

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, February 22, 2002 – 8:00 a.m.
Arizona Game and Fish Department
Regional Office, 9140 E. 28 Street
Yuma, AZ

PRESENT: (Commission)

(Director's Staff)

Chairman Michael M. Golightly
Commissioner Joe Carter
Commissioner W. Hays Gilstrap
Commissioner Joe Melton

Director Duane L. Shroufe
Asst. A.G. Jay R. Adkins
Asst. A.G. Jim Odenkirk

Chairman Golightly called the meeting to order at 8:08 a.m. The commissioners introduced themselves; Chairman Golightly introduced Director's staff. He noted Commissioner Chilton was absent from today's meeting due to personal emergencies. The meeting followed an agenda dated February 1, 2002.

1. Litigation Report

- a. *Forest Guardians v. APHIS*, CIV 99-61-TUC-WDB; *State of Arizona v. Norton*, CIV 98-0632-PHX-ROS; *Conservation Force v. Shroufe*, CIV 98-0239 PHX RCB; *In Re General Stream Adjudication for the Little Colorado River and Gila River*; *Mark Boge v. Arizona Game and Fish Commission & Shroufe*, CIV 2000-020754; *Mary R. LLC, et al. v. Arizona Game and Fish Commission*, CIV 2001-015313 and *Defenders of Wildlife et al. v. United States Fish and Wildlife Service*, CIV01-934 (HA) (U.S.D.C. Ore.)

A copy of the update, which was provided to the Commission prior to today's meeting, is included as part of these minutes.

Mr. Adkins stated the Department of Justice attorney did an excellent job in presenting oral arguments in the *Forest Guardians v. APHIS* case in San Francisco. A decision would be made by the 9th Circuit Court. He was also awaiting a decision by the 9th Circuit Court on the *Conservation Force v. Shroufe* case.

Mr. Adkins filed a motion to intervene in the *Defenders of Wildlife et al. v. United States Fish and Wildlife Service* case. He has not heard yet from the District Court in Oregon, but he saw no reason why the Commission and Department would not be allowed by the court to intervene.

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2. Executive Session

- a. Legal Counsel. *Forest Guardians v. APHIS*, CIV 99-61-TUC-WDB; *State of Arizona v. Norton*, CIV 98-0632-PHX-ROS; *Conservation Force v. Shroufe*, CIV 98-0239 PHX RCB; *In Re General Stream Adjudication for the Little Colorado River and Gila River*; *Center for Biological Diversity v. Dombeck et al*, CIV00-1711-PHX-RCB; *Mark Boge v. Arizona Game and Fish Commission & Shroufe*, CIV 2000-020754; *Mary R. LLC, et al. v. Arizona Game and Fish Commission*, CIV 2001-015313 and *Defenders of Wildlife et al. v. United States Fish and Wildlife Service*, CIV01-934 (HA) (U.S.D.C. Ore.)

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION GO INTO EXECUTIVE SESSION.

Vote: Carter, Gilstrap and Melton – Aye
Chair voted Aye
Chilton - Absent

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Meeting recessed 8:15 a.m.

Meeting reconvened 9:00 a.m.

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3. Briefing on the Ninth Circuit Decision in *Arizona Cattle Growers' Association v. U.S. Fish and Wildlife Service*, F.3d (9th Cir. Dec. 17, 2001)

Director Shroufe noted that since this item was requested by Commission Chilton to have on the agenda, it should be tabled until the next Commission meeting when she would be present.

Motion: Carter moved and Gilstrap seconded THAT THIS ITEM BE POSTPONED UNTIL THE MARCH COMMISSION MEETING.

Vote: Carter, Gilstrap and Melton – Aye
Chilton – Absent
Motion passed

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4. Consent Agenda

- a. Request to Approve a Sport Fish Restoration Grant Application to Contribute to Angler Access Development at Lake Havasu and to Enter into a Cooperative Agreement among LaPaz County, Anglers United, and the Arizona Game and Fish Commission to Convey Monies for Construction. Department recommendation: That the Commission vote to authorize the Director to Enter into a Sport Fish Restoration Grant Agreement with the U.S. Fish and Wildlife Service for construction of angler access facilities at the CAP intake on Lake Havasu using matching funds provided by LaPaz County and to authorize the Director to negotiate, execute and modify, as necessary, a Cooperative Agreement

with Anglers United and LaPaz County to convey grant monies for design, material acquisition and construction.

- b. Request for the Commission to Approve a Lease Agreement with the City of Phoenix for the 10-Acre Deer Valley South Complex. Department recommendation: That the Commission vote to approve a Lease Agreement with the City of Phoenix for the 10-acre Deer Valley South complex and authorize the Director to execute the Lease Agreement as approved by the Office of the Attorney General.
- c. Wheelin' Sportsmen MOU. Department recommendation: That the Commission vote to approve entering into an agreement with the National Wild Turkey Federation on the Wheelin' Sportsmen Program and authorize the Director to execute the MOU as attached or as approved by the Office of the Attorney General.
- d. Sonoran Sea Aquarium MOU. Department recommendation: That the Commission vote to approve entering into an agreement with the Sonoran Sea Aquarium and authorize the Director to execute the MOU as attached or as approved by the Office of the Attorney General.
- e. Request to Transfer an Elk Calf by the Black Beauty Ranch National Animal Sanctuary. Department recommendation: That the Commission vote to approve the Black Beauty Ranch request for transfer of one elk calf to their site in Murchison, Texas.

This item was pulled from the Consent Agenda for further discussion.

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE ITEMS 4.A. THROUGH D. ON THE CONSENT AGENDA.

Vote: Carter, Gilstrap and Melton – Aye
Chilton – Absent
Motion passed

Regarding Item 4.e., Tice Supplee, Game Branch Chief, noted Commissioner Carter brought to her attention that the memo indicated any further transfers of the animal would be at the direction of the Department. She clarified that normally transfers would follow the procedures of the big game transplant policy; all requests for big game transfers out of state would be brought before the Commission. In the vote to approve this transfer, the authority for further relocation of the animal in the course of its life would be deferred to the Director.

Motion: Carter moved and Gilstrap seconded THE DIRECTION AS RECOMMENDED.

Vote: Carter, Gilstrap and Melton – Aye
Chilton – Absent
Motion passed

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5. An Update on Current Issues, Planning Efforts, and Proposed Projects on Federal Lands in Arizona and Other Matters Related Thereto

Presenter: John Kennedy, Habitat Branch Chief

A copy of the printed update, which was provided to the Commission prior to today's meeting, is included as part of these minutes.

Updates and a correction were provided. The correction was on page 2, under the Tonto National Forest. The correct name for the Red Creek Allotment is Red Creek Ranch Allotment and the permittee is now Joanie Smith of Red Creek Ranch, LLC. On page 7, under the Proposed Development Activities on Arizona State Trust Lands in Apache County, the State Land Department has issued a right-of-entry permit to Mr. Johnson to begin construction of the road. The decision was based on the Land Commissioner's policy not to deny applications for access to private lands that are land-locked and where there were no other reasonable alternative access corridors. The right-of-way would be 20 feet wide and would not be fenced; this was consistent with the Department's recommendations. The exact location of the road will be determined and the decision would be based on avoidance of cultural and wildlife resources. Mr. Kennedy noted Johnson had not submitted a petition for a proposal for a commercial lease. On page 6, under the Barry M. Goldwater Range regarding road closures, signs have been removed or are in the process of being removed by the Department of Defense.

Commissioner Carter referenced the possible transfer of lands in Walnut Canyon to the jurisdiction of the National Park Service. He was concerned and wanted to have the Commission consider a resolution at the next meeting that would be developed by the Department on this issue. The resolution should state opposition to the land transfer because of the value to wildlife and sportsmen. The resolution should be prepared for all of the commissioners' signatures. The congressional delegation and involved agencies needed to know where the Commission stood on this issue. Mr. Kennedy stated the Department would prepare a more detailed briefing and draft resolution for Commission review regarding this plan for the next meeting.

Commissioner Carter noted the sensitivity of the Southern Arizona Cattlemen's Association regarding jaguar monitoring activities. Access to public lands in southern Arizona was limited or prohibited and he asked for Department sensitivity on that issue. Director Shroufe noted the Commission was provided with copies of a letter sent to Mr. Bell addressing the issue of the jaguar sighting. One of the main responsibilities of the Department was to insure that communication was timely, personal and factual. He asked the Commission to notify the Department of situations where better communication was warranted. A trust relationship must be fostered.

Chairman Golightly asked for written update on priority issues and concerns that needed to be addressed in the management plan for the Barry M. Goldwater Range (BMGR). After approval of the plan by the Commission, it should become a formal position by the Commission. Mr. Kennedy stated the Department has been active on the team

responsible for development of the Integrated Natural Resources Management Plan (INRMP) for the BMGR for a number of years. The Department has a somewhat solid position regarding access for wildlife management activities, reasonable public access for wildlife-related recreation and our jurisdictional role with respect to wildlife management on the Range. Those positions could be provided to the Commission. The Department was entering final negotiations with respect to selecting a particular alternative among the team that would be forwarded to the executives who comprise BEC. The Department could put together a briefing within a few weeks describing the issues, positions and concerns that exist at this time. Director Shroufe noted a plan was presently being developed and there was a MOU between Arizona, Department of Defense and Department of Interior that allowed the Department to be the state representative on the INRMP team. The Commission had the details of what the plan was going to be. The plan addressed compliance with the Sikes Act and the Land Withdrawal Act for the ranges. Because it was uncertain as to when the planning process would be finalized, he suggested that a briefing paper only be done for the March meeting, then the Commission could take a position perhaps in April. Commissioner Carter suggested putting sideboards as to where the Commission wanted to be in and throughout the process.

Public comment

Scott Baxter, representing self, spoke regarding the proposed access to State Trust land by Johnson and possible future development on that land. He visited the area for the past 20 years. The development would severely impact migrations of elk, antelope, and a number of bird species. There were water issues involved and well drilling could cause problems. The area was fragile. He was concerned about extensive development and the numbers of people that would impact the area. Because he was a photographer and fly fisherman, he had seen many areas of the country and this was one of the most beautiful areas he has seen.

David Smith, representing self, stated he was a photographer for *Arizona Highways* magazine. Copies of the May 2001 issue of the magazine that contained an article of the area in question (X Diamond Ranch in the South Fork area) were distributed to the Commission. He felt development would have a serious impact on this special area. He asked the Commission to stay aware of what was occurring with respect to this issue.

Don Stevenson, representing self, was an independent photographer. The South Fork area was a unique natural wonder in Arizona. It contained archaeological sites, herds of wildlife and world-class trout. The right-of-way was just the beginning of a massive development in the area, which he opposed. Impacts to wildlife would be enormous; there were waves of elk and antelope. Any development in the area would disturb them. He could not address the economic impacts but he believed the human impact on the area would be devastating to habitat and the wildlife. It was a fragile environment.

Wink Crigler, representing self, stated the X Diamond Ranch has been in her family since the 1890s. Her family protected and guarded it against development. Her family protected the resources. Her family (John and Molly Butler) were instrumental in starting the Game Protective Association in Arizona to protect the land and wildlife. She stated she and her sister have become major targets in this issue and have been accused of

opposing good economic development. This proposal did not involve good economical development. We were looking at the preservation of something that was very unique and precious for generations to come. She noted Mr. Kennedy had a packet that she put together showing the relationship of the wildlife population to the proposed development area by Johnson. She has been in communication with the State Land Commissioner. She asked that the Commission not deal with this lightly because Johnson has not done an archaeological survey nor does he have a permit from the Arizona Department of Transportation. Last Thursday he was cutting her fence with a herd of horses nearby. Johnson was contacted by ADOT and was told he did not comply with the rules for an easement (ADOT has not received any word of an easement). This issue cannot be followed up with the usual casual concern because Johnson was not the usual casual law-abiding person. This is the second time he has been turned back for building an easement without a permit to connect to another road and it was the second time her fences had been cut onto a road without a permit. He has been cited several times for trespassing on State Trust lands and private property. She asked that everyone try to look at alternatives to protect this land and she would be willing to meet with the Commission. Once this area is disturbed, it is gone. We cannot replace this site or return it to the wildlife corridor and bring back what is there now if it is lost to this development proposal.

Dick Bruneau, owner of the Snowy Mountain Inn in Greer, referenced information in a binder provided to the Commission. This binder was made part of the record. His was the closest business to Johnson's development. He addressed potential economic impacts of the proposed development. A recent map was received from Johnson's company showing the proposed development was moved slightly south to provide, theoretically, an area for movement of wildlife. Unfortunately, the wildlife will not see the signs. Fifteen of the 17 major resort businesses promote customers to come to Greer to see wildlife. It is the crux of the economy in Greer. He mentioned several threatened or endangered species of wildlife that occurred or resided in the Greer area. There was a meeting scheduled last Tuesday for the boards and directors of the Greer Business Association and Greer Civic Association to meet with Johnson; however, he did not attend the meeting but, instead, sent his marketing director. Unfortunately, straight answers were not given to straight questions, e.g., what would be the economic impact on Greer. Mr. Bruneau thought that the economic impact would be significant, particularly if the environment were damaged in any way. The magnet drawing people to the area was the pristine nature of the area. His other concern was the potential for enhancing fire danger. A series of canyons connect his resort to the one Johnson is proposing. With the influx of people into the area, fire danger increases in those canyons. A fire would be impossible and dangerous to extinguish in the canyons because they were hundreds of feet deep and very wide. He was concerned about Johnson's disregard for the law, regulations, and being a good neighbor. He has had a track record with drinking water violations. Mr. Bruneau cited an article from the *White Mountain Independent* newspaper that "...two citations have been issued against the developer in the past two years."

Commissioner Carter stated at the January meeting, focus was primarily on access for residential purposes only. Mr. Kennedy stated that, according to Johnson, right-of-entry was limited to the private home. Commissioner Carter stated this area was important to wildlife and asked the local residents to share their views with community leaders in Springerville, Greer, Eagar, Apache County and the State Land Commissioner. The situation should be monitored closely.

Commissioner Gilstrap expressed appreciation to those who drove a long distance to attend today's meeting to speak on this issue. All of rural Arizona, particularly Apache County, was aggressively looking for economic development and an additional tax base. Even though the Commission was concerned about the impacts to wildlife, it was limited in either promoting or demoting development. A lot of emphasis should be placed on the county, towns and State Land Department to look at alternatives.

Commissioner Melton understood the problem and supported concerns for wildlife in that area, but stated the Commission was limited in what it could do as the State Land Commissioner would be making the final decision.

Jon Fugate, representing the Yuma Valley Rod and Gun Club (YVRGC), supported the comments made by the Commission regarding the State Land Department issue. The Department can do a lot of things for wildlife, but people needed to let State Land Commissioner Mike Anable know of their concerns. He was pleased the Department would have an opportunity to review another version of the Comprehensive Conservation Plan for the Buenos Aires National Wildlife Refuge. There were six priority uses in the Improvement Act. Anything less may have a negative impact on wildlife and those who enjoy wildlife-related recreation. The YVRGC was concerned that the Department of Defense (DOD) has yet to agree that the Department has management authority for resident wildlife on the Barry M. Goldwater Range (BMGR). Congress split DOD's management responsibilities between the Navy and the Air Force. Public access will probably be more restrictive as this was proposed for inclusion in the draft action. It was important for the Commission to resolve these public access issues since public access has been allowed on BMGR since 1941. He urged the Commission to ensure that DOD calls Director Shroufe to discuss safety issues that arise that may prohibit or restrict public or vehicular access on BMGR. The United States Air Force (USAF) has determined that all public access on its side of the range has been or will be denied permanently. This is no doubt largely due to individuals in the USAF who have a preservation mind-set approach to managing the east side of the range and have found a loophole to further their beliefs. He thought weekend access should be allowed since training seldom occurs then. He noted there were currently over three million acres of public land in Arizona that the Department has or should have wildlife management authority on that is being questioned. Should one add the four recently designated national monuments and three more refuges in southwestern Arizona, there were over four million acres of wildlife habitat on public lands that have presented obstacles regarding statutory authority by the Department to manage wildlife. The Commission should be aggressive in allowing the Department to resolve these public access issues on public lands.

Commissioner Carter referenced a General Accounting Office report on the federal monies made available after the wildfires a few years ago. The report stated that the five federal land agencies made little progress in implementing a sound performance and accountability framework for the use of those dollars as they affected public lands, natural resources and communities throughout the West. He noted the presentation made

at the August 2001 Commission meeting regarding forest health conditions and efforts to expand and facilitate demonstration projects. It would be timely to have an update on the efforts and whether or not there were proposals for demonstration projects that were moving forward for which the Commission could join in fostering funding sources. He wanted a written briefing through the Director as to what was happening in Arizona regarding the funds that were allocated to the federal agencies in the state to deal with communities and impacts on natural resources, including threatened and endangered species, and clean water.

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7. A Briefing on the Status of Buffalo During the 2001 Hunts on House Rock and Potential Action Plans for Future Hunts

Presenter: Tice Supplee, Game Branch Chief

(For background information, see minutes for the January 18, 2002, Commission meeting, page 23.)

Distribution of bison and hunters during 2001 fall hunts:

Bison left the House Rock Wildlife Area (House Rock) during the 2001 fall bison hunts but the legal hunt area included Units 12A and 12B. During this past fall, National Park Service personnel periodically observed about 50-55 bison (of the estimated 120-130 animals in the population) within the Grand Canyon National Park where hunting is not allowed. Conversely, hunter reports from all established hunt periods in the 2001 fall hunt (hunt 7004: Sept. 28-Oct. 24; 7005: Oct. 5-11 [Oct. 19-25 return dates for unsuccessful hunters in 7004 and 7005]; 7006: Nov. 30-Dec. 6; 7007: Dec. 7-13; 7008: Dec. 14-20 [Dec. 27-31 return dates for unsuccessful hunters in 7006-7008]) indicated that bison were observed on national forest lands and a number of hunters (13 of 54 [2 hunters did not participate], 24.1% overall) were successful in locating and harvesting bison in spite of weather and road conditions. Several Kaibab deer hunters also reported observing bison on Forest Service lands during their hunts. Seasonal timing did not substantially influence bison hunt success.

Bison hunts in Units 12A and 12B can be difficult. Hunt success has been as low as 14% on yearling hunts and 20% on cow hunts; hunt success was higher during the fall 2001 cow-yearling hunts. Days to harvest bison in Units 12A and 12B this year ranged from 1-12 days, averaging 5.3 days. According to the mandatory sign-in/sign-out data maintained at the House Rock headquarters, Mr. Haggard arrived on December 13 to attend the pre-hunt seminar and left on December 15, after two days of hunting, although five days remained in the season. He did not return during the follow-up hunt on December 27-31. Hunters are informed in the printed hunt regulations that the House Rock bison hunt is very difficult and that an abbreviated hunt will lower their chances of success.

Hunt Structure Modification:

The 2001 fall hunts were designed to capitalize on the tendency of bison to migrate to lower elevations in winter. In 2001, snowfall was not sufficiently heavy to force bison to

move until late December and helicopter tour pilots observed some bison on the National Park as recently as January 2002. The House Rock manager observed at least two groups of bison on House Rock since January 1, 2002, and there have been, and still remain, a large number of individual bison (most likely adult bulls) on the wildlife area.

Hunt season recommendations for fall 2002 have not been finalized. The Department will consider the concerns of interested publics and governmental agencies when the recommendations are developed, and data on hunter harvest and bison population demographics will be considered as well. An informal stakeholder focus group will be used to solicit views from frequent participants in Unit 12A and 12B bison hunts before the recommendations are forwarded for Commission consideration in April.

Currently, a regionally chartered team is reviewing bison management at both House Rock and Raymond Ranch Wildlife Areas. Information on the evaluation and implementation of hunt structures developed in concert with the Bison Management Plan Report will be presented to the Commission for review in the near future. Ms. Supplee suggested at the March meeting the Department could present the possible hunt structure strategy and options. This would be prior to the April hunt permit setting meeting.

Ms. Supplee stated the bison harvest at House Rock this past year was below what the Department anticipated. This was a wild, free-ranging bison herd that has not been contained in the wildlife area for a number of years.

Commissioner Melton asked if the bison were removed from a free-ranging status, would they be removed from the Boone and Crockett trophy status because they would no longer be a wild herd. Ms. Supplee stated both Boone and Crockett and Pope and Young recognize this herd as wild, free ranging for record book purposes. It is considered a fair chase hunt. If the Department were to contain or in other ways manage the House Rock bison similar to those at Raymond, they would no longer qualify for that status in the record books.

Commissioner Carter asked what the major contributing factors were for the lower harvest levels during the past several years. Ms. Supplee stated this herd had been confined a long time ago to the wildlife area; that practice ended a number of years ago. As the bison acclimated to their ability to roam seasonally and be more migratory, this became a factor. Prescription fires on the national park encouraged bison to be in the area more than they were historically. Through habitat management strategies, there might be opportunities to manage the herd. Another factor contributing to hunter success was hunter activity. The Department was looking at offering new strategies for the hunts to raise hunter success.

Mr. Haggard was present at today's meeting. He hoped the Commission had a chance to look at the materials he presented to them, including letters that were written on his behalf. He had never experienced not having a chance to be successful on a hunt. He hunted for two days and there seemed to be no reason for him to stay even though he had planned to hunt the entire eight days. He saw no reason to go back at the end because he could not get a guide. Regarding access, the roads were snow-packed and iced. The only access was to walk up the mountain. There were no buffalo on the House Rock Wildlife Area. He did not have access to the buffalo for which he had a tag.

Motion: Gilstrap moved and Carter seconded THAT THE COMMISSION VOTE TO DENY MR. DALE HAGGARD'S REQUEST THAT THE DEPARTMENT EXTEND BISON HUNTING PRIVILEGES TO UNSUCCESSFUL HUNTERS THAT PARTICIPATED DURING THE 2001 FALL BISON HUNT IN UNITS 12A AND 12B. FURTHER, THAT THE COMMISSION REQUEST A PRESENTATION OF HUNT STRUCTURE STRATEGIES AND OPTIONS AT THE MARCH COMMISSION MEETING.

Vote: Carter, Gilstrap and Melton – Aye
Chilton – Absent
Motion passed

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Meeting recessed 10:35 a.m.

Meeting reconvened 10:52 a.m.

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6. Statewide Shooting Range Project Update

Presenter: Kerry Baldwin, Acting Assistant Director, Information and Education

Written updates were provided to the Commission on major issues in the program prior to today's meeting.

Regarding the Tri-State Shooting Range, the Bureau of Land Management notified the Department that the Kingman District, rather than the Lake Havasu District, would be taking over responsibility on the range proposal.

The Annual National Cowboys' Shooting Association Winter Range held a successful event at the Ben Avery Shooting Facility (BASF) last weekend, with over 15,000 spectators. There has been no significant feedback from the Commission on the Shooting Range Strategic Plan. The Department would present the plan to the public for review and comment. Public comments would be presented to the Commission in a few months.

Economic development at the BASF was discussed. Mr. Baldwin felt review of the strategic plan would be a good time to present to the public the Commission's intent to look at potential economic development to support the long-range goals at BASF. A part of the plan would be also to look at where there were other opportunities for economic development along with shooting ranges.

Mr. Baldwin was confident a majority of the shooting groups were comfortable with the role the Commission has provided and the support given to the Department.

Director Shroufe commented that nothing new was done by the congressional delegation with regard to the exchange of federal lands to other jurisdictions in Coconino and Pima Counties. He thought it would be best to see what the appraisals would bring in before extending a further move to the congressional delegation.

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8. Call to the Public

Jerry Stewart, representing self and others, talked about archery deer hunting on the Kaibab (Units 12A/B and 13A/B) going to a draw and the closure of archery deer in Unit 27 in December. He suggested that the Commission initiate a Kaibab or habitat stamp for this year to archers. In doing so, more accurate data may be provided. He suggested using different colored stamps for residents and nonresidents. He asked the Commission to table the issue for one year for said units to collect data to come up with a better solution. Chairman Golightly told Mr. Stewart to submit his comments in writing to Ms. Supplee as the Game Branch was now taking public comment with regard to proposed hunt recommendations for upcoming seasons. The Commission would be making decisions at the April meeting.

Nicholas Heatwale, representing self, opposed the Department's proposal to initiate the draw for permit-tags for deer hunts north of the Colorado River. He recommended that the Commission table this issue while the Department and bowhunters resolve an alternative to a draw for these hunts. Better data on the hunts can be collected. He would like to see a method for getting further data on hunter use. He recommended a hunter check-in or sign-in station similar to those to access private lands. This may help provide further statistics on who is using the resource in regard to total numbers of resident vs. nonresident use. A draw is not an answer to the problem. His written comments would be provided to Ms. Supplee.

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9. State and Federal Legislation

Presenter: Tony Guiles, Legislative Liaison

The key bill status report as of February 20, 2002, was provided to the Commission. At the present time, the Legislature would not be holding any committee hearings until resolution was reached on the budget.

Several bills were brought to the Commission's attention for recommendations to the Department.

S 1366 (Watercraft; extreme DUI) would make it unlawful for a person to operate a motorized watercraft with a blood alcohol concentration of .15 or higher. Commission supports.

HCR 2012 (Lottery continuation) would extend the Lottery to July 1, 2012. Commission strongly supports.

H 2618 (Watercraft operation) which, in addition to any criminal penalties, a person committing a violation of the watercraft personal flotation device section must be required to take a boater education course.

Mr. Guiles noted the other bills under "monitor closely" were still in negotiations with stakeholders. He could not make any recommendations for those at this time.

Mr. Guiles would be meeting with the sponsor of H 2614 (Game and fish; hunting licenses) and other representatives next week to give them further clarification regarding use of Social Security numbers.

H 2618 (Watercraft operation) states that, in addition to any criminal penalties, a person committing a violation of the watercraft personal floatation device section must be required to take a boater education course. Mike Senn, Assistant Director for Field Operations, stated those citations were common. If there was an equipment violation, oftentimes officers will cite for that and give a warning for a moving violation. He liked the approach on this; however, it addressed a single violation. He asked Mr. Guiles if this bill could be worked to recommend other violations be included in the package. This is one that is commonly cited for and if it was the only one, he could see potential difficulties. Other violations would be more appropriate; as it was, it was a minor, common violation. Mr. Guiles thought this was something he could discuss with the sponsor of the bill and others. The Commission recommended monitoring closely for now. Director Shroufe noted the Education Branch needed to be consulted to insure against lumping too many issues because it would cause the Department to have problems with large class sizes and not having enough instructors.

H 2048 (Game and Fish Commission) would extend the Commission until July 1, 2012. Commission supports.

Weekly updates would be provided to the Commission as events happen in the Legislature.

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12. Elizabeth Colter Petition to Close a Road on State Trust Land

Presenter: Fred Bloom, Development Branch Chief

On December 13, 2001, pursuant to A.A.C. R12-4-110 and R12-4-610, the Department received a Petition for Closure from Elizabeth Colter to close a road located on State Trust lands located approximately four miles west of Eagar, Arizona. The unnamed two-track road is .35 miles in length and crosses the Little Colorado River and proceeds to the Old Walton Place, which is listed on the historic building register. This road was previously closed through a closure granted by the Commission in 1995. In August 2001, the Commission revisited road closures exceeding five years. At that time, the Commission voted not to approve renewal of this road closure because the reasons stated for closure in the original petition were not consistent with the criteria established in A.R.S. 17-451(A) authorizing the Commission to close an area to motor vehicles.

The reasons cited in the new petition for closure are consistent with the criteria established in A.R.S. 17-451(A) as follows:

1. To prevent further stream bank erosion at the river crossing.
2. To eliminate or reduce further resource damage to the soils and vegetation of the riparian area and floodplain caused by off-road vehicle use
3. To maintain the resource improvements established during the past closure

During the original closure, there was a substantial decrease in degradation to the riverbank and adjacent riparian and upland habitat areas. There was a noticeable decrease in vandalism to the historic building. There has been no public opposition to the original closure. Hunters, fishermen and outdoor recreationists have readily used the area under its "foot access only" status. This closure is supported by Region I and the State Land Department.

Motion: Gilstrap moved and Carter seconded THAT THE COMMISSION VOTE TO APPROVE THE COLTER PETITION TO CLOSE A ROAD ON STATE TRUST LAND AS DESCRIBED IN THE PETITION.

Public comment

Wink Crigler, representing self, supported the road closure because it was a fragile basin that contained sensitive vegetation and she was concerned about topsoils eroding into the Little Colorado River. This was also the proposed area for Johnson's housing development. There was no bridge into the area; therefore, people have to drive across the river. She was not opposed to access by hunters.

Vote: Carter, Gilstrap and Melton – Aye
Chilton – Absent
Motion passed

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13. Transfer of Charouleau Gap Right-of-Way Easement to the Forest Service

Presenter: Fred Bloom, Development Branch Chief

In 1996, the Department and the Coronado National Forest cooperated to design and construct a new road alignment for the Charouleau Gap Road, near the Town of Catalina, to provide public recreational access to the national forest. The Department currently holds a 10-year easement from the State Land Department for this right-of-way. This easement will expire October 2007.

The Charouleau Gap Road is located in one of the fastest urbanizing areas in Pima County and public access may not remain secure beyond the term of the existing lease. In April 2001, the Department received the "Notification of Pending Application to Purchase Land" by the Saddle Brooke Development Company for 237.56 acres in Pinal County. This parcel includes the 10-year easement area. The Department and Forest Service have determined it would be in the best interests of both agencies and the recreating public for the Forest Service to pursue conversion of the 10-year right-of-way to a perpetual term thereby securing lasting public access to the national forest in this area. The State Land Department Title and Contracts Division, however, will not entertain a Forest Service application for a perpetual right-of-way as long as the Department holds its easement. In November 2001, the Coronado National Forest initiated an application for transfer of the current easement lease to the Forest Service and currently awaits the Department's response.

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE THE TRANSFER OF THE CHAROULEAU GAP EASEMENT TO THE U.S. FOREST SERVICE TO ENABLE THEIR PURSUIT OF A PERPETUAL RIGHT-OF-WAY FOR THE PURPOSE OF MAINTAINING PUBLIC RECREATIONAL ACCESS TO ADJACENT NATIONAL FOREST LANDS.

Vote: Carter, Gilstrap and Melton – Aye
Chilton – Absent
Motion passed

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Meeting recessed at 11:42 a.m.

Meeting reconvened 11:48 a.m.

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14. Status of Water Development Maintenance Needs on the Arizona Strip

Presenter: Fred Bloom, Development Branch Chief

The Department monitors, inspects and maintains 70 wildlife water developments on the Arizona Strip. Also, there are over 200 water developments under other agency jurisdictions, i.e., Bureau of Land Management (BLM) and Forest Service (FS), as well as private stock waters. Many, if not most of which, benefit wildlife

A Powerpoint presentation was given of the current status of the water development maintenance program, including the process of tracking, prioritizing and maintaining developments statewide with specific data on the Arizona Strip.

Of the 70 Strip catchments, 41 are functional and require no maintenance; 21 are functional but require some type of repair and 8 are non-functional and require repair.

The maintenance and repair schedule for the Strip catchments: all critical repairs are scheduled prior to the summer of 2002; all other developments are scheduled to occur by the end of 2002 contingent on special tag funding and remaining repairs are scheduled to occur prior to the summer of 2003.

Both BLM and the FS face water catchment maintenance challenges on the Strip and North Kaibab. The Department assists both agencies in their endeavors.

Auction or raffle of big game tags by major sportsmen's groups generates special tag funds. The Department and other agencies submit proposals for expenditures for various projects related to big game species.

Cooperative tag fund water development projects involve a multi-partnership arrangement between the Department, BLM, land users and permittees. Some portions of construction costs are paid with special tag funds. Primary project oversight lies with BLM or FS. Construction may be contracted or done by a permittee. Maintenance is assigned to BLM or the permittee through a cooperative agreement.

Public comment

Steve Chevront, representing self, thought the presentation was good but it was not the way water development maintenance has been. Funded projects were not being done or were not done the way they were supposed to have been done. The permittees are not leaving the water on. There was a problem of prioritization of the projects. He wanted to have maps of all the project waters in the state. Different sportsmen's groups would be put in individual areas to help inspect units and to help make better decisions on projects where monies are spent.

Commissioner Gilstrap asked that the Department capitalize on Mr. Chevront and his organizations to help in the construction, monitoring, fundraising, etc. He hoped Mr. Chevront would follow up with the Department.

Commissioner Carter agreed with Commissioner Gilstrap. He asked if there was a process for the development and the maintenance of the resource. Mr. Bloom stated that the agreements he has seen state that the permittee will provide water to wildlife on a year round basis. Monitoring is dependent upon wildlife managers to a great degree. This presents an opportunity for volunteer effort. Commissioner Carter hoped the Department would take advantage of volunteers to ensure availability of the resource.

Commissioner Melton noted there were a number of passive water systems around the Yuma area that are underground and that use the terrain as the water source. They were successful and were almost maintenance free as far as hauling sufficient water. The best system should be used. He would be interested in seeing a map of the water developments and facilities located in southwestern Arizona. Mr. Bloom stated the Department was looking at different types of technologies. The Department recently collected GIS files from the FS and BLM in northern Arizona. The Department will have to make an effort to get more maps to establish a baseline starting point in developing a uniform record of waters statewide.

Chairman Golightly stated that the schedule to provide water for wildlife on the Strip was not acceptable to him. Wildlife does not care who has the responsibility for maintenance of a catchment. Water needed to be available in the trough. A plan needed to be developed before May. There was no water and there has been no snowpack this winter on the Strip. He wanted to know what the Department was going to do to address the issue of monitoring.

Director Shroufe thought the schedule was ambitious for repairing and building waters. The policing issue and looking into our cooperative agreements as to who provides water could be accelerated. He could follow through with BLM and the FS with regard to enhancing the policing effort.

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO MODIFY THE DIRECTOR'S GOALS AND OBJECTIVES FOR THIS YEAR TO INCLUDE, BASED ON THE PRESENTATION MADE TODAY, A PROGRAM WITH RESPECT TO WATER RESOURCES THAT INCLUDES MAPPING, ESTABLISHING A MONITORING PROGRAM THAT WOULD INCLUDE A CORPS OF VOLUNTEERS TO THE EXTENT OF BEING POSSIBLE, AND IDENTIFYING AND

COMPLETING THE MAINTENANCE AND/OR REHAB NEEDS OF THOSE UNDER OUR JURISDICTION AS WELL AS WORKING WITH OUR COOPERATORS WHO ALSO HAVE SIMILAR RESPONSIBILITIES AND MAKE THAT A PRIORITY IN THE DIRECTOR'S GOALS AND OBJECTIVES.

Vote: Carter, Gilstrap and Melton – Aye
Chilton – Absent
Motion passed

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5. An Update on Current Issues, Planning Efforts, and Proposed Projects on Federal Lands in Arizona and Other Matters Related Thereto – cont'd.

Director Shroufe explained that in direction by the Commission last month to the Department, a letter was to be sent to the Governor asking her to intervene with the State Land Department to get a decision on the Cowan State Land application for access on the property. After the motion was made, Chairman Manning indicated the letter should be prepared for all the commissioners' signatures (see Commission meeting minutes for January 18, 2002, page 27). Director Shroufe asked for redirection to facilitate sending the letter. The issue was that the letter not be sent to the Governor, but to Mike Anable, State Land Commissioner. The letter would point out that the Commission and Department have spent a considerable amount of time working with the landowner. The State Land Department (SLD) has been sent several letters indicating all opportunities had been exhausted and we wanted the State Land Commissioner to intervene in the process to resolve the issue of the Department's application within the SLD.

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION APPROVE THE LETTER TO MIKE ANABLE FOR SIGNATURE BY ALL COMMISSIONERS.

Vote: Carter, Gilstrap and Melton – Aye
Chilton – Absent
Motion passed

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16. Modification of Location of September 2002 Meeting

Presenter: Duane L. Shroufe, Director

The Department requested a change in location of its September 13-14, 2002, Commission meeting from Springerville to Pinetop, since meeting accommodations in Pinetop are more available and convenient.

Commissioners Carter and Gilstrap thought that due to recent issues occurring in the Springerville/Eagar/Greer area, the Commission should make itself accessible to the local people who were involved in the issues and the meeting location should not be changed.

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO MAINTAIN THE SCHEDULE AS ORIGINALLY ESTABLISHED FOR THE SEPTEMBER 13-14, 2002, COMMISSION MEETING IN SPRINGERVILLE.

Vote: Carter, Gilstrap and Melton – Aye
Chilton – Absent
Motion passed

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Meeting recessed at 12:30 p.m.

Meeting reconvened 1:05 p.m.

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17. Call to the Public

There were no comments.

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18. Commissioner Committee Appointments

Presenter: Duane L. Shroufe, Director

Chairman Golightly asked Commissioners Gilstrap and Carter to continue their work at the Legislature on behalf of the Commission.

Chairman Golightly recognized Commissioner Gilstrap’s efforts and contributions to the Heritage Alliance Committee that was formed to entertain options for a possible initiative for renewing Heritage. Commissioner Gilstrap stated the correct name was the Support the Continuation of the Lottery Committee. He asked for a formal recommendation that he serve on that committee. Chairman Golightly did not think it was a standing committee as it was formed by the public, not the Commission. Mr. Odenkirk was concerned that if the Commission has not taken a position on the substance of the issue and then formally approved a member to represent the Commission, it could be a problem. Commissioner Gilstrap stated the Commission did take a position on the legislation, which was to pursue legislation and/or initiative dependent on a referendum. Mr. Odenkirk stated that if Commissioner Gilstrap was going to represent the Commission, a formal endorsement was needed by the entire Commission. Commissioner Carter stated the Committee was established by the Lottery Commission, who, in turn, invited participation by others. Mr. Odenkirk recommended postponement of formally naming a commissioner to this post.

Chairman Golightly asked Commissioner Carter to serve as Chairman of the Heritage Public Advisory Committee. Chairman Golightly stated he would continue to serve as Chairman of the State Habitat Partnership Committee and named Commissioner Gilstrap to help with the program.

Chairman Golightly noted the Name the Range Committee was disbanded. He asked Commissioner Chilton to remain a member of the Landowner/Lessee/Sportsman’s Committee. He also noted he was neither a Chair nor Co-chair of the Wildlife Assets Committee; the Law Enforcement Branch Chief is the Chairman of that group. He asked to have his name removed as Co-chair and asked Commissioner Melton to serve as a member on the Wildlife Assets Committee.

Chairman Golightly asked Commissioners Melton and Gilstrap to serve on the Ben Avery Economic Development Committee.

Director Shroufe noted a vote could be taken on the standing committees.

Motion: Gilstrap moved and Carter seconded THAT THE COMMISSION ACCEPT COMMISSION REPRESENTATION ON THE STANDING COMMITTEES.

Vote: Carter, Gilstrap and Melton – Aye
Chilton – Absent
Motion passed

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19. Director's and Chairman's Reports

Chairman Golightly worked on the concept of the shooting range with the congressional delegation, primarily the Senate. He met with a member of the Arizona Quail Alliance. He met with the local area landowner with the Forest Service, Rocky Mountain Elk Foundation and Grand Canyon Trust regarding a request from the landowner to entertain a conservation easement on Commission property.

Chairman Golightly met with the Director and members of the Forest Service. The meeting was productive. He also attended a meeting of the Diablo Trust.

Director Shroufe noted the Commission had been provided with updates from the Divisions. He attended a Barry M. Goldwater Executive meeting, followed by an intra-governmental executive meeting.

Director Shroufe has spent a lot of time at the Legislature. Communication has occurred between the Department and the Governor's Office regarding the Department's handling of its budget. A copy of the letter to the Governor was provided to the Commission regarding how the agency was going to find methods inside the Department to give its employees raises without firing anyone, causing RIFs or losing positions.

Director Shroufe attended a Growing Smarter Oversight Council meeting, an AORCC meeting, a meeting of the U.S. Forest Service with Commissioner Golightly and attended an Arizona Flycasters Awards banquet. He attended a Management Team meeting and a meeting of the Arizona Heritage Alliance.

Director Shroufe stated the Department was addressing the antelope issue statewide, specifically the antelope on Anderson Mesa. The Department has come up with a plan with the U.S. Forest Service that almost meets the Arizona and National Wildlife Federations' wishes. He hoped the Department could implement part of the plan and the Forest Service the other to alleviate legal action by the two organizations.

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20. Commissioners' Reports

Commissioner Gilstrap attended several lottery continuation meetings. He participated on a radio talk show to promote the continuation of the Heritage funding in its present state. He met with Scott Celley and Nancy Stump regarding the resolution that was passed by the Western Association of Fish and Wildlife Agencies to interface with the

Western Governors' Association. Mr. Celley would be following up on that issue. He met with the Arizona Quail Alliance members regarding the Mearns' quail. He participated on another radio talk show regarding the Commission's handling of those hunters who were affected by the September 11 tragedy. He attended a meeting with the involved parties regarding ATV potential issues. He attended a meeting regarding Ben Avery issues. He attended hearings in the Legislature and attended the Arizona Flycasters Awards banquet.

Commissioner Carter participated with the Department and the Bureau of Land Management in a meeting regarding public access issues. He attended the public meeting in Safford regarding the upcoming fall hunting season recommendations; the public expressed concern regarding the decline in the deer populations. He contacted House and Senate members regarding continuance of the Department and Commission.

Commissioner Melton received confirmation on the Commission on January 24, 2002. He attended a Mitty Lake work project, toured the Department's Phoenix headquarters and attended the California condor release at the Vermilion Cliffs.

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

Presenter: Mike Senn, Assistant Director, Field Operations

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

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11. Request for the Commission Approval of the Program Narrative for U.S. Coast Guard Boating Safety Funds (Federal FY 2002/State FY 2003)

Presenter: Mike Senn, Assistant Director, Field Operations

The Program Narrative details the Department's watercraft activities and obligations for State FY 2003. The Narrative outlines the program objectives based on the Department's mission and goals, as well as the immediate and long-term needs of the state's boating community. It addresses the grant period of October 1, 2001 to September 30, 2002, and reflects the legislatively mandated watercraft responsibilities of the Department.

Motion: Gilstrap moved and Carter seconded THAT THE COMMISSION APPROVE THE PORTION OF THE DEPARTMENT'S WATERCRAFT SAFETY PROGRAM FUNDED BY U.S. COAST GUARD MONIES PURSUANT TO THE FEDERAL BOATING SAFETY ACT OF 1971.

Vote: Carter, Gilstrap and Melton – Aye
Chilton – Absent
Motion passed

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15. A Briefing on the Possible Future Establishment of a Night-Hunting, Limited Weapon, Shotgun Shot Season for Predatory and Fur-Bearing Mammals

Presenter: Mark E. Naugle, Manager, Rules and Risk Management

(For background information, see minutes for the December 8, 2001 Commission meeting, pages 35-38.)

At the December 2001 Commission meeting, several members of the public addressed the Commission on the issue voicing support for the Department to further evaluate possible public interest and support. The Commission also directed the Department to proceed in drafting a proposed plan for a comprehensive internal and public review process on this issue.

The Department recommended taking the following next steps:

1. Internal Comment Review and Regional Open Forum Meeting Period

Beginning in February 2002, the Review Team will have distributed a request to employees for comments and feedback on the night-hunting proposal.

Also, the Review Team will review benchmarking data collected from a questionnaire sent to other western states. This information will be shared with employees during regional game management meetings during March 2002. The Team will provide a complete evaluation and analysis of all internal comments and benchmarking data obtained during the internal review process. This information will be presented to the Commission at its May 18, 2002 meeting.

2. Public Outreach Plan

If approved by the Commission at the May meeting, the Department will establish parameters and social sideboards involving its outreach plan. A public survey questionnaire will be mailed to its customers and stakeholder organizations. This same survey instrument will be posted on the Department's website. The Department will announce public meetings through statewide press releases and then conduct open house meetings at the Phoenix office and all regional offices during June and July 2002.

Since Wednesday, the Department has received 97 written public comments requesting the Commission to terminate the proposal.

3. Future Commission Action

If the Commission directs the Department to proceed with this process at its May meeting, the Department will then schedule and conduct a series of statewide public meetings to solicit input on the idea of night hunting for predators and fur-bearing wildlife. At the end of the public input process, the Department will provide the Commission with a briefing and summary of public comments and the Department's recommendation on rulemaking (anticipated September 2002).

The Commission was now being asked to give the Department further direction on this issue at this time, including the following direction to move forward with a comprehensive internal review process and analysis of data collected from other western states and employees or to terminate the proposal.

Commissioner Melton stated that the intent of this proposal was to allow a wildlife manager in one of the areas to have coyotes removed if warranted; Commission rule would allow for a season within that area, the same as for a hunting season. The proposal has completely been blown out of proportion. It would result in another tool for the Department to use in antelope management, particularly on Anderson Mesa or in the Sonoran Desert. This proposal will receive a lot of controversy.

Public comment

D. J. Schubert, representing the Animal Defense League of Arizona; The Fund for Animals; The Humane Society of the United States; Animal Protection Institute; Mike Seidman, Conservation Coordinator for the Arizona Zoological Society and Richard Holtzin, Ecosouthwest.com, owner and general manager, was surprised that this proposal was being considered, especially after the predator hunt contest issue several years ago.

Mr. Schubert stated the proposal was a bad idea and did not represent a step forward in wildlife management. There were a number of concerns associated with this proposal.

1. Biological and ecological impacts were unknown and numbers of animals killed could significantly increase
2. Potential impacts to non-target species since a person's vision is limited at night
3. Potential impacts to law enforcement as it gives an excuse to a poacher for illegal spotlighting and killing of big game
4. Threats of safety to people, personal property and livestock
This proposal will do nothing to increase fawn/calf recruitment. The Department must look at the habitat, climate, land use patterns. Unless done on a large scale, killing predators does not accomplish very much, particularly with coyotes.
5. The proposal raises serious ethical issues. It was not fair with the concept of fair chase and a hunter would have a hard time retrieving a hit animal.

Mr. Schubert stated the Commission had a mandate to represent all citizens in the state, not just those with hunting and fishing licenses. A majority of the people will oppose this proposal and it should be terminated immediately so that Department employees do not waste time, money and effort on something that will probably become more controversial than the hunting contest issue.

The livestock industry in Utah has expressed concern regarding the number of calves being killed by night hunters. There were a number of problems with this proposal.

Commissioner Gilstrap stated the Commission's and Department's mandate is to deal with controversial issues. He believed the Commission was dealing exactly with the process it should. The Commission was not making a decision but it was seeking public input. The Commission should look at all kinds of opportunities for wildlife management.

Mr. Schubert reminded the Commission that the predator hunting contest issue was a bad idea and much time and money was spent on the issue. Values of people in Arizona were changing and people wanted to see more protection of predators. This proposal was a step backwards.

Commissioner Melton stated animals die; it could be by hunting, trapping or naturally. This is to ensure viable populations of wildlife. This proposal addressed management of excess populations of predators in the state.

Jon Fugate, representing the Yuma Valley Rod and Gun Club, urged the Commission to move forward with this process.

Commission direction to the Department was to continue with the process.

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21. Approval of Minutes

Motion: Carter moved and Gilstrap seconded THAT THE MINUTES BE APPROVED FOR JANUARY 16 AND 18, 2002.

Vote: Carter, Gilstrap and Melton – Aye
Chilton – Absent
Motion passed

The minutes for November 14, 2001 and December 7-8, 2001 were signed.

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Director Shroufe recapped the agenda items for the March Commission meeting:

1. Item #3 on today's agenda that was tabled
2. Resolution opposing the Walnut Canyon expansion
3. Sanction Commissioner Gilstrap as the Commission representative on the Lottery Initiative Campaign
4. Forest health update

The update on the Barry M. Goldwater gunnery range will be provided in an information memo.

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Motion: Carter moved and Gilstrap seconded THAT THE MEETING ADJOURN.

Vote: Carter, Gilstrap and Melton – Aye
Chilton – Absent
Motion passed

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Meeting adjourned 2:22 p.m.

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