

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, December 7, 2012
Saturday, December 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 #1 dated December 5, 2012.

Chairman Freeman requested a moment of silence in honor of the following: Sgt. 1st Cass Ryan J. Savard who died October 13 in Khanabad District, Afghanistan; U.S Senator Arlen Specter, who died on October 14, 2012; Staff Sgt. Orion N. Sparks who died September 26 in Logar Province, Afghanistan; Border Patrol Agent Nicholas Ivie who was killed while he and two other agents responded to an alerted ground sensor outside Bisbee in a remote area frequented by cross-border drug smugglers; The National Fallen Firefighters Memorial Service; Cochise County Sheriff Larry Albert Dever who was killed in a car crash near the Town of Williams on September 18; Lt. Col. Christopher K. Raible and Sgt. Bradley W. Atwell who died September 15 while supporting combat operations in Helmand Province, Afghanistan; American personnel killed in the attack in Benghazi, Libya, including U.S. Ambassador John Christopher Stevens; and in remembrance of September 11, 2001 victims and their families, and for all the men and women of Arizona who have bravely served and continue to serve our Nation in the fight against terrorism.

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Awards and Recognition

On behalf of the Arizona Game Rangers Lodge, Stewart Kohnke presented the Commission, Director Voyles, and the Assistant Director of Field Operations Leonard Ordway with plaques in appreciation of their support and the Department's participation and contributions to the NAWEOA (North American Wildlife Enforcement Officers Association) Conference that was held in Tucson on July 23-28, 2012.

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1. Call to the Public

Coconino County Sheriff Bill Pribil addressed the Commission and briefed them on funding efforts for search and rescue operations. Each of the 15 County Sheriffs in Arizona are required by law to provide search and rescue operations for their counties. They are looking for funding sources and one concept is to sell search and rescue cards. The search and rescue cards would offer discounts to various businesses. Sheriff Pribil presented the idea to the Commission that possibly the Game and Fish Department could offer a bonus point for those who purchase a search and rescue card. The Department would also have a share in the proceeds for its contributions.

Director Voyles stated that he has had discussions with Sheriff Pribil about this concept. The Department will be bringing this back to the Commission and requesting that a member of the Commission be appointed to work with the Department on the concept presented.

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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). The briefing and discussion included the following:

Proposed Legislation for License Simplification & Fee Flexibility

Background – Developed out of Director’s Goals and Objectives (DGOs) #2 and #9:

DGO #2 (2011) - By December 2011, the Department will submit recommendations for securing additional revenue in existing funds. Recommendations will be developed using an analytical and business model approach.

DGO #9 (2011-12) - The Department will continue work to develop a new basic license structure that will be easier to understand and provide more value to traditional customers and establish a consistent definition for Youth.

New Combined DGO (Aug. 2012) - The Department will seek measures to provide the Commission authority and flexibility to fully implement a new basic license structure and associated fees (including license, tags and permits). The new structure will generate additional revenue in the Game and Fish Fund, be easier to understand, and provide more value to recruit and retain customers. The Department will:

- Draft legislation to authorize Commission to establish fees and license classes from Title 17 and 5 in Rule by December 8, 2012
- Draft proposed license structure and fees (license, tags, youth classes, etc.) by Feb 28, 2013
- Run and pass legislation by June 26, 2013
- Complete exempt rulemaking to establish new structure and fees by September 30, 2013
- Implement new license and fee structures on January 1, 2014.

Outreach on Proposed Legislation: Presented to 17 Sportsmen's Clubs, 9 remaining; 7 Regional Public Meetings; Webpage - Develop FAQs and Status; Brochure; E-news blast; Email account for comments.

Supported Concepts: Simplification of licensing structure; 365-Day licenses; Discounted licenses for youth; Recruitment / Retention; Commission accessibility as opposed to going to the Legislature; Flexibility; Bundled privileges.

Concerns:

- Checks and Balances - Safeguards to 3 votes controlling process (Require a Super Majority Vote); Future Commissions
- Transparency for decision making/raising fees - Public process for implementing decisions; Place cap on fee increase in Rule
- Stamps - Duck Stamp/Waterfowl Conservation Fund; (Line item appropriation dedicated from Department); 12A Stamp (Kaibab)

The Commission discussed the outreach efforts and public concerns.

Commissioner Husted stated that having a concern is not the same as being in opposition, just like each Commissioner may have comments or concerns about something but not necessarily be opposed.

Commissioner Harris stated that he heard about some concerns from the public regarding how this came about. He wanted to be clear that this started with the Commission wanting to look at simplifying the process and part of the discussion wasn't about raising fees but about lowering fees.

Chairman Freeman stated that he is in support of simplifying the process, but not necessarily in raising or lowering fees. He is a big supporter of trying to simplify the stamp part of licensing.

Commissioner Davis stated that the Commission wants to make it as simple as possible to get a license for whatever the resource interest might be and that the Commission's job is to help manage the entire ecosystem and all species. These are the two objectives that the Commission is trying to achieve and we are moving in that direction with a lot of public input.

Commissioner Davis noted for the record regarding revenue projections, that we don't know the revenue projections because we don't have the ability to do this yet. That will be Part B and that conversation would happen next with input from organizations and the general public.

Chairman Freeman stated for the record that he believes the Commission is not trying to raise fees or make things more expensive, but to make the process simpler and more beneficial and cost effective to the consumer. That's the goal, but if we do need to change fees we need some flexibility to do that. We are a self-funded agency and we have no safety net.

The Commission discussed the Rulemaking Options (below) as presented and was in consensus that Options 1 and 2 and was the way to proceed.

Rulemaking Options:

- 1) Temporary Fee Decrease/Promotion – Commission action at single meeting; Allows quick response to market conditions; short implementation
- 2) New Products/ New Fees/ Fee Increase – Minimum of 2 publicly noticed meetings; Required 30 day comment period; Estimate 6 months minimum to complete; File with SOS
- 3) Regular Rulemaking Process – Involves Department, GRRC and SOS; Mandatory public comment periods; Estimate 9 – 18 months to complete.

Mr. Guiles presented the following proposed legislation:

17-333. licenses; classes; fees

- A. THE COMMISSION SHALL PRESCRIBE BY RULE LICENSE CLASSIFICATIONS AND ESTABLISH FEES FOR LICENSES, PERMITS, TAGS, STAMPS AND APPLICATION FEES FOR THE PURPOSES OF THIS TITLE. RULES ESTABLISHING FEES ARE NOT SUBJECT TO SECTION 41-1052, SUBSECTION E.
- B. UPON RECOMMENDATION BY THE DIRECTOR, THE COMMISSION MAY TEMPORARILY REDUCE OR WAIVE ANY OR ALL LICENSE FEES REQUIRED BY THIS TITLE.
- C. AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE COMMISSION MAY PROMULGATE RULES FOR THE PURPOSES OF ESTABLISHING AND SELLING 2014 LICENSES, FEES FOR APPLICATIONS, LICENSES, PERMITS, TAGS AND STAMPS.
- D. ALL MONIES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE GAME AND FISH FUND.

Mr. Guiles stated that the Department's recommends that Title 5 be incorporated into the legislation. This would give the Commission flexibility to set the watercraft registration fees.

Public Comment

Bob Vahle, Board Member, Arizona Wildlife Federation (AWF), read a statement to the Commission from AWF. The statement expressed concerns about oversight, public process and potential fee increases, and offered the following recommendations: Clarify in the bill that the Commission will follow the rulemaking process to establish new fees and ensure that the process to change fees is transparent and engages the public; Ensure the current dedicated funds continue to be protected and utilized for their intended purposes (such as the current Duck Stamp); Cap the potential five-year aggregate fee increases; And require a Super Majority when voting on a fee increase.

The Department recommended that the Commission vote to direct the Department to move forward with the current draft legislation as provided and to incorporate Title 5 into the legislation. If approved to move forward the Department will bring back the legislation in its final form at the January Commission meeting.

Motion: Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO DIRECT THE DEPARTMENT TO MOVE FORWARD WITH THE DRAFT LEGISLATION AS PRESENTED AND TO INCORPORATE TITLE 5 INTO THE LEGISLATION.

Vote: Unanimous

Mr. Guiles provided the following summary of Congressional priorities for the Department:

- Continue to provide comment prior to introduction of Renewable Energy Legislation
- Continue to pursue GCNP Bison legislation
- Work with Congressman Gosar's office on potential House Natural Resources "Colorado River fact finding workshop"
- Engage and have as much contact with congressional staff as possible

Selection of Commission Legislative Representatives

Motion: Mansell moved and Freeman seconded THAT THE COMMISSION VOTE TO SELECT COMMISSIONERS HUSTED AND HARRIS AS THE COMMISSION LEGISLATIVE REPRESENTATIVES.

Vote: Unanimous

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Meeting recessed for a break at 9:34 a.m.

Meeting reconvened at 9:48 a.m.

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3. Commission Guidance on Federal Lands Travel Management

Presenter: Lawrence M. Riley, Assistant Director

Mr. Riley provided the Commission with a PowerPoint presentation as a follow-up to discussions from the November 2012 Commission Workshop and to further discuss Commission guidance regarding Federal Travel Management planning.

The Department continues to coordinate with Federal partners on Land Management and Travel Management planning efforts. Recently, the Department has submitted appeals on USFS travel management decisions on the Coconino and North Kaibab Ranger Districts. Public land managers have a responsibility to the people of Arizona to ensure continued opportunities for multiple-use recreational activities. Federal land management decisions are eliminating traditional opportunities for recreation including motorized big game retrieval (MBGR), off-road camping, and constituent access. The Department is concerned that the continual conversion of public lands from multiple use, including wildlife based recreation, results in the net loss of wildlife resources, wildlife related recreational opportunities, and economic benefit.

The Department strives to maintain the Commission's standing in all federal land management planning processes, including Travel Management. Maintaining the Commission's standing

includes carrying forward rational, mission-related issues, concerns, and opportunities associated with the federal decision. It is the responsibility of the Department to carry forward those unresolved issues in each level of the federal planning process so that the Department or the Commission may seek remedy under process or law when appropriate to do so. The Department seeks the engagement of constituents in federal land management representing their interests when in conformance with our statutory mission and encourages their direct engagement to advocate their own perspective. In all of this, the Department strives to balance the Commission's conservation mission with the Commission's recreation access desires.

Mr. Riley's presentation included the following re-cap of Commission discussion and guidance:

AZGFD Key Issues and Concerns

- Mission focused for wildlife and wildlife-associated recreation
- Maintain the Commission's standing on issues of importance
- Reasonable MBGR for lawfully taken big game - one trip in, one trip out, no resource damage
- Accommodate CHAMP hunters
- Reasonable and appropriately distributed disbursed camping sufficient to accommodate hunters in season
- Sufficient road access
- Decisions consistent with Commission/Department policies, plans, objectives, and prior decisions/direction

Directives Guide Decision Maker to:

- Consider damage to soil, watershed, vegetation and other forest resources
- Harassment of wildlife and disruption of habitat
- Conflicts among users
- Conflicts among different types of vehicles
- May include the limited use of motor vehicles for dispersed camping or big game retrieval (36 CFR 212.51(b))

Arizona TMP Status

- Prescott (in 1993 Land Management Plan)
- Kaibab
 - Williams – complete and in implementation
 - Tusayan – complete and in implementation
 - North Kaibab – APPEALING – Dec. 20
 - Coconino – APPEALED, No Resolution
- A-S – in development, draft expected in early 2013
- Coronado – in development, decisions will be by District, during 2013
- Tonto – in development
 - Payson and Pleasant Valley currently allow MBGR for bear, elk, mule deer. Other Districts do not.
 - Alternative 2 (under development) allows for elk and bear within 200 yards from road in all Districts

Commissioner Mansell commented that he hopes the Commission takes a strong stand on the Key Issues and Concerns as presented.

The Commission discussed and were passionate about keeping roads open and providing access for wildlife recreationists, and agreed that they need to develop a strong policy statement on this issue.

Director Voyles stated that the Department will begin developing a policy statement for the Commission and will also look at existing Commission policies.

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4. Wildlife 20/20 Strategic Plan

Presenter: Sherry Crouch, Funds and Planning Branch Chief

Ms. Crouch provided the Commission with a PowerPoint presentation on the Wildlife 20/20 Strategic Plan. The Department initiated the process of developing a new strategic plan in the spring of 2010. Employees, stakeholders and the public were surveyed to gather input for the basis of the strategic plan. Additionally, Department staff worked with Commissioners during Commission workshops to determine Commission direction in regards to wildlife conservation, and wildlife and outdoor recreation (shooting sports, watercraft and off-highway vehicles).

An initial draft of the plan was released on October 8, 2012 for public review and comments which resulted in twenty-one individuals providing comments. At the November 2, 2012 Commission workshop, Department staff shared these comments and recommended actions. On November 13, 2012, Department staff conducted an evening webcast regarding the strategic plan that encouraged additional comments from the public. Comments received were reviewed by the team and relevant modifications were made to the plan.

The final Wildlife 20/20 Strategic Plan has been presented to the Commission for approval. It is important to note that the Wildlife 20/20 Strategic Plan is a living plan with no set end date. It will be reviewed and modified, as needed with Commission approval no less than every three years. Wildlife 20/20 along with other plans, Director's Goals and Objectives and Department Dashboard, will guide development of operational and implementation plans. The operational and implementation plans will then be used as guidance during the development of the Department's budgets.

The following are highlights from the Wildlife 20/20 Strategic Plan presentation:

Revised Vision and Mission Statement

Vision: To be a national conservation leader supporting the continuation of the North American Model of Wildlife Conservation and Arizona's most trusted, respected and credible source for wildlife conservation products, services and information.

Mission: To conserve Arizona's diverse wildlife resources and manage for safe, compatible outdoor recreation opportunities for current and future generations.

Core Competencies of the Department

- Implement conservation actions for both habitat and wildlife populations
- Conduct biological and social inventories and research
- Promulgate management in support of the North American Model of Wildlife Conservation
- Enforce laws and regulations beyond the pavement
- Deploy products and services to diverse customers
- Partner across jurisdictions and other interests
- Inform and educate public regarding wildlife and recreation
- Understand and communicate with the public.

Department-Wide Goals

- Acquire and manage land and water for conservation and recreation
- Expand partnerships with business and industry to support conservation and recreation
- Develop and maintain technology and enterprise business systems
- Communicate the value of hunting, fishing, wildlife and other outdoor related recreation to state and local economies
- Provide information and education regarding wildlife and recreation
- Make science-informed decisions
- Provide law enforcement to enhance resource conservation and public safety.

Wildlife Conservation Goals

- Manage populations to provide diverse hunting, fishing, and other wildlife recreation or appreciation
- Ensure wildlife is abundant
- Conserve native wildlife diversity
- Manage human-wildlife conflicts
- Conserve habitat and water
- Retain the Department's wildlife management authority.

Game

- Implement comprehensive game management through landscape level planning
- This type of plan integrates game management into broader wildlife conservation. It is about interactions between and among multiple species (predator- prey interactions is an example), populations, and habitats.

Sport Fish

- Integrate multi-species watershed management plans. This type of plan moves the focus from single species towards interactions between and among species (non-native sport fish and native fish interactions is an example), populations, and habitats
- Balance sport fish recreation with maintaining native aquatic resources.

Nongame

- Increase support for a diversity of wildlife

- Manage rare species to maintain biological diversity and reduce unnecessary regulatory burden.

Recreation Goals

- Ensure reasonable public access
- Facilitate safe, ethical and responsible diverse recreation
- Increase public awareness of social, physical and economic benefits of wildlife and outdoor related recreation
- Ensure broad-based public input in developing and managing wildlife and outdoor-related recreation opportunities.

Wildlife Recreation

- Increase participation in hunting, fishing, and wildlife viewing
- Maintain or enhance opportunities to hunt and fish
- Expand wildlife viewing opportunities
- Increase public understands of hunting and fishing as wildlife management tools that support the North American Model of Wildlife Conservation.

Shooting Sports Recreation

- Demonstrate returns on investments, for Department actions and to benefit the state and local economies
- Meet customer needs and expectations
- Generate support for shooting sports.

Watercraft Recreation

- Meet future customer's registration and recreation needs
- Demonstrate returns on investments, for Department actions and to benefit the state and local economies.

Off-Highway Vehicle Recreation

- Minimize impacts to wildlife resources from OHV use
- Collaborate to enhance OHV recreation and access statewide.

The Commission discussed that the Strategic Plan was a living document, that it was well done, and that the Commission plans to review and discuss it again at the March Commission Workshop.

Commissioner Davis commented on the vision statement and recommended that it read: "To be "the" national conservation leader..." instead of "a" national conservation leader.

The Commission was in consensus.

Commissioner Davis further commented on the budget associated with the Strategic Plan and stated for the record that the Commission needs to look at that for discussion in the future and make sure the Department has the tools needed to accomplish the goals set in the Strategic Plan.

Chairman Freeman stated for the record that the Commission also needs to talk about succession planning and maintaining Department staff and not losing them.

Motion: Husted moved and Harris seconded THAT THE COMMISSION VOTE TO APPROVE THE WILDLIFE 20/20 STRATEGIC PLAN.

Vote: Unanimous

Director Voyles commented that the Department is already organizing the tiered goals that will drive every work unit towards the Strategic Plan, and that the outcomes of that process is something that the Department will be working on with the Commission to make sure that the work unit level goals that deploy the Strategic Plan are in step with the Vision statement.

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5. Commission Rules of Practice

Presenter: Ben Alteneder, Community and Congressional Relations

Mr. Alteneder presented the Commission with a revised draft of the Commission's Rules of Practice as discussed at the November 2, 2012 Commission Workshop (attached).

The Commission discussed and made one additional edit for clarification to the first paragraph to make it clear that policy direction will be set in a public meeting with a majority vote and not by any individual Commissioner.

Motion: Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO ADOPT THE REVISED COMMISSION RULES OF PRACTICE AS PRESENTED AND WITH THE ADDITIONAL EDIT AS DISCUSSED.

Vote: Unanimous

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7. Request for the Commission to Approve a Memorandum of Understanding with Bureau of Land Management (BLM) and Western Area Power Administration (Western)

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

Mr. Riley briefed the Commission on a Memorandum of Understanding (MOU) that would allow the Department to be a Cooperating Agency in the Development of the Southline Transmission Line Project Environmental Impact Statement (EIS). BLM and Western are leading the effort to develop an EIS for the Southline Project. The Southline Project consists of constructing, operating, and maintaining a high-voltage power line in two segments totaling approximately 360 miles. The first segment would be a new double circuit 345-kilovolt line from a substation in Afton, New Mexico (south of Las Cruces), to a substation in Apache, Arizona (south of Willcox). This 225-mile segment would provide up to 1,500 megawatts of capacity. The second segment would be an upgrading and rebuilding of about 130 miles of

existing transmission lines between the Apache substation and the Saguaro substation northwest of Tucson. It would provide capacity for an additional 1,000 megawatts of electricity. The Southline Project is solely an electric transmission project, and is not a power generation facility.

The Department requested to have Cooperating Agency status in the development of the EIS. The purposes of this MOU are:

- To designate Arizona Game and Fish Department as a Cooperating Agency in the EIS process
- To provide a framework for cooperation and coordination between the Lead Agencies and the Cooperator that will ensure successful completion of the EIS in a timely, efficient, and thorough manner
- To recognize that the BLM and Western are the Lead Agencies with responsibility for the completion of the EIS and the Records of Decision (ROD)
- To describe the respective responsibilities, jurisdictional authority, and expertise of each of the Parties in the EIS process.

The Commission was in consensus for the Department to place this item on the consent agenda for the January 2013 Commission meeting.

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8. Memorandum of Understanding with the U.S. Geological Survey, Southwest Region

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

Mr. Riley briefed the Commission on a Memorandum of Understanding (MOU) with the U. S. Geological Survey, Southwest Region (USGS-SWR) for the purpose of collaborative scientific research. The Department works with a variety of universities and agencies that provide specialized expertise and technical services that support the Department's mission and benefit Arizona's wildlife resources. This MOU would establish formal lines of communication and provide a legal and procedural framework for future collaboration with researchers at USGS-PSA. Researchers at USGS-PSA currently conduct research in Arizona and in the southwest U.S., which has relevance to wildlife management in Arizona, and they have recognized expertise in wildlife research, and therefore present a valuable research partner.

The Commission was in consensus for the Department to place this item on the consent agenda for the January 2013 Commission meeting.

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9. Request for the Commission to Approve a Memorandum of Understanding between the Arizona Game and Fish Commission and Conservation Science Partners

Presenter: Tim Wade, Wildlife Contracts Branch Chief

Mr. Wade briefed the Commission on a Memorandum of Understanding (MOU) between the Commission and Conservation Science Partners (CPS) to enter into mutual Collection Agreements to assist each other on various wildlife research projects. CPS was created to act as

an independent 501(c)(3) not-for-profit organization and pursue its mission to apply human ingenuity and knowledge to the preservation of species, populations, and ecosystems by using scientific principles, cutting-edge technology, and sustainable partnerships with conservation practitioners. CSP and the Department have mutual interests in preserving Arizona's diverse native fish and wildlife populations and the habitats upon which they depend. CSP has great flexibility in generating funds and directing resources at cooperative projects and focuses many of their efforts on establishing widespread support for wildlife conservation efforts among corporate and community leaders as well as the general public. CSP and the Department, particularly the Wildlife Contracts Branch, desire to work more closely for the common purpose of providing comprehensive wildlife research and conservation programs and maintaining and enhancing wildlife resources for the best interests of the citizens of Arizona.

The Commission was in consensus for the Department to place this item on the consent agenda for the January 2013 Commission meeting.

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10. Notice of Final Rulemaking and Economic Impact Statement for Rules Within Article 5, Addressing Boating and Water Sports

Presenter: Jennifer Stewart, Rules and Risk Branch Chief

Ms. Stewart provided a brief overview of the rulemaking process, followed by a presentation on a request by the Department for the Commission to approve the Notice of Final Rulemaking and Economic Impact Statement amending rules within Article 5 addressing boating and water sports. 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 nonsubstantive amendments made to ensure compliance with the Administrative Procedures Act, Secretary of State, and Governor's Regulatory Review Council, the Department proposed 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.

R12-4-522. 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.

The Commission approved the Notices of Docket Opening and Proposed Rulemaking at the September 2012 Commission Meeting. The notices were published in the *Arizona Administrative Register* on October 5, 2012. The rulemaking record was open for public comment from October 5 to November 5, 2012; one comment was received and is addressed in the final rulemaking. 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 the rulemaking to the Governor's Regulatory Review Council (G.R.R.C.) for review and placement on their G.R.R.C. April 2013 agenda.

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

Vote: Unanimous

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14A. Appointment of Commissioner Harris as the AZGFD Commission Liaison to the Santa Catalina Desert Big Horn Sheep Reintroduction Advisory Committee

Presenter: Raul Vega, Tucson Regional Supervisor

Mr. Vega briefed the Commission on the Santa Catalina Desert Bighorn Sheep reintroduction effort and related Advisory Committee process, and the Department's request for the Commission to appoint Commissioner John Harris as the Commission Liaison for the Advisory Committee.

The Santa Catalina Mountains located north of the Tucson metro area in Game Management Unit 33 are known for their rugged terrain and diverse wildlife populations. This mountain range, managed by the United States Forest Service Santa Catalina District within the Coronado National Forest, was occupied habitat for desert bighorn sheep. Evidence of this population has been documented as early as the mid-1800s and until they disappeared in the late 1990s. The exact cause of the population decline and disappearance is unknown; however, theories include brush invasion due to lack of fire increasing the opportunity for predation, disease and human encroachment. When the decline became apparent, the Forest instituted restrictions on trail users designed to reduce disturbance of the bighorn sheep, in particular for the identified lambing areas. Those restrictions remain in place today. In 1999 the Department discontinued surveys for bighorn sheep in the Santa Catalina Mountains. In 2002 and 2003 there were landscape level fires (Bullock and Aspen) which have reduced the brush vegetation component thought to be one of the factors resulting in the decline. Utilizing the Cunningham/Hansen habitat evaluations, it

has been determined that there is currently sufficient habitat available to support an estimated population of at least 108 bighorn sheep.

The Department has initiated work to reintroduce bighorn sheep into this area and plans to address all factors related to the potential success for this project. The Tucson area is a diverse and active environmentally conscience community and there are several local competing influences related to the Department's management practices. Of particular concern will be the management of predators pursuant to Commission Policy. In order to address the critical concerns of the community and seek other funding sources to carry out this project, the Department has elected to implement a new strategy for this particular reintroduction effort and formally involve and organize stakeholder participation through an Advisory Committee process. The goal is to identify critical issues associated with the management plan and to find creative solutions resulting in consent among the participants. With a well rounded plan in place, support will be maximized allowing for the development and implementation of the best management practices available.

The Advisory Committee will be composed of eight members: four from the sportsmen community and four selected by the Coalition for Sonoran Desert Protection. In November 2012 Advisory Committee members asked the Department to go to the Commission and seek appointment of Commissioner John Harris as the Liaison between the Commission and the Committee. The anticipated role for Commissioner Harris will involve providing input to the committee process regarding Commission policy, direction and views relevant to this project. Additionally, it is expected that the Department's Region V Office, in collaboration with Commissioner Harris, will keep the Commission briefed as to the progress of this project.

Motion: Husted moved and Davis seconded THAT THE COMMISSION VOTE TO APPOINT COMMISSIONER HARRIS TO BE THEIR LIAISON FOR THE SANTA CATALINA DESERT BIGHORN SHEEP REINTRODUCTION ADVISORY COMMITTEE AND PROVIDE THE NECESSARY INPUT INTO THAT PROCESS AS TO RELEVANT COMMISSION POLICY, DIRECTION AND VIEWS.

Vote: Unanimous

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17. Civil Settlement Agreement and Continuance of Rehearing Request

Presenter: Gene F. Elms, Law Enforcement Branch Chief

Mr. Elms briefed the Commission. Respondents Donald Mosley, Michael Mosley, Johnny Moran, Jr., and Ronald Lewis signed a Civil Settlement Agreement, which has been presented to the Commission for review and consideration. On August 23, 2011, Michael Mosley and Donald Mosley were convicted in the Hassayampa Justice Court for wasting game meat, littering while hunting, and exceeding the dove bag limit. Ronald Lewis and Johnny Moran, Jr. were convicted by the same court on February 19, 2012 for wasting game meat, littering while hunting, exceeding the dove bag limit, and no migratory bird stamp. On May 11, 2012, the Commission revoked their hunting, fishing, and trapping license for a period of five (5) years, invoked a \$2,700.00 civil assessment, and further required them to complete a Hunter Education

Course before obtaining any license(s) to take wildlife in the State of Arizona. All Respondents requested a rehearing under Arizona Commission Rule 12-4-607(D)(1-6).

Pursuant to Commission direction, the Attorney General's Office negotiated a proposed civil settlement agreement with the Respondents. In the event the Commission votes to approve the Civil Settlement Agreement, the Commission should also vote to vacate its Findings of Fact, Conclusions of Law and Order entered against Respondents on May 16, 2012, the order to vacate effective only upon receipt by the Department of Respondents' payment in full of the shared civil assessment of \$1700.00 for the loss of thirty-four (34) doves as called for in the Agreement. The Commission is also requested to vote to continue the Respondent's Motion for Rehearing.

The Respondents' four-year License Ineligibility Period commences upon the Director's signing the Agreement following Commission approval. Within the next 30 days, Respondents must pay the \$1700.00 civil assessment. Upon receipt of this payment, the Department will notify the Respondents that the Findings of Fact, Conclusions of Law and Commission Order are vacated. At that point, Respondents withdraw their Motion for Rehearing and the case will be concluded. In the event the Respondents fail to timely pay the \$1700.00 civil assessment, the Findings of Fact, Conclusions of Law and Order will not be vacated. In the event the Commission votes to disapprove the settlement, the Commission is requested to vote to continue the Respondent's Request for Rehearing to its next public meeting.

Motion: Davis moved and Harris seconded THAT THE COMMISSION VOTE TO APPROVE THE CIVIL SETTLEMENT AGREEMENT BETWEEN THE COMMISSION AND DONALD M. MOSLEY, MICHAEL D. MOSLEY, RONALD J. LEWIS, AND JOHNNY T. MORAN, JR.; AND FURTHER MOVE TO VACATE THE COMMISSION'S MAY 16, 2012 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ENTERED AGAINST DONALD M. MOSLEY, MICHAEL D. MOSLEY, RONALD J. LEWIS, AND JOHNNY T. MORAN, JR., BUT ONLY UPON RECEIPT BY THE ARIZONA GAME AND FISH DEPARTMENT OF RESPONDENTS' PAYMENT IN FULL OF A CIVIL ASSESSMENT OF \$1700.00 FOR THE LOSS OF THIRTY-FOUR (34) DOVES PURSUANT TO A.R.S. 17-314; AND FURTHER MOVE TO CONTINUE RESPONDENTS' MOTION FOR REHEARING.

Vote: Unanimous

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Meeting recessed for lunch at 11:38 a.m.

Meeting reconvened at 2:00 p.m.

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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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11. Call to the Public

There were no requests to speak at this time.

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13. Rehearing Request Regarding Previous License Revocation/Civil Assessment.

Presenter: Gene F. Elms, Law Enforcement Branch Chief

Mr. Elms briefed the Commission. Mr. Joe L. Machado, Attorney for Germane and Roman Lorta, requested a rehearing regarding the shared civil assessment of \$8,000.00 for one (1) trophy mule deer. During a regular hearing on October 8, 2010, the Arizona Game and Fish Commission revoked the license privileges of Roman and Germane Lorta to hunt, fish and trap for five years. They further imposed a civil assessment of \$8,000.00 for the loss of a trophy mule deer. On November 18, 2010, the Department received a rehearing request from the Lorta's attorney, Joe Machado. The rehearing request was scheduled and on January 19, 2011, the Commission voted to deny the request. In addition to the Commission hearings, the case was also going through the appeals process. On September 23, 2011, Machado filed a request for appeal in the case in the Superior Court and a trial *de novo* was granted on December 27, 2011. On March 16, 2012, the Superior Court dismissed all charges in the case. The court based the dismissal on the fact that the state failed to establish jurisdiction prior to resting its case.

Since the conviction had been overturned, the Department re-noticed Roman and Germane Lorta for a civil sanction hearing. On June 22, 2012, the Commission reviewed the case and voted to impose a civil assessment of \$8,000.00 for the loss of the trophy mule deer. Following that hearing, the Department received a request for rehearing. Attorney Joe Machado contends that without a criminal conviction, the Commission has no legal basis or authority to take action in this case.

Motion: Husted moved and Harris seconded THAT THE COMMISSION VOTE TO DENY THE REHEARING REQUEST FOR ROMAN AND GERMANE LORTA.

Vote: Unanimous

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14. Appeal of Wildlife Holding License Denial – Betsy Lagos

Presenter: Raul Vega, Region V Supervisor

Mr. Vega briefed the Commission on an appeal by Betsy Lagos regarding the Department's denial of her application for a Wildlife Holding License. The Department has denied the applicant's application, as provided in Arizona Game and Fish Commission Rules R12-4-423 and R12-4-402, specifically for the unlawful possession of restricted live wildlife (peregrine falcon).

Ms. Lagos has held a Wildlife Rehabilitation License since September 2009. It was under this license that she acquired an injured peregrine falcon on January 6, 2011. According to Ms. Lagos, a veterinarian attempted to repair the bird's wing, but the bird pulled the stabilizer off the pins and Ms. Lagos could not find a veterinarian to replace the stabilizer. The wing did not heal straight and this animal cannot fly, therefore it cannot be released. Commission Rule R12-4-423 (N) establishes possession limits for wildlife held for rehabilitation purposes, and the possession limit for birds is 180 days. This is consistent with federal regulations. Subsection N also requires a licensed wildlife rehabilitator to submit a written request to the Department to hold wildlife longer than the possession limit. Ms. Lagos did not submit a request to the Department to hold this animal beyond 180 days.

Commission Rule R12-4-423 (P) specifies that a Wildlife Rehabilitation License holder must apply for and obtain a Wildlife Holding License in order to permanently hold rehabilitated wildlife unsuitable for release. Ms. Lagos determined the peregrine falcon was not releasable, and therefore decided to keep it and began training it for educational purposes. It was not until January 3, 2012, one year later, that the Department received an application for a Wildlife Holding License for this bird. Commission Rule R12-4-423 (B) states that a wildlife rehabilitation license holder shall not display for educational purposes, exhibit, or permanently possess wildlife held under a rehabilitation license. Ms. Lagos began displaying the peregrine falcon in public settings while she held it unlawfully. The unlawful possession of this peregrine falcon without obtaining a Wildlife Holding License is a violation of R12-4-402 (A)(3).

Per R12-4-417 (C)(4), a wildlife holding license application for education must include a proposal describing the activity the applicant intends to perform under the license and how that activity will contribute to education. Ms. Lagos' applications indicate that she provides simple programs of little value beyond the novelty of presenting live animals. The Department has received complaints from audience members regarding Ms. Lagos' physical handling of the wildlife as well as the content of her presentation.

The Department received Ms. Lagos' application for a Wildlife Holding License and set up a time to conduct an inspection of the facilities. Once the inspection was complete, the Department issued Ms. Lagos a Wildlife Holding License for nine animals; denied four animals, including the peregrine falcon; and instructed Ms. Lagos to transfer to the Department another seven animals she was holding unlawfully. The Department informed Ms. Lagos that the denial could be appealed and gave her the option of having an Informal Settlement Conference (ISC). Ms. Lagos requested an ISC because she wanted to permanently hold three animals the Department had discovered during the inspection that she was holding unlawfully, which she had not requested on her Wildlife Holding License application, as well as the peregrine falcon. As a result of the ISC, the Department agreed to offer Ms. Lagos the opportunity to apply for and hold two of the four species in question because of the purpose for which she wanted to hold them (fostering). However, Ms. Lagos remained adamant that she wanted to hold the peregrine falcon, so she was given the option of appealing to the Commission.

Public Comment

Ms. Betsy Lagos addressed the Commission stating that she was unaware of the requirement to notify the Department of the peregrine falcon, but that she did notify the USFWS by email. She would like to keep the peregrine falcon as an educational animal, since it has been determined to

be calm and suitable for this purpose. Ms. Lagos requested to have the peregrine falcon returned to her for educational purposes.

The Commission encouraged Ms. Lagos to work closely in the future with the Department through Raul Vega in Region V, so that she could be in compliance with regulations and make sure that all the applications and paperwork are in order.

Motion: Harris moved and Husted seconded THAT THE COMMISSION VOTE TO DENY BETSY LAGOS' APPLICATION FOR AN ARIZONA WILDLIFE HOLDING LICENSE FOR THE PEREGRINE FALCON.

Vote: Unanimous

Public Comment

Amber Ray, Lead Handler, Pinal Wildlife Rescue, addressed the Commission on behalf of Ms. Lagos and stressed that the unlawful holding of the peregrine falcon was unintentional. The request for the return of this specific peregrine falcon is because he is so suitable for educational purposes.

Valerie Motyka, Volunteer, Pinal Wildlife Rescue, spoke on behalf of Ms. Logos. Ms. Motyka would like to see better communication and a closer working relationship with the Department so that all the paperwork can be in order.

Chairman Freeman encouraged Ms. Lagos again to work closely with the Regional Office to get everything in order, including the proper training, and apply again in the future.

The Commission was in consensus to stay with their motion and vote.

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Meeting recessed for a break at 3:09 p.m.

Meeting reconvened at 3:20 p.m.

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

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

Mr. Riley provided the Commission with a PowerPoint presentation and annual update on Mexican wolf management in Arizona. Arizona's intensive involvement in Mexican wolf conservation began in the mid-1980s, by exploring the feasibility of reintroduction in Arizona. It continues to date, with the Arizona Game and Fish Department (Department) a leader in a multi-agency reintroduction project in Arizona and striving to contribute to range-wide recovery. Department participation is and always has been subject to policy guidance from the Commission.

Current Commission guidance on Mexican wolf conservation stems largely from an October 10, 2008 briefing by the Department. After the presentation, the Commission gave detailed guidance

through 2013 and requested comprehensive annual updates from the Department over the same period. The 2009 update was given in public session on February 5, 2010. The December 4, 2010 update again focused on reintroduction in the Blue Range Wolf Recovery Area (BRWRA) of Arizona and New Mexico and on the Fort Apache Indian Reservation (FAIR). It also addressed reintroduction in Mexico and concerns the Department and Arizona stakeholders have expressed. The 2011 Briefing was provided to the Department in December of that year and resulted in specific guidance, which was supplemented in January of 2012.

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

Mr. Riley re-capped the Commission's policy guidance to the Department in his PowerPoint presentation, which included the following information:

Commission Guidance

1. Continue to provide leadership and assertively represent the interests of the Commission and the State of Arizona in all areas of Mexican wolf conservation.
2. Collaborate with the USFWS to complete a revised Mexican Wolf Recovery Plan that provides recovery context (i.e. achievable and legally-defensible population objectives adequate to justify and sustain delisting) for wolf conservation efforts in Arizona and elsewhere.
3. Renew the existing MOU (2003) among the Blue Range Wolf Recovery Area reintroduction project's signatory cooperators, to continue providing a foundation for collaborative adaptive management of the project.
4. Continue to commit funds sufficient to sustain all Department commitments under the renewed MOU.
5. Secure private and federal funding sufficient to provide incentives for and underwrite full participation in the renewed MOU by willing Native American Tribes within the existing experimental population area in Arizona, particularly the White Mountain Apache Tribe, which has demonstrated its substantial commitment to wolf conservation over these past several years.
6. Secure commitment of financial and other resources by the State of New Mexico that are sufficient to sustain New Mexico Department of Game and Fish commitments under the renewed MOU, such that State of Arizona and federal resources needed for wolf conservation efforts in Arizona are not directed to operations in New Mexico.

7. Pursue Congressional funding for an interdiction, incentives and compensation program that appropriately addresses the impacts of Mexican wolf reintroduction and recovery on the private sector and creates incentives for enhanced conservation and stewardship.
8. Productively engage public lands grazing permittees and private lands livestock operators in voluntary, incentives-based Mexican wolf conservation measures.
9. Continue, as incentives-based conservation measures are developed and deployed, to modify reintroduction project operating procedures and management efforts as necessary to:
 - ✓ Offset unlawful killing of Mexican wolves and enforce applicable laws.
 - ✓ Achieve the project's annual population objectives.
 - ✓ Increase genetic diversity of the wild population
 - ✓ Ensure that wolf conservation benefits accrued through the project are appropriately balanced by on-the-ground interdiction, incentive and compensation measures that offset impacts on the private sector.
10. Affirm that the following will be considered in reaching a Project decision regarding management response for the wolf or wolves under review:
 - ✓ Depredation and nuisance history.
 - ✓ Response to previous management actions.
 - ✓ Past, current, and likely future alpha status (including age and breeding potential).
 - ✓ Certainty of existence of dependent pup(s).
 - ✓ Effects of removal on pack continuity through the current and next breeding season.
 - ✓ Genetic lineage and inbreeding coefficient.
 - ✓ External factors contributing to most recent depredation incident(s).
 - ✓ Total number of permanent removals and unlawful killings within the Project area during the past 12 months.
 - ✓ Any other relevant factors or information.
11. Continue to ensure that, in accordance with reintroduction project operating procedures, responses to potential depredation incidents in Arizona are initiated within 24 hours of receiving such reports and that initial releases and planned translocations of Mexican wolves in Arizona are vetted with the public.
12. Collaborate with USFWS through the NEPA process (an EIS) to objectively evaluate the potential benefits and costs, in terms of wildlife and social capital, of any changes in the current nonessential experimental population boundaries, management guidelines, and population objectives for Mexican wolf reintroduction in the Southwest, and to bring recommendations on the draft EIS to the Commission for discussion and approval prior to submittal to the U.S. Fish and Wildlife Service.
13. Provide annual briefings on each of the preceding actions to the Commission through 2013, which would be the final year of the renewed MOU (of 2010).
14. Coordinate with USFWS and Mexico on wolf reintroduction in northern Mexico and obtain answers to 12 questions posed by the Commission in August 2009 (See December 2-3, 2011 minutes, item #9).

Commission Guidance added in December 2011 and January 2012

- Engage in Reintroduction Project (December 2011)
- Engage in Recovery Planning (December 2011)
- Pending New Recovery Plan, 10j Rule and EIS, limit releases to replacements
 - ✓ Unlawful take – Director’s discretion
 - ✓ Unnatural loss – Commission discretion

Public Comment

The following addressed the Commission in support of Mexican wolf reintroduction and recovery:

- Mike Sorum
- Thomas Hulen (submitted a speaker card in support, but did not speak)
- Stephanie Nichols-Young, Animal Defense League of Arizona
- Ramona Coyote (from Region I Office)
- Katia Tornemom (submitted a speaker card in support, but left the meeting – from Region II Office)
- Kay Bordwell, Member of Grand Canyon Wolf Recovery Program (from Region II Office)
- Emily Nelson, Grand Canyon Wolf Recovery Project (from Region V Office)
- Peter Ossorio (from Region V Office)
- Rita Gentry (from Region V Office)
- Roxanne George (from Region V Office)
- Michael Colbert (submitted a speaker card and comments in support but left the meeting - from Region V Office)
- Mary Ann Murphy, Wolf Haven International (from Region V Office)
- Greta Anderson, Western Watersheds Project (submitted speaker card, but left the meeting - from Region V Office)

Director Voyles suggested that the Department provide a presentation on the 10(j) rule and the nonessential experimental population boundaries. This would be helpful for the Commission and for the public.

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16. 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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19. Update on the Triangle Bar Acquisition and Discussion of Potential Alternatives

Presenters: Lawrence M. Riley, Assistant Director, Wildlife Management and
Lizette Morgan, Assistant Director, Business & Finance

Mr. Riley briefed the Commission on Triangle Bar Ranch. The Commission approved the acquisition of Triangle Bar Ranch in October of 2011. On November 20, 2012, the Department received approval from the Governor's Office to proceed with the acquisition. The property consists of 993.7 acres of deeded land and includes 1 well and 250 acre feet of surface water rights and a state grazing and agricultural lease for a total purchase price of \$5,182,540. There was no option to sever the leases from the base property per the desire of John and Mary Lou Smith. The ongoing cost of operations and maintenance for this property is estimated to be approximately \$18,500 in annual expenses associated with general repairs to the property and maintaining the Ranch Headquarters road. In addition, there are initial one-time expenses of \$60,000 to fence the riparian areas along the San Pedro River on both the ASARCO and Triangle Bar sides of the river and \$3,000 for initial signage. This does not include maintenance or replacement of existing fencing. Expenses associated with farming, grazing, and upkeep of the ranch manager dwelling, will be borne by the authorized manager of the grazing and agricultural leases.

The original funding was identified from multiple sources including Section 6 Recovery Land Acquisition Grants, Heritage acquisition funds and Natural Resource Damage Assessment (NRDA) funding. The Smiths have indicated that for tax purposes they would like to close escrow by the end of the calendar year. The availability of NRDA funds may be delayed and could compromise closing on the acquisition.

Options considered by the Department and submitted for Commission consideration are:

- To continue with acquisition as planned understanding the restrictions associated with using the NRDA funds for acquisition;
Pros – Would not require any additional investment of Department funds or further Commission action.
Cons – There is no guarantee that NRDA funds will come by the end of the calendar year jeopardizing the acquisition.
- Abandon the acquisition completely;
Pros – None
Cons – Property and water would not be acquired by the state, would relinquish the \$2,025,000 Section 6 grant, compromises management on the Commission owned ASARCO parcel to the north and south, loss of the investment in due diligence, jeopardizes the Department in lieu fee mitigation program, acquisition might be undertaken by some other organization.
- Use WCF funds for the allotment purchase.
Pros – Allows for the close of escrow before the calendar year end, could potentially be paid back in the future with NRDA funds if deemed acceptable to all parties.
Cons – Investment of additional Department funds into this acquisition and operation and maintenance.

Motion: Husted moved and Harris seconded THAT THE COMMISSION VOTE TO APPROVE THE EXPENDITURE OF \$509,000 FROM THE WILDLIFE CONSERVATION FUND TO COMPLETE THE PURCHASE OF THE TRIANGLE BAR RANCH PROPERTY.

Commissioner Harris stated that he wanted to make sure that the Department pursued the other funding sources after the process.

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

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18. Litigation Report

There were no additional updates and the Commission had no question

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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 recognized the following individuals for their dedication and commitment as Volunteer Master Hunter Education Instructors and for helping make the Arizona Hunter Education Program the success it is today. In appreciation for their service, each of the following Master Hunter Education Instructors was provided with a framed print that recognizes their tenure as a Volunteer Master Hunter Education Instructor:

- Blaine Bickford
- Bob Bonko
- Pat Headington
- Don Martin
- Ruben Conde
- Russ Jacoby
- Chris Kelliher
- Kevin Presmyk
- Hank Schucking

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1. Call to the Public

Barbara Joy addressed the Commission in support of the Mexican wolf reintroduction and recovery program. Ms. Joy expressed her disbelief that the Commission truly supports the program.

Daniel Sayre (from Region VI Office), thanked the Department for continuing to be engaged with the Mexican wolf program. Mr. Sayre questioned the genetic viability and survival of the wolves on the ground with few new releases, and recommended that the Commission do everything in their power to expedite the recovery plan.

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2. Consideration of Proposed Commission Orders 3, 4, and 26 for 2013 Hunting Season.

Presenter: Brian F. Wakeling, Game Branch Chief

Mr. Wakeling presented the Commission with Department recommendations for Commission Orders 3 (pronghorn antelope), 4 (elk), and 26 (population management) establishing seasons and season dates, bag and possession limits, permit numbers or authorized limits, and open areas for the respective 2013 fall hunting season. Mr. Wakeling provided a Power Point presentation that included charts and graphs of historical and current survey data, as well as weapon type data and fawn:doe and buck:doe ratios. A detailed description of all proposals was provided to the Commission prior to this meeting for review and consideration, and was available for public review at all Department offices.

Hunt structures and recommendations were formulated based on the two-year hunt guideline package approved in August 2011, as amended in December 2011. The following hunt recommendations for fall 2013 pronghorn antelope, elk, and population management seasons are based on the guidance provided by that document. Regions 1, 2, 3, and 6 held public meetings after analyzing current year survey data and prior to meeting with the Game Branch to discuss harvest recommendations. These meetings were held October 18, 2012. Zero to 8 people attended each meeting. At each of these meetings, Regional staff shared recommended management direction regarding harvest with those in attendance.

Each Region held an open house between November 30 and December 5, 2012 at which the public was provided the opportunity to ask specific questions about hunt recommendations for pronghorn, elk, or population management seasons from knowledgeable staff. The hunt recommendations were posted on the Department web site on November 23, 2012.

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

open area in the hunt area. Any permits allocated for Hopi tribal members that are not issued during the initial draw will be available to all hunters during the first-come process.

The following is specific information about pronghorn, elk, and population management seasons as presented to the Commission. The Commission was provided with details of the recommended permit numbers by unit for review and consideration.

Commission Order 3 – Pronghorn Antelope

Unit 19B is recommended to have a general season with 5 permits. The muzzleloader and archery seasons are recommended to be combined with Unit 17B for a single muzzleloader season with 6 permits and two archery seasons with 5 permits each.

General season permits are recommended to decrease by 3 from last year for a total of 414 permits. The archery-only pronghorn permit recommendation is 295 permits, which is a decrease of 12 permits from last year. Muzzleloader pronghorn seasons are recommended for 68 permits, an increase of 4 permits from last year. Hopi tribal members are recommended to be allocated 9 general permits, 2 archery-only permits, and no muzzleloader permits in Units 4A, 5A, and 5B. All hunts in Unit 5B are recommended to exclude Raymond Wildlife Area from the open area.

Pronghorn Permit Summary:

General	414 (- 3)
Increase in Units 3A, 4A, 4B, 6A, 9, and 10	
Decrease in Units 3C, 5A, 5B, 13A, 17A, 18B, 21 and 30A	
Muzzleloader	68 (+ 4)
Increase in Unit 8	
Archery	295 (- 12)
Increase in Unit 10	
Decrease in Units 5B, 15A, 15B, 18B, and 27	
Total	777 (- 11)

The general pronghorn hunt on Fort Huachuca in Unit 35A is recommended to continue with a single general permit; also recommended is a new archery season with 1 permit.

Mr. Wakeling briefed the Commission on a request by Commissioner Mansell to provide some additional archery opportunities in Unit 4A. The Department can accommodate this request by adding five archery permits in Unit 4A and decreasing one of the general permits in 4A, taking the general permits in that unit from 18 to 17. Archers would then be added five permits in that unit, with four of those going to the public hunter and one permit added to the Hopi hunt. The Department would also decrease the archery permits by five in Unit 4B, taking that unit to 15 archery permits, and increase the general permit in that unit by one, providing 26 general permits in Unit 4B.

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

THE AMENDMENT AS STATED BY MR. WAKELING TO PROVIDE ARCHERY PERMITS IN UNIT 4A.

Vote: Unanimous

Commission Order 4 – Elk

General season permits are recommended at 15,109 permits, an increase of 1,184 permits from last year (the change comprises an increase of 81 bull elk permits and an increase of 1,103 antlerless elk permits from last year). An additional 32 general bull and 14 general antlerless permits are recommended for allocation to Hopi tribal members in Units 4A, 5A, and 5B. The October 25-28 Unit 6A general bull hunt is recommended as Unit 6A.South and 6A West. The Department recommends adding a Unit 27 general antlerless hunt from October 25-31 for 200 permits.

Juniors-only general antlerless elk permit opportunities are recommended at 1,151 permits, an increase of 124 permits, and 9 permits are recommended to be allocated to Hopi tribal members in Unit 4A.

Archery-only elk permits are recommended to increase by 744 to 5,959 (the change comprises an increase of 764 bull elk permits and a decrease of 20 antlerless elk permits). Hopi tribal members are recommended to receive 26 archery-only bull and 4 archery-only antlerless permits in Units 4A, 5A, and 5B. Muzzleloader permits are recommended to decrease by 15 permits to 1,098 (the change comprises an increase of 5 bull elk permits and a decrease of 20 antlerless elk permits). Zero muzzleloader permits are recommended for Hopi tribal members since there are no muzzleloader hunts in Units 4A, 5A, or 5B. Recommended permits for the Units 3A/3C archery bull hunt is 150 (+25) not 175.

CHAMP hunts are recommended to continue in Units 1, 6A, and 10 and will provide CHAMP hunters with 45 any elk permits. The October 25-31 Unit 6A CHAMP any elk hunt is recommended as Unit 6A North.

Limited opportunity general hunts are recommended to decrease by 65 general permits to 1,717 and limited opportunity archery-only hunts are recommended to decrease by 115 permits to 160. Two new muzzleloader limited opportunity hunts are recommended in Unit 3B North with 15 permits each. Hopi tribal members are recommended to receive 63 antlerless general and 0 any general limited opportunity permits in Units 5A and 5B.

No changes were recommended to season dates for the nonpermit over-the-counter elk seasons; however, the area description for the Winslow-Holbrook Hunt Area is recommended for expansion.

All hunts in Unit 5B or 5BN are recommended to exclude Raymond Wildlife Area from the open area.

Elk Permit Summary:

General	15,109	(+ 1,184)
Juniors Only	1,151	(+ 124)
CHAMP	45	(+ 0)
Limited Opportunity (Gen)	1,717	(- 65)
Muzzleloader	1,098	(- 15)
Limited Opportunity (Muzz)	30	(+ 30)
Archery	5,959	(+ 744)
Limited Opportunity (Arch)	160	(- 115)
Total	25,269	(+ 1,887)

Public Comment

Randy Phillips, Arizona Bowhunters Association, addressed the Commission in support of the increase in archery elk tags.

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

Vote: Unanimous

Commission Order 26 – Population Management Seasons

Population management seasons are recommended for implementation in generally the same units, seasons, and permit levels as last year. "Designated elk," "designated buffalo," or "designated deer" is the legal wildlife in each of the population management seasons so that the Director may designate the desired legal animal for harvest when the permits are issued. Although the Department is recommending that the Commission authorize 1,525 deer (1,475 general and 50 archery only), 1,625 elk (1,045 general, 100 muzzleloader, 25 HAM, and 455 archery only), 770 javelina (360 general, 250 HAM, and 160 archery only), 170 buffalo (all general), and 122 bear (68 general, 26 HAM, and 28 archery only), these tags will not be issued unless approved by the Director following a determination from the population management hunt review and approval process. The Department recommends adding Unit 7 with 150 permits to the general elk PMH season structure.

Archery Turkey Companion Tag for Archery Elk hunts: As requested last year by Commissioner Harris, the Department is providing an alternate recommendation in units with a habitat score of A for turkeys that could be authorized in the following units allocated among bull and antlerless seasons, as well as any corresponding Hopi tribal hunts: Units 1, 2B, and 2C with 425 permits, 4A with 380 permits, 4B with 225 permits, 6A with 800 permits, 23 North with 15 permits and 23 South with 15 permits, and Unit 27 with 325 permits. Season dates are September 13–26, 2013. Another approach to providing archery elk hunters with a corresponding archery turkey hunt would be to await the April Commission meeting, at which time Commission Order 5 – turkey would be addressed, and simply extend the archery turkey season by a couple of weeks. This might increase hunter crowding perceptions during the archery elk hunt.

Population Management Hunt Summary:

- Population Management Seasons: January 1 – December 31, 2013
- Recommended for the same seasons and similar permit authorization levels as last year with a couple of exceptions:
 - ✓ General Elk – add Units 7 and 24A with 150 and 50 permits respectively
 - ✓ Archery Elk – add Unit 24A with 50 permits
 - ✓ Archery Javelina – add Unit 38M with 50 permits

Commissioner Husted questioned whether Units 1 and 27 could have a habitat score of A considering the Wallow Fire.

Public Comment

Randy Phillips commented in support of the companion turkey tag in Units 1 and 27. He doesn't believe there would be enough success to effect the wildlife population.

Motion: Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO APPROVE COMMISSION ORDER 26 – POPULATION MANAGEMENT SEASONS AS PROPOSED WITH THE ADDITION OF THE COMPANION TURKEY TAGS FOR ARCHERY ELK TAGS AS PRESENTED.

Vote: Unanimous

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3. Hunt Permit-Tag Application Schedule for 2013 Antelope and Elk Hunts

Presenter: Lizette Morgan, CFO, Business & Finance

Ms. Morgan provided a brief presentation relating to the hunt permit-tag application schedule for the 2013 Antelope and Elk hunt seasons. The application schedule identifies proposed acceptance dates and deadline dates for all hunts associated with the draw process. In addition, the proposed dates for when hunt permit-tags and refund warrants will be mailed are also identified, along with information relating to the first-come/first-serve process for any permits that may still be available.

Motion: Harris moved and Husted seconded THAT THE COMMISSION VOTE TO APPROVE THE APPLICATION SCHEDULE FOR THE 2013 ANTELOPE AN ELK HUNTS.

Vote: Unanimous

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Meeting recessed for a break at 9:16 a.m.
Meeting reconvened at 9:38 p.m.

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4. A Briefing on Rocky Mountain Bighorn Sheep Population Status, Influence of Wildlife-Vehicle Collisions on U.S. Highway 191 near Clifton-Morenci, and a Discussion about Possible Management Options.

Presenter: Brian F. Wakeling, Game Branch Chief

Mr. Wakeling briefed the Commission using a PowerPoint presentation that included charts and graphs, and provided current and historical data on actions undertaken regarding Rocky Mountain bighorn sheep management and wildlife-vehicle collisions along U.S. Highway 191 near Clifton-Morenci. These Rocky Mountain bighorn sheep inhabit the area surrounding the Freeport McMoran, Inc. Morenci mine near Clifton-Morenci in southeastern Arizona. This population arose from 1964 translocations by New Mexico, allowing for natural colonization in 1971, and subsequent translocations by the Department beginning in 1979. The habitat is bisected by U.S. Highway 191, and Morenci mine is situated in the middle of this area. A study conducted in the early 1990s noted that 35% (6 of 17) radiomarked bighorn sheep from both the Eagle Creek and San Francisco River drainages made use of the mine (Heffelfinger et al. 1995). The active portion of the Morenci mine has always been closed to public access and hunting, although they have provided access across their property to certain areas for hunting.

The Department began tabulating the frequency of bighorn sheep-vehicle collisions in 2001, and the average number of bighorn sheep mortalities between 2001 and 2007 was 17/year within an 8-mile stretch of U.S. Highway 191 (Wakeling et al. 2009). This evaluation concluded that most mortalities occurred during the hot, dry months (May through August) and occurred primarily between mileposts 168–171. Since 2001, about 180 bighorn sheep have been lost due to collisions with vehicles along this stretch of highway.

The bighorn sheep population near the Morenci mine has been productive, and the Department has used this population as a source for translocations. In 2002, 26 animals were relocated to Bear Canyon; a large proportion of this release returned to the capture location. In 2005 (32), 2006 (35), and 2007 (18), a total of 85 bighorn sheep were captured and relocated to West Clear Creek near Camp Verde. Although this population has successfully established, many bighorn sheep from these releases have also made wide ranging movements (McCall and Brown in press). In 2011, 8 bighorn sheep were relocated to Black River to supplement the known loss of rams following the Wallow Fire. Despite these relocations, the Department has detected very little change in annual mortalities associated with vehicle collisions through time.

A more detailed analysis of movements and crossings of U.S. Highway 191 by bighorn sheep was conducted using GPS radiotransmitters deployed in 2009 (Gagnon et al. in press). Based on this study, the Department believes using a combination of ungulate-proof fencing with electronic crosswalks may be the most effective way to reduce wildlife-vehicle collisions along this stretch of highway, similar to those implemented along SR 260 east of Payson. Implementation of such a solution has been hampered by conflicting jurisdictional responsibilities along U.S. Highway 191 right-of-way and cost.

The Department has had several meetings with the Arizona Department of Transportation, Freeport McMoran Mine, Inc., and the Arizona Desert Bighorn Sheep Society to discuss possible solutions. The next interagency meeting is currently scheduled for January 23, 2013 in Safford.

The Commission discussed that this herd would be prime for translocating some of the herd to another location for increased hunting opportunity, as well as looking at additional signage along the road to try and minimize vehicle collisions. The Commission also discussed potential cost and funding sources for fencing along the road or possibly putting in speed bumps.

Public Comment

Curt Steinke, Arizona Desert Bighorn Sheep Society (ADBSS), deferred to Chad Jones to speak for ADBSS.

Chad Jones, ADBSS, stated that fencing and other methods can be beneficial, but ADBSS would like to see expansion of sheep across the state, and this is the perfect herd to do that with.

Pete Cimellaro, ADBSS, strongly supports moving the sheep and suggested that another option is to look at targeting specific ewe groups; also suggested Southfork as a translocation destination.

David McCasland, former President of ADBSS agrees with the previous speakers; provided the Commission with report by Logan Simpson Design Inc. titled "Decision Matrix for Transplanting Rocky Mountain Bighorn Sheep in Arizona."

The Commission discussed the alternatives, possible partnerships and funding sources, as well as possibly doing a study to find out why the sheep are drawn to the Morenci Mine area.

Director Voyles clarified what he gathered from these discussions as Commission direction to the Department: To develop and integrate strategy that includes whole scale capture potential; analyze what creates the attractants to the mine; integrate a broad scale sheep management and transplantation program along with highway safety measures that are necessary; look at the partnership concepts and the potential to use Natural Resource Damage Assessments; look at the impact and how to retire the domestic sheep allotments near some of the potential translocation destinations; and bring this back to the Commission for consideration.

The Commission was in consensus.

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5. Briefing on Comprehensive Game Management Planning.

Presenter: Brian F. Wakeling, Game Branch Chief

Mr. Wakeling briefed the Commission using a PowerPoint presentation on the Comprehensive Game Management Planning Activities and Status. In March 2010, the Commission adopted goals and objectives for the Director that included development of a mountain lion management plan that would adopt a framework for a Comprehensive Game Management Plan. The Comprehensive Game Management Plan was shared conceptually with the public during a February 22, 2011 webcast public meeting held at the Phoenix office. Since that time, the Department has been working to develop an operational and implementation planning format that would nest within the Department's strategic plan and integrate geospatial planning components, building upon the Habimap framework. This briefing included the umbrella

comprehensive planning framework, the Management Focus Area planning concept developed for Game Management Unit 10, and the systematic approach planned for incorporating geospatial planning into this effort. The Commission was also briefed on the tradeoffs involved in the implementation prioritization that may influence other information systems activities.

Mr. Wakeling's presentation included the following priorities:

- To Be Built on the Enterprise Architecture
- Current "Big" Priorities
 - ✓ Enterprise Architecture Foundation
 - ✓ License Simplification
 - ✓ License Dealer Automation
 - ✓ GIS Program
- Addition of Comprehensive Game Management Planning to "Big" Priorities
 - ✓ Complete Detailed Requirements and Design
 - ✓ Preliminary Resource Estimate – One Person Year

Commissioner Davis requested that the Sportsman's Portal be listed also as one of the big priorities.

Information Systems Branch Chief Doug Cummings assisted Mr. Wakeling and participated in discussions with the Commission regarding the Enterprise Architecture and the Sportsman's Portal.

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6. 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. The following consent agenda items were presented for approval:

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. Nongame Subprogram Activities Briefing; August 1, 2012 through October 31, 2012

Presenter: Thomas Jones, Acting Nongame Branch Chief

The Commission was provided with a written briefing regarding activities under the Nongame Subprogram from August 1, 2012 through October 31, 2012. The briefing was placed on the consent agenda for approval or to be pulled from the consent agenda for questions and/or discussion.

f. Renewal of a Seasonal, Limited Access Road Closure on State Trust Land Approximately Twenty-five Miles South of Winslow, Arizona

Presenter: Mark Weise, Development Branch Chief

Jim O'Haco, owner of the O'Haco Cattle Company, requested the renewal of a seasonal closure to vehicular access on State Trust land located approximately twenty-five miles south of Winslow, Arizona. This seasonal closure was originally granted by the Arizona Game and Fish Commission, with concurrence from the Arizona State Land Department, in 1997. The purpose of this closure is to prevent habitat damage and erosion during wet periods (winter, spring and summer) from illegal cross-country vehicular travel. The requested dates of the limited access closure are from December 1 to August 15 annually, when access will be by verbal permission only. During the remainder of the year, between August 16 and November 30 annually, the gates remain unlocked.

The seasonal closure limits access to one section of State Trust land and surrounding privately owned sections. It is associated with the O'Haco Cattle Company's commitment to allow access through their private lands as part of the Hi-Point Well Water Distribution Cooperative Agreement, which was executed by the Department in 1996. There are six access roads to the O'Haco Cattle Company lands in this area: Five of these are on private lands, the other, the subject of this petition, is on State Trust land. All six access roads are managed in the same

manner with respect to seasonal public access or permission only access. Since it was first granted 15 years ago, this seasonal closure has been effective in protecting the natural resources and has had minimal effect on sportsmen or other legitimate users. Regional personnel and the Arizona State Land Department support renewal of this closure for natural resource protection.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE THE REQUEST TO RENEW A SEASONAL, LIMITED ACCESS ROAD CLOSURE ON STATE TRUST LAND LOCATED APPROXIMATELY TWENTY-FIVE MILES SOUTH OF WINSLOW.

g. 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

Gila River Lake, LLC (GRL) wishes to purchase approximately 18 acres of the 28.66 acre Commission owned Sovereign Lands, and mine it in conjunction with the rest of their neighboring property. When the mining operation is completed, they will restore all of the property (the newly acquired sovereign land and their 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 some sort of a fishery there.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE DISPOSAL OF A PORTION OF THE COMMISSION OWNED SOVEREIGN LANDS LOCATED ALONG THE GILA RIVER, AND TO AUTHORIZE THE DIRECTOR, AS SECRETARY TO THE COMMISSION, TO EXECUTE ALL DOCUMENTS ASSOCIATED WITH THE DISPOSAL, AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

h. 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: Lawrence M. Riley, Assistant Director

The purpose of this Memorandum of Understanding is to establish a framework for collaboration and cooperation between the Department and Great Basin Bird Observatory (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 Department recommends THAT THE COMMISSION VOTE TO APPROVE THE MEMORANDUM OF UNDERSTANDING WITH GREAT BASIN BIRD OBSERVATORY FOR THE PURPOSE OF FORMING A BASIS FOR COLLABORATION AND COOPERATION TO CONDUCT RESEARCH AND BETTER MANAGE BIRD SPECIES IN ARIZONA, AND TO AUTHORIZE THE DIRECTOR, AS SECRETARY TO THE COMMISSION, TO EXECUTE THE AGREEMENT AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL

j. Renewal of Memorandum of Understanding (MOU) with Coconino County to Maintain a Collaborative Relationship with the Coconino Rural Environment Corps (CREC)

Presenter: Craig McMullen, Flagstaff Regional Supervisor

The purpose of this MOU is to re-establish a collaborative working relationship between the Commission and Coconino County (on behalf of the CREC). The Commission is authorized to expend funds for the construction, operation, development, and rehabilitation of wildlife habitat, facilities, conducting management studies, and implementing programs to measure and improve habitat conditions and population status for all wildlife species in Arizona. The Department has a need for a labor force and/or intern program to support its normal wildlife and habitat management projects, property maintenance and light construction. CREC is a conservation corps providing youth and young adult workforce development opportunities and natural and cultural resource conservation services in collaboration with a wide variety of community partners since 1997. Through direct, hands-on service, CREC corps members implement projects for virtually all of Arizona's public land managers and conservation agencies. CREC has developed a program with a proven track record of meeting land management agencies' resource management needs in a cost effective, professional manner. Both the Department and CREC derive mutual benefit from the enhancement of environmental and recreational resources and opportunities on lands within the state of Arizona.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE THE MEMORANDUM OF UNDERSTANDING FOR COLLABORATION WITH THE COCONINO RURAL ENVIRONMENT CORPS.

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

Presenter: Lawrence M. Riley, Assistant Director

The Department strives to conserve habitats for sensitive species consistent with our 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 White Mountain Land Trust (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 a Memorandum of Understanding to establish a framework for collaboration on our mutual goals and objectives.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE THE MEMORANDUM OF UNDERSTANDING WITH THE WHITE MOUNTAIN LAND TRUST, AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

Motion: Husted moved and Davis seconded THAT THE COMMISSION VOTE TO APPROVE CONSENT AGENDA ITEMS A, B, C, E, F, G, H, J AND K (ITEM D WAS REMOVED FOR DISCUSSION AND THERE WAS NO ITEM I).

Vote: Unanimous

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.

The Commission requested this item to be pulled so that they could discuss Hidden Cove Lake with the Department.

Mr. Riley briefed the Commission. In late November, at the invitation of the City of Holbrook, Department staff along with Commissioners Freeman and Mansell met with the City of Holbrook Mayor and City staff to tour Hidden Cove Lake. There was considerable interest with both parties for a number of cooperative opportunities. This is a treated effluent detention basin and all of the effluent is stored and then can be used for irrigation, for production downstream, or directed to alternate detention ponds including ponds on the City's golf course. It is treated waste water, but the Department does have experience in managing such facilities for sportfishing opportunities. Other opportunities include waterfowl use and possibly hunting opportunities, as well as other wildlife and natural resource interpretation opportunities. Department staff has already started working on cooperative agreements with the City.

Mr. Riley provided an additional update regarding travel management and land management planning, which was included in the written update, as follows:

- The Department participated in an Appeal meeting with Kaibab National Forest Supervisor regarding their Travel Management Planning for North Kaibab Ranger District. It was a cordial meeting, but no changes to their decision will stem from that meeting. The Appeal is now with their Regional Review Team and the Department will be provided with feedback on the Appeal from the Regional Forester by approximately December 20
- The Department is preparing feedback to Prescott National Forest on their Land Management Plan

- The Department continues to work with Apache-Sitgreaves, Tonto, and Coronado National Forests on their Travel Management Plans.

The Commission discussed that they were pleasantly surprised about Hidden Cove Lake and recommended that the Department be on the lookout for other similar opportunities.

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7. Approval of Minutes and Signing of Minutes.

Motion: Harris moved and Davis seconded THAT THE COMMISSION VOTE TO APPROVE THE MINUTES FROM SEPTEMBER 7-8, 2012 AND NOVEMBER 2, 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

Future agenda items and action items were not re-capped at this meeting.

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16. (continued) 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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Motion: Mansell moved and Harris seconded THAT THE COMMISSION VOTE TO ADJOURN THIS MEETING.

Vote: Unanimous

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Meeting adjourned at 12:40 p.m.

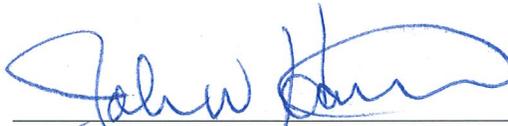
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Norman W. Freeman, Chairman



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
December 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 et al. v. United States Forest Service, CV-12-8176-PCT-SMM.* Plaintiffs filed an action in the U.S. District Court for Arizona on September 4, 2012. The lawsuit alleges the Forest Service is violating the Resource Conservation Recovery Act ("RCRA") by allowing the disposal of lead ammunition on the Kaibab National Forest, and the disposal results in significant harm to the California condors and other avian wildlife. Plaintiffs are seeking declaratory and injunctive relief requiring the Forest Service to abate the harm.

The Commission requested that the Attorney General file a limited motion to intervene for the sole purpose of filing a motion to dismiss on the grounds that the State of Arizona is a required party but joining the State is not feasible due to sovereign immunity and the case must be dismissed.

The National Rifle Association (NRA) and Safari Club International (SCI) filed motions to intervene on November 21, 2012. The Forest Service has been granted two extensions of time to file an answer to the Complaint or other responsive pleading. The new deadline for any filing is December 14, 2012.

2. *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".

3. *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 filed its answering brief on October 15, 2012, and the Reeds filed a reply brief on November 5, 2012.**

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 authorized the filing of an amicus curiae brief in support of New Mexico. **The Court granted the Commission's motion for leave to file an amicus brief and on September 19, 2012, the Commission filed its amicus brief. Plaintiff filed a response on October 9, 2012, and the Commission filed a reply on October 30, 2012.**

Lands Update
For the Arizona Game and Fish Commission
November 30, 2012
Phoenix, Arizona

U.S. FOREST SERVICE LAND AND TRAVEL MANAGEMENT PLANNING

General Planning Status – Please see attached work sheet.

Coconino National Forest

The Forest continues internal development of its Revised Land and Resource Management Plan (LRMP). Release of the Draft Environmental Impact Statement (EIS) is expected in early 2013.

The Forest is in the implementation phase of its Travel Management Plan (TMP).

Coronado National Forest

The Forest's LRMP internal working draft is in review at the Regional Office in Albuquerque. The Draft EIS 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 Draft EIS when it is released.

The TMP is currently in the scoping phase of NEPA. The Department submitted comment letters on all five ranger districts. The Department also participated on the Collaborative Alternative Team (CAT) which finished in October. The CAT's purpose is to produce an alternative to the Forest's Proposed Action. The Forest will issue Draft EIS for each District. The projected date for the issuance of Draft EIS's 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 Forest continues to work toward release of a Final EIS for its LRMP. Preliminary indications are for a release in early 2013.

The North Kaibab Ranger District released its Record of Decision for their TMP, and the Department subsequently appealed the Forest's Decision (see attached appeal). The appeal addressed two main issues: 1) the omission of motorized deer retrieval, and 2) the inadequate provision of dispersed camping in the pinyon-juniper habitats. The Department subsequently met with the Forest Supervisor and Appeals Officer to informally discuss our appeal. The Regional Forester will provide findings on our appeal to the Department on December 20, 2012. Future Department courses of action will be assessed based upon the Regional Forester's decision.

Tusayan and Williams Ranger Districts are already in the implementation phase of their Travel Management Plans.

Prescott National Forest

Draft EIS and Land and Resource Management Plan (LRMP) Review

In May of 2011, the Department compiled and submitted comments on behalf of Region's 2, 3 and 6 regarding Draft IV of the Forest's LRMP.

In August of 2012, a Notice of Availability was published in the Federal Register by the EPA, initiating a 90 day public review and comment period for the following two documents:

1. Draft Environmental Impact Statement (DEIS) for the Prescott National Forest Land and Resource Management Plan
2. Draft V LRMP for the Prescott National Forest

The Department has coordinated the development of a formal comment letter submitted to the Forest on Nov. 28, 2012. (see attached)

Strategic Action Planning Committee for Forest Conservation and Restoration

The Department continues to participate in this concurrent planning effort with the Forest. The goal of this committee is to produce implementation plans for the new Forest LRMP that will prioritize funding, NEPA support, and implementation measures relating to cooperative, interagency restoration or conservation actions.

Tonto National Forest

The Forest LRMP has been under internal revision and is anticipated to be out for scoping by 2014 with a 4-6 year timeline for the final LRMP and EIS. The TMP has not been issued a final decision at this time. A recent leadership coordination meeting (mini) included some further insight into the processes. The Forest is currently determining the need for elevation of the NEPA process (from EA to EIS) for the TMP that would allow for the further coordination and potential for additional alternatives to be developed. The LRMP will take on a more collaborative approach, beginning with a workshop to define partner roles and responsibilities, etc. The intent is to have Department involvement early and throughout the process.

U.S. FOREST SERVICE - General

Four Forests Restoration Initiative (4FRI)

4FRI is a federally-funded, U.S. 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 to early 2013.

Apache-Sitgreaves National Forests (A-S)

Annual Coordination Meeting

The Department held its annual coordination meeting with the Forest at Sipe White Mountain Wildlife Area on September 12 and 13. Topics of discussion included project planning and implementation, personnel and budget, Wallow Fire, unauthorized livestock, and nuisance bears at campgrounds.

Rim Lakes Forest Restoration Project Draft Environmental Impact Statement (EIS)

The Department provided written comment on the Draft EIS for the Rim Lakes Forest Restoration Project dated September, 2012. The Draft EIS disclosed the effects of a proposal to treat vegetation in a 33,500-acre project area on the Black Mesa Ranger District within the Forest. Two action alternatives (alternative B and alternative C) were analyzed along with the no action alternative (alternative A). The proposed action (alternative B) would selectively cut trees and then broadcast burn on approximately 23,615 acres. Alternative C is identical to alternative B in location and treatment, except that alternative C includes a diameter size limit so that only trees less than 16 inches diameter at breast height (dbh) would be included in the cutting and removal.

The Department expressed its support for forest restoration projects that emphasize the removal of small-diameter ponderosa pine trees, which have grown over the past century to unsustainable densities, resulting not only in a profound risk of catastrophic wildfire, but also in significantly degraded wildlife habitats. The Department's comment letter further stated that it does not support project-wide caps or limits on the diameter of trees to be cut, because it recognizes that there are instances where young large trees need to be cut in order to achieve restoration objectives. The Department concluded that alternative C, with a 16 inch dbh cutting limit, would restrict the ability of the Forest to more fully restore important wildlife habitats within the project area.

Coconino National Forest

Flagstaff Watershed Protection Project

The voters within the City of Flagstaff recently approved local Proposition 405, which creates a Forest Bond that generates \$10 Million to reduce fire risk on Coconino National Forest and State lands in the watershed immediately above the city (called the Dry Lake Hills) and on Mormon Mountain (which feeds into the municipal watershed). Immediately upon voter approval, the Forest began pre-NEPA planning for the Flagstaff Watershed Protection Project, which is expected to be an Environmental Assessment. The Forest has invited the Department to participate on the Interdisciplinary Team (IDT) for this project. The Department will also work on this project with the Greater Flagstaff Forest Partnership (GFFP) a community-based collaborative group that has supported forest restoration work in the Flagstaff Wildland-Urban Interface since the 1990s. The Flagstaff Watershed Project is important for protecting the city watershed; but is complicated by steep terrain that will require impactful methods that have not been used in this region for a long time, sensitive wildlife issues, and treatment within mixed conifer habitats where there is little in the way of restoration science upon which to base desired conditions.

Coronado National Forest

Rose Canyon Lake Trout Stocking Meeting

The Department met with the Forest on the Catalina Ranger District and private contractors to discuss the final installation of a trout stocking tube at Rose Canyon Lake and the repair of the service road used to access the stocking tube. Trout stocking has become troublesome as the condition of the road deteriorated. The project has been fully funded by the Forest and when completed will greatly increase the safety of Department employees while stocking trout at the lake.

Proposed Rosemont Copper Project

The Coronado National Forest planned to release the Rosemont Copper Project Final Environmental Impact Statement (FEIS) for public review in December, 2012. However, additional work must be completed before the Record of Decision is issued. A release date has not been given.

The additional work includes: consultation with the U.S. Fish and Wildlife Service; consultation with tribes and the State Historic Preservation Office; Army Corps of Engineers permit coordination; updating of air quality models; additional transportation analysis; integration of updated lighting mitigation plans; evaluation of socioeconomic impacts to the astronomy industry in southern Arizona; and consultation with the Forest Service Southwestern Regional Office.

In the process to refine project alternatives and mitigate impacts, the Forest requested Rosemont reconsider various aspects of their operations. This request was based, in part, on several of the more than 25,000 comments received on the October, 2011 Draft EIS. Rosemont's August 2012 Feasibility Update Report reflects environmental and operational refinements, such as addressing groundwater quality concerns and improvement of storm water management for the benefit of downstream resources. New information resulting from Rosemont's Feasibility Update Report will be reviewed and considered as the CNF continues its ongoing analysis.

The Department has set a date of November 30 to meet with the Forest to further discuss opportunities to offset impacts to wildlife resources and wildlife-related recreation.

Kaibab National Forest

Bill Williams Mountain Restoration Project

The Forest released its Draft EIS for the Bill Williams Mountain Restoration Project on the Williams Ranger District. The Bill Williams Project proposes mechanical treatments and prescribed burning on approximately 15,200 acres of ponderosa pine and mixed conifer habitats 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 complicated by steep 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. The Department is working with the Forest and US Fish and Wildlife Service 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.

North Kaibab Westside

The Department and the North Kaibab Ranger District (NKR D) recently met in the field to discuss the growing problem of cheatgrass on the west side of the Kaibab Plateau. Cheatgrass and other invasive annuals have become widely established on the Kaibab Plateau and adjacent areas, reducing habitat quality for mule deer and other wildlife, decreasing forage for domestic livestock, and setting the stage for unnatural, high-frequency fires which will cause further ecosystem degradation. In response, managers have applied a variety of treatments, including “hands-off” management with hopes that native plants will eventually prevail, herbicide application, and the Department’s engagement in seeding of native grasses and shrubs. Results to date have not met expectations. New approaches are needed, particularly a means for breaking up continuity of fuels at a landscape-scale, and limiting fire spread when ignitions occur. Another high priority is development of treatments to provide wildlife forage and habitat value on previously-burned areas dominated by invasives. These discussions will continue, and the Department will work with the Forest and other partners to address this issue.

Tusayan Detention Pond

The Tusayan Ranger District proposes to construct 8 detention basins on the east side of Tusayan, in order to slow flooding into town. The basins will be located in the northeast and southeast sub watersheds. The basins would be designed to detain approx 20 acre-feet of water, and each basin would be 4 feet deep by 160 ft wide by 160 ft long. The basins will not be designed to hold water for any length of time, instead to slow the flow of water into town. The disturbance footprint would be approximately 1 acre. The Department is assessing the risk of illegal bait bucket dumping into these new water basins and the impacts of such actions in the watershed directly upstream from the Little Colorado River where humpback chub occur. The Department will address these concerns, and any others, in the comment letter due Nov 26.

Tonto National Forest

Superior Abandoned Mine Remediation Project

The Forest recently proposed an abandoned mine remediation project near Superior for recommended closure by various methods for several mine openings. The Department provided review and comment with a formal letter, due to some key concerns both on the report issued by BCI and inconsistency with the methods for closure and interpretation of the report’s recommendations.

BUREAU OF LAND MANAGEMENT (BLM)

Grand Canyon-Parashant National Monument

In partnership with the Department, the Grand Canyon-Parashant National Monument recently approved a Categorical Exclusion for a Merriam’s turkey augmentation project in the areas of Mount Logan and Oak Grove. The project will augment the existing small populations of turkey on the Monument, with the release of up to 75 turkeys between November 2012 and October

2017. Release operations would be conducted by AGFD and BLM. Post-release monitoring will occur.

Kingman Field Office

The Department has been cooperating with BLM to carry out Fall Rangeland Monitoring on the following grazing allotments: Big Sandy Herd Management Area, GMU 16A; Music Mountain Allotment, GMU 15B; Hualapai Peak Allotment, GMU 16A; Black Mesa & Gibson Allotments, GMU 15D; Crozier Canyon Allotment, GMU 18A; Santa Maria Ranch, GMU 16A; Burro Creek Allotment, GMU 18B; and La Cienega Allotment, Use-pattern mapping and upland health monitoring on the Big Ranch, and Gold Basin Allotments, GMU's 15A and 15BW.

Lake Havasu Field Office

The Department partnered with Lake Havasu Field Office on route evaluations during the week of November 5 - 9. This week's focus was on routes in the Bouse Travel Management Area. The results from this effort will be used in the development of Travel Management Plans, proposed alternatives, and a proposed decision with NEPA compliance.

Yuma Field Office

The Department met with Yuma Field Office to discuss partnering on a pilot project to determine feasibility of creating mesquite bosques on BLM land. BLM agreed to partner with the Department on this habitat quality improvement project.

DEPARTMENT OF DEFENSE

The Department continues coordination with the Arizona Army National Guard for an upcoming meeting to provide introductions, roles and responsibilities and identification of collaborative project opportunities/trainings.

NATIONAL PARK

Petrified Forest National Park (PFNP)

In August, the Department, in coordination with the PFNP, had sent letters to successful pronghorn antelope hunt applicants in 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. To date, neither the Department, nor the PFNP, have received any feedback from hunters. The PFNP has put out notices at all locations where roads enter the former Hatch Ranch, and have patrolled those areas irregularly.

GENERAL UPDATES

Arizona State Land Department (ASLD)

The Department met with the ASLD and Graham County Board of Supervisors (County) to review options for maintenance of the Lebanon Road south of Safford in order to work on the

Lebanon Reservoir dam and irrigation ditch. The Department has a share of the water stored in Lebanon Reservoir and the ditch supplies some water to Roper Lake.

The County has maintained the road for the past 55 years, but recently the ASLD informed the county that they would have to purchase a right-of-way or easement to maintain the road. The land was originally in BLM ownership prior to a land exchange in 1969 when it became State Trust land. The BLM authorized the current ditch system and provided public access through the ditch system, but apparently road access was not included in the land transfer. Depending on the easement type, ASLD estimated the costs between \$5,000 and \$12,000. The Department provided the County the option of applying for a Heritage Grant to purchase the easement and gave them details on the possibility to declare the road a county right-of-way using the RS2477 option (the reservoir was there before statehood). The ASLD mentioned that if they received an application for easement, they would grant an interim right-of-entry for the road work. The County has not yet informed the Department on their progress.

Bureau of Reclamation/Army Corps of Engineers/U.S. Fish and Wildlife Service.

The Bureau of Reclamation, Army Corps of Engineers, U.S. Fish and Wildlife Service and the Department met to discuss improving coordination of 404 permitting on the Colorado River and on determining a course of action on unpermitted docks. All agencies agreed to commit to establishing better and timely coordination.

Coconino County

Coconino County (County) Planning and Zoning recently requested the Department's review of the United Christian Youth Camp (UCYC) 'Wood Springs Ranch' proposal for a large outdoor church camp (max capacity 1400 campers) proposed for a 66-acre parcel near the Fox Ranch Road exit on the east side of Interstate 17 south of Flagstaff. The Department provided an objective analysis of impacts to wildlife based on best available information, and did not take a formal Department position, but rather deferred decision authority to the County. Based in large part on natural resource issues and project size the County Planning and Zoning Commission unanimously denied the UCYC proposal in August. UCYC formally appealed this decision, and the appeal was heard by the County Board of Supervisors on November 13. The Board remanded the case back to the County Planning and Zoning Commission due to some significant changes that UCYC has made to their project design. Based on these changes, the Commission will re-hear this case at some point likely in early 2013. The county has requested the Department's continued involvement in project review.

City of Holbrook

Department representatives met with the City of Holbrook in November 2012 to discuss potential opportunities for collaborative management of hidden cove.

Wildlife Areas

Cabeza Prieta National Wildlife Refuge (NWR)

There is a planned release of 22 Sonoran pronghorn from the pens in Cabeza Prieta NWR. Animals will be released on West Barry M. Goldwater Range, Organ Pipe National Monument and Kofa National Wildlife Refuge. The plan is to release 2 does and 6 bucks into King Valley

on Kofa after two months in habituation pens. This will be the first time there will be pronghorn in the King Valley since the early 1900's.

Horseshoe Ranch

The Department continues to assess the water rights associated with the ranch and allotments and has developed a detailed report that includes recommendations. Vegetation planning for the pond is still in the preliminary stages of development. We also continue to work with John Holbrook and NRCS for opportunities for collaborative projects on the allotments and the ranch. We are in the process of compiling grass cropping field trip notes and related research to present for consideration in management plan decisions for irrigated crop lands on the ranch. We continue working with TNC to organize a consulting meeting with external experts at the ranch.

Coordinated Resource Management Plans (CRMP)

Three Brothers Ranch

Range inventory has begun on this ranch in GMU 30B. The Department spent one day in the field helping NRCS range staff collect data.

Rancho Seco

Final revisions of the Rancho Seco CRMP, led by Pima County, were made and the plan was signed by the Department.

Horseshoe

The Department continues to coordinate and participate on the CRMP for the Horseshoe and Copper Creek Allotments. Information is provided to the public via an updated web-site and the agencies are utilizing the services of a facilitation group. Progress continues as the group is winding up the completion of shared goals and objectives. Parallel to the administrative processes, field work has been conducted utilizing a new range and upland evaluation technique piloted by the BLM Assessment Inventory Monitoring Strategy (AIMS) for integrated renewable resources management. This work has been completed over the summer. Riparian monitoring is being scheduled, as well as an opportunity to initiate implementation of the Department's statewide fisheries management assessment tool on the allotment watershed. The sub-team for the fisheries assessment has met for the initial kick off and is currently gathering data. The desire to ensure the federal agencies can utilize the CRMP process as their NEPA for formal decision and implementation has affected the timelines somewhat, but will greatly enhance the ability to conduct management actions under one NEPA umbrella at process completion. The anticipated plan document completion will be in 2013.

Natural Resource Conservation Service (NRCS)

The Department made a visit to the Douglas field office to work on communication and understanding of partner biologist position.

The Department coordinated with Willcox field office to get in touch with a private landowner that is interested in introducing prairie dogs on his property. Site visits will be scheduled in the near future.

Natural Resources Conservation Districts (NRCs)

The Department attended a special joint meeting of the Reddington and Winkleman NRCs. The purpose of the meeting was to discuss the National Wildlife Refuge proposed by the U.S. Fish and Wildlife Service for the San Pedro area. As requested, the Department discussed the NRCS Working Lands for Wildlife initiative.

Becker Lake Creel Survey

The Department is completing a year-long angler creel survey at Becker Lake in Apache County to monitor this catch-and-release trophy trout fishery. The regulations at Becker Lake were changed in 2011 to artificial lure and fly only with single barbless hook and catch-and-release to help reach management objectives set for this lake. The main goal for the lake was to provide a fishery where anglers could catch a large trout (>18") on a regular basis, an angler demand that was not previously being met in that Region.

Based on preliminary analysis of the creel to date, management objectives were met at Becker Lake for the first time since they were set in 2005. The objective to improve the stock density of trout greater than 14" to 40% and trout greater than 18" to 10% were met, improving to 95% and 55%, respectively. The objective to increase angler satisfaction in ratings of good or excellent to 50% was met, improving to 50% in 2012. The objective to increase angler use to 15,000 angler hours per year was met, improving to 16,200 angler hours so far in 2012. The objective for catch rates to be 0.50 fish/hour in the summer and average 0.75 fish/hour year-around was mostly met, with catch rates in the summer improving to 0.77 fish/hour and year around catch rates at 0.69 fish/hour.

Site host volunteers at Becker Lake in 2011 and 2012 have helped provide information on the new regulations, give advice on angling tips, pick up trash, conduct creel surveys, report violations, and generally watch over the area. Facility improvements have been planned and will be implemented as funding becomes available. Overall, the fishery has become a success and anglers are enjoying catching the large and feisty trout at Becker Lake.

Roundtail Chub

The Department collected roundtail chub from Chevelon Creek, Coconino County, on October 4 and 11 in an effort to develop a brood stock of this species from the Little Colorado River (LCR) watershed. Roundtail chub have nearly disappeared from the LCR and are currently found in only a handful of locations. The species, as a whole, is also on the verge of being listed on the Endangered Species List. A brood stock is being developed to propagate large numbers of offspring with which to establish new populations of roundtail chub in the LCR. Only 3 roundtail were collected on October 4, but 42 were collected on October 11, including a number of large healthy adults. All were taken to Bubbling Ponds Hatchery where they are currently undergoing parasite and disease quarantine treatments. Plans are currently being developed to identify reintroduction sites and long-term management of the LCR brood stock. This project will help to prevent a Federal listing of the species, and will also help meet major CAMP measures.

Wallow Fire Aspen Monitoring

On September 10 and 11, the Department conducted the first fall monitoring of aspen regeneration and recruitment, at approximately 192 sites within the Wallow Fire burned area. Recruitment of aspen was generally good to excellent. Use on some aspen by ungulates was

documented, as well as a few locations where the aspen disease, Shepard's Crook, was present. Leaf damage from past hail storms was also noted. This monitoring effort is projected for a five year period ending in the fall of 2016. Growth on aspen varied from 2-3' on drier exposed sites to over 7' in the more mesic protected sites. There is still a lot of salvage and hazard tree removal occurring and this activity is having an impact on aspen recruitment. The effects from these activities range from destruction of current recruitment to soil disturbances stimulating more aspen recruitment. Overall, the aspen recruitment and regrowth is out-pacing use and management activities and shows a positive recruitment potential.

Yavapai Ranch Planned Area Development (History and Department Involvement):

- Yavapai Ranch (Ranch) had an approved Development Agreement from the year 2000 permitting construction of approximately 25,000 homes on the 51,000 acres of deeded land interspersed in a checkerboard fashion within Prescott National Forest Lands (Forest).
- In August, the Ranch submitted a Planned Area Development (PAD) proposal to Yavapai County (County) to replace the 2000 Agreement. At the same time, they requested a variance from the County that would allow them to forego developing Williamson Valley Road and the interior roads of the PAD to County Standards, as well as a Minor Plan Amendment to change the zoning from residential to commercial for 95 acres within the PAD - to construct 3 commercial centers associated with the development proposal.
- At that time, the County invited the Department to review and comment on the variance request, amendment request, and PAD proposal.
- On September 27, the Department submitted comments to the County to be provided as briefing materials to Yavapai County's Planning and Zoning (P&Z) Commissioners prior to voting on the above-mentioned items. Comments focused on the value of this grassland habitat to Arizona's pronghorn population, anticipated impacts to pronghorn, the number of residences to be constructed in the PAD, recreational access to public lands, as well as anticipated impacts to hunting opportunities and habitat value. Additionally, the Department provided requests and recommendations to the County to avoid, minimize, or mitigate anticipated impacts associated with the PAD.
- Following meetings between the Department and the project proponent, the Department provided an additional comment letter to the County dated October 2, 2012. In this letter, the Department clarified its support for *appropriately designed and sited* clustered development, and its desire to partner with the Ranch to produce a recreational access plan that would meet the planner's and recreating public's needs relating to the checkerboarded Forest lands.
- With the P&Z Commission's decision on October 3, the variance for the roads, the commercial zoning request, and the PAD proposal were approved, and forwarded to the Yavapai County Board of Supervisors for review and a decision. With P&Z Commission approval, the year 2000 Development Agreement was one step closer to being replaced by the new PAD for Development of the Ranch.
- The PAD prescribes a maximum of 6,500 homes in the PAD's Residential Districts, with an additional 6,000 residential units permitted upon the 95 acres of future commercial centers.
- It is my understanding that with County approval of a major plan amendment request, the Ranch may seek an increase to this cap in the future if they desire to do so. However,

such a request would be fully scoped with the public and reviewing agencies prior to P&Z Commission and Board of Supervisors decisions.

- The PAD proposal is strategic in nature, much like our own strategic plan. It provides little in the way of specific development details and could be compared to an executive summary. The County has indicated that as this development proposal moves forward, it will be a phased approach to development. With each phase of development (likely each residential district), detailed development plans will have to be submitted to the County for approval. Those plans will include proposed platting, etc. Based on feedback from the Senior Planner for the County, those plans will receive full public scoping, and will be provided to reviewing agencies for comment prior to P&Z Commission and Board of Supervisors approval. At that time, the Department will have the details necessary to provide site-specific guidance and recommendations to preserve the wildlife and habitat values for which it has concerns.
- On Monday, November 5, the Yavapai County Board of Supervisors met to hear the Ranch PAD Proposal. At the meeting, Supervisors Chip Davis and Thomas Thurman voiced requests to the County that were embodied in the comment letters previously submitted to Yavapai County Planners by the Department. The Supervisors were supportive of the Department concerns relating to wildlife, habitat, fencing, hunting opportunity, and recreational access to checker-boarded public lands. Prior to their decision, the Department twice addressed the Board of Supervisors, clarifying the Department's concerns, recommendations, and requests made to the County relating to the PAD proposal. Prior to an ultimate decision in favor of the PAD proposal by Supervisors Springer and Thurman, the Supervisors upheld the Department's recommendations and requests, and incorporating them as supplemental conditions into the PAD proposal, requiring the PAD to utilize the Department's pronghorn friendly fencing guidelines for all fencing in the development, requiring the project proponent to cooperatively team with the Department and the Forest in development of a recreational access plan to meet the needs of the recreating public, and prohibiting the PAD from impeding the public's access to public lands.
- Following the meeting, the Department met with Ranch Management, incumbent supervisors, and new supervisors that will take their seats on the Yavapai County Board of Supervisors in January of 2013. All expressed appreciation for the Department's involvement and contributions to the process.
- On November 8, the Department collaborated with Ranch Management in the development of a team that will address the recreational access supplemental condition tied to the PAD approval. It was agreed during this discussion, that the Department with oversight for this property, the PNF District Ranger, TNC, and a consumptive use NGO will be invited to seats on the team that will address this issue. However, during this meeting, the scope of the team was expanded to address, not only recreational access to Forest lands, but how best to plan development of the Ranch for the preservation of wildlife, habitat, and hunting on these lands. The first meeting for this team is scheduled for November 26, 2012.

RENEWABLE ENERGY DEVELOPMENT

Sasabe Lateral Natural Gas Pipeline (El Paso Natural Gas/Kinder Morgan) (El Paso)

Federal Energy Regulatory Commission (FERC) environmental staff is charged with overseeing preparation of the EIS for the project. The FERC Commission will determine whether to issue a certificate of public convenience and necessity, and a presidential permit for the project. In addition to consideration of environmental information presented in the EIS, the Commission also considers such non-environmental factors as engineering, markets, and rates in making its decision to approve or deny El Paso's request for a certificate and presidential permit. Neither the President, nor Congress, reviews the FERC's decision. Draft resource reports were filed October 5. The Department participated in a FERC-hosted interagency meeting in Tucson, October 18. El Paso intends to file their final application, outlining the proposed route, in mid-January. El Paso is anticipating the FERC's final decision in late December 2013. If approved, El Paso would begin construction in the first quarter of 2014 with projected in-service at the end of September 2014.

WIND

Mohave County Wind Project

Biological Resources: The second Draft of the Bat Conservation Strategy was submitted to core team members for review. The Eagle Conservation Plan/Avian Conservation Strategy was released to agencies, BLM and USFWS, for review. The USFWS had specific mitigation measures they wanted incorporated into the strategy before any approval or permits would be considered. BLM is currently working with BP Wind (BP) and the Bureau of Reclamation (BOR) concerning permits and invasive weed strategies for the project. They identified activities not covered by permits, and supplemental plans needed for the Reclamation Plan, specifically the Mining Plan, Dust Control Plan, Health Safety Security and Environment Plan.

Preliminary Final Environmental Impact Statement (EIS) #2: BLM is coordinating with BP on the proposed preliminary preferred Alternative to determine its feasibility for satisfying the interconnection agreement terms. BLM will contact agencies for specific information, and choose the preferred project Alternative when the decision is made. The EIS revisions are currently going through internal review, and will be distributed in sections to core team members for final analysis before any Alternative selections are made.

Micro-Site Turbines: BP was working at the project site October 29 through November 2 to micro-site specific corridors for the wind turbines. BP will work with the BLM and BOR to verify any permits needed, or access permission for existing roads. Currently the northwest corner of the project has been determined to be too active for eagle nest activity and will be removed from consideration for turbine placement.

Ethnographic Study: Currently BLM has sent the Native American Graves Protection and Repatriation Act (NAGPRA) Plan of Action for the project to be included in the EIS text. No new sites have been identified, but interviews with tribal elders have provided additional information on the known project sites. BLM and BOR are working closely with the tribes to ensure a smooth transition.

Pacific Wind - Dolan Springs Project

A pre-application meeting was held on November 2, 2012, at the BLM Kingman Field Office to address the project overview and give agencies an opportunity to voice concerns. Participants included BLM, USFWS, Western Area Power Administration (Western), Mohave County, AGFD, Navajo and Fort Mojave Tribes and the project proponent Iberdrola Renewables.

Summary of the project includes up to 300MW of generation with up to 150 wind turbine generators. The project is proposed to sit on 47,000 acres of land in Mohave County; (29,440 acres of BLM and 17,920 acres of private). An interconnection request has been made to Western, and the potential exists for solar generation to be included in this project as well.

The next steps in this scoping process will be for Iberdrola Renewables to get a Right-of-Way (ROW) from the BLM for the 29,440 acres. At this point the NEPA process will begin and a projected schedule will be implemented.

Perrin Wind

The Department recently participated in a teleconference for the Perrin Ranch Technical Advisory Committee. The main topic of discussion was post construction monitoring associated with the wind farm (operating since late Jan 2011). Post construction monitoring entails 3 years of surveying for fatalities beneath a subset of turbines. So far there have been <40 total wildlife mortalities, of which, most are passerine birds and bats. At this time no thresholds have been met or exceeded as per the Avian and Bat Protection Plan. With winter now upon us, it is not expected that any thresholds will be met or exceeded. The Department continues to appreciate the transparent nature of the developer (NextEra) and the Consultant (SWCA).

TRANSMISSION LINES

SunZia Transmission Line Project

The Department participated in a Cooperating Agency meeting on September 7, hosted by BLM. Additional participants represented AZ State Land Dept., USFWS, NPS, Fort Huachuca, Buffalo Soldier Electronic Proving Ground, Luke AFB, Office of the Secretary of Defense, and EPG, Inc. (SunZia's environmental contractor). The primary purpose of the meeting was to discuss the military's concerns for the project in Arizona. A separate meeting was held in Santa Fe to address military concerns in New Mexico. Fort Huachuca has expressed a preference for the BLM to select either route 4A or 4B, in order to place the proposed transmission lines as far away from the Buffalo Soldier EPG as possible. The Fort is concerned that the two proposed 500 kV transmission lines would interfere with the military's electronic testing operations. The Air Force stated their support for route 4B through the Sulphur Springs Valley and between the Aravaipa and Galiuro Wilderness areas. The Department has informed BLM on multiple occasions that both routes 4A and 4B would pose a significant impact to wildlife and habitat, fragmenting the second largest intact habitat block in the southwest.

The BLM received 1,700 comments during the public comment period for the Draft EIS. The Department attended a cooperating agency meeting October 18 to review BLM's contractor's responses to our comments on the Draft EIS. The Department has recommended formation of a working group of AGFD, ASLD, USFWS, NPS, and BLM staff to draft a Cooperative

Conservation Agreement to address mitigation for residual impacts, and is reviewing CCAs from other projects. The planned date for publication of the FEIS is December 7, 2012, and publication of the Record of Decision is January 18, 2013.

SunZia NEPA Process Timeline:

<u>May 25, 2012</u>	Release of the DEIS
<u>Mid June</u>	Cooperator Meeting – Discuss comments that have not been resolved/incorporated & discuss upcoming public meetings
<u>Late June/July</u>	Public Meetings
<u>Mid August</u>	Conference Call with Cooperators – Opportunity for additional conversation & discussion with Cooperators
<u>August 22, 2012</u>	End of 90 day comment period
<u>End of year 2012</u>	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. The Department is currently compiling comments on the draft concept alternatives for the study, due in December.

Deer Valley Parkway (formerly Beardsley Parkway)

Maricopa County Dept. of Transportation (MCDOT) corridor feasibility study for the 6-8 lane parkway is ongoing. The analysis area has been reduced to include the general alignment of Deer Valley Road east/west between the US 60 and the proposed Wild Rose Parkway north of the White Tank Mountains in western Maricopa County. The Town of Buckeye will be conducting a transportation plan for portions between Wild Rose Parkway and the Hassayampa River corridor. The Department continues to participate in Technical Advisory Committee (TAC) meetings and provide input on wildlife and wildlife habitat issues/opportunities/constraints. Most recently the Department reviewed the Technical Memorandums 1-3: Existing and Future Features; Environmental Overview; and Drainage Overview. Project planners have included wildlife linkage designs and goals for the White Tank Mountains into the Environmental Overview as well as other special status species concerns. The Department has recommended management actions that protect desert washes and habitat connectivity and survey to determine if Desert tortoise (Sonoran population) occupy suitable habitat within the project area as part of any future

analysis for parkway design and in order to develop site specific mitigation for this species. The Draft Tech Memo 6 was just released for review. The Department had no further input to provide. Next steps include adoption of parkway alignment by City of Surprise, ROW preservation, preparation of the Design Concept Report for project programming, appropriation of funding for design, ROW acquisition and construction, and coordination with Town of Buckeye to extend the parkway west into Buckeye and across the Hassayampa River. It will be critical for the Department to participate in the Design Concept Report to ensure that suitable parkway crossing structures are designed at Trilby Wash and Wash 3 to meet White Tank Mountains linkage goals, as well as those the City of Surprise has adopted. Tech Memo 6 states that wildlife linkage zones (CAP) and movement corridors (adopted by City of Surprise) should be considered during final design.

Dove Valley Parkway

Maricopa County Dept. of Transportation (MCDOT) has initiated a Corridor Feasibility Study for another west valley parkway that will run east-west south of SR74, across US60 and west across the Hassayampa River. The Department will be participating on the TAC. Initial concerns include: Potential impacts to the proposed White Tank-Belmont-Vulture Mountains wildlife linkage (design mitigations to facilitate large mammals, as well as species of special concern such as desert tortoise) will be key; Hassayampa River corridor – maintaining wildlife habitat connectivity within the floodway and floodplain; maintaining natural channel functions and designing bridge crossings that preserve the corridor in its natural state as opposed to hard structural channelized solutions; potential impacts to Special Status species. MCDOT held the Scoping Workshop in July and TAC meetings will start this month.

Hidden Waters North Parkway

MCDOT has completed the corridor feasibility study for the proposed parkway and released the preferred alignment. This future parkway will provide a north/south link between I-10 and US 60 to the north, west of the Hassayampa River corridor. The Department does not support the preferred alignment as drawn. We had made recommendations on the alignment that would minimize impacts to wildlife and wildlife habitat connectivity goals that were not incorporated into the recommended alignment as a result of various urban development constraints that took priority. The Department also raised concerns with portions of the Final Report and Environmental Overview regarding omissions, accuracy of maps and information presented on wildlife linkages that was provided by the Department. In short, linkage designs provided to consultants were not represented in their entirety, but rather truncated at the project area. The Department raised concerns to the MCDOT. MCDOT has agreed to develop an amendment/attachment to the final report with corrections. Currently, waiting for response from MCDOT on whether an amendment/attachment has been completed to address AGFD concerns with accurate representation of information provided to TAC Final Report by AGFD (see AGFD letter 3-27-12 to D. Lacey, MCDOT project manager). The project consultant was EPG and was tasked to do the amendment.

I-11 Phoenix to Las Vegas Project

U.S. Congress in the 2012 Surface Transportation Act designated Interstate 11. The first phase of the project is from Phoenix to Las Vegas. ADOT and Nevada Department of Transportation are partnering to conduct a two year of study of potential corridors for the proposed Interstate. The Department participated in a stakeholder's meeting and expressed that the study should include

impacts to wildlife, hunting opportunities and stressed the economic importance of hunting and wildlife-dependent recreation for the region. It should be noted that one of the ideas “being kicked around” is using Carefree Highway as part of the corridor. This proposal would impact Department headquarters and Ben Avery Shooting Range.

The Department met with ADOT and consultants to discuss impacts to wildlife for a proposed multi-modal corridor along Interstate 10 from Phoenix to the California border. Raised concerns about wildlife movement and impacts to wildlife from associated development.

North/South Corridor Study

The purpose of this project is to provide a connection between US 60 and I-10 through identifying and evaluating various proposed routes. The recent meeting included the reinitiation of the SR24 study area that crosses the North/South study area (east to west). The studies will be combining efforts to determine the alternatives to be carried forward for the tier 1 EIS analysis. The October meeting was cancelled. We are currently reviewing and developing comments on the draft alternatives selection report due in December.

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). BLM, AGFD, City of Goodyear and project consultants met on Nov. 15, 2012 to follow-up on the Department comments to Chapter 1 & 2 of the project EIS. We discussed applicant committed mitigation measures relating to the Sierra Estrella-Sonoran Desert National Monument linkage area. The Department provided input on important design considerations for developing a wildlife underpass for the target species, recommendations for implementing a phased mitigation approach as the parkway is developed from 2 lanes to 6. The Department has recommend to Goodyear that their proposed installation of 2 - 10x10 foot box culverts will be inadequate for mule deer movement based on current Department research in the Twin Peaks area. We recommend an arched span solution and expressed concern that Goodyear not expend limited financial resources on a design solution that we do not believe will realize success. The BLM and applicant will be revising the applicant committed mitigation measures and implementation approaches. The Department also provided information on wildlife associated economics for the EIS analysis. The Department continues to participate in monthly Cooperators Meetings.

SR 303

ADOT has initiated planning for expansion of SR 303L to create a north/south link between I-10 and the future proposed Hassayampa Freeway. SR 303 is proposed to run through Rainbow Valley just west of the Sierra Estrella Mountains in western Maricopa County. The Department has provided input on the Environmental Feasibility Study and Proposed Alternatives for the expansion project and is attending monthly project planning meetings. Comment resolution is planned for November and a follow-up meeting notice is pending. The Department supports the Rainbow Road Corridors 1 or 2 and Gila River Crossing as the preferred alignment. The Department will be conducting a site visit of the proposed Gila River crossing areas in December to evaluate potential impacts and potential mitigation ideas now that the crossing locations have been narrowed.

Wild Rose Parkway Feasibility Study

MCDOT corridor feasibility study for the 6-8 lane parkway is ongoing and the Department continues to participate on the TAC. The proposed parkway will provide a north/south link between Sun Valley Parkway and US 60, north of the White Tank Mountains. Similar to all parkways proposed in western Maricopa county, MCDOT has stated that the purpose and need for action is based on the projected “build-out” transportation demands analyzed around the MAG Hassayampa Framework Study. Most recently the Department reviewed and provided input on the Environmental Overview and project consultants presented the Tech Memo 3 – Drainage Overview. Department concerns in the analysis area are: preservation and maintenance of wildlife habitat connectivity between the White Tank Mountains and surrounding undeveloped lands; preservation of outdoor recreation and hunting opportunities associated with the White Tank Mountains. There is no alignment under consideration that would avoid the need for mitigation to preserve habitat connectivity. The parkway will traverse two major wash corridors (Iona/Trilby washes) that are components of a linkage plan, and the CAP canal and ROWs which are also part of a linkage plan. Recently, the City of Surprise amended their General Land Use plan to include portions of these wash corridors south of CAP as wildlife linkages. The Department has provided wildlife information to project consultants for inclusion in the biological portion of the Environmental Overview Technical Report. Inclusion of linkage goals and objectives into corridor feasibility technical reports will identify the need to incorporate wildlife friendly crossing structures, where the parkway will impact linkage goals, in future parkway design and engineering plans. Tech Memo 5, Detailed Preferred Alignment, is out for final TAC review. The preferred alignment will cross several wash corridors and the CAP canal ROW. The plans are to construct a bridge crossing at CAP and use pipe or box culverts at other locations. There will be a future need to conduct an additional design analysis on proposed use of pipe or box culverts to reevaluate preservation of wash corridor functions for wildlife movement, including mule deer. The report identifies the need for coordination with the Department, City of Surprise and MCDOT (4.3 Implementation Strategy).

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. The Department has submitted a presentation to Buckeye planning staff for review. Planning staff have not provided a response or update on potential Town Council presentation.

City of Peoria (City) – 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 conducted a review of the Peoria Open Space Master Plan and provided substantive recommendations on the content of the draft plan (9-25-12). Of note, the Department recommended including hunting, fishing, camping and OHV recreation as valued uses within the planning area which encompasses BLM, BOR, County, and State Land jurisdictions with important access routes. The Department also provided substantive wildlife conservation comments including updated species information.

Maricopa Association of Governments (MAG)

The Department presented the Maricopa linkage assessment to the Population Technical committee, resulting in an invitation to use several of the other committees (executive, engineering, transportation and planning stakeholders) as forums for presentations. This is assisting the Department, not only outreach, but also insight into the various processes and scales our tools should be incorporated, in addition to prioritization and identifying needs for future refinement efforts. The next presentation to the planning stakeholders committee is scheduled for the first week in December and will include some of the cities the Department is working with in this implementation process. The transportation committee and executive committee meetings will be begin early next year.

Central Arizona Association of Governments

The Department has been invited to speak to the Executive Director, along with the Pinal Partnership Open Space and Trails Committee for discussion on opportunity for presentation of the Pinal County Linkages Assessment (in draft) and the Open Space and Trail’s Committee annual report.

Forest	Status	Next Step	Projected Next Step Completion
Apache Sitgreaves	Draft Environmental Impact Statement (EIS) for TMP & LRMP released Oct. 2010. Wallow Fire required reassessment. New Draft EIS for LRMP anticipated late 2012/early 2013. TMP process will follow late 2013-early 2014.	Draft EIS(LRMP) out for public comment.	Final EIS (LRMP) anticipated 9/20/2013. TMP scheduled to start after LRMP complete, anticipated draft early 2014. (LRMP and TMP will be separate decisions)
Issues:	MBGR in preferred Alt B of previous TMP draft allows 1mile from road for elk, mule deer & bear. 658 miles of corridors for dispersed camping 300 ft off established roads.		
Coconino	TMP signed Sept 2011, AGFD appeal on MBGR decision denied; Motor Vehicle Use Maps (MVUM's) available. LRMP EIS Draft in	Draft EIS (LRMP) anticipated for public review in December.	LRMP decision anticipated 7/2013
Issues:	Dispersed camping 300 ft from designated roads, else 30 ft. MBGR for elk only, 1 mile from roads except GMUs 5A & 5B.		
Coronado	Working Draft LRMP out Aug 2011.	LRMP Draft EIS.	Draft EIS (LRMP) anticipated out for public review end of 2013.
	TMP process initiated. Initial scoping conducted. Decisions are being done district by district.	TMP Draft EIS for each district.	Draft TMPs anticipated out for public review beginning early 2013.
Issues:	Motor Vehicle Use maps show access through roads that have locked gates. Maps not enforceable.		

Forest	Status	Next Step	Projected Next Step Completion
Kaibab	Comment period on Draft EIS (LRMP) complete.	LRMP revision based on public comments. TMP appeal decision by USFS.	Final LRMP EIS anticipated February 2013.
	Tusayan & Williams TMP in implementation. MVUM's available. North Kaibab TMP completed 9/17/12. AGFD appealed decision on North Kaibab TMP for MBGR and dispersed camping decisions.	Monitoring for Tusayan & Williams, Implementation for North Kaibab.	Ongoing Monitoring for Tusayan and Williams. North Kaibab implementation to begin 1/2013.
Issues:	Tusayan & Williams TMP: MBGR 1 mile from road for elk in designated areas. Dispersed camping in camping corridors, or 30 feet from road. North Kaibab 1 mile off designated roads for elk and bison, dispersed camping 300 feet off designated roads		
Prescott	Draft EIS LRMP in out 8/24/2012. Public comment period ended 11/28/12. AGFD provided comments. 2009 updated/amended TMP stands.	Revise LRMP (EIS) based on public comments.	Final EIS (LRMP) anticipated Summer 2013.
Issues:	MBGR: Elk within 1 mile of designated open road. Dispersed camping 300' from centerline of designated roads.		
Tonto	LRMP process began 2006. Negotiating to reinstate due to rule change. TMP EA out Jan 2012.	Reinstate LRMP process and develop draft EIS.	4-6 years to completion of LRMP. TMP implementation anticipated 6/20/13.
Issues:	MBGR: currently Payson and PV districts allow bear, elk and mule deer. Other districts currently do not allow cross country. Alternative 2 allows elk and bear, 200 yds from road in all districts..		



THE STATE OF ARIZONA
GAME AND FISH DEPARTMENT

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SENT ELECTRONICALLY AND VIA US MAIL

November 2, 2012

Corbin L. Newman Jr., Regional Forester
Appeal Deciding Officer
333 Broadway SE
Albuquerque, NM 87102
Email: appeals-southwestern-regional-office@fs.fed.us

RE: North Kaibab Ranger District (NKR) Travel Management Project DN-FONSI - Appeal of Decision pursuant to 36 CFR 215 (September 17, 2012; Michael R. Williams, Forest Supervisor, Kaibab National Forest and Responsible Official. Date of Legal Notice: September 20, 2012).

Appellant's Name and Address:

The Arizona Game and Fish Department
5000 West Carefree Highway
Phoenix, AZ 85086-5000
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The Arizona Game and Fish Department (Department) has appreciated the opportunity to work closely with Forest and District staff at all stages in the development of the North Kaibab Ranger District (NKR) Travel Management Project. We sincerely value the partnership and working relationship we maintain with the Kaibab National Forest (Forest). Unfortunately, we find that critical issues raised by the Department throughout the process have not been adequately addressed, fully disclosed, and/or analyzed. We note that the Travel Management plan and EA make no note of the role of consumptive uses of wildlife (hunting) in the conservation of wildlife in the United States. Conservation of the nation's wildlife resources is largely vested in the state wildlife agency, and the funding for conservation is rooted in the contributions of hunters and anglers. Hunting on public lands in the west is essential to the fiscal health of western wildlife conservation agencies. We see no assessment of the effects of this decision, nor the cumulative effects of allied travel management decisions, on the programmatic provision of wildlife conservation by State Wildlife Agencies. Further, there is a failure to assess the individual and cumulative effects of this travel management decision, and allied decisions on public lands, on the North American Model of Wildlife Conservation that the nation is dependent upon. We also note that dispersed camping by hunters on the North Kaibab has occurred over the course of the last century or more and those effects were not measured or quantified as part of the baseline for analysis of effects of future uses.

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We have maintained consistent engagement with the NKR D on our issues and concerns regarding travel management. The Arizona Game and Fish Department formally commented in a timely manner on the Proposed Action (4/23/10) and the Draft Environmental Assessment (5/20/11) on the North Kaibab Ranger District (NKR D) Travel Management Project and has standing for formal appeal of the Decision.

Appellant raises the following two issues to the Appeal Deciding Officer pursuant to 36 CFR 215.14.

1) Hunter access to Game Management Units (GMU) 12AE and 12AW is essential to the Department's ability to effectively manage the Kaibab mule deer population. The lack of motorized dispersed camping corridors or adequate campsites in the pinyon-juniper portion of the NKR D will have significant adverse impacts upon the Department's ability to control mule deer populations. Historically, these GMUs have experienced dramatic fluctuations in herd numbers including population irruptions leading to overexploitation of forage and massive deer die-offs. Furthermore, the availability of dispersed camping within one vehicle length (30 feet) along roads that will remain open in GMU 12A will deprive the hunters of a quality camping and hunting experience and is not a satisfactory alternative to additional off-road campsites.

2) The EA overestimates the resource impacts of Motorized Big Game Retrieval (MBGR) by licensed hunters. The prohibition of MBGR for deer creates unnecessary barriers to wildlife recreation and regulated hunting – the principal tool in the management of the world-renowned mule deer herd on the North Kaibab Forest (NKF).

Background

The Purpose and Need for Action for the NKR D Travel Management Project states in part:

Specify the appropriate uses of motor vehicles on the designated road system and provide opportunities for motorized dispersed camping and motorized retrieval of legally taken big game animals. These popular activities each present social and environmental implications that need to be addressed in the implementation of the rule. Road designations and the accommodation of recreation opportunities must meet the social, environmental, and safety criteria outlined in the rule.

Cooperation with state agencies in achieving game and habitat management objectives while protecting forest resources is directed by the KNF Plan and other regional and national guidance.

Environmental Assessment, NKR D Travel Management Project at 6.

The KNF Forest Plan (1988) states: “*Cooperate with the Arizona Game and Fish Department to achieve management goals and objectives specified in the Arizona Wildlife and Fisheries Comprehensive Plan, and in carrying out the cooperative agreement for the management of the Grand Canyon National Game Preserve. Support the Arizona Game and Fish Department in meeting its objectives for the state.*” (emphasis added.) It is the Department's objective to see

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continuation of wildlife-related access to National Forests including adequate motorized dispersed camping and Motorized Big Game Retrieval of not just elk and bison but mule deer as well.

History of population management of the North Kaibab Mule Deer Herd

Recreational hunting and cooperative habitat enhancement efforts are the primary tools used by the Department to manage the North Kaibab deer herd. Good hunter access is essential to effective management of this herd. The Department's objectives are directed at maintaining the deer herd at a level consistent with habitat parameters, providing for a physically robust and healthy deer herd, and allowing for the development of older age class mule deer. This management involves annual mule deer surveys, forage monitoring, collecting biological data at the Jacob Lake check-station, repair and development of artificial water sources, and issuing the appropriate number of hunting permits in order to reach population-based management goals.

The Kaibab deer herd has been studied since the turn of the century. As is demonstrated in the *History of the Kaibab Deer Herd* (W. Swank, 1997) and *Deer of the Southwest: A Complete Guide to the Natural History, Biology, and Management of Mule Deer and White-Tailed Deer* (J. Heffelfinger, Texas A&M University Press, 2006, page 48-53) the Kaibab mule deer population has been subject to sometimes dramatic population fluctuations, or "irruptions". The population in 1906 was estimated at 3000-4000, but following systematic predator removals as well as the prohibition on deer hunting by Congress, range deterioration from over-browsing was documented by 1918; by 1924 the herd had increased to 100,000 with consequent range decimation and massive deer starvation. This led to conflicts between the Forest Service and the State of Arizona over who had jurisdiction over the Kaibab deer herd. Litigation ensued which led all the way to the United States Supreme Court, which held that the Forest Service had the right to protect the range it was responsible for managing. *Hunt v. United States*, 278 U.S. 96 (1928). However, the Forest's attempts to reduce deer numbers were ineffectual. According to *Deer of the Southwest*:

That winter [1928] the Forest Service authorized government shooters to remove deer, but the public outcry was so intense that this practice was discontinued the next year.

It was becoming increasingly obvious that wildlife management controlled by the politicians was not working. The 1924 committee report on the condition of the Kaibab herd and habitat (Cutting et al. 1924:28) foresaw this problem and prophetically stated "*The scientific management of game by a special authority such as a commission should have the power to change regulations from year to year in order to meet the changes in the local situation. The special authority charged with Game Management should have sufficiently elastic powers to control not only the open seasons, the shooting areas, the refuges, and the bag limits, but also the absolute numbers which may be killed in any given locality each season. Upon such principle of Game Management does the future of much of our wild life depend.*"

By 1929, the Arizona Legislature’s new State Game Code established a three-person commission that had the authority to set bag limits and season lengths annually. *Id.*

The Kaibab deer herd again became too numerous in 1946, resulting in a doubling of issued permits for 1947-49 but range conditions continued to deteriorate, and permits increased from 7000 in 1952, to 10,000 in 1953 and 12,000 in 1954 but an estimated 18,000 deer died in 1954-55. *Swank* at 17.

Current trends for the Kaibab mule deer herd

The Department’s deer management techniques for the North Kaibab GMUs 12A and 12B are rigorous, scientifically-based and based on population counts, leading to annual hunt recommendations by experienced Department biologists to the Arizona Game and Fish Commission in a public hearing. *See Wildlife Management Decisions and Type I and Type 2 Errors, An Arizona Example: Antlerless Deer Harvest (B. Wakeling 2007).*

Mule deer buck hunting meets significant recreational demands from the public and is a significant revenue generator for financing conservation of wildlife. The Department’s issuance of antlerless (doe) hunt permits is ecologically-based, and is an essential tool in controlling the NKRD mule deer population. The typical fawn/doe ratio of mule deer in Arizona is 30 fawns/100 does. For the NKRD, the ratio can be as high as 105 fawns/100 does (see table 1). When the NKRD deer population increases, the Department issues more antlerless mule deer permits – sometimes as many as 1000 permits a season. The consequences of an uncontrolled mule deer population on the NKRD is a degraded forage base and mule deer death by starvation. As Table 1 demonstrates, the Kaibab deer herd is extremely productive and an increase in antlerless permits will be likely in the near future.

Table 1. 2007-2011 Mule Deer Survey Data (Excerpted from: Arizona Game and Fish Department, Hunt Arizona: 2012 Edition. Survey, Harvest and Hunt Data for Big and Small Game, pp. 11-12)
 Note: Boundaries of Units 12A East and 12A West correspond closely with the boundaries of the NKRD

Unit	Year	Bucks	Does	Fawns	Unclass.	Total	Bucks/ 100 Does	Fawns/ 100 Does
12A East	2007	5	23	17	0	45	22	74
12A East	2008	44	197	142	0	383	22	72
12A East	2010	38	96	71	0	205	40	74
12A East	2011	14	97	77	0	188	14	79
12A West	2007	99	314	304	5	722	32	97
12A West	2008	67	210	161	15	453	32	77
12A West	2009	100	354	286	0	740	28	81
12A West	2010	41	208	105	6	360	20	50
12A West	2011	89	334	351	4	778	27	105

Issue No. 1. The lack of motorized dispersed camping corridors and/or adequate campsites in the pinyon-juniper portion of the NKRD frustrates the Department’s wildlife population-management and wildlife-recreation objectives. The continued availability of

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dispersed camping within one vehicle length along roads that will remain open is not a satisfactory alternative to additional designated off-road campsites.

1. Portions of the decision with which Appellant disagrees, and explanation for the disagreement.

The Department disagrees with the Alternative 2 – Proposed Action to not designate corridors on specific roads in the pinyon-juniper portions (GMU 12AE and 12AW) for the purpose of motorized dispersed camping. While Alternative 2 does designate a limited number of discrete campsites in GMU 12AE and 12AW, the number of available campsites will not permit the effective management of mule deer populations and do not meet hunter needs even based on current hunt permit levels.

a. The decision prohibiting motorized dispersed camping in GMU 12AW and 12 AE will frustrate the Department's ability to manage the North Kaibab mule deer population.

The Department submits that the limited motorized dispersed camping opportunities in the pinyon-juniper portion of the NKR D could serve to limit mule deer take by hunters, thus significantly frustrating the Department's game and habitat management strategies and risking potentially adverse ecological effects to the ecosystem due to deer overpopulation. The Department analyzes the population demographics of the Kaibab deer herd and adjusts the season structure or permit levels annually with the assumption that hunters will control the population in a regulated hunt. Due to the remote nature of the North Kaibab, nearly all hunters use vehicles to access Game Management Unit 12A and elect to camp. Limited motorized dispersed camping in the pinyon-juniper portion of the NKR D will deny to hunters who cannot locate an available campsite a complete inability to even engage in a hunt. The Forest fails to disclose and analyze the aforementioned impacts to the Department, its trust responsibilities, and its constituents.

According to the EA Alternative 2 map of motorized dispersed camping corridors, there are not enough campsites available in the pinyon-juniper habitat to meet the Department's *current* late-season mule deer permit levels. Based on its analysis of the map, the Department estimates that the Selected Alternative authorizes +130 sites in areas traditionally used by hunters within GMU 12AW. The 2012 late-season mule deer hunt in GMU 12AW offers 135 permits. As Table 2 illustrates, the number of mule deer permits issued in 1990 through 2001, and 2004 through 2012 exceed the number of campsites designated under the EA.

Over the last twelve years, the Department annually issues an average of 200 mule deer permits for the late fall season in these GMUs. Historically, the Department has issued much higher numbers of mule deer permits for GMU 12AW, as high as 1300 in 1990 (a tenfold increase from current levels) and an additional 700 permits for female mule deer for population management purposes. Furthermore, it is reasonable to predict continued fluctuations in permit numbers in the future based on wildlife management needs. See Table 2.

For GMU 12AE, the EA Alternative 2 map appears to authorize motorized dispersed camping for 60 sites. This year's late-season mule deer hunt in GMU 12AE offers 30 permits, but Table 2 reflects that the Commission has authorized as many as 250 permits in that unit (1990).

1990	250	1300	2002	50	103
1991	200	825	2003	50	100
1992	50	600	2004	62	154
1993	50	500	2005	50	175
1994	50	500	2006	50	175
1995	50	252	2007	50	175
1996	50	250	2008	50	177
1997	51	150	2009	50	177
1998	60	150	2010	35	175
1999	50	150	2011	30	135
2000	50	150	2012	30	135
2001	50	150			

While the Decision designates 203 miles of motorized dispersed camping corridors in the ponderosa pine habitat, no corridors are designated for the pinyon-juniper habitat, leading to inadequate camping opportunities in non-traditional locations.

The Department disagrees with the assertion in the EA at 84 stating that Alternative 2 will not result in a change in the Forest-wide population or habitat trend for mule deer. The only recourse left to the Department if Alternative 2 is implemented would be to adopt multiple seasons with fewer permits so that each hunter has a place to camp. This in turn would dramatically increase the season of disturbance, moving seasons later into the year when breeding activity is at its peak. The likelihood of significant winter precipitation also increases as seasons would progress later into the year. This would result in restricted access, damage to roads as a result of heavy use during wet periods, and the potential disruption of breeding activity by mule deer. Ultimately these factors will have an increased negative impact on the deer herd and its habitat.

b. Preferred Alternative #2 will deprive hunters selected for permits in the pinyon-juniper portion of the NKRK a quality hunt experience and could adversely impact local communities.

The North Kaibab mule deer herd is internationally recognized as one of the premier deer herds in North America, if not the world. Popular hunting publications annually list the North Kaibab among the top five places nationally to pursue large mule deer.

A 1997 study prepared for the USFS by Dr. Jon A Souder, NAU, “*Valuing Resources and Uses in the Central Winter Ecosystem Management Area North Kaibab Ranger District*” stated that the 12AW early and late deer hunts

rank in the top 10% of demand with the late one generally being in the top three most demanded hunts in the state. And the 12AW firearm hunts allow at least as many tags as the total number of higher-ranked hunts, testifying to the uniqueness and the productivity of the North Kaibab mule deer herd.

This study also economically valued the 12AW mule deer hunts at \$1,783,000 annually (1996 dollars); this figure does not include the sale of tags and licenses. We note that this data compiled by the U.S. Forest Service was not incorporated in the EA for analysis.

As the EA at 30 acknowledges,

The district is well known for its trophy deer herd. . . Dispersed recreation activities are valued activities and are locally important for the economy. . . hunters are important to the concessionaires and other businesses on the district and local communities, where many purchase supplies, dine, and stay at hotels. Hunting is a valued recreation opportunity and locally important for the economy. Hunting expenditures contribute almost \$12 million annually to Coconino County (Arizona Game and Fish Department 2001). In addition, some hunters use outfitter services for their hunting expeditions. Hunting and trapping activities are facilitated by the existing road system. Roads make it easy to access much of the forest and *distribute hunting activities over the area.* (Emphasis added).

Nearly every hunter who hunts in these GMUs sets up camp prior to commencing the hunt. There are virtually no hunters who drive in and drive out on the same day for their hunt. Many hunters arrive at their campsites at night. It is not reasonable to require or to expect hunters to travel from one discrete campsite to another, searching for an authorized site to set up camp. With the inadequate number of allowed camping sites, hunters may be unable to find an available campsite – a task rendered especially difficult, if not impossible, after dark.

The availability of dispersed camping within one vehicle length (30 feet) along heavily-traveled roads that will remain open is not a satisfactory alternative to additional off-road campsites.

The Decision Notice states that campers' ability to park within 30 feet of any open road (unless otherwise prohibited) . . . would be sufficient to reduce the potential for resource damage while providing ample opportunities for motorized dispersed camping. Decision Notice at 18.

The professional opinion of experienced Department wildlife game rangers, based on personal observations, are that restricting camping to within 30' of well-traveled roads during late season hunts in GMU12A will subject campers to continuous airborne dust or muddy conditions as the road traffic passes by. No reasonable person would consider this a quality camping experience or an adequate substitute for off-road campsites, and the Forest failed to adequately disclose and analyze this impact.

The Department notes that the lack of designated campsites for GMU 12A is not based on the lack of available sites, but rather the lack of heritage resource surveys.

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The EA at 30 notes that while motorized dispersed camping occurs across the district, “concentrations have been noted throughout the ponderosa pine vegetation belt, at viewpoints into Marble Canyon and Kanab Creek/Grand Canyon, and at the south end of the district closer to Grand Canyon National Park”.

Alternative 2 reduces soil disturbance over the No Action Alternative by reducing motorized dispersed camping across the NKR D. While the No Action alternative would continue to allow motorized dispersed camping on 540,869 acres or 82 percent of the NKR D, Alternative 2 would continue to allow motorized dispersed camping on 23,591 acres, or 3.6 percent of the NKR D, a nearly 96% reduction. EA at 52; Table 17 at 53.

But the available motorized camping under Alternative 2 in the pinyon-juniper of GMU 12AE and 12AW is effectively reduced by more than 99% from historic levels, to a point where only 250 campsites are made available over 724,280 thousand acres, leaving only 0.00034% of GMU 12A open to motorized camping. What is the EA’s rationale for such drastic reduction in the availability of recreational motorized campsites in the pinyon-juniper portion of the NKR D?

The EA generally describes the effects of unauthorized motorized cross-country and random “throw-down” dispersed camping created by forest users resulting in loss of soil, watershed and vegetation (EA at 55). While described at a qualitative level, empirical evidence and documentation are lacking. Conservation of soil, watershed condition, and vegetative cover are legitimate objectives, but do not support the *complete lack* of designated motorized travel camping corridors, and inadequate number of designated campsites for the pinyon-juniper portion of the NKR D.

The EA at 90 states:

Routes [in lower elevation pinyon-juniper] that accessed existing dispersed camping sites were surveyed for cultural resource sites. If no sites were found within or adjacent to the road or dispersed camp site(s), these routes were proposed for incorporation into the designated road system.

Only 25% of the NKR D has been inventoried for cultural resource properties, EA at 86. The majority of the heritage surveys having been conducted in the ponderosa pine zone, where the most popular campsites are located. EA at 72. The lack of available campsites for GMU 12A is based on a statistical probability of heritage resources, not actual surveys.

The EA at 86 notes that additional acreage on the NKR D is surveyed each year, increasing the overall percentage of area inventoried. This will benefit applicants for Forest firewood-gathering permits; as more sites in the pinyon-juniper zone are cleared for use after inventories, the Forest can authorize motorized firewood collection in those cleared areas. But the number of motorized dispersed campsites in pinyon-juniper as delineated in the EA *cannot* be increased without a NEPA review. *Appendix 4: Response to Comment 2-12*. The length of time to conduct a typical NEPA review leading to a Record of Decision will not and cannot be responsive to the Department’s deer herd and habitat management needs. The effect or impact of this lack of responsiveness is not adequately assessed nor described in the EA.

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2. Why Appellant believes the Responsible Official's decision failed to consider the substantive comments.

The Responses to the Department's comments did not directly address the request for more low elevation dispersed campsites.

3. Any specific changes in the decision that the Appellant seeks and rationale for those changes.

The Department seeks additional motorized dispersed campsites for the pinyon-juniper habitats of the NKRD to support hunter access during late season hunts.

For GMU 12AE, the Department submits that 90 additional motorized dispersed campsites are essential to meet present and future mule deer management and hunter recreational needs.

For GMU 12AW, the Department submits that 620 additional campsites are also required to meet present and future management needs.

Alternatively, NKRD could instead designate miles of camping corridor in the pinyon-juniper habitat. In this case, the Department recommends 39 miles of camping corridor (300-foot width) in 12AW and 7 miles of corridor in 12AE. This results in a total of 46 additional miles of motorized dispersed camping corridor in the pinyon-juniper habitat. Recommended areas for motorized dispersed camping corridors are outlined in Attachment 1. The Department understands that heritage resource surveys would be necessary.

4. How the Appellant believes the decision specifically violates law, regulation or policy.

The EA does not provide a full and fair discussion of significant environmental impacts in order to inform the decision maker and the public of reasonable alternatives. *State of California v. Block*, 690 F.2d 753 (9th Cir. 1982). The EA does not evaluate or discuss the consequences of the Department's inability to meet mule deer harvest goals in light of limited hunter access on the pinyon-juniper portion of the NKRD and the environmental effects on natural resources (overexploitation of forage with unsustainable increase in mule deer populations).

The EA does not discuss the conflict between the Proposed Action and the objectives of the Department as referenced in the Kaibab NF Land Management Plan or how the inconsistencies may be resolved. Where an inconsistency exists, the EA should describe the extent to which the agency would reconcile its proposed position with the Plan. 40 CFR 1506.2[d].

The EA does not include a discussion of possible conflicts between the proposed action and the deer herd and habitat management objectives of the Department for the NKRD. 40 CFR 1502.16. The NEPA Regulations further state that to better integrate environmental impact statements into state or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan. Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law. 40 CFR 1506.2.

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In its analysis of resource impacts caused by motorized dispersed camping, the Forest has failed to consider an important aspect of the problem, which is the impact of an uncontrolled deer herd on those same resources. *Sierra Club v. EPA*, 346 F.3d 955 (9th Cir. 2003), *amended by* 352 F.3d 1186 (9th Cir. 2003).

The Plan's restriction of motorized dispersed campsites in the pinyon-juniper to only those specified and limited locations that have been surveyed for heritage resource objects is arbitrary and capricious to the extent that many other potential campsites may be eligible for dispersed camping, but for the lack of heritage resource surveys, and the plan includes no provision for including new camping sites as heritage resource inventories progress.

The designated campsites in GMU 12A do not accommodate current or future motorized recreational needs of mule deer hunters.

Issue #2. The EA is lacking credible data regarding impacts of MBGR by licensed hunters and overestimates the impacts to resources. The prohibition of motorized deer retrieval creates unnecessary barriers to wildlife recreation and regulated hunting – the principle tool for managing the mule deer population on the NKR D.

1. Portions of the decision with which Appellant disagrees and explanation for the disagreement.

a. The decision to restrict motorized big game retrieval (MBGR) to elk and bison, excluding mule deer, is not based on any objective data or studies which document that MBGR of mule deer by hunters in the NKR D has in fact resulted in damage to soils, plants, or heritage resources.

The Department does not believe the Forest drew a defensible correlation between resource degradation and MBGR (as opposed to other forms of cross-country travel). The Forest's stated rationale for selecting Alternative 2 and thereby prohibiting motorized deer retrieval was to greatly reduce the potential to all resources of concern. The resources of concern identified in the Decision included archaeological sites, cryptobiotic soils, sensitive plant species, and protection of sensitive areas. The Department has reviewed the Forest's analysis of the effects of cross country travel on natural/cultural resources and we believe the Decision is inconsistent with the conclusions drawn in Chapter 3 of the EA.

The EA, Chapter 3, Table 8 (at 27) identifies the top five recreation activities on the NKR D. Hunting is not among the top five activities described in the Table. Table 10 of the EA (at 28), from the 2008 Arizona Statewide Comprehensive Outdoor Recreation Plan, describes the types of recreation activities in national forests state residents currently participate in, and expect to participate in for the future. Hunting comprises only 1.67 days (or visits per year), with an anticipated future increase in participation of 10.9%. Contrast these statistics with those for "Ride OHV" (22.9 days or visits per year; to increase by 24%) and "Drive for Pleasure" (22.9 days or visits per year, to increase by 34.1%). A footnote to Table 10 notes that national trends in recreation indicate that traditional activities such as hunting and fishing have *declined* in popularity, with the fastest-growing activities being birdwatching, day hiking, backpacking, walking, canoeing and *off-road motor vehicle driving* (increasing by 142%). Currently,

regulated mule deer hunting on GMU 12A occurs on only fifty-nine (59) days out of the year. Yet, the EA appears to lump MBGR together with other motorized forms of cross-country travel, such as recreational off-roading, fuel wood retrieval and grazing allotment activity. In fact, the EA in Chapter 3 of the EA cites to cross-country travel and MBGR interchangeably. In light of the above numbers, the Department believes the EA overestimates the relative contribution by licensed hunters conducting MBGR to all forms of motorized cross-country travel occurring on the NKRD.

The Department also believes that the EA overestimates the number of MBGR trips and the length of each trip in its analysis. Table 2 (EA at 10) estimates that 90% of all successful hunters use motorized cross country travel to retrieve their game. Although the Department has not conducted a survey of hunters on this issue, the Department believes the 90% estimate is greatly overstated based on the field observations of experienced Department wildlife game managers who have patrolled the NKRD for over 20 years. The Forest Service clearly fails to provide a foundation for their estimates.

The EA further assumes that every MBGR requires a 2 mile round trip:

If an OHV were used to retrieve the take, a 2 mile roundtrip for big game retrieval in a truck with an average 7 foot wide tire span could potentially result in a ground disturbance of approximately 1.7 acres per vehicle.

Final Report - Travel Management Rule Environmental Analysis, Cultural Resources Specialist Report at 13 (August 1, 2012) (“Report”).

But this is an admittedly hypothetical estimate by the Forest. The Department game rangers who patrol the NKRD assert that the majority of deer harvests occur near (significantly less than 1 mile) established roads during both early and late season hunts.

The EA at 99 has no estimate of the impacts of MBGR on cultural resources:

Around 75% of the NKRD has not been inventoried for cultural resource sites. It is unknown how often OHV damage to a particular site can be attributed to hunter game retrieval.

The Cultural Resource Specialist’s *Report* at 13 does attempt to calculate the potential for adverse impacts to archeological sites due to the motorized retrieval of elk and bison:

While there is a possibility that cross-country game retrieval of either of these species could impact a cultural resource site, given the low number of takes each year, it is anticipated that the potential for adverse effects to a site would be negligible: 38 entries per year equates to less than .0099% of the acreage on the NKRD. The odds of adversely affecting a cultural resource site under these conditions are extremely low.

Unfortunately, a similar analysis was not conducted for the Department's preferred Alternative 4, which would allow MGBR for mule deer. Rather, the Cultural Resource Specialist's *Report* at 16 resorts to speculation:

Using the averages found in the 2009 harvest data, it could be estimated that over a 10 year period between 9500 – 15,600 (or 19,000-31,200 in/out) motorized game retrieval trips could hypothetically occur on the NKRD. An *unknown* number of those trips *could* result in damages to susceptible cultural resource sites. (Emphasis added).

In short, the EA's entire case against MBGR for mule deer based on impacts to cultural resources relies on unfounded estimates and speculation.

The lack of a defensible correlation between cultural resource degradation and MBGR (as opposed to other forms of motorized cross-country travel) extends to supposed impacts to other resources as well as reflected in Chapter 3 of the EA:

- “It is unknown how often OHV damage to a particular site can be attributed to hunter game retrieval”. EA at 99.
- “Quantifying the actual likelihood for damage to sites from motorized big game retrieval, however, is more difficult”. EA at 99.
- The EA, Table 6: *Comparison of Alternatives-Summary of Effect on Resources* states that Alternative 2, which bans MBGR for mule deer, results in minimal impacts to soils and watershed from MBGR. For the Department's preferred Alternative 4, which allows MBGR for mule deer, the degree of impacts on soils and watershed from MBGR is “[s]lightly higher”.
- The EA, Table 6: *Comparison of Alternatives-Summary of Effect on Resources* states that Alternative 2, which bans MBGR for mule deer, results in minimal effects on the spread of invasive weeds. For Alternative 4, which allows MBGR for mule deer, the degree of invasive weed dispersal is characterized as having “minimal effect”.
- The EA, Table 6: *Comparison of Alternatives-Summary of Effect on Resources* states that Alternative 2, which bans MBGR for mule deer, results in minimal effects on sensitive plants. For Alternative 4, which allows MBGR for mule deer, the degree of impact on sensitive plants is described as “negative”. However in Chapter 3 at 67-68, referring to impacts to sensitive plants, the EA states:
 - *This [Alternative 4] would only represent a small increase in impacts over Alternatives 2 and 3. Given that there have been no noticeable impacts to subalpine meadows from past mule deer retrievals, this is not expected to be an issue.*
 - *The motorized game retrieval would be random and potential impacts could only be created in locations where motorized vehicles would drive on the more fragile soils. Any tracks created will rehabilitate over time, but it will take longer than other locations.*

- The impact of MBGR on cryptobiotic soil is referenced in the Recreation, Wildlife, and Heritage sections of Chapter 3 but not discussed in the Soils section. Furthermore, none of the associated specialist's reports, upon which Chapter 3 is based, contain any mention of cryptobiotic soils (except once - the Cultural Resource Specialist's *Report* at 17) or any form of a correlational analysis of MBGR and its relative impact on cryptobiotic soils relative to other forms of motorized cross-country travel.
- Chapter 3 (Environmental Effects, Non-native and Invasive Species, Direct and Indirect Effects, Effects Common to Alternatives 2 and 4) states at 57: *Alternative 4 authorizes motorized big game retrieval for mule deer in addition to elk and bison, which increases the potential for invasive spread when compared to Alternative 2. While the potential for invasive spread and disturbance is greater in Alternative 4, motorized big game retrieval for mule deer is not expected to be significant enough to increase the level of invasive species across the project area when compared to the other action alternatives and the overall recreational use on the NKRD.*
- The Decision refers to the impact of MBGR on 'sensitive areas', however, this is not a resource specifically defined in Chapter 3 of the EA.

The EA thus rejects the Department's proposed alternative:

Adopting a rule of "one trip in" and "under dry conditions" as suggested by the AGFD will not eliminate potential impacts to heritage resource sites from motorized cross country travel in areas with fragile soils or surface architectural features or artifacts easily crushed by vehicles. While wet conditions contribute to soil erosion and vegetation damage, sandy and fine clay areas and those with crypto biotic soils can be damaged by cross country motorized travel even under dry conditions. These areas are found in locations known to have a high density of sites. This rule alone will not mitigate the potential damage to cultural resource sites by motorized game retrieval. *Response to Comment 1-2 by the Arizona Game and Fish Department.*

The Department supports the need to generally prohibit cross-country motorized travel to protect wildlife habitat and other resources, as well as the restriction of the use of cross-country motorized travel for game scouting or accessing hunting sites. However, nothing in the EA would suggest that MBGR of mule deer for the 59 days of authorized mule deer hunts on the NKRD would cause any measureable natural resource or cultural resource damage. But Alternative 2 restricts all hunters who need motorized assistance to retrieve their downed mule deer. As a result, the Decision affects a certain class of hunters in an unnecessary and disproportionate manner, such as older hunters, less agile hunters, or CHAMPS hunters with service-connected disabilities. See A.R.S. §17-336. Regulation 36 C.F.R. 212.51 authorizes the Forest Responsible Official to allow the limited use of motor vehicles, within a specified distance of certain designated routes, and, if appropriate, within specified time periods solely for the purpose of retrievals of legally-taken big game animals.

b. Restricted MBGR will impact the Department's lead reduction efforts in Condor Country.

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Consistent with our previous comments, the Department is concerned that the Forest's Decision will negatively impact condor management efforts. The Southwest population of condors was established as a nonessential experimental population under section 10j of the Endangered Species Act.

Current high rates of voluntary participation (83-90% in last three years) in lead reduction efforts include MBGR facilitated removal of gut piles from the field for deer that were harvested with bullets containing lead. On average (using hunt seasons 2006-2011), 16% of successful deer hunters in GMU 12A chose gut-pile removal as their form of participation in the lead reduction program (out of 90% participation overall).

The decision could impact strides made in condor conservation, and place the condor conservation partnership at risk. The analysis did not disclose these potential impacts.

2. Why Appellant believes the Responsible Official's decision failed to consider the substantive comments.

Despite the Department's stated preference for Alternative 4, the Decision in favor of Alternative 2 allows no MBGR for mule deer under any circumstance.

3. Any specific changes in the decision that the Appellant seeks and rationale for those changes.

The Decision should allow MBGR of legally-taken mule deer within 1 mile of open roads to be consistent with Department's Statewide MBGR recommendations, as follows:

- Allowing for MBGR of legally taken elk, deer, and bison,
- Allowing one trip in – one trip out,
- Restricting access during wet/muddy conditions or across riparian/wetland areas, and
- Allowing CHAMP hunters permission to recover all legally taken big game provided it could be done without resource damage.

4. How the Appellant believes the decision specifically violates law, regulation or policy.

The assumption that MBGR causes resource damage is speculative and not based on any credible data. CEQ, 40 CFR § 1502.22 states:

If the incomplete information relevant to reasonably foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement. If the information relevant to reasonably foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known, the agency shall include within the environmental impact statement: (1) A statement that such information is incomplete or unavailable; (2) a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment; (3) a summary of existing credible scientific evidence which is relevant to

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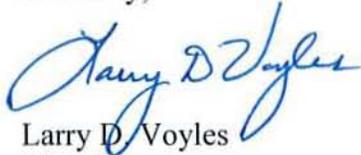
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evaluating the reasonably foreseeable significant adverse impacts on the human environment, and (4) the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community. . . “[R]easonably foreseeable” includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.

The Decision should allow the limited use of motor vehicles within a specified distance during authorized big game hunt seasons solely for the purpose of game retrieval of mule deer, elk and bison. General statements about the possible effects of MBGR of mule deer on habitat or heritage resources does not constitute a “hard look” of the environmental consequences absent justification regarding why more definitive information cannot be provided. A blanket prohibition on MBGR for mule deer based on unsupported assumptions may constitute an abuse of discretion. *Neighbors of Cuddy Mountain v. U.S. Forest Service*, 137 F. 3d 1372, 1380 (9th Cir. 1998).

The Department has presented detailed data on the effects of the NKRD Travel Management plan on the ability of hunters to access the North Kaibab mule deer herd to participate in well regulated hunting, a key desire of the public and a principal means of managing the dynamics of the population. Further, the Department has demonstrated that impacts of the decision on resources have not been fully disclosed. The Department hereby submits the appeal of Decision pursuant to 36 CFR 215 for the North Kaibab Ranger District Travel Management Project Environmental Assessment DN-FONSI.

Sincerely,



Larry D. Voyles
Director

cc: Honorable Jan Brewer, Governor of Arizona
Arizona Game and Fish Commission

Attachments



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November 28, 2012

Prescott National Forest
Attention: Plan Revision Team
344 South Cortez Street
Prescott, Arizona 86303

Re: Prescott National Forest Draft Environmental Impact Statement and Draft Land and Resource Management Plan

Dear Plan Revision Team:

Thank you for providing the Arizona Game and Fish Department (Department) with the opportunity to comment on the Prescott National Forest Draft Environmental Impact Statement (DEIS) and Draft Land and Resource Management Plan (DLRMP). The Department appreciates the opportunity to have been involved in this important planning process, and recognizes the vital role lands administered by the Prescott National Forest (Forest) currently play in providing wildlife habitat as well as opportunities for wildlife-related recreation in Arizona. As Arizona's human population continues to grow throughout the life of the DLRMP, it is anticipated that wildlife and the public will become increasingly dependent upon Forest lands. It is therefore essential the DLRMP not only address current wildlife habitat and recreational needs, but also provide for the high quality habitat and the maintenance of wildlife connectivity within the Forest and between the Forest and other public and private lands – both now and into the future. The Department offers the following *general comments* relating to the DEIS and DLRMP as a whole, with *specific and final comments* to follow.

GENERAL COMMENTS RELATING TO THE DEIS AND DLRMP

Special Land Use Designations (Proposed Wilderness Areas)

Current Land Status and the Department's Ability to Manage Wildlife in Arizona

Federal lands comprise 42% of Arizona's lands. More than 43% of those lands have special land-use designations, upon which significant restrictions exist relating to recreation and the management of wildlife and habitat resources. Only 23% of Arizona's lands remain free of special land designations and open for public use, meaning 77% of lands in Arizona possess restrictions to public access and recreation through ownership (private, state, and tribal) or federal special land use designations.

Conservation of wildlife resources upon all lands within Arizona is the trust responsibility of the Arizona Game and Fish Department. It involves managing wildlife and habitat to ensure abundant wildlife resources are available for present and future generations.

Currently, 4.5 million acres in Arizona have a wilderness designation. With an additional 5.8 million acres of special land-use designations in the form of National Monuments, Parks, Wildlife Refuges, Conservation Areas, Areas of Critical Environmental Concern, Wild and Scenic Rivers, and Wilderness Characteristics Areas, the state has experienced a systematic loss of recreational opportunities and an erosion of the Department's ability to proactively manage wildlife. Due to special designations on these roughly 10 million acres, the Department experiences extensive and widespread project delays, elevated costs, increased man-hours, and legal challenges - resulting in decreased efficiency in the conservation and management of Arizona's wildlife resources.

The Department finds that a level of protection which maintains wildlife habitat values, provides flexibility in wildlife management, and allows adequate recreational access is often the best strategy for public land use. Due to historical challenges that have impeded its ability to achieve its mission in designated wilderness areas, the Department has concerns with assigning a wilderness designation to the lands identified in the preferred Alternative B of the DEIS. No matter how carefully the wilderness designation language is crafted, a wilderness designation inevitably hampers or precludes the Department from achieving its management objectives. At the very least, wilderness designations result in substantive and costly compliance hurdles which must be addressed before wildlife management actions can be implemented.

Based upon its long history of wildlife management in wilderness areas, the Department anticipates challenges, complications, or obstructions in its ability to implement the following types of management activities in areas with wilderness designations:

- Creation and improvements of alternate access routes.
- Aquatic management and stream renovations, which might include physical removal of noxious weeds and non-native fish, reintroduction of native fish, construction and maintenance of aquatic habitat structures, and monitoring of fish populations.
- Wildlife management, including aerial and motorized ground surveys, transplant of species, marking or collaring of animals, radio tracking of animals, placement of wildlife cameras and scent poles, as well as the development and maintenance of physical structures such as bat gates or riparian habitat.
- Habitat management, including the development and maintenance of wildlife waters, removal of exotic plant species, creation of wildlife corridors through prescribed burns and mechanical removal of timber and brush.

One might believe activities such as these could be provided for in the construction of overt language for their provision in the wilderness designation documents. However, it has been the Department's experience that regardless of the care taken in drafting such language, future management efforts will be more difficult in areas with wilderness designations. This may sometimes be attributed to the diverse perspectives of federal employees applying their differing interpretations of a wilderness designation to proposed management actions. In other instances, challenges may arise due to an inability on the Department's part to accurately forecast all

management actions necessary in a wilderness area, and to capture those actions in the enabling documents associated with a wilderness.

Rather than wilderness, the Department advocates the Forest develop management prescriptions in cooperation with the Department for areas such as these, and recognized as possessing important ecosystem values. If developed in cooperation with the Department, these prescriptions would provide a greater level of resource protection, while still providing for the beneficial management of wildlife - without the challenges created within designated wilderness areas.

Conclusions and Request: Special Land Use Designations (Proposed Wilderness Areas)

Both the Multiple-Use Sustained-Yield Act of 1960 and the Federal Land and Policy Management Act of 1976 (FLPMA) legally prohibit federal land management agencies from affecting the State's jurisdiction and responsibilities. Managers of public lands are mandated by FLPMA, the "Organic Act", to provide multiple-use recreational opportunities on public lands to both present and future generations. The Department perceives the conversion of public lands to a special use status as a breach of the FLPMA mandate. In spite of existing legislation, neither the United States Forest Service (USFS) nor Bureau of Land Management (BLM) have established objectives for the scope of public lands in Arizona to be administered in full multiple-use status, and free from restrictive designations.

The Department supports public land use that provides Arizona's public and resources with a net benefit. It does not support the conversion of public lands from multiple-use to land-use designations that are anticipated to result in a net loss of wildlife resources, wildlife-related recreational opportunities, and/or wildlife dependent economic benefit. For these reasons, **the Department does not support an expansion of wilderness on the Prescott National Forest, and requests that a full analysis of the cumulative impacts of further loss of public lands that provide for multiple-use and wildlife related recreational and economic opportunities be conducted before an expansion of wilderness is approved. Further, the Department requests that prior to approval of a wilderness designation for any new lands the Forest first fully analyze that decision's impact to the Arizona Game and Fish Department's ability to fulfill its trust responsibility to manage the state's wildlife resources.**

Resolution Regarding New Proposed Wilderness Areas

Given that wilderness designations impede the Department's ability to fulfill its trust responsibility to manage wildlife and habitat for current and future generations, the Department cannot offer support for preferred Alternative B, wherein eight wilderness expansion areas totaling approximately 43,400 acres are proposed for new wilderness designations.

Motorized Big Game Retrieval (MBGR)

MBGR Background

For many years the Department has participated in the Land and Resource and Travel Management Rule Planning efforts on the Kaibab, Prescott, Coronado, Tonto, and Apache - Sitgreaves National Forests. In these efforts, the Department has advocated for uniformity across the forests in the rules relating to Motorized Big Game Retrieval.

The Department supports the need to generally prohibit cross-country motorized travel to protect wildlife habitat and other resources, as well as the restriction of cross-country motorized travel for game scouting or accessing hunting sites. However, the Department has sought, and continues to seek the following MBGR provisions in the Travel, and Land and Resource Management Planning (LRMP) documents for all of Arizona's Forests:

- Allowing MBGR of all big game (deer, elk, bear, and bison) within one mile of roads designated as open during, and for 24 hours subsequent to designated hunting seasons
- Allowing one trip in – and one trip out
- Restricting access during wet/muddy conditions or across wetland/riparian areas
- Allowing older, less agile, or CHAMPS hunters with service-connected disabilities (*See* A.R.S. §17-336) to make use of a motorized vehicle, within a specified distance of routes designated as open, to retrieve legally-taken big game animals – as provided for in Regulation 36 C.F.R. 212.51, which grants this authority to the Forest Responsible Official.

It is the hope of the Department, that by adopting the above-referenced provisions, and by avoiding blanket prohibitions of MBGR for the big game species referenced above, the Prescott National Forest will avoid the potential abuse of discretion as described in *Neighbors of Cuddy Mountain v. U.S. Forest Service*, 137 F. 3d 1372, 1380 (9th Cir. 1998), and avoid appeal of this decision by the Department, as was recently necessitated by the TMR decision issued for the North Kaibab Forest's North Kaibab Ranger District. (*Please reference North Kaibab Ranger District TMR Appeal letter included in accompanying electronic enclosure*)

Current and Proposed Status of MBGR on the Forest

Currently, the Coconino, Kaibab, Prescott, Coronado, Tonto, and Apache/Sitgreaves National Forests have Travel Management Rule (TMR) and LRMP provisions lacking consistency across the Forests of Arizona. Of particular concern to the Arizona Game and Fish Department, are those provisions relating to Motorized Big Game Retrieval which impact the constituents of the Department engaged in lawful hunting activities. This lack of clear direction pertaining to when, where, how, whom, and what species of downed game may lawfully be retrieved by motorized vehicle creates widespread confusion and fear for the recreating public, and challenges the Department's ability to provide fair and uniform enforcement of the law as it relates to these activities.

On page 74 and 75 of the Prescott National Forest's DLRMP, in the section entitled "Social and Economic Resources – Recreation, Transportation, and Facilities," Std-Rec-2 states, "Only designated roads, motorized trails, and motorized use areas as depicted and described on the motor vehicle use map are open for motorized big game retrieval. Motorized big game retrieval is precluded in areas where motorized travel is prohibited, such as wilderness." On the same page, Guide-Rec-1 goes on to state, "For the purpose of motorized big game retrieval: Use of motor vehicles should be limited to within one mile of designated trails to retrieve a legally hunted and tagged elk during elk hunting seasons as designated by the Arizona Game and Fish Department, and for 24 hours following the end of the season. Only one vehicle (i.e., one trip in and one trip out) per harvested animal should be operated off of designated roads and motorized

trails. Hunters should use the most direct and least ground-disturbing route to accomplish the retrieval. Motorized big game retrieval should not occur when conditions are such that travel would cause damage to natural and/or cultural resources. Motor vehicles should not cross riparian corridors, streams, and rivers, except at hardened crossings or crossings with existing culverts.”

The Department has the statutory authority to manage wildlife in Arizona. Because hunting is a key desire of the public, and is a principal means by which the Department manages the dynamics of the State’s game populations, the Department offers the following recommendation relating to the preceding MBGR standards and guides:

Recommendations Relating to MBGR

The Department requests the Standards and Guides associated with MBGR in the “Social and Economic Resources – Recreation, Transportation, and Facilities” component of the DLRMP, be expanded in scope to allow MBGR for deer, elk, bear, and bison - bringing the Prescott National Forest’s MBGR policy in compliance with the uniform MBGR provisions the Department is seeking Forest-wide in Arizona. Those provisions being:

- **Allowing MBGR of all big game (deer, elk, bear, and bison) within 1 mile of roads designated as open during, and for 24 hours subsequent to designated hunting seasons.**
- **Allowing one trip in – and one trip out.**
- **Restricting access during wet/muddy conditions or across wetland/riparian areas.**
- **Allowing older, less agile, or CHAMPS hunters with service-connected disabilities (See A.R.S. §17-336) to make use of a motorized vehicle, within a specified distance of routes designated as open to retrieve legally-taken big game animals – as provided for in Regulation 36 C.F.R. 212.51, which grants this authority to the Forest Responsible Official.**

The consumptive use of wildlife (hunting) is central to the conservation of wildlife in the United States, with conservation of the nation’s wildlife resources vested largely in the state wildlife agencies. The funding for this conservation is rooted in the contributions of hunters and anglers, with hunting on public lands in the west playing an essential role in the fiscal health of western wildlife conservation agencies. **In the absence of revision to the MBGR component of the Forest’s DLRMP and DEIS as described above, the Department requests the DEIS analyze the cumulative effects of this proposed decision (as well as allied travel management decisions) on the programmatic provision for wildlife conservation by the Department, and further, that the Forest analyze the individual and cumulative effects of this proposed decision (and allied decisions), on the North American Model for Wildlife Conservation.**

DEIS and DLRMP Alignment with Department Strategic Plans

Arizona Game and Fish Department Strategic Documents Currently Referenced in the DEIS

In the DEIS released with the DLRMP, it should be noted that on pages 17-21 (and Table 4) of DEIS Appendix C, the Forest references, and provides detailed documentation of the specific

DLRMP provisions whereby the Forest provides support for the following Department Strategic Plans:

- The 2005-2015 “Comprehensive Wildlife Conservation Strategy (CWCS)”
- The 2007-2012 “Wildlife 2012 Strategic Plan (WL 20/20)”

It should be noted the preceding documents are obsolete, having been superseded by the newly approved Department Strategic Plans: “*State Wildlife Action Plan (SWAP)*” and “*Wildlife 20/20 Strategic Action Plan (WL 20/20)*” described under the sub-heading that follows.

Arizona Game and Fish Department’s Current Strategic Plans

- *State Wildlife Action Plan*: On May 16, 2012, the Department adopted its current “State Wildlife Action Plan” which provides strategic guidance for the Department’s wildlife management for the years 2012-2022. The SWAP, approved earlier this year by the United States Fish and Wildlife Service, replaces the now defunct CWCS document.
- *Wildlife 20/20 Strategic Action Plan*: Earlier this month (November, 2012), the Department released a draft copy of its current “*Wildlife 20/20 Strategic Action Plan*”. This plan, WL 20/20, replaces the now defunct Wildlife 2012 Plan.

Request Relating to DEIS and DLRMP Alignment with Department Strategic Plans

Based upon the information provided above, **the Department requests the Forest remedy this inconsistency by correcting pages 17-21 and Table 4 of DEIS, Appendix C, to accurately document alignment between the Forest’s Plans and the current Department Strategic Plans:**

- “*State Wildlife Action Plan (SWAP)*”
- “*Wildlife 20/20 Strategic Action Plan (WL 20/20)*”

In conjunction with this comment letter, please find the enclosed CD containing the Department’s “*State Wildlife Action Plan*” and the “*Wildlife 20/20 Strategic Action Plan*”, as well as the data layers and resources associated with our State Wildlife Action Plan (SWAP).

SPECIFIC COMMENTS RELATING TO THE DLRMP

(Page 5, Item 2): Needs for Change

The Plan states, “Retain or improve watershed integrity to provide desired water quality, quantity, and timing of delivery. Addressing this need would provide improved water quality for human health and safety; move watersheds toward maintaining water quantity for both municipal watersheds and maintenance of aquatic and riparian species habitat; and provide timing of delivery that is commensurate with healthy soil and biological function and natural geomorphology.”

Recommendation: Consideration to include a properly functional watershed, providing stable habitats for both biological diversity and human recreational uses.

(Page 5, Item 4): Needs for Change

The Plan states, “Provide desired habitat for native fish species. Native fish and other aquatic species are in decline in some watersheds. Furthermore, native aquatic species are no longer known to be present in five watersheds, where historically they were present. In order to assist in responding to the decline in native fish species, the PNF can provide habitat and watershed

characteristics that will support these species. It could also partner with the State of Arizona in addressing control of non-native species.

Recommendation: Even if the primary desire is for native fish habitat, a simple statement regarding the improvement of the watershed characteristics would increase the value for native fish and wildlife habitat. In addition, these characteristics (i.e. riparian areas) function to provide important wildlife corridors, along with enabling safer and more efficient wildlife migrations. Habitat and watershed characteristics are important in providing internal habitat and structural diversity, in turn providing increased stability. Additionally, consideration should be given to changing "could also partner" to "will partner with the State of Arizona" in addressing the control of nonnative species, while continuing to provide angler opportunity for both native and non-native species.

(Page 6, Item 5): Needs for Change

The Plan states, "Enhance the value of open space provided by the Prescott NF by defining the visual character with areas near or viewed by those in local communities. Retention of open spaces is highly valued by citizens for its scenic value and contribution to low population density. The Prescott NF has a unique opportunity to enhance value and identify desired visual character on its lands as population density may increase on other ownership."

Recommendation: This discussion should also address the importance of incorporating wildlife linkages into the values of open space. Open spaces provide for a multitude of public benefits, ecosystem services, and products we all need and enjoy such as water, economic prosperity, wildlife, recreation and wildfire protection (USFS <http://www.fs.fed.us/openspace/faq.html#n2>).

(Page 7): Social and Economic Values (Missing in Description of Desired Conditions)

Comment: The values do not seem to reflect fish and wildlife related recreation as it would also impact these values and generates a large contribution to the PNF.

Recommendation: The social and economics portions of this document, including the actual analysis in the DEIS should incorporate fish and wildlife related recreation. Below is a compilation of data from available sources indicating significant economic contributions as they relate to the state overall, USFS lands in the state, PNF lands specifically, and AGFD license sales in the States Game Management Units (GMUS) located on the Forest. (The following data has been provided for incorporation into the DEIS Economic Analysis...)

2012 National Survey, Outdoor Industry Association

- 2011 Arizona:
 - Hunting - \$337,759
 - Fishing - \$755,027
 - Wildlife viewing - \$935,880
 - Total: \$2,048,666

2012 License Sales Report

- 2011: GMU's identified on PNF: 8, 17A/B, 19A/B, 20A/B, 21
 - Estimated total permit tag sales (based on the cost of each tag and total tags available for those units): \$665,599.0
 - Estimated total minimum hunt license sales (to purchase total tags available for those units): \$1,248,646.75
 - Hunter days available on request

- % of each GMU on the PNF
 - 8 - 33%
 - 17A -- 69%
 - 17B -- 97%
 - 19A -- 50%
 - 19B -- 17%
 - 20A -- 68%
 - 21 -- 22%

2007 American Sport fishing Association for the USDA -- USFS

- Total for AZ: \$417,5634,259 (wildlife associated recreation)

2006 American Sport fishing Association for the USDA -- USFS

- Prescott = \$129,544,151.0 (wildlife associated recreation)

Other:

- PNF = 18% forest land in AZ
- PNF= 50% land in Yavapai Co.
- Yavapai County (Consumptive) -- 2002. Silberman, Jonathan
 - Fishing and Hunting Expenditures: \$40.0 Million
 - Total Multiplier: \$ 49.9 Million
 - Salaries and Wages: \$ 9.8 Million
 - Full and Part time jobs: 811
 - State tax revenues: \$ 2.3 Million
- Yavapai County (Non-Consumptive) -- May 2003. Southwick Associates
 - Retail Sales: \$38,924,040.0
 - Total Multiplier: \$72,969,878.0
 - Salaries and Wages: \$20,403,548.0
 - Full and Part time jobs: 692
 - State tax revenues: \$507,205.0

(Page 12, Statement 5): **Needs for Change (Concepts for Understanding)**

Comment: Wildlife as a value to scenic integrity is not included within the SMS system and should be considered, as open spaces should incorporate wildlife linkages and identify the scenic importance of wildlife. The Yavapai and Coconino Wildlife Linkages Assessments further identify and discuss these areas in more detail and should be incorporated into the Plan. (Please note that the linkage reports referenced above may be found in the attached CD enclosed with this comment letter.)

(Page 37-38): **Forest-wide Desired Conditions, Grasslands**

Comment: Consideration should be given to including the tie to landscape scale collaborative efforts that continue to make large scale improvements, such as the Central Arizona Grasslands Conservation Strategy.

(Page 46-47): Forest-wide Desired Conditions, Open Space, Lands and Scenic Values

Comment: Open spaces are important from a wildlife linkage, wildlife movement and migratory corridor perspective as well, not exclusively for providing habitat. Please refer to previous comments relating to open space and scenic values for consideration to provide appropriate expansion within this section.

(Page 55, 56, Obj. 8; Page 44, DC-Rec-1): Background and Rationale (Dispersed Camping)

The DLRMP States, "In the absence of specific restrictions, a person can camp in any location on the forest outside of a developed recreation site; this is often called dispersed camping."

Comment: At the November 5, 2012 Board of Supervisors Meeting in Yavapai County, Forest Supervisor Betty Mathews provided an update to the public on the status of the DEIS and DLRMP. At that public meeting, Ms. Mathews stated, "Dispersed Camping is permitted within 300 feet of all roads designated as open on current Motor Vehicle Use Maps ..."

Recommendation: Please rephrase this bullet point to state, "In the absence of specific restrictions, a person can camp in any location on the forest outside of a developed recreation site, and within 300 feet of all roads designated as open on current Motor Vehicle Use Maps..." (Please note the "Dispersed camping" description in Table 8; page 121 should be modified in the same manner.)

(Page 56, Objective 10): Recreation, Background and Rationale (Shooting Ranges)

The DLRMP States, "Create one designated target shooting area during the 10 years following Plan approval" to replace the current range, for which the Forest will not renew the lease."

Comment: With only one designated shooting range, people will likely find their own locations to shoot, with a potential increase in unsafe shooting behavior and possible littering. While 1 Range is a good start, comments included in the draft LMP state that the original plan called for 2-5 ranges - but that this was deemed unfeasible by the Prescott Leadership Team. (Note: This was previously recommended in the 052611 AGFD comment letter to the Forest re: Draft IV of the DLRMP)

Recommendation: The Department still advocates the development of additional recreational shooting sites with lower cost and manpower requirements than full-service shooting ranges. Appropriate wording for this section might be "... create and operate one formal target shooting range, and create 2-5 additional informal recreational target shooting areas (pocket ranges)". (Note: This would require modification to page 9 of the DEIS).

(Page 69, Guide-WL-2): Terrestrial Wildlife

The DLRMP States, "Design features and mitigation measures should be incorporated in all Forest Service projects as needed to ensure Southwestern Region Sensitive Species do not trend toward listing as threatened or endangered."

Recommendation: This paragraph should be modified to include the Arizona Game and Fish Department's Species of Greatest Conservation Need (SGCN)." (Please note SGCN file in attached CD included with this comment letter)

(Page 69, Guide-WL-3): Terrestrial Wildlife

The DLRMP lists provision for the benefit of pronghorn habitat and populations.

Recommendation: This paragraph should be modified, by additionally making reference to the Department's Central Arizona Grassland Strategy (CAGS)." (Please reference the CAGS file in attached CD included with this comment letter)

(Page 77, Guide-Lands-2): Terrestrial Wildlife

Recommendation: As with the recommendation for page 69, Guide-WL-2 above, this paragraph should be modified to include the Arizona Game and Fish Department's Species of Greatest Conservation Need (SGCN)." (Please note SGCN file in attached CD included with this comment letter)

(Page 84-85): Standards and Guidelines, Range

Recommendation: The WS-4 should be considered for this section as it provides the concept for adaptive management regarding watershed function. An additional guide should incorporate grass reserve banks.

(Page 111, Table 5): Monitoring Questions

Recommendation: In the final row of the table on page 111, under the heading "Monitoring Question," the question at this intersection in the table should be modified to not only reflect Federally listed species, but include the Arizona Game and Fish Department's "Species of Greatest Conservation Need (SGCN)" as well. (Please note SGCN file in attached CD included with this comment letter.)

Final Comments and Conclusions Relating to DEIS Alternatives

Prescott National Forest's Preferred Alternative (Alternative B)

The Department understands information gathered from citizens and the public during the development of Community Vision Statements, the "Ecological Sustainability Report" (ESR), the "Economic and Social Sustainability Assessment" and the "Analysis of the Management Situation" (AMS) influenced the alternative themes developed for the DEIS, which have been developed in part based upon the potential environmental, social, and economic consequences of implementing each alternative.

Additionally, the Department understands Alternative B, with its suite of proposed management actions, is the proposed revised plan and was developed iteratively in a collaborative manner to address the needs for change identified in chapter 1 of the DEIS.

The Department met with and repeatedly provided feedback to the Forest in the draft developments of the proposed revised plan. The Department agrees with members of the public who felt *viability and habitats* should have greater emphasis in all possible plan alternatives, and finds existing designated wilderness areas to be adequate. Consequently the Department does not support the Forest's preferred choice of Alternative B.

Arizona Game and Fish Department Preferred Alternative (Alternative C)

The Department understands Alternative C was developed to address the issues specific to species viability and habitat, by providing a greater focus on the improvement of ecological conditions and wildlife habitats. It provides additional emphasis on restoring the vegetation types most severely departed from desired conditions, provides for increased restoration treatment activities within the Ponderosa Pine and Grasslands Potential Natural Vegetation Types (PNVT's), and places additional emphasis on management actions providing benefit to

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native fish habitat and management indicator species such as pronghorn. In addition to these considerations, with Alternative C being the sole alternative in which there are no additional areas recommended for wilderness designation (contrasting the eight Wilderness Expansion Areas totaling approximately 43,400 acres identified in Alternative B), it is Alternative C with which the Department most closely aligns, and for which it offers its support.

The Department appreciates the tremendous effort, monumental investment of manpower, and outreach employed by the Forest in this planning effort. The Department wishes to again express its appreciation for the opportunity to provide comment in this important process. If you have any questions related to this letter or the comments, requests or recommendation that it contains, please feel free to contact me by phone at 928-692-7700, ext. 2300, or by email at tfinley@azgfd.gov.

Sincerely,



Tom Finley
Supervisor, Region III

TPF:tb

cc: Laura Canaca, Supervisor, Habitat Project Evaluation Program
Trevor Buhr, Habitat Program Manager, Region III
Larry Riley, Assistant Director and Acting Habitat Branch Chief

Enclosure: CD containing the following: 2012-2022 State Wildlife Action Plan, Wildlife 20/20 Strategic Action Plan, Species and Habitat Conservation Guide, Species of Greatest Conservation Need, Species of Economic and Recreational Importance, Data Layers Associated with the Department's Habimap Planning Tool, Arizona's 2006 Wildlife Linkages Assessment, Arizona Missing Linkages Reports, Yavapai and Coconino County Stakeholder Linkages Reports, Arizona Game and Fish Department Wind and Solar Energy Guidelines, Central Arizona Grassland Strategy, November 2, 2012 Letter: North Kaibab Ranger District Travel Management – Appeal of pursuant to 36 CFR 2015

Commission Practice and Procedures –Approved March 2011
REVISED DRAFT- Based on Input from Sept 2012 Meeting and
November 2 Workshop

Role of the Commission Chair – To provide leadership to the full Commission and as with all Commissioners, be available to provide policy direction and guidance to the Director and Department staff as necessary, both during Commission meetings and for other coordination issues with the Department.

Commission Meetings

Agenda Items – Any Commissioner may request that an item be placed on the agenda in accordance with open public meeting law. Such requests will be coordinated via e-mail to the Chair and other Commissioners, Director and Assistant Attorneys General. If approved by the Chair, the Department will then work with the Chair and the Commissioner requesting the item to ensure the item is staffed appropriately. If the Chair opposes an item or items being placed on the agenda and that decision results in disagreement with the requesting Commissioner, the Department will be instructed to poll the entire Commission on their preference for the item or items to be placed on the agenda.

Draft Agendas – The Chairman works with the Department on drafting the meeting agenda. The Department provides drafts of upcoming meeting agendas to the Commissioners in advance of public notice of the agendas. This usually occurs no later than one week prior to the public meeting. The Chair and the Director will meet to discuss the agenda prior to public posting. Any revisions to the posted agenda will follow the same procedure.

Commission Action Items – During Commission meetings at the end of each agenda item where direction is provided to the Department by the Commission, the Director will capture, clarify and communicate with the Commission the specifics of that action item (e.g., timing and or deliverables) that are expected by the Commission before the Chair moves on to the next agenda item. This will be done to ensure the Department and Director can accurately meet the Commission's expectations. Review of action items will remain a standing agenda item at each Commission meeting.

Calling Telephonic Meetings – Any Commissioner can request a telephonic Commission meeting in an instance where an item needs full Commission consideration and/or vote prior to the next regularly-scheduled meeting. However, only the chair has the authority to call a meeting unilaterally, so Commissioner(s) would be required to request that the Chair call the meeting. In the case that the Chair is unwilling or unable to call a telephonic meeting, a majority of the Commission may call a meeting. In this instance, the Department's legal counsel will be contacted and consulted.

Outreach Surrounding Commission Meetings – The Department will continue to produce pre- and post-meeting outreach to the Department’s constituency and media sources following all Commission meetings. This outreach may include Commission actions taken, including positions and Department direction voted on by the Commission.

Role of Legislative Commissioners –The two designated legislative Commissioners are responsible to represent the Commission at the Legislature as necessary, including providing testimony, and speaking to members on issues that the Commission has taken formal positions. They will also be responsible to keep the Chair, other Commissioners and the Department apprised of legislative issues and to work closely with the Department’s Legislative Liaison. The Commission will vote publicly during the December Commission meeting to select the two designees for the following year. However, the Commission may vote to use individual Commissioner(s) as needed for specific legislative assignments. The Legislative Commissioners may discuss, testify or take other necessary action on legislative matters on behalf of the Commission where scheduling a telephonic or emergency Commission meeting is not possible.

Commission Chair and Commissioner Committee Assignments – The Chair will assign commissioners to standing committees. The Commission will vote to approve the Chairperson of the Commission for the coming year during the January Commission meeting.

Role of Commissioners as Committee Chairs – Commissioner Committee Chairs are responsible for oversight of the activities of the assigned committees and to provide Committee actions/information back to the full Commission for consideration and discussion by the full Commission.

Political Activity - A.R.S. §17-213 and §41-772 prohibits state employees from taking active part in a political campaign or using their office to influence in any way an election or the results thereof. Although this prohibition does not apply to Commissioners, the Commission is not authorized to use public resources for political activities and shall not request the use of Department resources for political activity. This does not prevent the use of Department resources to provide factual information to the public on legislation, elections, ballot propositions or political campaigns.

Commission Positions – The position of the Commission may change over time on long-term issues addressed by multiple Commissions. In these cases, the Commission may ask the Department to provide updated historical information on past Commission positions etc. to describe for and assist current Commission members with a historical outlook on particular issues. In such case, any Commissioner, in coordination with the Chair may direct the Department to provide the information to the full Commission.