that contains all grants offered by the Department to improve rule clarity and make it easier for applicants to navigate
- Establish a new outreach education initiative sub-program grant, the "Outdoor Education Grant," to enhance awareness and involvement in any conservation, ecological or biological wildlife related field trip
- Repeal individual grant rules R12-4-704, R12-4-705, R12-4-706, R12-4-707, and R12-4-708.

R12-4-704. Grant Application:

- Remove the number of copies an applicant is required to submit to allow the Department greater latitude in the manner and method in which applications are submitted
- Remove the requirement that an applicant submit a completed checklist as the checklist is included in the Heritage Grant Application materials.

R12-4-706. State Historic Preservation Office Plan Review:

- Clarify the role of the State Historic Preservation Office to make the rule more concise.

R12-4-707. Grant Agreement:

- Clarify that if a participant is in default of an agreement, the Department may terminate the grant and seek monetary recovery and render participants ineligible for up to five years.

R12-4-708. Reporting and Recordkeeping Requirements:

- Update language to clarify compliance certification and record retention requirements
- Remove specific times for project reporting requirements to increase Department flexibility.

R12-4-901. Definitions:

- Remove definitions already provided in statute and reword definitions to provide additional clarity.

R12-4-902. General Provisions:

- Allow the Department to provide notification within 30 days of Commission approval of grant awards to enable successful grant applicants to begin projects more quickly
- Allow the Department to distribute awarded Grant funds at its sole discretion, dependent on the proposed project scope of work.

R12-4-903. Grant Application:

- Require applicants to include grant acknowledgement on any publicly available or accessible products for the project term as current rule addresses only signage requirements
- Remove number of copies an applicant is required to submit to allow the Department greater latitude in the manner and method in which applications are submitted.

R12-4-904. Review of Proposals:

- Remove grant priority criteria as this information is contained in the grant materials
- Allow the Commission greater flexibility in determining the types of projects to be funded.

R12-4-905. Grant Agreement:

- Allow the Department greater latitude when seeking recovery of grant monies awarded to a participant who is in default of the grant agreement
- Allow the Department the authority to include additional conditions in the Grant Agreement at its sole discretion.

R12-4-906. Reporting and Recordkeeping Requirements:

- Reference recordkeeping and audit statute rather than list specific criteria to ensure the rule will remain in compliance with the governing statute.

If approved by the Commission and in accordance with the exemption authorized under item #4 of Executive Order 2012-03 State Regulatory Review, Moratorium and Streamlining to Promote Job Creation and Retention, the Department will submit this rulemaking to the Secretary of State's office for publication in the *Arizona Administrative Register*. The Department will accept public comment for 30 days after the Notice of Proposed Rulemaking is published. Once the public comment period has passed, the Department will present the Notice of Final Rulemaking and Economic Impact Statements to the Commission for their consideration.

Motion: Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF RULEMAKING DOCKET OPENING, NOTICE OF

PROPOSED RULEMAKING, AND ECONOMIC IMPACT STATEMENTS AMENDING RULES WITHIN ARTICLES 7 AND 9, AND ADDRESSING HERITAGE AND ARIZONA WILDLIFE CONSERVATION FUND GRANTS.

Vote: Unanimous

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9A. Request to Approve Proposed Rulemaking Amending Article 5 Rules Addressing Boating and Water Sports.

Presenter: Jennifer Stewart, Rules and Risk Branch Chief

The Department proposes to amend rules within Article 5, governing boating and water sports, to enact amendments developed during the preceding Five-year Review Report and incorporate recently passed state and federal legislation. In addition to non-substantive amendments made to ensure compliance with the Administrative Procedures Act, Secretary of State, and Governor's Regulatory Review Council; the Department proposes the following rule amendments:

R12-4-501. Boating and Water Sports Definitions:

- Transfer and update definitions contained within Article 5 to this rule to ensure compliance with SOS formatting requirements
- Define new terms as applicable in Article 5.

R12-4-502. Application for Watercraft Registration:

- Expand joint tenancy requirements to include situations where a watercraft owner is declared incompetent
- Require the applicant's signature on Statement of Fact form be witnessed or notarized
- Remove obsolete language referencing ad valorem property tax payments.

R12-4-503. Renewal of Watercraft Registration:

- Require an owner to register their watercraft before the registration expires to avoid the penalty fee authorized by statute
- Remove obsolete language referencing telephonic registration renewal.

R12-4-504. Staggered Watercraft Registration Schedule; Penalty for Late Registration:

- Remove obsolete language referencing Indian and Soldier license tax exemptions.

R12-4-505. Hull Identification Numbers:

- Require watercraft owners to ensure a HIN is fully visible and unobstructed. Watercraft manufactured prior to 08/01/1984 are exempt from this requirement.

R12-4-507. Transfer of Ownership of an Abandoned or Unreleased Watercraft:

- Allow private property owners only to use abandoned watercraft process
- Ensure due process requirements are met by taking the appropriate action only after the receipt of the Department's notice of intent and stating how often the Department will publish the newspaper notice of intent (once)

- Provide information regarding options available to the applicant after the Department completes their internal process
- Provide a mechanism that will allow a government agency to dispose of junk watercraft abandoned on state and federal lands and waterways.

R12-4-509. Watercraft Agents:

- Include the Nonresident Boating Safety Infrastructure fee to increase consistency between Article 5 rules
- Update rule language regarding manufacturer's certificates of origin, and registration payment methods, types and denials to reflect current Department processes or business practices.

R12-4-512. Fire Extinguishers Required for Watercraft:

- Require the watercraft operator to ensure all required fire extinguishers are readily accessible and available for immediate use.

R12-4-513. Watercraft Accident and Casualty Reports:

- Modify reporting requirements to increase the Department's ability to comply with future amendments to U.S.C.G. watercraft accident casualty report regulations without having to pursue rulemaking.

R12-4-517. Watercraft Motor and Engine Restrictions:

- Add Cibola Lake to the list of waters that allow the use of watercraft powered by an electric motor align the rule with Cibola National Wildlife Refuge regulations.

R12-4-522. Establishment of Controlled-Use Markers:

- Specify the information required in the written report to make the rule more concise and to reduce the time spent by Department staff in gathering all required information
- Require a written request when a lawful jurisdiction wants to establish, change, or remove a controlled-use marker to reflect the Department's current process.

R12-4-525. Watercraft Certificate of Number, Numbers, and Decal Revocation NOW Revocation of Watercraft Certificate, Numbers, and Decals:

- Include the Nonresident Boating Safety Infrastructure decal to increase consistency between Article 5 rules
- Increase the time in which a person may request a hearing from 15 to 30 days and the time in which the Department must schedule the hearing from 30 to 60 days to reduce the burden on the regulated community and the Department.

R12-4-526. Unlawful Mooring:

- Cross-reference the statutory definition of "person" to expand the regulated community
- Replace the term "individual" with "person" to expand the regulated community and to reduce the burden on law enforcement when they are trying to locate the person who unlawfully moored watercraft.

R12-4-527. Transfer of Ownership of a Towed Watercraft:

- Remove the requirement that a towing company present the abandoned or unreleased

watercraft at a regional office to reduce burdens on the towing company and the Department.

R12-4-529. Nonresident Boating Safety Infrastructure Fee; Proof of Payment; Decal:

- Establish acceptable proof of payment for the Nonresident Boating Safety Infrastructure Fee
- Establish the manner in which a watercraft owner shall affix Nonresident Boating Safety Infrastructure Decal to their watercraft.

If approved by the Commission and in accordance with the exemption authorized under item #4 of Executive Order 2012-03 State Regulatory Review, Moratorium and Streamlining to Promote Job Creation and Retention, the Department will submit this rulemaking to the Secretary of State's office for publication in the *Arizona Administrative Register*. The Department will accept public comment for 30 days after the Notice of Proposed Rulemaking is published. Once the public comment period has passed, the Department will present Final Rulemaking to the Commission for their consideration.

Motion: Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF RULEMAKING DOCKET OPENING, NOTICE OF PROPOSED RULEMAKING, AND ECONOMIC IMPACT STATEMENT AMENDING RULES WITHIN ARTICLE 5 ADDRESSING BOATING AND WATER SPORTS.

Vote: Unanimous

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17. 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 Harris seconded THAT THE COMMISSION VOTE TO GO INTO EXECUTIVE SESSION.

Vote: Unanimous

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13. Request to Continue Motion for Rehearing Regarding Previous License Revocation/Civil Assessment.

Presenter: Gene F. Elms, Law Enforcement Branch Chief

David Abney, Attorney for Donald Mosley, Michael Mosley, Johnny Moran, Jr., and Ronald Lewis, requested a continuance of his rehearing request regarding the revocation of his clients' hunting and fishing licenses for five (5) years, completion of the Hunter Education Course, and the shared civil assessment of \$2,700.00 for fifty-four (54) doves.

Motion: Husted moved and Mansell seconded THAT THE COMMISSION VOTE TO CONTINUE THE MOTION FOR REHEARING UNTIL DECEMBER AS REQUESTED BY MR. DAVID ABNEY.

Vote: Unanimous

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12. 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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10. Briefing on Development Project on Commission-owned Property.

Presenter: Jim Odenkirk, Assistant Attorney General

Mr. Odenkirk briefed the Commission on an item discussed in the last Commission meeting in Executive Session. The Commission discussed some legal issues associated with a Department construction project in one of the regions that caused some archeological disturbance. Mr. Odenkirk refrained from identifying the name of the project and specific location in order to prevent potential looting and ongoing damage.

Since the last meeting, a number of government entities (Arizona State Museum, Arizona State Preservation Office, USFWS, Arizona Game and Fish) and Tribal entities met to discuss how to resolve the issues of the archeological disturbance that occurred. The objective of the meeting was to review what had happened and to begin developing a plan to remediate the damage that had occurred. The Department is not the entity that is in charge of this particular phase. This is the State Museum and SHPO, because it involves archeological items as well as human remains, and the USFWS because it has obligations under the National Historic Preservation Act. The focus of the meeting was the failure by the USFWS, as a federal agency, not meeting its obligations under Section 106 of the National Historic Preservation Act. The USFWS had an obligation to consult with interested Tribes to determine what impact the undertaking would have on historic property, and if there are adverse impacts, what steps would be taken to mitigate or avoid those impacts. The USFWS did not do that. In this case, the USFWS delegated that responsibility to the Department. The Department worked with SHPO and worked with an archeologist to determine if this project would have any impact on historic properties. The archeologists came back with a finding of no impact and gave a clearance to proceed. That turned out to be an incorrect determination and archeological remains were uncovered. The USFWS must now go back and fulfill its obligation under Section 106. It appears that the USFWS will take a lead role with the Tribes and as part of that it will identify the impacts to the historic property adjacent to the project location and determine mitigation and remediation of the existing damage. If there is a decision to go forward with this project, the USFWS will determine how to proceed to avoid any future damage.

Since there were bone fragments visible on the surface, there was a need for an immediate response from the Department and the Tribes insisted that it be taken care of immediately. So the Department began the process of hiring a contractor to take care of it, which will cost the Department about \$43,000. The Department also began to revise its own internal procedures, its EA checklist and other processes, to ensure that when a project of this nature is initiated in the future that the proper clearance and review by qualified archeological personnel is done.

One question that needs to be resolved quickly is whether or not this project will resume. Given this is a project on Commission owned property, the Department is requesting direction from the Commission on whether or not to proceed with the construction process. If the Commission chooses to proceed, the USFWS will be involved in the decision and in reviewing the impact with the Tribes and the Arizona Antiquities Act. In all likelihood, proceeding will involve further disturbance of human remains and a permit would be required under state law.

Deputy Director Hovatter attended the meeting with the Tribes and briefed the Commission on the site visit and discussions. The Tribes requested that the USFWS engage with the Tribes on this matter, government to government. The USFWS asked the Tribes if the Game and Fish Department could participate so that they did not inadvertently make a commitment of state resources, and the Tribes said that they would like to have the Department participate. It was then discussed that the most immediate thing to do was to get the surface bones collected and properly stored until they can be reburied. After the meeting with the Tribes, the Department discussed the matter with ADOA Risk Management and there may be an opportunity to have this dealt with as an insurance claim to help cover the costs.

Chairman Freeman asked Mr. Hovatter, since he was at the meeting, if the Tribes indicated whether or not they wanted the Department to proceed with its project.

Deputy Director Hovatter stated that it was evident that the Tribes wanted to hear that the Department would not ever proceed on that footprint, and that this will be a gage used by the Tribes to see if the Department is truly a partner and shares their sensitivity in this matter.

Motion: Harris moved and Mansell seconded THAT THE DEPARTMENT STOP THE PROJECT NOW AND LOOK FOR OTHER ALTERNATIVES FOR A FISHING LAKE.

Vote: Unanimous

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Meeting recessed for a break at 3:40 p.m.

Meeting reconvened at 4:00 p.m.

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11. Call to the Public

There were no requests to speak at this time.

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14. Mark Bellini petition to the Commission for a tag of his choice in the 2013 archery elk season.

Presenter: Lizette Morgan, CFO, Business & Finance

Ms. Morgan briefed the Commission on Mark Bellini's petition to the Commission for an archery elk tag in the 2013 season. During the 2012 Elk/Antelope draw cycle, Mr. Bellini's credit card was declined on March 29, 2012 when the Department attempted to collect \$587.50 for his archery elk permit. On April 18, 2012, Mr. Bellini was mailed the same letter sent to all applicants whose cards had been declined during that draw cycle. This was the cycle where Visa had a security breach and many cards had holds placed on them. The letter indicated that anyone who had a documented case of fraud or a hold placed on their card by the bank contact the Department by May 4, 2012. According to Mr. Bellini, he was out of town and did not receive his letter until June 15. Mr. Bellini obtained a letter from his bank which stated that the Department did not attempt to charge his credit card. He further indicates in his petition that the Department was in error and did not attempt to charge his card. Mr. Bellini suggests that he be allowed an archery tag of his choice for the 2013 hunting season.

Mr. Bellini provided some additional documentation received by the Department this morning, which was provided to the Commission for review. Mr. Bellini believes this supports his claim that the Department did not attempt to charge his card. However, the Department has documentation from the payment processing system that shows that his card was declined three times.

Chairman Freeman stated that the Commission tried to do the right thing for its customers regarding the credit card fraud situation that happened, and they did do the right thing, but there had to be time constraints placed on the remedy. Other folks have asked for exceptions to the time frame that was set and the Commission has had to deny them.

Motion: Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO DENY MARK BELLINI'S PETITION FOR AN ARCHERY ELK PERMIT IN A HUNT UNIT OF HIS CHOICE IN THE 2013 SEASON.

Vote: Unanimous

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15. Upcoming Election for the Cibola Valley Irrigation and Drainage District Board of Directors.

Presenter: Pat Barber, Region IV Supervisor

Mr. Barber briefed the Commission on the Cibola Valley Irrigation and Drainage District Board. The Commission owns 1,309 acres of land within the Cibola Valley Irrigation and Drainage District, and for the last three years has had a sitting Commissioner elected onto the District Board of Directors. Election for the next two year term of the Board will be occurring in November of 2012 and the Department is seeking Commission direction on how they wish to proceed relative to the Board and the election.

The Department became a landowner within Cibola Valley in 2007 and a member of the Cibola Valley Irrigation and Drainage District (District) Board in 2009. Chairman Freeman is currently representing the Commission on the District's Board, and his term expires in January 2013. The Board is currently seeking nominations for the next Board election which will occur in November of this year.

Although the Commission owns the Cibola Valley property within the District, the Commission has passed most of its management authority and all of its water use to the Bureau of Reclamation in order to implement the Lower Colorado River Multi-Species Conservation Plan (MSCP) through a Memorandum of Understanding and associated contracts. These agreements are valid for the next 45 years. There was some concern initially about the cost of the District's maintenance program and that the Department might have to bear these costs, and some related questions about the district's business practices, which precipitated the Commission's direct involvement with the board in 2007. However, within the MSCP agreements the Bureau of Reclamation (BOR) has committed to bear these costs for the next 45 years; the BOR has in fact assumed these financial obligations and budgeted for these expenses into the future.

The situation within the Cibola Valley has evolved and concerns over the potential financial obligations associated with this property have diminished. The Department currently feels that the effort associated with a non-local Commissioner sitting as a District Board member is not worth the potential benefit. The Department is prepared to recommend the Commission not nominate a Board member at this time and abstain from voting in the District election. Department Staff will continue to regularly coordinate with the District, local landowners and MSCP personnel. New elections are held every two years, and the Commission can choose to reinitiate efforts to elect a representative to the Board if the situation changes.

Motion: Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO NOT NOMINATE A COMMISSIONER TO THE CIBOLA VALLEY IRRIGATION AND DRAINAGE DISTRICT BOARD OF DIRECTORS IN THE UPCOMING ELECTION, DOES NOT CAST ITS VOTES RELATED TO THE COMMISSION OWNED PROPERTY WITHIN THE DISTRICT, AND SHOULD THE CONDITIONS CHANGE, THE COMMISSION DETERMINE WHETHER TO PARTICIPATE IN THESE PROCESSES IN THE FUTURE BASED UPON INFORMATION REPORTED THROUGH THE LANDS COUNCIL AND THE PROPERTY MANAGEMENT PROCESS.

Vote: Unanimous

The Commission requested updates as needed in the form of a briefing memo on activities related to the Cibola Valley Irrigation and Drainage District.

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16. 2012 Annual Commission Awards Selection

Presenter: Ben Alteneder, Congressional and Community Relations

Mr. Alteneder provided the Commission with a list of 2012 Commission Award nominees and nominee background information for review and consideration prior to this meeting. However, the information was provided electronically and some Commissioners had technical difficulties and were unable to review the nominations. The Commission was in consensus to table this item until Saturday to give them time to review the written materials, which were provided at this meeting.

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17. 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: Harris moved and Husted seconded THAT THE COMMISSION VOTE TO GO INTO EXECUTIVE SESSION.

Vote: Unanimous

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18. Litigation Report

The Commission was provided with a written Litigation Report (attached), which was also provided to the public.

Motion: Freeman moved and Harris seconded THAT THE COMMISSION VOTE TO DIRECT LEGAL COUNSEL TO PROCEED IN THE CASE OF THE CENTER FOR BIOLOGICAL DIVERSITY VS. THE U.S. FOREST SERVICE AS DISCUSSED IN EXECUTIVE SESSION.

Vote: Unanimous

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Meeting recessed for the day at 6:30 p.m.

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Meeting reconvened Saturday at 8:00 a.m.

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Chairman Freeman called the meeting back to order and led those present through the Pledge of Allegiance followed by Commission and Department introductions.

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Awards and Recognition

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

25 Year Service Pin

Sharen Adams
Sherry Crouch
Eric Swanson

20 Year Service Pin

Todd Buck
Deanna Pflieger
Shelly Shepherd
Daniel Urquidez, Jr.
Brad Fulk
Bruce Sitko
Jodi Niccum
Steve Rosenstock
Susan MacVean
Sandy Cate

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Meeting recessed for a break at 9:10 a.m.

Meeting reconvened at 9:50 a.m.

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7. 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 consent agenda item d, Lands and Habitat Program Update, was removed for discussion later in this meeting. The following consent agenda items were presented:

a. Shooting Sports Activities Briefing

Presenter: Jay Cook, Shooting Sports Branch Chief

The Commission was provided with a written Shooting Sports Activities Briefing prior to this meeting (also available to the public) of Department activities related to shooting sports, including shooting programs and shooting range development statewide. The briefing covers activities that have occurred since the last Commission meeting. The briefing was placed on the consent agenda for approval or to be pulled from the consent agenda for questions and/or discussion.

b. Information, Education and Wildlife Recreation Activities Briefing

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

The Commission was provided with a written Information, Education and Wildlife Recreation Activities briefing prior to this meeting (also available to the public) of Department activities and events related to Information, Education and Wildlife Recreation Programs. The briefing covers

activities and events that have occurred since the last Commission meeting, including the proposed Wildlife Center project. The briefing was placed on the consent agenda for approval or to be pulled from the consent agenda for questions and/or discussion.

c. Law Enforcement Program Briefing

Presenter: Gene F. Elms, Law Enforcement Branch Chief

The Commission was provided with a written Law Enforcement Program Briefing prior to this meeting of Department activities and developments relating to the Department's Law Enforcement Program. The briefing covers activities and events that have occurred since the last Commission meeting. The briefing was placed on the consent agenda for approval or to be pulled from the consent agenda for questions and/or discussion.

e. Renewal of a Road Closure on State Trust Land Approximately Seven Miles Northeast of Benson, Arizona

Presenter: Mark Weise, Development Branch Chief

Ed Monzingo requested the renewal of a closure to vehicular access which was granted in 2007 by the Arizona Game and Fish Commission, with concurrence from the Arizona State Land Department. This closure addresses a wildcat two-track road, ½ mile in length, which formed half of a loop road to a well, drinker and corral facility. The wildcat road took a route which was prone to erosion. Since 2007, the closed portion of the loop road has been seeded and mechanical treatment was used to reduce erosion. A new pasture also has been added which includes two fence lines which cross the old roadway and end at the well. The closure has been successful and the land is recovering.

The Department continues to work cooperatively with the ZR Hereford Ranch. Motorized access to the well remains available via the original road. The Department is aware of no complaints regarding the closure. Hunters can still use the area in its "non-motorized access only" form. The Arizona State Land Department supports renewal of this closure for natural resource protection.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE RENEWAL OF A ROAD CLOSURE ON STATE TRUST LAND LOCATED APPROXIMATELY SEVEN MILES NORTHEAST OF BENSON.

f. Renewal of a Road Closure on State Trust Land Approximately Twelve Miles Northeast of Benson, Arizona

Presenter: Mark Weise, Development Branch Chief

The Department requested the renewal of a closure to vehicular access which was granted in 2007 by the Arizona Game and Fish Commission, with concurrence from the Arizona State Land Department and support from the Bureau of Land Management. This closure addresses a narrow two-track road, 5/8 mile in length, which dead-ends at the abandoned Tungsten Mine Adit. The closure has been successful in reducing disturbance and potential loss of bats that roost in the

mine adit. This site is significant because it is one of only a few known roost sites for the endangered lesser long-nosed bat. Modifying the adit's opening to restrict human access is not a good option at this particular site. This road closure provides a means to reduce the number of people accessing the mine and reduce disturbances from motorized vehicles and campers outside the opening. Additional desirable outcomes have been a decrease in soil and vegetation damage by vehicles turning around on the narrow dead-end road and a decrease in unlawful activities, which include camping too close to wildlife waters and vandalism of water improvements and the adit itself.

The Department continues to work cooperatively with the ZR Hereford Ranch. The Department is aware of no complaints regarding the closure. Hunters and other outdoor recreationists still use the area in its "non-motorized access only" form. The Arizona State Land Department and the Bureau of Land Management support renewal of this closure for natural resource protection.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE RENEWAL OF A ROAD CLOSURE ON STATE TRUST LAND LOCATED APPROXIMATELY TWELVE MILES NORTHEAST OF BENSON.

g. Renewal of Memorandum of Understanding (MOU) - Participation on the Arizona Council for Enhancing Recreation and Tourism (ACERT)

Presenter: Craig McMullen, Wildlife Recreation Branch Chief

It is important for tourism and recreation interests to work cooperatively to ensure sustainable use of wildlife resources for current and future generations. ACERT was formed to encourage federal and state agencies, universities and not-for-profit organizations to work together to achieve the common goals of advancing the public's awareness of tourism and recreation opportunities on Arizona's public lands and rural and tribal areas, while marketing these opportunities in an environmentally and culturally sensitive manner. In 2002 the Commission supported ACERT through a similar MOU. The group became inactive and now the multi-agency partnership is revitalizing to become active again. The MOU defines the cooperation and coordination among 18 of Arizona's federal and state agencies, Native American Nations, not-for-profit organizations and the private sector. Council members consider its wildlife resources as valuable assets which require thoughtful conservation, protection, management and promotion.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE THE MEMORANDUM OF UNDERSTANDING FOR PARTICIPATION ON THE ARIZONA COUNCIL FOR ENHANCING RECREATION AND TOURISM.

h. Request for Commission Approval of a Cooperative Agreement between the Commission, the City of Yuma, Arizona, the Quechan Indian Tribe, and Yuma Crossing National Heritage Area Corporation for Restored Areas of the Yuma East Wetlands in Yuma County, Arizona.

Presenter: Lawrence M. Riley, Assistant Director, Wildlife Management Division

The Department purchased the 20.84 acre Headstream & McVey property in 2007 and is participating in the Yuma East Wetlands Restoration Plan for restoration and enhancement of

riparian and marsh areas within the lower Colorado River area. The Yuma Crossing National Heritage Area Corporation (Heritage), a partnership among government agencies, nonprofit groups and civic organizations, has restored the Commission's property and continues to operate and maintain the property as part of the Yuma East Wetlands project through a Cooperative Agreement.

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

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

Motion: Davis moved and Harris seconded THAT THE COMMISSION VOTE TO APPROVE CONSENT AGENDA ITEMS A, B, C, E, F, G and H.

Vote: Unanimous

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16. (continued from Friday's agenda) 2012 Annual Commission Awards Selection

Presenter: Ben Alteneder, Congressional and Community Relations

The Department solicited nominations from the public for the 2012 Commission Awards beginning in mid-July through August 24, 2012. The Department received about 45 nominations for individuals and/or organizations that fit the defined categories. The nominations were provided to the Commission prior to this meeting for review and consideration, and the Department is requesting that the Commission select the award recipients. These awards will be presented at the upcoming Commission Awards Banquet scheduled for January 12, 2013 at the Carefree Resort and Conference Center.

The Commission was provided with a list of 2012 Commission Award nominees and nominee background information for review and consideration prior to this meeting. Mr. Alteneder provided the Commission with an overview and facilitated the Commission's ballot selection process. The following recipients were selected:

- Award of Excellence (2): Freeport McMoran Division of Environmental Technology and Jeffrey Smythe
- Youth Environmentalist of the Year: Daniella LaPlante

- Outdoor Writer of the Year: David Brown
- Media of the Year: Don McDowell
- Conservation Organization of the Year: Arizona Elk Society
- Conservationist of the Year: Glen Dickens
- Natural Resource Professional of the Year: Chris Parish
- Volunteer of the Year: Tom Slaughter
- Educator of the Year: Aaron Anderson
- Mentor of the Year: Don Martin
- Advocate of the Year: Representative Amanda Reeve
- License Dealer of the Year: ALCO, Chino Valley Store
- Buck Appleby Hunter Education Instructor of the Year: Hank Schucking
- Wildlife Habitat Stewardship Award: Dan Bell

Motion: Harris moved and Husted seconded THAT THE COMMISSION VOTE TO APPROVE THE 2012 COMMISSION AWARD RECIPIENTS AS SELECTED.

Vote: Unanimous

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Director Voyles left the meeting at this time to travel to the Association of Fish and Wildlife Agencies Annual Conference. Deputy Director Bob Broscheid facilitated the remainder of this Commission meeting.

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1. Call to the Public

There were no requests to speak to the Commission at this time.

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2. Request to Amend Commission Order 40: Fish, Concerning Specific Proposals for Bag and Possession Limits, Special Regulations, and Specific Closures for Sport Fishing for Calendar Year 2013 and 2014.

Presenter: Eric Swanson, Acting Fisheries Branch Chief

Mr. Swanson provided the Commission with a PowerPoint presentation on Commission Order 40 (Fish) and proposed amendments. The Department biennially reviews Commission Order 40 and proposed changes that may originate from the public, Department fisheries, field personnel, and/or from Commissioners. This year, the Department is approaching the Commission to approve Commission Order 40 and to consider proposed changes to Commission Order 40 for calendar years 2013 and 2014. As part of the public input process, the Department hosted five public meetings (Flagstaff, Kingman, Yuma, Tucson and Mesa) and has conducted a statewide survey of licensed anglers requesting them to voice their support or opposition to proposed

regulation changes (1,500 surveys mailed; also soliciting online comments). The Department received 348 survey questionnaire responses for a 25% return rate. There were 11 written comments via the survey, emails and public meetings. Lastly, on a community level regional fisheries program personnel networked, held meetings, and worked with local residents to inform them of the fishing regulation change proposals and provide opportunity for understanding and feedback.

Based upon the initial management proposals and public input received to date, the Department formulated seven proposed amendments to Commission Order 40 for 2013 and 2014, two of which are administrative in nature. These seven proposed amendments to Commission Order 40 and the Commission's actions were as follows:

Proposal 1: Remove the Special Regulation slot limit for bass at Alamo Lake. (The regulation for bass at Alamo will revert to the statewide limit of 6 bass, no size limit.)

Justification:

- Largemouth bass fishery is robust, but bass are piling up in the slot (13-16 inches)
- Increased harvest of slot fish can benefit bass population and anglers
- Customer shift: anglers only keep 1 of every 8 bass caught
- 20+ years of bass slot limit history. Slot no longer needed
- Change supported by Alamo anglers
- Simplify regulations, remove public confusion.

Public Opinion:

- 87% Support
- No major issues surfaced
- One bass club opposed removal of the slot

Motion: Harris moved and Davis seconded THAT THE COMMISSION VOTE TO ADOPT THE DEPARTMENT'S PROPOSAL 1 TO REMOVE THE SPECIAL REGULATION SLOT LIMIT FOR BASS AT ALAMO LAKE ALLOWING THE REGULATION TO REVERT TO THE STATEWIDE LIMIT OF 6 BASS.

Vote: Unanimous

Proposal 2: Extend the catch-and-release only Special Regulation for bass at Pena Blanca Lake through 2016.

Justification:

- Lake drained and dredged by USFS 2009-10; Refilled by 2011; Now it is a "new" fishery
- Lake first restocked with bass in April 2012
- Bass need 3-4 years to establish
- Bass stockings expensive
- Catch-and-release is the current regulation, but expires Dec. 2012
- Anglers can harvest stocked trout.

Public Opinion:

- 90% Support
- No major issues surfaced
- Other issues: An individual was concerned about least grebes.

Motion: Harris moved and Husted seconded THAT THE COMMISSION VOTE TO EXTEND THE CATCH-AND-RELEASE ONLY SPECIAL REGULATION FOR BASS AT PENA BLANCA LAKE THROUGH 2014 (NOT 2016) AND THEN LOOK AT THIS AGAIN AT THE 2014 REVIEW OF COMMISSION ORDER 40.

Vote: Unanimous

Proposal 3: Create Special Regulations for bass, catfish and trout at Cataract Lake and Kaibab Lake: Bass: 13-inch minimum size and a reduced 2 bass limit; Catfish: a reduced 4 catfish limit; and Trout: a reduced 4 trout limit.

Justification:

- Managed as put-and-take trout fisheries, and secondarily as self-sustaining warm water fisheries
- In 1990's both lakes were stocked with bass to control the crappie population
- Few adult bass present to prey on crappie
- Reduced bag limits for bass expected to help
- Catfish limits reduced due to stocking costs and rapid harvest
- Trout limits reduced so fish last longer
- Bass, catfish and trout regulations consistent with other Williams area lakes.

Public Opinion:

- 90% Support
- No major issues surfaced
- Other issues: An individual preferred a higher limit for bass.

Motion: Davis moved and Mansell seconded THAT THE COMMISSION VOTE TO CREATE SPECIAL REGULATIONS FOR BASS, CATFISH AND TROUT AT CATARACT LAKE AND KAIBAB LAKE THAT INCLUDE: A 13-INCH MINIMUM SIZE FOR BASS AND A 2 BASS LIMIT; A 4 CATFISH LIMIT; AND A 4 TROUT LIMIT.

Vote: Unanimous

Proposal 4: Establish gizzard shad as a legal live baitfish from the following legal areas only: 1) the Colorado River south of Separation Canyon downstream to the Southern International boundary with Mexico, including impounded reservoirs and directly connected backwaters, 2) the Gila and Salt Rivers, including impounded reservoirs, 3) urban waters in Maricopa County, and 4) Lake Pleasant.

Justification:

- Gizzard shad not stocked or desired in Arizona
- Found in Lake Mead 2007 and Lake Havasu 2011
- Found in Roosevelt Lake 2007 and Apache Lake 2012
- Currently unlawful to use as baitfish

- Legalizing use will allow anglers to capture shad and use them to increase angling success
- To be collected and used alive onsite only
- Regulatory change is consistent with Nevada; Managers working towards consistency with California.

Gizzard shad would be used as a legal baitfish in the following areas only:

- The Colorado River south of Separation Canyon downstream to the Southern International boundary with Mexico, including impounded reservoirs (e.g., Lake Mead, Mohave and Havasu) and directly connected backwaters (e.g., Topock Marsh and Mitrtry Lake)
- The Gila and Salt Rivers, including impounded reservoirs (e.g., Roosevelt Lake & Apache Lake)
- Urban waters in Maricopa County
- Lake Pleasant.

Public Opinion:

- 94 % Support
- No major issues surfaced.

The Commission and Department received a letter from Mr. Michael Styvaert expressing his opposition to allowing gizzard shad to be used as baitfish.

Chairman Freeman commented that while we don't want these fish in Arizona, the Department is recommending that we allow them in certain lakes where we don't have them yet (even though they are certain to end up there eventually). He sees this as sending a message that it is okay when it is really not okay; we are just trying to manage the problem.

Commissioner Husted commented that he was not comfortable with this either, especially considering all the Department does to deter other invasive species.

Chairman Freeman added that he doesn't believe this will be an effective management tool.

Commissioner Harris commented that he understands the concept behind the recommendation, but he doesn't want to encourage the use of gizzard shad. It may be okay to catch them and use them on the waterways where they already are, but it would send a message that we are passively approving them. He would rather make a statement saying that we don't want these in our waterways.

Commissioner Mansell commented that he would like to see them allowed in lakes where they are currently present, but not in waters where they are not present.

Commissioner Davis agreed with Commissioner Mansell and further stated that we don't want them, so we should tell people they are bad and to use them for bait, but don't move them around.

Motion: Mansell moved and Davis seconded THAT THE COMMISSION VOTE TO APPROVE PROPOSAL 4: ALLOW GIZZARD SHAD AS A LIVE BAITFISH FROM THE

FOLLOWING LEGAL AREAS ONLY: 1) THE COLORADO RIVER SOUTH OF SEPARATION CANYON DOWNSTREAM TO THE SOUTHERN INTERNATIONAL BOUNDARY WITH MEXICO, INCLUDING IMPOUNDED RESERVOIRS AND DIRECTLY CONNECTED BACKWATERS; 2) THE GILA AND SALT RIVERS, INCLUDING IMPOUNDED RESERVOIRS; 3) URBAN WATERS IN MARICOPA COUNTY; AND 4) LAKE PLEASANT.

Vote: Aye - Harris, Mansell, Davis
Nay - Freeman, Husted
Passed 3 to 2

Proposal 5: Create Special Regulations for catfish at Parker Canyon Lake that include a reduced 4 channel catfish limit.

Justification:

- Historically, catfish were common and popular
- Angler concern about lack of channel catfish
- Department surveyed lake in 2010 – no catfish
- Lack of spawning habitat addressed with recently installed artificial habitat (local support)
- Recently stocked channel catfish (angler funded)
- Bag limit reduction intent: Allow stocked catfish to remain in lake to spawn and grow into a self-sustaining population.

Public Opinion:

- 96% Support
- No major issues surfaced

Motion: Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO CREATE SPECIAL REGULATIONS FOR CHANNEL CATFISH AT PARKER CANYON LAKE THAT INCLUDE A 4 CHANNEL CATFISH LIMIT.

Vote: Unanimous

Proposal 6 (administrative): Change the 10 fish walleye limit Special Regulation on Lake Powell to unlimited for walleye to match Utah Regulations.

Motion: Mansell moved and Harris seconded THAT THE COMMISSION VOTE TO CHANGE THE 10 FISH WALLEYE LIMIT SPECIAL REGULATION ON LAKE POWELL TO UNLIMITED FOR WALLEYE TO MATCH UTAH REGULATIONS.

Vote: Unanimous

Proposal 7 (administrative): Closure of Archer Lake to fishing; to align with City of Tucson Ordinance.

Motion: Harris moved and Husted seconded THAT THE COMMISSION VOTE TO APPROVE THE CLOSURE OF ARCHER LAKE TO FISHING; TO ALIGN WITH CITY OF TUCSON ORDINANCE.

Vote: Unanimous

Commissioner Harris requested that the Department note for 2014 to discuss Lee's Ferry as it relates to Commission Order 40.

Motion: Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 40: FISH, AS AMENDED, ESTABLISHING OPEN SEASONS, OPEN AREAS, AND BAG AND POSSESSION LIMITS FOR CALENDAR YEARS 2013 AND 2014; AND WITH THE ADDITIONAL AMENDMENT TO PROPOSAL 2 (TO EXTEND THE CATCH-AND-RELEASE ONLY SPECIAL REGULATION FOR BASS AT PENA BLANCA LAKE THROUGH 2014 (NOT 2016).

Vote: Unanimous

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Meeting recessed for a break at 11:15 a.m.

Meeting reconvened at 11:30 a.m.

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3. Request to Adopt Commission Order 25: Raptors

Presenter: Eric S. Gardner, Nongame Branch Chief

Mr. Gardner presented the Commission with a PowerPoint presentation on Commission Order 25: Raptors, establishing open areas, season dates, and annual permit and possession limits for 2013 and 2014, including proposed amendments by the Department.

In April 2012, the Department submitted, and the Governor's Regulatory Review Council approved, an amended R12-4-422 (Sport Falconry License) to be in compliance with the 2008 U.S. Fish and Wildlife Service (USFWS) Falconry Regulations. Thus, the Department's proposed Commission Order 25 has undergone substantial revisions to be consistent with the newly amended rule. From April through May 2012, the Department received recommendations from stakeholders, other government agencies, and Department employees for proposed changes to Commission Order 25, Raptors. In June 2012, the Department brought forward 10 recommendations for public comment:

1. Update all the dates accordingly
2. Format and rewording for clarity
3. Re-define Open Areas in both resident and nonresident commission orders due to the changes in R12-4-301 (due to SB 1334) with regards to hunting in county parks
4. Applying the note #2 to three hunts in both resident and nonresident commission orders due to the change in wording under the new R12-4-422

5. Removal of the word “passage” from both the resident and nonresident peregrine falcon hunts as states east of the 100th meridian are not allowed to have a passage peregrine falcon hunt. This was previously addressed through the restrictive season dates
6. Addition of a resident bag limit for Harris’ hawks making them a permit-tag species
7. Reverting back to resident bag limit for northern goshawks making them a permit-tag species to allow the Department to invoke the regulations under the new R12-4-422 (II)
8. Changing wording of the notes in both resident and nonresident commission orders to become compliant with the changes to R12-4-422
9. Adding definitions in both resident and nonresident commission orders that were removed from R12-4-422
10. Reducing the number of permits available for the nonresident Harris’ hawks from 10 to 2.

From June through July 2012, the Department received 16 public comments on Commission Order 25. The Arizona Falconer’s Association (AFA) drafted a 10 page document in opposition to the implementation of annual permit limits for Harris’ hawks and northern goshawks. There was considerable public concern on three recommendations:

- Addition of a resident bag limit for Harris’ hawks making them a permit-tag species
- Reverting back to resident bag limit for northern goshawks making them a permit-tag species to allow the Department to invoke the regulations under the new R12-4-422 (II)
- Reducing the number of permits available for the nonresident Harris’ hawks from 10 to 2.

No requests for formal public meetings were received by the Department; however, staff scheduled a meeting with AFA on August 19, 2012 to review their concerns, the Department’s data, and potential alternatives to the recommendation. A similar offer was made to Audubon Arizona but it was determined that a meeting was not needed. The Department discussed the following alternatives with Arizona falconers:

- The existing falconry rule, which will be replaced on January 1, 2013, provided language that required the Department to approve all transfers of falconry raptors out-of-state. The new rule restricts transfer out-of-state for 1 year from the date of capture on only permit-tag species. Therefore, residents will be able to legally capture and transfer raptors to nonresidents
- The new falconry rule allows for increased take of Harris’ hawks (Apprentices may now possess 1, General falconers have a 1 bird possession limit increase, and Master falconers have a 2 bird possession limit increase).

Due to the falconry community’s concern over implementing an annual permit system for Harris’ hawks and northern goshawks, the Department worked with them to develop an alternative that is acceptable to both parties. That alternative is:

1. Work with the falconry community and other interested publics to propose a minor rule change that would restrict the out-of-state transfer of any raptor species managed through Commission Order by a permit-tag, nonpermit-tag, or annual harvest quota system for one year, without Department approval

2. In the interim, establish resident Harris’ hawk harvest limits at 30 animals via a quota system, and maintain the nonresident 10 permit-tag limit. The resident harvest limit would be removed once the final rule package is completed and approved by the Governor’s Regulatory Review Council. This action would not preclude the Commission from taking future action to regulate harvest of Harris’ hawks, if regulation was deemed necessary.

The Department used the information derived from the Final Environmental Assessment for the Take of Raptors for Falconry (USFWS 2007) to establish the maximum harvest limit (see table below), taking into consideration the percent of the national population within Arizona as depicted by the Partners In Flight Landbird Estimates (16% in Arizona). The Department will close the season via a public notification process when the harvest quota has been met. Out-of-state transfers will be monitored to determine if nonresident falconers are using this mechanism to avoid the permit application process and associated fees.

Harris’ hawk harvest limits calculated from the number of young produced in Arizona. Data from the Final Environmental Assessment for the Take of Raptors from the Wild under the Falconry Regulations (USFWS 2007) and the Partners In Flight Landbird Estimates.

Number of breeding areas	X	Occupancy rate	=	Number of occupied breeding areas	X	Productivity	=	Number of young produced statewide	X	5% of the Number of young produced statewide	=	Number harvestable Harris’ hawks
584	x	0.83	=	484	x	1.61	=	780	x	0.05	=	39

3. No northern goshawk harvest limits would be established for resident falconers. No significant increase in take is anticipated and the above-mentioned rule change to amend the falconry rule to restrict the out-of-state transfer of any raptor that requires a nonresident hunt permit-tag without Department approval would meet the Department’s concern over enforcement of the transfer regulations.

Note: In 2010, the Department requested falconry harvest data from the USFWS Migratory Bird Office and presented it to the Commission during the October 2010 meeting. In 2012, the Department requested the same data. However, due to a USFWS change in database software, some of the 2010 and 2011 data was lost in the process. Therefore, a 2012 update of the data presented to the Commission is not possible.

The Department recommends the following with regard to Commission Order 25 for 2013-2014:

1. Adopt the appropriate revisions to dates
2. Format and rewording for clarity
3. Re-define Open Areas for both residents and nonresidents due a change in statute occurring from SB1334
4. Applying Note #2 to three hunts for both residents and nonresidents due to the change in wording under the new R12-4-422
5. Removal of the word “passage” from both the resident and nonresident peregrine falcon hunts as USFWS regulation prohibits states west of the 100th meridian from a passage peregrine falcon hunt. This was previously addressed through restrictive season dates

6. Addition of a state-wide, resident harvest limit (quota) for Harris' hawks of 30 animals and maintain the current harvest limit and permit system for nonresidents
7. Adding a note in the resident commission order to clarify Harris' hawks are on the quota system, and peregrine falcons remain a permit-tag species
8. Change in wording of the notes for both residents and nonresidents to become compliant with the changes to R12-4-422
9. Adding definitions for both residents and nonresidents that were removed from R12-4-422.

Public Comment

Charlie Kaiser, Arizona Falconers Association, addressed the Commission in support of the Department's recommendations as amended. Mr. Kaiser mentioned a loophole that allows residents to capture Harris' hawks and transfer them out-of-state, which gets around the permit-tag system. The Arizona Falconers Association has made it clear to all its members that they do not approve of this and recommend that they don't do it.

Mr. Gardner stated that the loophole mentioned by Mr. Kaiser will be corrected. It is not a significant concern for the next year or two, but it will be in the next rule review to change the verbiage so that the transfer applies to any species that requires a permit or nonpermit-tag for both residents and nonresidents.

Motion: Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 25: RAPTORS, ESTABLISHING OPEN AREAS, SEASON DATES, AND ANNUAL PERMITS AND POSSESSION LIMITS FOR 2013 AND 2014, AS PROPOSED BY THE DEPARTMENT AS AMENDED.

Vote: Unanimous

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4. Request to Adopt Commission Order 41: Amphibians

Presenter: Eric Gardner, Nongame Branch Chief

Mr. Gardner presented the Commission with a PowerPoint presentation on Commission Order 41: Amphibians, establishing open areas, season dates, and bag and possession limits for 2013 and 2014, as proposed by the Department.

From May through July 2012, the Department solicited recommendations from the public, stakeholders, other government agencies, and Department employees for proposed changes to Commission Order 41: Amphibians. The Department received comments only from Department employees. The Department evaluated those recommendations with regard to current rules, regulations, and Department conservation priorities for amphibians, and carried forward the following for public comment:

- Add Sonoran tiger salamander to part H., the list of "no open season" amphibians. The purpose of this change is simply to clarify that this is a closed-season species. Although this

closure is already included in the notes section, making this change is consistent with treatment of other amphibians for which there is no open season

- Use consistent language regarding areas that are closed to hunting, fishing or trapping in the “statewide” wording at the beginning of CO41 and CO42. Wording was quite similar, but not identical (i.e., specifically how R12-4-801, -802, and -803 are listed).

The Department received no comments from the public during the open comment period. The Department recommends the following with regard to Commission Order 41 for 2013-2014:

- Add Sonoran tiger salamander (*Ambystoma tigrinum stebbinsi*) to part H., the list of “no open season” species, to clarify their status
- Use consistent language at the start of CO41 and CO42
- Update the effective dates of the commission order.

Motion: Harris moved and Davis seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 41: AMPHIBIANS, ESTABLISHING OPEN AREAS, SEASON DATES, AND BAG AND POSSESSION LIMITS FOR 2013 AND 2014, AS PROPOSED BY THE DEPARTMENT.

Vote: Unanimous

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5. Request to Adopt Commission Order 42: Crustaceans and Mollusks

Presenter: Eric Gardner, Nongame Branch Chief

Mr. Gardner presented the Commission with a PowerPoint presentation on Commission Order 42: Crustaceans and Mollusks, establishing open areas, season dates, and bag and possession limits for 2013 and 2014, as proposed by the Department.

From May through July 2012, the Department solicited recommendations from stakeholders, other government agencies, and Department employees for proposed changes to Commission Order 42: Crustaceans and Mollusks. The Department received only two internal comments. The Department evaluated those recommendations with regard to current rules, regulations, and Department conservation priorities for crustaceans and mollusks, and carried forward the following for public comment:

- Add Rosemont talussnail (*Sonorella rosemontensis*) as a closed season species
- Use consistent language regarding areas that are closed to hunting, fishing or trapping in the “statewide” wording at the beginning of CO41 and CO42. Wording was quite similar, but not identical (i.e., specifically how R12-4-801, -802, and -803 are listed).

The Department received no comments from the public during the open comment period. The Department recommends the following with regard to Commission Order 42 for 2013-2014:

- Add Rosemont talussnail (*Sonorella rosemontensis*) as a closed season species

- Use consistent language at the start of CO41 and CO42
- Update the effective dates of the commission order.

The Commission discussed crayfish and how, similar to the gizzard shad, they are not wanted in Arizona, and yet in some areas crayfish are allowed to be used and transported live.

Mr. Gardner stated that this was the position that the Commission took in 1999, but this can be looked at again in the Article 3 Rule Review.

Commissioner Davis stated that it needs to be consistent with unwanted critters. A person can catch them, kill them, and/or use them for bait, but they should not be transported live.

Mr. Gardner noted that Commissioner Davis' comments will be taken as direction and will be a recommendation for the public in the next rule review cycle.

Motion: Mansell moved and Harris seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 42: CRUSTACEANS AND MOLLUSKS, ESTABLISHING OPEN AREAS, SEASON DATES, AND BAG AND POSSESSION LIMITS FOR 2013 AND 2014, AS PROPOSED BY THE DEPARTMENT.

Vote: Unanimous

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6. Request to Adopt Commission Order 43: Reptiles

Presenter: Eric Gardner, Nongame Branch Chief

Mr. Gardner presented the Commission with a PowerPoint presentation on Commission Order 43: Reptiles, establishing open areas, season dates, and bag and possession limits for 2013 and 2014, as proposed by the Department.

From May through July 2012, the Department solicited recommendations from the public, stakeholders, other government agencies, and Department employees for proposed changes to Commission Order 43: Reptiles. The Department only received comments from Department employees. The Department evaluated those recommendations with regard to current rules, regulations, and Department conservation priorities for reptiles, and carried forward the following for public comment for both the General Reptile and Limited Weapon Reptiles seasons:

- Update species names of "fence lizards" to reflect current taxonomy, by replacing the species *Sceloporus undulatus* (eastern fence lizard) with two species: *Sceloporus cowlesi* (southwestern fence lizard) and *Sceloporus tristichus* (plateau lizard)
- Add *Aspidoscelis arizonae* (Arizona whiptail) to the list of species for which there is no open season. The Arizona whiptail is being considered for listing under the Endangered Species Act. This is one measure that the Department can take to reduce potential impacts on this species of lizard, and in the event the species becomes a candidate for listing, would be consistent with our treatment of other candidates in CO41 and CO43

- Add 17 new notes to the General Reptile season all of which describe those areas that are closed to hunting with firearms. These are the same notes found in the 2012-13 Arizona Hunting and Trapping Regulations, Small Game Hunting Notes (pp. 93 – 94). Most of these notes are closures relating to the discharge of firearms, and some were added to honor IGAs with municipalities to allow hunting within their respective boundaries.

The Department received no comments from the public during the open comment period. The Department recommends the following with regard to Commission Order 43 for 2013-2014:

- Replace the species *Sceloporus undulatus* (eastern fence lizard) with two species: *Sceloporus cowlesi* (southwestern fence lizard) and *Sceloporus tristichus* (plateau lizard).
- Take no action on Arizona whiptail at this time. The USFWS has issued a positive 90-Day Finding, but has yet to conduct a status review of the species.
- Use consistent language at the start of CO41, CO42 and CO 43.
- Update the effective dates of the commission order.

Motion: Davis moved and Harris seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 43: REPTILES, ESTABLISHING OPEN AREAS, SEASON DATES, AND BAG AND POSSESSION LIMITS FOR 2013 AND 2014, AS PROPOSED BY THE DEPARTMENT.

Vote: Unanimous

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6A. Consideration of Amendment to Open Areas for Commission Orders 12, 13, 14, 16, and 19 for Fall–Spring Hunting Seasons in 2012–2013 and 2013–2014.

Presenter: Brian F. Wakeling, Game Branch Chief

Mr. Wakeling presented the Commission with a PowerPoint presentation to consider amending open areas for Commission Orders 12, 13, 14, 16 and 19 for Fall-Spring Hunting Seasons in 2012-2013 and 2013-2014. The amendments are to note 19 for small game (Commission Orders 12, 13, 14, and 16) and note 8 for dove (Commission Order 19) regarding open areas within Maricopa County.

On April 7, 2012 the Commission considered and approved Commission Orders 12, 13, 14, and 16 (cottontail rabbit, predatory and furbearing mammals, other birds and mammals, and quail), which continues to implement legislative changes enacted through SB 1334 (Hunting in Counties and Municipalities). Inadvertently, the Department recommended including McDowell Sonoran Preserve as an open area within note 19 for small game during quail hunts for fall and spring 2012–2013 and 2013–2014. While McDowell Mountain Regional Park was open before enactment of SB 1334, McDowell Sonoran Preserve was not, and Region VI staff has worked closely with the City of Scottsdale to maintain hunting opportunities at levels previously agreed on with the municipality.

Similarly, the Commission considered and approved Commission Order 19 (dove) at their June 23, 2012 meeting. The Department's recommendation included note 8 which limited dove

hunters to the use of archery tackle within the Maricopa County Regional Parks. This limit was again inadvertent on the part of the Department, and amending note 8 to read identically to that proposed for note 19 would allow the use of shotgun shooting shot to pursue dove during the late season within the Maricopa County Regional Parks. The Department recommends amending the notes to read:

"The following parks in Maricopa County are open to hunting using shotgun shooting shot when the season coincides with a quail season: Lake Pleasant, White Tank Mountains, McDowell Mountain, and Estrella Mountain Regional parks. Hunting in parks opened by the Commission Order is not permitted within ¼ mile of any developed picnic area, developed camp ground, shooting range, occupied building, boat ramp, or golf course. Developed areas do not include trails."

For falconry-only dove, the open area description approved by the Commission on June 23, 2012 was not amended to address changes authorized through SB 1334 (Hunting in Counties and Municipalities). The current header closes municipal parks and preserves, airports, golf courses and posted water treatment facilities unless specifically opened by Commission Order. This restriction is not necessary for falconry take.

The open area description in the header for falconry-only dove should read: "Open areas do not include any area closed to hunting under A.R.S. Sections 17-101, 17-303, and 17-304 or Commission Rules R12-4-301, R12-801, R12-802, and R12-803."

In addition, notes 12-18 and 20 should be removed for falconry-only dove.

Commissioner Davis stated that he does not want to remove the McDowell Sonoran Preserve from small game seasons with shotguns shooting shot. They are public lands and should not be excluded from diverse forms of recreation which includes hunting. This area is going to expand over time and we should be increasing opportunities and not reducing them. He prefers the current language and would like to keep it.

Commissioner Husted asked about being able to use pneumatic weapons to take Eurasian collared doves, because it was not evident in the printed regulations.

Mr. Wakeling stated that it is legal to use pneumatic weapons to take Eurasian collared doves, but it is not explicit in the regulations.

Chairman Freeman requested that a note be put in the regulations.

The Department will update the online version to ensure explicit notice of the recently changed rule and ensure that it is included in future publications.

Rod Lucas, Mesa Regional Supervisor, provided an update to the Commission on a recent meeting of the McDowell Sonoran Preserve Commission. The Preserve Commission will make a recommendation in October to the City of Scottsdale on bow hunting on the Preserve. The Preserve Commission may be somewhat confused about State law that allows the Game and Fish Commission the authority to determine the method of take and they still believe that the Scottsdale City Council has the authority to ban bow hunting in the Preserve. The Preserve

Commission and the City of Scottsdale have approached the issue many times of not allowing shotgun shooting shot within the Preserve. When the hunting in county and municipalities change happened last year, the Department drew boundaries around the metro Phoenix area to provide a description to hunters that showed that anything inside this boundary shotgun shooting shot would not be allowed. The City of Scottsdale is planning to acquire additional lands north of Dynamite Road and they have asked the Department to consider including those lands north of Dynamite in the closed area. Based on discussions with the Preserve Commission and the City of Scottsdale, there is a possibility of compromising to make Dynamite Road a boundary, with north of Dynamite open to shotgun shooting shot and south of Dynamite a close area.

Chairman Freeman stated that archery is a powerful wildlife management tool in urban interfaces and he will fight for that 100%, but is not comfortable with shotgun shooting shot.

Commissioner Husted clarified with Mr. Wakeling that this amendment today was inadvertently left out and that it would have been what the Commission voted on last year had it not been left out.

Commissioner Harris confirmed with Rod Lucas that when the maps were drawn up, Mr. Lucas and others in Region 6 excluded from hunting with shotgun shooting shot on the lands in Scottsdale, south of Dynamite Road. A lot of time and effort was spent by regions negotiating some hunt areas and he expressed concern this could end up in a battle that might close other lands. Commissioner Harris stated that in Region 5 he participated in some of those discussions and negotiations with the cities and municipalities, and when something is inadvertently overlooked, we need to go back and fix it. He agrees with Commissioner Davis' comments, but some of these agreements have already been made and so the Commission and Department's credibility is at stake. We need to live up to our agreements by how the Commission acts on this today. If the Commission wants to change it, then that should happen when this Commission Order comes back in the cycle.

Motion: Harris moved and Freeman seconded THAT THE COMMISSION VOTE TO AMEND COMMISSION ORDERS 12, 13, 14, AND 16 FOR 2012–2013 AND 2013–2014 AND COMMISSION ORDER 19 FOR 2012 AS PROPOSED AND TO ADD THE NOTE THAT CLARIFIES THAT IT IS LEGAL TO USE PNEUMATIC WEAPONS TO TAKE EURASIAN DOVES.

Commissioner Davis commented that this Commission Order will not come back for possible change until 2015.

Mr. Wakeling stated that the small game Commission Orders (COs 12, 13, 14, and 16) could be brought back for discussion in April 2013 and the dove Commission Order (CO 19) is considered annually in June.

Vote: Aye - Freeman, Husted, Harris
Nay – Mansell, Davis
Passed 3 to 2

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17. (continued from Friday's agenda) 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 Harris seconded THAT THE COMMISSION VOTE TO GO INTO EXECUTIVE SESSION.

Vote: Unanimous

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7. (continued) Consent Agenda

The following consent agenda item d was pulled from the consent agenda for discussion later in this meeting, but it was later deemed not necessary to have a discussion.

d. Lands and Habitat Program Update

Presenter: Lawrence M. Riley, Assistant Director, Wildlife Management Division

The Commission was provided with a written Lands and Habitat Program Update (attached) prior to this meeting (also available to the public) of Department activities and events related to the implementation of land and resource management plans and projects on private, state and federal lands in Arizona and other matters related thereto. The update covers activities and events that have occurred since the last Commission meeting. The update was placed on the consent agenda for approval or to be pulled from the consent agenda for questions and/or discussion.

This item was not discussed.

Motion: Husted moved and Davis seconded THAT THE COMMISSION VOTE TO APPROVE CONSENT AGENDA ITEM D.

Vote: Unanimous

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8. Approval of Minutes and Signing of Minutes.

Motion: Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO APPROVE THE MINUTES FROM AUGUST 2, 2012 AND AUGUST 3-4, 2012.

Vote: Unanimous

The Commission signed the minutes following approval.

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9. Director’s and Chairman’s Reports

The Commission was in consensus to dispense with the Director and Chairman’s reports.

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10. Commissioners’ Reports

The Commission was in consensus to dispense with the Commissioners’ reports.

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11. Future Agenda Items and Action Items

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

- The Department will bring back the following items at the December Commission meeting: 1) Commission Rules of Practice, and 2) Disposal of Sovereign Lands along the Gila River
- Re-evaluate the catch and release regulation in 2014 and review Commissioner Harris’ Commission Order 40 comments for the next cycle
- Evaluate the crayfish rules regarding transport and possession in the Article 3 rules process
- The first read items from this meeting will be on the consent agenda in December as directed by the Commission.

Chairman Freeman requested the Department draft language to amend the Commission Rules of Practice that will encourage communication with the Chair on agenda items and keep the Department out of the middle.

Commissioner Davis requested that the Commission be updated on the SGA.

Commissioner Harris requested to pin down the workshop dates and schedule for a demonstration of the pneumatic weapons.

Commissioner Mansell requested a demonstration of the spring powered cable trap.

Commissioner Husted requested a discussion regarding bighorn sheep killed on the 191.

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

Vote: Unanimous

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Meeting adjourned at 1:30 p.m.

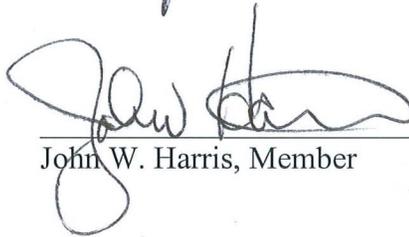
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Norman W. Freeman, Chairman



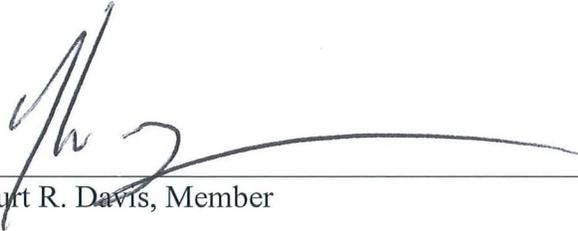
Jack F. Husted, Vice Chair



John W. Harris, Member

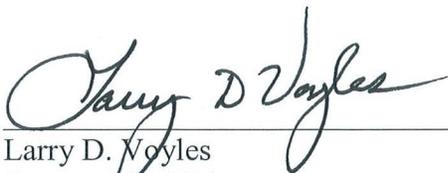


Robert E. Mansell, Member



Kurt R. Davis, Member

ATTEST:



Larry D. Voyles
Secretary and Director

**Game and Fish Litigation Report
Presented at the Commission Meeting
September 7, 2012**

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. *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. The Wilderness Society appealed to the Ninth Circuit. Briefs have been filed.

One of the issues raised by the Wilderness Society is whether BLM's resource management plan failed to protect ruins, wildlife and other monument objects by allowing motor vehicle use on unmaintained routes that don't qualify as "roads".

2. *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. The Plaintiffs filed a reply on December 30, 2011.

The Court issued a ruling on January 31, 2012, affirming the Commission's license revocation and civil assessment decisions. The Court entered a judgment for the Commission on February 15, 2012. The plaintiffs filed with the Court a motion to vacate and for rehearing on February 28, 2012.

The Court denied the plaintiffs' motion to vacate on March 22, 2012. The plaintiffs filed a notice of appeal on April 20, 2012. The Pima County Clerk's Office transmitted the record to the Court of Appeals on June 8, 2012. The Reed's opening brief to the Arizona Court of Appeals is due by July 31, 2012. **The Reeds obtained an extension to file their brief and the opening brief was filed on August 15, 2012. The Commission's answering brief is due October 1, 2012.**

3. *United States and State of Arizona v. Freeport-McMoran Inc., et al.*, 12-CV-00307-TUC-CKJ. A consent decree resolving claims of natural resource damages against Freeport-McMoran for bird mortalities at the Morenci Mine in 2000-2001 was approved by the federal district court last month. The plaintiffs are the United States, acting through the Fish and Wildlife Service as the federal natural resource trustee, and the State of Arizona, represented by the Director of the Arizona Department of Environmental Quality as the State natural resource trustee. The \$6.8M cash-out settlement is the result of negotiations that began in 2003 among the Fish and Wildlife Service, the Arizona Game and Fish Department (participating at the request of the ADEQ Director) and Freeport-McMoran. The settlement resolves the claims of the United States and the State of Arizona for natural resource damages pursuant to CERCLA, 42 U.S.C. §9607, and grants Freeport McMoran a covenant not to sue.

The Arizona settlement proceeds will be deposited in a federal natural resources recovery fund and may be expended solely for the Congressionally-directed purposes of restoring, replacing or acquiring the equivalent of the injured resources. A trustee council will be formed, consisting of one representative from AGFD, ADEQ, and USFWS. The trustee council will then select Arizona projects to fund following public comment.

4. *WildEarth Guardians v. James Lane*, 12-00118 (LFG-KBM). Plaintiff challenges New Mexico's failure to regulate trapping in the Mexican wolf occupied range to avoid take of any wolves. The Commission has authorized the filing of an amicus curiae brief in support of New Mexico.

Lands Update
For the Arizona Game and Fish Commission
August 31, 2012
Phoenix, Arizona

U.S. FOREST SERVICE LAND AND TRAVEL MANAGEMENT PLANNING

General Planning Status – Please see attached work sheet.

Apache-Sitgreaves National Forests

The Forest recently provided an update on the timeline for their forest plan revision. Following the Wallow Fire of 2011, the Forest planning team has been assessing the changed condition resulting from the fire. The Final Environmental Impact Statement and Record of Decision are now expected to be published in the summer of 2013.

Coronado National Forest

The Forest's Land and Resource Management Plan (LRMP) internal working draft is in review at the Regional Office in Albuquerque. The Draft Environmental Impact Statement (DEIS) and plan is expected to be available for public input in late fall of 2013. The Department has consulted with the Forest on the draft LRMP and will submit formal comments on the DEIS when it is released.

Travel Management (TMP) is currently in the scoping phase of NEPA. The Department submitted comment letters on all five ranger districts. The Department also participates on the Collaborative Alternative Team (CAT) which will meet three more times in September and October of 2012 to evaluate roads in the Sierra Vista Ranger District. This district is the last of the five ranger districts needing to be evaluated by the CAT. The CAT's purpose is to produce an alternative to the Forest's Proposed Action. Once scoping is complete, the Forest will issue draft environmental assessments (EA's) for each District. The projected date for the issuance of EAs is late 2012 or early 2013. The Department's major concerns with the TMP process have been that the Forest did not accurately portray the available access to the Forest.

Kaibab National Forest

The Department commented on the draft Environmental Impact Statement for the Revised Land and Resource Management Plan (LRMP). Overall the Department has been very appreciative of the Forest's high level of collaboration and transparency, as they have engaged the Department and the public continuously throughout their process. As the draft LRMP focuses primarily on vegetation management, the theme of our comments was to ensure that the full range of habitat diversity be maintained. We were supportive of the restoration focus of the draft LRMP, particularly the Forest's proposal to shift a large number of acres out of the timber base in order to restore savannah and grassland conditions. This should benefit pronghorn and other grassland species on the Kaibab and allow for more expansive use of fire as a vegetation management tool. Since the draft LRMP takes a more habitat-based approach as opposed to a species-based approach, it was unclear to the Department exactly how a practitioner might ensure protection of sensitive or listed wildlife species. To that end, the Department recommended the Forest include a practitioner's guide in the front matter of the draft LRMP so that the public can see how to step

through the plan. Travel management and dispersed camping were not addressed in the draft LRMP, but rather through the individual District Travel Management Plans.

The North Kaibab Ranger District has not yet released its Record of Decision for their Travel Management Plan. Tusayan and Williams Ranger Districts are already in the implementation phase.

Prescott National Forest

The Department received advance notice from the Forest indicating that the Final Draft EIS and Land and Resource Management Plan (LRMP) would be published in the Federal Register on August 24, 2012, initiating the 90 day public review and comment period prescribed for in the National Environmental Policy Act (NEPA). The Department will be providing the Forest with a formal comment letter. The Forest will release a Record of Decision (ROD) for their preferred alternative in the summer of 2013. When approved, the new Forest Plan will guide LRMP decisions on the Forest for duration of 10-15 years.

Strategic Action Planning Committee for Forest Conservation and Restoration

The Department continues to participate in a concurrent planning effort on the Forest. The goal is to prioritize opportunities for Cooperative Management on the Forest in coming years under the new Forest Plan. The Department has provided the Forest with the following resources: 1) Central Arizona Grassland Strategy; 2) State and County Wildlife Linkages data for Yavapai and Coconino Counties; 3) The Department's Species and Habitat Conservation Guide (SHCG) and Species of Greatest Conservation Need (SGCN) data layers produced in conjunction with the State's Wildlife Action Plan. These resources will be used by the Forest to prioritize opportunities for funding, NEPA support, and/or implementation as it pertains to cooperative, interagency restoration or conservation actions to be carried out by the Forest.

Tonto National Forest

The Forest Land and Resource Management Plan has been under internal revision and anticipates it will be out for scoping by 2014 with a 4-6 year timeline for the final LRMP and EIS.

U.S. FOREST SERVICE - General

Four Forests Restoration Initiative (4FRI)

4FRI is a federally-funded, US Forest Service Collaborative Forest Landscape Restoration (CFLR) Project to restore ponderosa pine forests across 2.4 million acres of the Apache-Sitgreaves, Coconino, Kaibab, and Tonto National Forests over the next 20 years. Collaboration and planning have been ongoing since 2009, and the Department is a founding member of the 4FRI Stakeholder Group which includes a diverse list of over 35 organizations. The Department is also a Cooperating Agency on the USFS 4FRI Coconino-Kaibab Project, which is an Environmental Impact Statement (EIS) proposing mechanical thinning and burning over 580,000 acres on those two forests. Planning on the Coconino-Kaibab Project is ongoing, and the expected release of the Draft EIS has been delayed from August to late Fall 2012.

Apache-Sitgreaves National Forests (A-S)

Gila Trout Stream Surveys

The Department conducted monitoring surveys on several Gila trout candidate recovery streams within the Wallow Fire area in Greenlee County in May-August 2012. These surveys were conducted to evaluate the impacts from the Wallow Fire, continuing monitoring efforts that began in 2011. The only Gila trout population that existed on the Apache-Sitgreaves National Forest, in Raspberry Creek, was confirmed to be extirpated. Habitat conditions were also assessed in Raspberry Creek to determine when it would be suitable for reintroduction. Loss of quality pools and heavy sedimentation were documented, which will make this stream unsuitable for several years.

A near complete fish kill was further surveyed in KP Creek, a candidate stream for Gila trout recovery. Only one live fish was found in electrofishing surveys in the entire stream. This lack of fish may benefit recovery in a way by removing the need to conduct a chemical treatment to remove non-native trout prior to reintroducing Gila trout. The habitat was impacted heavily in many areas, which may preclude reintroduction of trout for several years. Quality pool habitat was lost through several reaches and sedimentation is significant throughout much of the stream.

Similar results were found in Coleman Creek, another candidate recovery stream that contained pure Apache trout. A complete fish kill was documented in Coleman, removing the Apache trout that were considered non-native in this drainage. The stream was severely scoured and will likely not be suitable for reintroduction for several years. Survey crews will continue to monitor these streams over the next several years to evaluate changes as the watersheds stabilize.

Black River Watershed Monitoring

The Department continues to monitor impacts within the Black River watershed in Apache County in July-August 2012. A significant fish kill was documented in the Black River in 2011, while localized impacts were found in the East Fork of Black River, and nearly no impacts on the North Fork of East Fork Black River. Surveys this year have documented reproduction of native fishes in the Black River, including the roundtail chub. Roundtail chub are a candidate for federal listing and are an important species within the Black River. No chub were found in the 2011 surveys; however, numerous young-of-the-year chub were collected in several sites on the Black River in 2012, indicating that they will recover from the fire impacts fairly well.

Apache Trout Barriers

The Department continues to work with the Apache-Sitgreaves National Forest to make improvements to several Apache trout fish barriers. Flood flows following the Wallow Fire had impacted a couple barriers, particularly the Fish Creek barrier, jeopardizing Apache trout populations upstream. Several barriers have withstood initial floods so far but are still at risk of anticipated higher than normal flows. Plans were developed to improve several barriers to withstand these higher flows. The NEPA analysis is now all that is required to implement these improvements.

The Department assisted the Apache-Sitgreaves National Forest in its hiring process of a shared position in August 2012. The position will officially work for the Forest Service, but will be split funded and jointly supervised by the Department and Forest Service. This position will

focus on completing NEPA for Apache trout recovery projects in an effort complete these projects in a timely manner.

Coconino National Forest

Clints Well Forest Restoration Project

The Forest released its Clints Well Forest Restoration Preliminary Environmental Assessment (Clints Project). The Clints Project is located about 50 miles south of Flagstaff and encompasses 16,089 acres on the Mogollon Rim Ranger District. The Forest is proposing a variety of vegetation management, fuels reduction, and prescribed burning actions in ponderosa pine and pine-oak habitats. The Clints Project would reduce the risk of landscape-scale fire, protect communities and infrastructure, increase protection for several Mexican spotted owl Protected Activity Centers, and restore forest conditions that will help enhance wildlife habitat. The Clints Project includes the Old and Large Tree Retention Strategy developed through the 4FRI collaborative process.

Wing Mountain Fuels Reduction and Forest Restoration Project

The Forest released its Wing Mountain Fuels Reduction and Forest Restoration Environmental Assessment (Wing Mountain Project). The Wing Mountain Project is an 11,143-acre area located northwest of Flagstaff within the wildland-urban interface on the southwest side of the San Francisco Peaks. The Forest is proposing a variety of vegetation management, fuels reduction, and prescribed burning actions in ponderosa pine, mixed conifer, grassland, and aspen habitats. The Wing Mountain Project also proposed restoration of two historic springs that have value to northern leopard frogs, Big Leroux Spring and Maxwell Spring. The Department worked with the Forest and one of our constituent groups, the Friends of the Rio de Flag, to design a restoration plan for these springs that begins with a passive approach of returning water to the springs' stream courses and monitoring over time. The Department supports the purpose and need of this project to reduce fire risk, protect communities and infrastructure, and restore forest conditions that will, in part, enhance wildlife habitats. The Wing Mountain Project includes the Old and Large Tree Retention Strategy developed through the 4FRI collaborative process.

Kaibab National Forest

Bill Williams Mountain Restoration Project

The Forest released its Draft Environmental Impact Statement (DEIS) for the Bill Williams Mountain Restoration Project on the Williams Ranger District. The Bill Williams Project proposed mechanical treatments and prescribed burning on approximately 15,200 acres to reduce the risk of catastrophic wildfire and improve forest health in the City of Williams watershed. Strategic fuels reduction in this area is critically needed, but heavily complicated by steep slopes and difficult terrain rendering normal mechanized timber felling equipment inappropriate. This project is proposing cable-logging systems and helicopter logging, methods that have not been used in this region for some time. Also challenging is the large coverage of mixed conifer habitats, for which agreement on desired conditions and proposed treatments are largely lacking. The Department recently participated in an interagency meeting with the Forest and US Fish and Wildlife Service, where the group agreed to subsequent field- and GIS-based exercises to identify key areas for strategic fuels reduction in mixed conifer habitats. The expected outcome is a spatially-explicit, strategic plan that reduces fire risk while allowing greater flexibility for canopy-dependent wildlife such as the Mexican spotted owl, which occurs on the Mountain. The Department recently submitted formal comments on the Bill Williams Project, which also

proposes restoration of ponderosa pine and pine-oak habitats, grassland habitats, construction of 23 miles of new roads, 16 miles of temporary roads, and obliteration of 28 miles of poorly located roads.

BUREAU OF LAND MANAGEMENT (BLM)

Kingman BLM Field Office

The Department attended an Installation Ceremony on Friday, August 24, 2012 to welcome Roxy Trost, BLM's new Colorado River District Manager. The District Manager has oversight for the Kingman, Lake Havasu City, and Yuma Field Offices.

Lake Havasu BLM Field Office

The Department participated in route evaluations during the week of August 13-17th. This week's focus was on routes through Cactus Plain and Bouse. The results from this effort will be used in the development of Travel Management Plans, proposed alternatives, and a proposed decision with NEPA compliance.

DEPARTMENT OF DEFENSE

The Department attended a five-year review public meeting on the Barry M. Goldwater Range. The purpose of the review is to guide the manner in which the U.S. military sustains their mission on the range while managing the ecological health of our natural resources.

NATIONAL PARK

Petrified Forest National Park

The Department, in coordination with the Petrified Forest National Park (PFNP), have sent letters to successful pronghorn antelope hunt applicants in Game Management Unit (GMU) 2A to inform them of the land status change associated with the August 9, 2011, acquisition of the 26,500 acre Hatch Ranch by the PFNP, as authorized by the Petrified Forest National Park Expansion Act of 2004. As part of the PFNP, hunting is no longer permitted on these lands. Hunting is not permitted in national parks unless specifically authorized by Congress. Neither the PFNP Act, nor the PFNP Expansion Act of 2004 provided allowances for hunting. The PFNP Expansion Act of 2004 expanded the authorized PFNP boundary by approximately 125,000 acres from 93,533 acres to approximately 218,533 acres. Prior to the acquisition of the Hatch Ranch parcels, the Bureau of Land Management transferred administrative jurisdiction of approximately 15,228 acres of public lands to the National Park Service in May of 2007. The Department continues to monitor the PFNP expansion (see attached map) and provide updates to the Commission as appropriate.

GENERAL UPDATES

Locked Gates on State Land

The Department continues to collect reports from hunters on locked gates on Arizona State Trust Land. Wildlife Managers are photographing and documenting the locations on standardized forms which are being collected and compiled in a statewide database for prompt attention.

Habitat Partnership Committee (HPC) Applications

Central Arizona Grassland Conservation Strategy

Sycamore Mesa Juniper Thinning/Agua Fria Antelope Habitat Improvement Project Treatment Units- BLM10 and BLM 11 and PNF4

This project is an interagency collaborative effort (since 2002) to restore grassland habitat in the Agua Fria grasslands of GMU21 for the benefit of wildlife, watershed and range condition and fuels reduction. There are 5,751 acres currently identified for treatment in the overall project, with 2,367 acres occurring on the Prescott National Forest (PNF) and 3,384 acres occurring on the Agua Fria National Monument (AFNM). To date, 2,578 acres out of the targeted 5,751 have been treated, approximately 45% complete. The project is divided into 31 treatment units of varying acreages and ownership. Not all of the acres within the planned 5,751 acres will be treated. Final acreages to be cut within planned areas are determined after field evaluation and contract refinement. This proposed phase for treatment on Sycamore Mesa includes two identified units on land managed by the Bureau of Land Management and one unit adjacent on the Prescott National Forest. The treatment methods are chainsaw cutting and burning of piled juniper tree slash. The overall goal of this project is to restore and maintain habitat connectivity and quality for pronghorn and other grassland dependent species, by targeting treatments at known pronghorn movement corridors and core habitat patches of open grassland where juniper have slowly invaded.

Wildlife Areas

Arivaca Lake Wildlife Area

The Department met with the Coronado National Forest regarding a scoping notice on the Arivaca Lake grazing allotment which surrounds Arivaca Lake Wildlife Area – a Commission-owned property managed as a trophy bass fishery. The Department owns the lake and immediate area around the lake, as well as an easement along the road accessing the lake. The Forest administers a grazing lease for 31 Cows Year Long on the allotment but issues annual operating instructions which allow 100 cows to graze for one month during the winter non-growing season. The lake is the only water on the allotment and the cattle depend on the lake for water. The Department is looking into the need for a memorandum of agreement to allow the use of the water for purposes other than fish and wildlife use.

Bonita Grasslands Restoration

Bonita grasslands restoration is a long term plan to return the mesquite invaded landscape in the Fort Grant/Bonita area to historic grassland. Several mesquite thinning projects have taken place with funding from NRCS and Department funds (HPC, WCF, LIP). Antelope and scaled quail are priority species. Treated areas have had immediate use by pronghorn. The Department participated in a meeting on O-O Ranch with NRCS. The ranch owner is interested in quail

management and brush management on this ranch that will tie into the ongoing Bonita grasslands restoration.

Page Springs Hatchery – Restaurant Disposal

The Commission approved entering into a license agreement and to proceed with disposal of a portion (existing restaurant) of the Page Springs Fish Hatchery property. The land at Page Springs Hatchery was federalized in 1992 when the land was used as the 25% match to the Dingell Johnson funds used for the Hatchery renovations. Because of the Federal Aid interest in the land, the Department must request approval to dispose of the property from USFWS. The Department continues to work with Federal Aid and USFWS on repayment details.

Coordinated Resource Management Plans (CRMP)

The Department organized the annual CRM meetings for Tucson, Cochise, and Graham/Greenlee CRM groups.

Rhyolite Peak CRMP

Work continues near Sheldon. An initial meeting was held in April and field work to inventory range health began May 24. Collaborating agencies include Arizona Association of Conservation Districts, NRCS, BLM and State Land Department.

76 Ranch CRMP

An initial meeting was held in June and field work to inventory range health began in August. Collaborating agencies include Arizona Association of Conservation Districts, NRCS, BLM, Forest Service and State Land Department.

Horseshoe

The Department continues to coordinate and participate on the CRMP for the Horseshoe and Copper Creek Allotments. The Landscape Assessment Team continues to make progress on various field sessions and beginning the required assessment inventory monitoring for BLM. The Department has been providing assistance with the fieldwork over the summer. This team is made up of agency experts and stakeholders. The next Agency-Stakeholder Planning Team meeting is anticipated for September. There are several active subgroups and topical working groups planning meetings for August and September and the Department participates within these working groups.

Natural Resource Conservation Service (NRCS)

Field Offices (Avondale, Chandler, Casa Grande)

The Department made visits to each office for communications and coordination of efforts for providing technical assistance projects. The Department is working with the NRCS state biologist for potential amendment to Conservation Standard and Practice regarding use of non-native fish as vector control with recommendation to revisit use of native fish.

PM-10

Pinal County Air Quality Update

As of May 22, EPA is redesignating a portion of Pinal County to nonattainment for the 1987 24-hour PM10 national ambient air quality standard (NAAQS). It appears that the EPA has taken stakeholder input and reduced the size of the nonattainment area by approximately 36% when

compared to the draft nonattainment area boundary proposed in 2010. The areas that were excluded from this final designation were large areas of Tonto National Forest, BLM, and Arizona State Trust Lands that are not developed and did not make sense to include in the nonattainment area. This reduction in size is a positive outcome for the Department in regards to future restrictions to motorized recreation. Many heavily used OHV areas in Pinal County and hunting areas were originally included in the original nonattainment boundary but are now excluded. The areas include populous segments of Pinal County, including the San Tan Valley area, Maricopa, Casa Grande, and portions of Coolidge, Florence and Eloy. The ADEQ and Pinal County Air-Quality Dept will be required to identify sources of PM-10 (e.g. dirt roads, construction, agriculture, livestock ops, etc.) and outline what measures (e.g. State Implementation Plan (SIP)) will be implemented to ensure levels are in compliance with the described federal standards. Pinal County will have approximately 18 months to draft a SIP and associated rules and regulations on PM-10 sources outlined in the SIP. It has been determined that Pinal County has some of the highest PM-10 levels in the country, by EPA estimates. For the past 10 years, air-quality monitors throughout the county have shown persistent violations of the PM-10 standard. The EPA sets air-quality standards based on health-related data, and its threshold for acceptable PM-10 emissions is 150 micrograms per cubic meter over a 24-hour period. To remain in compliance, communities cannot exceed the threshold more than three times in three years.

Proposed Rosemont Copper Project

The Coronado National Forest is currently reviewing public input received during the comment period for the Rosemont Copper Project Draft Environmental Impact Statement (EIS). The Forest received over 25,000 comments during this period. All substantive comments have been identified, coded, and organized and responses are being developed for them. The Forest's response to these comments will be incorporated into future public disclosures for the project as required under NEPA.

The Department has participated in several meetings to discuss mitigation and monitoring measures for impacts to wildlife, habitat, and recreation. A date has not been set for publication of the Final EIS. The Forest has indicated a target date of the end of the calendar year.

RENEWABLE ENERGY DEVELOPMENT

Kinder Morgan Lobos CO₂ Pipeline Project

The Department received notice from Kinder Morgan of their proposed Lobos CO₂ Pipeline Project. The proposed pipeline would consist of approximately 410 miles of 20-inch diameter pipeline, originating in the St. Johns CO₂ field in Apache County and terminating in Denver City, Texas. Kinder Morgan has requested the involvement of the Department as a participating agency to collaborate with representatives of Kinder Morgan, as well as other federal and state resource management agencies. As a part of this project an Environmental Assessment or Environmental Impact Statement will be completed.

Proposed Sasabe Natural Gas Pipeline

The project is proposed to consist of an approximately 60-mile pipeline extending from El Paso Natural Gas' (EPNG) existing South Mainline System near Tucson to the US/Mexico border

near Sasabe. The Project is designed to provide additional export capability to Mexico with an initial capacity of 195 million cubic feet per day. The Department participates on a bimonthly conference call for this project. The project has not yet begun the NEPA process, but has solicited interested agencies. The Department has expressed the desire to participate as a Cooperating Agency. The Federal action agency is the Federal Energy Regulatory Commission (FERC). The project is in the FERC pre-filing review process. Environmental reports (water, T&E species, vegetation, cultural, etc.) are anticipated to be complete this fall. EPNG expects to file the formal application for the project in January 2013.

WIND

Mohave County Wind Project

BP Wind Energy is currently scheduled to release the first draft of their Bat Conservation Strategy (BCS) to core members for review at the end of August. This draft will be discussed concurrently with the ECP/ACS (Eagle Conservation Plan/Avian Conservation Strategy) to avoid duplication of efforts for participating resource personnel to comment on the draft plans. BP released the initial project Reclamation Plan, and has scheduled a conference call to discuss questions from team members. BP indicated they are waiting for comments from the two federal land agencies for the project; Bureau of Land Management and the Bureau of Reclamation. The National Park Service has requested to be involved in the development of the Reclamation Plan based on the restoration efforts applied to land areas around the project site. The third draft of the ECP/ACS is scheduled to be released to the group in September 2012. The AZGFD and the USFWS both commented on specific changes to mitigation measures proposed by BP, and recommended changes they would like incorporated into the document.

TRANSMISSION LINES

SunZia Transmission Line Project

The Department organized a cooperators' meeting attended by BLM, ASLD, USFWS, and NPS to discuss biological resource and land management issues related to the Draft EIS. The Department recommended creation of a Cooperative Conservation Agreement (CCA) among AGFD, SunZia, BLM, and ASLD to fully address impacts, adequate mitigation, and funding for successful mitigation. The Ruby Pipeline Project CCA was referenced as a successful model.

The Department submitted comments on the Draft EIS August 22, 2012 (see attached). The Department's main concern is the cumulative impacts that would result from construction of the utility line and associated access roads between the Aravaipa Canyon and Galiuros Wilderness areas. Although the BLM's preferred route is through the west San Pedro River Valley, the Department remains concerned with the possibility that strong support for route 4B (through the Sulphur Springs Valley and Aravaipa/Galiuros) from SunZia, Fort Huachuca, and other parties may influence the final route selection. Using Department expertise and data, including HabiMap™ Arizona data layers, the Department completed analysis to rank each route from least to most potential negative impacts on wildlife and habitat. From a biological perspective, route 4C3 through Tucson clearly represents the least impact to Arizona's wildlife and habitat.

Timeline for SunZia NEPA process:

May 25, 2012	Release of the DEIS
Mid June	Cooperator Meeting – Discuss comments that have not been resolved/incorporated & discuss upcoming public meetings
Late June/July	Public Meetings
Mid August	Conference Call with Cooperators – Opportunity for additional conversation & discussion with Cooperators
August 22, 2012	End of 90 day comment period
End of year 2012	Projected release of final EIS

TRANSPORTATION

Arizona Passenger Rail Corridor Study

The Federal Transit Administration and Federal Railroad Administration, in cooperation with the Arizona Department of Transportation (ADOT) are preparing a Tier 1 Environmental Impact Statement for the ADOT Passenger Rail Corridor Study. This study will investigate potential high-capacity transportation corridors, which could include intercity rail service between Tucson and Phoenix. The Department has participated in the preliminary stakeholders meetings and has accepted the role as a participating agency on the project. The Department has provided preliminary input at the various meetings to ensure consideration is given to wildlife connectivity, and minimization of impacts to wildlife and habitat through alternative evaluation. The Department is providing data to assist in the development of criteria for the evaluation of the alternatives and Tier 1 analysis process. The Department is concerned about the high number of alternative corridors in the east valley, undeveloped areas that seem to be favored throughout the process due to anticipated development.

Sonoran Valley Parkway (SVPP)

The Bureau of Land Management (BLM) invited the Department to become a formal Cooperating Agency for the project's Environmental Impact Statement (EIS). The Memorandum of Understanding (MOU) to facilitate our involvement has been finalized. The Department was involved with planning for this parkway with BLM and the City of Goodyear several years ago and provided input on alignments and wildlife related issues/opportunities/constraints, as well as recommendations on types and locations of wildlife crossing structures to mitigate impacts to wildlife movement within the Sierra Estrella – Sonoran Desert National Monument linkage area on BLM lands. The City of Goodyear is the project proponent and needs the parkway to provide access to annexed lands near Mobile. The BLM hosted a webinar kickoff meeting with the cooperating agencies for the development of the EIS in July 2012. The BLM plans to have Draft EIS out to the public in December 2012; a Final EIS in July 2013; and Record of Decision in September 2013. The BLM is interested in Department input on wildlife issues/concerns and input on ways to mitigate negative impacts to wildlife. The Department has been invited to the upcoming meeting.

US 60, Silver King/Superior

The project is to widen the existing US 60 to a four-lane rural and urban fringe cross section. The project begins around Boyce Thompson Arboretum and ends in Superior. The Department participates on the project team for incorporation of wildlife and recreational access concerns. The project began in the early 2000's and NEPA documentation was completed at that time. Because it has been re-initiated, revisions to earlier documentation are necessary. The project is in the permitting/clearances phase for the geotech investigations for the project. The Department is working with the team to incorporate wildlife friendly specifications into the culvert and bridge designs, along with updating the environmental documentation. This project includes several drainage, bridge structures and lighting that will provide opportunity for wildlife friendly retrofitting. In addition, several wildlife linkages will need to be considered. The Department continues to coordinate and provide information for the biological evaluation and NEPA process. Recently, the Department reviewed and commented on the 20% designs and provided information on movement of sheep in the Mineral Mountains, habitat suitability from the US60 Superior to Globe Linkages design, and information on placement and specifications related to culverts and bridges. The Department is working with the engineers for fencing to funnel animals under US60 and provide under deck lighting at approved crossing areas.

Yuma Expressway

The Department is participating in the Yuma Expressway Corridor Study which is assessing the feasibility of a proposed corridor alignment along the south and western portions of the City of Yuma. The intent of this study is to evaluate the need and location for roadway infrastructure improvements within the study area, which will include a new crossing over the Colorado River.

Town of Buckeye

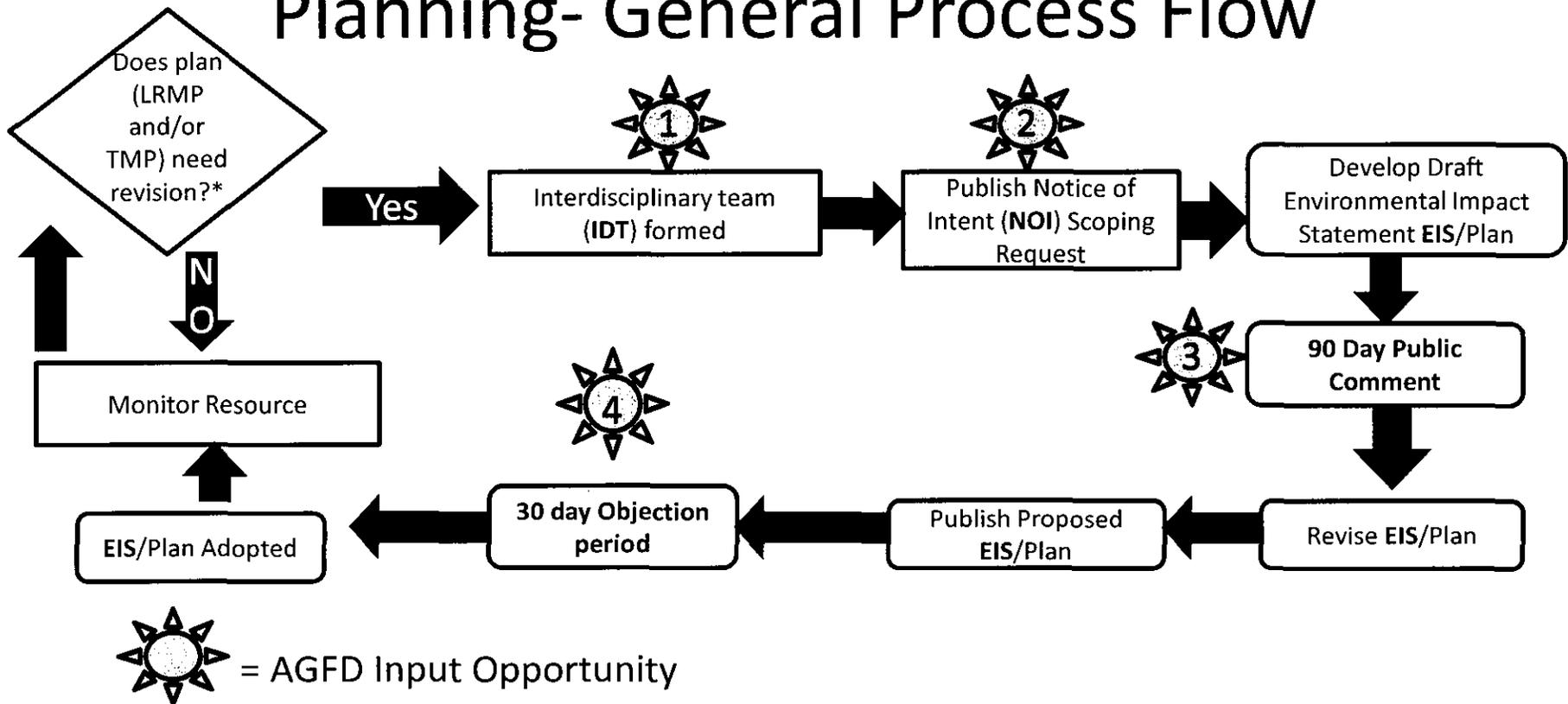
The Department met with the Town of Buckeye for coordination and collaboration to incorporate wildlife habitat management goals for linkages into the various planning processes.

City of Peoria – Open Space Preservation Program

The City Planning and Community Development Department has initiated the development of a comprehensive open space program within the City and Planning Area (General Plan). Previously, the City implemented regulatory tools including Hillside Development Overlay and Desert Lands Conservation Overlay as a means to guide development in these sensitive areas. The Open Space Prioritization, Preservation & Acquisition Program will be designed to work in concert with these tools. The City is currently holding public meetings to solicit stakeholder input on the Program and the modeled priorities. In conjunction, they are working on a 2012 Amendment to the Peoria Open Space Master Plan. The City has received a significant amount of feedback from the OHV community relating to continued access to public lands that fall within the planning area boundary. The City has responded by underscoring the fact that travel management on public lands is controlled by the land owners (in this case BLM and State Land Department) with emphasis that the City has no intention of conducting travel management outside their jurisdiction. However, the City agrees some aspects of "active recreation" (OHV) should be incorporated into their planning as part of the key element for high quality recreational opportunities. Currently the plan has four key elements to the vision for the program: identify ecologically and historically significant lands; provide abundant, high quality recreational opportunities; create an extensive open space network for future generations to enjoy; and prioritize desirable open space properties for acquisition. The Department is currently providing

input on wildlife resources, as well working with Peoria to develop outdoor recreation goals and objectives to incorporate into the plan and prioritization model that include hunting and OHV recreation in addition to those identified for passive recreation. The Department will continue to participate in upcoming meetings.

U.S. Forest Service Management Planning- General Process Flow



- 1 It is permissible for AGFD to be on the IDT team and/or obtain Cooperating Agency status. IDT/Cooperating Agency status may be initiated throughout the process.
 - 2 AGFD responds to NOI with preliminary scoping comments.
 - 3 AGFD submits formal comment letter.
 - 4 AGFD may file objection (Note change: new planning rule 30 day objection period, prior rule 90 day appeal process).
- * Land and Resource Management Plan (LRMP)/Travel Management Plan (TMP)

Forest	Status	Next Step	Projected Completion (NEPA Documents)
Apache Sitgreaves	<p>Draft Environmental Impact Statement (EIS) for TMP & LRMP released Oct. 2010. Wallow Fire required reassessment.</p> <p>Issues: Motorized Big Game Retrieval (MBGR) in preferred Alt B of TMP allows 1 mile from road for elk, mule deer & bear. 658 miles of corridors for dispersed camping 300 ft off established roads.</p>	<p>Draft EIS (LRMP & TMP) 90 day review end of 2012</p>	<p>Final EIS (LRMP & TMP) Summer 2013</p>
Coconino	<p>TMP signed Sept 2011, AGFD MBGR appeal denied; Draft EIS (LRMP) ready. Motor Vehicle</p> <p>Issues: Dispersed camping 300 ft from designated roads, else 30 ft. MBGR for elk only, 1 mile from roads except GMUs 5A & 5B.</p>	<p>Draft EIS (LRMP) currently out for public</p>	<p>Final EIS (LRMP) 11/20/2012</p>
Coronado	<p>Working Draft LRMP out Aug 2011.</p> <p>Issues: TMP in process. Motor Vehicle Use Maps (MVUM) show access through roads that have locked gates. Maps not enforceable.</p>	<p>Public LRMP comment 11/2012</p> <p>TMP Working Draft</p>	<p>Final EIS (LRMP) end of 2013</p> <p>Final TMP end of 2013, early 2014</p>
Kaibab	<p>Comment period on Draft EIS (LRMP) complete.</p> <p>Tusayan & Williams TMP in implementation. MVUMs available. North Kaibab TMP signature pending</p> <p>Issues: Tusayan & Williams TMP: MBGR 1 mile from road for elk in designated areas. Dispersed camping allowed in camping corridors, or 30 feet from road.</p>	<p>Review comments \ revise EIS (LRMP)</p> <p>Monitoring for Tusayan & Williams, Implementation for North Kaibab.</p>	<p>Final EIS (LRMP) End of 2012</p> <p>Ongoing Monitoring for Tusayan and Williams. North Kaibab implementation complete by end of 2012.</p>

Forest	Status	Next Step	Projected Next Step Completion
Prescott	Final draft EIS (LRMP) release 8/13/12. MVUMs available.	LRMP (EIS) out for public comment	Comments due Nov. 23, 2012. Final EIS (LRMP) anticipated Summer 2013.
<i>Issues:</i>	Current draft advocates MBGR: Elk within 1 mile of designated open road		
Tonto	TMP Environmental Assessment (EA) released Jan 2012: LRMP began 2006. Negotiating to reinstate due to rule change.	Reinitiate and prepare for public comment	4-6 years to completion of LRMP
<i>Issues:</i>	MBGR: current Payson and Pleasane Valley districts allow bear, elk and mule deer. Other districts do not allow cross country for MBGR. Alternative 2 allows elk and bear, 200 yards from road.		
New Framework (2012 Forest Planning Rule)			
Assessment (scoping)			
Development/Revision/Amendment			
Monitoring			



THE STATE OF ARIZONA
GAME AND FISH DEPARTMENT

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August 22, 2012

Bureau of Land Management
ATTN: Mr. Adrian Garcia
New Mexico State Office
SunZia Southwest Transmission Project
P.O. Box 27115
Santa Fe, NM 87502-0115

Re: Comments on the Draft Environmental Impact Statement (DEIS) for the SunZia Transmission Line

Dear Mr. Garcia:

The Arizona Game and Fish Department (Department) has reviewed the Draft Environmental Impact Statement (DEIS) for the SunZia Transmission Line and provides the following comments for your consideration.

Arizona Game and Fish Commission Authority

Missing from the DEIS is reference to the Arizona Game and Fish Commission's (Commission) authority over take of wildlife via Arizona Revised Statutes (ARS) Title 17 and Arizona Administrative Code (AAC) Rules Promulgated under Title 17. The Commission has public trust responsibility for wildlife within the state of Arizona irrespective of landownership, excepting those wildlife existing on American Indian trust-status lands.

ARS 17-102 defines the Commission's trust responsibility: "Wildlife, both resident and migratory, native or introduced, found in this state, except fish and bullfrogs impounded in private ponds or tanks or wildlife and birds reared or held in captivity under permit or license from the Commission, are property of the state and may be taken at such times, in such places, in such manner and with such devices *as provided by law or rule of the Commission*" (emphasis added).

ARS 17-101.18 defines take as "pursuing, shooting, hunting, fishing, trapping, killing, capturing, snaring or netting wildlife or the placing or using of any net or other device or trap in a manner that may result in the capturing or killing of wildlife." ARS 17-309 further prohibits the take of wildlife except as authorized under Title 17 or by Commission order.

ARS 17-236 prohibits the taking of injury of any bird or harassment of any bird upon its nest, or the removal of the nests or eggs of any bird, except as may occur in normal horticultural and agricultural practices and as authorized by Commission order.

The Department is directed by the Arizona Game and Fish Commission (Commission) to seek compensation at a 100% level, when feasible, for actual or potential habitat losses resulting from land and water projects. Of particular concern to the Commission are potential impacts to special category species and/or economically important wildlife species as well as issues which reflect the value, quantity, and quality of habitats which may be impacted by proposed projects.

The SunZia Transmission Line Project has the potential to take wildlife and temporarily and/or permanently degrade wildlife habitat including interruption of migratory pathways and fragmentation of wildlife habitat. As such, the Department believes that that a mitigation plan can be developed that compensates for actual or potential wildlife and habitat losses to 100% of pre-project levels. This plan can be memorialized through a Collaborative Conservation Agreement (CCA).

The DEIS does not adequately address mitigation for impacts to biological resources. Although "Standard Mitigation Measures" and "Selective Mitigation Measures" are proposed, they do not provide for any mitigation or compensation of residual impacts. The Department believes development of a Cooperative Conservation Agreement between BLM, SunZia, Arizona State Land Department, and Arizona Game and Fish Department is an essential component of ensuring adequate mitigation for residual impacts posed by the construction and operation of the SunZia transmission line project.

The Council on Environmental Quality (CEQ) issued a memo dated January 14, 2011 providing final guidance on the appropriate use of mitigation and monitoring under NEPA. This guidance emphasizes that agencies should adhere to mitigation commitments made as part of their environmental analysis, monitor their implementation, and monitor the effectiveness of that mitigation. Adaptive management is an important component of this guidance. The Department is very interested in working with the BLM on developing appropriate mitigation and requests continued involvement with effectiveness monitoring and adaptive management as necessary.

Mitigation as defined in 40CFR 1508.20 includes:

- a) Avoiding the impact all together by not taking a certain action or parts of an action
- b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation
- c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment
- d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action
- e) Compensating for the impact by replacing or providing substitute resources or environments

The CCA process has been used successfully for similar projects such as the Ruby Pipeline (www.blm.gov/pgdata/etc/medialib/blm/nv/nepa/ruby_pipeline_project/rod/attachment_h.Par.13831.File.dat/Conservation.Agreement.Final.Executed.06.29.10.pdf). The CCA ensures that the mitigation and monitoring identified in the EIS will be achieved through funds and resources committed in the CCA. Therefore a CCA is integral to the Final EIS. It is important that the

project proponent be a signatory to the CCA, and that the CCA be a condition of any permit issued by the BLM.

Arizona Game and Fish GIS Analysis

The Department has developed a number of tools to categorize and map wildlife resource values on a statewide scale. These tools help to identify impacted wildlife resources and may help to prioritize alternative areas that have the least impact on those resources. The Department's Species and Habitat Conservation Guide (SHCG) is intended to identify areas of wildlife conservation potential in Arizona at a landscape/statewide scale, ultimately guiding the Department's strategic wildlife goals and objectives. The Department considered five indicators of wildlife conservation value in modeling conservation potential across the state. Each of those indicators, or sub models, was developed as a separate layer that can be used independent of the SHCG model. The sub models were based upon the following:

- The importance of the landscape in maintaining biodiversity - represented by the Species of Greatest Conservation Need (SGCN)
- The economic importance of the landscape to the Department and the community – represented by the Species of Economic and Recreational Importance. (SERI)
- The economic importance of the water bodies and aquatic systems to the Department and the community - represented by sportfish
- Large areas of relatively intact habitats - represented by unfragmented areas
- The importance of riparian habitat to wildlife – represented by riparian habitat.

HabiMap™ Arizona is the public website where these tools can be viewed. Within HabiMap™ Arizona, one can view the SHCG, as well as models depicting the most valuable areas for the other sub models. Several other data layers are available as well, such as species distribution models, Arizona Wildlife Linkages, and Important Bird Areas. The Department also maintains the Heritage Data Management System (HDMS) which contains special category species data, and is in the process of modeling additional critical wildlife habitat linkage areas.

The Department utilized these tools to conduct a preliminary analysis of the potential for impacts of the proposed SunZia Transmission Line Project to determine the adequacy of the DEIS in identifying impacts and mitigation for those impacts. Starting at the Arizona/New Mexico State Line and ending at the terminus in Eloy, the Department evaluated the route alternatives using a 4-mile wide buffer, like that used for the biological resources evaluation in the DEIS.

SHCG

All layers comprising the SHCG (SGCN, SERI, Sportfish, Riparian, and Unfragmented Areas) were rescaled from 1- 10 and combined per the following equation: $SHCG = 3.5 \times (SGCN + SERI + Sportfish) + Riparian + Unfragmented Areas$. The resulting model was reclassified into 6 classes based on quantiles. A value of 6 indicates the highest conservation potential and a 1 indicates the lowest conservation potential.

A comparison of all the Group 4 SunZia route alternatives reveals that Route 4C3 contains the least amount of highest conservation potential areas (value 6). In contrast, Routes 4C2a, 4C2b,

and 4C1 have the greatest amounts of highest conservation potential areas (values 5 and 6). The table below presents the percentages of each route's 4-mile buffer within each SHCG class. Note that route 4C3 contains the greatest percentage of the lowest values for conservation potential (value 1=5%, value 2=5%, value 3=14%) in comparison to all the other routes. This is expected because much of the route is through urbanized Tucson.

Conservation Potential	SunZia Group 4 Alternative Routes (SHCG %)							
	4A	4B	4C1	4C2	4C2a	4C2b	4C2c	4C3
1	2	2	2	2	2	2	2	5
2	3	3	3	4	3	3	4	5
3	5	5	4	6	4	4	6	14
4	6	4	2	2	2	2	2	9
5	38	27	22	27	23	23	27	27
6	46	58	67	58	66	67	58	40

SGCN

This model represents a richness index for the Species of Greatest Conservation Need (SGCN) as defined in Arizona's State Wildlife Action Plan (SWAP). The model includes the number of Tier 1a and Tier 1b species (classified by vulnerability scores from the SWAP) according to the following formula: $SGCN\ Score = (Tier\ 1a \times 2) + Tier1b$

Resulting scores were rescaled from 1 - 10. Higher model scores indicate the potential for greater species richness in any area. A full description of the model can be found in Arizona's State Wildlife Action Plan (http://www.azgfd.gov/w_c/cwvcs_downloads.shtml). Descriptions of the models and metadata for each layer are available on the HabiMap™ Arizona website (<http://www.habimap.org>).

Conservation Potential	SunZia Group 4 Alternative Routes (SGCN %)							
	4A	4B	4C1	4C2	4C2a	4C2b	4C2c	4C3
1	1	1	1	1	1	1	1	3
2	1	1	1	1	1	1	1	1
3	7	7	5	9	5	5	9	10
4	11	10	7	7	7	6	7	13
5	4	4	4	4	4	4	4	5
6	9	8	9	9	9	9	8	7
7	8	7	9	12	8	8	11	12
8	5	6	9	8	9	9	8	12
9	25	14	17	14	17	18	14	6
10	29	42	38	34	38	39	36	31

SERI

This category represents 13 of Arizona's game species. The distribution of game species influences important aspects of wildlife related recreation. When evaluating the effects of changes to this distribution, the Department considers three aspects: demand for the game resource, revenue generated by the game resource for communities in Arizona, and the revenue generated by the game resource for the Department.

Demand for the game resource provides an indication of how important a particular piece of habitat is to the hunters of Arizona for a given species and is represented by the number of first choice applicants divided by the available number of permits for that species. Areas with higher demand are likely to be more important to hunters than areas with lower demand. Revenue generated by the game resource for communities in Arizona provides an indication of the economic importance of a particular area and is represented by the measured hunter days multiplied by the value of a hunter day in purchases of goods and commodities (e.g., gas, food, motel). Areas with high value are used more frequently and provide a greater contribution to Arizona's economy than do areas with lower values.

Finally, the license and tag revenue generated by the game resource provides an indication of how critical an area is economically to the Department. Together, the economic and recreational importance of game species to hunters, the community, and the Department provide a realistic view of the importance of game habitat.

Conservation Potential	SunZia Group 4 Alternative Routes (SERI %)							
	4A	4B	4C1	4C2	4C2a	4C2b	4C2c	4C3
1	3	3	3	3	3	2	2	4
2	1	0	0	0	0	0	0	1
3	1	1	1	2	1	1	2	4
4	9	8	2	3	3	3	3	6
5	20	17	10	11	10	9	11	25
6	3	3	4	4	5	5	5	2
7	5	11	10	15	15	17	16	8
8	6	11	29	24	26	29	27	24
9	19	13	16	16	11	9	13	19
10	32	34	26	21	26	25	20	7

Unfragmented Areas

The Unfragmented Areas model is based on the existence of large, contiguous land masses that aren't fragmented by barriers, the diversity of vegetation types within those land masses, and the importance of those areas to the overall availability of any particular vegetation type within the state. The results were reclassified from 1 - 10 using ArcMap. Higher values indicate higher conservation potential with 10 being the highest and 1 being the lowest.

The majority of the entire SunZia project (all alternative routes) in Arizona goes through some of the least fragmented areas in the state, and certainly in the southeastern part of the state. Further discussion of the importance of large, intact habitat blocks is presented in subsequent sections of this letter.

Conservation Potential	SunZia Group 4 Alternative Routes (Unfragmented Areas %)							
	4A	4B	4C1	4C2	4C2a	4C2b	4C2c	4C3
1	16	14	11	11	12	11	11	30
2	6	8	4	1	4	3	1	6
3	12	12	12	26	12	11	25	23
4	7	3	3	3	3	3	3	3
5	0	0	0	0	0	0	0	0
6	16	16	16	8	16	15	7	0
7	0	0	2	1	1	1	1	3
8	0	0	0	0	0	0	0	0
9	41	41	36	31	33	35	33	25
10	3	6	17	19	20	20	19	11

Ranking of Routes

In our analysis of information presented in the DEIS, we ranked each route for the following categories (presented in DEIS Table 2-12, Alternative Route Comparison):

- Relative percentage of the route paralleling existing transmission lines and pipelines
- Total acres of temporary disturbance
- Total acres of permanent disturbance
- Acres of permanent disturbance per mile of route

Route	Existing Transmission lines	Existing Pipelines	Temporary Disturbance-acres	Permanent Disturbance-acres	Permanent Disturbance-acres/mile	Rank Across all DEIS categories
4A			1	1		
4B						
4C1						
4C2						
4C2a		1				1
4C2b						
4C2c						
4C3	1				1	

Note: A ranking value of 1 indicates the route with the most miles paralleling existing infrastructure, least temporary/permanent acreage disturbed, or lowest acres/mile of permanent disturbance.

We also ranked each route based upon its relative percentages of SHCG, SGCN, SERI, and Unfragmented Areas. Although SGCN, SERI, and Unfragmented Areas are three of the five categories that compose SHCG, we ranked those categories separately to determine whether there was much difference by route across those specific categories (there was not).

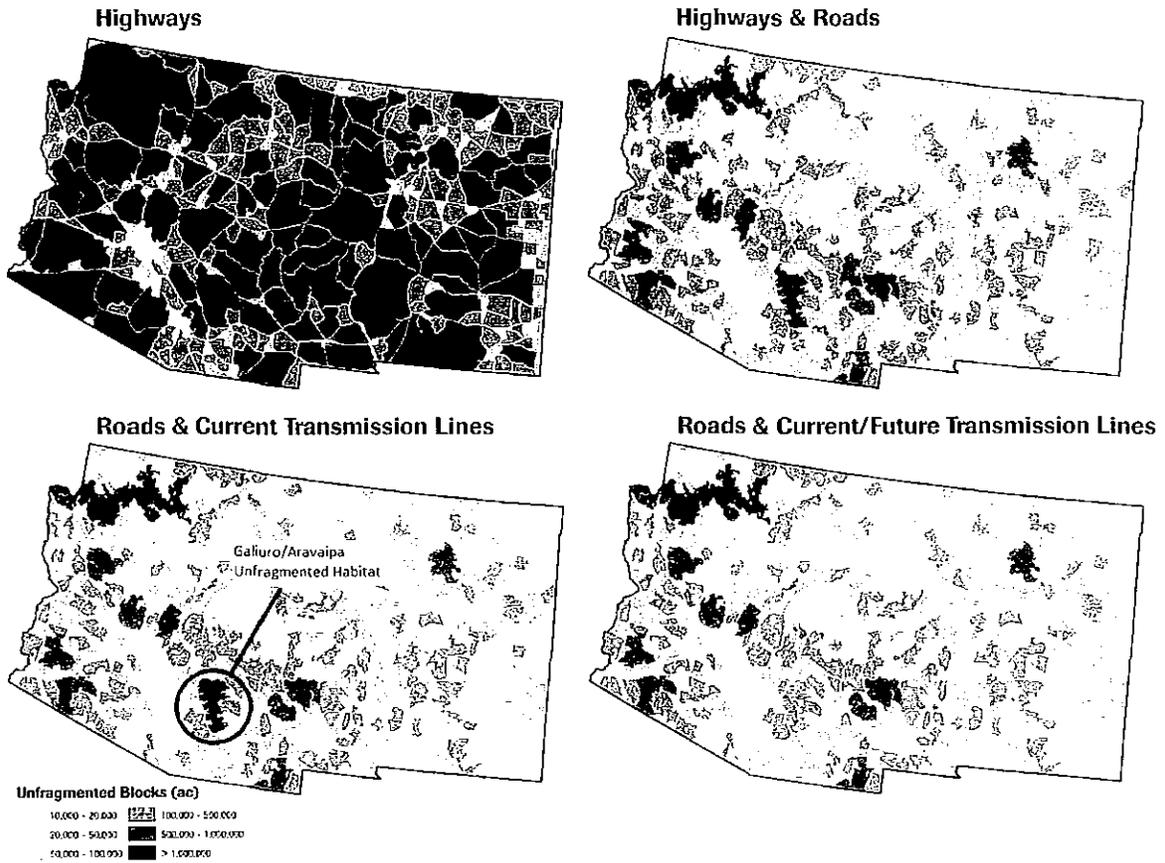
Route	SHCG	SGCN	SERI	Unfragmented Areas
4A				
4B				
4C1				
4C2				
4C2a				
4C2b				
4C2c				
4C3	1	1	1	1

Note: A ranking value of 1 indicates the route with the least amount of high conservation potential habitat

Due to the excessive lengths of the alternative routes and the complexity of the HabiMap™ Arizona data layers, comparison of the different routes is in turn a complex undertaking. For example, route 4C3 clearly contains a multitude of areas of low conservation potential due to the previous long-standing disturbance associated with the urbanized Tucson area. However, across the entire course of the route, areas of high conservation potential exist. Therefore, it is important to emphasize that consideration must be given to habitat features not captured in the HabiMap™ Arizona model. A prime example of this is the Aravaipa Canyon area, discussed in greater detail below.

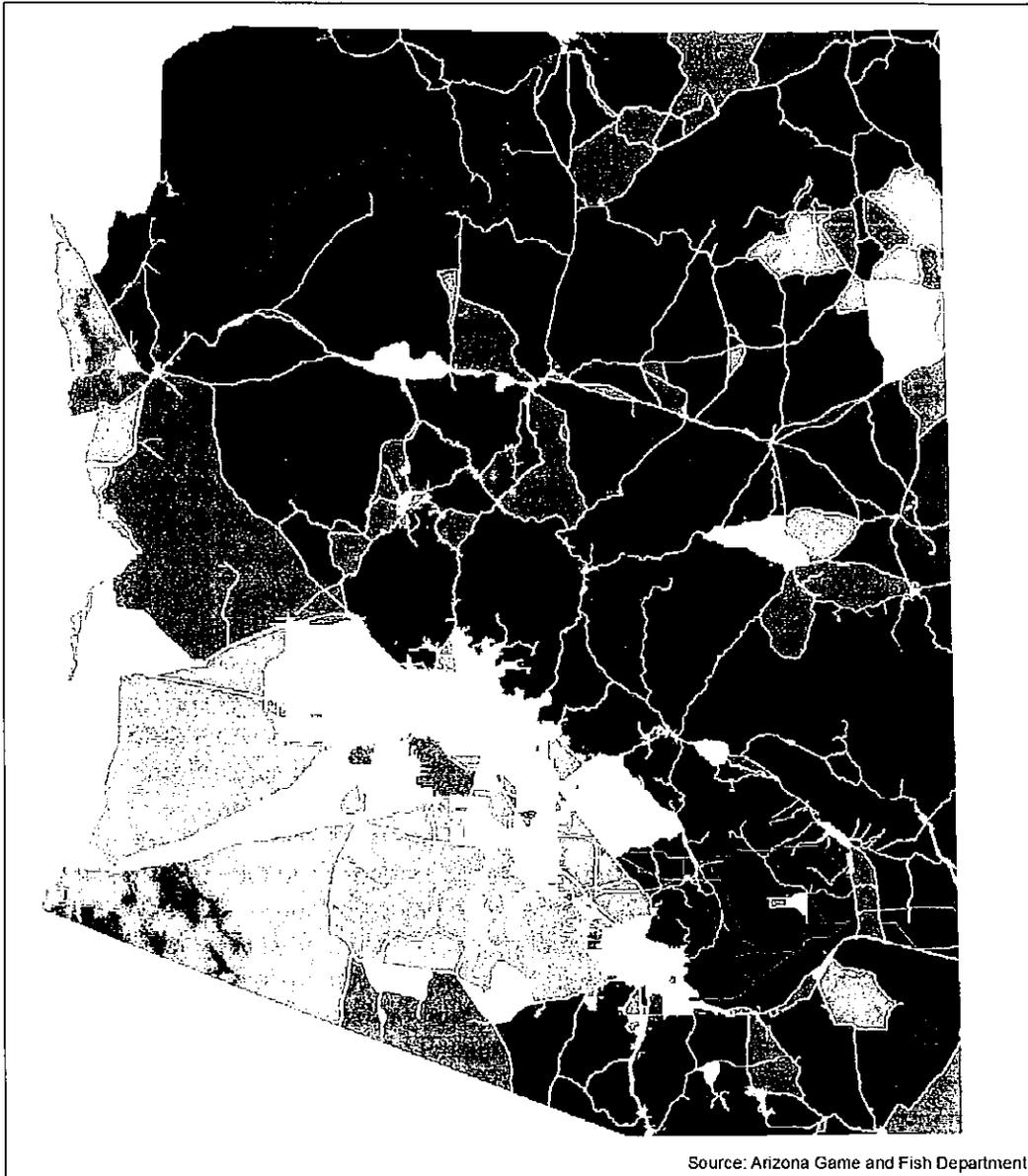
Aravaipa – Galiuro Wildlife Linkage (Link C170)

Page 4-62, Section 4.6.3.1 – the DEIS defines significant impacts to biological resources from construction or operation of the proposed action as including, among other things, “fragmentation resulting from the addition of new infrastructure to large, currently intact blocks of habitat”. Construction and/or operation of the project along either subroute 4A or 4B would therefore result in significant impacts to biological resources. Portions of both routes would go between the Aravaipa Canyon and Galiuro Wilderness Areas where no infrastructure currently exists. A portion of subroute 4B is also located in the Sulphur Springs Valley, another large, intact habitat block. The Nature Conservancy (TNC) has completed analysis (see attached) which demonstrates that this block of unfragmented habitat including the Galiuro, Aravaipa Canyon, and Santa Theresa Wilderness Areas, comprises the second largest remaining unfragmentated habitat block in the American southwest: only the Grand Canyon is larger. Included for reference with this letter are TNC’s cumulative effects analysis and graphic depiction (below) of the impact of fragmentation across Arizona and New Mexico due to roads and transmission lines. The Department’s own unfragmented habitat model, which assesses Arizona only and used slightly different inputs, also indicates that this block is one of the largest remaining unfragmented areas in the state of Arizona.



(Graphic Courtesy of The Nature Conservancy)

Unfragmented Areas in Arizona



Lightest blue indicates highest degree of fragmentation
Darkest blue indicates lowest degree of fragmentation
Yellow line indicates SunZia Transmission Line Alternative Routes

Page 4-64, Section 4.6.4.2 – impact levels are categorized as low, low-moderate, moderate, moderate-high, and high. High impacts are those which “may include substantial, permanent fragmentation and loss of function, and may involve substantial loss of acreage of the community type in the region. This level of loss would affect not only the vegetation, but the wildlife that is dependent on the plant community for sustenance, habitat, or as part of a movement corridor” (emphasis added).

Link C170 would bisect an important wildlife movement corridor between Aravaipa, the Santa Theresa Mountains, and the Galiuro Mountains. This area is a significant travel corridor between the Redfield Canyon and Aravaipa Canyon bighorn sheep metapopulations. The Department has ear tagged and collared sheep in both places and documented movement between these two areas. These two sub-populations are surveyed together and managed as one unit. Disturbance in the area south of Aravaipa Canyon (Link C170) that would limit sheep movements through this corridor would fragment two very important gene pools. A resident of the Aravaipa Canyon area and retired population geneticist recently published a paper that stressed the importance of keeping Aravaipa Canyon sheep genetically connected to any other population for its own health (Hedrick 2011). This sheep population is special to the Department and our constituents. It is the first sheep population the Department recovered with a translocation from elsewhere and has gained world-wide fame as one of the best trophy desert bighorn sheep destinations in the world. In addition to its importance for bighorn sheep, this area also provides good habitat for other game species such as whitetail deer, bear, and javelina.

Finally, this is an area of habitat untouched by roads, utilities, or other similar disturbance; a remote, extremely rugged landscape with minimal human presence, where access is possible primarily by foot or by horseback. The introduction of a disturbance such as the SunZia Transmission Line Project into one of the largest unfragmented blocks of wildlife habitat in the Southwest will forever transform this area and diminish its unique value to wildlife and people.

Route 4B

This area is important habitat for a small and declining pronghorn antelope population. Primary threats to pronghorn in this area are anthropogenic habitat modification through development and agriculture. With the increased urban development along Fort Grant Road north of Willcox, the small stretch of undeveloped land south of Bonita, has become the major corridor for pronghorn along Fort Grant Road. The Sulphur Springs Valley pronghorn face increasing habitat fragmentation and movement barriers. Preserving, enhancing, and restoring movement corridors for pronghorn in Game Management Units (GMU's) 31 and 32 (containing the Pinaleno and Galiuro Mountains, respectively), has become a special concern for the Department. Links C121, 130a, and 130b are of particular concern as they could further diminish genetic exchange between the subpopulations in these two GMU's. Depending upon the extent of ground disturbance created by the project, fencing, increased invasive plants, and impacts on fire and vegetation management, this route could negatively impact the pronghorn throughout the Sulphur Springs Valley. If any fences are constructed along access roads, they should be in accordance with Arizona Game and Fish Department's Wildlife Compatible Fencing Guidelines.

Section 4.6.4.4, under the heading *Aquatic, Large wading, and Shore Birds*, please add text regarding the large flocks of wintering waterfowl, including sandhill cranes, that fly back and

forth between the Sulphur Springs Valley, Willcox Playa, and Whitewater Draw areas. Links C110, C121, C90, C130a, and possibly B150a and B150b cross very important sandhill crane flyways to and from roosting and feeding areas. Subroutes 3A1 (link B150a near San Simon, and possibly B150b), 4B (links C90 and C130a), and the eastern portions (through the Sulphur Springs Valley) of the 4C routes (links C90, C110, and C121) all pose collision hazards for cranes and other wintering waterfowl using agricultural fields in the area. Utility lines are a documented source of mortality for cranes due to their inability to quickly maneuver to avoid unseen obstructions during low visibility events (*i.e.*, fog, storms, or nighttime migration). Utility lines through this area would cause outright mortality and could alter the feeding patterns and flight patterns of the birds in this population. This is a critical winter roosting area and has significant benefit to the local economy. The Wings Over Willcox Birding and Nature Festival attracts about a thousand people to the area over a single weekend each January, with a steady influx of additional visitors throughout the season and beyond.

Residual Impacts

Residual impacts are mentioned on page 4-63, but do not appear to be addressed anywhere else with regard to biological resources. Chapter 4 presents in tabular format number of miles of residual impacts for earth and water resources. Please add a similar table quantifying residual impacts to biological resources. Also, please include a statement to the effect that residual impacts will be further identified and mutually agreed upon mitigation and/or compensation will be determined in consultation with the Arizona Game and Fish Department via a Cooperative Conservation Agreement, and will be included in the Plan of Development.

Impacts

Section 4.6.4.2 is titled *Impacts and Mitigation Measures for Vegetation*, yet there is no discussion of the impacts, only descriptions of impact levels and proposed mitigation measures. Without an actual discussion of impacts, adequate mitigation cannot be determined.

Section 4.6.4.4 *Impacts and Mitigation Measures for General Wildlife Categories and Special Status Species* does not define or discuss impact levels for “general wildlife”. Please add appropriate text so the content of this section accurately reflects the title.

Other Projects

Of highest concern to the Department is the potential for the SunZia Transmission line to facilitate cumulative effects which would cause further fragmentation of the Galiuro/Aravaipa wildlands through co-location of proposed infrastructure such as the Interstate 10 Bypass which identified this route as a viable solution to an identified problem and need. The Arizona Game and Fish Commission passed a resolution in opposition to all proposed routes for the I-10 Bypass proposal.

Clearly in the planning of future development projects, planners, designers, and analysts generally look for existing infrastructure or otherwise disturbed areas as a first choice in siting new projects. Therefore, if SunZia is granted a ROW permit through currently unfragmented habitat in the Aravaipa/Galiuro wildlife linkage area, there is a very high probability that future project proponents, planners, and agencies would consider the SunZia transmission line for possible co-location of linear projects. In addition, existence of the transmission line may present

opportunities for new power generation facility connections (i.e., commercial scale solar energy generation facilities).

The Arizona Department of Transportation (ADOT) stated in their 2008 I-10 Bypass report that “As currently planned, I-10 will be inadequate to meet the long-term needs of the Interstate System and the Tucson Metropolitan Area.” Of the solutions proposed, ADOT concluded that “the long-term development of an alternative route to I-10 appears to be the best solution to the foregoing described issues. A preliminary assessment of several alternative routes was explored in the *I-10 Phoenix-Tucson Bypass Study*. Of the alternatives studied, “Route 4” (referred to as the “Western Corridor” in the *Southern Pinal-Northern Pima County Corridor Definition Study*) appears to offer the most potential.”

Several of the considered routes were very similar to several of the SunZia considered routes. The need for this I-10 Bypass remains; in 2008 ADOT identified the most practical route as one to the west of Tucson, however the Department believes that this route is non-viable due to the Tucson Mitigation Corridor which precludes development within its boundaries. If SunZia were granted a ROW permit for either subroutes 4A or 4B, ADOT may seriously consider an I-10 Bypass route through the unfragmented habitat between the Aravaipa Canyon and Galiuro Wilderness Areas. They have, in fact, stated that it would be no more technically infeasible than the existing Highway 87. If the SunZia Transmission Line has already bisected this area, co-location of future infrastructure is not only foreseeable, but will be inevitable absent a legal instrument preventing such co-location.

Because the I-10 Bypass study has already identified that this route is a viable alternative and that the bypass is necessary, the Department believes BLM must consider the bypass as a potential cumulative effect of the SunZia Transmission line under NEPA. Moreover, BLM must consider that the choice of this route for the SunZia line may significantly increase the attractiveness of this route for the I-10 Bypass.

Mitigation Corridor Needed

Clearly one of the largest concerns for the Department when considering large linear infrastructure projects are the fragmenting effects through large blocks of unfragmented habitat. The Tucson Mitigation Corridor was developed as mitigation for the CAP canal and has successfully prevented further degradation of that wildlife habitat linkage. The SunZia project will fragment many habitat blocks over the entire 500+ miles of the transmission line. One way to mitigate for this fragmentation would be to develop a mitigation corridor between the Galiuro and Aravaipa Wilderness Areas so that this area can no longer be easily threatened by such development.

Access Roads

Although there is mention of the possibility of using helicopters to construct the towers as a means of minimizing impacts in sensitive habitats, the DEIS does not provide a complete discussion of access needs for such areas. We recommend providing a complete description of all access needs for pre-construction activities (i.e., geotech surveys, environmental surveys), construction (i.e., equipment and drilling activities for boring anchor holes, concrete mixing and pouring, equipment access to each tower location and tensioning sites, etc.),

operation/maintenance/inspection/emergency repairs. The Department assumes that even with the use of helicopters for tower construction, the proponent would still require access roads to every tower location and tensioning site (and possibly others).

By far, Link C170 contains the longest continuous stretch of route alignment within the Arizona portion of the project with slopes greater than 35%, which therefore would necessitate the greatest amount of disturbance to build access roads. If BLM issues a ROW grant for any of the routes through the currently unfragmented habitat in the Aravaipa Canyon area (4A, 4B, 4C1), the Department requests that BLM consider a stipulation within the grant requiring that either a) the project be constructed without any newly constructed access roads, or b) once project construction is complete, the project owner completely restore all disturbed areas (except those requiring “permanent” disturbance, i.e., towers) to pre-disturbance conditions, and all subsequent activities related to operation of the line would be via roadless access. In the event of any emergency conditions requiring access that results in ground disturbance, restoration to pre-disturbance conditions would also be required.

NESC/NERC Vegetation Management Standards

Although the DEIS makes reference to vegetation management standards in several places, the information as presented is somewhat misleading. The NERC standards for Minimum Vegetation Clearance Distances (MVCD) refer to the minimum allowable distance between conductors and vegetation, not any specific vegetation height as implied by the DEIS. The Department recommends adding further clarification in this section, explaining what the 12-foot allowable vegetation height is based upon: if it is a calculation based on the typical tower height, maximum sag of the conductors, voltage of the line, and minimum separation between the conductor and the nearest vegetation, please state it as such. It is our understanding that a utility provider may choose to exceed the MVCD; some utilities choose to remove all vegetation above low shrub height. We would like to offer input in the development of the vegetation management plan for the project, as there may be opportunities for enhancement of wildlife habitat values while still maintaining acceptable safety and reliability standards for operation of the transmission line.

Golden Eagles

The Department conducted golden eagle surveys in southeastern Arizona in 2012. We recorded a number of eagle sightings and documented breeding eagles within 10 miles of the project area within the Santa Teresa, Pinaleño, Winchester, Dos Cabezas, and Little Dragoon Mountains. The Department recommends that construction in areas within one mile of occupied nests occur outside of the breeding season for golden eagles (August to December). In addition, we recommend ongoing coordination between the Department, BLM, SunZia, and any other relevant land managers to ensure appropriate eagle mitigation is included in the POD.

Plan of Development

The Department requests continued involvement in the drafting of the project Plan of Development (POD). Topics of particular interest to the Department are

- Full disclosure of maintenance/repair, operations, procedures, access routes and modes of transport for such activities. We are interested in discussing opportunities to avoid and minimize habitat impacts by employing techniques that are “softer on the land” such as

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helicopter transport of drilling rigs and other equipment needed for construction, or other techniques that do not create as large an area of impact as conventional techniques regularly used in non-sensitive areas.

- Stipulations to ensure successful re-vegetation, erosion control, and plant relocation – some mechanism needs to be in place to ensure success (adaptive management, so if the planned methods don't achieve full success, something else is tried, until successful).
- Development of adequate mitigation and/or compensation for lost ecological resources (e.g., habitat loss and damage to wildlife resources).

Other Comments

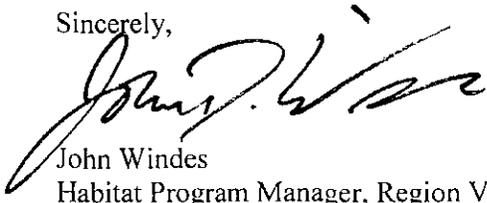
Appendix H: it would be more useful for comparing routes if the major points of impact level evaluation for the BLM preferred alternative were included in each resource table, rather than referring the reader back to Chapter 4.

Please quantify by route and alternative linkages, the acreages of both temporary and permanent impacts, by vegetation community.

As we have stated in previous letters, wherever possible, we strongly recommend siting projects along existing utility corridors, roadways, or other previously disturbed areas. Of all the alternative routes, 4C3 (Tucson) encompasses the greatest percentage of previously disturbed areas, parallels the greatest distance of existing transmission lines, contains the least amount of areas of highest conservation potential, and avoids fragmentation of Arizona's second greatest remaining area of intact, unfragmented habitat.

If you have any questions regarding this letter, please contact Ginger Ritter at (623) 236-7606 or Kristin Terpening at (520) 388-4447.

Sincerely,



John Windes
Habitat Program Manager, Region V

JDW:kt

Attachments: AGFD Unfragmented Areas Map
TNC Cumulative Effects Analysis and Graphic

cc: Kristin Terpening, Habitat Specialist, Region V
Ginger Ritter, Project Evaluation Specialist, WMHB
Raul Vega, Regional Supervisor, Region V

AGFD #M12-05242005

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References

Hedrick, P.W. 2011. Rapid Decrease in Horn Size of Bighorn Sheep: Environmental Decline, Inbreeding Depression, or Evolutionary Response to Trophy Hunting? *Journal of Heredity* (November-December 2011) 102 (6): 770-781.

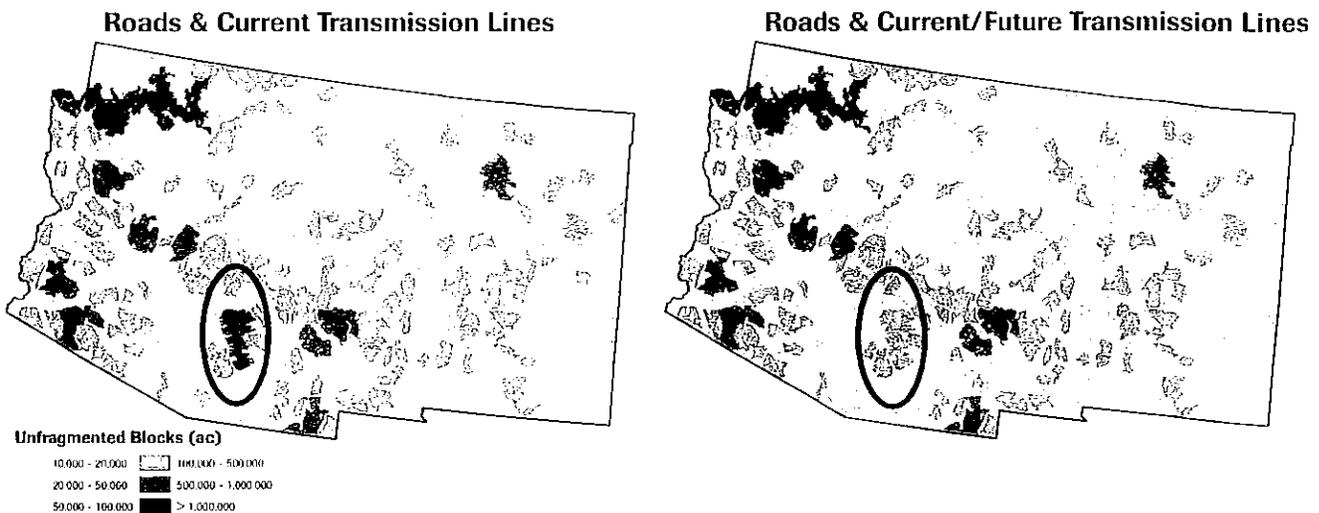
Cumulative Effects Analysis for Proposed Sunzia Transmission Line

Rob Marshall, Dale Turner, and Dan Majka, The Nature Conservancy

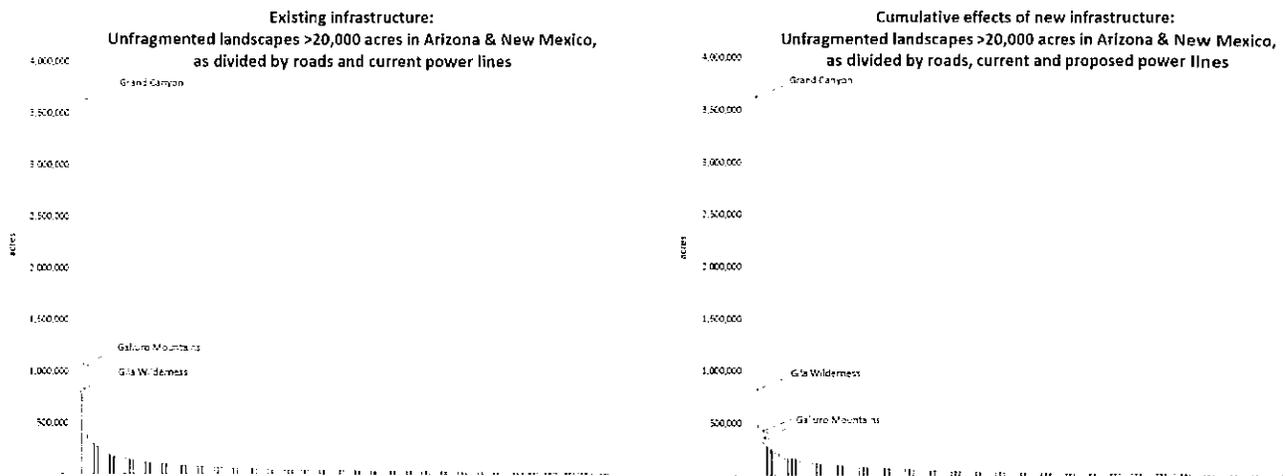
June 18, 2012

To evaluate cumulative effects associated with the proposed Sunzia transmission line we looked at the current status of habitat fragmentation across Arizona and New Mexico from roads and transmission lines. We then compared the current baseline condition to a future scenario that included the 20 transmission line proposals across Arizona and New Mexico currently in some phase of planning (see table at end). We did not consider pipelines in this analysis but note that pipelines similarly fragment habitat and would further amplify this type of analysis.

The graphic below compares the baseline condition to the future scenario. The largest remaining habitat blocks are indicated by progressively darker shades of green. The red polygon depicts the area encompassed by the Galiuro Mountains, Aravaipa Canyon, and Santa Teresa Mountains. The graphic to the right illustrates the change in size of this habitat block from the proposed Sunzia line.



The two graphics below plot the distribution of habitat patch sizes in acres across Arizona and New Mexico. All patches smaller than 20,000 acres were excluded from the analysis to make the size of the graphic more manageable. The left graphic illustrates how the current baseline condition is skewed considerably to the right, meaning the landscape of Arizona and New Mexico is comprised predominantly of small habitat fragments. This graphic also illustrates that outside of the Grand Canyon, there is no habitat block larger than the Galiuro-Aravaipa-Santa Teresa area. The graphic to the right illustrates the change in ordinal position and size of the Galiuro-Aravaipa-Santa Teresa area from siting Sunzia across the axis of this area.



The take home from these analyses is that the Sunzia transmission route proposed to cross the Galiuro-Aravaipa-Santa Teresa area would split in half the second largest unfragmented landscape remaining in the southwestern U.S. and introduce habitat disturbance into an area where, for example, there are no paved roads and no roads that cross over the axis of the Galiuros from Aravaipa Valley to the San Pedro River Valley, or from Aravaipa Valley over the Santa Teresas into the Gila River Valley. With the Southwest's largest remaining intact area, the Grand Canyon, already in protected status, it raises the question of whether mitigation measures are even possible for disturbances to the region's second largest intact landscape.

Implications

The Galiuro-Aravaipa-Santa Teresa area encompasses over 100,000 acres of intact, high value wildlife habitat. The area maintains the full complement of wildlife from large mammals (mountain lion, black bear, bighorn sheep, mule deer, white-tailed deer), to highly limited species such as Gould's turkey and the threatened Mexican spotted owl. The Aravaipa area, alone, includes over 500 species of plants and birds, 45 mammals, and 67 amphibians and reptiles. The streams on the Muleshoe Ranch and Aravaipa Canyon are the best refugia remaining for the states' imperiled native fish species. The abundance of the area's bighorn sheep population has enabled the Game and Fish Department to transplant animals from Aravaipa to supplement bighorn populations elsewhere in Arizona.

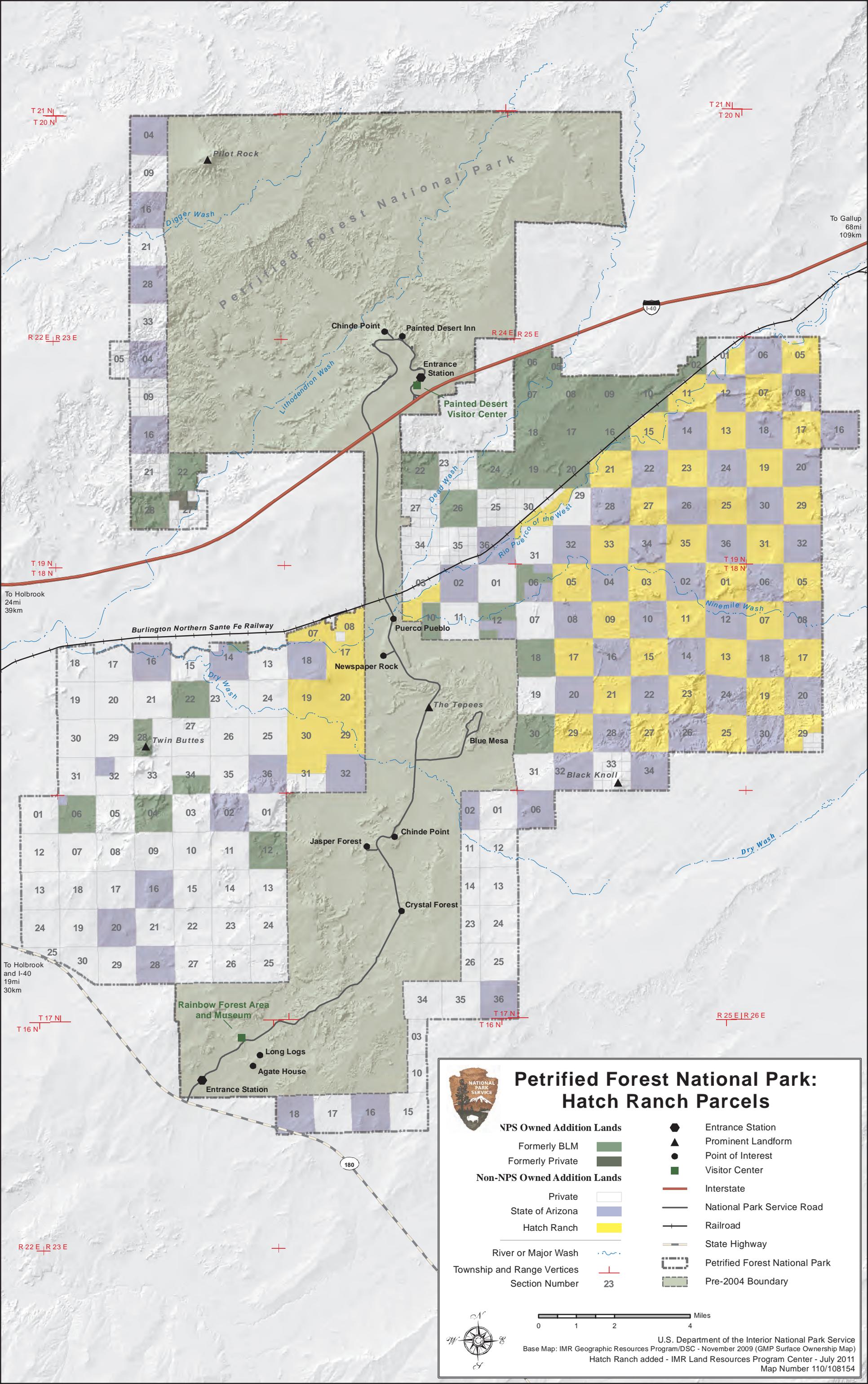
For over 30 years the Nature Conservancy, in cooperation with BLM, USFS, AZ State Land Department, and AZ Game and Fish Department, has been managing the Aravaipa tablelands and Muleshoe Ranch areas with prescribed and wildland fire. BLM's Muleshoe Ranch and Aravaipa Ecosystem Management Plans both include habitat management objectives that call for the continued use of prescribed and naturally-occurring fire. When USFS's Firescape planning is completed this management practice will be available throughout the Galiuros helping to ensure that the areas grasslands are not encroached by shrubs to the degree that would alter habitat for grassland species or movement corridors for wildlife such as bighorn sheep.

Existing transmission lines across the two-state area range in size from 46 kV to 500 kV. Direct and indirect effects will likely vary depending upon the size of the line, type of habitat the line traverses, soil types, and topography, among other things. However, the role of fire in managing grassland and forested habitats is rarely considered in the siting of transmission infrastructure. For example, BLM's DEIS for Sunzia addresses fire suppression concerns but omits mention of fire as a habitat management tool in the area.

Because of the significant liabilities transmission providers face if they incur outages due to vegetation management, placement of line across the Galiuro-Aravaipa-Santa Teresa area would severely limit, if not preclude entirely, the use of fire as a management tool to maintain sustainable wildlife populations. Along with fragmentation effects of transmission lines, the exclusion of fire from habitats historically maintained by fire will result in habitat loss for species dependent upon grassland and forested habitats. Moreover, limiting the use of fire as a management tool increases the chance of catastrophic wildfire in an area with few roads and limited access for fire suppression activities, which would introduce a constant threat for any new infrastructure. Use of fire is the only practical tool to manage habitat for an area of this size. It is the lack of extensive infrastructure in this area that has made habitat management using fire practical, something that has become increasingly difficult to accomplish elsewhere as urban, suburban, and exurban development encroach into prime wildlife habitat throughout the state's forests and grasslands.

Proposed Transmission Lines in Arizona and New Mexico in Some Phase of Planning

1. Navajo Transmission Project (500kV)
2. PNM Tap to Rio Puerco (345 kV)
3. PNM West Mesa to San Juan (345 kV)
4. Lucky Corridor (500 kV)
5. High Plains Express (500 kV)
6. Roosevelt to Curry (138 kV)
7. Sunzia SW (500 kV)
8. Southline Transmission Afton to Apache (345 kV)
9. TEP Greenlee to Springerville (345 kV)
10. TEP Vail to Winchester ((345 kV)
11. TEP Nogales to Gateway (345 kV)
12. TEP Nogales to Tortolita (345 kV)
13. TEP Nogales to Westwing (345 kV)
14. Palo Verde to Saguaro (500 kV)
15. Pinal Central to Pinal West (500 kV)
16. APS TS3 to Liberty (230 kV)
17. Morgan Sun Valley Project (500 kV)
18. Delaney to Sun Valley (500 kV)
19. Palo Verde Hub to North Gila (500 kV)
20. APS Mesquite Generating Station to North Gila (230 kV)



Petrified Forest National Park: Hatch Ranch Parcels

<p>NPS Owned Addition Lands</p> <ul style="list-style-type: none"> Formerly BLM Formerly Private <p>Non-NPS Owned Addition Lands</p> <ul style="list-style-type: none"> Private State of Arizona Hatch Ranch <p>River or Major Wash </p> <p>Township and Range Vertices </p> <p>Section Number 23</p>	<ul style="list-style-type: none"> Entrance Station Prominent Landform Point of Interest Visitor Center Interstate National Park Service Road Railroad State Highway Petrified Forest National Park Pre-2004 Boundary
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0 1 2 4 Miles

U.S. Department of the Interior National Park Service
 Base Map: IMR Geographic Resources Program/DSC - November 2009 (GMP Surface Ownership Map)
 Hatch Ranch added - IMR Land Resources Program Center - July 2011
 Map Number 110/108154