

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, February 11, 2005 – 8:00 a.m.
Best Western Inn Suites Hotel
1450 Castle Dome Avenue
Yuma, Arizona

PRESENT: (Commission)

(Director's Staff)

Chairman W. Hays Gilstrap
Commissioner Joe Melton
Commissioner Michael M. Golightly
Commissioner William H. McLean
Commissioner Sue Chilton

Director Duane L. Shroufe
Deputy Director Steve K. Ferrell
Assistant Attorney General Jim Odenkirk
Assistant Attorney General Shelley Cutts

Chairman Gilstrap called the meeting to order at 8:05 a.m. and announced a change to the usual order of the agenda. Executive Session will take place later and the meeting will begin with regular items. The Commissioners introduced themselves and Chairman Gilstrap introduced the Director, and the Director's staff.

This meeting follows an agenda dated January 24, 2005.

1. Litigation Report

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

Mr. Odenkirk referred the Commission to the Litigation Report stating that there was little new information since the last Commission Meeting. Mr. Odenkirk suggested that this item remain open pending the outcome of Executive Session in case the Commission had any decision or action they wanted to make.

Commissioner Golightly asked if the final settlement agreement on the Bellemont Range was expected soon.

Mr. Odenkirk stated that we should probably hear something by next week.

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2. Presentation Regarding the Extent by Which Undocumented Alien Traffic is Impacting Wildlife Resources.

Presenter: Bob Broscheid, Habitat Branch Chief

Arizona contains remote and isolated lands along the Mexican border that have become major arteries for smuggling humans and controlled substances into the United States. As a result, direct and indirect impacts caused by this large amount of illegal traffic have caused significant adverse impacts to fish and wildlife resources and their habitats.

Undocumented aliens (UDAs) crossing the border in southeast Arizona have caused damage to natural and cultural resources, impact public land visitors and public services, and residents and businesses located in proximity to these borderlands. It is estimated that thousands of new trails and roads have been created on Federal lands in southeastern Arizona by UDA crossings. The proliferation of trails and roads damages and destroys sensitive vegetation, disrupts or prohibits re-vegetation, disturbs wildlife and their travel corridors, causes soil compaction and erosion, and impacts stream bank stability. Federal and state law enforcement officers assigned to land and resource management agencies often face situations of personal risk.

The international border fence is repeatedly cut or torn down in many locations forcing Federal agency staff and grazing permittees to constantly make repairs. Horses and cows from Mexico trespassing on Federal and private lands in the United States are a significant and reoccurring problem. Significant amounts of trash and human waste are left behind by UDAs. This impacts wildlife, vegetation and water quality in the uplands, in washes and along rivers and streams. State, county and local governments and private property owners also experience most of the same problems caused by UDAs crossing their land.

Several large-scale projects and activities have been proposed to minimize UDA traffic and related impacts, such as expansion of Border Patrol operations, installation of vehicle barriers, as well as proposed Congressional legislation regarding immigration reform.

Mr. Broscheid introduced Joseph W. Brigman, Public Information Officer with the Yuma Sector Border Patrol, who addressed the Commission as requested in regards to the adverse affect the number of illegal aliens is having on the environment, wildlife and wildlife habitat specific to the Yuma Sector.

The damage is obvious in terms of residual litter, abandoned vehicles and violence associated with alien and narcotic smuggling. In the last 5 years, Yuma Sector agents have arrested over 420,000 illegal aliens. Last year, Yuma Sector agents apprehended 98,060 and it has been projected that the Yuma Sector may experience a 40% increase in entries and apprehensions for the fiscal year 2005.

Anytime such large numbers of people transit an area this size, whether it be on foot, by vehicle across the open deserts or by crossing the Colorado River, there will be a significant impact on the natural resources of the area, the ability of citizens to recreate, and the overall safety of the area.

The residual effect of trash, debris and abandoned vehicles left behind by illegal aliens, during their entries, contribute to the overall degradation of the environment and quality of life for U.S. citizens residing in these areas. Wildfire along the Colorado River, in many cases directly attributed to illegal aliens, also destroys wildlife and habitat.

Some encouraging news is that on January 15, the Yuma Sector Border patrol, in conjunction with the Joint Task Force North America, an Army National Guard support element, began construction of Phase One of the Border Infrastructure Improvement Project.

This three-phase program involving the construction and installation of permanent stadium lighting, secondary fencing, all weather patrol roads and additional Remote Video Surveillance

Cameras will target specific areas along the Colorado River, as well as the general vicinity of the Port of Entry as San Luis AZ, east along the International Boundary for 7 miles to the location of the proposed commercial Port of Entry.

The completion of the Border Infrastructure Improvement Project is set to coincide with the completion of the new Commercial Port in 2007 and will greatly enhance the ability to gain more control of the border.

In addition to this project, the Yuma Sector Border Patrol has been actively engaged with several other Federal agencies that include the Bureaus of Land management, U.S. Fish and Wildlife Service, Cabeza Prieta National Wildlife Refuge, Organ Pipe Cactus National Monument and Barry M. Goldwater Range in the proposal to install vehicle barriers that will prevent vehicles from illegally entering the United States from Mexico. Each year, by the hundreds, these vehicles, transporting illegal aliens and narcotics are directly responsible for hundreds of miles of man made, cross country roads that destroy the fragile desert environment, wildlife habitat and threaten endangered species.

Commissioner Melton commented on the difficulty and expense in apprehending UDAs, only to have to apprehend them again and again as they try to come back. Commissioner Melton acknowledged the huge and difficult task of the Border Patrol.

Commissioner Chilton asked Mr. Brigman if wilderness designation complicates the Border Patrol's ability to carry out their mission, to which he answered yes.

Chairman Gilstrap asked what the Commission could do to help the Border Patrol. Mr. Brigman stated that he gives a lot of presentations to different groups and he always encourages everyone to vote. Voting puts people in place who make laws that eventually make or break the Border Patrol.

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Meeting recessed for a break at 8:53 a.m.

Meeting reconvened at 9:03 a.m.

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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: Bob Broscheid, Habitat Branch Chief

Mr. Broscheid briefed the Commission on the latest developments relating to the implementation of land and resource management plans and projects on state and Federal lands in Arizona and other related matters. A copy of this update, titled Lands Update, was provided to the Commission prior to today's meeting and is included as part of these minutes. The update addressed decisions or activities since the January 2005 Commission meeting and is in fulfillment of the Department's commitment to brief the Commission on a regular basis regarding decisions and actions on all state and Federal lands in Arizona. New information was presented, as well as progress toward resolving ongoing issues and concerns.

Commissioner Melton commented on management plans for some of the monument areas stating that there seems to be a lot of different regions managing in different ways and not being consistent.

Director Shroufe stated that the Department has brought wilderness and monument issues before the Commission for a number of years and these issues are all different. There is no administrative process with either the BLM or the Forest Service in Arizona. Wilderness areas are designated in various states, including Arizona, through congressional declaration. Monuments in Arizona are dealt with by the Department in a pre-public planning process in cooperation with BLM. The Commission has authorized this shared position with BLM and the Department is working very diligently across Arizona on monument plans right now. That's all that can be done until they come out to the public and when they do, hopefully we will have done our job and most issues will already be resolved. However, that cannot be guaranteed. Wilderness issues are coming up in front of the Commission all the time. The Commission has taken positions of opposition each time due to issues with wildlife management in wilderness areas. All that can be done right now is to reiterate your position. The Department is currently working with BLM to draft language to ensure that the Game and Fish Commission and the Department's position are in the preferred alternative.

Chairman Gilstrap questioned the possibility of having recent monument declarations rescinded.

Director Shroufe stated that state wildlife agencies went to Congress immediately after the administration changed to request those acts be rescinded and to have Congress vote individually on each monument and Congress declined to do that.

Chairman Gilstrap asked if the Department could state that unless this language is in the preferred alternative we cannot support it. Director Shroufe replied that in regards to monuments, if our language is not in the preferred alternative then our recommendation to the Commission in the public setting would be that they don't support the preferred alternative.

Commissioner Chilton pointed out three points, 1) when they get the monument or wilderness designation, they are in control and they lay out the ground rules, 2) you can get results on paper, but you can't get them on the ground, and 3) every one of those designations interferes with the Game and Fish Department's authority to manage wildlife.

Commissioner McLean pointed out that the Game and Fish Department is currently involved in two different processes: 1) Trying to write an implementation plan for the monuments that already exist and 2) trying to write provisions into proposed legislation for a wilderness designation that does not yet exist.

Director Shroufe confirmed that the Department is actively involved in these processes.

Public Comment

Nick Heatwole, Vice President and Vice Chairman of Legislative Affairs with the Yuma Valley Rod and Gun Club addressed the Commission regarding a letter from YVRGC to Chairman Gilstrap (included as part of these minutes) dated February 11, 2005, regarding the Tumacacori Wilderness Proposal. In the letter, YVRGC requested the Commission to provide new direction

regarding this issue. Specifically, Mr. Heatwole stated that the YVRGC would like the Commission to make a motion to not support the Tumacacori Wilderness.

Commissioner Chilton asked if the YVRGC would be happy with a general monument and wilderness resolution that covered the problems faced all over the state, to which Mr. Heatwole replied yes.

Motion: Melton moved and Chilton seconded THAT:

1) THE COMMISSION REITERATE IT'S INSISTENCE THAT THE COMMISSION AND DEPARTMENT BE INCLUDED IN DISCUSSIONS OF ANY SPECIAL LAND DESIGNATION PROPOSALS, INCLUDING WILDERNESS AREAS, MONUMENTS, CONSERVATION AREAS OR OTHER CATEGORIES OF SPECIAL LAND DESIGNATION, IN ORDER TO ENSURE THAT THE DEPARTMENT AND COMMISSION'S TRUST RESPONSIBILITIES REGARDING THE MANAGEMENT OF ARIZONA'S FISH AND WILDLIFE RESOURCES AND TO PRESERVE THE RIGHTS OF THE PUBLIC TO ACCESS THESE LANDS FOR LEGAL PURPOSES;

2) FURTHER, THAT THE COMMISSION NOT SUPPORT ANY FUTURE WILDERNESS DESIGNATIONS OR MANAGEMENT ALLOCATIONS FOR WILDERNESS CHARACTERISTICS UNTIL AND WHEN:

- THE LAND MANAGEMENT AGENCIES DEFER TO THE DEPARTMENT'S TRUST RESPONSIBILITIES REGARDING WILDLIFE MANAGEMENT IN DESIGNATED WILDERNESS,
- FISH AND WILDLIFE RESOURCES ARE RECOGNIZED AS A HIGH PRIORITY WILDERNESS VALUE, AND
- FISH AND WILDLIFE MANAGEMENT ACTIONS ARE CONSIDERED NECESSARY AND APPROPRIATE ACTIVITIES THAT ARE EVALUATED EQUALLY WITH OTHER WILDERNESS CHARACTERISTICS AND USES;

3) AND FURTHER, THAT THE COMMISSION DIRECT THE DEPARTMENT TO DRAFT A LETTER TO THE ARIZONA CONGRESSIONAL DELEGATION AND THE GOVERNOR EXPRESSING THE REASONS FOR OUR OPPOSITION TO ADDITIONAL SPECIAL LAND DESIGNATIONS IN ARIZONA.

Commissioner Golightly commented that the Game and Fish Commission has a fiduciary responsibility to manage wildlife and we know what our mission is. We look to the land management agencies to fulfill their mission and they don't, so we take them to task by recognizing the problem, assigning staff to it and updating the Commission who has a policy setting responsibility; but we are not a political activist organization. Additionally, Tumacacori is only in the talking stages, and for these reasons, Commissioner Golightly does not support the second half of the stated motion.

Commissioner McLean concurred with Commissioner Golightly and stated that he could only support the first portion of the motion and suggested that the Commission strike paragraph 2 and 3 from the previous motion.

Motion Amended: McLean moved and Golightly seconded THAT THE COMMISSION REITERATE IT'S INSISTENCE THAT THE COMMISSION AND DEPARTMENT BE INCLUDED IN DISCUSSIONS OF ANY SPECIAL LAND DESIGNATION PROPOSALS, INCLUDING WILDERNESS AREAS, MONUMENTS, CONSERVATION AREAS OR OTHER CATEGORIES OF SPECIAL LAND DESIGNATION, IN ORDER TO ENSURE THAT THE DEPARTMENT AND COMMISSION'S TRUST RESPONSIBILITIES REGARDING THE MANAGEMENT OF ARIZONA'S FISH AND WILDLIFE RESOURCES AND TO PRESERVE THE RIGHTS OF THE PUBLIC TO ACCESS THESE LANDS FOR LEGAL PURPOSES.

Commissioner Melton supported the amendment to the motion, but commented that paragraph 2 is where he stands when dealing with wilderness issues. Further, Commissioner Melton requested direction from the Commission on what position to take when he goes to meetings and answers questions on why the Department is not getting the desired language in the wilderness bill.

Commissioner Chilton stated that she does not support the motion amendment and that she supports paragraphs 1 and 2. We need to specifically list the issues and outcomes that we have actually had from our experience with these designations. We are talking about specific appeals of projects the Department has tried to undertake. We are talking about consistent obstacles, our record in court, how long to implement projects, and expense in time and resources; the overall process that we are forced into after these designations.

Chairman Gilstrap suggested that we have the Department prepare a report for the Commission and then use that prepared text to make further recommendations on how to use or disseminate that information to the appropriate places. Whether we like it or not, monument and wilderness status are the law and it became law through the appropriate process; as such we need to deal with it. The only thing we can do is what we are responsible for doing and that is implementing the most efficient and effective wildlife tools and opportunities while dealing with the law of the land as it is.

Commissioner Chilton stated that in regards to the vote on the proposed amendment to the motion, paragraph 1 clearly states our legal right and insistence on recognition of that legal right, to be present at any land management processes. Number 2 says we are not supporting the three bullet point outcomes and we cannot support processes that result in those outcomes. If paragraph 2 is defeated, you are saying go ahead and support processes that do not take the Department's mission into consideration and allows us to be placed in a position where the Department is fighting as hard as it can to assert it's previously held responsibility.

After further discussion of the original motion, the Commission voted to approve the amended motion for discussion.

Vote: Aye Gilstrap, Golightly, McLean
Nay Chilton, Melton
Passed 3 to 2

Ms. Cutts clarified that what the Commission just voted to do was to approve the amended motion for discussion by the Commission.

Commissioner McLean clarified that the motion before the Commission is the amended motion to approve the first paragraph of the original motion.

Motion to Amend Amended Motion: Chilton moved and Melton seconded THAT THE COMMISSION AMEND THE AMENDED MOTION AS IT PRESENTLY STANDS (WHICH IS ONLY PART 1) TO INCLUDE PART 2 AND TO DELETE PART 3.

Vote: Aye – Chilton, Melton
Nay – Gilstrap, Golightly, McLean
Failed 3 to 2

Commissioner McLean called for the question on the previous amended motion.

Vote: Aye – Gilstrap, Golightly, McLean
Nay – Chilton, Melton
Passed 3 to 2

Commissioner Chilton voted aye and then changed her vote to nay stating that it is clear that we have failed to recognize a twenty-year history of problems and voted nay as matter of protest.

Chairman Gilstrap clarified that in no way does his vote indicate or imply that he does not have all the concerns that fall under item 2. Those concerns have been stated both individually and collectively as a Commission.

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Meeting recessed for a break at 10:20 a.m.
Meeting reconvened at 10:30 a.m.

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Chairman Gilstrap, in regards to the previous item, directed the Department to prepare a report for the Commission using historical and future data on the restrictions that special designations of land have on the Department's ability to be efficient in managing wildlife, in use of funds, and in outdoor recreation. The Commission will then use that to make further recommendations on how to utilize and distribute that information.

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4. Request for the Commission to Approve an Agreement for a Corporate Hangar Lease with the City of Phoenix for the Purpose of Storing and Maintaining Aircraft at the Deer Valley Airport, Maricopa County, Arizona.

Presenter: Bob Broscheid, Habitat Branch Chief

The Arizona Game and Fish Department maintains a hanger at the Deer Valley Airport. The Department has been operating on a year-to-year lease for the last five years due to issues with the indemnification language. The Department and City of Phoenix have come to an agreement regarding this language. The attached agreement will be valid through October 31, 2007.

Commissioner McLean questioned why this agreement has not been approved by the Attorney General.

Mr. Odenkirk stated that his signature has not been affixed to this document yet, but it will be. Mr. Odenkirk provided numerous comments to this document and 90% of his recommendations were agreed to by the city, so it has been approved a number of times by the Attorney General's Office and they will put their stamp on it.

Motion: Melton moved and McLean seconded THAT THE COMMISSION VOTE TO APPROVE AN AGREEMENT FOR CORPORATE HANGER LEASE WITH THE CITY OF PHOENIX FOR THE PURPOSE OF STORING AND MAINTAINING AIRCRAFT AT THE DEER VALLEY AIRPORT, MARICOPA COUNTY, ARIZONA, AND AUTHORIZE THE DIRECTOR TO EXECUTE THE AGREEMENT AS ATTACHED OR AS RECOMMENDED OR APPROVED BY OFFICE OF THE ATTORNEY GENERAL, AND TO AMEND OR EXTEND THE AGREEMENT AS NECESSARY.

Vote: Unanimous

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5. Appeal of Denial of Wildlife Holding License Application for Mr. Gary Mitchell and Ms. Chris Koudelka.

Presenter: Rod Lucas, Mesa Regional Supervisor

Pursuant to the provisions of A.R.S. § 41-1092, Mr. Gary Mitchell and Ms. Chris Koudelka have appealed the Department's denial of their application for a Wildlife Holding License and are present to address the Commission.

The Department previously denied the applicant's application, as provided in Arizona Game and Fish Commission Rules R12-4-409 and R12-417. The application was originally denied by the Department due to the nature in which the skunks were obtained and the skunks were unlawfully possessed as restricted live wildlife prior to the application. Additionally, the Department has concerns regarding possession of skunks and human safety, health and welfare, and issues regarding the ability of the applicants to properly care for these animals and provide adequate and proper facilities.

In a letter dated November 30, 2004, the Department denied an application from Ms. Chris Koudelka and Mr. Gary Mitchell for Arizona Wildlife Holding License to possess four skunks for humane treatment.

The reasons for denial were based on the fact that four skunks were imported and possessed in Arizona in violation of the A.R.S. § 17-306 and the live wildlife rules. Skunks are listed as a restricted species under Commission Rule R12-4-406, which includes all species of the Order Carnivora, except domestic dogs, cats, and ferrets, and Commission Rule R12-4-417 F (1) requires that the wildlife be lawfully possessed as defined by Commission Rule R12-4-401.

The applicants, by their own actions, indicated that they had knowledge that the skunks could not be imported into Arizona. Six skunks (two which have subsequently died) were purchased on June 11, 2000 by both applicants from Ruby Fur Farm in Iowa, and shipped to them using a Brunswick, Georgia address. On September 5, 2002, Mr. Mitchell applied and received a Class III Personal Use Wildlife Permit from the Florida Fish and Wildlife Conservation Commission for four striped skunks and used a West Palm Beach, Florida address and a Florida telephone number. A subsequent investigation determined that both applicants were residents of Arizona at the time of the purchase, and at the time of the application, for the Florida permit. It would appear from the facts learned during the investigation, that both applicants misrepresented the fact that they were residents of Arizona, and that the skunks would be imported to their residence in Phoenix, Arizona.

During early July 2004, a visitor to their home was bitten by one of the skunks, and the visitor stated that she was encouraged not to seek medical help, and if she did, to say a "cat" bit her. After the bite became infected, she went to the hospital and the Arizona Game and Fish Department was notified of the bite. At the time of the incident four skunks were in the house. During the subsequent investigation and search warrant served on their residence, two skunks were found in the hall way of the house, not in the cages as described in the application. Ms. Koudelka stated the other two skunks were at a show out-of-state. They were both cited for the unlawful possession of restricted live wildlife. The two skunks were seized and are being cared for at the Adobe Mountain wildlife rehab center. The two other skunks allegedly remain out-of-state. On November 17, 2004, both were found guilty of the unlawful possession of two skunks in Glendale Justice Court and were fined \$100.00 each.

The provisions for a Wildlife Holding License, Commission Rule R12-4-417, require a statement of the applicants experience relative to handling or providing care for the animal, and they did not state in the application their experience relative to handling or providing care for the animals required in this Rule. The Department did give consideration to the letter dated November 10, 2004, from a veterinarian Dr. Kimberlei Hunt, stating that Chris Koudelka and Gary Mitchell owned and cared for four (4) domestic raised skunks. The veterinarian states that she has known the applicants for four years and has found them to be very conscientious and responsible owners. She stated that skunks are omnivores and herbivores, and not carnivores. In fact, the taxonomic classification that skunks are in found in the Order Carnivora, which includes skunks (Rule R12-4-406), and provides a reference of Volume I and I of the Walkers Mammals of the World.

In addition, the Department does not believe the applicants met the captivity standards relative to the care of their skunks as provided in Commission Rule R12-4-428. The standards for captivity have very specific requirements described in this Rule that are necessary to protect the animal, and to ensure human safety, health and welfare. Both stated in their application that they have a 16 foot x 80 foot enclosure on the back of their house to prevent any accidental escape. However, when the officers went to their house with a search warrant on August 17, 2004, two of the skunks were in the residence and "blocked" in the hallway. When a visitor visited their home in early July, four skunks were allowed to run freely throughout the house along with some twenty pet Chihuahua dogs. As mentioned above, during July 2004, one of their skunks bit a visitor at their house when the skunks were inside the house and not in the outside enclosure. The visitor stated that after three to four weeks, the bite became infected and painful and

required care at a hospital. The victim received two post-exposure rabies vaccinations and was being treated for an infection.

The Arizona Game and Fish Department believes that it is in the best interest of the wildlife that the license be denied, and that the skunks be placed in an appropriate facility within or outside Arizona.

Gary Mitchell and Chris Koudelka addressed the Commission stating several disagreements with Mr. Lucas's report and requested that the Commission reconsider their decision to deny their application for an Arizona Wildlife Holding License.

Mr. Mitchell made the following statements:

- The alleged bite has never been substantiated through any independent investigations and no records have been provided to them or to their homeowners insurance. To the contrary during the court appeal the alleged bite victim stated that she was cut and not bitten and that statement is on record.
- Mr. Mitchell and Ms. Koudelka categorically denied ever encouraging the alleged bite victim not to seek medical help and in fact, were not informed of the alleged incident until approximately six weeks later.
- The alleged victim is by record a convicted felon having previously been sentenced to a correctional institution for criminal fraudulent activities.
- Mr. Mitchell is retired and has an Arizona address, but travels and resides in his mobile lodging at various places. The animals were obtained using a legal address and complying with local laws while living in Florida and were not obtained fraudulently while living in Arizona.
- The skunks in question do not resemble the wild variety indigenous to Arizona. They are domestic skunks, and are a product of generations of domestic breeding with coats of fur totally dissimilar to black and white wildlife skunks found in Arizona. These skunks are lavender and white, champagne and white, chocolate and white, and albino, are international champions and are bred as show animals.
- In regards to failure to meet captivity standards, the temporary caretakers of the animals allowed the skunks in the house and this was not the usual circumstance.

Commissioner Chilton commented that she had never heard of a potential rabies victim waiting six weeks to seek medical care.

Commissioner Golightly asked Mr. Lucas about the difference between ferrets and skunks as to being able to have as pets.

Mr. Lucas stated that the Restricted Wildlife Rule dates back to the late 1980's and at that time there was a thorough analysis of the rules in which the concerns of that individual species of wildlife placed it on the restricted wildlife list. Some of those concerns were about disease, concerns about escape, and the overall impact to Arizona's indigenous wildlife. It's not known at this time why ferrets were excluded from the list and skunks were not.

Chairman Gilstrap suggested tabling this item until later in the day due to concerns for Ms. Koudelka who was unable to continue at this time.

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6. State and Federal Legislation

Presenter: Anthony Guiles, Legislative Liaison

Mr. Guiles briefed the Commission on the status of State and Federal legislation.

On record as of Monday, there were 1238 bills introduced in the legislature this session; the second most ever on record. There is some good news with the license fee bill. It made it through the Senate Natural Resources Committee with a unanimous vote, so we're on our way to getting it through the Senate and then through the House. The Commission will be notified of when it may come to the floor. A lot of the bills are in the monitoring stages. Following are some of the bills that have been identified and we would like the Commission to make a recommendation to support or oppose these bills.

H2276 Healthy Forest Amendments – Numerous amendments to statutes governing forest issues, including revised tax incentives under the forest health enterprise program and a definition of “qualifying forest products” that includes trees up to 12 inches diameter at breast height plus slash, brush, etc. 51 pages. First sponsor: Rep. O'Halleran. Others: Rep. Burns, Hershberger, Huffman, Jones, Kirkpatrick, Konopnicki, Landrum Taylor, Lopes, Mason, McClure.

THE COMMISSION RECOMMENDED TO SUPPORT THIS BILL.

H2295 Animal and Ecological Terrorism – Animal terrorism and ecological terrorism are defined and classified as either a Class 2 or Class 4 felony, depending on whether serious physical injury resulted. Each is added to the definition of “racketeering” if the act resulted in a risk of serious physical injury or death. First sponsor: Rep. Biggs. Others: Rep. Anderson, Murphy, Nichols, Rosati, Stump, Sen. Verschoor.

Mr. Guiles clarified that there is going to be a striker amendment to this bill so that it's identical to the bill proposed last year and in that striker our changes may be included.

THE COMMISSION RECOMMENDED TO MONITOR UNTIL THE STRIKER BILL COMES THROUGH AND THEN SUPPORT THIS BILL IF OUR CHANGES ARE INCLUDED.

H2554 State Lake Improvement Fund – Authority for the State Parks Board to use money from the State Lake Improvement Fund for projects on waters where boats are permitted is limited to waters where gas-powered boats are permitted. First sponsor: Rep. Groe. Others: Rep. Anderson, Burges, Burns, McLain, Murphy, Paton, Prezelski.

THE COMMISSION RECOMMENDED TO OPPOSE THIS BILL.

H2613 Forest Health Amendments – Various changes to healthy forests legislation including, the state forester must maintain a web site with links to information relating to the urban-wildland interface and listings of people who are willing to harvest and remove thinned timber from private land; the Department of Commerce is charged with implementing a program to encourage counties and municipalities to provide incentives to enterprises that promote forest

health; the list of forest thinning equipment eligible for tax breaks is expanded, and the list of duties of the state urban-wildland fire safety committee is expanded to include acting as a liaison with Federal programs and private enterprise on urban-wildland issues. First sponsor: Rep. Chase. Others: Rep. Allen, Brown, Burges, Gorman, Gray, Jones, Konopnicki, Nelson, Jerry Weiers, Sen. Arzberger, Bee, Bennett, Blendu, Cannell, Flake, Gray, Jarrett, Johnson.

THE COMMISSION RECOMMENDED TO SUPPORT THIS BILL.

H2643 Lower Colorado River Conservation – Various additional fees and surcharges for water related activities (for example, in addition to standard boat registration fees, the Game and Fish Commission is authorized to assess and collect an additional watercraft registration fee). Revenues are earmarked for a Lower Colorado River Multi-species Conservation Program administered by the Multi-County Water Conservation Board. First sponsor: Rep. O'Halleran. Others: Rep. Brown, Chase, Gallardo, Jones, Meza, Reagan, Robson, Jim Weiers, Sen. Bee, Bennett, Brotherton, Burns, Flake, Harper, Miranda.

THE COMMISSION RECOMMENDED TO SUPPORT THIS BILL.

H2655 Life Jacket Violation – It is a Class 2 (second highest) misdemeanor instead of a petty offense to violate the law requiring watercraft to carry “personal flotation devices” for all on board. First sponsor: Rep. Burton Chill. Others: Rep. Aguirre, Garcia, Hershberger, Lopez, Meza, Sinema, Sen. Cannell, Hellon.

THE COMMISSION RECOMMENDED THAT THE DEPARTMENT WORK WITH THE SPONSOR ON THIS LEGISLATION.

Mr. Guiles pointed out that there were several items dealing with land reform, but that they were large items and have not been thoroughly reviewed. The Commission discussed some of the land issues.

S1067 Appropriation; Zuni Water Settlement – An appropriation of \$1,569,000 as the state's obligation to the Zuni Tribe pursuant to the Federal Water Rights Settlement Act of 2003. According to terms of the settlement, the money will be used for wetland restoration projects. First sponsor: Sen. Flake. Others: Rep. Brown, Konopnicki, O'Halleran, Sen. Arzberger, Bee, Blendu, Cannell, Jarrett, Rios.

An amendment is being drafted to this bill and Mr. Guiles will provide the Commission with information about the amendment as soon as it comes out.

THE COMMISSION RECOMMENDED TO OPPOSE THIS BILL IF THE AMENDMENT IS INCLUDED TO USE ADDITIONAL HERITAGE FUNDS.

S1271 Schools; Gun Safety Program – Schools are authorized to offer a one semester elective course in rifle marksmanship to be designated the Arizona Gun Safety Program Course. The course shall include gun safety, basic operation of firearms, history of firearms and marksmanship, the role of firearms in preserving peace and freedom and the constitutional roots of the right to keep and bear arms. First sponsor: Sen. Johnson. Others: Rep. McLain, Pearce, Smith, Sen. Blendu, Gould, Harper, Verschoor.

THE COMMISSION RECOMMENDED TO SUPPORT THIS BILL.

S1333 Animal and Ecological Terrorism – Animal terrorism and ecological terrorism are defined and classified as either a Class 2 or Class 4 felony, depending on whether serious physical injury resulted. Each is added to the definition of “racketeering” if the act resulted in a risk of serious physical injury or death. Requires violators to register with the local sheriff and to obtain an ID annually from the Department of Transportation with proof of address. First sponsor: Sen. Verschoor. Others: Rep. Biggs, Farnsworth, Sen. Arzberger, Bee, Blendu, Burns, Flake, Gould, Gray, Harper, Huppenthal, Jarrett, Johnson, Martin.

Mr. Guiles clarified that this was the same as the one mentioned earlier only it’s the Senate version and it is where the striker will be offered in Committee with the Department’s changes included.

THE COMMISSION RECOMMENDED TO SUPPORT THIS BILL IF OUR CHANGES ARE INCLUDED.

S1337 Forest Health Amendments – Various changes to statutes governing forests and forest health, including, the state forester is to maintain an internet website that provides (at minimum) links to various named resources; the Department of Commerce must implement a program to encourage local governments to provide incentives to businesses that promote forest health; changes in the kinds of forest thinning equipment that qualifies for tax breaks; and the state urban-wildland fire safety committee must act as a liaison between the state and both federal programs and private enterprises on forest health issues. First sponsor: Sen. Jarrett. Others: Sen. Bee, Bennett, Blendu, Burns, Flake, Gould, Harper, Huppenthal, Johnson, Martin, Verschoor.

THE COMMISSION RECOMMENDED TO SUPPORT THIS BILL.

S1349 Wildlife; Unlawful Feeding – It is a Class 3 (lowest) misdemeanor to feed or otherwise entice wildlife into an area. First sponsor: Sen. Hellon. Others: Rep. Burton Cahill, Lopez, McClure, Sen. Chevront, Giffords, Mitchell.

Commissioner Chilton assumed that hummingbird feeders were excluded and Mr. Guiles confirmed that was correct; hummingbirds and squirrels were excluded.

THE COMMISSION RECOMMENDED TO SUPPORT THIS BILL.

S1362 Game and Fish Licenses; Voter Registration Link – If the Game and Fish Commission authorizes hunting and fishing licenses to be sold at it’s Internet website, the site must also contain a link to official voter registration websites maintained by the state or county. First sponsor: Sen. Harper. Others: Rep. Biggs, Burges, Downing, Jones, Knaperek, Nelson, Nichols, O’Halloran, Paton, Pierce, Quelland, Reagan, Smith, Stump, Jerry Weiers, Sen. Aguirre, Allen, Arzberger, Bee, Blendu, Burns, Cannell, Flake, Garcia, Giffords, Gould, Gray, Jarrett, Martin, Mitchell, Rios, Tibshraeny, Verschoor.

Mr. Guiles stated that this is the bill that was heard in Committee when our license fee bill was up. This is one that we talked to the sponsor about and told him that we already have this on our website, so it doesn’t look like this bill will go any further.

Further, the Department's budget will be heard in the House Appropriations Committee on Tuesday afternoon. We are working with members to try and get Department needs met through some amendments to JLBC recommendations. Also, on the Federal legislation that Senator Reid introduced, that bill is going to be reintroduced this coming week. The language has changed to address some of the problems of some Senators during last session. We have seen copies of the draft legislation and have worked with both Senator McCain and Kyl's office asking them once again to support this legislation. They are planning to take position as original sponsor.

Commissioner Melton asked Mr. Guiles about H218 Law Enforcement Officer Safety Act of 2004, which deals with carrying a concealed weapon. It allows State Officer's to be able to carry a concealed weapon after they retire. Commissioner Melton received a request to inquire if this could be applied to retired Game and Fish Officers.

Director Shroufe stated that the State of Arizona Game and Fish Department is responsible for the certification of it's officers. They go through training to obtain the certification and then they continue training to keep it. The concern is where the liability rests when employees leave the Department under the Department's continuous permit and whether the Department would be responsible for their training and liable for their actions. The issue has been looked into and found not to be feasible.

Commissioner Golightly asked about Senate Bill 1365, the Fee Increase Bill, and stated that he is still getting a lot of comments about where the numbers came from. He requested that Mr. Guiles draft a summary to help them understand that this is a cap and get them ready for the full vote of the Senate. The summary needs to include how and why we arrived at those fees and how the Department will utilize the money.

Mr. Guiles stated that an informational brochure has been developed and is being handed out to legislators, but he would be happy to prepare a memo regarding the cap and distribute it.

Chairman Gilstrap requested that it be a one-page summary of everything that is in the brochure.

Commissioner Golightly requested a list of Republican Senators who have signed on to the no tax document.

Director Shroufe stated that we are scheduling all the appointments that we can with every Senator and will work up the requested list on Monday. The list will identify those that we believe are a priority and who need to meet with.

Chairman Gilstrap commented that we need to do whatever we can to get this bill passed.

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Meeting recessed for a break at 12:11 a.m.

Meeting reconvened at 12:21 a.m.

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5. Continuation of Appeal of Denial of Wildlife Holding License Application for Mr. Gary Mitchell and Ms. Chris Koudelka.

The Commission further discussed and asked questions of Mr. Lucas and Mr. Mitchell. Ms. Koudelka was not present.

Mr. Lucas answered several questions for Commissioner Golightly regarding holding permit regulations and standards of practice, including pen size, handling of animals by permit holders and Department authority to follow up. The Department would be able to seize the animals and revoke the holding permit if policies were violated.

Commissioner McLean asked if Mr. Lucas had confirmed that the animals had been spade or neutered, which he had not.

Commissioner Chilton asked about receiving rabies shot six weeks after the bite. Mr. Lucas stated that no matter how long after an animal bite, rabies shots would be appropriate.

Bruce Taubert addressed the Commission and confirmed that rabies can incubate in the body for an excess of a year and that rabies shots would be appropriate and effective as long as it was prior to exhibiting symptoms.

Commissioner McLean asked if these animals could be rabies vaccinated.

Mr. Lucas stated that rabies vaccination for skunks is not effective.

Additionally, Mr. Lucas stated that Maricopa County initiated a similar county ordinance in terms of prohibition of skunks and so with this type of dilemma, the county will yield to the state to take jurisdiction over the wildlife situation as we have in this case. If we administer or issue a license, sometimes that puts us in conflict with local ordinances as well.

Commissioner Melton stated that on November 17, 2004, Mr. Mitchell and Ms. Koudelka were found guilty by the Glendale Justice Court of unlawful possession of two skunks and fined 100.00 each. The Commission does not try cases, but goes by the jurisdiction of the court. Although sympathetic, the Commission needs to deal with it according to the courts decision.

Motion: Melton moved and Gilstrap seconded THAT THE COMMISSION VOTE TO DENY MR. GARY MITCHELL AND MS. CHRIS KOUDELKA'S APPEAL OF THE DEPARTMENT'S DECISION TO DENY THEIR APPLICATION FOR AN ARIZONA WILDLIFE HOLDING LICENSE.

Commissioner Chilton stated that the decision has been appealed and there is no final decision from the court.

Jim Odenkirk stated that this isn't a license revocation matter where the Commission's authority is limited to whether or not there is a prior conviction. This is a separate matter; despite the prior conviction an individual can still make an application for a permit to hold wildlife and that can be granted or denied with or without a prior conviction. The fact that there is a conviction shouldn't be a legal impediment to the Commission's action.

Chairman Gilstrap clarified that a prior conviction is not irrelevant. When the court finds someone guilty, it gives a clue that there may be an issue there.

Commissioner Gilstrap asked if a Florida license would be recognized in Arizona and Mr. Lucas stated that it would not.

Vote: Aye Gilstrap, Melton, McLean
Nay Golightly, Chilton
Passed 3 to 2

Commissioner Melton asked about Mr. Mitchell and Ms. Koudelka's ability to repossess their skunks if they take them out of the state.

Mr. Lucas stated that the Department has allowed the owner in this type of situation to determine where they would like the animals to be shipped.

Commission Melton requested Mr. Lucas to see that this occurs.

Mr. Lucas pointed out that since this case is pending an appeal, the Department won't do anything with the animals until the appealable actions are finalized.

Mr. Mitchell addressed the Commission and stated that all the animals are female and are spade, desented, and of sufficient color where they are not recognized as a skunk. Also, when he and Ms. Koudelka acquired the skunks, they were told through the internet that as long as they had a permit from another state, a holding permit would be issued for the life of that animal only. In addition, Mr. Mitchell reiterated his and Ms. Koudelka's knowledge and skill in caring for these domestic skunks and all they are asking for is to keep the skunks with them until they die of natural causes.

Chairman Gilstrap concluded by assuring Mr. Mitchell that if he will work closely with Mr. Lucas, Mr. Lucas will do everything within his power to make this situation as manageable as possible.

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7. Statewide Shooting Range Briefing

Presenter: Don Winslow, Education Branch Chief

Mr. Winslow presented the Commission with an update of Department activities related to shooting range support and development statewide, which covers activities that have occurred since the January 2005 commission meeting.

Department owned ranges:

Ben Avery Shooting Facility in Phoenix: Work is getting underway on a Hunter Education range at the facility, a project that has been under discussion for quite some time. Another improvement project—electrical repairs and upgrades at the Clay Target Center—is also moving forward: A work timeline should be completed by the end of February, with work to begin soon afterward. Governor Napolitano has signed the perpetual right-of-way agreement between the state and the city of Phoenix and the city has begun work on a water line.

Sierra Vista Shooting Range: Department staff met with our range partners in Sierra Vista in January, to help coordinate construction of restrooms at the range and to discuss safety matters. The Department's Plan of Development for the range is being re-submitted to the Bureau of Land Management as an amended plan that shows only existing improvements. Once BLM receives the amended plan, the Department will have completed all documentation necessary for the BLM to forward the plan to the state for review and approval of a patent. Meantime, BLM has agreed in the interim to extend our lease for an additional five years pending completion of our patent.

Three Points Shooting Range in Tucson: The Bureau of Land Management has accepted the DPS lease as written with minor edits; a letter of concurrence from the BLM was received Nov.15, 2004. The agreement has been sent to DPS for signature.

Usery Mountain Shooting Range in Mesa: The Department continues negotiating a work plan with the Department of Environmental Quality to remediate chemicals discovered in one of the range's septic systems. The Department is keeping the Salado Sportsman's Club apprised of the talks with ADEQ. Department staff members are also preparing an Environmental Assessment checklist for a new, as of yet undetermined type, of waste system to be developed at the range.

Chairman Gilstrap interjected at this point to inform Mr. Winslow that former Senator Rusty Bowers had contacted him and related that there was some new construction going on in that area and asked if we could meet with him to discuss the potential of some adjustment or realignment that might reduce what he feels is a public safety issue. Mr. Winslow will follow up with Chairman Gilstrap to have this meeting.

Northern Arizona Shooting Range: In January, the Commission authorized the Department to proceed with a settlement related to the Bellemont range site. The Department remains committed to siting a shooting facility in the Flagstaff area and will work with the U.S. Forest Service to identify potential locations.

Shooting Range Grants: The Department has received eight requests for shooting range grants totaling \$206,400. These requests will be presented to the Commission at the June 2005 meeting.

Shooting range partnerships:

Douglas Rifle and Pistol Club: At the request of the Commission, Education Branch Chief Don Winslow met with representatives of the Douglas Rifle and Pistol Club in late January, to discuss their range and assess needs. In addition to serving the general public, the range's four bays are used by the U.S. Border Patrol and other government agencies.

Tri-State Shooting Recreation Center: The Department has sent a third letter to Newmont Realty, as talks continue on the value of mineral rights on the range.

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8. Presentation on an Ongoing Research Project being Conducted by the University of Arizona wherein Water Availability for Bighorn Sheep is being Manipulated to Aid in Determining Water Requirements for Bighorn Sheep.

Presenter: Jim deVos, Research Branch Chief

Mr. deVos gave a Power Point presentation on the preliminary findings of the research being conducted on the Cabeza Prieta National Wildlife Refuge where water availability is being manipulated to aid in determining the necessity of freestanding water to maintain bighorn sheep populations.

The need for freestanding water has been challenged in recent years and development and maintenance of waters to support management objectives for bighorn sheep has been a point of controversy in several instances.

The University of Arizona initiated a research project that entails removal of access to manmade water for bighorn sheep on the Cabeza Prieta National Wildlife Refuge, and this project is continuing. Included in the research design is collaring several desert bighorn sheep and monitoring their movements under conditions where freestanding water is available and in conditions when access to manmade water has been removed.

The preliminary results showed that 2002 was a devastating year for Sonoran pronghorn and bighorn sheep. In both mountain ranges, four of the collared animals died. Through October of 2003 was also a dismal year from a wildlife standpoint. There were three mortalities in each of the mountain ranges. In 2004 there was one mortality in the dewatered area and none in the area that maintained water. We will not have all the data that until the collars are removed in September of 2005. The study is ongoing and data are still being collected. After all the data are available, a more complete assessment will be done.

Department plans to develop water are frequently challenged by opponents of water developments. Until we continue to implement research projects like this and some others that are being planned, we won't have the answers that will make land management agencies comfortable with the Department's position that waters are beneficial to wildlife and we intend to continue to make waters available.

Commissioner Melton commented that this year's rainfall will complicate matters because of an increase in wildlife population, and further asked if a study could be designed to compare areas with and without predator management in order to verify the need for predator management.

Mr. deVos stated that there is an ongoing study that accomplishes Commissioner Melton's request. The Three Bar Wildlife Area has a 700-acre enclosure that is predator free. It's maintained predator free by frequent inspections and deer response monitoring inside and outside the area. It's a complex project; two veterinarians are brought in to do multiple tests and a young man from Texas Tech University counts thousands of plants inside and out, taking some to the lab.

Commissioner Melton commented that he saw a TV special on the Three Bar Wildlife Area, which stated that there were 69 deer per square mile inside the enclosure and 3 deer per square mile outside the enclosure; the only difference on the inside was that it was predator free.

Mr. deVos stated that the numbers were up to 87 mule deer and 22 peccaries in 700 acres.

Chairman Gilstrap questioned if any of the animal deaths were caused by bad water.

Mr. deVos stated that the research to date does not support that contention. A report is just being finished today and will be provided to the Commission by next Wednesday that deals with bad water issues.

Commissioner Golightly asked what the Department was doing about the high mortality of bighorn sheep in the Kingman area and how long would it take to do something about it.

Mr. deVos stated that there is an ongoing research project in Unit 15B and C and the Department will soon use additional radio collars along Highway 68. In Unit 15, 31 bighorn sheep were re-collared and within about 6 weeks, 3 were documented to have been killed by a mountain lion and a 4th was suspected to have been killed by a mountain lion. There seems to be data that supports the issue that mountain lions are affecting bighorn populations in Unit 15C. Research information is utilized as it is collected. Research has been in touch with Region III personnel and Game Branch in reference to the number of lion kills documented. There will be opportunity at the April Commission meeting to establish special hunt regulations that change the requirement of one animal per person per year in these areas to increase the take of lions.

Commissioner Golightly stated for the record that he heard of problems in this area a year ago.

Chairman Gilstrap stated that one year was conservative and it was more like two years ago.

Mr. deVos stated that one year ago the Department implemented a health based research project where potential pathogens that may be influencing bighorn survivorship were looked at. The presence of domestic goats possess a health risk to bighorn sheep and there were some free ranging domestic goats observed in part of Unit 15. The first step was to start looking at the potential cause and effect based on our Silverbell information and we've completed the first stage.

Bob Posey, Kingman Regional Supervisor, addressed the Commission and stated that the Department has been assessing this issue in coordination with the Sheep Society. Houndsmen have come in with few results due to the rugged terrain. State Law prohibits trapping, which would be the best methodology to remove some of the problem animals. Region III is also looking at contacting the few private landowners to see if we can do anything there. There was a lion removed this past week out of 15D. The drought has really hurt us and we are trying to establish measures that will alleviate some of the predation.

Commissioner Chilton asked if there were any immediate solutions or if this would be a lengthy and appealed process.

Mr. Posey stated that what is being done is under the Department's wildlife management authority and does not require any kind of Federal process. Further, Mr. Posey recommended continuing with the multi-unit lion hunt, continuing to work with the Sheep Society, and to bring in houndsmen. Also, the Department will move forward with contacting the private landowners for possible trapping of lions.

Commissioner Melton asked about whether mountain lion numbers were increasing or decreasing around the state.

Mr. deVos stated that it appears to be declining in the last year, which is probably reflective of very low populations of mule deer, declines in peccaries and livestock deferrals. One of the projects being initiated is to evaluate some techniques in evaluating mountain lion population. Right now the only effective tool is a marked recapture and track surveys; both of which are very difficult. Most of the information on numbers come from some of the most experienced lion hunters.

Commissioner Golightly asked about legally trapping or removing a rogue animal for research purposes.

Mr. deVos stated that there is a provision in the language that established the trapping ban on public land that allows research to include trapping. However, you have to be able to tie the removal of the animal to the research project that has been approved, reviewed and gone through the full NEPA process.

Director Shroufe stated that if we go in the direction of a research project, legitimately and legally, were looking at 2-3 years worth of appeals and litigation. Unless we really have a need to do a legitimate study and are willing to put in that kind of time and effort, it's probably not a good avenue to pursue.

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Meeting recessed for lunch at 2:00 p.m.

Meeting reconvened at 2:30 p.m.

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9. Comprehensive Wildlife Conservation Strategy - Progress Update.

Presenter: Jeff A. Sorensen, Game & Fish Planner, Funds/Planning

Mr. Sorensen gave a Power Point presentation on the Comprehensive Wildlife Conservation Strategy (CWCS), a new 10-yr strategic plan the Department is beginning to develop in coordination with numerous partners and with public input. Recently, the Department hosted four "Wildlife Summit" workshops, an online-version of the summit survey, and a booth at the Hunting and Shooting Showcase to solicit input in designing Arizona's CWCS. Department staff and cooperating land management agencies are engaged in developing framework components of the CWCS. The Department anticipates having a draft CWCS plan available for Commission review in June 2005.

This is an effort that is being done nationally. All States and territories are developing their own CWCS plans under the State Wildlife Grant Program. It's a new program and is not a long term permanent funding source like Sport Fish Restoration and Wildlife Restoration. We hope that the state wildlife grant money will become established as such so that they will help complement our existing wildlife funding. Some of the basic tenets in the State Wildlife Grant Program are to support conservation efforts that will preclude the need to list species, help keep common species common, and address a wide variety of constituency wildlife concerns.

The schedule for this year is to be done in time to continue to receive State Wildlife Grant funding. Department staff is putting together the first draft of the plan and intend to have a copy for the March Commission meeting so the Commission will have a first read opportunity, after which a public review period will begin at the end of March going through April. Concurrent with the public review period the last week of March and first week of April, we will be holding a series of open forum meetings at all Regional offices and the Headquarters office talking about the draft plan components and how constituency concerns and values were considered in drafting it. (Note: March CWCS topic was subsequently postponed for the April meeting; public review period and open forum meetings moved to end of April through May.) It will be one more opportunity for them and our partners to provide input. We plan to have a final draft to the Director by the middle of May, to the Commission in June, and then the final submitted to the Fish and Wildlife Service and the National Advisor Acceptance Team in July.

Commissioner Chilton questioned at what point the Commission will be giving their input.

Director Shroufe stated that right now we are putting pieces together for the first draft and rather than give the Commission pieces, the draft will be the first framework that will make the most sense. After the draft is reviewed by the Commission, it will go out to the public for input.

Commissioner Chilton confirmed with Mr. Sorensen that this was in compliance to a Federal mandate and asked if the Federal government has set up the format or nature of the compliant plan and do we know that we are meeting their requirements.

Director Shroufe clarified that Congress is the one saying that if we want the funding we have to develop a comprehensive wildlife strategy. They designated the Fish and Wildlife Service as the recipient of the plans that go to Congress. The funds that come from State Wildlife Grants, come from Congress through the Fish and Wildlife Service. The actual framework did not come from the Fish and Wildlife Service, but by a state committee in which he and Terry Johnson have worked on for two years. This was put together by state directors and state agency people from across the nation, so it's not a Fish and Wildlife Service plan even though they are the conduit.

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10. New Mexico Quail Symposium Briefing.

Presenter: Mark Zornes, Small Game Biologist

Department personnel attended a Quail Symposium on July 30 and 31, 2004, in Las Cruces, New Mexico at the invitation of the New Mexico Game and Fish Commission to act as part of a panel of quail experts and to summarize quail management and research programs in Arizona. Arizona

was specifically invited to act as a benchmark for New Mexico's programs regarding population and harvest data collection and quail research. New Mexico hosted this event in response to concerns about low quail numbers in southwest New Mexico from a local Quail Unlimited chapter, and interest in improving quail management in New Mexico. Like much of Arizona, New Mexico has been experiencing long-term drought conditions in the southwestern portion of the state, which has seriously impacted quail populations and hunter satisfaction. Panel members each gave a presentation relating to southwestern quail management. Presentations given by the panel were as follows:

1. Tom Waddell, Turner Ranches (Armendaris Ranch), presented the results of their quail-feeding program.
2. Dr. Fred Guthery, Professor and Bollenbach Chair in Wildlife Ecology, Department of Forestry, Oklahoma State University, presented information concerning the impacts of bag limit on harvest levels of quail and increasing quail numbers through habitat manipulations.
3. Dr. Dale Rollins, Professor and Extension Wildlife Specialist Texas Agricultural Extension Service, presented information concerning his quail management successes with private landowners in Texas and the youth leadership program he started, the Bobwhite Brigades.
4. Dr. Reldon Beck, Professor of Range Sciences, New Mexico State University, presented information regarding range management, drought, and increased desertification and shrub encroachment in semi-desert and desert grasslands.
5. Dr. Sanford Schemnitz, Professor Emeritus of Wildlife Sciences, New Mexico State University, gave an overview of quail management and research in the southwest, including future research needs in New Mexico.
6. Kirby Bristow (WMRS) and Mark Zornes (WMGM) presented quail research and management programs in Arizona, including a new initiative aimed at improving scaled quail habitats in the Sulphur Spring Valley.

In response to the panel discussion and public input, the New Mexico Game and Fish Department and New Mexico Game and Fish Commission expressed interest in increasing quail population monitoring, refinement of harvest estimates, increased emphasis on habitat improvement for quail, and elevating the status of the bird in the eye of the general public. There was interest in increased communication, information sharing, and consistent data collection between the programs from both New Mexico and Arizona.

Mr. Zornes answered several questions for the Commission regarding the symposium, sufficient feed and water for quail in Arizona and bag limits, but there were no points of discussion.

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11. Wildlife 2006 Update

Presenter: Bruce D. Taubert, Assistant Director

In 2000, the Arizona Game and Fish Commission adopted Wildlife 2006. Wildlife 2006 describes the preferences of Arizona's citizens as they relate to the management of Arizona's

wildlife. It also identifies what the Commission, the Department, and the public expect over the six-year period (2001-2006).

Please note the General Challenges and Strategies of Wildlife 2006 are addressed in the subprogram. Subprograms include Game Management, Sportfish Management, and Nongame and Endangered Wildlife Management. In addition, the document will be available on the Department's Website for public information.

Commissioner Melton commented on the decline in the harvest number of deer and hoped that this will turn those numbers around.

Commissioner Golightly commented on pronghorn antelope objectives and asked why we were so far from the goal considering that we can get them free for release from Utah. His thoughts were that the objective verses the strategy did not match and more emphasis could be put on the strategy. He would like to see more transplanting of antelope into Arizona.

Mr. Taubert stated that the challenges were the drought and coyote numbers. When the pronghorn/fawn production gets to a certain level we allow wildlife services to harvest coyotes in the area just prior to fawning. We are doing a better job of communicating with predator clubs to concentrate their efforts where we want them. There are also the issues of fences, roads, habitat fragmentation and drought habitat; a large amount of money is in pronghorn research right now looking at dietary issues.

Commissioner Chilton requested that the Department provide transplant guidelines to the Commission.

Mr. Taubert noted that he would provide a briefing to the Commission that would include those guidelines.

Chairman Gilstrap commented on the elk population numbers and asked Mr. Taubert if he was comfortable with the population estimate or did he think it was more than that, to which Mr. Taubert replied yes, he believed it was relatively correct.

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12. Selection of New Members of the Heritage Public Advisory Committee

Presenter: Ty Gray, Heritage Fund Administrator

The terms of seven members of the Heritage Public Advisory Committee (HPAC) are due to expire in March 2005. The positions involve one representative from each Region and one statewide representative. The terms are for three years. In accordance with the HPAC Charter, two nominees for each Region and two statewide nominees were forwarded to the Commission for their consideration as appointments to the HPAC. Biographical information for each nominee was attached for reference. The nominees included the following:

<u>Region I</u> Mary Ellen Bitteroff Ron Smith	<u>Region II</u> Clair Harris Dave Lamkin	<u>Region III</u> Cindi LaBash Randy Lamb	<u>Region IV</u> Nick Heatwole Albert "John" King
<u>Region V</u> Ron Beemis Sonja Macys	<u>Region VI</u> Thomas Hulen Tony Nellson	<u>State</u> Mary Jo Miller Brian Pinney	

The Commission was provided with voting ballots, which were tallied for the following recommendations:

<u>Region I</u> Ron Smith	<u>Region II</u> Clair Harris	<u>Region III</u> Randy Lamb	<u>Region IV</u> Nick Heatwole
<u>Region V</u> Ron Beemis	<u>Region VI</u> Tony Nellson	<u>State</u> Brian Pinney	

Motion: Chilton moved and Golightly seconded THAT THE COMMISSION VOTE TO ACCEPT THE SELECTED SEVEN NEW MEMBERS OF THE HERITAGE PUBLIC ADVISORY COMMITTEE.

Vote: Unanimous

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13. Commissioner Committee Appointments

This item was tabled and the committees will remain the same until the new Commissioner is appointed.

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14. Call to the Public

Nick Heatwole, Vice President and Legislative Vice Chairman of the Yuma Valley Rod and Gun Club addressed the Commission in regards to the Ranching for Wildlife, also known as the landowner tags issue. The majority of the people Mr. Heatwole talked to around the state, mostly sportsman, are adamantly opposed to land owner tags in any form. The sportsman generally think that the Department needs to make sure they are active in addressing the concerns of the private landowners, but at the same time, they believe the state has the responsibility to manage wildlife, and not for the profit of certain individuals. Further, Mr. Heatwole urged the Department to maintain their strong stance against landowner tags.

Jon Fugate, Chairman of Legislative Affairs with the Yuma Valley Rod and Gun Club, addressed the Commission in regards to the BLM resource management process that is going on around the state. Mr. Fugate provided the Commission with a document regarding the public review process where the public is invited to participate with BLM. YVRGC has been participating in these processes for years. BLM now has a range of alternatives out for public review on the

computer and there are three things that concern YVRGC. One is called Visual Resource Management, the second is called Recreation Opportunity Spectrum, and the third is Route Designations. Both the BLM Phoenix and Yuma Field Offices have given YVRGC the opportunity to look at maps well before they came out for public review, and they asked us if they missed any roads. We have definitely been in the process and we are grateful for the opportunity to do that. The problem is that now that this is out, it's not out in a plan, but in a range of alternatives. Once the preferred alternative comes out, it's going to be tough. What they are doing is taking a whole bunch of things that individually doesn't look like much, but compiled together, they are big. As soon as one of these plans comes out, Mr. Fugate asked to come before the Commission again and explain it more in detail. The BLM has determined that they can protect, maintain, or enhance things that have wilderness characteristics. Mr. Fugate wanted to give the Department a heads up, that when the draft comes out, the Department is going to have some concerns.

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15. Commission Parliamentary Procedures.

Presenter: Shelley Cutts, Assistant Attorney General

The Commission had asked Ms. Cutts to take a look at parliamentary procedures, in particular procedures for making and amending motions, and give the Commission some suggestions. Ms. Cutts started by looking at the Robert's Rules of Order, which is a 700 page book, at least half of which is devoted exclusively to motions and motion practice. The chart and the tables that abbreviate and simplify motion procedures are about 48 pages in the middle of the book. Robert's Rules of Order are overly complicated and oppressive and were not workable for a body of five people. On the other hand, having no procedures lends itself to confusion and uncertainty. So Ms. Cutts developed a simplified procedure based on Robert's Rules of Order that fits on one sheet of paper. This document is attached to these minutes.

Commissioner McLean commented that the document was excellent.

The Commission agreed to use Ms. Cutts' simplified procedures as a guideline and asked for the document to be laminated for them to keep in their Commission meeting binders.

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16. Director's and Chairman's Reports

Chairman Gilstrap reported on his activities since the last Commission meeting. He has been to a series of meetings at the legislature, primarily in preparation for the budget. He attended the Shot Show where the Department had a booth that related to the Department's scholastic shooting program and he passed out brochures.

Director Shroufe reported that the Department received a couple of awards. The Lands and Access Program received the Boone and Crocket Award and this is the second time the Department has received that award. Also, the Wildlife Management Institute just announced that the Water Development Program will be awarded the WMI Presidential Award for 2005.

The Water Development Program made up quite a bit of the Director's Goals and Objectives every quarter. The Department has a very good staff put together who are really doing what they can with the funds they have and are making progress.

In addition, Director Shroufe finished his work on the Barry Gold Water Task Force that was put together in Senator McCain's Defense Authorization Bill of 2004. That task force came up with the idea, and it was stimulated by a conversation that Senator McCain had in a committee, that the Endangered Species Act was limiting the Department of Defense's ability to conduct their mission on the range. Senator McCain authorized 1.5 Million dollars and put together this task force, which came up with three recommendations: 1) The ESA probably isn't hampering DOD's mission; 2) the most likely problem is the inability to recover the Sonoran pronghorn and that's had a multitude of problems, with the major problem of not funding the recovery program; and 3) the undocumented aliens are having much more of an effect on the recovery of the pronghorn and the mission of the DOD than what ESA is having. The Task Force Report was taken to Congress and we asked for 3 million to be ear marked in the next five years to recover the pronghorn, to continue the program we're doing and interact with Mexico, and be able to build another recovery area here or in California. We also asked Congress to look into the problem we are having with illegal aliens. So Congress has the report and hopefully we will garner more money for Sonoran pronghorn.

On Monday of this week Director Shroufe was in Bisbee meeting with the Cochise County Board of Supervisors in a work session on closed access in Cochise County; in particular, the only access into Skeleton Canyon and that part of the Forest Service. Different alternatives were discussed. They were going to abandon the road right-of-way because it went through six miles of private property. We worked with them and at least got the County's approval to find another access route from the south. We're also looking at trying to deal with the private landowners, but the bottom line there is the undocumented aliens, drug and people traffic, that are causing our legitimate recreational pursuits to be closed off from public land.

Tuesday, Director Shroufe met with BLM, the Forest Service, a land exchange team consultant and Pima County on providing access to the north end of the Whetstone Mountains. Right now there is no legal access to the Whetstone Mountains. There is about 40,000 acres of public land with the only access point at the south end. Congressman Grijalva introduced a bill last year that failed to go anywhere. The bill purported that there were three or four sections of private land that would be exchanged to the BLM and become public land. At the time that bill was drafted, there was some language in it that was counter productive to the Department. It not only said that there would not be public access allowed through that private land acquired by BLM, but the Forest Service, in the 40,000 acres they owned, would not be able to provide any vehicular traffic. After discussion, that language will be redone and Director Shroufe suspects that Congressman Kolbe is going to introduce the bill and that we've got a real strong supporter of public access on Congressman Kolbe's staff.

Further, Director Shroufe met with the Park Service, the Forest Service, Kaibab Forest, and Department personnel in reference to the bison problem in Grand Canyon National Park. A survey was done by fixed wing aircraft on January 30, 2005 along the elevations in the park, but not up on the Kaibab Plateau due to weather conditions. There were 113 bison on the park. Attempts are being made to collar some bison to be able to track them, but it's suspected that they are going to have to be worked on right where they are. There were 30 of them about eight

to ten miles into the park boundary and it's believed that those bison will never come down. The Department is working on a plan and will come back to the Commission with that plan in March. The Department will probably not recommend a regular bison season on House Rock this year. It's not known how the Department can manage that herd, without getting in the way of sportsmen who have paid a big tag ticket, and not get blamed for harassment.

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17. Commissioner's Reports

The Commission reported on their activities since the last Commission meeting.

Commissioner Chilton reported that she attended a legislative luncheon and then flew to San Antonio to attend a Federal Lands Council meeting. A day and a half was spent there and they dealt with ESA issues. They also discussed various endangered species and how the sage grouse listing had been avoided by constructive action prior to its potential listing, and other species along the same line. Another issue discussed was the challenges of keeping ranchers on land and keeping land open for both recreation and wildlife habitat. These challenges are getting as large for ranchers as they are for the Game and Fish Department.

Commissioner McLean attended a couple of the public sessions discussing the fee cap bill. He attended the one in Mesa and then up in Payson. The sportsmen appear to be supporting that bill. Also, Commissioner McLean attended the Legislative Day festivities.

Commissioner Golightly focused most of his time on legislative matters.

Commissioner Melton met with Mr. Ferrell, Mr. Guiles and the Yuma Valley Rod and Gun Club. Attended Legislative Day and met some of the legislators. Also, attended the Trappers Fur Sale in Globe; they had a very poor turnout.

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18. Approval of Minutes

There were no minutes to be approved or signed at this time.

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19. Executive Session

- a. Sale or Lease of Real Property. The Commission may vote to go into Executive Session to discuss, consult with, and instruct its attorneys and Department staff concerning negotiations for the sale or lease of real property and associated water rights pursuant to A.R.S. § 38-431.03 (A)(7).
- b. Legal Counsel. The Commission may vote to meet in Executive Session in accordance with A.R.S. § 38-431.03 (A) (3) and (4) for the purpose of discussing and consulting with legal counsel in order to consider its position and to instruct legal counsel regarding the

Commission's position on *Montoya v. Manning*, CIV98-0239 PHX RCB; *In Re General Stream Adjudication for the Little Colorado River and Gila River*; *Mark Boge v. Arizona Game & Fish Commission & Shroufe*, CIV2000-020754; *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; *Phelps Dodge Corp. v. Arizona Dept. of Water Resources*, LC2003-000243-001DT; *Arizona Zoological Society, et. al. v. BLM, IBLA appeal no. 2002-412*, and *Audubon Society of Portland v. USFWS*, CV04-670-KI.

- c. Legal Counsel Regarding the Silverbell Bighorn Sheep Herd. The Commission may vote to meet in Executive Session in accordance with A.R.S. § 38-431.03(A)(3) and (4) for the purpose of discussing and consulting with legal counsel in order to consider its position and instruct legal counsel regarding the Commission's position on possible settlement or litigation over the damages associated with the epizootic episode in the Silverbell Bighorn Sheep Herd.
- d. Legal Advice Regarding Commission Authority to Take License Revocation Action. The Commission may vote to meet in Executive Session in accordance with A.R.S. § 38-431.03(A)(3) and (4) for the purpose of discussing and consulting with legal counsel in order to receive legal advice regarding Commission authority to take license revocation action.
- e. Legal Advice on Proposed Rule Amendments to R12-4-104, R12-4-107, and R12-4-115 to Require that an Applicant Purchase a Hunting License to Apply for the Hunt Permit-Tag Drawing. The Commission may vote to meet in Executive Session in accordance with A.R.S. § 38-431.03(A)(3) and (4) to receive legal advice regarding proposed rule amendments to R12-4-104, R12-4-107, and R12-4-115 to require that an applicant purchase a hunting license to apply for the hunt permit-tag drawing.
- f. Personnel Matters. The Commission may vote to go into Executive Session pursuant to A.R.S. § 38-431.03(A)(1) to discuss and evaluate the Director's performance as to his goals and objectives. The Commission may decide this matter in the public meeting or defer a decision to a later date.

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

Vote: Unanimous

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20. Presenter: Duane Shroufe, Director. Director's Goals and Objectives – 2005.

Director Shroufe and the Commission discussed the Director's Goals and Objectives.

Chairman Gilstrap pointed out that some of the goals are the same as in 2004 and some have been expanded on, dropped or added. Chairman Hays requested that the Commissioners get back with the Director and let him know if the goals are accepted as is or make notations on any other changes they would like to see.

Director Shroufe requested that the Commission adopt these Goals and Objectives as is for now because we are almost through the first quarter of this year.

Chairman Hays requested that the Director include an update on his Goals and Objectives in his Director's Report each month at future Commission meetings.

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The Commission briefly discussed whether to have one or two day meetings. Issues were the expense of Department employees staying two nights, and that Friday only meetings excluded some of the public who would have to take off from work to attend. It was decided to have two day meetings.

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21. Future Agenda Items

Deputy Director Ferrell noted eleven action items, two of which are future agenda items.

1. Director Goals and Objectives in March.
2. Prepare a comprehensive historical perspective on the restrictions on the Department's mission caused by special land designations.

Action Items

1. Get out a notice to the Commission on the Coal Mines Springs event scheduled for February 24.
2. Fax amendment of Senate Bill 1067, which is the Zuni Settlement Agreement, to the Commission on Monday.
3. Draft a one page summary by Monday afternoon for legislators regarding the concept of the cap and how we arrived at the dollar figures.
4. Send a list to the Commission of legislators who had signed on to the no new tags pledge and include Senators who we believe to be a priority to meet with.
5. Attempt to schedule appointments with all thirty Senators next week.
6. Work on recruiting a spokesperson in the Majority Caucus to represent our interest on Senate Bill 1365.
7. Follow-up with Chairman Gilstrap referencing Rusty Bowers interest to realign an issue at Usury Pass Shooting Range.
8. Emphasize on opportunities to transplant pronghorn into Arizona.
9. Develop a list of potential release sites.
10. Forward transplant guidelines to the Commission.
11. Make sure the agenda reflects that the Director's report may include briefings on his progress towards his goals and objectives.

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Motion: McLean moved and Chilton seconded THAT THE MEETING ADJOURN.

Vote: Unanimous

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Meeting adjourned at 6:00 p.m.

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W. Hays Gilstrap, Chairman

Joe Melton, Member

Michael M. Golightly, Member

William H. McLean, Member

Sue Chilton, Member

ATTEST:

Duane L. Shroufe
Secretary and Director