

Minutes of the Meeting of the
Arizona Game and Fish Commission
Thursday, December 4, 2003 – 7:00 a.m.
Holiday Inn, 245 London Bridge Ave.
Lake Havasu City, 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
Asst. A.G. Jay Adkins
Asst. A.G. Jim Odenkirk

Chairman Carter called the meeting to order at 7:03 a.m.

1. Executive Session

- a. Purchase, Sale or Lease of Real Property
- 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.
- c. Legal Advice. Eligibility of using Prop 202, Arizona Wildlife Conservation Fund, monies for the construction of shooting facilities
- d. Personnel Matters. Director's goals and objectives

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

Vote: Unanimous

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Meeting recessed at 7:05 a.m.

Meeting reconvened at 8:12 a.m.

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Chairman Carter called the meeting and workshop to order at 8:12 a.m.

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Workshop:2. List of Species for which Heritage "IIAPM" Funds Can be Expended

Presenter: Terry B. Johnson, Nongame Branch Chief

The Commission and Department staff participated in a workshop regarding a draft list of species that meet the criteria of A.R.S. §17-296, defining the "sensitive species" for which Heritage "IIAPM" funds (including land acquisition funds) can be expended. The Commission took no action in the workshop.

Mr. Johnson assured the Commission the following list was consistent with the four aspects that have driven the Heritage Program all along.

1. The proposal is consistent with the requirements of the Heritage initiative
2. The proposal is consistent with the Strategic Plan
3. The proposal is consistent with the Auditor General's requirements related to its report
4. The proposal is consistent with the Commission's efforts to be proactive to do whatever is necessary to ensure species are not listed

This was not a process approach, but rather, a means of identifying species for which processes apply. The processes included land acquisitions.

Species are looked at statewide and the Department tries to determine whether they are currently imperiled because of limited distribution, various threats or management inadequacies, or are likely to become imperiled in the foreseeable future. This includes species for which we don't know enough to answer either question. The Department's list is used not only for statewide Heritage activities, but also management of lands throughout the state.

Commissioner Chilton asked if the species needed to be present in Arizona at this time. Mr. Johnson stated some are not; under Heritage in Title 17, the obligation includes working with native species that are not in the state at the present time but have been extirpated from the state. The restoration of elements of natural diversity that have been lost is a part of the program as well. The Department has a position on some species in the state that are not firmly established, e.g., California condor and jaguar.

Commissioner Chilton thought this list would apply only to Commission-owned properties. Mr. Johnson reiterated the list applies to species statewide. The issue is the land acquisition or protection program vs. Heritage and conservation activities statewide. The Heritage Fund applies to wildlife conservation activities throughout the state; the land acquisition or protection portion of the Heritage Fund applies to those lands acquired either through fee simple or conservation easements, etc. The list applies to both elements; on the acquisition side, only those species that are considered endangered, threatened or candidate would be species for which lands can be acquired. The other species of interest to the Department for conservation purposes flow from both Heritage

and Title 17. The two complementary pools overlap each other when it comes to acquiring properties.

Commissioner Chilton referenced the Forest Guardians' proposed Notice of Intent regarding the black-tailed prairie dog. The group's chief argument is that voluntary conservation measures taken by states were not adequate to prevent listing. The punitive power of the federal listing was necessary. She wanted this to be looked at carefully because it undermined efforts at the state level to keep species from being listed. Mr. Johnson stated both elements needed to be looked at: what is on paper and what is actually happening on the ground.

Chairman Carter was frustrated in that the agency has not been proactive enough through science in the evaluation of habitat to insure that everything possible is being done related to conservation. Courts are driving public policy. He suggested to the Commission that it look at the four aspects listed earlier to insure they were consistent with the mission, obligations, and directions the Commission has set for the Department, and then to insure the appropriate resources are applied to defend science. The Department would then be prepared to respond to any allegations. It was important to be proactive.

Commissioner Chilton stated a scientific, factual presentation of the need for conservation actions to preserve, conserve and enhance populations of species should be considered. If what we are trying to achieve is not carefully stated, the Commission's actions could be confused by other people in court.

Anything omitted on the draft list would be covered under assemblages. This list of assemblages covers every species statewide that is not already on the list. This factor should be thought about; also the recommendation from the Department states the Director should be allowed to add any species he wants. She did not trust how other parties could play things done by the Commission. The Commission should make extremely clear what was really meant by what it was doing.

Commissioner Gilstrap stated the Commission should be able to support its position in a lawsuit. The Department should be developing knowledge and science in order to give opinions. The Commission had a responsibility to 850 species. We have carved out a group that needs special attention, and within that, by initiative or law, there is a responsibility on acquiring lands to fall within stated parameters. Mr. Johnson noted this list did not increase the Commission's authority. It only focused on the agency's efforts under the Heritage Fund on those species considered to be imperiled or those that were likely to become imperiled and some species that we don't have enough information on to make a decision. The ultimate problem would be the Department's inactivity or lack of management or conservation attention in the absence of information that would cause the Department to argue philosophy in the courts and in decisions that are made. What has bearing in the court is whether or not there is regulatory effect within a state on those species that are listed. This is not a regulatory list; Game and Fish regulation is Title 17. The list is used merely to focus conservation efforts to try to gather information.

Chairman Carter noted the Department needed to improve its communications with regard to multiple use on public lands. He believed the movement in the direction of being proactive on species conservation has been a wise move. He would like to see the

courts get out of public policy decisions and let the people who are responsible for setting public policy do so. The other issue that needs work is public perception. We need to be more effective in communicating and providing information to the public so that it better understands the reason why the Commission takes the action it takes. He suggested placing a higher priority on communications in the Director's goals for 2004.

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Workshop adjourned 9:03 a.m.

Public session reconvened 9:15 a.m.

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The commissioners introduced themselves and Chairman Carter introduced Director's staff. The meeting followed an agenda dated November 14, 2003.

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3. List of Species for which Heritage "IIAPM" Can be Expended

Presenter: Terry B. Johnson, Nongame Branch Chief

The Heritage Fund's "Identification, Inventory, Acquisition, Protection, and Management" component is mainly focused on conservation of "sensitive habitat." Heritage land acquisition funds must, by law, be spent on conservation of sensitive habitat for endangered, threatened and candidate species of wildlife. In order to conserve sensitive species, the Department must gather and apply information on species of wildlife and, ultimately, manage these species and their habitats.

The statutes establishing the Heritage Fund do not prescribe which species or habitats must be considered sensitive. The first step in acquiring, protecting, and/or managing sensitive habitats is to identify species the Commission wishes to "establish," i.e., maintain and reestablish, or for which it wishes to "ensure continued existence," i.e., manage, conserve, and protect; and through these species, the sensitive habitats that are the primary targets of land conservation measures, i.e., acquisition, protection, and management.

Motion: Gilstrap moved and Chilton seconded THAT THE COMMISSION VOTE TO APPROVE THE DEPARTMENT'S DRAFT LIST OF "SENSITIVE SPECIES," DEVELOPED UNDER GUIDANCE BY A.R.S. §17-296 AND THUS DEFINING THE SPECIES FOR WHICH HERITAGE "IIAPM" FUNDS (INCLUDING LAND ACQUISITION FUNDS) CAN BE EXPENDED.

Vote: Unanimous

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4. Commission Decision on Approving an Intergovernmental Agreement with Various State, Federal, Tribal and County Government Cooperators for Adaptive Management of the Mexican Wolf

Presenter: Terry B. Johnson, Nongame Branch Chief

As directed by the Commission in September 2002, the Department has been working to restructure adaptive management of the Mexican wolf reintroduction project. Cooperators include the New Mexico Department of Game and Fish; U.S. Fish and Wildlife Service; U.S. Forest Service; Wildlife Services; White Mountain Apache Tribe; Graham, Greenlee and Navajo Counties in Arizona; Catron and Sierra Counties in New Mexico; and the New Mexico Department of Agriculture. These entities have contributed to the development of a draft agreement for adaptive management of the project that was presented to the Commission today.

Motion: Melton moved and Gilstrap seconded THAT THE COMMISSION VOTE TO AUTHORIZE THE DEPARTMENT TO EXECUTE, RENEW, AND AMEND AS NECESSARY, AN AGREEMENT WITH VARIOUS COOPERATORS FOR ADAPTIVE MANAGEMENT OF THE MEXICAN WOLF.

It was the consensus of the Commission to send a letter signed by all commissioners to Richard Remington, Region I Supervisor, expressing appreciation for his efforts in this endeavor.

Vote: Unanimous

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5. 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.

Additional information was provided regarding the Tumacacori Highlands Wilderness proposal, which consists of 85,000 acres administered by the Coronado National Forest. The Department was familiar with the area being proposed for wilderness designation. Regarding impacts to the Department's mission, the Department has been struggling with special land designations, e.g., wilderness. Wilderness designation in this area would clearly adversely impact the Commission's mission. It would impact the Department's ability to implement necessary fish and wildlife projects in the wilderness area.

Commissioner Chilton understood Congressman Grijalva had a bill in Congress that would restrict road maintenance and construction and rights-of-way in areas designated as wilderness. Mr. Kennedy stated the Department, based on what has been reviewed to this point, felt there were no added protections necessary for this area and would support continued land management by the U.S. Forest Service and fish and wildlife management by the Commission.

Mr. Kennedy stated there was no bill at this point. The Department would track this very aggressively. Chairman Carter noted the Department was concerned about public access and sustainability of wildlife populations. If legislation moves forward, the best position would be a map, i.e., public roads and access routes clearly identified by Congress as an addendum to the legislation.

Commissioner Chilton noted the proposed wilderness area covers much of Game Management Unit (GMU) 36B; GMU 36A and 36C, which are already heavily impacted, e.g., limited access. If access and utilization in GMU 36B is curtailed or made more difficult, more people will use 36A and 36C for recreation. There will be a rebound effect where local landowners who provide access now are going to stop. Mr. Kennedy stated that on many acres of the adjacent parcels, access is already limited or restricted. The Department would move forward on developing a map.

Regarding Frye Mesa, Director Shroufe stated a meeting was occurring today with the entities involved and he hoped a MOU could be worked out. He would advise the Commission as to the outcome of the meeting.

Regarding Fort Bowie, Mr. Kennedy stated a map has been developed and is ready for Commission review. He also noted the Department continued to work through the Governor's Advisory Council on forest health. The Commission would be provided with a copy of the guiding principles of the Council, as well as information on the forest health initiative. The map of Fort Bowie would also be distributed to the Commission.

Public comment

Jay Krienitz represented the Arizona Wilderness Coalition and was its Western Deserts Regional Coordinator. The coalition coordinated with the Sky Island Alliance. He studied pieces of land for wilderness characteristics and utilized the Wilderness Acts as the main tool. He stated the Tumacacori Highlands wilderness proposal was not official. He stated the Sky Island Alliance would be willing to make a presentation and bring a map to the Commission to discuss motorized and non-motorized access points.

Chairman Carter noted this item would be on the March Commission meeting agenda. There would be time to allow for briefings for those involved in the proposal.

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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 public support on the recent judgment on the Bellemont Shooting Facility.

Commissioner Gilstrap asked for a briefing regarding positive activities in the Tucson area. Mr. Baldwin stated he looked at some land Pima County Parks and Natural Resources had south of the proposed shooting range. This would be for a potential archery facility. It would be on county property. He looked at a private range on Valencia Road and opportunities to have a cooperative agreement to maintain it have been discussed with private and public entities.

The Department has been participating in the Tucson Basin Shooting Range Study. The first step was to establish major issues and find out concerns of various groups related to recreational shooting in the Tucson basin. The final report will be out soon. None of the groups saw recreational shooting as having to be totally eliminated. Everyone agreed there was some level of management necessary. The next step in the process will be to design a public process to bring people together in the Tucson basin area to begin to formalize what was needed to address problems, e.g., vandalism, littering, lack of shooting sites, and long-term formal and informal shooting site designations on public and private lands. The Department was participating as a key sponsor in this process.

Director Shroufe traveled to Los Angeles to attend a national conference on partnerships and to participate on a panel related to recreational shooting activities.

Chairman Carter stated the Department needed to do things on-the-ground expeditiously regarding shooting ranges and this should be on the Director's 2004 goals. Pima County was growing rapidly and sites needed to be identified for shooting ranges before they are developed.

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7. Statewide Shooting Ranges Grant Approval

Presenter: Kerry Baldwin, Education Branch Chief

For additional background information, see Commission meeting minutes for December 7, 2001, pages 8-9; June 21, 2002, page 9; August 9, 2002, page 6; April 11, 2003, pages 4 and 13.

Maricopa County formally requested that the Department provide \$60,000 as matching funds for the Pulte Homes contribution to help complete the public range design and construction documents for Buckeye Hills.

The Commission has over \$70,000 of unencumbered Statewide Shooting Ranges grant funds remaining in the current fiscal year appropriation. The formal grant cycle has been completed and the Commission has approved all the grants recommended by the Department. If the Commission approves the County's request, the FY 04 fund balance will still be more than the 10% emergency hold-back requested by the Commission.

Mr. Baldwin stated this particular piece of property surrounded by Bureau of Land Management land was not up for development. About 1-1/2 miles south of the site was a major prison system; to the east was going to be a major regional landfill; to the north was the Commission's Black Butte Wildlife Area. This constituted a good long-term opportunity for a shooting range facility. Additional BLM land could be added for a clay target facility.

Maricopa County Parks and Recreation Department was hoping to operate the public portion of the facility.

Motion: Chilton moved and Melton seconded THAT THE COMMISSION VOTE TO APPROVE THE MARICOPA COUNTY GRANT PROPOSAL WITH ALL DEPARTMENT STIPULATIONS.

Vote: Unanimous

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8. Call to the Public

There were no comments.

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9. State and Federal Legislation

Presenter: Anthony Guiles, Legislative Liaison

The Legislature is in special session dealing with CPS and DOC issues. The regular session will begin January 12. Twenty-five bills have been filed at this time. Representative Biggs requested assistance from the Department on drafting a bill to allow game tags for terminally ill children. A request from Representative Nelson was received regarding two bills he is running. One involves term limits for commissioners; the other is on shooting ranges. A meeting would occur soon with Representative Nelson.

The Department was not running legislation.

On the federal side, the President signed the Healthy Forest legislation yesterday. Another bill (S. 1840) involves authority to appropriate \$50 million annually for voluntary public access in wildlife habitat. The states would administer these programs and apply for grants. Congressmen Grijalva and Shay are sponsoring voluntary grazing permit buy-out legislation.

Commissioner Chilton asked about what was being done to address the wildfire disaster potential at Mount Graham. Mr. Kennedy stated Mount Graham was not specifically mentioned in the Forest Restoration Act of 2003. The bill's focus, however, was on protecting communities and structures first, as well as public safety. Chairman Carter spoke with Graham County Supervisor Herrington on this issue. He felt there would be a commitment by Congressmen Kolbe and Renzi and Senator Kyl to address specific sites of concern.

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Meeting recessed at 10:12 a.m.

Meeting reconvened 10:30 a.m.

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10. Request for Commission Approval to Enter Into an Agreement with the National Park Service to Conduct Inventories and Monitoring of Cactus Ferruginous Pygmy Owls on Organ Pipe National Monument

Presenter: Jim deVos, Research Branch Chief

This species may occupy areas involved in a construction project along the International boundary. The National Park Service would like to enter into a cooperative agreement

with the Department to conduct inventories. The total estimated budget for the proposal is \$41,000. The Department would assist with some of the taxonomic work being done as part of a separate project. The focus of the project would be to inventory and identify sensitive areas so that mitigation measures can be taken if needed.

Motion: Chilton moved and Melton seconded THAT THE COMMISSION VOTE TO APPROVE THE DEPARTMENT TO ENTER INTO AN AGREEMENT WITH THE NATIONAL PARK SERVICE TO CONDUCT INVENTORIES FOR CACTUS FERRUGINOUS PYGMY OWLS ON ORGAN PIPE NATIONAL MONUMENT AS OUTLINED IN THE ATTACHED AGREEMENT.

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

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17. Headquarters Master Planning Committee

Presenter: Richard Rico, Assistant Director, Special Services

For additional information, see Commission meeting minutes for October 17, 2003, pages 16-17.

The purpose of the committee would be to evaluate and make recommendations regarding site selection, conceptual plans, potential financing packages and associated timelines. The following employees were recommended for assignment to the committee:

- Richard Rico, Assistant Director
- Tony Guiles, Legislative Liaison
- Fred Bloom, Engineering Section Supervisor
- Jim Odenkirk, Assistant Attorney General

The Department also recommended that a commissioner and volunteers from the community with expertise in master planning public use facilities be members of this committee.

Motion: Melton moved and Chilton seconded THAT THE COMMISSION VOTE TO APPROVE THE DEPARTMENT’S RECOMMENDED MEMBERS AND ASSIGN COMMISSIONER GILSTRAP TO SERVE ON THIS COMMITTEE.

Vote: Unanimous

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18. A Report on the Progress and Activities that have Occurred Since Implementation of the Memorandum of Agreement with the U.S. Fish and Wildlife Service Regarding Endangered Species Act Section 7

Presenter: Bruce D. Taubert, Assistant Director, Wildlife Management

The Department provided a report on the progress and activities that have occurred since implementation of the umbrella Memorandum of Agreement with the U.S. Fish and Wildlife Service (FWS) regarding Endangered Species Act (ESA) Section 7. The Commission took no action on this item.

One of the activities that occur with endangered species in Section 7 Consultation is to look at projects that are planned or have been accomplished and determine the effects on those species. The FWS then directs how those projects may or may not proceed.

A meeting occurred a few weeks ago with Steve Spangle, Director of the Ecological Services Office for the FWS; Mr. Taubert; and Department Branch Chiefs, John Kennedy (Habitat), Terry Johnson (Nongame), and Larry Riley (Fisheries). Some dialogue was started to determine how effective we had been in implementing the MOA and to attempt to resolve some of the issues that needed to be overcome in order to implement the full intent of the MOA and to have a more communicative and collaborative process in dealing with Section 7 Consultations. The process is being met; there were some problems and issues that needed to be overcome. The process is one of getting the Department involved in the documentation and to ensure the Department provides the FWS with information to make determinations. The Department is also involved in making determinations.

Some state agencies have taken the option not to give approval (page 10, g. in the agreement). This is probably happening at staff level. Mr. Taubert intended on having the Director meet with those state directors to inform them of the importance of Game and Fish being involved in order to be successful in implementing results of the consultations.

It is believed the Department has established processes by which it could be involved in scientific analysis of projects. The Department was in the process of transferring information to the FWS in the hope they would use our information.

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20. 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 further updates or questions.

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21. Director's and Chairman's Reports

Chairman Carter participated in two meetings related to the Frye Mesa project. He attended a prairie dog meeting and a meeting regarding shooting range issues in the Tucson basin. He participated in the Southeastern Arizona Symposium on Renewable and Natural Resources.

Director Shroufe attended an Invasive Advisory Council meeting in Washington, D.C. He attended two Wildlife Conservation Council (WCC) meetings and attended a BEC meeting. He attended a bi-annual meeting of the School of Renewable Natural Resources and a meeting of the Governor's Growing Smarter Council. He attended a joint venture meeting in Los Angeles that the Department of Interior sponsored; he gave a shooting range presentation. He attended a management team meeting and sat on an interview panel for the Region I Supervisor position (to replace Richard Remington who will be retiring in the near future).

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22. Commissioners' Reports

Commissioner Melton had nothing of significance to report.

Commissioner Gilstrap attended a WCC meeting. He attended a meeting related to habitat partnerships. Department personnel were present. He thought it was the start of re-charge of HPCs. The Eastern Counties Organization met to approve a draft resolution in support of black-tailed prairie dog actions. Chairman Carter noted that previously the Eastern Counties Organization was totally opposed to not only black-tailed prairie dog reintroduction but to even continue with the 12-step process associated with the determination. This turn-around demonstrated the importance of getting locally affected people and governmental entities involved in the process.

Commissioner Golightly was involved in shooting range issues in northern Arizona.

Commissioner Chilton attended a workshop of the Natural Resources Conservation Service. She spent two days with range scientists from New Mexico and one day with the U.S. Forest Service in GMU 36B. She spent some time talking with hunters in GMU 36 to get input on their observations on whitetail and mule deer hunts. Hunters were finding a lot of mountain lion kills. Range conditions were excellent, but other species were impacting the deer populations.

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23. Approval of Minutes

Motion: Gilstrap moved and Melton seconded THAT THE COMMISSION APPROVE THE MINUTES FOR THE TELEPHONE CONFERENCE CALL ON OCTOBER 9, 2003, AND MEETING OF OCTOBER 17-18, 2003.

Vote: Unanimous

The minutes for September 4-6, 2003, were signed.

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26. Preview of the 2003 Year in Review Video for the January 17, 2004, Saturday Afternoon "Meet the Commission" Event

Presenter: Dana Yost, Executive Staff Assistant

Mr. Yost provided some background. The Department prepared a video highlighting key events and Department and Commission successes of 2003. The Commission previewed the video and agreed the Department did an excellent job.

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Meeting recessed at 11:18 a.m.

Meeting reconvened 11:38 a.m.

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1. Executive Session – cont'd.

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

Vote: Unanimous

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Meeting recessed at 11:39 a.m.

Meeting reconvened at 1:30 p.m.

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11. 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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12. Rehearing Request Regarding Previous License Revocation/Civil Assessment

Presenter: Leonard Ordway, Law Enforcement Branch Chief

Chad Smith requested that the Commission schedule a rehearing regarding the action taken on September 5, 2003. He was present at today's meeting and was represented by counsel Paul Roberts.

Chairman Carter that since he was absent when action was taken on this item in September, he would not participate in discussion for action today but would preside over the item.

Mr. Ordway noted the Department received a total of 14 letters from the public regarding this matter. Case officer Scott Poppenberger was present at today's meeting.

Motion: Gilstrap moved THAT THE COMMISSION REVIEW THE ATTACHED DOCUMENTS AND, BASED ON THE CONCLUSION THAT NONE OF THE CAUSES LISTED IN COMMISSION RULE R12-4-607, SECTION D. EXIST, VOTE TO AFFIRM ITS ORIGINAL DECISION AND NOT GRANT A REHEARING.

Motion died for lack of a second.

Motion: Chilton moved and Melton seconded THAT THE COMMISSION RECONSIDER THE ISSUE OF CHAD SMITH.

Vote: Chilton, Melton and Golightly - Aye
Gilstrap – Nay
Chair – Did not Vote
Motion passed 3 to 1

The rehearing continued at today's meeting. Mr. Ordway noted Mr. Smith paid the civil assessment amount of \$2450 on October 3, 2003. Mr. Tremain also submitted civil restitution to the state but did not request a rehearing.

Commissioner Chilton noted one of the letters submitted stated Smith had permission from some of the family to hunt on the land. Commissioner Golightly clarified he understood Smith had permission to scout on the ranch but not hunt. Mr. Ordway read the referenced letter from Thomas Perkins into the record. In part, the letter stated:

I have understood that the Commission thought Chad had lied to Scott and you about having permission to hunt on our private property. I am just one of a large family. It has been my policy to have the hunter receive a written permission slip before hunting. Some of the other family members felt they may have given Chad permission to guide the hunter on our property without written permission, as their intention was to hunt for a particular antelope, not on us.

Officer Poppenberger stated he was not aware of Perkins' letter. He stated the Perkins' ranch, on private land, was adjacent to the area this act occurred. The animal Smith was pursuing in his vehicle were attempting to get to the private land. Smith did not have permission at the time of the hunt and that was stated in a previous letter. Officer Poppenberger had knowledge of who had permission to be on the ranch as Mr. Perkins provided him with a list of those who received permission to hunt. Shortly after the criminal trial, Officer Poppenberger checked again with Mr. Perkins to ensure Smith did not have permission to hunt on the ranch. At that time, Mr. Perkins restated Smith did not have permission to hunt on the ranch.

Commissioner Golightly stated nothing affirmed to him that Smith had permission to hunt on the ranch. Commissioner Chilton stated Perkins' sent the letter and requested a reduction in the number of years of the license revocation. The family gave permission to hunt a certain antelope. Mr. Ordway noted at the time the animal was not on the property and the family believed the hunt would occur off the property.

Motion: Chilton moved THAT THE COMMISSION REDUCE THE NUMBER OF YEARS FOR THE REVOCATION TO TWO.

Motion died for lack of a second.

Motion: Chilton moved and Melton seconded THAT THE COMMISSION REDUCE THE NUMBER OF YEARS FOR THE REVOCATION TO THREE.

Vote: Chilton and Melton – Aye
Gilstrap and Golightly – Nay
Chair did not Vote
Motion failed due to lack of majority

Motion: Chilton moved and Golightly seconded THAT THE COMMISSION REDUCE THE NUMBER OF YEARS FOR THE REVOCATION TO FOUR.

Vote: Chilton, Melton and Golightly – Aye
Gilstrap – Nay
Chair did not Vote
Motion passed 3 to 1

Both Commissioners Gilstrap and Golightly agreed that guides were held at a higher level than the average hunter. They must also demonstrate honesty and integrity. He believed the Commission had to uphold its responsibility in being consistent in cases involving guides. The Commission did not determine innocence or guilt; that decision was left up to the courts.

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13. Presentation of the Draft Arizona Game and Fish Department Guidelines and Recommendations for the 2004-2005 Hunting and Trapping Seasons and Proposed Changes to Commission Rules Regarding Wildlife Areas for Commission Approval

Presenter: Tice Supplee, Game Branch Chief

Upon approval of the guidelines by the Commission, the public will be informed of the recommendations. Public comments will be accepted until March 1, 2004. These comments will be sent to the Department's six regional offices for consideration in preparing the final hunt recommendation package for the fall 2004 hunts, which will be presented at the April 17, 2004, Commission meeting.

The Department's proposed changes and Commission directives for the 2004-2005 hunting seasons were:

Commission Order 2: Deer

Two percent of the general deer permits will be juniors-only.

Rotations for deer this year will be: juniors-only deer in Unit 24B, and muzzleloader deer in Units 12AE and 24A. All other juniors-only and muzzleloader seasons will remain the same.

Create a Unit 12B West hunt area to be used to limit hunter harvest on the Paria Plateau. A portion of the permits will still be available to hunt in this area.

Implement antlerless deer harvest in Unit 12AW as needed.

Commission Order 3: Pronghorn Antelope

Two and a half percent of the general and muzzleloader permits will be juniors-only.

Potentially close Units 12A and 12B to the general firearms pronghorn season; retain archery season.

Potentially close one or all of the archery, muzzleloader, or general harvest of pronghorn in Unit 34B.

Alter the hunt area boundaries in Unit 19B to reflect the construction and opening of the newer, paved Fain Road.

Commission Order 4: Elk

Five percent of the total elk permits will be juniors-only (antlerless).

Rotations for elk this year will be: early general bull in Units 1, 3A and 3C, 8 and 21; muzzleloader bull in Units 3B, 4B, 5BS, and 23S; and archery bull in Unit 22S.

Change the legal method of take and dates in the Winslow hunt area in Units 4B and 5A from general to archery only. Four new archery-only hunts will be held between September 1 through December 31, 2004.

Add four limited opportunity elk hunts to the Canyon Creek hunt area in Unit 23 to address riparian recovery within areas impacted by the Rodeo-Chediski fire.

Commission Order 5: Turkey

Juniors-only hunting opportunities will be offered at levels comparable to previous years. Season dates will coincide with the general fall and spring seasons.

Eliminate the juniors-only turkey hunt in Unit 23. Permitted opportunities will be accommodated in other open units.

Eliminate the general fall turkey hunt in Unit 13B South and eliminate the archery fall turkey hunt in Unit 13A.

Commission Order 6: Javelina

Juniors-only hunting opportunities will be offered at levels comparable to previous years.

Commission Order 7: Bighorn Sheep

No changes.

Commission Order 8: Buffalo

Eliminate one hunt on the Raymond Ranch bison herd to adjust harvest to meet management objectives; add a hunt on the House Rock bison herd to adjust harvest to meet management objectives.

Commission Order 9: Bear

No changes.

Commission Order 10: Mountain Lion

Change the legal animal to “any lion except spotted kittens or female accompanied by spotted kittens.” Additionally, multiple bag limits and boundaries will be evaluated in regards to population management objectives in the following units: 13A/B; 16AS/18BS; 21 West; 22 (south of Arizona Highway 87 and F.S. Road 143, and west of Arizona Highway 188); 28 (south of U.S. Highway 70); and 37B (north of the Gila River).

Commission Orders 11: Squirrel; 12: Cottontail Rabbit; 13: Predatory and Fur-bearing Mammals; 14: Other Birds and Mammals; 15: Pheasant; 16: Quail; 17: Chukar Partridge; 18: Blue Grouse; 19: Doves; 20: Band-tailed Pigeon; 21: Waterfowl; 22: Common Snipe; 23: Trapping; and 24: Sandhill Crane

No changes suggested by the Department.

Commission Order 26: Population Management Hunts

To date, the Department has issued permits for these hunts for two species: bison and elk. Each bison population management hunt addressed bison that had left the Raymond Ranch Wildlife Area. Ten bison permits were issued. Elk population management hunts have been used to address issues in Units 1, 4B, 6A, and 19B; 57 permits have been allocated to date. Hunt success has varied in each elk hunt, but the hunts have been successful in reducing private land conflicts.

Commissioner Golightly brought up the issue of success in the kill rate and stated it did not look very promising to him. Ms. Supplee noted that wildlife managers like having this option as it allows them a way to offer something to the private property landowner (private land depredation complaint). The landowner feels like the Department is trying to do something for them whether or not the harvest is successful. If unsuccessful, the Department may look into limited season hunts in adjacent units, as has happened in Camp Verde.

Commissioner Golightly asked if the Department has given any thought to have a draw that has an elk season concurrent with a deer season. The only way to get elk off the Kaibab is to allow deer hunters to purchase an elk tag if they want one.

Ms. Supplee noted this was discussed by the Elk Rules Team but did not carry forward. The reasons why could be researched in the team's report and presented to the Commission. She believed it would probably involve modifying the rules governing the draw.

Commission Order 29: Special Big Game License-Tag Hunts

The 2004-05 Special Big Game License-Tag seasons were approved at the October 2003 Commission meeting.

The Department will research the setting of special tag season dates and report back to the Commission on the findings concerning flexibility and options.

R12-4-803 Status of Wildlife Areas

The Arlington Wildlife Area (located in Unit 39) will have an additional restriction.

Motion: Melton moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE THE DRAFT ARIZONA GAME AND FISH DEPARTMENT GUIDELINES AND MANAGEMENT OBJECTIVES WITH GOALS, RECOMMENDATIONS, OR GUIDELINES FOR THE 2004-2005 HUNTING SEASONS.

Vote: Unanimous

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Meeting recessed at 3:12 p.m.

Meeting reconvened at 3:22 p.m.

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14. Request to Close the Rulemaking Record and Approve the Notice of Final Rulemaking and Economic, Small Business, and Consumer Impact Statement for R12-4-101, Definitions; R12-4-104, Application Procedures for Issuance of Hunt Permit-tags by Drawing; and R12-4-107, Bonus Point System for Filing with the Governor's Regulatory Review Council

Presenter: Mark Naugle, Rules and Risk Manager

For additional information, see Commission meeting minutes for October 18, 2003, pages 14-15; and September 5, 2003, pages 22-23 and 25-26.

If approved by the Commission, the Notice and the EIS will be filed with GRRC by December 22, 2003, for the GRRC February 2004 meeting. The rulemaking will become effective by April 3, 2004, in time for the spring draw.

Motion: Melton moved and Chilton seconded THAT THE COMMISSION VOTE TO CLOSE THE RULEMAKING RECORD AND APPROVE A NOTICE OF FINAL RULEMAKING AND ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT FOR R12-4-101, DEFINITIONS; R12-4-104, APPLICATION PROCEDURES FOR ISSUANCE OF HUNT PERMIT-TAGS BY DRAWING; AND R12-4-107, BONUS POINT SYSTEM, FOR FILING WITH THE GRRC. THE

RULEMAKING WILL AUTHORIZE THE PURCHASE OF BONUS POINTS THROUGH A "BONUS POINT HUNT NUMBER" (LIMITED TO ONE BONUS POINT PER YEAR, PER GENUS, PER APPLICANT), AND THE REINSTATEMENT OF BONUS POINTS FOR THOSE WHO RETURN HUNT PERMIT-TAGS ISSUED THROUGH THE DRAW DUE TO ACTIVATION IN RESPONSE TO A STATE OR NATIONAL EMERGENCY OR DECLARED ACTION.

Vote: Unanimous

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15. Request to Close the Rulemaking Record and Approve the Notice of Final Rulemaking and the Economic, Small Business and Consumer Impact Statements for Amendments to the following Article 3, Taking and Handling of Wildlife Rules: R12-4-301; R12-4-302; R12-4-303; R12-4-304; R12-4-305; R12-4-306; R12-4-307; R12-4-308; R12-4-310; R12-4-311; R12-4-312; R12-4-313; R12-4-314; R12-4-315; R12-4-316; R12-4-318; and R12-4-319; and for the Promulgation of New Article 3, Taking and Handling of Wildlife Rules R12-4-317 and R12-4-320 for Filing with the Governor's Regulatory Review Council

Presenter: Mark Naugle, Rules and Risk Manager

For additional information, see Commission meeting minutes for August 9, 2003, pages 23-24, and June 22, 2002, pages 30-31.

If approved by the Commission, the Notice of Final Rulemaking and the preliminary Economic, Small Business, and Consumer Impact Statements will be filed with GRRC by January 14, 2004, for its February 3, 2004 meeting. The anticipated effective dates for the rules are April 2004.

Motion: Chilton moved and Gilstrap seconded THAT THE COMMISSION VOTE TO CLOSE THE RULEMAKING RECORD, AND APPROVE THE NOTICE OF FINAL RULEMAKING AND THE ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENTS TO THE FOLLOWING ARTICLE 3, TAKING AND HANDLING OF WILDLIFE RULES: R12-4-301; R12-4-302; R12-4-303; R12-4-304; R12-4-305; R12-4-306; R12-4-307; R12-4-308; R12-4-310; R12-4-311; R12-4-312; R12-4-313; R12-4-314; R12-4-315; R12-4-316; R12-4-318; AND R12-4-319; AND FOR THE PROMULGATION OF NEW ARTICLE 3, TAKING AND HANDLING OF WILDLIFE RULES R12-4-317 and R12-4-320 FOR FILING WITH THE GOVERNOR'S REGULATORY REVIEW COUNCIL.

Vote: Unanimous

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16. Request to Approve the Notice of Proposed Rulemaking and the Preliminary Economic, Small Business and Consumer Impact Statements for Amendments to the Following Article 6 Rules of Practice Before the Commission Rules: R12-4-601, R12-4-602, R12-4-603, R12-4-604, R12-4-605, R12-4-606, R12-4-607, R12-4-609, and R12-4-610; and for the Promulgation of New Article 6 Rules of Practice Before the Commission Rule R12-4-611 for Filing with the Secretary of State

Presenter: Mark Naugle, Rules and Risk Manager

For additional information, see Commission meeting minutes for June 21, 2003, page 25, and June 22, 2002, page 31.

If approved by the Commission, the Notice of Proposed Rulemaking Docket will be filed with the Secretary of State by December 9, 2003, for publication in the *Arizona Administrative Register*. The anticipated date for the Article 6 rule amendments will be July 2004.

Motion: Gilstrap moved and Melton seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF FINAL RULEMAKING AND THE ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENTS FOR AMENDMENTS TO THE FOLLOWING ARTICLE 6 RULES OF PRACTICE BEFORE THE COMMISSION RULES: R12-4-601; R12-4-602; R12-4-603; R12-4-604; R12-4-605; R12-4-606; R12-4-607; R12-4-609; AND R12-4-610; AND FOR THE PROMULGATION OF NEW ARTICLE 6 RULES OF PRACTICE BEFORE THE COMMISSION RULE R12-4-611, FOR FILING WITH THE SECRETARY OF STATE.

Vote: Unanimous

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19. Call to the Public

There were no comments.

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24. Future Agenda Items

Commissioner Chilton wanted to receive regular updates on the wilderness issue; specifically, on accessibility for multiple uses that could be curtailed or complicated by the layering of additional regulations, e.g., wilderness designation. Commissioner Chilton noted there was separate legislation on access and use of roads; she wanted to be informed of all potential impacts.

The Frye Mesa MOU will be on the January meeting agenda.

Dana Yost, Executive Staff Assistant, reviewed future agenda and action items.

1. Provide a note of thanks to Richard Remington on Mexican wolf reintroduction issues
2. Develop a map for the Tumacacori area, including all roads
3. Frye Mesa MOU
4. Research making elk tags available to hunters and present recommendations to the Commission
5. Research setting of special tag season dates and report findings to the Commission concerning flexibility and options

6. Receive various updates on wilderness issues.
7. Prepare a note of thanks and certificate of appreciation from the Commission to John Kennedy in recognition of his service

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25. 2003 Annual Commission Awards Selection and Saturday Afternoon Meeting Agenda for the January 17, 2004, "Meet the Commission" Event

Presenter: Dana Yost, Executive Staff Assistant

The Commission made selections in a number of categories for the annual "Meet the Commission" awards banquet.

Wildlife Habitat Stewardship
Youth Environmentalist
Volunteer
Conservationist
Conservation Organization
Media
Outdoor Writer
Environmentalist
Award of Excellence

Motion: Chilton moved and Melton seconded THAT NICOLE VIDANA BE SELECTED FOR YOUTH ENVIRONMENTALIST OF THE YEAR.

Vote: Unanimous

Motion: Chilton moved and Melton seconded THAT TOM KAMPERT BE SELECTED FOR OUTDOOR WRITER OF THE YEAR.

Vote: Unanimous

Motion: Chilton moved and Golightly seconded THAT THE ARIZONA BOWHUNTER MAGAZINE BE SELECTED FOR MEDIA OF THE YEAR.

Vote: Unanimous

Motion: Chilton moved and Melton seconded THAT THE ARIZONA TRAPPERS ASSOCIATION AND THE ARIZONA BOWUNTER ASSOCIATION BE SELECTED FOR CONSERVATION ORGANIZATIONS OF THE YEAR.

Vote: Unanimous

Motion: Melton moved and Chilton seconded THAT JON FUGATE BE SELECTED FOR CONSERVATIONIST OF THE YEAR.

Vote: Unanimous

The President of the United States was nominated for Conservationist of the Year. After discussion, the Commission agreed to have the Department prepare a special resolution from the Commission recognizing the President's contributions to wildlife management and habitat in Arizona. The Commission would act upon this resolution at the January meeting, and the announcement would be made at the Commission Awards banquet.

Motion: Melton moved and Chilton seconded THAT JIM JETT BE SELECTED FOR ENVIRONMENTALIST OF THE YEAR.

Vote: Unanimous

Motion: Chilton moved and Gilstrap seconded THAT TERRY RICE AND DAVID ROGERS BE SELECTED FOR VOLUNTEERS OF THE YEAR.

Vote: Unanimous

Motion: Chilton moved and Golightly seconded THAT TOM CANIGLIA, U CROSS RANCH, BE SELECTED FOR A WILDLIFE HABITAT STEWARDSHIP AWARD.

Vote: Unanimous

Mr. Yost noted Babbitt Ranches would be given a special recognition award from the International Association of Fish and Wildlife Agencies at the Commission Awards banquet.

Motion: Gilstrap moved and Melton seconded THAT JIM FLETCHER, FLETCHER RANCH, BE SELECTED FOR A WILDLIFE HABITAT STEWARDSHIP AWARD.

Vote: Unanimous

By previous unanimous acclamation by the Commission, the following were selected for Awards of Excellence: Chuck Bell, Yuma Valley Rod and Gun Club newsletter, and Tom Blaine.

Motion: Melton moved and Gilstrap seconded THAT SENATOR ROBERT CANNELL AND REPRESENTATIVE JIM CARRUTHERS BE SELECTED FOR AWARDS OF EXCELLENCE.

Vote: Unanimous

Motion: Melton moved and Golightly seconded THAT THE PARKER TAKE A KID FISHING COMMITTEE (WALTER SHONTZ, CHAIRMAN) BE SELECTED FOR AN AWARD OF EXCELLENCE.

Vote: Unanimous

Ideas for the Saturday afternoon "Meet the Commission" agenda were reviewed and discussed. Commissioner Melton thought the Question and Answer period was very beneficial last year to the public and he wanted to do it again. Mr. Yost noted the video

would be shown during the afternoon and evening portions. Copies of the video would be available for purchase by the public at the Awards banquet.

Commissioner Chilton wanted to see something included in the video that shows the public the importance of shooting ranges in the training of law enforcement officers and wildlife managers. Commissioner Gilstrap suggested in the future having a professional moderator-type of prepared interview for the Commission at the afternoon function.

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Motion: Chilton moved and Gilstrap seconded THAT THE COMMISSION MEETING ADJOURN.

Vote: Unanimous

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Meeting adjourned at 4:15 p.m.

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Friday, December 5, 2003 – 11:00 a.m.

The Commission attended the Bill Williams River National Wildlife Refuge dedication ceremony, luncheon and facilities tour. No official action was taken.

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