

Minutes of the Meeting of the
Arizona Game and Fish Commission
Thursday, September 4, 2003 – 1:00 p.m.
Friday, September 5, 2003 – 8:00 a.m.
Yuma Regional Office, 9140 E. 28th St.
Yuma, Arizona

PRESENT: (Commission)

(Director's Staff)

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

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

The Chairman called the work session to order at 1:00 p.m.

1. Prop 202 – Arizona Wildlife Conservation Fund Expenditures Workshop

Presenter: Steve K. Ferrell, Deputy Director

In November 2002, Arizona voters approved Proposition 202, which continues limited and regulated gaming on Arizona tribal lands. Proposition 202 distributes a portion of shared gaming revenues, through the Arizona Benefits Fund, with the State of Arizona and local governments to support specified state and local programs. Under the establishment of the Arizona Benefits Fund, the Arizona Wildlife Conservation Fund is by law, administered by the Game and Fish Commission. The Department received its first deposits to the fund in July 2003, totaling \$81,644, representing FY 03 revenue. Revenue projections for FY 04 are estimated to be \$3.1 million and FY 05 revenue is projected to be \$5.2 million.

Mr. Ferrell distributed a packet to the Commission. A concept was reviewed for Commission information and further input for presentation in the future of a formal budget. A memo dated January 16, 2003, from Mr. Ferrell to the Management Team kicked off the Department's pursuit of a concept on how to spend the money. Areas of focus were:

1. Those identified in the Executive Staff's Budget Visioning Document as expansion programs
2. Programs that have not benefited from the previous infusions of recent new revenue sources
3. Restoration of recent program cut necessary to return to previous levels of performance
4. Interfund compensation and relief for fund sources for which demand exceeds revenue

5. Under-funded strategic plan objectives
6. Customer service enhancements
7. New emerging issues

Chairman Carter asked if it would be difficult to document major fund sources over the last five years to look at trends focused on nongame as a whole and its growth, the Game and Fish Fund, etc. Some of the funds have remained flat simply because the Commission has not been able to get legislative authority to spend the monies. It would be helpful to look at trends and how to better address some of the issues, e.g., conducting big game surveys. Mr. Ferrell said this could be done in addition to showing where costs have changed over the same period of time, e.g., personnel costs.

Mr. Ferrell referenced a memo dated April 14, 2003, from Mr. Odenkirk regarding the use of Arizona Wildlife Conservation Fund for Shooting Range Development. The memo gave an informal opinion that concludes that Prop 202 monies were not eligible for shooting range development projects. Mr. Ferrell noted other projects that were not eligible fall under watercraft law enforcement and education.

Legislation under Prop 202 provides an opportunity for the Commission to provide grants to governmental and non-governmental organizations. The Commission may want to provide a portion of the revenues to grants, such as the Heritage Fund. If the Commission desired to do so, a timetable was designed for the proposed rulemaking process. If the Commission took action today on proposed rulemaking, the rules could be in place by February 2005. The Department recommended 10% of the revenue to go for grants. The Commission could choose to grant directly to the nonprofits. Grants for the purpose of conserving wildlife or wildlife habitat or acquisition of real property that is wildlife habitat to any agency of the state, political subdivisions, Indian tribes, or nonprofit organizations are to be exempt from federal income taxation under Section 501(c) of the Internal Revenue Code. Any grants to nonprofit organizations are conditioned on the organization providing reasonable public access to lands acquired with the funds. Mr. Ferrell suggested the Commission could build some evaluation criteria into the rules for grants to nonprofits. He noted there may be the same constraints in granting Prop 202 monies as there were in Heritage Funds. The Commission could state on a biennial basis what types of projects might be favored and this criteria could be stated in the grant cycle.

The conceptual strategy was further reviewed in detail. The Department proposed to use this fund to maximize "financial agility" by minimizing commitment to base programs; favoring short-term projects (1-5 years) and considering projects that are difficult to fund by other means. Priorities for use of the fund should be those expressed by the Commission and/or those that otherwise provide unique, yet substantial benefit to Department programs.

Commissioner Golightly asked if there were any current rules that would allow for the expenditure of "new found" monies. Mr. Ferrell stated there were not any current rules to grant the funds out; the current Heritage Fund grant rules could be modified to allow the Commission to do so with Prop 202 funds. The first two years would not allow granting of any Prop 202 monies because of the rulemaking timeframe. Commissioner Chilton asked

about contracting work through partnerships without rule changes. Mr. Odenkirk stated if the Commission was providing public money for a service or product and it's a contract that would be going to a non-governmental entity, it would fall under the Procurement Code. The Procurement Code has an exception for government-to-government contracting where there does not need to be a competitive process. The Commission could enter into contracts with another governmental entity to do grant-related work without having to go through the rulemaking process. The rulemaking process allows for a uniform set of procedures that would apply to all grant applicants. The problem with the nonprofits is that the structure of the contracting looks like procurement; if the Commission enters into a procurement contract with a non-governmental entity, it has to follow the Procurement Code. There was flexibility with the amount of the contract, but it was small.

Mr. Odenkirk continued that one of the areas under the state procurement process that is not as clear as under the federal system, is when is the government actually buying a product or a service that it intends to use for its benefit? When a contract is for a water catchment project, is that a product or service for the government or for the benefit of the community and wildlife in general? It looks less like a procurement process because something is purchased that would benefit the state as a whole. At that point, it looks more like a grant and providing money to an organization that may be providing in-kind match or cash match. There are specific criteria that must be adhered to under state law and rules have to be established to allow for a competitive process.

Commissioner Gilstrap challenged shooting range development and purposes for the use of Prop 202 monies. He submitted that one of the most useful wildlife management tools is utilization of firearms and the recruitment, licensing and permitting of hunters. Mr. Odenkirk stated Pittman-Robertson provides in legislation use of monies for shooting ranges or shooting-related activities. The legislation that separates it from wildlife conservation/management functions and regulations that follow from that legislation keep the same structures as well as separating the functions. The process he undertook in his analysis was an effort that courts use to try to determine what is intended by statutory language, when the language itself is not clear. The language is not clear in this case because it does not state anything about using money for shooting ranges. When there is ambiguity in language, you have to rely on various tools and methods of statute construction to try to answer what was intended in statute. One of the methods he considered was to determine how the Legislature has viewed wildlife management and shooting ranges in other parts of Title 17. He found the two concepts were separated in terms of the Commission's authority and responsibility. The federal model also separates these concepts; therefore, he concluded shooting range-related activities were not part of wildlife conservation management. Commissioner Gilstrap was comfortable with the intent to use the Prop 202 funds for shooting range and shooting-related activities. He submitted the ambiguity could go either way. Chairman Carter asked Mr. Odenkirk to take another look at his interpretation and get back with the Commission. Commissioner Chilton agreed with Commissioner Gilstrap. Shooting ranges were viewed as an integral part of preparing a safe and competent game management population; this population is a major arm of game management strategy. Shooting ranges provide training for the public to help the Department in its game management responsibility.

Chairman Carter thought shooting ranges provided a management tool and should be looked at more thoroughly. He noted the merits of a grant program if the Commission

moved into that area: 1) acquisitions, including public access in perpetuity and 2) water development and water maintenance. He asked the Department to identify the types of activities in the grant program, with focus on specific areas that the grants could be used for that would complement high area programs.

Conceptual uses were reviewed for FY 04 that the Department felt met the eligibility criteria and strategy as proposed. In terms of an '04 budget, \$3.18 million would be available.

Asset Management and Maintenance	\$1,384,680
Game Management	230,680
Revenue Generation/Savings	270,000
Access Improvements	177,500
Law Enforcement	40,000
Administration	269,825
Miscellaneous Projects	<u>235,000</u>
Grand Total	\$2,607,685
(or 82% of projected revenues)	

A discussion occurred under Wildlife Area O&M (under Asset Management and Maintenance). It was proposed that the actual \$500,000 be used to fund the existing current six regional wildlife program managers, which was a major cause of the interfund liability problem. They are currently funded out of IIPAM; they create an interfund every time they do a patrol or supervise game specialists or urban specialists. The IIPAM funds currently going into their salaries could go into the Wildlife Area O&M. Prop 202 is eligible for law enforcement, game management and urban activities. Chairman Carter asked if the Department would look at advantages or disadvantages in contracting for management/supervision of Wildlife Areas for personal services as opposed to creating and sustaining positions within the agency. This would provide for flexibility in costs in different personnel areas. Commissioner Gilstrap wanted to fund projects and not people. There needed to be a system to evaluate O&M so to have checks and balances.

A discussion occurred regarding the Volunteer Coordinator position (under Revenue Generation/ Savings), which was a three-year limited position to determine if it would complement other existing Department programs. The Farm Bill Coordinator was also a three-year limited position. The Department has a commitment from the NRCS to cost-share this position; the Department would be saving \$30,000 (total cost \$60,000).

Regarding access improvements, Chairman Carter noted that as the amount of money grows from Prop 202, one of the things that should be a priority is acquiring permanent rights-of-way where appropriate.

Regarding road maintenance (under Access Improvements), Chairman Carter suggested looking at developing partnerships with county road graders and contracting them to do work in the same general areas they were already working in.

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Work session recessed at 2:50 p.m.

Work session reconvened at 3:05 p.m.

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Commissioner Melton wondered how the Department was going to sell this proposal to the public when more than 50% of the monies would be going to administration and personnel instead of on-the-ground projects.

Commissioner Gilstrap stressed education and information. Except for predator management, there was very little utilization for public education. Focus should be on public education and he asked Executive Staff to look at this aspect again.

Commissioner Chilton stated there were certain uses that increase benefits to the Department in its ability to manage wildlife; access was a big issue. There are more lands available for recreation than are presently accessible. As a result, there are concentrations in some places and some areas are under utilized and game populations are not being managed effectively. Access helps us even out management. She strongly favored using funds to gain access on a long-term basis. She wanted to help the hunting and fishing public get to where they needed to go. She felt Watchable Wildlife was a low priority.

Chairman Carter wanted focus in two areas in terms of allocation and resources as well as developing partnerships: public access (permanent where it can be) and information and education, especially in areas where the resources are located.

The issue of protection under ARS §17-261 of the Game and Fish Fund from the Legislature was brought up. Mr. Odenkirk stated the language restricted the Legislature's ability to use Game and Fish Fund monies for any other purpose other than what was authorized in Title 17. Chairman Carter asked Mr. Odenkirk to look into the legality of the Department moving funds internally. Mr. Odenkirk stated concern would arise if the Commission decided not to spend what was normally spent in a particular fund. There would be money from Prop 202 as opposed to spending the same amount of money in the Game and Fish Fund or Heritage Fund, but with a different purpose than before Prop 202 funds. The limitation could apply to any body spending those funds or who has authorization to spend those funds.

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Work session adjourned at 3:26 p.m.

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Friday, September 4, 2003 – 8:00 a.m.

Chairman Carter called the meeting to order at 8:00 a.m.

1. Executive Session

- a. Purchase of real property and associated water rights

- b. Legal Counsel. *State of Arizona v. Norton*, CIV 02-0402-PHX-FJM; *Montoya v. Manning*, 301. F.3d 985 (9th Cir. 2002); *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; *Ameduri and Yee et al. v. U.S. Forest Service et al.*, U.S. District Court No. CIV 02-2495 PCT FJM; *Bar D Cattle Co. v. Shroufe*, CIV2002-0872; in the matter of *Search Warrant No. CR 2002-2395SW*; *The Fund for Animals et al. v. Norton et al.*; USDC D.C. 1:30-CV-00892 (RJL); and *Phelps Dodge v. Arizona Dept. of Water Resources*, LC2003-000243-001DT.

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

Vote: Unanimous

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Meeting recessed at 8:00 a.m.

Meeting reconvened at 8:10 a.m.

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Chairman Carter called the meeting to order at 8:10 a.m.

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21. Director's and Chairman's Reports

Chairman Carter spent time working on Frye Mesa access. He worked with Graham County and Forest Service officials on wild fire concerns on Mount Graham. The Department and County have briefed the Forest Service on their intent to pursue congressional legislation to allow some prescriptive management in terms of clearing around the facilities and structures on Mount Graham and will be seeking line item appropriations to insure funds are earmarked. The mountain contains 200,000 acres; 5,000-7,000 acres would be thinned 200 feet out.

Director Shroufe noted the Commission had been provided with written updates from the divisions. He attended an Arizona Conservation Alliance Summit. He flew to Denver to meet with Regions 2 and 6 of the U.S. Fish and Wildlife Service to discuss the Big River Fishes Recovery Plan. The recovery plan affects a lot of critical habitat designations in Arizona. Section 7 consultations must be done for the sport fisheries program and its effect on the recovery of the fishes. As a result of the consultations, the Department has had to spend a lot of money and do extra things to allow us to stock sport fish. The Department needs relief or clarification on how Section 7 consultation and extra money being spent would recover those fishes. Hopefully, follow-up discussions will reduce time and money being spent.

Director Shroufe attended a Management Team meeting, BEC meeting, Wildlife for Tomorrow Outdoor Hall of Fame banquet, Wildlife Conservation Council meeting, AORCC meeting and Governor's Cabinet meeting. He attended a Lake Havasu Executive Committee meeting and the Bureau of Land Management and Department of Interior have scheduled dedication for the CAP Fish Access Site (Lake Havasu Fish Improvement Project) at the Bill Williams River National Wildlife Refuge on December 5. This date

conflicts with the Friday meeting of the Commission. He suggested changing the Commission location to Lake Havasu City to enable the Department and Commission to attend the dedication on Friday. He asked the Commission to consider this for official action in October.

Director Shroufe attended a press conference in Phoenix with Trout Unlimited. There was an exchange of a check for \$205,000 representing Trout Unlimited's commitment to recover the Apache trout. The recovery of the Gila trout would begin soon.

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22. Commissioners' Reports

Commissioner Golightly attended a Rocky Mountain Elk Foundation banquet in Flagstaff. He met with Coconino County Planning and Outdoor Green Space representatives and two ranchers regarding Rogers Lake Open Space. It was the desire of the two ranchers to preserve Rogers Lake in terms of an elk preserve or conservation easement. He attended a function put on by the Yuma Valley Rod and Gun Club.

Commissioner Chilton worked on the Sonoran Desert Conservation Plan and the proposed bond issue for open space in Pima County. She worked on the Altar Valley Conservation Alliance Habitat Conservation Plan.

Commissioner Gilstrap spent time on shooting range issues and met with representatives from the National Rifle Association.

Commissioner Melton put out a scent line in Unit 10 to track predators. There were only three coyotes in the survey. He talked with Ray Varney regarding opening a late season dove hunt on the Kofa National Wildlife Refuge. He requested there be some restrictions on hunting around waterholes; specifically waterholes for wildlife.

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23. Approval of Minutes

Motion: Gilstrap moved and Melton seconded THAT THE COMMISSION APPROVE THE MINUTES FOR AUGUST 8-9, 2003.

Vote: Unanimous

The minutes for June 20-21, 2003, were signed.

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19. State and Federal Legislation

Presenter: Anthony Guiles

Later today the Commission would be discussing Item 9 with respect to a new headquarters building, and Mr. Guiles noted he would be available to provide the Commission with direction on that issue.

Mr. Guiles noted 25 legislators have committed to Department legislative tours; most of the tours will occur in the Flagstaff or Pinetop areas and will be 2-3 days. Mr. Guiles would be sending a calendar of the tours to the Commission. He had a conversation with representatives of Congressman Hayworth's office regarding HR 7 to include some conservation easements incentives for landowners. They gave limited support to the bill, which is currently being marked up in committee. More details would be sent to the Commission next week on this legislation.

Mr. Guiles noted the Arizona State Rifle and Pistol Association would be running potential legislation on the protection of shooting ranges and on term limits for the commissioners. Further clarification would be sent to the Commission along with additional updates.

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Meeting recessed at 8:35 a.m.

Meeting reconvened at 9:03 a.m.

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The commissioners introduced themselves and Chairman Carter introduced Director's staff. The meeting followed a revision dated August 28, 2003.

2. Litigation Report

State of Arizona v. Norton, CIV 02-0402-PHX-FJM; *Montoya v. Manning*, 301. F.3d 985 (9th Cir. 2002); *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; *Ameduri and Yee et al. v. U.S. Forest Service et al.*, U.S. District Court No. CIV 02-2495 PCT FJM; *Bar D Cattle Co. v. Shroufe*, CIV2002-0872; in the matter of *Search Warrant No. CR 2002-2395SW*; *The Fund for Animals et al. v. Norton et al.*; USDC D.C. 1:30-CV-00892 (RJL); and *Phelps Dodge v. Arizona Dept. of Water Resources*, LC2003-000243-001DT.

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

There were no additional comments or questions.

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3. 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 mentioned that on page 2 of the update a successful project was mentioned in the Apache-Sitgreaves National Forests. She asked Mr. Kennedy to find out its location and how it was monitored to insure the project improved forest health, reduced

fire risk and improved wildlife habitat. Mr. Kennedy stated information would be sent to all commissioners or would be provided in the next lands update to the Commission.

Commissioner Melton stated there was a BLM plan out for review on the national monuments. He asked about time frames. Mr. Kennedy stated there were draft interagency management plans; none were out for public review. He noted the Sonoran Desert Plan was behind schedule in comparison with the other monument plans. He believed a draft plan for the Sonoran Desert would not be available for Commission review for many months, or even up to a year. Mr. Kennedy noted The Nature Conservancy was providing input to the Department and BLM and was supporting the Commission's mission, whenever possible, on the monuments.

Chairman Carter commented on the Fort Bowie National Historic Site. He was pleased the Department was working with the National Park Service to insure public access through the proposed expansion area. He hoped when legislation was developed it contained language similar to what was used for Las Cienegas.

Public comment

Jon Fugate, President of the Yuma Valley Rod and Gun Club, has been working closely with the Department on a management plan for Cabeza Prieta National Wildlife Refuge. He also referenced the management plans for the Barry M. Goldwater Range and the national monuments. The correlation for all of these was the provision of expansion of water for wildlife and/or allowance of existing hunting opportunity and public access. The Sonoran Desert Conservation Plan should contain these requirements. The Department should support the redevelopment of Tinajas for wildlife water developments, particularly for sheep; The Nature Conservancy did not strongly support this provision.

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4. An Update on the President's Healthy Forests Initiative and Related Forest Restoration in Arizona

Presenter: John Kennedy, Habitat Branch Chief

Last year, during one of the nation's worst wildfire seasons, the President proposed the Healthy Forests Initiative to establish a more effective and timely process to protect communities, wildlife habitats, and municipal watersheds from catastrophic fires. The focus of the initiative is on thinning forested areas in priority locations that are cooperatively selected by federal, state, tribal and local officials and communities. The initiative provides for more timely responses to disease and insect infestations that threaten to devastate forests. Funding has been increased for forest thinning projects from \$117 million in 2000 to \$417 million in the FY 2004 budget request.

Key Components of the President's Healthy Forests Initiative

- Prioritize projects that will restore and care for our forests and rangelands, reduce the risk to communities and protect habitat for threatened and endangered species

- Facilitate timely reviews of forest health restoration and rehabilitation projects with cooperation of federal, state, tribal governments and other stakeholders
- Promote early community involvement
- Accelerate the treatment of hazardous undergrowth and brush
- Comply with all environmental statutes

Legislative Action related to the Healthy Forests Initiative

- The Administration supports H.R. 1904, the Healthy Forests Restoration Act, which the House passed on May 20, 2003.
- The Senate Agricultural Committee recently voted in favor of similar health legislation. The full Senate is expected to consider the legislation in the fall.

AGFD Comments on the Healthy Forests Restoration Act of 2003

The Department supports active management of forest lands consistent with multiple-use mandates of the Forest Service and Bureau of Land Management recognizing it is essential for those with responsibility and authority for management of fish and wildlife resources (states) to work cooperatively as full resource management partners with the land managers to achieve desired outcomes. Examples of the need for active management include:

- To provide a mosaic of different stand age classes and densities, including early succession habitats (e.g., size class distribution recommended for northern goshawks);
- To manage the fuel loads so catastrophic fires do not result in large-scale destruction of forest structures fish and wildlife populations depend on;
- To prepare forest lands for prescribed fire treatments that can enhance fish and wildlife habitats;
- To manage insect and disease infestations at levels consistent with properly functioning areas/landscapes (i.e., not result in large-scale structural changes and/or type conversions);
- To manage forest structure to provide important habitat linkages (i.e., wildlife corridors and travel ways);
- To facilitate development of desired conditions (i.e., thinning to promote growth and vigor)

AGFD Issue Summary – Healthy Forests Restoration Act

- Need to recognize the state fish and wildlife agencies' responsibilities and authorities by viewing us as full cooperators
- Need to coordinate early and often with state fish and wildlife agencies as full resource partners, rather than as just another "interested public", in developing hazardous fuels reduction projects and applied silvicultural assessments (insect infestation projects).
- Require and provide funding for monitoring and evaluation of projects and new forest restoration plans and projects.

Copies of the Harvard Paper, "The Illusion of Preservation of Global Environmental Argument for the Local Production of Natural Resources", were distributed to the Commission. Mr. Kennedy presented the main points in the document. In conclusion, the authors state, "It is not the intention of this paper to promote the intensive production of timber on all forested lands, but to make a case for a bold reduction in wood use and a judicious and sustainable increase in locally produced wood."

Commissioner Gilstrap asked how Arizona could most effectively utilize the concept in the document. Mr. Kennedy stated the Department would keep the Commission informed on specific projects in Arizona. There would be forest management activities in Arizona and the priority for the Commission and Department was to try to incorporate goals and objectives into forest management projects. Commissioner Golightly noted the Commission's focus should be on wildlife management rather than on forest management activities. Benefits of the projects should be focused on wildlife. Chairman Carter agreed the framework should be for wildlife habitat. His concern was that regardless of whether or not the required processes were done, the dollars were not there to do the job. He asked what the Department could do to be in concert with the Governor's Advisory Council and state leadership to earmark money for Arizona. He wanted the Commission to be informed on the role it could play. Mr. Kennedy noted strategies would be developed.

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5. Request for the Commission to Approve: 1) Three Recommendations that Relate to the Department's Land Acquisition Process; 2) a Streamlined Land Acquisition Process and 3) a Substantive Policy Statement on Heritage Fund Acquisitions

Presenter: John Kennedy, Habitat Branch Chief

For additional background information, see Commission meeting minutes for August 8, 2003, pages 5-11 and June 20, 2003, pages 4-8.

The Commission discussed the Department's recommendations relating to the land acquisition process.

1. Coordination with private landowners (Commission direction)

Based on high-value fish and wildlife habitat evaluations in the state, the Department may initiate coordination with private landowners to discuss potential cooperative habitat conservation opportunities, including fee title purchase, lease agreements, conservation easements, or other land use agreements.

2. Coordination with local governments (Commission direction)

The Department will coordinate with the appropriate local governments regarding potential land acquisitions in their areas and seek their concurrence early in the acquisition process and report results to the Commission for review and direction.

Commissioner Golightly had a problem with the word, “early”. He did not think this word was necessary. Land values have changed and he was worried about development near endangered species habitat. The Commission should protect some of the most pristine places in Arizona; endangered species drive the rules for engagement. The Department should determine “earliness.” He wanted to strike the word, “early.”

This issue was further discussed. Commissioner Gilstrap saw the word “early” as a means of providing the Department and Commission with a warning signal. If a problem was seen early, then the Commission and Department could respond or deal with it rather than finding out later there were local leadership concerns. Chairman Carter stated it was better to have dialogue and be open with local governments in terms of acquisitions; it should not be done secretly. Commissioner Gilstrap suggested substituting the word, “timely.” Commissioner Golightly wanted the Commission to drive the acquisition vs. trying to guess the meaning of “early.” Commissioner Chilton noted one of the goals for the Director was to develop a good relationship with rural Arizona. Local communities should be involved and consulted early in the process. “Seeking concurrence was different from “obtaining concurrence from local communities.

The Commission concurrence was to substitute the word, “timely” for “early.”

3. Timing associated with obligating acquisition funds (land acquisition process)

Acquisition funds will be obligated and deposited into an interest-bearing escrow account with a title company early in the land acquisition process as approved by the Commission.

Commissioner Gilstrap noted that depending on the property and situation, there could be more advantageous ways to secure and protect the funds in the transaction than just strictly an interest-bearing escrow account. The statement should be more open-ended and should be used as an example rather than “as the way”. Acquisition funds will be obligated and deposited into an interest-bearing escrow account, for example, or by other methods as authorized by the Commission.

Commissioner Melton had a problem with the word, “will” be obligated and suggested substituting the word, “may”.

Chairman Carter asked the Department to do some “wordsmithing” on 3.

Mr. Kennedy noted two other components needed to be looked at. The Commission had been provided with a process map of the acquisition process and a map of high value fish and wildlife habitats. These two documents will be used as tools and are adaptive. These two documents will help the Department prioritize land acquisitions.

The Department previously provided to the Commission for review a revised policy statement on Heritage Fund Acquisitions of Sensitive Habitat for Endangered, Threatened and Candidate Species as Authorized under the Provisions of ARS §17-298 (Policy A2.23). The purpose of this proposal was twofold: 1) to address some of the issues discussed the past few months and 2) to address Heritage audit findings. The Department recommended deleting the first two paragraphs in the current policy because they were unnecessary.

Proposed new language states, "Heritage acquisition funds shall be spent on the conservation of sensitive habitat for endangered, threatened, and candidate (ETC) species of fish and wildlife as defined in ARS §17-296. Proposed acquisitions must be thoroughly analyzed by the Department prior to presentation before the Commission. All Heritage Fund acquisition proposals must be developed and implemented in accordance with ARS §17-296 and ARS §17-298 and in compliance with existing rules and regulations governing the expenditure of State funds."

Per the Heritage Fund audit, a new paragraph was proposed to clarify specific terms in statute. "For the purposes of this policy and the conservation of sensitive habitat as defined by ARS §17-296, 'specific area' means the area associated with a particular habitat type (e.g., riparian habitat) that is located within the geographical area historically or currently occupied by, and that has the potential to provide benefits to, one or more ETC species; 'geographical area historically occupied' means within the historic range of the ETC species being considered (whether or not the species is/are present); 'geographical area currently occupied' means the current range (including seasonal use) of the ETC species being considered."

Commissioner Chilton preferred to spend dollars on actual habitat rather than potential habitat. Efforts directed towards potential habitat detract from efforts focused on actual habitat occupied by ETC species. Mr. Kennedy noted the definition of sensitive habitat was currently in statute. The Department wanted to put meaning to those terms used in the current definition of sensitive habitat. The terms have to be defined in statute at this time to address the audit findings and to provide direction to the agency. Commissioner Chilton pointed out there should be a higher priority placed on those properties that currently have the species rather than those that might have the species in the future. Chairman Carter noted it was already in law. The Commission has authority on where it should spend its limited resources. He hoped this and future Commissions would focus on the location of the properties. The goal was conservation of species. It provides a chance to be proactive to prevent listing of a species or provide habitat to downlist or delist a species. Commissioner Melton agreed with Commissioner Chilton but thought the Commission could manage the process.

Director Shroufe noted Policy A2.23 would have to be brought before the Commission a second time before it was approved.

Chairman Carter asked Mr. Kennedy to do "wordsmithing" on the recommendations and present the revised wording to the Commission later in the day.

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6. Statewide Shooting Range Project Update

Presenter: Kerry Baldwin, Education Branch Chief

A written summary was provided to the Commission on major issues in the program prior to today's meeting.

Additional information was provided. Regarding the realignment of the Black Canyon trail next to the Ben Avery Shooting Facility, the State Land Department has provided indicators of what a long-term lease might look like to move the trail alignment back to the

west following Dead Man Wash. This seems to be a viable alternative and the cost is not prohibitive. He hoped the City of Phoenix would be encouraged to apply for a Trail Access grant through the Department's Heritage Program. The City wants to ultimately purchase this block of State land under the Arizona Preserve Initiative. If they could purchase the land before the lease came up, there could be recovery of access funds for the Department.

Initial survey work for the Tucson Basin Shooting Study has been completed and key groups will be meeting in the next month or two. In general, it is clear if closures of recreational shooting are anticipated in the Tucson area, alternatives need to be determined, identified and provided before closures occur. Hopefully, there will be an expansion of the process to identify specific formal and informal shooting sites. Lead agencies consisting of the Department, Bureau of Land Management (BLM) and the U.S. Forest Service are looking at how this issue will be brought before the public.

Regarding the Tri-State Shooting Range, Mr. Baldwin noted there were no indications from BLM that concerns of the Indian tribe would cause a delay.

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7. NSSF Scholastic Clay Target Shooting Sports Program

Presenter: Kerry Baldwin, Education Branch Chief

The Scholastic Clay Target Program (SCTP), developed and administered by the National Shooting Sports Foundation (NSSF), is a youth development program focused on providing a positive experience in the shooting sports. The program is designed to emphasize the values of sportsmanship, responsibility, self-discipline, and commitment. The SCTP participants learn safe and responsible handling and use of firearms along with life sports opportunities. The program is experiencing increased visibility and rapid growth across the country.

For the past several years the Department Education staff has followed the SCTP with interest. It has been determined with NSSF representatives the Department should look closely at opportunities and barriers in implementing the program in Arizona within the next year. It was felt the SCTP fits within the expanded role of the Department's Conservation Education Program.

Bill Christy, SCTP administrator, provided the Commission with a detailed overview of the program. The Powerpoint presentation included an overview of SCTP elements; recent growth patterns nationwide; roles the Commission can play and ways Arizona can become an active state in the SCTP in 2003.

A portion of a NSSF video was shown.

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Meeting recessed at 11:02 a.m.

Meeting reconvened at 11:13 am.

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12. An Overview of the Sonoran Desert Conservation Plan and Proposed Multi-Species Conservation Plan for Pima County

Presenter: John Kennedy, Habitat Branch Chief

For additional information, see Commission meeting minute for August 8, 2003, pages 2-3.

In 1998, the Pima County Board of Supervisors initiated comprehensive land planning efforts that led to the development of the Sonoran Desert Conservation Plan (SDCP). The SDCP contains six elements: ranch conservation; cultural resources; mountain parks; riparian protection management and restoration; habitat protection and corridors protection. The SDCP also addresses development of a Multi-Species Habitat Conservation Plan for the Endangered Species Act Section 10 permitting process (incidental take permit) with the U.S. Fish and Wildlife Service (FWS).

Present at today's meeting to give presentations were Sharon Bronson, Chair of the Pima County Board of Supervisors and Chuck Huckelberry, Pima County Administrator. They provided a general overview of the SDCP and proposed Multi-Species Conservation Plan for Pima County and the geographic area they encompass. Also discussed were the ways multiple agencies with jurisdictional responsibilities would be involved in the implementation of the plans. Handouts giving additional information were distributed to the Commission.

It was noted the Plan itself was a land use plan that advances the decisions of the Pima County Board of Supervisors regarding the evaluation of future land use proposals. Much of the Plan has been adopted in principle, and in part, by inclusion of a "conservation land system." Mr. Huckelberry reviewed areas on a map. The Plan differentiates land resources from low to high and assigns conservation goals based on factual, scientific and reliable information. In the long-term, Pima County was looking at an ecosystem, habitat-based planning process that will meet federal compliance to protect habitat. Land use planning to protect that habitat now will, in fact, be the best long-run insurance the community will not face the dilemma of a new federal listing every three to four years.

The Multi-species Habitat Conservation Plan draft is being prepared; accompanying that will be an Environmental Impact Statement. After public comment, the FWS will ask Pima County to negotiate an Implementation Agreement. This agreement is a legal document that binds all parties to their commitments and Mr. Huckelberry hoped that in the Implementation Agreement process, all of the cooperative agencies that worked with Pima County in the past would be at the table to provide direction on their particular expertise. The County has relied on the Game and Fish Department to regulate game and nongame species on County property and on any lands conserved in the future.

This issue was proposed to be on the agenda for the Commission's meeting in March 2004.

Mr. Kennedy noted the Department would continue to work cooperatively with the County through Gerry Perry, Region V (Tucson) Supervisor, and continue to participate on the Committee. There were opportunities to work with the County and the FWS consistent

with the new Memorandum of Agreement with the FWS on some of the documents Mr. Huckelberry discussed today.

Mr. Huckelberry noted the listing of the cactus ferruginous pygmy owl was the catalyst to do a comprehensive approach on this planning activity and to introduce the word, "conservation" to it. Now that the listing is potentially threatened itself, it almost has no effect on the planning process because this is not a single species habitat conservation plan; it is a multi-species habitat conservation plan.

Mr. Huckelberry stated the County needed to mitigate for all future impacts that occur. These include development impacts that occur with known species populations migrating into Pima County. Impacts to the County have to be accommodated; the purpose of doing a multi-species habitat conservation plan was to prevent temporary economic roadblocks associated with an individual listing in the future. The County wanted to look at long-range impacts. Section 10 was a by-product of the Plan; it was not the only goal.

Ms. Bronson stated that as the Conservation Plan is looked at, the County wants to work with the Department to enhance wildlife habitat so that the Department can accomplish its goals. Chairman Carter stressed the importance of public access.

Commissioner Chilton asked if the County could add language in the Implementation Agreement that allows for flexibility in the future with regard to arbitrary "hoops" for other species. A scientifically unsupportable requirement would affect decisions in the County. There should be something in the Agreement that allows for the presentation of science to prevent restrictions on future actions by the County.

Commissioner Chilton raised the subject of acquisition of either land or conservation easements and the prioritization of the use of monies. The SDCP was separate from the County bond issue. Mr. Huckelberry gave a history of land acquisitions in Pima County. Some money will be dedicated to acquisitions close in the urban area only for open space purposes visually. It is hoped the concentrated effort of this particular bond issue, if eventually approved by the Board and voters, will look at the larger goal of long-term habitat and ecosystem restoration and protection in the areas that can be most productive and to do it in the most cost-effective manner, which would be trying to keep existing economic units in place and supplementing better development rights through acquisition of them or conservation easements. The County would not exercise condemnation for open space purposes.

Ms. Bronson stated the priority of the open space subcommittee seems to be focused on habitat preservation. Keeping corridor connections open was another element of discussion of the bond committee. This could be part of the strategy for Section 10 if approved by the voters.

Commissioner Golightly noted it was important for the counties to keep the public informed on these issues.

Public comment

Trevor Hare, conservation biologist representing the Coalition for Sonoran Desert Protection, sat on the citizens' committee that helped the county focus on what needed to be done. It was an open public process. Game and Fish was needed in the process.

Motion: Chilton moved and Melton seconded THAT THE DEPARTMENT BE DIRECTED TO WRITE A LETTER FOR THE CHAIRMAN'S SIGNATURE TO THE PIMA COUNTY BOARD OF SUPERVISORS THANKING THEM FOR THEIR PRESENTATION TO THE COMMISSION REGARDING THE SONORAN DESERT CONSERVATION PLAN AND EXPRESSING THE COMMISSION'S APPRECIATION TO THE COUNTY FOR CLARIFYING PIMA COUNTY'S UNDERSTANDING OF THE DEPARTMENT'S PRIMARY ROLE FOR WILDLIFE MANAGEMENT IN THE STATE OF ARIZONA. WE APPRECIATE THE COUNTY'S PLEDGE TO CONTINUE FOSTERING PUBLIC ACCESS FOR OUTDOOR RECREATION AND THE COUNTY'S RECOGNITION OF THE IMPORTANCE OF PROVIDING HUNTING OPPORTUNITIES FOR RECREATION AND GAME MANAGEMENT WITHIN THE AREA AFFECTED BY THE PLAN.

FURTHER, THE LETTER SHOULD EXPRESS THE COMMISSION'S INTENT THAT THE DEPARTMENT CONTINUE TO WORK WITH THE U. S. FISH AND WILDLIFE SERVICE AS A FULL PARTNER IN PURSUING OUR MUTUAL OBJECTIVES REGARDING WILDLIFE MANAGEMENT WITHIN THE SONORAN DESERT PLANNING AREA.

FURTHER, WE WANT TO REITERATE OUR APPRECIATION FOR THE COUNTY'S ASSURANCES THAT THE FINAL SDCP NOT RESULT IN COSTLY, UNNECESSARY AND INEFFECTIVE PROCEDURAL REQUIREMENTS FOR MANAGEMENT OF SPECIES THAT ARE NOT LISTED OR THAT MAY BE DOWNLISTED OR DELISTED. OUR INTEREST IS IN PRODUCTIVE USE OF SCARCE FUNDS TO FACILITATE THE MANAGEMENT OF ARIZONA WILDLIFE.

Vote: Unanimous

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5. Request for the Commission to Approve: 1) Three Recommendations that Relate to the Department's Land Acquisition Process; 2) a Streamlined Land Acquisition Process and 3) a Substantive Policy Statement on Heritage Fund Acquisitions – cont'd.

Mr. Kennedy distributed the revised recommendations.

Regarding coordination with local governments, "the Department will coordinate with appropriate local governments regarding potential land acquisitions in their area and seek their concurrence timely in the acquisition process and report results to the Commission for review and direction."

Regarding timing associated with obligating acquisition funds, "The Department may obligate acquisition funds early in the land acquisition process, for example, acquisition funds may be obligated and deposited into an interest-bearing account with the title company early in the acquisition process as approved by the Commission."

Motion: Melton moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE THE DEPARTMENT'S RECOMMENDATIONS RELATING TO THE LAND ACQUISITION PROCESS AND 1) COORDINATION WITH LOCAL GOVERNMENTS; 2) COORDINATION WITH PRIVATE LANDOWNERS; 3) OBLIGATING FUNDS FOR PURCHASING PROPERTIES EARLY IN THE LAND ACQUISITION PROCESS, AND A STREAMLINED LAND ACQUISITION PROCESS AND SUBSTANTIVE POLICY STATEMENT ON HERITAGE FUND ACQUISITIONS AS PRESENTED IN FINAL FORM TODAY.

Vote: Chilton, Gilstrap and Melton – Aye
Golightly – Absent for vote
Motion carried

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7. NSSF Scholastic Clay Target Shooting Sports Program – cont'd.

Commissioner Gilstrap acknowledged the importance of the National Shooting Sports Foundation (NSSF) program. He would like for commissioners, past and present, to be responsible for recruiting a team or two and to be team sponsors. He stated the state championship for these three disciplines on the clay target shooting be classified as a "Commissioners' Cup"; this would be for the persons representing Arizona at the national event.

Chairman Carter asked the Department to assist in the development of some mechanism and protocols where the Commission could work with established local clubs and organizations to allow for a role in this endeavor.

Motion: Gilstrap moved and Chilton seconded THAT THE DEPARTMENT PREPARE A BUSINESS OR ORGANIZATIONAL PLAN FOR THIS SCHOLASTIC SHOOTING SPORTS PROGRAM.

Vote: Unanimous

Mr. Baldwin noted the Department recommendation was that the Commission vote to endorse the National Shooting Sports Foundation Scholastic Clay Target Shooting Sports Program in Arizona and direct the Department to act as a catalyst for implementation in Arizona. This clarified the above motion.

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Meeting recessed at 12:30 p.m.

Meeting reconvened at 1:35 p.m.

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Chairman Carter was not present when the meeting reconvened. Commissioner Chilton assumed duties of the Chair for the remainder of today's meeting.

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

Presenter: Leonard Ordway, Law Enforcement Branch Chief

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

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8. Statewide Shooting Ranges Grant Approval

Presenter: Kerry Baldwin, Education Branch Chief

For additional information, see Commission meeting minutes for June 20, 2003, page 11. A second evaluation of the proposal submitted by Ye Old Route 66 Trap, Skeet and Sporting Clays Club was made incorporating additional information.

The project involves a request to provide \$100,000 toward the construction of a privately owned clay target facility located on approximately 40 acres of private property about 1.2 miles from Grand Canyon Caverns off old U.S. Route 66. The facility would include trap, skeet, and sporting clays ranges as well as other associated facilities. The facility would be open to the public and would be available for hunter education class use. The facility would be run as a family owned business.

The grant application as documented meets some of the elements of the Statewide Shooting Ranges Development Grant application form and objectives of the Commission and Statewide Shooting Ranges Project. Because of the extensive nature of the proposal and probability of successful operation of a new facility since no range(s) exist on the site and the applicant has no stated previous history of shooting range development or operation. The evaluation revealed a number of concerns and failure to meet basic grant criteria.

Significant concerns include:

- The applicant does not have final zoning approval for the project. The process has been initiated to get final zoning approval with Coconino County under a conditional use permit.
- Because the area is currently zoned Rural Residential, the proposed range site is in an area of large residential lots. Adjacent property lines where residential construction could occur are as close as 450 feet or less of the proposed range.
- Because the project is proposed as a family operated business, has no prior history of use and the land is in private ownership, there are no documented assurances the range will be in operation for the 10-year horizon normally considered in grant awards.
- The grant application did not adequately document \$40,000 worth of "donated labor" being used as project match for the \$100,000 requested.
- Documentation of development aspects of the range was inadequate for detailed site analysis.

- The grant proposal does not provide the necessary documentation and assurances to meet the Department's minimum criteria for a grant award.

Motion: Melton moved and Gilstrap seconded THAT THE COMMISSION VOTE TO NOT APPROVE THE GRANT REQUEST 2004-03 FOR YE OLD ROUTE 66 TRAP, SKEET AND SPORTING CLAYS CLUB.

Vote: Unanimous

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9. Update on Items Related to the Master Plan for Department Headquarters

Presenter: Fred Bloom, Development Branch Chief

For additional information, see Commission meeting minutes for June 20, 2003, pages 17-20.

The Department provided the Commission with an update. Information in the Powerpoint presentation included:

1. An overview of recent discussions with the State Land Department and Bureau of Land Management regarding their long-term planning objectives for lands adjacent to and surrounding the Ben Avery Shooting Facility
2. Current cost estimates for buildings and civil site work based on options presented in the Master Plan. This would be approximately \$15 million.
3. Potential options for project funding and construction, including the Commission's authority to issue bonds; current bonding limitations and consideration of potential legislative action to increase the Commission's bonding authority.

In addition, information was provided on the Arizona Department of Administration's (ADOA) lease purchase legislation and design build program and the potential for the Commission to pursue similar legislative action. Discussion also occurred regarding the existing statutory authority available to the Commission to enter into installment purchase agreements and how that might correlate with the ADOA model. Also provided was an overview of the Capital Improvement Fund.

4. Recent appraisal of the Deer Valley North property. This would be approximately \$2.8 million-\$3.1 million.

Tony Guiles, Legislative Liaison, stated the political climate was not favorable to ask the Legislature next year for an increase in the Commission's bonding authority.

This item would be brought back for discussion at the October Commission meeting when the Commission would be better prepared to discuss more in-depth information.

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10. Call to the Public – There were no comments.

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11. Consent Agenda

- a. Request for the Commission to Authorize the Department to Pursue Acquisition Through Lease or Patent Pursuant to the Recreation and Public Purposes Act, Approximately 10 Acres Adjacent to the mesa Regional Office, Maricopa County, Arizona. Department recommendation: That the Commission vote to authorize the Department to pursue acquisition, through lease or patent pursuant to the Recreation and Public Purposes Act, approximately 10 acres adjacent to the Mesa Regional Office.
- b. Request for the Commission to Approve the Agreement (for Right-of-Way) with Qwest Communication for the Purpose of Continuing Service for Construction, Operation and Maintenance of Underground Telephone Lines Through the Commission's Ben Avery Shooting Facility, Maricopa County, Arizona. Department recommendation: That the Commission vote to approve the agreement (for right-of-way) with Qwest Communication for the purpose of continuing service to construct, operate and maintain underground telephone lines through the Commission's Ben Avery Shooting Facility and execute the agreement as attached or as recommended or authorized by the Office of the Attorney General.
- c. Memorandum of Understanding for the Desert Wells Multi-Use Area. Department recommendation: That the Commission vote to approve the Memorandum of Understanding for the Desert Wells Multi-Use Area.

Chair pro tem Chilton noted that the MOU should be edited to change "trial" to "trail" if appropriate within the context of the document.

- d. Request for Commission Approval of a Contribution Agreement Between the Commission and the Natural Resources Conservation Service to Establish a Mutually-Funded Position to Coordinate the Development of Projects and Contracts Pursuant to the Farm Bill Conservation Programs. Department recommendation: That the Commission vote to approve a Contribution Agreement between the Commission and the Natural Resources Conservation Service to establish a mutually-funded position to coordinate the development of projects and contracts pursuant to the Farm Bill Conservation Programs, and authorize the Director to execute the agreement as attached or as recommended or approved by the Office of the Attorney General, and to amend or extend the agreement as necessary.

Motion: Golightly moved and Gilstrap seconded THAT THE COMMISSION APPROVE ITEMS A, B, C, AND D ON THE CONSENT AGENDA AS PRESENTED BY THE DEPARTMENT.

Vote: Unanimous

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14. Request to Approve the Notice of Proposed Rulemaking for R12-4-102, Fees for Licenses, Tags, Stamps, and Permits and the Preliminary Economic, Small Business and Consumer Impact Statements to Adopt the Kaibab North Special Deer Hunting Permit Fee Increase

Presenter: Carlos Ramirez, Rulewriter

For additional information, see Commission meeting minutes for February 23, 2001, page 15, and for January 17, 2003, page 15.

The Department asked the Commission to approve the draft Notice of Proposed Rulemaking and the preliminary economic, small business and consumer impact statement for the amendment of R12-4-102, Fees for Licenses, Tags, Stamps and Permits to adopt the Kaibab North Special Deer Hunting Permit fee increase. The anticipated effective date for the amendments to R12-4-102 will be June 2004.

Motion: Melton moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF PROPOSED RULEMAKING FOR R12-4-102, FEES FOR LICENSES, TAGS, STAMPS AND PERMITS AND THE PRELIMINARY ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT TO ADOPT THE KAIBAB NORTH SPECIAL DEER HUNTING PERMIT FEE INCREASE AND TO FILE THE NOTICE WITH THE SECRETARY OF STATE. THE FEE INCREASE IS PROVIDED FOR IN A 2001 SIKES ACT AGREEMENT BETWEEN THE ARIZONA GAME AND FISH COMMISSION AND THE UNITED STATES DEPARTMENT OF AGRICULTURE FOREST SERVICE, KAIBAB NATIONAL FOREST. THE AUTHORIZED FEE INCREASE IS FROM \$5 TO \$15.

Vote: Unanimous

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15. Request to Approve the Five-Year Rule Review Report for Game and Fish Commission Rules, Article 2, Miscellaneous Licenses and Permits

Presenter: Carlos Ramirez, Rulewriter

The Department completed its five-year rules review of Article 2, Miscellaneous Licenses and Permits and asked the Commission to approve the report for filing with the Governor's Regulatory Review Council by October 20, 2003 for its December 16, 2003, Council meeting. The Department anticipated opening a Rulemaking Docket for the proposed rule changes to Article 2 by June 2004.

Motion: Golightly moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE THE 2003 FIVE-YEAR RULE REVIEW REPORT FOR GAME AND FISH COMMISSION RULES, ARTICLE 2, MISCELLANEOUS LICENSES AND PERMITS, FOR FILING WITH THE GOVERNOR'S REGULATORY REVIEW COUNCIL UNDER A.R.S. §41-1056.

Vote: Unanimous

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16. Request to Approve the Five-Year Rule Review Report for Game and Fish Commission Rules, Article 4, Live Wildlife, for Filing with the Governor's Regulatory Review Council

Presenter: Carlos Ramirez, Rulewriter

The Department completed its five-year rules review of Article 4, Live Wildlife Rules and asked the Commission to approve the report for filing with the Governor's Regulatory Review Council by October 20, 2003, for its December 16, 2003, Council meeting. The Department anticipated opening a Rulemaking Docket for the proposed rule changes to Article 4 by June 2004.

Motion: Gilstrap moved and Melton seconded THAT THE COMMISSION VOTE TO APPROVE THE 2003 FIVE-YEAR RULE REVIEW REPORT FOR GAME AND FISH COMMISSION RULES, ARTICLE 4, LIVE WILDLIFE, FOR FILING WITH THE GOVERNOR'S REGULATORY REVIEW COUNCIL UNDER A.R.S. §41-1056.

Vote: Unanimous

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17. Potential Rule Changes to Article 1, Definitions and General Provisions, Including but not Limited to Rules R12-4-104 and R12-4-107

Presenter: Steve Ferrell, Deputy Director

Potential rule changes to Article 1, Definitions and General Provisions, including but not limited to rules R12-4-104, Application Procedures for Issuance of Hunt Permit-tags by Drawing and R12-4-107, Bonus Points. Two timeline options were presented to the Commission for rule changes in Article 1.

A change to R12-4-104 would require the purchase of a license as one of the eligibility requirements to the draw. Another change would be to R12-4-107 would authorize the Commission to restore bonus points for compelling reasons. Also, interest was expressed in having a hunt number that had no permits assigned to it, which would in effect, allow a hunter to apply for each genus for the purpose of acquiring bonus points but no opportunity for a tag. The Commission expressed an interest in having these proposals effective for the fall 2004 draw.

The Department opted to put the proposals for R12-4-104 and R12-4-107 in separate packages should the Commission not like one of the rules.

Under Option 1, the effective date of the rules would be April 3, 2004, which would be in time for implementation in the fall 2004 draw. Option 1 would require a shortened timeframe for public input, while still providing for public meetings in all Regions and in the Phoenix metro area.

Under Option 2, the rules would be effective by August 2004, in time for implementation in the 2005 spring draw. It would offer the Commission more latitude in the scheduling of public meetings since it provides for a longer timeframe for the public input process.

Motion: Golightly moved and Gilstrap seconded THAT THE COMMISSION VOTE TO GIVE THE DEPARTMENT DIRECTION ON INITIATING RULEMAKING ON ARTICLE 1, DEFINITIONS, AND GENERAL PROVISIONS, INCLUDING BUT NOT LIMITED TO RULES R12-4-104, APPLICATION PROCEDURES FOR ISSUANCE OF HUNT PERMIT-TAGS BY DRAWING AND R12-4-107, BONUS POINTS APPLYING THE OPTION 1 EFFECTIVE RULE DATES FOR THE FALL 2004 DRAW.

Mr. Adkins stated the Commission needed to go into executive session to receive legal advice regarding this item. Commissioners Golightly and Gilstrap withdrew the motion.

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20. Conceptual Approach for the Future Expenditures of Funds from the Prop 202-Arizona Wildlife Conservation Fund

Presenter: Steve Ferrell, Deputy Director

The Department presented yesterday a conceptual approach for the future expenditures of funds from the Prop 202-Arizona Wildlife Conservation Fund.

Mr. Ferrell stated the Department would bring back a '04 budget for Prop 202 at the January 2004 Commission meeting. Commissioner Gilstrap recommended the budget proposal should reflect inclusion of the scholastic shooting program that was discussed earlier today. If possible, it should evolve from the (marketing) business plan or set aside an amount after the plan is developed.

Motion: Golightly moved and Gilstrap seconded THAT THE DEPARTMENT BRING BACK A '04 BUDGET FOR PROP 202 AT THE JANUARY 2004 COMMISSION MEETING.

Commissioner Melton wanted to see more money go towards habitat improvements and on-the-ground projects, such as wildlife water developments. Mr. Ferrell noted the magnitude for on-the-ground projects being proposed by Commissioner Melton would consist of about \$2.4 million of the \$3.1. Director Shroufe stated the Department could further refine and clarify what was meant and not change the concepts. Chair pro tem Chilton agreed with Commissioner Melton.

Vote: Unanimous

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24. Future Agenda Items

Mr. Ferrell reviewed action items and future agenda items previously discussed. In a future agenda under the federal lands update, the Department would provide a briefing on the measures of success for projects on the Apache-Sitgreaves.

The Department would finalize the lands acquisition process as modified and the substantive policy statement. The substantive policy statement needed to be read a second time at the October meeting.

A future agenda item would be presentation of a business plan by the Department to implement the National Shooting Sports Foundation program in Arizona.

At the October meeting, the Master Plan for the Phoenix headquarters would be brought back to the Commission. Also for the October agenda would be changing the location for the December meeting to Lake Havasu City. Another item for the October meeting would be to draft the Article 1 five-year rules review to allow for discussion of a license and tag fee increase.

Chair pro tem Chilton stated Steve Titla, General Counsel for the San Carlos Apache Tribe, contacted her and wanted to make a presentation to the Commission in October regarding social and economic concerns about Mexican wolves on the Reservation. After further discussion, it was decided invitations would be sent to the White Mountain Apache, Navajo, Hopi, Zuni and New Mexico tribes in the primary and secondary reintroduction zones to allow them an opportunity to comment on the wolf project.

At the December meeting, the Department would provide an update regarding Section 7 consultations on the 4 Big River Fish and Department efforts in working with the U.S. Fish and Wildlife Service.

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17. Potential Rule Changes to Article 1, Definitions and General Provisions, Including but not Limited to Rules R12-4-104 and R12-4-107 – cont'd.

Motion: Melton moved and Gilstrap seconded THAT THE COMMISSION GO INTO EXECUTIVE SESSION TO RECEIVE LEGAL ADVICE.

Vote: Unanimous

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Meeting recessed at 4:10 p.m.

Meeting reconvened at 4:55 p.m.

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17. Potential Rule Changes to Article 1, Definitions and General Provisions, Including but not Limited to Rules R12-4-104 and R12-4-107 – cont'd.

Motion: Golightly moved and Gilstrap seconded THAT THE COMMISSION VOTE TO GIVE THE DEPARTMENT DIRECTION ON INITIATING RULEMAKING ON R12-4-107, BONUS POINTS APPLYING THE OPTION 1 EFFECTIVE RULE DATES FOR THE FALL 2004 DRAW.

Vote: Unanimous

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17.a. Request to Approve a Notice of Rulemaking Docket Opening for Article 1, Definitions and General Provisions, Including but Not Limited to Rule R12-4-104

and

17.b. Request to Approve the Notice of Proposed Rulemaking and the Preliminary Economic, Small Business and Consumer Impact Statement for R12-4-104, Application Procedures for Issuance of Hunt Permit-tags by Drawing

Based on the above action for Item 17, these items were not discussed and voted on by the Commission.

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17.c. Request to Approve a Notice of Rulemaking Docket Opening for Article 1, Definitions and General Provisions, Including but Not Limited to R12-4-107, Bonus Points

Presenter: Carlos Ramirez, Rulewriter

The anticipated effective date for the rule amendments will be April 3, 2004.

Motion: Golightly moved and Melton seconded THAT THE COMMISSION VOTE TO APPROVE A NOTICE OF RULEMAKING DOCKET OPENING FOR THE AMENDMENT OF ARTICLE 1, DEFINITIONS AND GENERAL PROVISIONS, INCLUDING BUT NOT LIMITED TO RULE R12-4-107, BONUS POINTS.

Vote: Unanimous

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17.d. Request to Approve the Notice of Proposed Rulemaking and the Preliminary Economic, Small Business and Consumer Impact Statement for R12-4-107, Bonus Points

Presenter: Carlos Ramirez, Rulewriter

Rule changes to R12-4-107 would include the creation of a Bonus Point Only hunt number and provisions for the Department to reinstate a bonus point for military personnel or public agency employees who are unable to use their hunt permit-tag due to mobilization or activation in response to a declared national or state emergency. The anticipated effective date for the rule amendments will be April 3, 2004.

Motion: Golightly moved and Melton seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF PROPOSED RULEMAKING AND THE PRELIMINARY ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT FOR R12-4-107, BONUS POINTS, FOR FILING WITH THE SECRETARY OF STATE.

Vote: Unanimous

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18. Call to the Public - There were no comments.

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Motion: Golightly moved and Melton seconded THAT THE MEETING ADJOURN.

Vote: Unanimous

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Meeting adjourned 5:02 p.m.

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