

Minutes of the Meeting of the  
Arizona Game and Fish Commission  
Friday, September 13, 2002 – 9:00 a.m.  
American Legion Post 30, 825 E. Main  
Springerville, Arizona  
Saturday, September 14, 2002 – 8:00 a.m.  
Round Valley High School Auditorium  
550 N. Butler Street, Eagar, Arizona

PRESENT: (Commission)

(Director's Staff)

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

Director Duane L. Shroufe  
Deputy Director Steve K. Ferrell  
Asst. A.G. Jim Odenkirk

Chairman Golightly called the meeting to order at 9:05 a.m. The commissioners introduced themselves and Chairman Golightly introduced Director's staff. The meeting followed an addendum dated September 6, 2002.

Chairman Golightly recognized former Commissioner Bill Berlat in the audience.

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#### 1. Litigation Report

*Forest Guardians v. APHIS*, CIV 99-61-TUC-WDB; *State of Arizona v. Norton*, CIV 02-0402-PHX-FJM; *Montoya v. Manning*, Ninth Circuit Court of Appeals Nos. 00-17082, 00-17394 (previously noticed to the public by the Commission as *Conservation Force v. Shroufe*, CIV 998-0239 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.

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

Mr. Odenkirk noted Mr. Adkins met with the Commission last week in executive session regarding *Montoya v. Manning*; it was his understanding the Commission wanted to bring the case back to the general meeting today to allow for public participation in the process.

*Montoya v. Manning* involves a challenge to the Commission's rule that places a 10% limit on nonresidents for a variety of big game hunts in Arizona. At the district court level, the Commission was successful in having that rule upheld against a challenge under the Commerce Clause. The Commerce Clause in the U.S. Constitution prohibits states from regulating commerce in a manner that substantially affects the flow of commerce and would discriminate between residents and nonresidents. The plaintiffs filed an appeal to the 9<sup>th</sup> Circuit. On August 20, an opinion was received from the 9<sup>th</sup>

Circuit that reversed the district court's decision. The 9<sup>th</sup> Circuit held that our regulation does substantially affect commerce in two ways: it interferes with the travel of individuals who travel to Arizona to hunt big game animals and it affects the flow of commerce, i.e., wildlife parts that Arizona law allows to be sold after an animal is harvested. With the court having found the regulation affects commerce, the question was whether or not the limitation on nonresidents was unlawful discrimination. In that situation, the court indicated that Arizona has a legitimate state interest of protecting its residents to hunt; the court did not make a final decision as to whether or not the 10% cap was the least burdensome measure possible to achieve that objective. The 9<sup>th</sup> Circuit remanded the case back to district court for a hearing to determine whether or not the 10% cap was the least restrictive measure available.

The issue now was whether or not the Commission wanted to proceed with the hearing at the district court or pursue an appeal to the U.S. Supreme Court by filing a petition for Writ of Certiorari with the court. One of the Commission's concerns dealt with the issue of costs if the case was pursued at the Supreme Court level. Mr. Adkins provided the Commission with a memo outlining costs associated with litigation; one of the cost issues was retaining outside counsel.

The Commission was considering retaining a lawyer as outside counsel to assist in this case who has worked extensively on state wildlife issues related to the Commerce Clause and the International Association of Fish and Wildlife Agencies. If this case went to the Supreme Court, the lawyer estimated an outside range of \$70,000. If the petition was filed but denied, the fee would be about \$35,000. Even if the Commission did not retain outside counsel, there was still costs associated with the case. The plaintiffs' lawyers have argued for attorneys' fees in this case. They have pled this case under civil rights statutes that allow for courts to award attorneys' fees. Since the 9<sup>th</sup> Circuit reversed the decision, if the case was unsuccessful in district court on remand, the Commission could be subject to attorneys' fees for all that has transpired up to that point. If the case goes on to the Supreme Court and is unsuccessful, the Commission could be subject to additional attorneys' fees. The costs would be substantial with or without outside counsel if we do not prevail. Mr. Odenkirk added there was no concession that the plaintiffs have a right to attorneys' fees; they are making a claim under federal law that they are entitled to this. Because the case involves a constitutional right under the Commerce Clause, they are making an allegation that this was a violation of civil rights and federal civil rights statutes allow for the recovery of attorneys' fees. There would be an argument that the statute does not apply in this case. It would be up to the court to make the ultimate decision.

Mr. Odenkirk met this week with attorneys in the Attorney General's Office working in the Solicitor General's Section. This section was responsible for overseeing all appellate litigation; one of its primary roles was to insure the State of Arizona takes consistent legal positions in appellate courts (state or federal). They also provide advice as to the strength or weakness of cases and whether or not a particular case will have success on appeal. The Solicitor General and staff provided guidance that Mr. Odenkirk wanted to share with the Commission today in executive session. Some of the issues deal with the current statute that allows for the sale of wildlife parts and whether or not the statute was the real impediment to the 10% cap.

Commissioner Carter noted no opening brief had been served in the Boge case and asked what would happen next. Mr. Odenkirk stated the recourse was that at some point there would be a request to dismiss the case with prejudice if nothing was received from the plaintiff.

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## 2. State and Federal Lands: Updates and Cooperative Projects

### a. An Update on Current Issues, Planning Efforts, and Proposed Projects on State and 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 the meeting, is included as part of these minutes.

Commissioner Chilton referenced the first paragraph under the Apache-Sitgreaves National Forests section regarding the Clifton Districts' Forage Monitoring Workshop. Mr. Kennedy stated there was a lot of discussion at the workshop and not all agencies agree on the methods. He noted Director Shroufe and he served on Arizona's Coordinated Resource Management (CRM) Group and they have been trying to widely distribute the manual on measuring forage and utilization. Mr. Kennedy noted his Branch would continue to work on the issue with all of the entities. He would work to assure that the monitoring guidelines address our issues and objectives to the greatest extent possible. He noted the agencies involved in the CRM planning program.

Commissioner Melton was concerned with the Bureau of Reclamation (BOR) report where 200,000 acre-feet per year would be taken between the Imperial Dam and the Parker Dam; this would substantially degrade the fisheries. Mr. Kennedy noted the Department anticipated significant adverse impacts associated with the project. The Habitat Branch was in the process of developing a report for the Director that could be distributed to the Commission within the next few months. This report goes into detail, including impact analyses and Department recommendations to BOR and U.S. Fish and Wildlife Service (FWS). The Department was working on a FWS Coordination Act report that puts the Department in a very good position to be directly involved in the project.

Commissioner Melton asked about the appeal on the Sonoran Desert National Monument (NM) related to the Department's maintenance of 16 wildlife water catchments within the NM. (For further background information, see page 2 of the minutes of the August 9, 2002, Commission meeting.) The Bureau of Land Management (BLM) and the Department have asked for an additional 30 days to put together arguments. The Department could continue to ensure water is available to wildlife during the appeal. Mr. Kennedy believed this appeal could continue for several months.

Commissioner Carter referenced the Coronado National Forest and efforts for public access to the Peck Canyon area. He hoped the Department would seek a dedicated right-of-way because it would solve on a long-term basis many of the issues the Department deals with regarding public access.

Commissioner Carter referenced Walnut Canyon National Monument (NM) and asked for outcomes of various meetings the Department attended. Mr. Kennedy noted there was more public and local government support for expansion. Ron Sieg, Region II (Flagstaff) Supervisor noted he would be attending the next meeting on September 23 when decisions will start to be made. It appears Congressman Hayworth does not support expansion. The Department will also voice its opposition to expansion at the upcoming meeting. He would provide the Commission with an update after the meeting.

At the request of Commissioner Chilton, Mr. Kennedy would send material to the Commission showing breakdown of all public lands in Arizona, including National Park Service and Department of Defense lands. The material also identifies areas that are being targeted for new national parks, which comprises approximately 2 million acres (national monuments). He noted the National Parks Conservation Association (NPCA) was proposing national park designation in southwest Arizona (Sonoran Desert). Also the NPCA was looking at park designation of the entire Grand Canyon-Parashant National Monument.

Chairman Golightly asked about the Beehive-Sheep Springs Allotment. (For further background information, see pages 2-3 of the minutes of the August 9, 2002 Commission meeting.) He asked why the entry dates for cattle and sheep could not be complementary for July 1; he could not understand why there were two different entry dates. Richard Remington, Region I (Pinetop) Supervisor, stated the Department remained consistent in its recommendation for later on-dates for livestock into allotments within higher elevations. Earlier entry dates address impacts to pronghorn, which is a management indicator species. Concerns are with competition between domestic sheep and pronghorn on early forbs and grasses. As stated in the update, the Springerville District selected Alternative 5, which incorporates a June 1 entry date for domestic sheep with a July 1 entry date for cattle. The Department continues to be concerned about potential adverse impacts to pronghorn in the area with a June 1 entry date for domestic sheep. The EA indicates permitted use on the allotment is reduced 26% with Alternative 5; however, the permitted use (per Alternative 5) approximates the actual use on the allotment during the past 20 years. Chairman Golightly noted the Department supported Alternative 2, with a July 1 entry date for all livestock. The District selected Alternative 5 for the Udall Allotment as the Preferred Alternative, which incorporates a July 1 entry date for livestock and establishes livestock exclosures along the North Fork of the East Fork of the Black River to enhance riparian conditions and Critical Habitat for loach minnow. The Department supports Alternative 5 for the Udall Allotment. Mr. Remington noted it was a Forest Service (FS) decision that will establish the Allotment Management Plan for Beehive-Sheep Springs. The Department will continue to coordinate monitoring and forage conditions with the FS. Chairman Golightly asked if there was a problem with an entry date of July 1. Mr. Remington stated the Environmental Assessment (EA) on the Beehive-Sheep Springs Allotment basically outlines that later entry dates would result in greater vegetation development in wetlands prior to the entry of livestock and minimize impacts to the riparian management indicator species' habitat. A later entry date would result in reduced grazing pressure on cool season grasses and forbs, which would benefit management indicator species, such as pronghorn and elk. A later entry dates could also increase the forbs in the vegetative community on the allotment and could result in less competition for forbs between pronghorn and domestic sheep. Alternative 2 could provide the least impact to management indicator species with a later entry date of July 1.

John McIvor of the Apache-Sitgreaves National Forests provided more information on the Beehive-Sheep Springs Allotment. He noted sheep were physically on the Beehive and portion of the Sheep Springs by the end of May or first part of June. The decision he issued last week actually shortens the permit by starting June 1. The permit had allowed 9000 head of sheep on the allotment starting in May (they have been starting then for 70 years). The sheep come on to the driveway in April or May and it takes them a month to come up 200-300 miles. This allotment was in very good condition.

Mr. McIvor made a decision that was remanded because he added additional pastures from the Greer Allotment. He incorporated the Greer EA into a different decision. He analyzed the three pastures without addressing management indicator species. He felt this was an old model that was not applicable any more to wildlife. Alternative 5, developed by the ID Team with Sue Sitko, former Region I employee, was selected. When a problem with the antelope arose, he went to the ID Team. He received 10 years of data from Dave Cagle. This high country, because of the good condition of the bunch grass community, resulted in a 42% fawn survival. He did not see any problems with continuing the allotment management planning. The rancher's permit was reduced by 26% to 4000 head of sheep and his grazing season was shortened. There was also no decrease in forbs. Past history showed good management and he wanted to continue that. Mr. McIvor stated he could handle problems with antelope within the annual operating instructions. Mr. Kennedy added there were disagreements. The purpose of the ID Teams was to provide specific information to the FS to consider. The Department continues to support the July 1 entry date for the Beehive-Sheep Springs; he did not view this as a significant impasse, but as implementing the Department's goals and objectives.

Chairman Golightly asked when the analysis for the Sheep Driveway would begin and the estimated completion date. Mr. McIvor stated Mr. Kennedy had heard the Tonto NF put this on the back burner, but he understood it was scheduled for completion this year. Mr. Kennedy noted the ID Team for the Driveway has not met for at least four months.

### **Public comment**

Al Kreutz, representing the Arizona Wildlife Federation and self, stated he commented on the EA for the Beehive-Sheep Springs Allotment. Moving domestic sheep on to the allotment June 1 was too early because they destroy the cover for the antelope. At various meetings in the Region, he had asked for a reduction or elimination of hunting permits due to the drought. The entire forest was in bad condition. He would like the Department to appeal the June 1 entry date.

Commissioner Carter noted the Commission directed the Department last year to send a letter to John McGee, Coronado National Forest Supervisor, and the FWS Regional Supervisor requesting re-establishment of the Mount Graham red squirrel recovery team. The initial team was formed in the late 80s; the plan was implemented in 1993. Nothing has been done since then other than surveys in the spring and fall and some research on habitat needs. Earlier this year, the FS and FWS took steps for implementation of a technical sub group as well as an implementation sub group. He was disappointed that there has been only one meeting this year (February); nothing has happened since then.

**Motion:** Carter moved and Chilton seconded THAT THE COMMISSION DIRECT THE DEPARTMENT TO SEND A FOLLOW UP LETTER TO THE FOREST SUPERVISOR AND A SIMILAR LETTER TO THE REGIONAL DIRECTOR OF THE FISH AND WILDLIFE SERVICE URGING THEM TO BE MORE AGGRESSIVE. WE HAVE AN ENDANGERED SPECIES IN A DECADE WHERE MILLIONS OF DOLLARS WERE SPENT ON IT. ITS PREFERRED FOOD SOURCE IS DIMISHED GREATLY WITH INFESTATION OF BEETLES ON MOUNT GRAHAM AND WE ARE A YEAR DOWN FROM THE ROAD WHERE A TEAM HAS DONE NOTHING. THIS WAS IRRESPONSIBLE. A STRONG LETTER SHOULD BE SENT SHOWING OUR COMMITMENT, OUR DESIRE TO PROTECT A SPECIES, TO MODIFY THE RECOVERY PLAN TO ADDRESS THE CONDITIONS OF THE HABITAT TODAY.

Commissioner Gilstrap asked Commission Carter if his motion would include time frames and some feedback. Commissioner Carter stated the FS and FWS set the time frames in their letters that the study would be done and recommendations would be forthcoming in 2002. He hoped the agencies would commit to their established deadlines. The Department and Commission would be willing to stand behind them in any role they were required to play. He could not understand why millions of dollars were spent on a species, then to sit back and do nothing other than count numbers twice a year. Commissioner Gilstrap noted the Department and Commission should know if there were changes in the time lines and given specifics regarding procedures.

**Vote:** Unanimous

Commissioner Melton referenced restricted public access to the Paradise Well on the Barry M. Goldwater Range, as well as access problems facing bighorn sheep hunters on the Gilas. Mr. Kennedy stated Director Shroufe would be meeting with Colonel Uken soon to discuss fundamental measures with regard to area closures. There were mixed signals regarding where and who would be able to enter with permits. These were safety closures, which were difficult to address. There are process issues that could be discussed and opportunities to address the Department's issues and concerns.

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Chairman Golightly recognized Phil Settles of the FS Alpine District Office and former Commissioner Dennis Manning in the audience.

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Meeting recessed 10:35 a.m.

Meeting reconvened 10:50 a.m.

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b. An Update on the Proposal to Expand the Boundary of the Petrified Forest National Park East and West of the Current Park Boundary in Navajo and Apache Counties

**Presenter:** John Kennedy, Habitat Branch Chief

The Petrified Forest National Park (PFNP) (approximately 93,533 acres) contains two wilderness areas: approximately 43,000 acres in the Painted Desert and 7,240 acres in

Rainbow Forest. This area was designated as a National Monument (NM) in 1906 and then designated as a NP in 1962.

In 1992, the National Park Service (NPS) proposed expansion of the boundary to include approximately 97,800 acres of surrounding lands to ensure long-term protection of paleontological and archaeological resources. The NPS continues to evaluate boundary expansion as part of the revision of the General Management Plan, which is scheduled for completion in March 2003. The National Parks Conservation Association (NPCA) strongly supports the proposed boundary expansion. Also, S 2494 and HR 4688 (May 9, 2002) are specific to revising (expanding) the boundary of the NP through the "Petrified Forest National park Expansion Act of 2002". The Arizona State Land Department (SLD) and the Bureau of Land Management (BLM) are working cooperatively to resolve issues associated with the State Trust and BLM lands located within the project area.

The Department is in the process of evaluating the wildlife resources and wildlife-related recreational opportunities associated with the 97,800 acres involved in this boundary expansion proposal. The Department's ability to manage wildlife resources and wildlife-related recreational opportunities will be impacted if these lands become part of the National Park System.

Mr. Kennedy noted last Wednesday the Department was contacted by a member of Senator McCain's D.C. staff that the original proposal (S 2494) was and is a place holder bill; there were no boundaries or acres given in those. It was not their intention to leave out the Commission and Department in the process. Senator McCain's office will work with Department staff. The 1992 boundary proposal has been expanded to include more lands (include all private ranches involved in the project rather than fragmenting them). This process is moving fast; the Department provided preliminary concerns on Wednesday. Points that the Department expressed were:

1. Need to know boundaries
2. Loss of hunting opportunities
3. Future of wildlife waters within the 97,800 acres in the proposal

Director Shroufe stated there was a meeting yesterday with Congressman Hayworth's local staff. (Hayworth is a sponsor for the House bill.) They were apprised of our concerns. The D.C. staff person will also be apprised of the Department's concerns.

Mr. Kennedy also noted the loss of wildlife management jurisdiction responsibility by the Commission if the PFNP become part of the NPS was also expressed.

Commissioner Chilton noted Arizona's wildlife management was being impacted by these federal designations. Mr. Kennedy stated the Department has been aware of potential expansion of the PFNF since the 1990s. It was not heavily advertised as a serious consideration until a month ago.

**Motion:** Chilton moved THAT THE DEPARTMENT WRITE A LETTER TO THE GOVERNOR, CONGRESSIONAL DELEGATION AND ALL INVOLVED PARTIES EXPRESSING OUR CONCERNS ABOUT THE POSSIBILITY OF MORE LAND IN ARIZONA BEING PLACED IN DESIGNATIONS THAT DO NOT PERMIT AS

**MUCH PUBLIC UTILIZATION OR PERMIT AS MUCH MANAGEMENT OF WILDLIFE.**

Commissioner Gilstrap requested Commissioner Chilton hold her motion until the report is given by State Land Commissioner Mike Anable. The motion was held.

Land Commissioner Anable stated discussion on this bill was moving quickly. Senator McCain is pushing the bill. He was asked to give his comments during discussions with Senator McCain's staff, the NPS, and the NPCA regarding additional expansion. He commented from his perspective, as a state agency, he did not have an issue with the expansion, other than the issue of paying for it. If State Land was not going to be paid for it, he would be concerned with the extent of it. He could understand where Game and Fish might have concerns with the proposed expansion, e.g., splitting of game management units. The Governor has written a letter to Senator McCain expressing concern only with the non-payment of the trust. As far as which boundaries will be considered, he felt that was still open to discussion. Although they both agree, the NPCA selected a boundary that was somewhat different than the NPS. A map was referenced and the nature of the boundaries was further discussed.

Commissioner Carter asked if there were any discussions with local and county governments regarding the proposal and potential impacts. Land Commissioner Anable was unaware of communication with the cities and the county. Commissioner Carter was disturbed about the loss of recreational opportunities, in general, as well as the loss of wildlife management and public access. Hopefully the Department would initiate dialog with local governments regarding impacts they perceive.

Commissioner Gilstrap asked if there was a desire within Arizona's constituency for expansion with the objective of protecting the resources that are being stolen with the PFNP. Land Commissioner Anable believed the momentum starting growing with former Interior Secretary Babbitt's desire to establish this area through the monument process. Local members of the NPCA support expansion, as well as the Grand Canyon Trust and some private land interests. He did not know if federal ownership of the area was the best way to protect it. The NPS could better police the area than the State Land Department. He did not know if the federal government would pay for the State Trust lands but Arizona was trying to protect the schools' interests in their lands. The state would still own the land even though the federal government has drawn a boundary around it. There were problems with that: 1) there was not much interest in purchasing the land; 2) cattle grazing on the checkerboard would not continue and its value would be stolen from the state.

Commissioner Melton asked if The Navajo Nation was asked about the expansion since it appeared some of their access roads would be eliminated if the area was fenced and maintained as a boundary of the park. He was opposed to this expansion as it removed much of the mutual use of the land. Commissioner Chilton agreed with Commissioner Melton.

Commissioner Melton asked if there was a litigation process that could be pursued for the loss of wildlife management responsibilities. Mr. Odenkirk stated the state was entitled to financial compensation when the federal government takes over. The state does not own wildlife in the same capacity that the State Land Department owns land. The state

manages wildlife in a trust capacity. The same type of legal claim does not exist for wildlife as it does for real property.

**Motion:** Chilton moved THAT BECAUSE OF THE REASONS FOR ITS CONCERNS, THE COMMISSION PRESENTLY OPPOSED ANY EXPANSION OF THE PETRIFIED FOREST OR ANY CHANGE IN DESIGNATION FROM MONUMENTS TO PARKS FOR ANY LAND FOR WHICH WE PRESENTLY HAVE WILDLIFE MANAGEMENT AUTHORITY.

Commissioner Carter shared Commissioner Chilton's concerns, but this issue was significant enough that the Commission should see a motion in writing. He would like to see a letter all of the commissioners could sign this weekend that conveys a request to the Governor that she take the lead in expressing our concerns, with copies to the Arizona congressional delegation as well as to local governments and The Navajo Nation. He would like to have the letter specific to this proposal of expansion of the Petrified Forest. Chairman Golightly stated this item would be tabled until later in the day. In the meantime, written language could be written for Commission endorsement. Because of public comment, Chairman Golightly untabled this item.

### **Public comment**

Bill Berlat agreed with Commissioners Melton and Chilton. The concerns of the State Land Department and the Governor's Office were focused on dollars. The federal government was stealing our land. The Park was already 93,000 acres. The Governor should take a stronger stand in protecting the state. He encouraged the Commission to take a strong stand in opposition to this theft.

Chairman Golightly tabled the item. Director Shroufe asked for an extension until tomorrow's meeting. The request was granted.

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### 6. Call to the Public

Colleen Young, Southwest Lands Program Manager for the Rocky Mountain Elk Foundation, introduced herself and stated she wanted to work with the Department on land conservation programs, especially, easements. Her area includes New Mexico, Arizona and southern Colorado and her job was to mainly work with government agencies.

Bill Berlat, representing self, commended the Department's hunter education instructors.

Al Kreutz, representing self, Arizona Wildlife Federation and White Mountain Fly Fishers, criticized the Habitat Partnership Committee's prioritization of projects. There was little participation from the White Mountain area in the Habitat Partnership Committee. The Department should follow the same protocol on voting and prioritizing projects. Chairman Golightly stated he was the State Committee Chairman and Mr. Kreutz should call him next week to discuss. Mr. Odenkirk stated the Commission cannot technically respond to comments, but it could respond to criticism, which Mr. Kreutz's statement was.

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c. Cooperative Work Between the Department and the Natural Resources Conservation Service (NRCS) and Potential Implementation of Two Projects Under the Wildlife Habitat Incentives Program

**Presenter:** John Kennedy, Habitat Branch Chief

During the last several months, the Department has worked with the Natural Resources Conservation Service (NRCS) to incorporate our wildlife habitat goals and objectives into the development and implementation of Farm Bill conservation programs. In late July 2002, the NRCS received notice that Wildlife Habitat Incentive Program (WHIP) funds were available and need to be obligated by September 30.

At this time, the NRCS does not have specific WHIP projects to fund and they requested project proposals from the Department. WHIP funds can be used by the Department to conserve, enhance, and restore wildlife habitats on our wildlife areas (WHIP projects have been implemented on the Quigley Wildlife Area and Whitewater Draw Wildlife Area).

The Department developed and submitted two project proposals to the NRCS that are consistent with the purposes of the WHIP and management objectives on two wildlife areas: the Willcox Playa Wildlife Area Water Delivery Improvement Project (Region V) and the Powers Butte Wildlife Area Wetland Restoration Project (Region VI). On September 6, 2002, the NRCS approved these two proposed projects. The Willcox Playa and Powers Butte projects will improve water delivery and distribution within the wildlife areas to maintain and enhance riparian and wetland habitats. Both projects support our efforts to manage the wildlife areas consistent with the purposes for which they were established and should decrease future operation and maintenance efforts and costs associated with water delivery and distribution within these wildlife areas.

Preliminary cost estimates associated with implementing these projects do not exceed \$80,000. The WHIP requires a 25% match, dollars and/or in-kind services, from the Department. If approved, the Department will contribute in-kind services and funds have been identified that are available and appropriate for implementing these projects (e.g., Waterfowl Conservation Funds and Heritage IIPAM Funds).

**Motion:** Chilton moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE THE WILLCOX PLAYA WILDLIFE AREA AND POWERS BUTTE WILDLIFE AREA COOPERATIVE HABITAT IMPROVEMENT PROJECTS DEVELOPED BY THE DEPARTMENT AND THE NRCS AND AUTHORIZE THE DIRECTOR TO EXECUTE WILDLIFE HABITAT INCENTIVES PROGRAM CONTRACTS AND OTHER DOCUMENTS AS MAY BE REQUIRED TO IMPLEMENT THOSE PROJECTS AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

**Vote:** Chilton, Gilstrap and Melton – Aye  
Carter – Nay

Commissioner Carter supported the projects but voted no because only a summary has been seen and the Commission should see the contracts.

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3. Request for the Commission to Approve a Cooperative Agreement with Salt River Project (SRP) for the Purpose of Construction and Operation of a Stream Gage within the Upper Verde River Wildlife Area, Yavapai County

**Presenter:** John Kennedy, Habitat Branch Chief

The Department received a request from Salt River Project (SRP) to construct, operate and maintain a stream gage within the Commission's Upper Verde River Wildlife Area (Campbell Ranch Parcel). If approved, the Cooperative Agreement would authorize SRP to construct and maintain the gage for a 10-year period. The Department has determined the construction and operation of the gage is compatible with purposes of the wildlife area.

This project will allow for the collection and evaluation of accurate surface water flow data specific to the Upper Verde River, which will provide the Department and other resource management agencies with greater desert stream management opportunities. The stream gage and water flow data will be of direct benefit to the Commission and Department with respect to future water resources management needs and opportunities within the Upper Verde River Wildlife Area.

**Motion:** Carter moved and Chilton seconded THAT THE COMMISSION VOTE TO APPROVE THE COOPERATIVE AGREEMENT WITH SRP FOR THE PURPOSE OF CONSTRUCTION AND OPERATION OF A STREAM GAGE WITHIN THE UPPER VERDE RIVER WILDLIFE AREA, YAVAPAI COUNTY, ARIZONA, AND EXECUTE THE AGREEMENT AS ATTACHED OR AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

**Vote:** Unanimous

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4. Request for the Commission to Approve the Acquisition of the Pinedo Property, Cochise County, Arizona

**Presenter:** John Kennedy, Habitat Branch Chief

Acquisition of the 160-acre Pinedo property will allow the Department to maintain and enhance the entire wetland complex at the Commission's Whitewater Draw Wildlife Area. The property contains nearly 15% of the wetland and approximately 60% of the property can support seasonal wetland habitat. The adjacent land to the north, west and south of the Pinedo property is owned by the Commission and managed by the Department with emphasis for the plains leopard frog. The Whitewater Draw Wildlife Area also provides important winter roost habitat for up to 15,000 sandhill cranes and habitat for waterfowl and shorebirds. The threat of non-compatible uses from a purchases other than the Department is potentially severe with respect to undermining the wildlife values associated with the Commission's wildlife area.

Immediate management actions would be focused on incorporating the property into the Commission's Whitewater Draw Wildlife Area and maintaining the existing wetland habitat values. Long-term management actions would focus on enhancing habitat values for a wide range of wetland dependent species.

Waterfowl hunting has been allowed since 2000 on portions of the Whitewater Draw Wildlife Area to the north and west of the Pinedo property. It is anticipated that waterfowl, small game, and archery big game hunting will be permitted on the entire Pinedo property unless this use is found to be incompatible with the purposes for which the property and/or the wildlife area was acquired. The property will be opened year round to the public unless conflicts are identified with resource management in the area.

Waterfowl Conservation Fund (WCF) monies will be used for the acquisition. Heritage IIPAM and/or WCF monies will be used for future operations and management. Long-term management could involve the construction of seasonal wetlands or moist soil units. Acquisition of the Pinedo property with WFC dollars will provide the Department with opportunities to match potential future funding associated with the North American Wetlands Conservation Act, state wildlife grants, and/or the National Fish and Wildlife Foundation.

**Motion:** Carter moved and Melton seconded THAT THE COMMISSION VOTE TO APPROVE ACQUISITION OF THE PINEDO PROPERTY, COCHISE COUNTY, ARIZONA, CONSISTENT WITH THE PURCHASE AGREEMENT OR AS RECOMMENDED BY THE OFFICE OF THE ATTORNEY GENERAL.

**Vote:** Unanimous

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Meeting recessed at 12:00 p.m.

Meeting reconvened at 1:38 p.m.

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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:** Leonard Ordway, Law Enforcement Branch Chief

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

The hearing on Daniel Anderson's case was tabled until later in the day to allow him or his legal counsel to be present.

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11. Rehearing Request Regarding Previous License Revocation/Civil Assessment Action by the Commission

**Presenter:** Leonard Ordway, Law Enforcement Branch Chief

For additional background information, see minutes of the proceedings for June 21, 2002, pages 3 and 4 (Stanley Fishman).

A request for review was received from Mr. Fishman on August 7, 2002. Mr. Fishman was not present at today's meeting.

**Motion:** Melton moved and Gilstrap seconded THAT THE COMMISSION VOTE TO DENY A REHEARING.

**Vote:** Unanimous

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#### 5. Statewide Shooting Range Project Update

**Presenter:** Kerry Baldwin, Acting Assistant Director, Information & Education

A written summary was provided to the Commission on major issues in the program prior to today's meeting. Director Shroufe noted a correction in the first full paragraph on page 2 of the summary, starting with "The Department sent out documents soliciting concept proposals...". He stated a week ago the intent was to have that document out by this Commission meeting, but it was not out yet. The Department is still working on it and it should be out in one or two weeks. The sentence should read, "The Department will be sending out documents soliciting comments on the concept proposals."

Mr. Baldwin noted the Department finally broke ground for the Bellemont Shooting Facility in northern Arizona on September 10, 2002.

Regarding the Tri State Shooting Facility, the Department was still working with the Bureau of Land Management. A new site is being looked at and the local community has been meeting to try to come up with design and cost issues. More specific information should be presented to the Commission soon. Commissioner Melton stated a range study was needed on the land. He expected there would be a formal appeal at the next Commission meeting for the \$15,000 to do the range study. Mr. Baldwin noted the Commission directed the Department to do whatever was necessary with BLM to secure the land. The process with BLM is much different than with the Forest Service. This is a Recreation for Public Purposes Act request; this was not a land exchange. This was a lease, which creates a long-term ownership of the land through BLM. The patent will stay with the Department so long as the land is utilized for the purposes for which it was originally acquired, i.e., shooting range. The source of funding available is unexpended monies in the Statewide Shooting Range Grant.

The County is willing to split the cost of a survey at the Rio Salado Shooting Range; it will now cost about \$5000 to complete the survey, which would finalize the land transfer from Maricopa County to the Department. The Department would then be responsible for the entire shooting complex.

Regarding Bellemont, Chairman Golightly referenced a range operation equipment list for the Bellemont Shooting Facility. Mr. Baldwin will send the list via email to Chairman Golightly. Mr. Baldwin stated the list's background was based on basic equipment needs at the Ben Avery Shooting Facility. This list was for long-term needs. The Development Branch was currently doing a similar list on construction equipment needs. The construction needs list would be coming to the Northern Arizona Range Association in the near future. Chairman Golightly asked Mr. Baldwin for a list of construction short-term needs. Mr. Baldwin was asked to have the list to the Commission no later than mid-October. Chairman Golightly also asked Mr. Baldwin to attend a meeting of the Shooting Range Association in Flagstaff to give an update. He was also

asked to compile a periodic newsletter to the Association to keep them updated when new developments occur.

Regarding a proposed shooting facility in the White Mountain area, Mr. Baldwin stated Don Turner recently attended a meeting. A range site criteria formula has been developed for a couple of potential range sites. It has been recommended that the local community proceed with the two potential sites; the Department would provide technical support.

Commissioner Carter referenced the Department-owned Three Points Range in Tucson. Pima County Supervisor Bronson contacted him several weeks ago and indicated the county was going to acquire the Buckelew Ranch property, which is south of the range, and asked for the endorsement and support of the Commission and the Department. This acquisition will be on the County Board of Supervisors' agenda for a meeting on September 17, 2002. He would attend the meeting to speak on behalf of the Commission in support of the acquisition.

### **Public comment**

Dennis Manning, representing self, noted the proposal to liquidate 130 acres of the Ben Avery Shooting Facility, which represents the perfect buffer for the shooting facility. The non-shooting public can drive east and west on Carefree Highway and cannot see, hear or smell what transpires at Ben Avery. If the 130 was liquidated, it would bring the non-shooting public up to the firing ranges. He urged the Commission not to look at Ben Avery as a cash cow; it should be left alone.

Bill Berlat, representing self, was concerned about the Ben Avery Shooting Facility. He objected to the sale of the ground because the Commission would lose control. A long-term lease with shooting organizations would provide better enhance the land. A bond issuance, using the long-term lease proceeds, could be paid off from that. The Commission should also look at the 10-year management plan. He referenced economic development zones on page 21. The plan talks about leases and not about sales. He thought some enhancements could be done at Ben Avery to create income. Before a RFP was released, it should be on the agenda for Commission approval.

Terry Allison, representing the Arizona State Rifle and Pistol Association (ASRPA), agreed with Mr. Berlat's comments on the 10-year plan and the departure from it in the proposed RFP. According to the consultant's report, there was no rush to do something with the 130 acres or any other areas designated as developable at Ben Avery. The Commission should maintain control of the land. Mr. Allison stated the Commission set up an Arizona Shooting Range Economic Development Committee, but the make up of the committee was primarily staff agency personnel. The public is only aware of proposals at a Commission meeting. He felt this should be done one or two levels lower so that by the time the Commission is getting the information, everyone is on board and has had time to analyze it. He suggested naming a non-agency representative well versed on statewide shooting range issues on the Committee and/or consider a member of the Committee serving as a liaison with the outside community, e.g., ASRPA, to help citizens understand the decision-making process. Jim Reid agreed with Mr. Allison's comments.

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Meeting recessed at 2:40 p.m.

Meeting reconvened at 2:53 p.m.

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2. b. An Update on the Proposal to Expand the Boundary of the Petrified Forest National Park East and West of the Current Park Boundary in Navajo and Apache Counties

Copies of a draft letter were distributed to the Commission. The letter referenced the boundary expansion on the Petrified Forest National Park.

**Motion:** Chilton moved and Carter seconded THAT BASED ON THE INFORMATION PRESENTED TO THE COMMISSION EARLIER ABOUT THE MOVEMENT BY SOME INTEREST GROUPS TO TRY TO GET NATIONAL MONUMENTS CONVERTED TO NATIONAL PARKS THAT THE DEPARTMENT PREPARE FOR THE COMMISSIONERS' SIGNATURES ESSENTIALLY THE SAME LETTER AS DRAFTED; ONLY, ADDRESSED TO THE OTHER CONCERN OF THE CHANGE OF THE REDESIGNATION OF MONUMENTS TO PARKS; AND TO SAY WE HAVE THE SAME CONCERNS AND WE HAVE THE SAME STRONG OPPOSITION TO ANY SUCH DESIGNATION ANY WHERE IN THE STATE OF ARIZONA.

**Vote:** Unanimous

Commissioner Chilton wanted the letter to go to the Department of Interior and the boards of supervisors in affected counties. The Director and Mr. Kennedy could decide who else needed to receive copies of the letter. Commissioner Carter suggested that the letter just moved on should also go to the Arizona congressional delegation, the Governor, and other federal agencies that might be a part of the process. Chairman Golightly noted a copy of the letter should go to the Tribal Chairman of The Navajo Nation.

Director Shroufe noted the Commission needed to approve the letter and sign the second page. The first page would be put on appropriate letterhead.

**Motion:** Carter moved and Melton seconded THAT THE COMMISSION VOTE TO MOVE THIS LETTER.

**Vote:** Unanimous

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7. State and Federal Legislation

**Presenter:** Anthony Guiles, Legislative Liaison

Mr. Guiles noted results from the primary elections held this past Tuesday. There will be a lot of new legislators to educate. The main focus for the Department, he believed, would be on the budget.

Mr. Guiles noted new issues since the last Commission meeting regarding Chronic Wasting Disease (CWD) and West Nile Virus (WNV). The Department did not have one of the tools it felt was necessary to operate under some of the conditions it needed keep

ahead of these and other emerging diseases. The Department of Agriculture has the ability to regulate the importation of poultry and livestock into Arizona. The Department of Health Services can limit anything that may be significant to humans. A gap exists in that no agency has statutory authority in transportation of animal carcasses or parts. The Department would like to have the ability to get ahead of this to allow the Director to issue an Executive or Emergency Order when these problems arise.

Another issue was the ¼ mile archery limit. The direction of the Commission at its April meeting was to go to the Legislature to seek legislative remedy in addressing this problem. The Commission concurred not to pursue the issue further.

There were three legislative proposals at this time. The first dealt with the emergency order matter already mentioned. The second was the exemption for the effective date of rules. This was something that could be addressed under the emergency order by opening Title 41 and combining the two under one bill. Another was closing the loopholes in the OUI statutes and the other was the Audit and Conservation Development Capital Improvement Fund. He asked for the Commission to give the Department direction in opening and pursuing these as legislative proposals.

Commissioner Carter supported the proposals except he had concerns with pursuing audits. Mr. Guiles stated it was not necessary to pursue this; it might be better to work on the other bill proposals and the budget. Commissioner Carter did not want to open Title 17 unless it was absolutely necessary. Director Shroufe noted Title 17 would have to be opened regarding the movement of animal carcasses. The audit was a housekeeping issue and thought it was not a priority.

**Motion:** Carter moved and Gilstrap seconded THAT THE COMMISSION GIVE THE DEPARTMENT DIRECTION TO OPEN A FOLDER ON THE CLOSING OF THE APPARENT LOOPHOLES IN THE OUI STATUTES; THE OTHER WOULD BE TO INCLUDE THE TRANSPORTATION OF ANIMAL CARCASSES OR ANIMAL PARTS WITHIN THE STATE AND THE EMERGENCY ORDER THEREIN; THE BILL WOULD ALSO INCLUDE THE EXEMPTION ON THE 60-DAY DELAYED EFFECTIVE DATE FOR NEW RULES.

**Vote:** Unanimous

Mr. Guiles referenced an item at the March 2002 meeting in that at the September meeting the Commission is to include an item that would allow the Commission to vote to reaffirm its intent to allow the Department to consult with appropriate commissioner(s) on emergency legislative matters that require a vote of the Commission. He noted last year Commissioners Carter and Gilstrap acted on behalf of the Commission.

**Motion:** Carter moved and Gilstrap seconded THAT THE COMMISSION REAFFIRM ITS INTENT TO ALLOW THE DEPARTMENT TO CONSULT WITH APPROPRIATE COMMISSIONER(S) ON EMERGENCY LEGISLATIVE MATTERS REQUIRING A VOTE OF THE COMMISSION.

**Vote:** Unanimous

The above would apply to any commissioners at the Legislature during an emergency setting.

Director Shroufe noted there was nothing to report regarding the status of the state wildlife grant program and the Interior budget in the U.S. Senate.

Director Shroufe stated there was an impetus in Arizona to look at watercraft safety laws. Maricopa County and the Maricopa County Parks Board have asked about the Department's ability to support this type of legislation. It was the Department's intent to immediately form committees involving all affected entities to draft a total package that would modify watercraft laws to meet current demands. It was his hope that people would work together on a large bill rather than doing it piecemeal. He hoped to have a proposal for legislation finalized before next summer.

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#### 8. Status of Upcoming Fall Hunts in Unit 3C, and Updates on Watershed Recovery and Department Involvement in Wildlife Habitat Rehabilitation from the Rodeo-Chediski Fire

**Presenter:** Richard Remington, Region I (Pinetop) Supervisor

For additional background information, see Commission meeting minutes for August 9, 2002, pages 14-17.

A handout was referenced ("Apache-Sitgreaves National Forests Rodeo-Chediski Fire Effects Summary Report, August 2002"). The Department provided the Commission with a status update on its continuing involvement in the fire's aftermath.

The Powerpoint presentation given at the August Commission meeting was given to the Arizona Elk Society at its annual meeting; Wildlife Conservation Council's general meeting; Governor's staff and at Senator Kyl's post-incident briefing on the Arizona wildfires. The presentation would also be discussed at the upcoming Natural Resources Work Group in Pinetop. The presentation and accompanying script for general audiences would also be available to Department employees for use.

The Department recently signed a participation agreement with the Apache-Sitgreaves (A-S) Forests to allow for joint funding of a debris reduction project at Black Canyon Lake. This project would allow for structural improvement to the spillway to reduce the amount of debris going over it.

Most of the elk surveys have been completed in Unit 3C. This included ground and aerial surveys. Elk (360) were observed in all burn classifications. There was no data to give quantitative information on whether or not there was a difference in the distribution based upon burn severity. Other wildlife observed were turkeys and mule deer. The bull to cow and cow to calf ratios were not bad.

Regarding timber salvage, there was still a lot of variability in some of the estimates and numbers of board feet. Treatment was being discussed of heavy fuels, including cutting and mulching of some of the smaller trees for fuel reduction.

Archaeological surveys should occur the first part of October.

The Department would be assisting in acquiring additional data on wildlife, e.g., Chiricahua leopard frogs, Mexican spotted owls and northern goshawks. Fisheries impacts would be considered as well, e.g., Little Colorado spinedace, Gila chub, loach minnow spikedace and razorback suckers.

Consultation is underway with the FWS for biological assessments and evaluations. The next meeting of the team is September 19, 2002. Biological assessments and evaluations are scheduled for completion and the team is hoping the information can be provided to the deciding officer for a Decision Notice to be issued around the first part of November.

There were two draft Forest Service (FS) policies under review regarding drought and burned area restocking guidelines. The FS has requested the Department to be a reviewer of these policies; in turn, the FS has asked to be a reviewer in the Department's determination of population management objectives for wild ungulates within the burn. The Department intends to do this.

The FS report found that past vegetative and fuel treatments (single and combination) had an impact on lessening the fire severity.

Mr. Remington noted that hunters drawn for specific hunts within the burn area would be notified as to the designated road system within the burn area. Signs should be in place in time for the openers.

#### **Public comment**

Phil Settles, Acting Deputy Director for the A-S NF, expressed appreciation for assistance and support received by the Department in fighting the fire, recovery efforts and on the Salvage ID Team.

Al Kreutz, representing the Arizona Wildlife Federation, thanked the Department and FS for working diligently on the fire. The fire also affected the White Mountain Apache Tribe. There was a loss of fisheries and wildlife. He wondered if there was a donation account or if there were any monies that could go to them. Director Shroufe noted a lot of money the Department received came from clubs and organizations and through donations to Wildlife for Tomorrow. There was no Memorandum of Understanding with the White Mountain Apaches. The last three or four tribal councils have not seen fit to enter into agreements that would allow the transfer of money and technical advice. The Department was providing good will advice only at the present time.

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9. Creation of a 5-Year Federal Aid Project Narrative for the Arizona Urban Fishing Program and Amendment of the Comprehensive Management Plan for the Arizona Game and Fish (FW-100-P) to Include the Proposed Federal Aid in Sport Fish Restoration Project

**Presenter:** Larry M. Riley, Fisheries Branch Chief

In 1983, the Commission created the Urban Fishing Program, which is a partnership between the Commission and municipalities. Financing the program is a shared responsibility between the municipalities and the Commission. The cities manage the lakes and the Department manages the fisheries.

To facilitate growth in the program, the partnership is being enhanced by shifting the financing strategy for the program to Federal Aid in Sport Fish Restoration grant funds; in turn, relieving some burden on the Game and Fish Fund. Federal Aid in Sport Fish Restoration projects are 3:1 matching grants. The Department proposes to provide non-federal matching funds from Urban Heritage Funds allocated to the Department by the Commission. The federal share of this financing package will come from Sport Fish Restoration monies apportioned annually to Arizona under the Dingle-Johnson and Wallop-Breaux Acts.

The proposed project narrative provided a description of the need for the project, its objectives, expected benefits, approaches and linkages with the Department's Strategic Plan. Also included were anticipated budgetary needs for its initial five-year term. The project is proposed in two jobs or separable parts – Arizona's Urban Fishing Program and an Urban Fishing Improvement Project.

Chairman Golightly left the meeting at 3:45 p.m.; Commissioner Carter assumed the duties of Chairman pro tem.

**Motion:** Gilstrap moved and Chilton seconded THAT THE COMMISSION VOTE TO APPROVE THE FEDERAL AID PROJECT NARRATIVE ESTABLISHING ARIZONA'S URBAN FISHING PROGRAM AS A SPORT FISH RESTORATION PROJECT AND TO AMEND THE COMPREHENSIVE MANAGEMENT PLAN FOR ARIZONA GAME AND FISH (FW-100-P) TO INCLUDE THE PROPOSED FEDERAL AID IN SPORT FISH RESTORATION PROJECT.

**Vote:** Unanimous

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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 – cont'd.

**Presenter:** Leonard Ordway, Law Enforcement Branch Chief

The Commission's decision regarding the hearing on Daniel Anderson's case is maintained in a separate minutes book in the Director's Office.

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12. An Overview of Funding Options to Underwrite the Costs of the Annual Meet the Commission Awards Banquet

**Presenter:** Dana Yost, Executive Staff Assistant

The Commission held its first annual "Meet the Commission" meeting and awards banquet on January 12, 1991. Since then, the annual awards banquet has grown into a showcase event for the Commission and Department.

The Department and Commission are continually striving to improve the awards banquet. While great strides have been made in this direction, the Commission and Department are somewhat limited in their abilities due to financial constraints. Due to constraints placed on the use of state funds, the Commission and Department are unable to use state monies to pay for the banquet and only ticket sales can be used to pay for all costs associated with the banquet. Donations from the Wildlife for Tomorrow Foundation have been able to pay for the award recipients' meals. There were no funds available to pay for the recipients' families. Each year costs for meals and banquet room use increase, which limit the Department's venue and meal choices.

One solution would be to seek alternative funding sources to pay for extra things. An award program could be developed that could sell ads for sponsorships of the event. There could be fundraising by constituents or groups and corporate sponsorship. Any money raised beyond a particular year's obligation could be carried forward to the next year's event. Ticket prices overall could be reduced so more people could attend.

Commissioner Melton suggested organizations could support and buy tables for the benefit of others. One half of the table could be for the organization's affiliates and the other half could be for guests of honor. Commissioner Gilstrap thought a group of people could form a plan or series of alternatives. Mr. Yost believed this option would have some but limited impact for this year's event because of the tight time frame involved. Commissioner Carter thought organizations could sponsor particular award categories; that, along with sponsorship of tables, would include a portion of recipients.

Commissioner Carter suggested that through an internal committee process, including Commissioner Gilstrap, a conceptual document could be developed and brought back to the Commission at the October meeting. Director Shroufe noted the location for the January 2003 banquet would be at the Sheraton Four Points at Metro Center.

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Commissioner Golightly returned to the meeting at 4:00 p.m.

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### 13. Indemnity or Hold Harmless Language in Department Agreements

**Presenter:** Steve K. Ferrell, Deputy Director

For further background information, see Commission meeting minutes for May 17, 2002, pages 11-12.

In review of the motion made at the May meeting, it was unclear as to when the indemnity or hold harmless clause was not agreeable to the other party, would it be a deal killer. Assistant Attorney Adkins had found concern with the motion if it was intended to be absolute. He had encountered or anticipated some situations where that might be the case. Mr. Ferrell asked the Commission to verify its intent.

Commissioner Carter thought it was the responsibility of the Commission and Department to get a hold harmless; short of that, an indemnity clause. If a document did not have either, he wanted a brief explanation as to why it did not. The issue may then be resolved. This was his intent when he made the motion.

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14. Request to Approve the Off-Highway Vehicle Fund Budget Amendments for Fiscal Year 2003

**Presenter:** Steve K. Ferrell, Deputy Director

This request will ensure the remaining unspent balance in the Off-Highway Vehicle Fund is available for expenditure in FY 2003 for additional qualifying projects and related interfund cost transfers and the Department’s ability to respond to revenue shortfalls and unforeseen needs.

**Off-Highway Vehicle Fund:** The Department requests the unspent fund balance be made available for expenditure in FY 2003 in support of the Department’s Off-Highway Vehicle Program.

**Motion:** Carter moved and Melton seconded THAT THE COMMISSION VOTE TO APPROVE THE EXPENDITURE OF UNSPENT MONIES FROM THE OFF-HIGHWAY VEHICLE FUND FOR FISCAL YEAR 2003.

**Vote:** Unanimous

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15. Consideration of the North Kaibab Game Cooperative Fund Budget for Fiscal Year 2003 and Presentation of the Five-Year Work Plan as Required by the Sikes Act Agreement

**Presenter:** Ron Sieg, Region II (Flagstaff) Supervisor

The North Kaibab Game Cooperative budget is jointed developed by Department staff and the Forest Service. Also submitted for Commission approval was the five-year work plan for spending funds generated by the Sikes Act Cooperative Agreement approved by the Commission in 2001.

A synopsis of current and projected financial status of the North Kaibab Game Cooperative Fund was provided.

**Fiscal Year 2002**

Beginning Balance (10/01/01; FY 01 carryover)	\$ - 1,873.53
Receipts (3550 permits: \$17,750 less AGFD/FS overhead)	<u>13,987.71</u>
SUBTOTAL	\$ 12,114.18
Fiscal Year 02 Project/Work Costs	

Expenditures (Salaries, Materials, Vehicles)	\$ 10,354.46
Check Station (Water & Sewer)	-0-
Obligated (Est. Salaries/Materials until end of FS FY 02)	<u>2,800.00</u>
SUBTOTAL	\$ 13,154.46

\$12,114.18 - \$13,154.46 = \$-1,040.28 Estimated Carryover

### **Fiscal Year 2003**

Beginning Balance (10/01/02)	\$ - 1,040.28
2002 Hunt Receipts (\$9,925 less 10% AGFD overhead)	<u>8,932.50</u>
SUBTOTAL	\$ 7,892.22

Less Project/Work Costs in FY 03 & FS overhead) \$ 7,892.22

Projected Balance (9/30/03) \$ -0-

The following projects were proposed for funding by the North Kaibab Game Cooperative Budget starting in FY 03.

**Recurring Jobs:** Snow removal at Jacob Lake Check Station and maintenance, repair and renovation of wildlife waters.

### **5-Year Plan Work Projects:**

#### **FY 2003:**

Maintenance/repair of existing waters will be the top priority

If funding/labor is available:

- Bear Springs – pipe rail fence repair
- Horse Springs catchment – replace tank
- Natural Lakes – fencing using volunteer labor
- Little Springs catchment – new tank, remove garbage
- NEPA for House Rock sage and pinyon-juniper treatment (FS funds)

#### **FY 2004:**

- Kane Ranch Natural Lake – pipe rail fence
- House Rock Wildlife Area sage and PJ treatments (1000 acres) – combined funds
- NEPA on new water catchments in White Pockets (FS funds)
- NEPA for west side winter range browse seeding/planting
- Maintenance/repair of existing waters

#### **FY 2005:**

- West side winter range browse seeding/planting – NEPA & implementation
- Construct water catchment at White Pockets
- Continue fence Natural Lakes
- Maintenance/repair of existing waters

#### **FY 2006:**

- NEPA for extensive east side PJ treatment

- Construct water catchment at White Pockets
- Finish Natural Lake fencing
- Continue west side winter range browse seeding/planting
- Maintenance/repair of existing waters

**FY 2007:**

- Implement east side PJ treatment
- Construct new water catchment
- Continue west side winter range browse seeding/planting
- Maintenance/repair of existing waters

**Motion:** Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE THE NORTH KAIBAB GAME COOPERATIVE FUND BUDGET FOR FISCAL YEAR 2003.

**Vote:** Unanimous

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16. The Commission will be Asked to Approve a Master Memorandum of Understanding with the Hopi Tribe

**Presenter:** Ron Sieg, Region II (Flagstaff) Supervisor

The Master Memorandum of Understanding (MOU) with the Hopi Tribe establishes and strengthens a cooperative approach to the management fish and wildlife and their habitats on Hopi Tribal trust lands.

At a Tribal Council meeting in July, the Hopi Tribe executed this Master MOU.

**Motion:** Melton moved and Gilstrap seconded THAT THE COMMISSION ADOPT THE MASTER MEMORANDUM OF UNDERSTANDING BETWEEN THE STATE OF ARIZONA GAME AND FISH COMMISSION AND THE HOPI TRIBE AND DIRECT THE DIRECTOR TO EXECUTE THE MEMORANDUM OF UNDERSTANDING AS SECRETARY TO THE COMMISSION.

**Vote:** Chilton, Gilstrap and Melton – Aye  
 Carter – Not present for vote  
 Motion passed

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17. Call to the Public

Al Kreutz, representing the Rocky Mountain Elk Foundation, talked about tags to raise funds for wildlife. The Chapter was losing membership. The Commission should award Special Big Game permit-tags to the species-specific fundraising organizations; e.g., antelope to the Arizona Antelope Foundation; bighorn sheep to the Arizona Desert Bighorn Sheep Society; turkey to the National Wild Turkey Federation; one mule deer tag to each of the mule deer organizations and one elk tag to each of the elk organizations. For instance, the Commission should not take an antelope tag and give it to the Arizona Desert Bighorn Sheep Society to sell at a fundraiser.

### 18. Director's and Chairman's Reports

Director Shroufe noted the Division briefings were given to the Commission prior to today's meeting.

Director Shroufe attended meetings in Regions I and V. He attended a Barry M. Goldwater Range Executive Committee meeting; Governor's Growing Smarter Oversight Committee meeting; a Lottery beneficiaries meeting; Senator Kyl's meeting on wildfire; Governor's Office wildfire briefing; Department Management Team meeting; coordination meeting between Department and Arizona Nature Conservancy staff and Hall of Fame banquet.

Director Shroufe made a presentation at an all-birds workshop sponsored by the Department. He participated in a Commission conference call. He attended the Bellemont groundbreaking ceremony. Yesterday he attended a forest health symposium in Safford. Training Department employees has been ongoing regarding Chronic Wasting Disease (CWD) and West Nile Virus. Handouts were provided to the commissioners for their information on CWD. If there were any questions the commissioners did not have answers to, they were to contact either Jim deVos, Research Branch Chief or Bruce Taubert, Assistant Director for Wildlife Management.

Commissioner Gilstrap asked if the Department could include in its mailings copies of the brochure on CWD. Director Shroufe noted the Department could do that since the hunting season was upon us. The Department was going to inform hunters through an information and education campaign. Things are happening fast nationwide. Hunters coming into Arizona could be sent an advisory about Arizona requirements.

Chairman Golightly attended the RMEF banquet for the Flagstaff area. He attended the Bellemont groundbreaking ceremony and worked on Ben Avery Shooting Facility issues. He also participated in the Commission conference call.

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### 19. Commissioners' Reports

Commissioner Gilstrap attended the Quail Symposium. He toured the House Rock Wildlife Area. He attended the Wildlife for Tomorrow banquet and the Habitat Partnership Committee meeting. He participated in the Commission conference call.

Commissioner Chilton attended an Altar Valley Conservation Alliance meeting. She attended a public lands meeting in Salt Lake City.

Commissioner Carter attended the Governor's Office wildfire briefing. He attended a meeting of the Eastern Arizona Counties Organization; he participated in the Commission conference call. He chaired the Heritage Partnership Advisory Committee meeting in Prescott and attended the forest health symposium. He would like to give certificates of appreciation from the Commission to those who played important roles from the Department's perspective. Mr. Odenkirk suggested this topic be brought back tomorrow under future agenda items.

Commissioner Melton met with former Commissioner Larry Adams on the Tri-State Shooting site. He attended a meeting with Region IV personnel, FWS and farmers regarding baiting of fields in the Yuma region. A solution was reached the day before the season opened, which was, to post the fields to keep the people away from them.

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20. Approval of Minutes

**Motion:** Gilstrap moved and Melton seconded THAT THE COMMISSION APPROVE THE MINUTES FOR AUGUST 9-10, 2002.

**Vote:** Chilton, Gilstrap and Melton – Aye  
Carter – Not present for vote  
Motion passed

The minutes for June 11, 2002 and June 20-22, 2002, were signed.

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21. Executive Session

a. Legal Counsel. *Forest Guardians v. APHIS*, CIV 99-61-TUC-WDB; *State of Arizona v. Norton*, CIV 02-0402-PHX-FJM; *Montoya v. Manning*, Ninth Circuit Court of Appeals Nos. 00-17082, 00-17394 (previously noticed to the public by the Commission as *Conservation Force v. Shroufe*, CIV 998-0239 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.

b. Legal Advice. Open Meeting Law.

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

**Vote:** Chilton, Gilstrap and Melton – Aye  
Carter – Not present for vote  
Motion passed

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Meeting recessed 4:45 p.m.  
Meeting recessed at 5:28 p.m.

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Saturday, September 14, 2002 – 8:00 a.m.

Chairman Golightly called the meeting to order at 8:10 a.m. The commissioners introduced themselves and Chairman Golightly introduced Director’s staff. The meeting followed an addendum dated September 6, 2002.

Awards

Chairman Golightly announced accomplishments and awards of Department personnel. Region III Wildlife Manager Chris Crawforth received the Torch Award from the North American Wildlife Enforcement Officers Association for distinguished service by an officer with less than five years experience. The Audio-Video Section of the Information and Education Division received five Rocky Mountain Emmy nominations (the most ever for this section). At the Association of Conservation Information Conference, the Department received five second place awards; two awards were given to George Andrejko for photos-one was for the Game and Fish 2002 calendar, one award was for the 2002 annual report. An award was also given for the Education newspaper for the tabloid project by the *East Valley Tribune*. We received two fifth place awards; the Outdoor Writers Association granted two national awards for *Wildlife Views TV* segments. Commissioner Gilstrap suggested that appreciation letters be sent to these individuals from the Commission.

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1. Briefing on Progress and Results of the U.S. Fish and Wildlife Service 3-Year Review of its Mexican Wolf Reintroduction Program and an Update on the Department's 2001 Comments Pertaining to the Review

**Presenter:** Terry B. Johnson, Nongame Branch Chief

For additional background information, see Commission meeting minutes for June 22, 2001, pages 15-16, and May 12, 2001, pages 20-37.

The concept for a wolf review started with a document that was developed by the Department in 1995 as a result of its 12-step process for evaluating the feasibility and appropriateness of wolf reintroduction.

Mr. Johnson noted nothing new occurred in the wolf program review this past year. In September 2001, the Commission was given the third update on the review. A memo dated September 26, 2001, was sent to the Commission concerning the review that followed the stakeholders' workshop August 7-10, 2001. A recap of history was given on the review.

Mr. Johnson quickly reviewed what the document contained. The report captures the concept of review in a number of ways; the ways are linked to the two phases of possible reintroduction. The two phases were considered as 1) a three-year experimental phase and 2) a recovery phase assuming that the experimental phase was completed satisfactorily. The intent was to have a full three-year review of process and science. The 1995 report identified 10 criteria that would need to be considered in the review; the review would be conducted from the ground up, in terms of wolf project management from a biological perspective, as well as social issues that are being managed through a process called Adaptive Management.

The Environmental Impact Statement (EIS) was completed in 1996. The EIS also addressed the issue of a three-year review and a five-year review. The EIS information was also reflected in the non-essential/experimental population rule that was developed in

concert with the 12-step process. The 10j rule speaks specifically to the review process in the wolf project. The review process was also incorporated in the Wolf Interagency Management Plan (WIMP).

The three years of the project ended in March 2001. The concept of review started with the Commission in 2000.

In early 2001, the U.S. Fish and Wildlife Service (FWS) decided to contract the Cooperative Breeding Specialist Group (CBSG). This started the three-year review. The components included:

1. A biological review was conducted under a group contracted through CBSG
2. A series of "open houses" held in New Mexico and Arizona
3. A stakeholders' workshop in Show Low

In conjunction with this, there were a series of discussions with the Interagency Management Advisory Group (IMAG) for the wolf project. The IMAG was structured as an Adaptive Management framework for the project.

During 2000-2001, the Department and Commission were dissatisfied with various elements of the review, i.e., those issues associated with process. The primary cooperators were not being involved to their satisfaction in structuring the review. There were elements that were not being carried forward and the Department was unaware of this until decisions were made. The original concept of review as revisited through a series of documents was the interagency field team would actually conduct the review of the field effort and provide that information through IMAG for total public discussion. It would come to the IMAG through the three primary cooperators so the Department had a chance to be at the table. This did not happen to our satisfaction; the process was flawed.

At the May Commission meeting, a presentation was given. The biological review had been completed. The draft document had been available. The Department had to get the document by downloading it from the FWS website. The biological review by independent, objective scientists was available in final form in the summer. The "open houses" proceeded.

After the May meeting, the Department wrote to the FWS asking for several things; the most important being that releases in Arizona occur within the framework of the sites previously considered as potential release sites and not to look at novel sites. The Department identified serious concerns regarding its involvement in structuring the review; in particular, the public's opportunities to be part of the process. We requested that the FWS insure the Department had a part in structuring the locations, times, and selecting participants for the workshop for the "open houses" and ultimately, the stakeholders' meeting. The Department stressed adequate public notification of these events before they occurred, with an opportunity to review the material to be discussed beforehand.

Comments from the "open houses" were compiled for the stakeholders' workshop; the document (1000 pages), however, was not available for review until the day the workshop started. Documents were omitted from the review material.

The stakeholders' workshop participants were empowered to provide minority reports if they disagreed with the workshop or its outcome. This was reflected in process vs. outcome. Mr. Johnson expressed his dissatisfaction in an email.

There were some excellent things about the review. The primary one was that people came to the two public components ("open houses" and the stakeholders workshop) and were allowed to express their feelings. Problems were identified; many of them had been identified before. In 1997, the Department was dissatisfied with the lack of routine public meetings; therefore, there was no framework for interaction. In the winter of 1998-99, another discussion was held with the FWS regarding concerns with outreach, public involvement and the IMAG function.

The wolf issue was not a biological question. Ultimately, it was a question of how the landscape was being shared, how we work together and how we make decisions. Social and economic issues were not assigned to the CBSG to explore; its report responsibility was biological. The state perspective was absent from the review. There has been no follow up to either the "open houses" or the workshop, other than what has occurred in the ancillary discussions or discussions in IMAG since that point. There have been no recommendations that have been drawn from the review at this point. The FWS has made some technical changes. The Department has made changes, primarily dealing with how we work with each other and how the states' interests are represented (the role and function of the primary cooperators relative to all the other stakeholders and interested parties). All of these issues have yet to be resolved.

The Department has shared all of the information on the review process with the Commission. The three-year review was completed last fall with the issuance of the stakeholders' workshop's final report. There has been no other activity in the three-year review. None of the important dissatisfactions with the process have been resolved. The role of the primary cooperators has not been clarified in an Adaptive Management framework with the stakeholders and the other participants in this effort.

Dale Hall is now the permanent Southwest Regional Director of the FWS. Mr. Hall brings a different perspective to the table; i.e., a deal is a deal. Changes must be discussed with those involved in the decision making process. He believes in the role of primary cooperators. There are four primary cooperators now; the White Mountain Apache Tribe has joined the two state wildlife agencies and the FWS in the wolf recovery program. The Department has not met with the White Mountain Apaches regarding structuring of the three primary cooperator agreement to include the White Mountain Apaches, and the Department has not met with the FWS regarding elements of this endeavor.

An independent review has not been completed as requested by U.S. Congressman Skeen (NM). The FWS's interpretation of Skeen's language in the June 17, 2001, appropriations report was viewed as precluding them from taking any final actions on the outcomes of the review; first the independent review had to be conducted. The FWS could not do the final outcomes with or without the primary cooperators; therefore, there could be no substantive feedback to all the participants in the review.

If there was action, some of the technical issues would have to be explored through *Federal Register* rule changes because some of the elements deal with the 10j rule.

Mr. Johnson stated Mr. Hall made a commitment that there would be three or four primary cooperators who would be jointly responsible to the public for how the project works and delivering things that have been committed.

Commissioner Chilton noted one omission in Mr. Johnson's minority report. This was that the people who stand to lose the most are faced with the greatest obstacles to participate. These people are paying for the other agencies' representatives as well as paying their own way.

Commissioner Carter noted concerns with the program. There were wolves on the ground and the Department has a trust responsibility for managing wildlife in the state. There were questions regarding the wolves in the Pipestem Pack being hybrids. There is doubt and question in the public's mind as to whether or not there were secrecy issues continuing, just as the perception has been there all along. The FWS controlled the entire process. They set the sideboards of the stakeholders' program as well as controlling who would participate; the FWS did not want a commissioner to participate. The FWS demonstrated control on the ground with response to incidents that occur. The Department's concerns are not being properly considered by the FWS. Commissioner Carter wanted to give Mr. Hall a chance to turn things around in a reasonable time frame. He wanted him to make available appropriate, adequate staff and financial resources to be responsive. The FWS had the responsibility to respond timely and to minimize, to the extent they have, the impact on individuals who are also stewards of the land. The message to Mr. Hall should express these concerns and of gross inadequacy of the FWS in carrying out its responsibilities, including the recognition of this agency as a full and equal partner in the program.

Commissioner Melton noted he attended the stakeholders' meeting last year and represented the Wildlife Conservation Council. To his knowledge, no one was satisfied with the outcome of that meeting and it was not a very good process. Commissioner Gilstrap asked Mr. Johnson what could be done to get back on track in a timely manner so that the program could function as originally intended.

Mr. Johnson noted meetings were attended with Mr. Hall where Department and Commission dissatisfactions regarding the process, role and function were expressed. He has committed to a change in dynamics between the two agencies. He has committed to separating the recovery coordination functions from wolf reintroduction functions. The reintroduction effort in Arizona and New Mexico is one component of a range wide recovery effort. One of the commitments was to reconstruct the 1997 draft recovery plan.

The IMAG was constructed as a governmental entity and it did not give the NGOs a seat at the table as primary stakeholders. This can be reconstructed in one of two ways: either with a recovery implementation team with a federal lead or from the framework of a conservation team under state leadership. We need to work on this right now.

Commissioner Carter agreed there needed to be a specific commitment with regard to responsibility and process. Stakeholders should be involved in the process. We need to

assure when there is an incident on the ground, particularly a conflict issue that has a financial and/or human health element, there is a need to know who will respond and resolve the issue. The Commission and Department should pursue clarification of respective roles and responsibilities both in terms of process and action on the ground to resolve these concerns in a timely manner.

Mr. Johnson pointed out the staffing issue is part of what he meant by clarifying roles and functions. The Department's premise is that the project needs to be staffed at a level that is sufficient to meet the needs of the people who are affected by the project, as well as the wolves, not by a predetermination as to how many FTEs are appropriate for the project from a budgetary standpoint. The primary cooperators need to be working to structure the staff.

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Meeting recessed at 9:10 a.m.

Meeting reconvened at 9:25 a.m.

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### **Public comment**

Chairman Golightly noted Tamorah and Meryl Anderson did not want to speak but supported the wolf recovery program.

Barbara Marks, representing the Arizona Cattle Growers Association, Greenlee County Cattle Growers and the Blue District School Board, stated she was directly affected because she lives in the wolf recovery area year round. She described conflicts between her livestock and wolves. She was concerned for the lives of her cow dogs. One option was not available in the wolf recovery program, which was "no wolves". Those who camped or hunted in the area were not pleased with the experience. She has shown the most patience but the program was not working and she wanted the program stopped.

Jessica Karraker, representing self, submitted written comments and also sang a song she composed, "One Holy Family" in defense of the Mexican wolf and other creatures.

Michael Robinson, representing the Center for Biological Diversity, was frustrated on follow-up of the three-year review, particularly the biological components. At the last meeting this issue was discussed by the Commission, a recommendation to the FWS by the Commission had one very unfortunate result. This was that sites that had been used before should be used again for releases. This recommendation was adhered to shortly after the meeting with the release of the Lupine pack. The area was already occupied by other wolf packs; there was intra-specific strife, i.e., conflict between the established pack and the new pack precipitated a series of events that led to the dissolution and structure of the pack. He would like to see the FWS start following recommendations in the Paquette report with respect that there are differing opinions and there is a social component that is important as well. In "open houses" in both urban and rural areas, the majority of the comments supported the recovery program and following through on the Paquette recommendations.

Sandy Bahr, representing the Grand Canyon Chapter of the Sierra Club, stated it was difficult to reintroduce a species like the Mexican gray wolf. These animals have been captive bred. There has been emotion and misunderstanding of the animals. The

Commission should focus on the science. This program can be successful; the wolves are doing what they are supposed to be doing. It was important to have public participation from all sectors at every step of the way. The FWS needs to know of public involvement in this process.

Darcy Ely, permittee on the East Eagle allotment, stated she was busy with the Blue Stem, Francisco and Saddle packs on her allotment. She was frustrated in that the FWS program has not been consistent and had problems with trust and under staffing. There are problems with priorities and there has been no team effort. The cost is affecting the rancher in the amount of time he has to take to monitor his animals for depredation. The cost is affecting the county because 675 head of cattle have been reduced from five different ranches. Lions are increasing. Increasingly lions, wolves and bears are fighting over prey. Ranchers are affected 365 days a year. When the ecosystem is changed, the effects start to show. The wolves are not the only endangered and threatened species on her allotment. Concerns need to be addressed quickly.

Bobbie Holaday, past Executive Director of Preserve Arizona's Wolves, was frustrated with the FWS process; she had not been invited to the stakeholders' meeting. She supported the wolf reintroduction program. She recommended that the Commission follow Mr. Johnson's directions and have the Director inform the FWS Regional Director as to the fact the cooperators in the program should play the role they were initially directed to play and not be informed of very important things after they happened. There should be some kind of time line placed so that things happen now.

Jerry Tucker, representing self, stated nothing was more important to Arizona's future than regaining and maintaining the natural balance in our environment. This includes reintroduction of the Mexican wolves. The issue needed to be resolved now.

Jeff Williamson, representing the Arizona Zoological Society, thought that the decisions made on this program should be as fact-based as possible. This was more than a biological issue; it involved social, cultural and economic issues as well.

Karen LeRoy, representing self, stated the majority of Arizonans supported the wolf reintroduction. Introducing an animal that has always been a part of the ecosystem was a good thing.

Meg Hendrick, representing self, agreed to following Mr. Johnson's recommendations and to support the wolf reintroduction.

Martin Moore, Executive Director for the Eastern Arizona Counties Organization, stated it was time to bring closure to a faltering process. There was a strong need to revamp or reexamine the reintroduction process; there needs to be a more open communicative process. Peoples' lives and values are directly affected by the process. Rhetoric of promises and the actual on-the-ground implementation of that rhetoric were not being considered by the FWS. Counties needed to be at the table, particularly, those representing affected individuals. There was a possibility of seeing another fire, the same magnitude as the Rodeo-Chediski fire, on the San Carlos Indian Reservation and in the Blue Primitive Area. Those areas were steep and primitive. It would be damaging, not just to the wolves, but to everyone living there and to terrestrial and aquatic wildlife

species. He was concerned about the potential loss of wildlife to sportsmen and that are of value to Arizonans. He was concerned about the lives of people in the ranching community. Consideration of this in future policies should be taken into account of the area being discussed.

Roxane George, Executive Director of the Flagstaff Activist Network, supported the wolf reintroduction effort. She was concerned about the delays in implementing the recommendations in the Paquette report. The report indicates there was a 39% chance of decline in the reintroduced wolves if some of the implementations do not occur. There was urgency in implementing the additional recommendations for the reintroduction.

Craig Miller, Southwest Director for the Defenders of Wildlife (DOW), was a participant in the three-year review process. Mr. Johnson acknowledged a problem when IMAG was formed; he did not realize it at the time, but it presented an obstacle to effective participation in the program. It limited DOW's ability to meet consistently with the key players in the wolf program to offer resources and help implement ideas that might minimize opportunities for conflict. One of the consistent themes during the three-year review was the need for not only greater communication, but greater coordination of actions. He has been frustrated by the inability to work swiftly with the field team; to provide resources in the form of hiring herdsman or getting monitoring devices to livestock operators in areas of the greatest conflicts. The DOW established the Proactive Carnivore Fund. Resources are available on a cost-share basis for permittees to work with DOW and agencies as cooperators to do things like fence repair, creating portable electric fencing, and either moving livestock or bringing in riders during calving seasons to help monitor interactions between wolves and livestock, etc. The Ely's have continuously talked with DOW in implementing these types of projects. He has been frustrated by the lack of support by the FWS in implementing these quickly. The DOW was looking to hire a rancher from the Eagle Creek community to assist with monitoring and to serve as a liaison between DOW, the field team and livestock producers. This would be experimental and was not being done with FWS endorsement. He recommended that the Commission direct the Department to use its influence to help create greater opportunities for resource sharing to resolve problems before they become crises. The DOW would commit to making the resources available to put programs into motion.

Blaine Bickford, representing self, hoped there would be enough room in the habitat for the wolf and other species to exist. He recommended that the Commission and Department very aggressively indicate to the Governor's Office and Legislature the ineptness of the FWS in managing the program in a multitude of aspects. Cost per wolf does not take into consideration all of the economics. There were about 15-20 wolves that were unaccounted for. There were a lot of failures, successes and challenges involved. There were a lot of problems to overcome. He urged the Department and Commission to be a full player at the table to represent the state of Arizona and its people; if the FWS cannot manage this program efficiently and correctly, it needs to be challenged on all legal levels.

Bill Berlat, representing self, stated he was also speaking on behalf of former Commissioner Dennis Manning. This reintroduction project will never work. The FWS

does not answer to anyone. DNA testing will affirm these animals are hybrids and not Mexican wolves. All released animals were to be collared; they are not.

Hector Ruedas, Supervisor for Greenlee County, wanted to get rid of the wolves. He has received incorrect figures on the amount of money spent on managing wolves. Wolves attack calves; ranchers were suffering. He belonged to IMAG. A meeting had been cancelled due to the fires and he did not know when there would be a meeting. The state should control the program as there was no trust with the FWS. He felt the Commission had to consider emotions regarding this issue.

Dale Volz, representing the Arizona Ecumenical Council, referenced a letter sent last year to then Chairman Dennis Manning. The letter was a true today as it was a year ago. The Council supported the Mexican wolf reintroduction program and did not want Arizona to end its involvement.

Pam Jones, representing the Arizona Heritage Alliance (AHA), stated the Department participated with the AHA in workshops. She urged Department participation and wanted the Department to insist that all citizens of Arizona be represented in the Mexican wolf reintroduction program.

Commissioner Carter stated we were victims of a lack of process and that the Commission should aggressively look at its relationship in this program. The Commission has a responsibility to the wolf. The Department is much better prepared to manage the program. If understanding cannot be made with the FWS to insure opportunities for full public participation, the Department should get out of the program. Commissioner Gilstrap stated what was critical was what we do from this time forward and he was ready to take steps to make recommendations to the FWS. Commissioner Chilton stated different people felt differently. The actual costs of the program needed to be looked at.

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Meeting recessed at 10:35 a.m.

Meeting reconvened at 10:52 a.m.

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**Motion:** Carter moved and Melton seconded THAT THE COMMISSION DIRECT THE DEPARTMENT TO CONVEY IN WRITING TO THE U.S. FISH AND WILDLIFE SERVICE, THE CONCERNS AND ISSUES WE HAVE DISCUSSED TODAY. THIS IS, IN EFFECT, OUR STATE REVIEW OF THE SERVICE'S THREE-YEAR REVIEW AND THE REINTRODUCTION PROJECT ITSELF. WE FURTHER DIRECT THAT THIS LETTER BE SUBMITTED BY SEPTEMBER 30, 2002, AND UNDER JOINT SIGNATURE WITH THE DIRECTOR OF THE NEW MEXICO DEPARTMENT OF GAME AND FISH. SPECIFICALLY, WE DIRECT THE DEPARTMENT TO FOCUS ITS LETTER ON THE CRUCIAL NEED TO ADDRESS AND RESOLVE THE FOLLOWING ISSUES:

1. THE ROLES AND FUNCTIONS OF THE PRIMARY COOPERATORS MUST BE RESTRUCTURED TO ENSURE STATE PARTICIPATION, AUTHORITIES AND RESPONSIBILITIES AS REFLECTED IN TODAY'S DISCUSSION.

2. ADMINISTRATIVE AND ADAPTIVE MANAGEMENT PROCESSES MUST BE RESTRUCTURED TO ENSURE OPPORTUNITIES FOR, AND PARTICIPATION BY, THE FULL SPECTRUM OF STAKEHOLDERS.
3. FIELD TEAM RESPONSE PROTOCOLS MUST BE RESTRUCTURED AND STAFF CAPACITY ENHANCED, TO ENSURE IMMEDIATE RESPONSE CAPABILITY TO, AND RESOLUTION OF, URGENT OPERATIONAL ISSUES, SUCH AS DEPREDATION INCIDENTS.
4. THE OUTREACH PROGRAM MUST BE RESTRUCTURED, AS NECESSARY, TO ADDRESS THE CONCERNS DISCUSSED TODAY.
5. THE PROJECT REVIEW PROCESS MUST BE IMPROVED AND RESTRUCTURED FOR THE FIVE-YEAR REVIEW TO ENSURE IT IS AN IMPROVEMENT OF THE THREE-YEAR REVIEW.

WE FURTHER DIRECT THAT ISSUES 1, 2, AND 3 (ROLES AND FUNCTION; ADMINISTRATION AND ADAPTIVE MANAGEMENT AND FIELD TEAM RESPONSE) BE RESOLVED WITHIN 60 DAYS OF SEPTEMBER 30, 2002, AT THE PRIMARY COOPERATOR LEVEL, AND THAT THE CHANGES AND ISSUES THEY REFLECT BE TAKEN THROUGH THE RESTRUCTURED ADAPTIVE MANAGEMENT PROCESS FOR STAKEHOLDER DISCUSSION AND FURTHER REFINEMENT.

IN SHORT, WE DIRECT THE DEPARTMENT TO RESTRUCTURE THE PROJECT AS DISCUSSED TODAY WITHIN 180 DAYS OF SEPTEMBER 30, 2003, AND REPORT BACK TO THE COMMISSION ON THE RESULTS OF THIS EFFORT IN APRIL 2003.

THE COMMISSION RESERVES THE RIGHT, IF THESE ISSUES ARE NOT RESOLVED WITHIN THE TIMEFRAMES OUTLINED IN THE LETTER, TO TAKE ACTION ON THE DEPARTMENT'S PARTICIPATION IN THIS PROJECT.

Commissioner Chilton asked if Commissioner Carter would consider another part to the motion THAT THE COMMISSION RECOMMEND THAT THE FISH AND WILDLIFE SERVICE RECAPTURE AND REMOVE FROM THE WILD WOLF PACKS, OR AT LEAST INDIVIDUALS WITHIN PACKS, THAT HAVE BEEN FOUND TO DEPREDATE UPON LIVESTOCK. Mr. Johnson noted protocols were structured in the rule itself and management plan. Changes for rules and standards would need to be made in the 10j rule.

The motion was amended after further discussion.

**Motion:** Carter moved and Melton seconded THAT THE STATE REQUEST FULL COMPLIANCE WITH ALL EXISTING RULES.

**Vote on amended motion:** Unanimous

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#### 4. Presentation by Peter Olaf Alcumbrac from the White Mountain Animal Hospital

**Presenter:** Bruce Taubert, Assistant Director, Wildlife Management

Mr. Alcumbrac gave a presentation regarding what veterinarians do to enhance our service to the resource and the public. He discussed his goals and objectives as a wildlife veterinarian. He also talked about his history with the Department, past and ongoing projects, and future concerns.

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#### 2. Commission Briefing on Mount Graham Red Squirrel

**Presenter:** Terry B. Johnson, Nongame Branch Chief

For additional background information, see Commission meeting minutes for December 7, 2001, pages 10-11 and September 7, 2001, pages 2-4.

The Department has been engaged in Mount Graham red squirrel conservation for more than 20 years. One of the primary management activities has been a twice-annual population survey (spring and autumn). In recent years, forest fire and insect infestation have significantly affected habitats considered important to existence of the red squirrel population.

The Commission was briefed on the results of the Department's red squirrel surveys to date, as well as on red squirrel habitat selection in response to landscape changes induced by fire and/or insect infestation (and other factors), refugium access and any plans for changes in survey protocol and/or study site boundaries as a result of red squirrel habitat changes.

In development of a recovery plan, it was identified that a refugium might be amenable to greater public access than originally conceived.

Red squirrel conservation needs continue to revolve around habitat protection and restoration. The Department believes there are opportunities for public access that are consistent with red squirrel conservation. In 2000, the Forest Service (FS) opened a proposal to allow for greater public access in the refugium. The Department supported the proposal and recognized the need for public dialog to come out with a management framework incorporating conservation and recreational perspectives. No progress was made and the cutoff period was June 16, 2000. The FS has not taken any action other than to have discussions with the Fish and Wildlife Service (FWS).

The Department felt there were things that could be done to continue to conserve red squirrels and increase public access to the refugium. Maricopa Audubon Society sent a letter expressing support.

Commissioner Carter had two areas of concern. One was regarding public access and utilization for recreational purposes of areas within the refugium; the FWS took the position they would comment on a plan developed by the FS. He asked that the

Commission give the Department direction to follow up on this and urge the FS to get on with the program. The letter should reaffirm the Department's willingness and readiness to participate in evaluating sideboards for the recreational use of the area without impacting the needs of the squirrel. A copy of the letter should be sent to the FWS.

Mr. Johnson noted there were layers of monitoring on Mount Graham. We do not have monitoring throughout the actual use areas for red squirrels on the mountaintop to determine what changes in behavior or habitat use are resulting from the effects of the beetle infestation or from the Clark fire.

Mr. Johnson noted a more comprehensive monitoring survey is basic research to assess what is occurring on the mountain and to what extent the various habitat changes over the years are contributing to the changes. This is a project that one would take guidance from the recovery team. It is one that the FS, FWS and Department structure routinely as a project proposal.

Regarding funding, the Department tried to get federal funding several years ago through Congressman Kolbe to look at some of the issues on the mountain, including the 10-year review. Needed funding would have run between \$175,000-\$200,000 to support work over three fields that would give us a thorough reading. There were several sources of funding: Section 6 allocations from the FWS, which varies year to year; another is Heritage funding and the State Wildlife Grants Program that Congress has yet to act on.

Commissioner Carter asked about process and time frames. Last year the FWS was asked to reestablish the recovery team. The FWS did this but there has been only one meeting of the two groups (technical group and implementation group). He asked Mr. Johnson about time frames to come out with new protocols for revised surveys. He understood the refugium was put into law but not the management of it. Mr. Johnson stated the protocols for the spring and fall midden surveys did not need to change and needed to be maintained. To actually study squirrels, research protocols could be established with the FWS and FS within 60 days. These did not need to go through the stakeholder process. The pace of the work of the implementation team should be strengthened. The upcoming stakeholder meeting could be used for discussion of the issue while a research proposal was being crafted. In Section 6 discussions, the FWS has refused to entertain red squirrel proposals because it believes the research funding should be coming through the FS and the University of Arizona. The time has come to present another proposal.

Commissioner Chilton stated she would like to see the Department compile a report to the Commission describing potential funding, how to get a proposal started, and what data could be found out. The Commission needed information. Mr. Johnson stated the Department could take that as direction and bring it forth at the October Commission meeting. Chairman Golightly asked that this be done.

### **Public comment**

Martin Moore, Executive Director for the Eastern Arizona Counties Organization, stated trees on Mount Graham were in serious jeopardy. Appropriate access to the refugium area could identify or create islands of protection for the red squirrel. There would be

protection from wildfire, insect devastation and an improvement of the visual aspects of the landscape. Nongame's GPS data showed the greatest number of middens discovered were in areas of high human contact. This means the squirrels are not afraid of people and people can show respect for wildlife and habitat. He supported the Department's recommendation recreational public access. There should be access for appropriate treatment of areas to provide an opportunity for the wildlife to revitalize and restore itself in the spruce fir component of Mount Graham.

Buddy Powell, representing the University of Arizona (U of A), is the Director of the Mount Graham International Observatory. After 14 years of study, it was concluded that the refugium was based on pseudo-science and had no factual reason for being in existence. There was no evidence that the refugium has helped the red squirrel in any way; in fact, it may have harmed it. He gave a brief review in support of that statement. Regarding funding, he stated the U of A would have no objection including representation from the Department and other stakeholders. The U of A was required by the FWS to monitor the squirrel for life of the observatory. The budget for this fiscal year was \$208,000 for six full-time biologists. From the project's inception, \$3.5 million has been spent monitoring the squirrel.

Mr. Johnson reiterated that communication in writing to the FWS should state the need to reinitiate and increase the pace of the recovery implementation. There was direction to convey to the FS and FWS in writing the need to go back and pick up the pieces from 2000 and put the question of refugium access and potential changes in refugium access on a higher priority expeditiously. Commissioner Carter also noted the need to look at access, not only for recreational purposes, but access that provides the opportunity for improvement enhancement of the habitat for the squirrel within that area.

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### 3. Call to the Public

There were no comments.

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### 5. Presentation by Al Kreutz from the White Mountain Fly Fishing Club

**Presenter:** Bruce Taubert, Assistant Director, Wildlife Management

Mr. Kreutz gave a summary of some of the things that were done during the last year by various sporting groups in the White Mountain area.

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### 6. Future Agenda Items

Chairman Golightly noted that last year the Wildlife Assets Committee wanted to document its activities through a video process. He wanted to bring the process to closure and have the documentary produced and ready for the December meeting.

At the April 2003 meeting, a report of the results would be given reference the letter that would be prepared to go to the FWS regarding the wolf reintroduction program.

At the October meeting, a report would be given regarding opportunities to conduct new red squirrel surveys and research including potential sources for funding.

For the October meeting, certificates of appreciation for Department employees who worked the Rodeo-Chediski fires are to be done.

For the October meeting, through the internal committee process, a plan with options is to be developed to underwrite the annual Commission Awards banquet.

Commissioner Melton wanted an update on the status of the Sonoran antelope.

Commissioner Chilton wanted to invite a representative (Drs. Rule or Ogden) of the Governor's Rangeland Task Force to give a summary of the report on the interagency manual on monitoring.

Department tasks resulting from this meeting were also reviewed.

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**Motion:** Melton moved and Gilstrap seconded THAT THE MEETING ADJOURN.

**Vote:** Unanimous

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Meeting adjourned 12:10 p.m.

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