

Minutes of the Telephonic Meeting of the  
Arizona Game and Fish Commission  
Friday, August 22, 2014 – 10:00 a.m.  
Arizona Game and Fish Department  
5000 W. Carefree Highway  
Phoenix, Arizona 85086

PRESENT: (Commission)

(Director's Staff)

In person:

Chairman Robert E. Mansell  
Vice Chairman Kurt R. Davis

In person:

Director Larry D. Voyles  
Deputy Director Ty E. Gray  
Assistant Attorney General Jim Odenkirk

Via telephone:

Commissioner Edward "Pat" Madden  
Commissioner James R. Ammons

Chairman Mansell called the meeting to order at 10:00 a.m. and conducted roll call. Commissioner Harris was not present. Several members of the public and several Department staff members were present. This meeting followed an agenda dated August 19, 2014.

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#### 1. Approval of the Big Sandy River-Planet Ranch Settlement Agreement

**Presenter:** James F. Odenkirk, Assistant Attorney General

Mr. Odenkirk presented the Commission with the Big Sandy River-Planet Ranch Settlement Agreement for review and approval. Each Commissioner was provided a full packet of materials prior to this meeting for review and consideration. The packet included all of the settlement documents and exhibits as well as a briefing memorandum.

Mr. Odenkirk provided the following summary:

The Big Sandy River-Planet Ranch Settlement Agreement is the culmination of five years of settlement discussions and negotiations with Freeport Minerals Corporation, the federal government, the Hualapai Tribe and other state parties. The Agreement resolves a number of water issues in the Bill Williams River watershed, and will provide significant environmental benefits by enhancing and restoring wildlife habitat on the Bill Williams River between Alamo Lake and the Colorado River. The agreement will also provide the parties with more reliability in the use of water in the watershed.

The terms of the Agreement require Freeport to donate to the Commission 3,413 acres of the most valuable portion of Planet Ranch, along with the associated 5,541 acre feet of water rights. The water rights will permit the irrigation of 923.5 acres, and Freeport will transfer to the Commission all improvements and irrigation facilities and will ensure the irrigation system that it transfers to the Commission is capable of using the full amount of the water rights on the property.

A portion of the property and the water rights will be available to the Bureau of Reclamation (BOR) for Lower Colorado River Multi-Species Conservation Project (LCR MSCP) purposes. Under a 50 year lease agreement that is part of the settlement, the BOR will undertake habitat enhancement and restoration activities on the property and will pay Freeport \$8.3 million for the lease. BOR intends to develop areas of cottonwood-willow and honey mesquite, and create marsh and backwater habitats in support of threatened and endangered species and other sensitive or migratory wildlife. It is estimated the project will enhance or create nearly 600-1000 acres of riparian habitat. This represents nearly ten percent of BOR's total obligation to create and protect habitat under the MSCP.

Under the lease agreement, BOR will be responsible for developing the project, paying for all operation and maintenance expenses during the lease term and maintaining the property and improvements in good order and repair. As for the Commission's use of Planet Ranch, the Commission may use the property during the term of the lease for wildlife management and wildlife recreation purposes that are consistent with BOR's habitat restoration activities. The Commission will govern public use through its wildlife area rules and designate roads and trails that are open or closed. The Commission may permit public access for hunting and other recreational uses, except that certain activities may be limited within the area of active habitat restoration.

The agreement allows Freeport to sever and transfer a portion of the Planet Ranch water rights and a portion of Freeport's Lincoln Ranch water rights for use at its Bagdad mine. The transfer will provide additional legal support for existing water rights used for mining and municipal purposes at the Bagdad mine. The transfer of water rights from Freeport's properties is considered a paper transfer only and will not increase Freeport's existing diversions from the Wikieup Wellfield alluvial wells on the Big Sandy River. In fact, Freeport agrees to permanently cap its diversions from the Wikieup Wellfield on the Big Sandy River to its current level and cannot exceed on an annual basis the diversion of 10,055 acre feet. This cap on its water use ensures that the use of water at the mine will be significantly lower than Freeport's 40,000 acre feet of additional surface water rights that Freeport would otherwise be able to use. This cap is binding not only on Freeport, but on any successors to Freeport's water rights.

The Department recommends that the Commission approve the agreement because it will provide significant benefit to wildlife resources, improve the management of water resources in the Bill Williams River watershed, and provide public access to Planet Ranch, which has historically been closed to the public.

Commissioner Madden asked if there was any change regarding the issue of making a donation to the county in lieu of taxes.

Mr. Odenkirk stated that there has been no change on that issue, but the Commission has the option on all its properties to make payments to counties in lieu of property taxes. The Commission is exempt from property tax, but has the ability to make those payments in lieu of taxes. Initially, BOR verbally committed to reimburse the Commission for any payments that were made; however, they have since changed that position and there is no assurance that the BOR will reimburse the Commission.

Commissioner Ammons asked about the upkeep and maintenance of the structures on the property.

Mr. Odenkirk stated that BOR will be responsible for all operation and maintenance expenses during the lease term and maintaining the property and improvements in good order and repair. However, if the Commission wants to add something that is not currently planned for the property such as a kiosk or other type of infrastructure, that would be a cost that the Commission would incur.

Chairman Mansell asked what would be the impact to the water resources in the Bill Williams River watershed without this agreement.

Mr. Odenkirk stated that without the agreement, Freeport would retain ownership of Planet Ranch and Lincoln Ranches and associated water rights. This would require Freeport to use up to 17,500 acre feet of water at Planet Ranch and Lincoln Ranches. This would dramatically reduce the amount of water remaining in the river for the benefit of riparian habitat, and over time, would cause particular harm to the Bill Williams River Wildlife Refuge. In addition, Freeport would not be subject to a cap on its water diversion from the Big Sandy River at the Wikieup Wellfield. Freeport could increase its pumping above current levels, and this would reduce the amount of water supporting riparian habitat and could have an impact on the amount of water flowing into Alamo Lake.

Chairman Mansell asked what will happen to the water if BOR does not need all the water for habitat restoration and development on Planet Ranch.

Mr. Odenkirk stated that BOR must ensure that it does not do anything to cause the water rights to be lost through nonuse. It is possible, however, that BOR will not need all the water for its purposes throughout the duration of the 50 year lease, and if that is the case, the Commission should be able to use the water for wildlife purposes. This may include constructing marshes and moist soil units or growing grain crops or alfalfa for wildlife.

#### Public Comment

Sandy Fabritz-Whitney, Director of Water Resources, Freeport McMoRan, addressed the Commission in support of the agreement. This agreement is the perfect example of a public-private partnership and Freeport is fully committed to the benefits of the agreement.

**Motion:** Madden moved and Davis seconded THAT THE COMMISSION VOTE TO APPROVE THE BIG SANDY RIVER-PLANET RANCH WATER RIGHTS SETTLEMENT AGREEMENT AND AUTHORIZE THE DIRECTOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE COMMISSION.

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

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

**Vote:** Unanimous

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Meeting adjourned at 10:23 a.m.

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Robert E. Mansell, Chairman



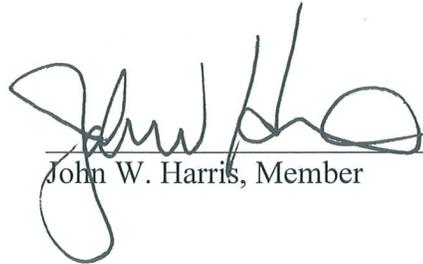
Kurt R. Davis, Vice Chair



Edward "Pat" Madden, Member



James R. Ammons, Member



John W. Harris, Member

ATTEST:



Larry D. Voyles  
Secretary and Director