

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, January 11, 2013
Saturday, January 12, 2013
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 January 8, 2013.

Chairman Freeman requested a moment of silence in honor of the following: U.S. Senator Daniel K. Inouye, who died on December 17, 2012; the victims of the tragic shooting in Newtown, Connecticut; and to commemorate the 71st anniversary of the attack on Pearl Harbor and in honor of the patriots who made the ultimate sacrifice through their service in that event.

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1. Call to the Public

There were no requests to speak at this time.

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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 on License Classifications; Fees

Outreach efforts:

- Presented to sportsmen's clubs
- 7 Regional public meetings
- Webpage - FAQs and Status updates
- Brochure; E-news blasts; Email account for comments

Proposed process for Commission to temporarily reduce a fee or offer promotions:

- Publicly noticed Commission meeting
- Commission discusses and provides direction to Department
- Department notices public of fee reduction/promotion.

Proposed policy to change existing fees or create new fees:

- Publicly noticed Commission meeting (Public input; Department presents recommendations and Commission provides direction (1st Meeting))
- Public outreach and comment period occur (30-day minimum)
- Internal Department review
- Publicly noticed Commission meeting (Public input; Department presents recommendations and Commission provides direction (2nd Meeting))
- Department files final rules with Secretary of State (Does not go through GRRC); Commission determines effective date.

The Department has received letters of support for the proposed legislation from the following:

- Arizona BASS Federation Nation
- Arizona Bowhunters Association
- Desert Christian Archers
- Bass Federation
- Gila Trout
- Mogollon Sporting Association
- Mohave Sportsman's Club
- Mule Deer Foundation
- National Wild Turkey Federation-State Chapter
- Northern Arizona Flycasters
- Old Pueblo
- Sportmen's Constituent Group
- Trout Unlimited
- Yuma Valley Rod and Gun Club
- Zane Grey
- Additional letters are expected.

Mr. Guiles noted the addition of item D below in the proposed legislation:

17-333: licenses; classes; fees

- A. THE COMMISSION SHALL PRESCRIBE BY RULE LICENSE CLASSIFICATIONS THAT ARE VALID FOR THE TAKING OR HANDLING OF WILDLIFE, FEES AND ESTABLISH FEES FOR LICENSES, PERMITS, TAGS, STAMPS AND APPLICATION FEES.
- B. THE COMMISSION MAY TEMPORARILY REDUCE OR WAIVE ANY OR ALL LICENSE FEES REQUIRED BY THIS TITLE ON THE RECOMMENDATION OF THE DIRECTOR.

C. ALL MONIES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE GAME AND FISH FUND ESTABLISHED BY SECTION 17-261.

D. ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE COMMISSION SHALL SUBMIT AN ANNUAL REPORT TO THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES ENERGY, ENVIRONMENT AND NATURAL RESOURCES COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, THAT INCLUDES INFORMATION RELATING TO LICENSE CLASSIFICATIONS, FEES FOR LICENSES, PERMITS, TAGS AND STAMPS AND ANY OTHER FEES THAT THE COMMISSION PRESCRIBES BY RULE. ON OR BEFORE JULY 1, 2019 AND EACH FIFTH YEAR THEREAFTER, THE JOINT LEGISLATIVE AUDIT COMMITTEE SHALL ASSIGN A COMMITTEE OF REFERENCE TO HOLD A PUBLIC HEARING AND REVIEW THE ANNUAL REPORT SUBMITTED BY THE COMMISSION.

Mr. Guiles noted two other changes. One, in regards to a parent or guardian accompanying a youth in the field - The following requirement has been removed: "Adult must be within fifty yards of the child when the animal is taken." The second change is that watercraft fees were added to the legislation.

Mr. Guiles stated that this legislation will continue to change as it moves through the process, but requested that the Commission direct the Department to proceed.

Motion: Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO DIRECT THE DEPARTMENT TO MOVE FORWARD WITH THE LEGISLATION AS PRESENTED.

Vote: Unanimous

Proposed OHV Legislation

Mr. Guiles discussed with the Commission some of the ongoing issues regarding OHV use, including the decal modifications, the inconsistent Travel Management Plans between the Forests and the Law Enforcement issues that come with those inconsistencies. The Department believes there may be some statutory fixes to these issues and would like to begin moving forward on some potential legislation.

The Commission discussed their desire to meet with other Law Enforcement agencies regarding this legislation while simultaneously proceeding with the necessary steps in order to meet legislation submission deadlines.

Arizona Congressional Delegation

- Senator John McCain (R)
- Senator Jeff Flake (R) (*Energy and Natural Resources Committee*)
- Representative Ann Kirkpatrick, (D)-CD-1
- Representative Ron. Barber, (D) CD-2

- Representative Raul Grijalva, (D) CD-3
- Representative Paul Gosar, (R) CD-4
- Representative Matt Salmon, (R) CD-5
- Representative David Schweikert, (R) CD-6
- Representative Ed Pastor, (D) CD-7
- Representative Trent Franks, (R) CD-8
- Representative Kyrsten Sinema, (D) CD-9

Issues since the last Commission meeting:

- Monies that have been sequestered and are to be converted into deficit reduction (including PRDJ) will be delayed for two months. Half of the delay will be offset by discretionary cuts, split between defense and non-defense. The other half will be offset by revenue raised by the voluntary transfer of traditional IRAs to Roth IRAs, which would tax retirement savings when they're moved over
- The deal did not address the debt-ceiling, and the payroll tax holiday will be allowed to expire. This will mean a 2% increase in payroll taxes.

Commissioner Davis suggested that the Director send a letter to the Arizona Delegation that reminds them about the fact that sportsmen provide one percent of our nation's GDP and that this kind of negative impact is not only a budgetary impact, but is also an economic impact.

America's Farm Bill

- Current conservation provisions were extended for 9 months including tax credits for conservation easements and wind energy.

Director Voyles asked for clarification regarding Commission direction on opening a folder to deal with the issue of state law dramatically codifying federal law for the enforcement of travel management issues.

Motion: Davis moved and Mansell seconded THAT THE COMMISSION VOTE TO DIRECT THE DEPARTMENT TO OPEN A BILL FOLDER RELATED TO STATE AND FEDERAL LAW ENFORCEMENT ISSUES AS DISCUSSED.

Vote: Unanimous

Commissioner Davis suggested that it would be good for a Law Enforcement Chief to make phone calls to Chief's of other Law Enforcement agencies to let them know what we are dealing with and what we are trying to accomplish.

The Commission was in consensus.

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3. 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 these items to the Commission and none were deemed necessary to remove for discussion.

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.

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.

e. Request for the Commission to Approve the Renewal of a License Agreement with the Town of Springerville.

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

The Town of Springerville (Town) and the Department have been operating under two separate agreements: A Cooperative Agreement and a Lease Agreement, both of which expire on March 15, 2013. The Department has worked with the Town to develop a single License Agreement to replace these previous two instruments. Approval of this license agreement (Agreement) will essentially renew the same terms under the existing agreements. If approved, the new 20-year Agreement would serve to grant the Town access to occupy and use the premises as a sewage treatment and disposal site, and to allow the Town to operate and maintain existing improvements necessary or appropriate for such purposes. This Agreement benefits the Department in that the Town also agrees to maintain the designated portion of the land as wildlife habitat for waterfowl, which provides important nesting, feeding and resting areas for waterfowl and other wildlife.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE THE RENEWAL OF A LICENSE AGREEMENT WITH THE TOWN OF SPRINGERVILLE, AND EXECUTE THE AGREEMENT AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

f. Memorandum of Understanding with Conservation Science Partners

Presenter: Tim Wade, Wildlife Contracts Branch Chief

Conservation Science Partners (CSP) was created to act as an independent 501(c)(3) not-for-profit organization and to 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 towards 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 Department recommends THAT THE COMMISSION VOTE TO APPROVE A MEMORANDUM OF UNDERSTANDING BETWEEN THE ARIZONA GAME AND FISH COMMISSION AND CONSERVATION SCIENCE PARTNERS.

g. Memorandum of Understanding with the U.S. Geological Survey, Southwest Region for collaborative scientific research.

Presenter: Esther Rubin, Research Branch Chief

The Department works with a variety of universities and agencies who provide specialized expertise and technical services that support the Department's mission and benefit Arizona's wildlife resources. This Memorandum of Understanding (MOU) would establish formal lines of communication and provide a legal and procedural framework for future collaboration with researchers at USGS-SWR. Researchers at USGS-SWR 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 Department recommends THAT THE COMMISSION VOTE TO APPROVE THE MEMORANDUM OF UNDERSTANDING WITH U.S. GEOLOGICAL SURVEY, SOUTHWEST REGION, 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.

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

Vote: Unanimous

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4. Research Prioritization Process Overview

Presenter: Esther Rubin, Research Branch Chief

Ms. Rubin provided an overview and PowerPoint presentation of the Department's process for establishing research priorities to address programmatic management information needs. Development of this process allows the Department to assess management information needs in a standardized and transparent framework to identify those of highest priority for the Department, and the resulting prioritized list of management information needs will help guide selection of future Department-funded research projects.

Ms. Rubin's presentation included the following information:

Process Goal: To provide a standardized process for identification and prioritization of the Department's programmatic management information needs to help guide selection of Department-funded research efforts.

Process Developed by an Internal Team:

- An internal team was chartered in 2011
- 7-member team with diverse membership
- Refinements based on internal review and input.

Collection of Management Information Needs:

- Research Branch Chief initiates a call for management information needs (MINs)
- MINs are solicited from all levels and across all functions in the Department
- Leadership Team members are responsible for working with their work units to identify MINs

- A standardized list of questions are used to collect pertinent information on each MIN.

Management Information Needs are Categorized into Six “Areas of Inquiry”:

- Terrestrial Systems
- Aquatic Systems
- Human Dimensions/Social Sciences
- Human-Wildlife Interactions
- Wildlife Health
- Techniques and Biometrics

Prioritization Criteria:

- Provides direct management guidance
- Has broad applicability
- Identified in existing management plan
- Must be addressed within limited window of time
- Benefits species/resources of recreation & economic importance
- Benefits SWAP Tier 1A or 1B species
- Benefits important wildlife habitat
- Anticipated to receive stakeholder support
- Increases Department efficiencies
- Increases the quality of our science and maintains/builds Department credibility.

Post-prioritization Considerations and Research Project Selection:

- Funding availability and eligibility
- Feasibility
- Potential partnerships and efficiencies

Next Steps

- Evaluate the current list of management information needs
- Evaluate and refine process as needed, based on input from Leadership Team and Review Panels
- Implement every 1-2 years to maintain current prioritized list of priorities.

Commissioner Davis discussed with Ms. Rubin whether the prioritization criteria should include impending issues related to federal or state policies and issues. It is inherently built into it the criteria but it might be good to specify it so that we are using our limited time and resources to create the most impact on immediate policy issues when possible.

Commissioner Husted commented that he would like to see a type of cost/benefit analysis criteria that shows how a criteria benefits in the long term and informs policy decisions.

Director Voyles clarified that he senses from this discussion a need for a prioritization criteria that will enable us to gain information related to public policy issues that could affect the Department’s ability to execute its mission or authority.

Chairman Freeman commented that the Commission needs to be careful and maybe keep this as a separate category from species research, habitat research, and the scientific research that should not have the Commission's fingerprints on it.

Commissioner Harris stated that he would like to make sure there is flexibility in the process so that there is the ability to adjust the course as needed and move forward.

Assistant Director Larry Riley stated that the first prioritization criteria is intended to keep the Department focused on what is needed for management rather than on doing research for the sake of research. It is also recognized in the fourth prioritization criteria that some things are impending and needs to be addressed during a limited window of time.

The Commission discussed that maybe another bullet should be added to the prioritization criteria that would include a cost/benefit analysis and address the concerns as discussed.

Director Voyles stated that this discussion has helped inform the process as we get to where the Commission wants to be on research prioritization. This is a start and the Department may have one on one discussions with individual Commissioners before bringing this back to find the collective desires of the Commission on the research prioritization process. Director Voyles added that all the research the Department does is for informing policy and how we do management, which ultimately is Commission policy.

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5. Request for Commission to Approve a Cooperative Agreement with Heritage Farms.

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

Mr. Riley briefed the Commission using a PowerPoint presentation on a Cooperative Agreement with Heritage Farms for the purpose of farming a portion of the Arlington Wildlife Area. In June of 2008, the Commission acquired 158 acres of retired farmland from the Alma Richardson Trust. The property is adjacent to and managed as part of the Arlington Wildlife Area. The property came with water rights that if not used within the next year, are in jeopardy of being forfeited. The Department is not in the position to use the water rights at this time. Therefore, it is to our advantage to enter into this agreement which authorizes Heritage Farms to farm the Richardson portion of the wildlife area, thereby exercising our water rights within the required time frame. The terms and condition of the agreement will require the licensee to redevelop and maintain the irrigation pipelines, canals, ditches and control structures needed to deliver water to the property. Additionally, the Licensee will leave at least 5% of any crops grown un-harvested to provide a food source for local wildlife. The arrangement would not only allow the Commission to retain our water right, but also get the needed irrigation infrastructure onto the property.

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

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

Meeting reconvened at 9:56 a.m.

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6. Developing a Commission Policy Statement on Travel and Access to Arizona's Public Lands

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

Mr. Riley presented the Commission with a draft Commission Policy Statement establishing the Commission's position regarding access upon public lands held by the USDA Forest Service and USDOJ Bureau of Land Management. The Commission has expressed its concern regarding the effects of public land access restrictions on wildlife-related recreation and other activities under their jurisdiction. During a Commission workshop in November of 2012, the Commission explored issues regarding travel management planning on the National Forests in Arizona. At their regularly scheduled December 2012 meeting, the Commission directed the Department to facilitate the development of a policy statement that would express the Commission's concern and position. The Policy Statement would provide an overarching perspective on the part of the Commission and provide guidance to the Department in its interaction with Federal Land Managers regarding travel management.

Mr. Riley discussed alternative approaches with the Commission. A separate Commission policy statement can be developed specific to travel management planning on federal public lands, or alternatively, existing Commission Policy can be revised to incorporate specific direction regarding access upon federal public lands.

Commissioner Davis commented that maybe for the sake of the public, there should be a short section on the pillars related to this issue and then the specifics listed underneath for each of the areas. That opening criteria will help people understand what we are dealing with and the objectives of the Commission and Department in having these very serious and elevated concerns about the Forests' transportation proposals. The pillars are to make sure that we maintain our ability to have access for hunting and harvesting. We need to be concerned and very contemplative about reductions in camping activities and other forms of recreation on these multi-use lands. The closing of roads without the public's and the Department's input needs to be one of the pillars. The Forests need to have a much larger conversation with the people of Arizona about all of their forests and not a forest by forest piece meal. Additionally, enforcement should be addressed and specific recognition should be made of this Department and its overwhelming role in enforcing the schemes they come up with related to transportation.

Commissioner Mansell added that he would like to see a two-part policy, one that starts with a very short, concise and specific statement that identifies the meat of the whole issue, and then broken down into several areas, including motorized retrieval of big game, dispersed camping, OHV, and road closures. He would like to see a policy from this Commission that states we support these things.

Commissioner Husted agreed with Commissioners Davis and Mansell and added that we need our own policy and principles, and the science, so that the Department has that guidance when they comment and provide input on these road closures.

Commissioner Harris commented that he wanted to make sure as well that the Commission maintains its ability to make recommendations on closing some areas for biological or habitat reasons. Sometimes there may be reasons that the Commission wants to close off an area for biological reasons, such as an area of critical winter range. The Commission wants to do what is best for wildlife and for the public.

Public Comment

Sandy Bahr, Chapter Director, Sierra Club – Grand Canyon Chapter: Encouraged the Commission and the Department to take a step back and have a discussion with stakeholders, and invite people to provide them with some very good research and science relative to the impact of roads and off-highway vehicle activities relative to wildlife. There are very good biological reasons for limiting roads in riparian areas or in places where they can destroy springs and other important vegetation. Sometimes roads destroy archeological sites and sometimes even hunters are disturbed by vehicular activities. You cannot provide all things to all people in all places.

Stephanie Nichols-Young, Animal Defense League of Arizona: Agreed with Commissioner Harris' comments that sometimes the Commission may need to recommend a road closure for biological reasons. There is a lot of science out there and sometimes science needs these undisturbed areas for research. The Commission's primary mission is to manage wildlife in the public trust for the benefit of all citizens, so we shouldn't lose site of that when we talk about all of the uses that we want to have.

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7. Presentation on the Pilot Big Boquillas Ranch Access Project and Agreement and an update on the Landowner Compact.

Presenter: Gary R. Hovatter, Deputy Director

Mr. Hovatter, assisted by Regional Supervisor Tom Finley, provided a PowerPoint presentation on the Pilot Big Boquillas Ranch Access Project and Agreement including an update on the elements of the Landowner Compact that will be incorporated into the program.

The Department, working with the Cholla Livestock LLC and the Navajo Nation Division of Natural Resources, is developing a pilot access project to maintain recreational and wildlife conservation access on the Big Boquillas Ranch in GMU 10, one of the 25 largest ranches in the United States. The Department has evaluated 33 requested actions provided by the owner and lessee. In response the Department has developed a framework for an access agreement that, while addressing concerns of the owners of the ranch and the lessee, it believes will maintain fair and reasonable hunting access. Emphasis will be placed on respect for ranch property and business operations while providing a higher quality hunting experience on the Big Boquillas Ranch. The pilot program is partially based on the Wyoming Game and Fish Department Hunt Management Area Program and is supported by an agreed upon listing of ranch rules that, pending approval of the agreement, will be enforceable by Department personnel under trespass law. A Recreational Impact Fee (RIF) will be charged and collected by the ranch from most adult hunters to help offset the maintenance impacts (e.g., roads, fences, gates, water catchments, etc.) known to be associated with recreational usage and potentially make additional

improvements that will benefit wildlife. Currently the ranch pays \$500,000 a year to maintain roads, fences and waters. Youth hunters and mentors, and disabled veteran hunters will be exempt from the RIF. Pending execution, Department personnel will meet at least twice annually with all ranch lessee personnel to discuss ranch rules, issues and opportunities. Day to day coordination of the agreement will occur between Department personnel and the lessee designated Hunt Manager.

This project will also serve as the pilot program for the Landowner Compact. The elements of the compact have been incorporated into the agreement. At the Department's discretion, individuals cited under Arizona Statute or Ranch Rule may result in information being forwarded to the owner/lessee who may take action under their authority to notice violating hunters that they are no longer welcome on the private lands of the Big Boquillas Ranch. The Department will embark on an outreach campaign to inform our constituents about the important developments in this agreement and the Landowner Compact. To the extent this pilot program proves successful, the Department will seek opportunities to use this approach to generate access to currently closed private lands and secure long-term access agreements for other private properties.

Chairman Freeman stated that the rules should become standard and as this moves forward, he does not want to see different rules for different ranches. Also, as violators are restricted from hunting on the ranches, maintenance fees should go down. Chairman Freeman pointed out that any private property can charge a fee, but the Commission has the ability to not issue tags on that land. A tag to harvest a public trust asset should be good on lands accessible to the public without an extra fee.

Commissioner Husted clarified with Mr. Finley for the record that as this expands, part of the Compact would be that a violation on one Landowner Compact property would in fact be notices of violation to all other signatories of the Landowner Compact agreement.

Motion: Mansell moved and Husted seconded THAT THE COMMISSION VOTE TO SUPPORT THE DEPARTMENT'S CONTINUING NEGOTIATIONS TO COMPLETE AN ACCESS AGREEMENT WITH THE BIG BOQUILLAS RANCH.

Vote: Unanimous

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8. Reviewing Section 10j of the Endangered Species Act.

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

Mr. Riley provided a PowerPoint presentation to the Commission on the purposes and uses of Section 10j of the Endangered Species Act to facilitate establishment and management of repatriated populations of listed species. Over the course of the last several decades, Section 10j of the Endangered Species Act has emerged as a valuable tool in the conservation of listed species in the west, and particularly with public lands. Along with other tools, such as Safe Harbor Agreements, Habitat Conservation Plans and Section 10 permits, Candidate Conservation

Agreements, and Section 6 agreements and grants, Section 10j Rules can be a lynchpin in repatriation and conservation implementation.

Mr. Riley's presentation included the following information:

History:

- The Endangered Species Act of 1973 was amended in 1982
- Tools were added that could be used to encourage landowner support for Conservation of T&E Species.

The Toolbox for Encouraging Conservation:

- Special rules for management of Threatened Species (4d)
- USFWS No Surprises Policy
- CCAs and CCAAs
- Safe Harbor Agreements
- Habitat Conservation Plans (10)*
- Experimental Populations (10j).

Tool that work on Federal Public Lands:

- Generally, only CCAs and "Experimental Populations" apply on federal public lands and to public land managers
- "Experimental Population Designations" are a critical tool for encouraging T&E Conservation on Public Lands in the West.

Experimental Populations (10j):

- Encourages reintroduction of extirpated species into formerly occupied or new habitat without the full range of legal impediments
- Can be "Essential" or "Nonessential" to the continued existence of the species
- Secretary of Interior decides
- Nonessential Experimental Populations have reduced regulatory restrictions.

Restrictions on T&E Species:

- Take of T&E species is generally prohibited under Section 9
- Take = to kill, harm, harass, pursue, hunt, shoot, wound, trap, capture, or attempt to do any of these things.

Reducing Restrictions (10j):

- For Nonessential Populations, Listed Species Treated as "Proposed" for Section 7 Consultations
- For prohibitions on Take, Nonessential Populations are treated as Threatened – and Take can be permitted.

10j Populations:

- Require rigorous analysis and public decision making process resulting in a Special Rule
- Rule identifies purposes, a geographic area, management practices, and may specify how Take may be permitted
- Accompanying Management Plan and NEPA.

(10j) Populations in Arizona:

- Colorado pikeminnow – Lower Colorado River & Gila River drainage
- Woundfin – Gila River drainage
- Aplomado Falcon – Statewide (est. 07/2006, extirpated)
- California Condor – Northern Arizona & Southern Utah (est. 10/1996, Arizona 73 wild)
- Sonoran Pronghorn – Southeastern Arizona (est. 02/2010, Arizona 85)
- Black-footed Ferrets – Aubrey Valley Arizona (est. 03/1996, Arizona 137)
- Mexican Wolf – East central Arizona (est. 01/1998, Arizona & New Mexico 58)

The (10j) is a relied upon tool and essential for:

- Wolf Recovery
- Condor Recovery
- Black Footed Ferret Recovery
- And removes the disincentives to host T&E Species.

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9. Request to Approve Notice of Final Rulemaking Amending R12-4-101. Definitions and Article 3 Rules Addressing the Taking and Handling of Wildlife.

Presenter: Dana McGehee, FOR6 Wildlife Manager

Jennifer Stewart, Rules and Risk Branch Chief, provided a brief overview of the rulemaking process, followed by a presentation by Mr. McGehee on the Department's request for approval of a Notice of Final Rulemaking and Economic Impact Statement amending rules within Article 3, Addressing the Taking and Handling of Wildlife. The Department proposes to amend R12-4-101 and Article 3 rules, governing the taking and handling of wildlife, to enact amendments developed during the preceding Five-year Review Report and incorporate recently passed legislation. In addition to nonsubstantive amendments made to ensure compliance with the Administrative Procedures Act, Secretary of State, and Governor's Regulatory Review Council; the Department proposes the following rule amendments:

R12-4-101. Definitions

- Transfer definitions for terms applicable to only Article 3 to R12-4-301 and define terms "cervid," "firearm," and "pre-charged pneumatic weapon."

R12-4-302. Use of Tags

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

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

- Remove magazine capacity restrictions to comply with amendments to A.R.S. §§ 17-231 and 17-305
- Remove rule language restricting shotgun gauge to increase hunter opportunity
- Prohibit use of electronic night vision equipment, laser sites, electronically enhanced light-gathering devices, or thermal imaging devices to take wildlife. This does not include devices such as laser range finders, scopes with self-illuminating reticles, and fiber optic sights that do not project a visible light onto an animal
- Prohibit individual from discharging a pneumatic weapon .30 caliber or greater within

1/4 mile of any occupied structure unless permitted by resident/owner to increase consistency between rules

- Prohibit use of edible or ingestible substances to attract big game for the purpose of take. This does not include water, salt, salt-based materials produced and manufactured for the livestock industry or nutritional supplements produced and manufactured for the livestock industry and placed during the course of livestock or agricultural operations
- Prohibit use of scent lures containing cervid urine to address disease transmission concerns
- Prohibit holding wildlife at bay during daylight hours, injuring, confining, and placing a tracking device on wildlife to prevent "canned" and "will call" hunts
- Prohibit use of dogs to pursue or hold at bay bear/lion for another hunter unless that hunter is present for the entire pursuit to more closely regulate the pursuit of bears/lions with dogs and increase consistency within Department rules
- Prohibit individual from placing any substance, device, or object in, on, or near water source to intentionally restrict wildlife from water source

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

- Allow use of pre-charged pneumatic weapons .35 caliber or larger for take of all big game except buffalo, elk, and turkey to increase hunter opportunity and recognize technological advances in pneumatic weaponry
- Allow use of pre-charged pneumatic weapons .22 caliber or larger for take of predatory and furbearing animals to increase hunter opportunity and recognize technological advances in pneumatic weaponry
- Require individual using dogs to pursue bear/lion to immediately kill or release bear/lion after it is treed, cornered, or held at bay to prevent "canned" and "will call" hunts
- Prohibit use of shotguns larger than 10-gauge for take of migratory birds to uphold Migratory Bird Treaty Act gauge restrictions.

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

- Establish requirements for possession, importation, and transport of cervids lawfully taken outside Arizona or cervids lawfully killed/slaughtered at a game farm to reduce likelihood of introduction of chronic wasting disease into state by nonnative cervid carcasses or parts
- Prohibit transport of live crayfish to reduce impact on native aquatic species.

R12-4-306. Buffalo Hunt Requirements

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

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

- Prescribe power cable device regulations consistent with Best Management Practices (BMP) recommended by Association of Fish and Wildlife Agencies (AFWA)
- Allow Department to deny a trapping license when a trapper fails to submit the required annual report, until the report is submitted, to aid in collection of accurate harvest data.

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

- Remove the requirement that individuals submit skulls or skullcaps for inspection and photographing of big game taken under a special big game permit

- Authorize Department to establish harvest objectives and conduct inspections for all lawfully taken wildlife to increase hunter opportunity and better regulate harvest
- Allow a successful bighorn sheep, bear, or lion hunter's designee to present the animal for inspection.

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

- Clarify exemptions to ensure rule does not negatively impact operations where use of drugs on domestic animals/wildlife is regulated by another agency.

R12-4-310. Fishing Permits

- Allow Department to deny a fishing permit when the permit holder fails to submit the required annual report, until the report is submitted, to maintain accurate sport fishing data.

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

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

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

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

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

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

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

- Allow use of pneumatic weapons to increase consistency between rules, increase hunter opportunity and recognize technological advances in pneumatic weaponry.

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

- Adopt rule authorizing possession of wildlife carcasses/parts found in the field.

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 public comment period ran from October 5 to November 5, 2012. The Department received several public comments during this time and all comments and Department responses were included in the Notice of Final Rulemaking. The Notice of Final Rulemaking and Economic Impact Statement were provided to the Commission for consideration prior to this meeting and were available to the public. 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 (GRRRC) for review and placement on the GRRRC agenda for May 2013.

Commissioners Mansell and Harris discussed and agreed that they would like to remove the word "or" after 303.4.d.iii and replace the commas in d with periods.

Commissioner Husted agreed and stated that he did not want to entrap a hunter or impede livestock operations.

Commissioner Davis suggested that this is one of those cases where you should state exactly what it is that you can't do and then what it is that you can do, so that it is more clear.

Public Comment

The following members of the public addressed the Commission in opposition of prohibiting the use of bait:

- Eugene Wullkotte (Written comments submitted to the Commission and on file)
- Mike Ornoski, representing Desert Christian Archers; stated it will hurt the economy
- Mark Lucas, Arizona Rifle and Bow Hunter: Believes it will make recruitment and retention more difficult, especially for youth
- Jeremy Ulmer, Owner of Chasin A Dream Outfitters: Sells bait to a lot of youth at his archery shop
- Mark Ovitt: Agrees with previous speakers; Also it will be more difficult for the elderly to hunt and for others who are not physically able; Baiting should be okay for archers
- David Cluff, Sr., Licensed Guide: Baiting makes it easier for youth and recruitment.

Stephanie Nichols-Young, President, Animal Defense League of Arizona: Appreciates the changes regarding holding at bay and will call hunts.

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Meeting recessed for a break at 1:19 p.m.

Meeting reconvened at 1:30 p.m.

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9. (continued) Request to Approve Notice of Final Rulemaking Amending R12-4-101. Definitions and Article 3 Rules Addressing the Taking and Handling of Wildlife.

Presenter: Dana McGehee, FOR6 Wildlife Manager

Public Comment

Region I Office:

- Tony Martins: Regarding airguns, wanted to make sure there was no restriction in the wording to single-shot airguns that would restrict the multi-shot airguns because most new airguns will be multi-shot; also wanted to make sure that the changes would provide airguns in the ham hunt and that it would not be restricted to single-shot airguns

Region V Office:

- Mark Finley, representing himself: Is 70 years old and supports baiting
- Michael Johnson, representing himself: Is a nonresident hunter and a scientist, and believes this is a one-sided approach; believes this is an extreme measure since Arizona does not have the Chronic Wasting Disease
- Garrett Douglas, Licensed Guide: Opposes the changes regarding baiting
- Kevin Overfield, Outfitter: Disabled and elderly hunters need to be able to hunt over bait.

Chairman Freeman read a comment from Dick King with Arizona Bowhunters Association stating that he was in support of the proposed rulemaking.

Commissioner Harris commented that Arizona does not have Chronic Wasting Disease and he wants to make sure to do everything possible to prevent Arizona from getting it.

Commissioner Husted asked the Department's Dr. Anne Justice-Allen to provide some input on the CWD and baiting issue.

Dr. Justice-Allen provided a short briefing. It has been shown by scientific study that when feeding and baiting, the bait has to be out there for a number of days. The purpose is to increase the animal traffic to a given site. It has been shown that feeding and baiting reduces the size of the home range of deer and increases the contact between individuals, thereby allowing the increased spread of disease. It has been shown that it also increases the contact between groups of animals which is actually even more significant for the transmission of disease. Besides CWD there are a number of examples in history where other diseases have been transmitted at wildlife feeding stations. So for general disease control, and not just for CWD, deer, cervids, elk, birds, turkeys, bighorn sheep and other species, could all be affected by feeding and baiting situations. For the purpose of wildlife health, feeding and baiting should be removed as an opportunity for take.

Motion: Harris moved and Davis seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF FINAL RULEMAKING AND ECONOMIC IMPACT STATEMENT AMENDING R12-4-101 AND RULES WITHIN ARTICLE 3 ADDRESSING TAKING AND HANDLING WILDLIFE; WITH THE FOLLOWING EXCEPTION: IN THE NOTICE OF FINAL RULEMAKING DOCUMENT, PAGE 79 (ATTACHED), ITEM 4.d.iii, THE WORD "OR" BE DELETED AT THE END OF THE LINE.

Commissioner Davis stated for the record that he is very supportive of pneumatic weapons, but he still wants the use of pistols or single-shot rifles only.

Commissioner Husted clarified that with this decision today, pneumatic weapons will be considered legal firearms in a general season beginning in July.

Motion to Amend: Davis moved and Harris seconded THAT THE COMMISSION VOTE TO AMEND THE MOTION TO ALLOW THE USE OF PNEUMATIC PISTOLS OR SINGLE-SHOT RIFLES IN A HAM HUNT AND THEN PNEUMATIC WEAPONS IN THE GENERAL SEASON.

Vote: Unanimous

Mr. McGehee clarified that the only weapon that would be limited in its shot capacity would be the pneumatic rifle.

Chairman Freeman clarified that with the term pneumatic, we are still talking about externally charged pneumatic weapons.

Amended Motion: Harris moved and Davis seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF FINAL RULEMAKING AND ECONOMIC IMPACT STATEMENT AMENDING R12-4-101 AND RULES WITHIN ARTICLE 3 ADDRESSING TAKING AND HANDLING WILDLIFE; WITH THE FOLLOWING EXCEPTIONS: IN THE NOTICE OF FINAL RULEMAKING DOCUMENT, PAGE 79 (ATTACHED), ITEM 4.d.iii, THE WORD "OR" BE DELETED AT THE END OF THE LINE; AND TO ALLOW THE USE OF SINGLE-SHOT PNEUMATIC RIFLES AND PISTOLS IN A HAM HUNT AND THEN PNEUMATIC WEAPONS IN THE GENERAL SEASON.

Vote: Unanimous

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12. Call to the Public

Steve Clark, President, Arizona Elk Society: A Draft EA came out on December 18 about Southwestern grey wolves in the State of Arizona, which includes grey wolves that come up from Mexico. Mexico is doing numerous new releases and now these wolves will be fully protected from the north and the south, and the 10j doesn't affect it at all. With the comment period ending February 1, he is concerned that the Commission is not discussing it at this meeting and letting the public know that there is a real threat from the grey wolf issue.

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13. Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments for the Illegal Taking and/or Possession of Wildlife

Presenter: Gene Elms, Law Enforcement Branch Chief

Record of these proceedings is maintained in a separate minutes book in the Director's Office.

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10. Request to Approve the Draft Notice of Exempt Rulemaking to Amend R12-4-802 and 803.

Presenter: Jennifer Stewart, Rules and Risk Branch Chief

Ms. Stewart briefed the Commission on the draft Notice of Exempt Rulemaking amending rules within Article 8. The Department proposes to amend Article 8 rules, addressing wildlife areas and department property, to implement recommendations resulting from data and research

gathered during the previous year. The Department proposes to amend R12-4-802 to ensure consistency in regards to wildlife area closures, motorized vehicle travel and hunting restrictions, where applicable; and to amend R12-4-803 to revise several boundary descriptions. Amendments are also made to ensure consistency within Article 8 rules and conformity to the Arizona Administrative Procedures Act, Secretary of State, and the Governor's Regulatory Review Council rulemaking format and style requirements. The Department proposes the following substantive rule amendments:

R12-4-802 Wildlife Areas and other Department Managed Property Restrictions

- Cibola Valley Conservation and Wildlife Area is amended to establish additional legal weapon restrictions, based on an agreement between the Department and the Bureau of Reclamation, who cooperatively manage and restore the wildlife area
- Raymond Ranch Wildlife Area is amended to require members of the public to sign-in, where posted, to access and use the area to minimize disturbances to the buffalo herd. In addition, the rule is amended to remove the reference to 'Ranch' to increase consistency between Department rules.

R12-4-803 Wildlife Area and Other Department Managed Property Boundary Descriptions

- The rule is amended to reflect newly acquired property (Arlington, Base and Meridian, and Upper Verde River wildlife areas).

The Draft Notice of Exempt Rulemaking was provided to the Commission prior to this meeting for consideration. 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 post the Draft Notice of Exempt Rulemaking to the Department's Internet site for a period of 30 days for public comment. Once the public comment period has passed, the Department will present Final Exempt Rulemaking to the Commission for their consideration this spring.

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

Vote: Unanimous

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11. Request to Approve the Notice of Final Rulemaking to Amend Article 7 Rules Addressing Heritage Grants and Article 9 Rules Addressing Arizona Wildlife Conservation Fund Grants.

Presenter: Jennifer Stewart, Rules and Risk Branch Chief

Ms. Stewart briefed the Commission on the Notice of Final Rulemaking and Economic Impact Statements amending Articles 7 and 9. The Department proposes to amend Article 7 and 9 rules, governing the Heritage and Arizona Wildlife Conservation Fund Grants to enact amendments developed during the preceding Five-year Review Reports and incorporate recommendations made by a process improvement team. The proposed rulemaking package attempts to accomplish the following:

- Create consistency among all grant rules where possible

- Streamline processes, providing greater flexibility and opportunity for grant applicants and the Department where possible
- Include only those items that are necessary in rule. Internal administrative procedures were removed from rule and more appropriately housed in the grants procedural manual, which allows for more timely updates or changes when necessary.

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 proposes the following rule amendments:

R12-4-701 Heritage Grant Definitions

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

R12-4-702 General Provisions

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

R12-4-703 Heritage Grant Program Funds

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

R12-4-704 Grant Application

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

R12-4-706 State Historic Preservation Office Plan Review

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

R12-4-707 Grant Agreement

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

R12-4-708 Reporting and Recordkeeping Requirements

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

R12-4-901 Definitions

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

R12-4-902 General Provisions

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

R12-4-903 Grant Application

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

R12-4-904 Review of Proposals

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

R12-4-905 Grant Agreement

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

R12-4-906 Reporting and Recordkeeping Requirements

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

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 public comment period ran from October 5 to November 5, 2012. The Department received one public comment during this time: the comment and agency response is included in the Notice of Final Rulemaking. The Notice of Final Rulemaking and Economic Impact Statements were provided to the Commission prior to this meeting for consideration. 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 the next available GRRC agenda.

Motion: Mansell moved and Harris seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF FINAL RULEMAKING AND ECONOMIC IMPACT STATEMENTS AMENDING RULES WITHIN ARTICLES 7 AND 9 ADDRESSING HERITAGE AND ARIZONA WILDLIFE CONSERVATION FUND GRANTS.

Vote: Unanimous

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Meeting recessed for a break at 3:18 p.m.

Meeting reconvened at 3:33 p.m.

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14. Rehearing Request Regarding Previous License Revocation/Civil Assessment

Presenter: Gene F. Elms, Law Enforcement Branch Chief

Mr. Elms briefed the Commission on the rehearing request by Kevin P. Pettit. On May 31, 2012, Kevin P. Pettit was convicted in the Pima County Consolidated Justice Court for waste of edible game meat. On September 7, 2012, the Commission revoked Kevin P. Pettit's hunting, fishing, and trapping licenses for a period of two years and further required him to complete a Hunter Education Course before obtaining any license(s) to take wildlife in the State of Arizona. Kevin P. Pettit has requested a rehearing of this matter and decision based on his feeling that the Commission's actions were excessive. Kevin P. Pettit has been notified of this hearing today by certified mail.

Mr. Pettit was not present.

Motion: Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO AFFIRM ITS PREVIOUS DECISION AND TO DENY THE REHEARING REQUEST.

Vote: Unanimous

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15. Hearing on Appeal of Wildlife Holding License Denial

Presenter: Raul Vega, Tucson Regional Supervisor

Mr. Vega briefed the Commission on an appeal by Edward Speck regarding the Department's denial of his application for a Wildlife Holding License for a raccoon. The Department has denied the applicant's application, as provided in Arizona Game and Fish Commission Rules R12-4-409 and R12-417, specifically because raccoons are restricted live wildlife in Arizona and Commission rules do not allow for the possession of a live raccoon for the purpose of pet ownership. Currently Mr. Speck lives in California and his pet raccoon is lawfully possessed in his brother's care in South Dakota.

Mr. Speck was present and addressed the Commission. He has a degree in Zoology and he has a legal raccoon in South Dakota that he rescued. He tried releasing the raccoon after rehabilitation but it didn't work out so he kept it as a pet.

The Commission discussed Arizona's laws regarding holding wildlife and it does not allow for wildlife to be held as pets. The Commission discussed the facilities that would be built for the raccoon and discussed with Mr. Speck whether he would be willing to use the raccoon for educational purposes, considering the animal is domesticated and tame, and also considering that Mr. Speck has a degree in Zoology.

Mr. Speck stated that he would be very willing to use the raccoon for educational purposes and help teach people about dealing with raccoon issues.

The Commission recommended that Mr. Speck work with the Regional Office to begin the process and learn about an educational holding permit and requirements. The Regional Office can then make the decision whether or not to grant an educational holding permit if it is confident that it meets the Commission's standards. If the Regional Office denies the request, then Mr. Speck will have the opportunity to appeal to the Commission.

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16. Commission Representation to work with the Arizona Game and Fish Department and the Arizona County Sheriff's Search and Rescue Funding Projects.

Presenter: Gene Elms, Law Enforcement Branch Chief, Field Operations Division

At the December 2012 Commission meeting, Coconino County Sheriff Bill Pribil addressed the Commission and provided an overview of the work that the 15 Arizona Sheriff's have done in order to establish supplemental funding for their search and rescue operations. All County Sheriff's are required by law to provide search and rescue operations for their counties. These efforts are funded by a wide variety of sources, and in recent years reliable and dedicated funding has been diminishing. One of the proposed funding sources that is being considered is the creation of an annual search and rescue card. The proceeds of the card would be used to cover search and rescue operations and the purchaser of the card would receive discounts for local products and services. The Sheriff asked the Commission to consider becoming a partner in the project and provide a bonus point to anyone who purchases the card. The Commission informed the Sheriff they would explore the idea but could not take action because the item was not on the agenda. Following the meeting, the Commission asked that the item be placed on the January 2013 agenda so the Commission could appoint one of its members to serve as a Department representative to the project.

The Commission was in consensus to ask the recently appointed Commissioner-Elect Pat Madden, once he is confirmed, to be the Commission Liaison for the Arizona County Sheriff Search and Rescue fundraising project.

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17. Commission Portfolio

Presenter: Doug Cummings, Branch Chief, Information Systems

Mr. Cummings briefed the Commission using a PowerPoint presentation and engaged them in discussion of the process for creating and distributing the electronic Commission meeting portfolio (book/packet/materials). The Department creates the Commission meeting portfolio for regular Commission meetings and provides the portfolio to the Commissioners prior to the meeting. The Commission Portfolio is prepared with input/documents from Commission meeting agenda item presenters. All input/documents are compiled into an Adobe (PDF) Portfolio and then the portfolio is stored and made available to the Commission on the

Department's network. Commissioners have the ability to make notes and annotations directly into their individual portfolios and then store them in individual folders available on the network. Commissioners are provided with laptops for this process and have secure remote access using Junos Web Access. Alternatively, Commissioners have the option of using a tablet and have secure, manageable access using Box.

Commissioner Freeman suggested that the individual Commission folders be preloaded with the portfolio so that each Commissioner could go directly to their own folder, work off that portfolio, and then if they write any notes on it, it would automatically be saved in their folder.

Commissioner Husted asked about revisions to the portfolio and asked that revisions are only made for major changes because the entire portfolio must be re-downloaded every time there is a revision.

Commissioner Freeman reminded the Department that all the documents should be in PDF because not everyone has Microsoft. Also, he suggested that the Commission get on the guest network when they are in the building so that there is only one way they have to learn to get on the network.

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17A. Election of Commission Chair and Vice-Chair for 2013 and Election of Positions and Appointments to Standing Committees.

Presenter: Bob Broscheid, Deputy Director

Annually, at the January Commission meeting, the Commission votes to elect a new Commission Chair and Vice-Chair for the upcoming year, followed by the incoming Commission Chair appointing individual Commissioners to chair the committees through to January of the next year. The current committees are: Heritage Public Advisory Committee, Habitat Partnership Committee, Landowner-Lessee/Sportsman's Relations Committee, Wildlife Assets Committee and the Constituent/Stakeholders Group.

Motion: Freeman moved and Mansell seconded THAT THE COMMISSION VOTE TO ELECT COMMISSIONER HUSTED AS COMMISSION CHAIRMAN FOR 2013 AND COMMISSIONER HARRIS AS COMMISSION VICE-CHAIR FOR 2013.

Vote: Unanimous

The Commission discussed and agreed to keep their current committees. Commissioner Davis also agreed to take the Landowner-Lessee/Sportsman's Relations Committee vacated by Commissioner Freeman. Assigned committees are as follows:

- Commissioner Mansell, Heritage Public Advisory Committee
- Commissioner Harris, Habitat Partnership Committee
- Commissioner Husted, Wildlife Assets Committee
- Commissioner Davis, Constituent/Stakeholder Group and the Landowner-Lessee/Sportsman's Relations Committee

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18. Executive Session

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

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

Vote: Unanimous

Following Executive Session, Chairman Freeman announced that the Commission recessed Executive Session until 11:00 a.m. tomorrow morning.

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19. Litigation Report

Mr. Odenkirk asked if the Commission wanted to continue to file an amicus brief in the case of Wildlife Guardian vs. Lane.

Motion: Harris moved and Davis seconded THAT THE COMMISSION VOTE TO DIRECT LEGAL COUNSEL TO FILE AN AMICUS BRIEF IN THE CASE OF WILDLIFE GUARDIAN VS LANE.

Vote: Unanimous

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20. Approval of Minutes and Signing of Minutes.

Motion: Harris moved and Mansell seconded THAT THE COMMISSION VOTE TO APPROVE THE MINUTES FROM DECEMBER 7-8, 2012.

Vote: Unanimous

The Commission signed the minutes following approval.

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21. Director's and Chairman's Reports

Motion: Husted moved and Harris seconded THAT THE COMMISSION VOTE TO DISPENSE WITH THE DIRECTOR'S AND CHAIRMAN'S REPORTS.

Vote: Unanimous

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22. Commissioners' Reports

Motion: Husted moved and Davis seconded THAT THE COMMISSION VOTE TO DISPENSE WITH THE COMMISSIONER'S REPORTS.

Vote: Unanimous

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23. Future Agenda Items and Action Items

Mr. Broscheid reported capturing the following action/agenda items:

- Open a bill folder for potential legislation that addressed Commission concerns with disparity between federal travel management plans and state law and that part of that discussion and decision will include the County Sheriffs in determining their potential support; Commissioner Husted will serve as the Commission in charge of that approach
- The Department will draft a letter from the Director to the Arizona Congressional Delegation outlining and articulating the impacts of budget sequestration on state wildlife management and outdoor recreation as it relates to the nations gross national product
- The Department will ensure that the research prioritization process includes a cost and benefit analysis for future research projects that articulates the long term strategic goals and priorities for the Commission, essentially wrapping the research into a strategy and building to something bigger in the future.

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

Vote: Unanimous

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The Commission was in consensus to adjourn this meeting.

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Meeting recessed for the day at 7:17 p.m.

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Meeting reconvened Saturday at 11:00 a.m.

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18. (Continued) Executive Session, agenda item 18f, personnel matters associated with the Director's Goals and Objectives and the Director's performance.

The Commission met in Executive Session at the Arizona Game and Fish Department, 5000 W. Carefree Highway, Phoenix, Arizona, to discuss personnel matters associated with the Director's Goals and Objectives and the Director's performance.

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Meeting recessed at 2:00 p.m.

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Meeting reconvened 4:00 p.m.

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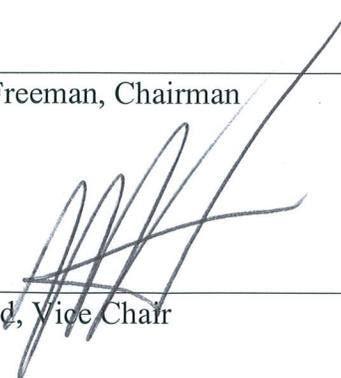
The Commission participated in an informal meeting and open discussion with its constituents. No official action was taken. This meeting was held at the Carefree Resort and Conference Center, 37220 Mule Train Road, Carefree, Arizona, and was followed by the Commission Awards Banquet.

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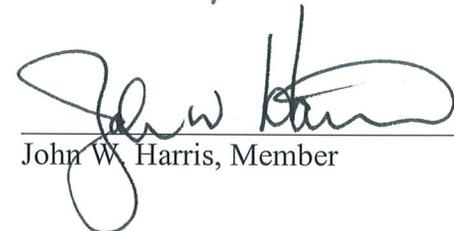
Adjourned at 10:00 p.m.

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Norman W. Freeman, Chairman



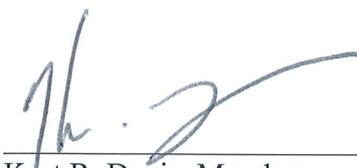
Jack F. Husted, Vice Chair



John W. Harris, Member

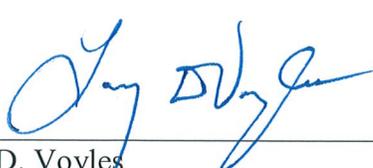


Robert E. Mansell, Member



Kurt R. Davis, Member

ATTEST:



Larry D. Voyles
Secretary and Director

**Game and Fish Litigation Report
Presented at the Commission Meeting
January 11, 2013**

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 U.S. 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.

On November 4, 2012, the State of Arizona on behalf of the Arizona Game and Fish Commission filed 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. Because the State is a required party that cannot be joined, the case must be dismissed. Plaintiffs filed a response to the State's motion on November 20, 2012. Plaintiffs did not object to the State's intervention but argued that the State does not meet the requirements of a required party.

The National Rifle Association (NRA) and Safari Club International (SCI) filed motions to intervene on November 21, 2012. **The State filed a reply on December 4, 2012, to the Plaintiffs' response to the State's motion to intervene. The U.S. Forest Service filed a motion to dismiss on December 14, 2012, on the basis the Court lacks jurisdiction. Plaintiffs filed a response to NRA's motion to intervene on January 4, 2013.**

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.

The Court issued an order on December 3, 2012, granting Defendants' motion to dismiss for failure to state a claim. Plaintiff filed a notice of appeal on December 28, 2012. The Tenth Circuit issued a briefing schedule on January 3, 2013, ordering Plaintiff to file an opening brief within forty days.

Lands Update
For the Arizona Game and Fish Commission
January 4, 2012
Phoenix, Arizona

U.S. FOREST SERVICE LAND AND TRAVEL MANAGEMENT PLANNING

General Planning Status – Please see attached work sheet.

Apache-Sitgreaves National Forest

The Proposed Plan and Draft Environmental Impact Statement are currently receiving final formatting edits. It is anticipated that these documents will be published and available for review in January 2013.

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 continues to be in internal review. The Forest will not release the working draft to the Department due to the Department's inability to prevent the plan from being released under a public records request. The Department has asked the Forest to provide areas of the draft plan which may be of concern to the Department and to allow our staff the opportunity to provide expertise, constituency concerns, and/or jurisdictional input on those areas to ensure a more effective public review process. The Department has asked the Forest to flag any sections of the plan that touch on the following issues: camping, ability to collect firewood and restrictions on campfires, firearms use, hunting, wildlife watching or calling, special use permits regarding group size, wildlife guiding activities, changes to road use not covered in travel management, desired future conditions that fail to consider the Department's wildlife management objectives, restrictions on the Department's ability to manage wildlife (access to water catchments etc), public access to the Forest, need to identify Rights of Way acquisitions, habitat connectivity between forest blocks, any potential usurpation of state authority over wildlife management, planning contrary to: 1) the AFWA MOU regarding Wilderness, 2) Executive Order 13443 regarding hunting, 3) the Multiple-Use Sustained-Yield Act of 1960, or 4) the Federal Land and Policy Management Act of 1976 regarding the state's jurisdiction and responsibilities, any actions that impact hunting, fishing, or non-federal jurisdiction for wildlife species including game and nongame animals, wildlife habitat goals, objectives, and desired conditions..

The Draft LRMP EIS and plan is expected to be available for public input in late fall of 2013.

The scoping phase for the Travel Management Plan has finished and the Forest is reviewing all comments submitted during scoping. 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 Department sent an additional letter to the Forest Supervisor

emphasizing the need to address access issues on the Forest in the current planning process. Currently the Forest has some roads identified as preferred access routes where the ROW is not owned by the Forest. In our letter, the Department urged the Supervisor to ensure legal access is addressed at the same time resource issues are addressed.

The Forest will issue a Draft TMP EIS for each District. The projected date for the issuance of Draft TMP EIS's is early 2013.

Kaibab National Forest

The Forest continues to work toward release of a Final EIS for its Land and Resource Management Plan (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 received a 'final administrative determination' from the Deputy Regional Forester which denied our appeal on the TMP. As it stands, MBGR will be allowed for bison and elk, 1 mile from designated system roads (except where prohibited). Motorized dispersed camping will be allowed 300 feet from either side of 99 miles of specified roads and 100 feet from either side of 104 miles.

Prescott National Forest

Final 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 Draft Environmental Impact Statement (DEIS) and the Draft LRMP.

In November of 2012, the Department submitted comments on the Prescott National Forest Draft EIS/Draft LRMP. The Department had concerns with special land use designations in proposed wilderness areas and how this would affect our ability to manage wildlife.

U.S. FOREST SERVICE - General

Apache-Sitgreaves National Forests (A-S)

Show Low South Land Exchange

The Department provided written comment on the Draft Environmental Impact Statement (DEIS) for the Show Low South Land Exchange. The DEIS disclosed the effects of a proposal to exchange 1,028 acres of National Forest System (federal) lands in the Apache-Sitgreaves National Forests (A-S) and Coconino National Forest (CNF) in exchange for 1,558 acres of lands currently held in private ownership within the A-S, CNF, and Prescott National Forest. The Department previously provided comment to the A-S, expressing support for the land exchange

in a scoping report response letter dated May 27, 2009. The current comment letter restated the Department's support based on the overall benefit to wildlife resources and wildlife recreational opportunities associated with the exchange.

Coconino National Forest

Aspen Monitoring on the San Francisco Peaks

The Department continues to work with the Coconino National Forest to address declines in aspen recruitment in the San Francisco Peaks area. The Flagstaff District and the Forest Health Protection Program are monitoring aspen recruitment in the 2010 Schultz Fire perimeter, in the Hart Prairie Forest Restoration Project area where various aspen treatments are taking place, and in areas with and without livestock grazing. Aspen treatments include conifer removal, fencing, felling and leaving pines to create natural fences (jackstrawing), burning, and planting of young aspen (out-planting).

The Department recently met with Flagstaff District staff to review aspen monitoring metrics, in an effort to reach agreement on what level of aspen recruitment indicates successful recovery. Based on a recent, comprehensive synthesis of aspen restoration guidelines from Utah State University, the general consensus is that greater than 500 aspen stems at least 6 feet in height are needed for successful recruitment into mature size classes. The Department will continue to work with the Forest to arrive at a shared understanding of aspen regeneration targets, both within aspen clones, and across the landscape.

On the Hart Prairie Project area, Forest monitoring results from 2011 and 2012 indicate browsing by both domestic livestock and elk and deer. The average number of aspen per acre 0-2 ft in height was 50 in the allotment grazed by domestic livestock and 97 in the ungrazed allotment. Browse damage within grazed and ungrazed monitoring plots was nearly 100%, measured as the percentage of aspen plants within the plot showing evidence of browse damage. The average number of aspen per acre between 2-7 feet (indicating successful recruitment) is 0, due in large part to the browse suppression on aspen in the 0-2 feet size class. By comparison, the first jackstrawing unit completed in 2010 now contains an average of 333 aspen per acre 0-2 ft in height with lower evidence of browse damage. Monitoring is expected to continue into 2013 and beyond, depending largely on Forest funding and capacity.

Forest monitoring within the Schultz Fire perimeter (ungrazed by livestock) suggests aspen are resprouting in great number. Prior to the fire, aspen stems per acre in the 1.1-2' height category were 0, after the fire those stems proliferated to 9,849 stems per acre in 2011 and 8,805 stems per acre in 2012. Roughly 50 stems per acre in the 4.1-5' height category were present in 2012, indicating some successful recruitment into mature size classes. Ungulate browse of young aspen in 2011 was measured at 95%, however this number dropped to 65% in 2012. Heaviest browse was evident on plots further from roads and human activity, indicating ungulate use is highest in the more remote aspen areas. Monitoring is expected to continue into 2013 and beyond, again depending on Forest funding and capacity.

In 2012, the Flagstaff District conducted 2,364 acres of aspen treatment at a cost of \$415,100. During the next fiscal year, the Forest has roughly 1300 acres of additional aspen restoration treatments (~1000 acres) and fence maintenance (~300 acres) planned on the District, all occurring either within the Hart Prairie Project area or within the Schultz Fire perimeter.

As the Forest continues to implement comprehensive aspen restoration on a large scale, the Department is managing elk to relieve browse pressure on young aspen. Implementation of focused elk hunts in the Peaks Sub-Unit of Game Management Unit 7E began in 2011 with 180 cow tags offered between September 23 and October 20. In 2012 these were increased to 300 cow and 90 bull tags offered between September 28 and October 28; however, the bull tags were changed to “any elk” to allow hunters the flexibility to take a cow or a bull. Levels in 2013 will remain the same as 2012. Hunt success in the Peaks Sub-Unit in 2011 was 48%. Success for the 2012 hunts is not yet available. A comprehensive, multi-disciplinary, stakeholder-involved approach to habitat and wildlife management in this area, and other areas where similar issues exist, will be key to success.

Fossil Creek Comprehensive River Management Plan (CRMP)

The Coconino National Forest continues to develop their Environmental Assessment for the Fossil Creek CRMP, a plan which is a requirement of any Wild and Scenic River designation. The Department is a Cooperating Agency on this project, working directly with the Forest’s Interdisciplinary Team to provide the best available science as well as Department recommendations. The Department is currently working with the Forest to review draft EA documents prior to release to the Fossil Creek Stakeholders Group (of which the Department participates in an advisory capacity), and prior to the release to the general public.

Coronado National Forest

Proposed Rosemont Copper Project

The Department met with the Forest on November 30 to discuss the Department’s role in Endangered Species Act (ESA) Section 7 consultation and National Environmental Policy Act (NEPA) mitigation. At the meeting the Forest invited the Department to participate in the Section 7 consultation with the U.S. Fish and Wildlife Service and committed to include mitigation in the Record of Decision (ROD) for which the Department has come to an agreement with Rosemont Copper. The Department has not met with Rosemont to discuss potential mitigation measures since meeting with the Coronado. Such measures would be incorporated into the Plan of Operations for the Rosemont Copper Project.

Kaibab National Forest

Juan Tank Allotment

The Department is working with the Kaibab National Forest, University of Arizona Cooperative Extension, and the Natural Resources Conservation Service on a coordinated plan for the Juan Tank allotment in GMU 8. Issues to be addressed include wetland restoration, holding an invasion of Japanese brome in check and increasing cool season grasses and forbs on the allotment.

Tonto National Forest

Kerr/Goldfields and Stewart Mountain Communication Sites

The Tonto has just released the scoping notice for the development of an EA on a proposed action to establish a communications site at the Kerr/Goldfield Admin Site and add a 45 foot, free standing microwave tower at the existing Stewart Mountain Communications Site. The purpose of the project is to improve cellular communication and internet service in the area of the Lower Salt River Recreation Area and to the Admin Sites. The Department has had

preliminary coordination with the forest and will be providing comments in early January. The concern that will be addressed in the response is mainly the potential timing of the disturbance due to breeding bald eagles and ground disturbance to desert tortoise.

Red Creek

The Forest has scoped a proposal to improve ecological conditions and to authorize continued livestock grazing on the Red Creek, Six Bar and Skeleton Ridge allotments (Allotments), Cave Creek Ranger District. The Department provided preliminary comments and recommendations for preparation of an Environmental Assessment. Primary interests are opportunities to develop water and infrastructure improvement projects that benefit wildlife and livestock, management of the Verde River Wild & Scenic and other riparian systems, opportunities to include native fish stocking actions, opportunities to address resource impacts from the Cave Creek Complex wildfire and considerations for Special Status Species and Arizona's Species of Greatest Conservation Need (SWAP).

SR6

The Forest continues to develop an EIS to analyze management strategies that maintain and improve ecological conditions on six grazing allotments along the Salt River corridor, between Roosevelt Lake and the Fort Apache Indian Reservation. Draft Specialist Reports were released to permittees this fall. The Habitat Optimization Alt. 4 has been drafted. The DEIS is nearly complete and anticipated release is in January for 45 day review period. AGFD has requested copies of the Specialist Reports.

BUREAU OF LAND MANAGEMENT (BLM)

Hassayampa FO

The draft EIS/draft RMP amendment has been prepared to provide analysis for the potential impacts of granting a right-of-way to the Arizona Public Service (APS) for the purpose of constructing and operating a 500/230kV overhead transmission line from the Morgan Substation to the planned Sun Valley Substation. The location for the proposed project includes BLM managed lands, Arizona State Trust lands and private lands in northern Maricopa County. Under the preferred alternative, the BLM would approve a 200-foot wide ROW within the existing designated utility corridor northeast of the Sun Valley Substation. The corridor would be either single use (north of SR74) or multiple use (south of SR74). DEIS/DRMP amendment is currently out for public comment. The Department has been involved with the project since the certification process was undertaken for the original corridor through the Corporation Commission in 2007. The Department is currently reviewing the DEIS for submission of comments within the February timeline. The Department has previously expressed concern for areas to the north of SR74 and will be evaluating the analysis within the DEIS/DRMP amendment along with measures to minimize impacts to those areas to inform the response necessary.

Kingman Field Office

Cooperative Wildlife Water Catchment Repairs

The Department has been cooperating with BLM to repair Aubrey Peak Catchment #1 in GMU 16A. Aubrey Peak is located on BLM lands within a designated wilderness area. Motorized vehicles and mechanical equipment are not permitted.

A minimum tool analysis was completed and BLM approval given for hand packing everything to the site for repairs. At the beginning of December, the Department and BLM worked together carrying in hand tools, equipment and materials; repairing the leaking storage tank, realigning pipeline and straightening the drinking trough.

Madrean Archipelago Rapid Ecoregional Assessment (MAREA)

The BLM has initiated the Madrean Archipelago Rapid Ecoregional Assessment (MAREA) for the Sky Island region located in Arizona (within Region V) and New Mexico. The MAREA is intended to identify, assemble, synthesize, and integrate existing information about the native species, aquatic and terrestrial resources, and environmental change agents to provide information that will help BLM land managers in the ecoregion understand resource status and the potential for change of this status from a broad landscape viewpoint. This information will be used by the BLM to assist with its land management responsibilities, including Resource Management Plans (RMP's), developing best management practices (BMP's), authorizing uses, and establishing conservation and restoration priorities.

The BLM has contracted oversight of the development of the REA to NatureServe. NatureServe's biological subcontractor is The Sky Island Alliance. The Department has assigned staff from Headquarters and Region V to assist in development of the REA to ensure that Department interests are incorporated into the REA. Department Management will be kept abreast via scheduled webinars from the REA teams. The AMT chose pronghorn antelope, grassland ecosystems, and perennial streams as conservation elements to focus on for the first phase of planning.

Yuma Field Office

The Department met with BLM to discuss the Draft Environmental Assessment (EA) for the La Posa Travel Management Plan. The Department is reviewing the draft and preparing comments. The goal is to have the Draft EA out to the public by February 2013.

NATIONAL PARK

Petrified Forest National Park (PFNP)

The Department recently scheduled its annual coordination meeting with the PFNP. The meeting will be held at the Pinetop Regional Office on February 6, 2013.

GENERAL UPDATES

Coconino County

The Commission entered into a 10-year Memorandum of Understanding with Coconino County in October 2012 to cooperatively manage Rogers Lake Natural Area. We expect to complete a Supplemental Agreement in January for the development of a Management Plan and monitoring program for the 2249-acre Natural Area.

Pima County

The U.S. Fish and Wildlife Service (FWS) released Pima County's draft Environmental Impact Statement for the draft Multi-Species Conservation Plan for Pima County. The goal of the plan is to balance protection of native plant and animal species and habitats with urban growth and development. FWS is accepting public comment on both documents until March 15, 2013. The Service is conducting a public meeting on February 21.

The Pima County Office of Sustainability and Conservation is also hosting an open house in each supervisorial district to provide information about the benefits of the Multi-Species Conservation Plan and the permit the County is seeking under the Endangered Species Act.

Wildlife Areas

Black River Properties

The portion of perimeter fence burned in the Wallow Fire has been replaced. The contractor was paid and the Arizona Department of Administration (ADOA) has reimbursed the Department for that expense. The replacement of the P.S. Cabin is on schedule, and should be completed by the end of summer 2013. ADOA has been very cooperative in the process, has approved a solid log structure with recommended features, and has extended the claim deadline. The replacement cabin will have running water, bathroom, septic system, electric light capabilities and attached storage shed.

Grasslands Wildlife Area

The storage shed lost in the November 2010 Turkey fire has been replaced with a metal sided 20 foot by 50 foot shed. The Department has inspected and approved payment to the contractor. ADOA will soon be billed for reimbursement per the approved claim.

Natural Resource Conservation Service (NRCS)

Hopi Three Canyon Ranches recently completed over 7,500 acres of grassland restoration work, on its Clear Creek Ranch, designed to connect the grassland areas south of Winslow to previous grassland restoration work in the Anderson Mesa area. The work is part of a coordinated planning effort between the Hopi Tribe, Game & Fish, USDA- Natural Resources Conservation Service, and Arizona State Land Department. Funding for the work was provided by the Tribe, NRCS, and the Department. The Hopi Tribe has expressed interest in additional grassland restoration work that will provide even more connectivity of I-40 corridor grasslands with the Anderson Mesa area on its Clear Creek and Hart Ranches. They are also interested in seeding to enhance wildlife habitat.

The Department is currently working with NRCS on a range inventory of Babbitt Ranches' Cataract, Espee, and CO Bar ranches. Information gained from the inventory will be used to

make recommendations on grazing management and wildlife habitat improvement activities. This coordinated planning activity supplements the ongoing grassland restoration work being implemented on the CO Bar ranch.

The Department is assisting ranchers on the Arizona Strip to develop dependable wildlife water in conjunction with planned or existing livestock water sources. Currently four projects are under construction or planned.

Hidden Cove Lake

On December 6, the Department met with representatives from the City of Holbrook (City) to discuss in-depth the potential to establish a sport fishery at Hidden Cove Lake, part of the city effluent water system, as well as to enhance other wildlife-related recreation opportunities, such as wildlife viewing.

The City had met a few days earlier with the regional ADEQ representative regarding the effluent quality at the lake. The city's current reclaimed water use permit is rated at Class B+. It would need to be raised to Class A for establishment of sport fishery, allowing for human contact with water. Steps to achieve Class A include upgrading sanitation plant with secondary filtration system, chemical feeder, and turbidity monitor. In the near future, the City will report back on what it will take financially and time to accomplish these steps to raise the rating.

Additional discussion at this meeting focused on the physical characteristics of the lake; the water supply and delivery; the lake ecology and quality; public use, access, facilities and amenities; fish species suitability and approval; and potential internal and external funding sources to accomplish needed improvements and general work.

The Department and the City have agreed to meeting monthly to define and continue action items and review progress. The next meeting is scheduled for January 15 at 9:30 at the Holbrook city council chambers.

Show Low Lake Tail Water

From mid-June to mid-September 2012, The Department stocked 4,700 catchable rainbow trout in the tail water below Show Low Lake. This new fishery provided 8,400 hours of angling use, proving more successful than stocking trout in Show Low Lake. More anglers rated their fishing experience fair or better (62% in the tail water versus 23% in the lake), anglers had three times the catch rate (0.61 trout per hour in the tail water versus 0.19 in the lake), and there was a better return to creel (76% of trout stocked were harvested in the tail water versus 23% in the lake).

Based on these results the Department plans to continue stocking the tail water below Show Low Lake. The Department will be meeting with partners (the City of Show Low, Recreation Resource Management and the US Forest Service) this January to decide whether to increase or maintain current stocking numbers in the Show Low Lake tail water.

RENEWABLE ENERGY DEVELOPMENT

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

The Department continues to participate in the planning for the Sasabe Lateral pipeline which will export domestically produced natural gas to Mexico. A recent study by the Department of Energy suggests exportation of liquefied natural gas will increase gas prices within the U.S. as well as increase hydraulic fracturing to access gas resource on public lands. Both the pipelines and fracking activities have potential to impact wildlife and habitat. Local ranchers in the project location, which runs from Sasabe to near Tucson, with one alternative crossing the Buenos Aires National Wildlife Refuge, have expressed concern about increased border traffic along the project corridor.

The Department is finalizing an MOU with the Federal Energy Regulatory Commission (FERC) which is the lead agency on the EIS and 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. If approved, El Paso would begin construction in the first quarter of 2014 with projected in-service at the end of September 2014.

WIND

Boquillas Wind Energy Project

The Department participated in two meetings organized by the Navajo Tribal Utility Authority at which they presented their new partner and solicited agency feedback on their draft Eagle Conservation Plan drawn up by WEST, Inc. who is conducting their biological studies. NTUA's new partner, EDF Renewable Energy from San Ramon, California, has renewable projects in 25 states which in the western U.S. are concentrated in California. The Department and USFWS discussed their review of the draft ECP at the second meeting in December, during which FWS indicated that the draft required greater discussion of adaptive management measures such as potential turbine shutdown before any approval or permits would be considered. A follow-up meeting including the Department and the Service to discuss a revised ECP has been tentatively scheduled for January.

Dolan Springs Wind Energy Project

The proponent of the Dolan Springs Wind project, Iberdrola Renewables, had an introduction meeting in Kingman in November 2012. The meeting covered the intent and pre-application overview of the proposed project. Agencies in attendance included the BLM, FWS, AZGFD, Western, Mohave County, Hualapai Tribe, Fort Mohave Indian Tribe, USFWS and the NPS. Agency concerns included eagle nesting areas, foraging areas for bats, open mines, wildlife migration, and historical cultural issues.

Project Summary

- Up to 300 MW of generation
- Up to 150 wind turbine generators
- Approximately 47,000 acres of land in Mohave County, AZ
- Met campaign – 5 towers installed
- Interconnection request to Western Area Power Administration

BP Wind Energy has made a request to allow for a wider temporary road bed to accommodate collector lines. BP clarified that roads within the turbine corridors would not need to be wider, but they are limited on how many collector lines can be buried in a single trench. As more MW are pooled and the collector lines approach the substations, multiple trenches would be needed, which would result in a wider area of temporary disturbance. The EIS text description should explain that roads connecting the turbine corridor will be limited to 56-foot-wide temporary roads, where possible, but could expand to 75-foot-widths where necessary. These revisions were sent to the BLM for a one-day review period so revisions could be reviewed before being incorporated into Chapter 2 of the final EIS. Based on these changes the preferred alternative is currently under review, and will be incorporated into the document text prior to solicitor review.

To keep the Final EIS on schedule for a release date to the public in late December 2012, BLM and Reclamation agreed to a five-day agency review time for the EIS sections. The Department of Interior will have a solicitor review when the entire document is completed. The BLM recommended electronic filing of the Final EIS for the EPA to be completed at least 10 days prior to the EPA publication date in the Federal Register.

The ROD will be jointly filed by the BLM and Bureau of Reclamation. Western is currently preparing a separate ROD. Currently the ROD is scheduled for February 2013, but the changes being made to the final EIS may slightly change this release deadline.

TRANSMISSION LINES

SunZia Transmission Line Project

The Bureau of Land Management continues to work on the Final Environmental Impact Statement for the SunZia Transmission Line Project. The preferred alternative for the project includes a route segment through the San Pedro River Valley. The project proponent's preferred route, as well as one potentially favored by the Department of Defense, includes a route that fragments the unfragmented habitat between the Aravaipa and Galiuro Wildernesses. The Department is concerned that any route through this area would impact bighorn sheep and other species, and may have cumulative effects that include the potential for other infrastructure to co-locate along this route. Proposed infrastructure under consideration for this area includes the Interstate 10 bypass, a project which the Commission voted to unanimously oppose via resolution during project development.

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>Early 2013</u>	Projected release of final EIS

TRANSPORTATION

Camelback Parkway

The Department is participating in the technical review committee for the Camelback Parkway feasibility study. The proposed parkway is approximately 15 miles long and two miles wide, centered on the Camelback Parkway alignment. The study area extends one-half mile west of Tonopah Parkway (411th Avenue) and one-half mile east of Sun Valley Parkway, and is bounded by Bethany Home Road to the north and Indian School Road to the south. The Study Area includes a portion of Buckeye’s Planning Area, and currently includes unincorporated areas of Maricopa County and Buckeye. The Department will continue to participate in the technical review committee and provide environmental overview for the study regarding connectivity, permeability, fragmentation, and sensitive species.

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 study also has now included the reinitiation of the SR24 study area that crosses the North/South study area (from east to west). The studies will be combining efforts to determine the alternatives to be carried forward for the tier 1 EIS analysis. The Department has reviewed and provided comments on the draft alternatives selection report that will help to inform those alternatives being carried forward into the Draft Design Concept Report and DEIS. The Department remains consistent in support of those alternative routes west of the CAP canal, along existing infrastructure and minimizing potential impacts to environmental resources. We continue to provide information to assist in the development of analysis process as it moves forward.

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). This parkway will be aligned north/south through Rainbow Valley, between the Sierra Estrella Mountains and the Sonoran Desert National Monument in southwest Maricopa County. Previously reported BLM, AGFD, City of Goodyear and project consultants met on Nov. 15, 2012 to follow-up on Department comments to Chapter 1 & 2 of the project EIS. Since then, all cooperating agency comments on Chap. 1 & 2 have been addressed. Comments and resolutions will be circulated in January to Cooperating Agencies and consultants are developing Chapters 3 & 4 of the ADEIS. Consultants plan to submit ADEIS to BLM late January. Complete ADEIS will be submitted to cooperators in mid-February.

SR 303

The ADOT Loop 303 Feasibility Study Team is continuing to develop and evaluate the alternative corridors for Loop 303 expansion 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. Based upon coordination with the Bureau of Land Management and the Federal Highway Administration, additional research, coordination, and analysis needs to be conducted regarding cultural resources in the study area including the proposed Rainbow Valley Road and Cotton Lane corridors. This additional evaluation will begin in early 2013 and, upon its conclusion, a final report will be prepared. The final decision regarding the preferred alternative will be deferred for approximately one year, the results will be documented in a Planning and Environmental Linkages document. This document will be approved by the agencies involved and will be used in the future as input into an Environmental Clearance for the preferred alternative.

Town of Buckeye

The Department is working with Town of Buckeye Planning Department (Town) to develop a workshop presentation to the Town Council in January 2013 on Wildlife Habitat Linkages: Planning and Conservation. The goal is to increase Town awareness and develop collaboration to incorporate wildlife habitat management goals for linkages and wildlife in general, into the Town's land use planning. The Town is interested in information on linkage planning and design, wildlife movement research associated with the White Tank Mountains, and ideas on what development guidelines or ordinances other communities in Arizona are using to achieve conservation of linkages. The Department has submitted a presentation to Buckeye planning staff for review.

Maricopa Association of Governments (MAG)

The Department presented the Maricopa linkage assessment to the Population Technical committee and the Planners Stakeholder Group workshop this past December. Purpose of the workshop was to provide a forum to learn about the Department's linkage planning and to share efforts at the local level to implement the program through public planning. The Department provided some outreach materials for planners to learn about linkages planning and design. 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 Department has been asked to present to the Transportation and Engineering Committees scheduled early next year.

Maricopa County Parkway Corridor Feasibility Studies

The Department continues to participate on several Technical Advisory Committees for Corridor Feasibility Studies on future development of several west valley parkways. The Maricopa County Dept. of Transportation (MCDOT) is conducting the studies to identify the location and final alignments for the 6-8 lane parkways. All of the parkways are located west of Surprise, south of SR 74 and north of the Gila River. They include the Deer Valley, Dove, Camelback, Greenway, Northern, Yuma and Wild Rose parkways. Several parkway studies have been completed and final alignments chosen for Turner, Hidden Waters North, and Hidden Waters parkways. In all cases the Department's primary concerns have involved minimizing impacts to Special Status Species and SGCN, preserving access routes to public lands for outdoor

recreation, minimizing impacts to important riparian and wash habitats, and preserving critical wildlife linkages identified in western Maricopa county that benefit game species and other wildlife. Once the Corridor Feasibility studies are completed next steps include adoption of parkway alignment by municipalities, ROW preservation, preparation of the Design Concept Report for project programming, appropriation of funding for design, ROW acquisition and construction, and coordination with stakeholders. It will be critical for the Department to participate in the design concept phases of planning to ensure identified wildlife mitigations are incorporated into final designs. Design concept planning may be some time out in the future and dependent on urban growth and development rates in the valley.

Maricopa County Parks and Recreation Department (MCPRD)

The Department met with Park Planner for the White Tanks Regional Park (WTRP) to discuss linkage goals and designs for the White Tank Mountains and future plans for the update of the WTRP Master Plan update. The existing plan was written in 1964. The management themes for the WTRP are education and nature (2009 Parks and Recreation Strategic Master Plan). There is interest in working with the Department to incorporate a 20+ year vision of biological resources and their management needs into an updated Master Plan for WTRP. Planning process timelines are to kick off a Stakeholder Advisory Group early 2013, followed by public meetings and a draft plan released summer 2013 and a final plan to the MCPRD Parks Commission by December 2013.

Pinal Partnership Open Space and Trails Committee

The Department remains in the discussions for implementation of the master plan and participates on the subcommittee for drainage protection. The subcommittee met recently with the County planner and Flood Control coordinator for further discussion on data needs and process to move forward with the County to identify important drainage features (for wildlife and flood control interest) through development of criteria, compilation of data and modeling exercise to produce the results. The results could then be used as another layer with wildlife linkages and open spaces to help inform where protection/acquisition could be focused, along with potential for guiding future development and development of ordinances.

Forest	Status	Next Step	Projected Next Step Completion
<p>Apache Sitgreaves</p> <p>Issues:</p>	<p>Draft Environmental Impact Statement (EIS) for TMP & LRMP released Oct. 2010. Wallow Fire required reassessment. Proposed Plan And Draft EIS to be published Jan, 2013</p> <p>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.</p>	<p>Public comments and review.</p>	<p>Final EIS (LRMP) End of 2013 TMP start after LRMP complete, draft out early 2014. (separate decisions)</p>
<p>Coconino</p> <p>Issues:</p>	<p>TMP signed Sept 2011, MBGR appeal denied; Draft EIS(LRMP) ready. Motor Vehicle Use Maps (MVUM's) available</p> <p>Dispersed camping 300 ft from designated roads, else 30 ft. MBGR for elk only, 1 mile from roads except GMUs 5A & 5B.</p>	<p>Draft EIS (LRMP) Out for review in December</p>	<p>Decision anticipated 7/2013</p>
<p>Coronado</p> <p>Issues:</p>	<p>Internal review of LRMP ongoing TMP in Process in all Districts.</p> <p>Motor Vehicle Use maps show access through roads that have locked gates. Maps not enforceable.</p>	<p>Draft EIS out for comment TMP Working Draft</p>	<p>Fall 2013 Final TMP end of 2013, early 2014 Decisions by district</p>

Forest	Status	Next Step	Projected Next Step Completion
<p>Kaibab</p> <p>Issues:</p>	<p>Comment period on Draft EIS (LRMP) complete. AGFD appeal on North Kaibab TMP declined. Tusayan & Williams TMP in implementation. MVUM's available. North Kaibab TMP completed 9/17/12</p> <p>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 MBGR 1 mile off designated roads for elk and bison, dispersed camping 300 feet off 99 miles of designated roads and 100 feet off 104 miles of</p>	<p>Review comments \ revise EIS (LRMP)</p> <p>Monitoring for Tusayan & Williams, Implementation for North Kaibab.</p>	<p>LRMP Decision Feb 2013</p> <p>Ongoing Monitoring for Tusayan and Williams. North Kaibab implementation to begin 1/2013.</p>
<p>Prescott</p> <p>Issues:</p>	<p>Draft EIS LRMP in Federal Register 8/24/2012. Public input ended Nov 28, 2012.</p> <p>Current draft advocates MBGR: Elk within 1 mile of designated open road. Dispersed camping 300' from centerline of designated roads.</p>	<p>Review and Development of final EIS (LRMP).</p>	<p>Final EIS (LRMP) anticipated Summer 2013. Will not do new TMP. Rely on 2009 updated/amended TMP</p>
<p>Tonto</p> <p>Issues:</p>	<p>TMP EA Jan 2012: LRMP began 2006. Negotiating to reinstate due to rule change. 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..</p>	<p>Reinitiate and prepare for public comment</p>	<p>4-6 years to completion of LRMP. TMP implementation 6/20/13</p>



United States
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Agriculture

Forest
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Southwestern Region
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File Code: 1570/2350

Date: December 1, 1570

Mr. Larry Voyles
Director
Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, AZ 85086-5000

**CERTIFIED MAIL – RETURN
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Dear Mr. Voyles:

This is my decision on the appeal (#13-03-00-0007-A215) you filed on behalf of the Arizona Game and Fish Department regarding the Decision Notice (DN), Environmental Assessment (EA), and Finding of No Significant Impact (FONSI) signed by Forest Supervisor Mike Williams for the North Kaibab Ranger District Travel Management Project on the Kaibab National Forest.

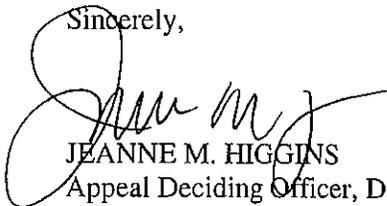
My review of your appeal was conducted pursuant to, and in accordance with, 36 CFR 215.18. My review focused on the project documentation and the issues raised in your appeal. I specifically incorporate in this decision the project record, the references and citations in the project record transmittal documentation, as well as the Appeal Reviewing Officer (ARO) analysis and documentation.

After considering your issues and the project documentation, the ARO recommends the Forest Supervisor's decision be affirmed. A copy of the recommendation and the technical review of your appeal contentions are enclosed.

Based upon a review of the project documentation provided, I find the issues were adequately considered. I agree with the ARO analysis and conclusions in regard to your appeal issues. I find the Forest Supervisor made a reasoned decision and has complied with all laws, regulations, and policy. After careful consideration of the above factors, I affirm Forest Supervisor's decision to implement the North Kaibab Ranger District Travel Management Project.

This decision constitutes the final administrative determination of the Department of Agriculture [36 CFR 215.18(c)]. A copy of this letter will be posted on the national appeals web page at <http://www.fs.fed.us/appeals>.

Sincerely,



JEANNE M. HIGGINS
Appeal Deciding Officer, Deputy Regional Forester

Enclosures (2)

cc: Mike R Williams





United States
Department of
Agriculture

Forest
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Coronado National Forest
Supervisor's Office

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Phone (520) 388-8300
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Deaf & Hearing Impaired 711

File Code: 1570/2350

Date: December 14, 2012

Route To:

Subject: Appeal Recommendation, #13-03-00-0005/0006/0007/0008-A215, North Kaibab
Ranger District Travel Management, Kaibab NF

To: Deputy Regional Forester, Jeanne Higgins

This is my recommendation on the disposition of the appeals filed regarding the Decision Notice/Finding of No Significant Impact (DN/FONSI) and Environmental Assessment (EA) for the North Kaibab Ranger District (NKRD) Travel Management Project on the Kaibab National Forest.

BACKGROUND

Implementation of the Selected Alternative (Alternative 2) will do the following:

- Designate a road system on the NKRD with approximately 1,476 miles of roads open to motor vehicle use by the public.
 - Amend the Forest Plan to prohibit motorized travel off of designated routes on the NKRD, except as identified on the motorized vehicle use map (MVUM).
- Close 376 miles of system roads to motorized use.
 - Eliminate vehicular traffic on 337 miles to all traffic, including administrative use.
 - Change the use and restrict 39 miles, of the 376 miles of open roads being closed, to administrative use only (i.e., for use by permit and the Forest Service to monitor and carry out day-to-day resource management activities, as needed).
- Add approximately 16 miles of short spur roads to the designated system. These routes are user created routes and have historically provided access to the Forest for a variety of recreational activities including motorized dispersed camping.
- Allow the limited use of motor vehicles within one mile of all designated system roads (except where prohibited) to retrieve a downed bison or elk by an individual who has legally taken that animal:
 - Legally harvested elk or bison may be retrieved during the appropriate season as designated by the AZGFD, and for 24 hours following each season.
 - Only one vehicle (one trip in and one trip out) would be allowed for Motorized Big Game Retrieval (MBGR) per harvested animal (i.e., bison or elk).
 - Hunters will be required to use the most direct and least ground disturbing route in and out of the area to accomplish the retrieval.
 - MGBR would not be allowed in any existing off-road travel restricted area, or when conditions are such that travel would cause negative resource impacts.



- Designate corridors of 300 feet from either side of 99 miles of specified roads for the sole purpose of motorized dispersed camping.
- Designate corridors of 100 feet from either side of 104 miles of specified roads for the sole purpose of motorized dispersed camping.

The Selected Alternative would result in a designated road system on the NKRD with approximately 1,476 miles of roads open to motor vehicle use by the public, including the newly added 16 miles of short road segments. Thirty-nine miles of road (not included in the total miles mentioned above) will be restricted to administrative use only and closed to the public except by permit, allowing limited use for administrative purposes such as permittee access and continued administration of range permits and timber sale contracts.

Forest Supervisor Mike Williams published the legal notice of his decision on September 20, 2012. The Forest Supervisor is identified as the Responsible Official, whose decision is subject to administrative review under the 36 CFR 215 appeal regulations. Four appeals were filed as follows:

- Appeal #13-03-00-0005-A215 filed by Valerie Schoppmann on October 30, 2012.
- Appeal #13-03-00-0006-A215 filed by Harvey Schoppmann on November 1, 2012.
- Appeal #13-03-00-0007-A215 filed Larry Voyles on behalf of the Arizona Game and Fish Department on November 2, 2012.
- Appeal #13-03-00-0008-A215 filed by Cyndi Tuell on behalf of the Center for Biological Diversity, Grand Canyon Chapter of the Sierra Club, and the Grand Canyon Wildlands Council on November 6, 2012.

Pursuant to 36 CFR 215.17, an attempt was made to seek informal resolution of the appeals. The record indicates that informal resolution was not reached.

Review and Findings

As provided for under 36 CFR 215.19(c), I am consolidating the four appeals into one recommendation. My review was conducted in accordance with 36 CFR 215.19 to ensure that the analysis and decision are in compliance with applicable laws, regulations, policies, and orders. The appeal records, including the appellant's issues and requests for relief have been thoroughly reviewed. Although I may not have listed each specific issue, I have considered all the issues raised in the appeals and believe they are adequately addressed in the attached technical review and findings documents. Having reviewed the EA, DN/FONSI, and the project record file, as required by 36 CFR 215.19(b), I conclude the following:

- 1) The decision clearly describes the actions to be taken in sufficient detail that the reader can easily understand what will occur as a result of the decision.
- 2) The selected alternative should accomplish the purpose and need established. The purpose and need stated in the EA reflect consistency with direction in the Forest Plan for the Kaibab National Forest.

- 3) The decision is consistent with policy, direction, and supporting evidence. The record contains documentation regarding resource conditions and the Responsible Official's decision documents are based on the record and reflect a reasonable conclusion.
- 4) The record reflects that the Responsible Official provided ample opportunity for public participation during the analysis and decision making process. The Responsible Official's efforts enabled interested publics the opportunity to comment and be involved in the site-specific proposal.

After considering the claims made by the appellant and reviewing the record, I found that the Responsible Official conducted a proper and public NEPA process that resulted in a decision that is consistent with the Kaibab National Forest Plan. I found no violations of law, regulations, or Forest Service policy.

Recommendation

I recommend that the Responsible Official's decisions relating to this appeal be affirmed with respect to all of the appellant's contentions.

/s/ Jim Upchurch
JIM UPCHURCH
Forest Supervisor

Enclosures (4)

cc: Margaret Van Gilder

Review and Findings

Arizona Game and Fish Department, Larry Voyles

Appeal #13-03-00-0007-A215

North Kaibab Ranger District Travel Management Project

Kaibab National Forest

Overview: The appellants allege violations of the National Environmental Policy Act (NEPA). They believe that the lack of motorized dispersed camping corridors and/or adequate campsites in the pinyon-juniper portion of the North Kaibab Ranger District (NKR D) frustrates the Arizona Game and Fish Department's (AZGFD) wildlife population management and wildlife recreation objectives.

ISSUE 1: The Forest Service failed to adequately consider the Department's concerns related to effective management of mule deer populations and hunter needs.

Contention 1a: The appellants contend that the Environmental Assessment (EA) does not evaluate or discuss the consequences of the Department's inability to meet mule deer harvest goals in Game Management Units (GMU) 12AW and 12AE in light of limited hunter access on the pinyon-juniper portion of the NKR D and the environmental effects on natural resources (overexploitation of forage with unsustainable increase in mule deer populations). The appellants contend that the decision will deprive hunters selected for permits in the pinyon-juniper portion of the NKR D a quality hunt experience and could adversely impact local communities. They argue that 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 NKR D. The appellants also argue that in its analysis of resource impacts caused by motorized dispersed camping, the NKR D has failed to consider an important aspect of the problem, which is the impact of an uncontrolled deer herd [Appeal, pp. 4-10].

Response: The appellants contend that their mule deer management concerns were not considered and that the effects of not permitting retrieval of mule deer were not analyzed. The initial proposed action did not contain motorized big game retrieval (MBGR) for mule deer [PR 183]. The Forest Service met with the appellants and discussed MBGR for mule deer [PR 196]. MBGR for mule deer was identified as an issue and an alternative was designed to address the issue [PR 287, p. 17]. Effects of MBGR were analyzed for each resource (Recreation, Soils and Watershed, Rare Plants, Invasive Species, Wildlife, Cultural, Range, Fire and Fuels, and Vegetation) for each alternative [PR 287, pp. 26-105]. The Forest Service responded to the appellants' comments regarding mule deer management and MBGR [PR 292, pp. 145-147]. The rationale for not selecting the alternative allowing for mule deer retrieval is explained in the DN/FONSI [PR 295, p. 15].

In its comment letter to the preliminary EA, AGFD stated the following regarding dispersed camping:

“The Department supports control of dispersed camping. The AGFD also agrees there has been increasing habitat damage related to vehicular dispersed camping on the KNF and there is a need to regulate the distance a vehicle should be allowed to pull off a road. Currently, visitors camping on the KNF are using larger RVs such as campers, motor-homes and trailers which are continually moving campsites further from the main roads.

After reviewing the proposed designate routes for the purpose of dispersed camping, the AGFD wants to ensure that there are sufficient sites for the maximum number of hunter camps that could be permitted in a single hunt. The Department would like to offer our assistance in designating additional camp site locations” [PR 294, p. 175].

In its response to AZ Game and Fish comments regarding dispersed camping, the NKRDR stated the following:

“...The proposed corridors and additional spur routes were evaluated with peak hunting season in mind. Should monitoring indicate that additional camping opportunities are necessary, we will consider any future changes or proposals under a separate environmental analysis” [PR 292, p. 147].

The NKRDR identified areas and roads that historically serve as access to dispersed campsites and incorporated them into the proposed action [PR 287, p. 13]. The NKRDR was careful and thorough in evaluating potential corridors and spur routes for dispersed camping or big game retrieval; any areas of resource concern were either eliminated or would be mitigated through implementation [PR 295, p. 18; PR 287, pp. 56-61, 67, 73, 76, 89-90]. The NKRDR limited motorized dispersed camping opportunities in the pinyon-juniper portion of the District due to cultural resource concerns [PR 287, p. 89]. The 16 miles of short spur roads, along with the dispersed camping corridors, is expected to accommodate existing motorized recreation needs with little change from the current use [PR 287, p. 112]. The decision designates corridors of 300 feet from either side of 99 miles of specified roads specifically for dispersed camping, corridors of 100 feet from either side of 104 miles of road, and permits vehicles to park up to 30 feet on any open road (unless otherwise identified). It is important to note that the decision designates **corridors** (emphasis added) where motorized dispersed camping is permitted. The decision does not designate campsites within these corridors [PR 287, p. 17].

Finding: The responsible official adequately considered the AZGFD concerns related to motorized dispersed camping and big game retrieval in Game Management Units (GMU) 12AW and 12AE. The effects of including and excluding mule deer retrieval were analyzed and disclosed, and the rationale for the decision to exclude mule deer retrieval was supported by the analysis documented in the project record.

Contention 1b: The appellants contend that that 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 decision includes no provision for including new camping sites as heritage resource inventories progress [Appeal, p. 10].

Response: Limiting motorized dispersed campsites to locations that have been surveyed for cultural resources is not arbitrary and capricious, but rather it is in keeping with federal law. Motorized dispersed camping is an undertaking that has the potential to affect cultural resources. Therefore, compliance with Section 106 of the National Historic Preservation Act (NHPA) is required to ensure cultural resources are considered early in the planning process, and that cultural resource impacts are avoided by the undertaking or the adverse effects are minimized through mitigation. The NKRD followed the process agreed to in the Southwestern Region Programmatic Agreement (PA) between the Forest Service, Arizona State Historic Preservation Office (SHPO), New Mexico SHPO, Texas SHPO, Oklahoma SHPO, and the Advisory Council on Historic Preservation, for meeting its Section 106 responsibilities [EA, PR 287, p. 88; also see reference to the PA in PR 309, p. 4]. The “Standard Consultation Protocol for Travel Management Route Designation” developed under Stipulation IV.A.4 of the PA describes the process the forests will follow in meeting their Section 106 responsibilities specifically for Travel Management Route Designation [PR 62]. The protocol clearly states that non-system routes or spurs and their associated features to access dispersed camp sites or areas, the dispersed camp sites and areas themselves, fixed-distance corridors that will be designated for dispersed camping and areas open to cross-country motorized travel are all subject to Section 106 compliance [PR 62, p. 3]. The project record indicates that the NKRD identified user generated spur routes, campsites or campfire rings along the major routes in the pinyon juniper zone and conducted surveys to determine whether cultural resources would be affected [PR 308, pp. 1-2]. The pinyon juniper zone has a high density of archaeological sites [PR 309, p. 4] and the potential to affect cultural resources in this area is high. Those locations that had cultural resource conflicts were dropped from designation [PR 308, pp. 1-2]. The Section 106 compliance report included motorized dispersed camping areas, and SHPO signed off on the report concurring with the determination of No Adverse Effect [PR 274, pp. 1-2] completing the Section 106 process. While other areas that have not yet been surveyed for cultural resources may be potential campsites, they too would need to be surveyed for cultural resources prior to designation in compliance with Section 106 of NHPA, and potential effects would need to be identified, and measures taken to avoid or reduce adverse effects. The appellant’s claim that there are no provisions for including new camping sites as heritage resource inventories progress is incorrect. The travel management protocol provides for phased cultural resource surveys over several years, so areas may be surveyed for cultural resources after the decision notice is signed [PR 62, p. 6]. Also, the motorized vehicle use map (MVUM) can be revised annually.

Finding: The decision complies with federal law and therefore is not arbitrary and capricious. The NKRD identified routes, corridors and camping locations and then they were surveyed for cultural resources in compliance with NHPA and the Region’s PA and potential adverse effects were avoided by dropping the areas from designation.

ISSUE 2: The EA lacks credible data regarding impacts of motorized big game retrieval by licensed hunters and overestimates the impacts to resources.

Contention 2a: The appellants contend that the decision to restrict 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 NKRD has in fact resulted in damage to soils, plants, or heritage resources. They argue that 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 [Appeal, pp. 10-15].

Response: The Travel Management Rule provides that the Responsible Official *may* 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 purposes of...“retrieval of a downed big game animal by an individual who has legally taken that animal” [PR 46, p. 68289]. This exemption is *optional* and at the discretion of the Responsible Official. The NKRDR chose not to include MBGR for mule deer in its initial proposed action [PR 183]. Since this matter was then brought up as an issue during scoping, the NKRDR crafted an alternative (Alternative 4) to incorporate this use [PR 287, p. 17].

The NKRDR contends that the more vehicle trips made for game retrieval the higher the likelihood for resource impacts. It estimates that 90% of hunters used motorized cross county travel to retrieve their game in the sample year 2009. During that year, 38 bison, 0 elk, and 1,020 deer were harvested. Based on these numbers, 34 trips would be made for bison, 0 for elk, and 918 for deer [PR 287, p. 10]. These numbers were used to measure the magnitude of impacts from MBGR for different types of game.

In its effects analysis, the NKRDR shows that the amount or frequency and timing of vehicle passes influences the effects to soils [PR 287, pp. 57, 59], sensitive plants [PR 287, pp. 67-68], recreation and scenery [PR 287, pp. 41, 43-44], and cultural resources [PR 287, pp. 96-97].

Given that the allowance for MBGR is an optional designation according to the 2005 TMR and not a truly predominant part of the decision to be made, the NKRDR provided an equally weighted analysis according to 40 CFR 1500.0 to ‘concentrate on the issues that are truly significant to the action in question’. Given that, the NKRDR did not go into extensive detail about the expected effects from mule deer MBGR. The NKRDR is aware that it must ‘rigorously explore and objectively evaluate all reasonable alternatives’ [40 CFR 1502.14]. The NKRDR asserts that the number of trips is much greater for deer and places traveled may be more sensitive than the retrieval for elk and bison. The likelihood that damage to resources may occur is much higher with deer retrieval than for elk and bison [PR 287, pp. 74, 90]. The NKRDR provided the information for this analysis that was available to them, namely, the AZGFD harvest numbers and personal observation. Based on this information, the NKRDR made an assumption that 90% of hunters would retrieve their game with motor vehicles and applied it evenly to elk, deer, and bison [PR 287, pp. 10, 74]. Beyond this information (which is the basis for this contention by AZGFD), AZGFD has not provided the Forest Service any other data to use in its analysis.

Finding: The NKRDR has done its due diligence by using the best available science and by not using exhaustive resources on this issue because it is not ‘truly significant to the action in question’.

Contention 2b: The appellants contend that restricted MBGR will impact the Department’s lead reduction efforts in Condor Country. They argue that the analysis did not disclose potential impacts on strides made in condor conservation [Appeal, pp. 13-14].

Response: The effects of lead ingestion on condors, and the lead reduction efforts of the Arizona Game and Fish Department, are discussed in the Biological Evaluation (BE) [PR 275, pp. 8-9], the Wildlife Specialist Report [PR 280, pp. 12-13] and in the EA [PR 287, pp. 76-77]. In addition, the Forest Service responded to the appellant's concern on this issue [PR 292, pp. 145-147].

Finding: The effects of lead ingestion and the impacts of lead reduction efforts were disclosed in the EA and supporting documents.

Forest Service
er, Southwestern Region
adway Blvd., SE
rque, NM 87102

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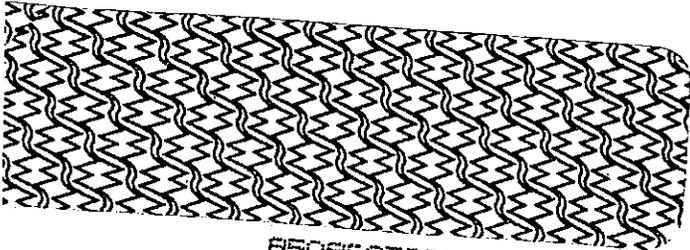
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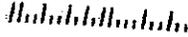
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Agenda # 9

shotguns of any description capable of holding more than three shells unless it is plugged with a one-piece filler that cannot be removed without disassembling the shotgun so that its total capacity does not exceed three shells, electronically amplified bird calls, or baits, as prohibited under 50 CFR 20.21, revised October 1, 2009. The material incorporated by reference in this Section does not include any later amendments or editions. The incorporated material is available at any Department office, online from the Government Printing Office web site www.gpoaccess.gov, or may be ordered from the Superintendent of Documents, U.S. Government Printing Office, 732 N. Capitol St. N.W., Washington, D.C. 20401.

- h. Discharge a pneumatic weapon .30 caliber or larger while taking wildlife within one-quarter mile of an occupied farmhouse or other residence, cabin, lodge or building without permission of the owner or resident.
- 4. An individual shall not use edible or ingestible substances to aid in taking big game. The use of edible or ingestible substances to aid in taking big game is unlawful when:
 - a. An individual places edible or ingestible substances for the purpose of attracting or taking big game, or
 - b. An individual knowingly takes big game with the aid of edible or ingestible substances placed for the purpose of attracting wildlife to a specific location.
 - c. This subsection does not limit Department employees or Department agents in the performance of their official duties.
 - d. For the purposes of this subsection, edible or ingestible substances does not include:
 - i. Water,
 - ii. Salt,
 - iii. Salt-based materials produced and manufactured for the livestock industry, or
 - iv. Nutritional supplements produced and manufactured for the livestock industry and placed during the course of livestock or agricultural operations.
- ~~B. An individual shall not place any substance in a manner intended to attract bears.~~
- ~~C. An individual shall not use manual or powered jacking or prying devices to take reptiles or amphibians.~~
- ~~D. An individual shall not use live decoys, recorded bird calls, electronically amplified bird calls, or baits to take migratory game birds, as prohibited by 50 CFR 20.21, revised June 14, 2001. This material is incorporated by reference in this Section, but does not include any later amendments or editions. A copy is available from any Department office, or it may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.~~
- B. Wildlife taken in violation of this Section is unlawfully taken.
- C. This Section does not apply to any activity allowed under A.R.S. § 17-302, to an individual acting within the scope of their official duties as an employee of the state or United States, or as authorized by the Department.

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

- A. An individual may only use the following methods to take big game, when authorized by Commission Order