

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, February 9, 2007 – 8:00 a.m.
Best Western Inn Suites
1450 Castle Dome Avenue
Yuma, Arizona 85365

PRESENT: (Commission)

(Director's Staff)

Chairman Michael M. Golightly
Commissioner William H. McLean
Commissioner Robert Hernbrode
Commissioner Jennifer L. Martin
Commissioner Joe Melton

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

Chairman Golightly called the meeting to order at 8:00 a.m. The Commissioners introduced themselves and Chairman Golightly introduced the Director and the Director's staff. This meeting followed an agenda revision #1 dated February 2, 2007.

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There were no awards or commissioning of officers at this meeting.

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1. State and Federal Legislation

Presenter: Anthony Guiles, Legislative Liaison

The Commission was provided with a Legislative Update on the status of bills affecting the Department. The Commission discussed several bills and provided direction to the Department as follows:

Federal Legislation:

Senate Bill (SB) 86: A bill to designate segments of Fossil Creek, a tributary to the Verde River in the State of Arizona, as wild and scenic rivers.

House Resolution (HR) 199: To designate segments of Fossil Creek, a tributary to the Verde River in the State of Arizona, as wild and scenic rivers.

The Commission supported these bills last year; however, they did not pass.

Motion: McLean moved and Martin seconded THAT THE COMMISSION VOTE TO CONTINUE TO SUPPORT SB 86 AND HR 199.

Vote: Unanimous

Commissioner Hernbrode asked about the Wildlands Loan Act, SB 272, which will set aside federal dollars to purchase lands.

Mr. Guiles will research that bill and report back to the Commission.

Commissioner Melton inquired about how many acres were involved with HR 764; to expand the boundary of Saguaro National Park, to which Mr. Guiles stated that it was about 1,200 acres.

Commissioner Hernbrode requested that the Department keep a close watch on two other bills, the one regarding Las Cienegas Creek and the Farm Bill.

State Legislation:

House Bill (HB) 2443, Off-Highway Vehicles; user fee: The language of the bill is being amended to address constituent issues. The Commission will be provided a copy of the language as soon as it is available.

HB 2227, Restaurant exemption; illegal feeding of wildlife: The issues have been resolved for the particular restaurant in regards to this bill so it will not be proceeding any further.

SB 1026, Extreme DUI, sentence and SB 1029, Extreme DUI, concentration enhancement: Is currently going through the Senate. The Department will continue to monitor and hopefully be able attach the OUI as it goes through the House.

SB 1492, lottery proceeds: This bill may not go any further, but if it does it could impact the Heritage Fund.

Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION VOTE TO OPPOSE SB 1492 IN IT'S PRESENT FORM BUT AUTHORIZE THE TWO COMMISSION LEGISLATIVE REPRESENTATIVES TO SUPPORT THE BILL IF IT SHOULD BE AMENDED SO THAT THE HERITAGE FUND IS NOT ADVERSELY AFFECTED.

Vote: Unanimous

House Concurrent Memorial (HCM) 2008, Urge protection, KOFA herd: The Commission was provided with a copy of this legislation; however, it is being amended and the Commission will be provided a copy of the amended legislation as soon as it is available.

Motion: Martin moved and Hernbrode seconded THAT THE COMMISSION VOTE TO SUPPORT THIS BILL AS CURRENTLY WRITTEN.

Vote: Unanimous

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

Presenter: Josh Avey, Habitat Branch Chief

A copy of the Lands Update report 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 2007 Commission meeting. This update 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.

Commissioner McLean requested that the Department be vigilant and guarded in regards to the development of La Osa.

Paul Cornes, with the U.S. Fish and Wildlife Service (USFWS), briefed the Commission and discussed the declining population of bighorn sheep on the Kofa National Wildlife Refuge and concerns about the impact of mountain lions on that sheep population.

Chairman Golightly noted that the last sheep survey on the Kofa was in October 2006 (prior to that was October 2003) and considering hunter success on the Kofa, questioned whether another survey should be done prior to April 2007 when season bag limits will be set.

Mr. Cornes stated that he did not think it was necessary to do a survey prior to setting bag limits; however, he would like to see surveys done on an annual basis, particularly when sheep numbers are low like they are now, below 400.

Chairman Golightly requested doing a survey on the Kofa for sheep and to have this item on the March Commission meeting agenda. Further, Chairman Golightly offered Mr. Cornes the support of the Department in conducting surveys. (At the end of this meeting, Chairman Golightly withdrew his request for a survey and to have this item on the March agenda.)

Mr. Cornes committed to continue working with the Department's Regional Supervisor Larry Voyles regarding this situation.

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Meeting recessed for a break at 9:23 a.m.

Meeting reconvened at 9:49 a.m.

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2. (continued) An Update on Current Issues, Planning Efforts, and Proposed Projects on All Lands in Arizona and Other Matters Related Thereto

Presenter: Josh Avey, Habitat Branch Chief

Becky Heik, Yuma Field Office Manager for BLM, and other staff members, Nicki Bailey and Karen Riechart, provided the Commission with a presentation of BLM's draft Resource Management Plan (RMP) and draft Environmental Impact Statement.

The Commission discussed concerns about signage and protecting sheep habitat and other potential impacts to wildlife in regards to the RMP's proposed back country byways.

Commissioner Hernbrode confirmed with the BLM staff that the designation of open and closed roads will take five years beginning with the decision on the RMP, and further offered assistance from the Department in determining potential impacts to wildlife and wildlife habitat.

Public Comment

Jon Fugate, representing himself, expressed concerns for the Yuma BLM RMP as it relates to the route transportation map in that it does not identify most of the drivable washes currently allowed for access. Mr. Fugate also noted a separate issue regarding the Eagle Tail Wilderness Area in that it encompasses 98,000 acres instead of the 89,000 acres as was approved by Congress.

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3. Statewide Shooting Range Briefing

Presenter: Ty Gray, Education Branch Chief

The Commission was provided with an update prior to this meeting of Department activities related to shooting range support and development statewide. The update covered activities that occurred since the January 2007 Commission meeting. The statewide shooting range briefing is part of the Department's ongoing commitment to provide the Commission with updates on statewide shooting range development and shooting sports in general.

Using a Power Point presentation, Mr. Gray provided an additional update with pictures of the following: 1) the progress of the Ben Avery Shooting Facility (BASf) Hunter Education Range and the Clay Target Center; and 2) the status of plans and upcoming activities for developing the Northern Arizona Shooting Range, including the timeline for Phase I and Phase II construction; it is estimated that Phase I will take 9-12 months and Phase II will take an additional 18 months.

Chairman Golightly asked about a meeting with Representative Renzi.

Mr. Guiles stated that a meeting was set, but Representative Renzi had to postpone that meeting. However, Representative Renzi is interested in meeting with the Department and attempts are being made to coordinate a conference call. Mr. Guiles is waiting to hear back from Representative Renzi's office on available dates for the meeting.

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4. Request by Mr. Michael Sisk for a Hearing to Reinstate His Bonus Points for Elk from the Fall 2006 Draw.

Presenter: Jon Cooley, Region I Supervisor

Mr. Michael Sisk successfully drew a tag in 2006 for a hunt in Unit 3C (hunt #3114, Archery Bull – September 22 through October 5). Mr. Sisk, a non-resident hunter from Colorado, hired a local area guide for this bull elk hunt. According to information provided to the Department by Mr. Sisk, he and his guide continually ran into an individual who was apparently hunting the

same large bull that they were hunting. Mr. Sisk maintained that this individual "directly interfered" with his ability to harvest an animal. Mr. Sisk was contacted by Department officers during hunt patrols, at which time Mr. Sisk relayed information to officers about the hunt interference from this individual. Department officers were coincidentally investigating the subject individual for reported hunting violations, with Department officers ultimately issuing citations to this subject for hunting elk without a valid tag. Mr. Sisk did not harvest an elk and after the hunt sought relief for the situation by contacting the Department. Mr. Sisk was advised by the Law Enforcement Branch that there was no administrative remedy the Department could provide and that he would need to comply with the provisions of Commission Rule 12-4-611 (Petition for a Hearing before the Commission when no remedy is provided in Statute, Rule or Policy). Mr. Sisk's proposed remedy is for the Commission to reinstate his bonus points for the elk draw.

The Commission discussed whether one additional hunter, legal or illegal, would adversely impact the hunt, and further discussed that occasionally it happens where a person is targeted as a knowledgeable hunter and ends up with someone tagging along.

Michael Sisk was present and addressed the Commission requesting that his bonus points be reinstated due to the individual ruining his hunt.

Motion: Martin moved and McLean seconded THAT THE COMMISSION VOTE TO DENY MR. SISK'S REQUEST FOR REINSTATEMENT OF THE BONUS POINTS THAT HE ACCRUED PRIOR TO THE 2006 FALL HUNT DRAW.

Vote: Unanimous

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5. Moved to Consent Agenda

This item was moved to agenda item #6 under the consent agenda per this meetings agenda.

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6. Consent Agenda

The following items were grouped together and noticed as consent agenda items to expedite action on routine matters. These items were provided to the Commission prior to this meeting for review and the Department requested that the Commission approve these matters as presented, subject to approval or recommendations of the Office of the Attorney General. Director Shroufe presented all of these items to the Commission and none were deemed necessary for removal for further discussion.

a. Request for the Commission to Approve a Cooperative Agreement with the Arizona Wildlife Foundation

Presenter: Bob Broscheid, Assistant Director, Wildlife Management Division

This proposed cooperative agreement would facilitate the loan of the "Raptors of Arizona" collection to the Department for public display purposes. The display consists of 42 original framed paintings. The Arizona Wildlife Foundation is a non-profit 501(c)(3), incorporated in the State of Arizona. Under the agreement, the Commission would agree to accept and display the original framed painting collection, ensure security of the collection, and acknowledge the loan from the Arizona Wildlife Foundation crediting the Arizona Wildlife Foundation and individual artists. In addition, both parties would agree that in the case that the Arizona Wildlife Foundation becomes insolvent and needs to sell any or all of the paintings, the Department shall have first right of refusal to purchase the paintings at fair market value.

The Department recommended that the Commission vote to approve the cooperative agreement with the Arizona Wildlife Foundation.

b. Request for the Commission to Approve an Intergovernmental Agreement with the City of Yuma for the Purpose of Defining Hunting Areas Within the City Limits of Yuma and Allowing the Discharge of Firearms by Licensed Hunters.

Presenter: Larry Voyles, Regional Supervisor, Yuma Region

The Arizona Game and Fish Commission has authority to regulate hunting under A.R.S. §17-231(A)(3) and to execute an agreement under A.R.S. §17-231(A)(8). The City of Yuma has authority under A.R.S. §13-3107(C)(3) to approve and post recommended hunting areas. Both parties have authority under A.R.S. §11-952 to enter into intergovernmental agreements for this purpose.

The City of Yuma does not allow the discharge of firearms within City Limits by ordinance. In 1998, the City of Yuma, by Ordinance O98-17, codified at the Yuma City Code §114-15(F), adopted regulations that provide for lawful hunting activities in certain designated areas pursuant to the above noted statutes and authorities. These areas are within the City Limits but are primarily agricultural in nature and provide shotgun shooting shot small game hunting opportunities (dove and rabbit).

In 2006, the City of Yuma proceeded with annexing additional land east of the City Limits, including the Gila Mountains and portions of Dome Valley in Game Management Unit 40BW. These lands provide bighorn sheep, mule deer and other wildlife hunting opportunities. Hunting methods include use of rifle and shotgun. The Department wants to insure that these areas remain open for hunting opportunities by meeting with the City, at a minimum, on an annual basis to designate hunting areas and engage in a review of the designated hunting areas to determine feasibility of weapon type for the area.

The Department recommended that the Commission vote to approve the Intergovernmental Agreement with the City of Yuma for the purpose of defining hunting areas within the city limits of Yuma and allowing the discharge of firearms by licensed hunters.

c. Request to Approve a License Agreement for the Use of Real Property with the Maricopa County Board of Supervisors.

Presenter: Rod Lucas, Region VI Supervisor

The Department requested that the Commission approve a License Agreement with the Maricopa County Board of Supervisors to install and operate an improved nest structure and camera for a peregrine falcon nesting location in downtown Phoenix. This falcon eyrie is located on the County Administrative building at 401 W. Jefferson, belonging to Maricopa County. The camera will provide ongoing photo documentation of the falcon nesting process and will be made available on both the Arizona Game and Fish Department and Maricopa County web sites. This is anticipated to be a highly popular watchable wildlife experience for the interested public.

The Department recommended that the Commission vote to approve a license agreement with the Maricopa County Board of Supervisors to install and operate a nest camera setup on their building in downtown Phoenix.

Motion: McLean moved and Martin seconded THAT THE COMMISSION VOTE TO APPROVE CONSENT AGENDA ITEMS A, B, and C.

Vote: Unanimous

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6A. Purpose of the Heritage Grant Applications Manual and Applicable Grant Review Process

Presenter: Melba Davidson, Funds Planning Manager

Pursuant to the Heritage Grant Applications Manual, eligible proposals received through the Department's Heritage Grant Program are scored and ranked using the Department's Grant Prioritization Process as approved by the Commission. The current grant prioritization process states that a member of Heritage Fund Public Advisory Committee (HPAC) may sit on the Grant Prioritization Review Committee. The Department recommended that the membership of the HPAC on Grant Prioritization Review Committee increase from one member to two members.

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO APPROVE A CHANGE TO THE HERITAGE GRANT PROGRAM, GRANT PRIORITIZATION PROCESS TO INCREASE THE MEMBERSHIP OF THE HERITAGE PUBLIC ADVISORY COMMITTEE REPRESENTATION ON THE GRANT PRIORITIZATION REVIEW COMMITTEE FROM ONE MEMBER TO TWO MEMBERS.

Vote: Unanimous

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Meeting recessed for a break at 11:15 a.m.

Meeting reconvened at 11:42 a.m.

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7. Call to the Public

There were no request from the public to speak.

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8. Executive Session

The Commission agreed to meet in Executive Session in accordance with A.R.S. § 38-431.03 (A)(3) and (4) for the purpose of discussion and consultation with legal counsel.

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Meeting recessed for lunch at 12:15p.m.

Meeting reconvened at 1:30 p.m.

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8. (continued) Executive Session

The Commission agreed to meet in Executive Session in accordance with A.R.S. § 38-431.03 (A)(3) and (4) for the purpose of discussion and consultation with legal counsel.

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

Presenter: Pat Barber, Law Enforcement Branch Chief

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10. Litigation Report

The Commission was provided a copy of the Litigation Report prior to this meeting for review and consideration. There were no further updates. The Commission had no comments or questions.

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11. Call to the Public

There were no request from the public to speak.

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Meeting recessed for a break at 3:02 p.m.

Meeting reconvened at 3:31 p.m.

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12. Director's Goals and Objectives - 2007

Presenter: Duane L. Shroufe, Director

The Commission discussed and voted on a list of goals and objectives for the Director to achieve during 2007 as follows:

Goal 1: Report to Commission on Department Activities and Actions.

1.a. Report at regular monthly Commission meetings the following as appropriate: 1) State and Federal Legislation; 2) Ongoing Lands and Habitat activities; 3) Information and Education activities; 4) Statewide Shooting Range Issues; and 5) New Department Headquarters.

Motion: Martin moved and Hernbrode seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 1.A.

Vote: Unanimous

1.b. Beginning in April 2007, expand monthly Information and Education presentation to include a formal education outreach report (Formal Education is defined as Department programs and products that are guided by the State of Arizona model content standards with target audiences of teachers and students for grades pre-K through 16. They will be programs and products that: 1) engage students in interdisciplinary exploration of wildlife and natural resource concepts; 2) are activity oriented, curriculum supplementing, biologically accurate, and balanced in the wildlife information presented; and 3) provide the classroom teacher with access to methodology, biologically sound material, and wildlife management concepts.

Motion: Hernbrode moved and Martin seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 1.B.

Vote: Unanimous

1.c. Report in writing in six months with a final report at the end of the year on the following Department activities: 1) Nongame and endangered species; 2) hunting issues; 3) fishing issues; 4) watchable wildlife issues; and 5) watercraft issues.

Motion: Hernbrode moved and Martin seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 1.C.

Vote: Unanimous

1.d. At least once during the calendar year of 2007, host a multi-day, no decision workshop for the Commission and Department staff to discuss timely issues (could be on the second day of a regularly scheduled Commission meeting).

Motion: Hernbrode moved and Martin seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 1.D.

Vote: Unanimous

Goal 2: Increase Access to Public, Private and State Lands Across Arizona.

2.a. Provide a quarterly report to the Commission on successes in the Department's public access efforts.

Motion: Hernbrode moved and Martin seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 2.A.

Vote: Unanimous

2.b. By January 2008, report back to the Commission the feasibility of housing heavy equipment at the regional level to enhance access and landowner relations.

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 2.B.

Vote: Unanimous

Goal 3: Protect Current Revenue Streams and Actively Seek New Funding Sources for the Department.

3.a. By October 1, 2007, develop language, protocol and calendar for at least one significant new funding source for the Department.

Motion: Hernbrode moved and Martin seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 3.A.

Vote: Unanimous

Goal 4: Increase Deer and Elk Hunting Opportunities.

4.a. Increase deer hunting opportunities by approximately 10% by the end of 2009 big game season.

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 4.A.

Vote: Aye – McLean, Hernbrode, Martin
Opposed, same sign – Golightly, Melton
Passed 3 to 2

Chairman Golightly and Commissioner Melton agreed with increasing opportunity, but did not agree with directing the Department to increase by a specific number.

4.b. During 2007, review and revise deer hunt guidelines to include but not limited to review of standard opening dates, increased stratification of seasons, Alternative Deer Management Plans, and review of the table that gives guidance to decrease, stay the same or increase permits.

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 4.B.

Vote: Unanimous

4.c. Increase elk hunting opportunities by 10% by the end of the 2009 big game season.

Motion: Hernbrode moved and Martin seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 4.C.

Vote: Aye – McLean, Hernbrode, Martin
Opposed, same sign – Golightly, Melton
Passed 3 to 2

Chairman Golightly and Commissioner Melton agreed with increasing opportunity, but did not agree with directing the Department to increase by a specific number.

4.d. During 2007, review and revise elk hunt guidelines to include but not limited to review of standard opening dates, increased hunt stratification Alternative Elk Management Plans, and review of the table that gives guidance to decrease, stay the same or increase permits.

Motion: Hernbrode moved and Martin seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 4.D.

Vote: Unanimous

Goal 5: Periodically review, revise, and report on Predator Management Plans, including protocol female Black Bears and Mountain Lions with cubs, to include the following in one document: Hunting and recreation opportunities; human/ predator conflict resolution strategies; urban predator conflict strategies; wildlife depredation strategies; and livestock depredation strategies.

Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 5.

Vote: Unanimous

Goal 6: Review and report on the effects of the use of lead in bullets on wildlife and human health. Explore the possibility of expanding the use of non-lead bullets in big game hunting.

Motion: Hernbrode moved THAT THE COMMISSION VOTE TO APPROVE GOAL 6.

Commissioner Martin offered to second with an amendment that the Department also explore the possibility of required removal of contaminated gut piles and carcasses.

Amended Motion: Hernbrode moved and Martin seconded THAT THE DEPARTMENT ALSO EXPLORE THE POSSIBILITY OF REQUIRED REMOVAL OF CONTAMINATED GUT PILES AND CARCASSES AND THAT THE COMMISSION VOTE TO APPROVE GOAL 6 AS AMENDED.

Vote: Aye – McLean, Hernbrode, Martin
Opposed, same sign – Golightly, Melton

Chairman Golightly and Commissioner Melton did not agree with the amendment.

Goal 7: Significantly expand the use of “Safe Harbor Agreements” as a recovery tool for threatened and endangered species by July 2008.

Motion: Hernbrode moved and Martin seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 7.

Vote: Unanimous

Goal 8: Increase Watchable Wildlife Outreach Efforts.

8.a. By January 2008, complete Regional Watchable Wildlife Plans to compliment a Statewide Watchable Wildlife Program Plan.

Motion: Hernbrode moved and Martin seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 8.A.

Vote: Unanimous

8.b. Have a presence and give presentations at the Governors next Conference on Arizona Tourism.

Motion: Hernbrode moved and Martin seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 8.B.

Vote: Unanimous

8.c. Take a lead role in the planning and successful completion of the Watchable Wildlife Conference to be held in Tucson in October 2007.

Motion: Hernbrode moved and Martin seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 8.C.

Vote: Unanimous

8.d. Over the year 2007, work with the Arizona Wildlife Tourism Association to promote watchable wildlife in Arizona.

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 8.D.

Vote: Unanimous

Goal 9: Increase Warm Water Angling

Motion: Martin moved and Hernbrode seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 9.

Vote: Unanimous

Goal 10: Increase Shooting Sports Opportunity

Motion: Martin moved and Hernbrode seconded THAT THE COMMISSION VOTE TO APPROVE GOAL 10.

Vote: Unanimous

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13. Approval of Minutes and Signing of Minutes

Motion: Golightly moved and Melton seconded THAT THE COMMISSION VOTE TO APPROVE THE MINUTES FOR JANUARY 16, 2007, JANUARY 19-20, 2007, JANUARY 31, 2007, AND FEBRUARY 6, 2007.

Vote: Unanimous

The Commission signed the minutes for December 9, 2006, January 16, 2007, January 19-20, 2007, January 31, 2007, and February 6, 2007.

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14. Director and Chairman's Report

Chairman Golightly met with Legislator's and worked on issues concerning the Department's budget; worked on JLBC matters; made calls and prepared for this meeting.

Director Shroufe has been busy working on the Governor's Executive Orders. The Governor has accepted the report of the Invasive Species Advisory Council (ISAC), of which Director Shroufe is Co-Chair, and attended related meetings making sure that the recommendations of ISAC are met. Director Shroufe has been participating in the Smart Growth Cabinet meetings dealing with matters such as working with local and county governments and cities in planning and the pressures being put on wildlife habitats. Funding is a key element for these issues so the Director is working to gain additional political support for funding of these matters. Global warming and greenhouse gases are another Executive Order that the Director has been working on. State vehicles will have more stringent regulations, which will have a fiscal impact on the Department starting this year. The Commission may have to address some air quality issues in order to improve air quality such as with OHV use and dust. The Commission may want to consider participating in some of the committees that are formed to work on Executive Orders.

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15. Commissioners' Report

Commissioner Melton participated in the regular and telephonic Commission meetings.

Commissioner Martin attended the Bald Eagle Conservation Agreement signing; met with Habitat Branch staff regarding use of conservation easements; participated in regular and telephonic Commission meetings; and met with the Governor's staff regarding a variety of issues.

Commissioner McLean attended meetings with Off-Highway Vehicle (OHV) user groups and Legislators; met and discussed the issues with Anthony Guiles, the Department Legislative Liaison; attended one hearing and testified on behalf of the Commission with regard to legislative matters; attended the OHV Committee hearing; participated in all but one of telephonic Commission meetings; and prepared for this Commission meeting.

Commissioner Hernbrode attended a Conservation Strategies for 2007-2008 meeting at the Phoenix Zoo. The main issues and interest that came out of that meeting was to work this next year on surface and groundwater issues, land conservation issues, and teacher funding.

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16. Future Agenda Items

Mr. Ferrell captured the following future agenda items/action items:

- Provide the Commission with a written analysis of proposed federal legislation Senate Bill 272 sponsored by Senator Coleman
- Provide the Commission with more information, including a map, on the Saguaro National Park proposed expansion
- Ensure that Branch Chief Barber states at the beginning of revocation hearings that revocations are intended as a remedy and not further punishment
- Provide the Commission with the November 2005 public opinion data on a new funding initiative
- Provide copies to Commission of recent news articles regarding threatened and endangered species management.

Chairman Golightly withdrew request for a bighorn sheep survey on the Kofa Wildlife Refuge in March and withdrew his request to have this issue as an agenda item.

Director Shroufe stated that updates on the Kofa Wildlife Refuge will be included in the monthly Lands Updates report provided to the Commission.

Chairman Golightly read into record: "As a future agenda item I would like the Department to present to the Commission at the next public meeting the current status of the BLM Kingman Region Big Ranch A allotment, so that the Commission may vote to pursue litigation against the BLM to resolve their concerns over the BLM's lack of responsiveness to the Department's protest regarding the Big Ranch A; and further give specific directions to increase public awareness of this issue".

Commissioner Hernbrode reminded the Department that at some point in the future the Commission needed to address the issues regarding the delisting of the Desert Nesting Bald Eagle.

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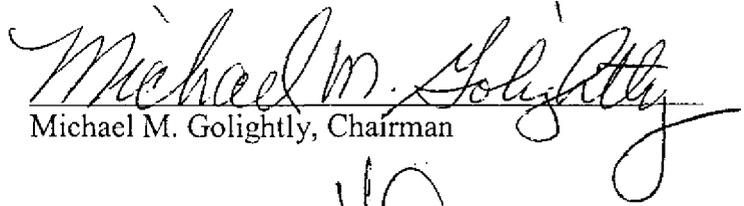
Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION VOTE TO ADJOURN THIS MEETING.

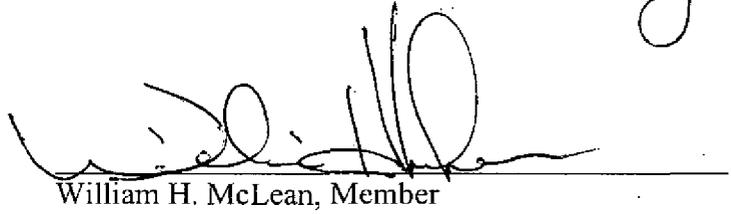
Vote: Unanimous

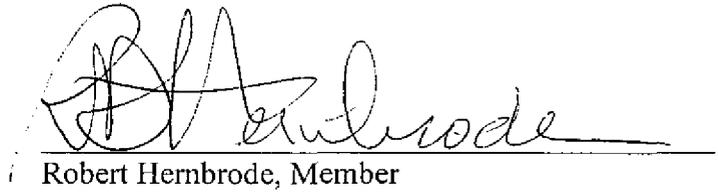
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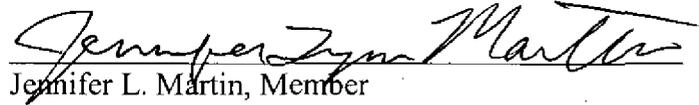
Meeting adjourned at 5:13 p.m.

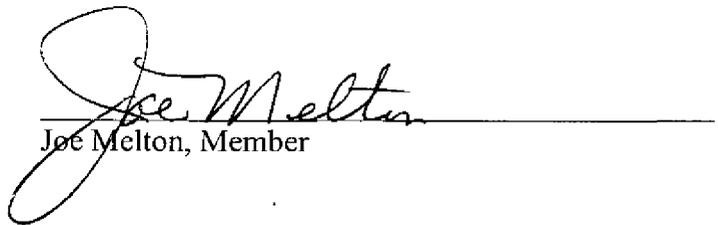
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Michael M. Golightly, Chairman

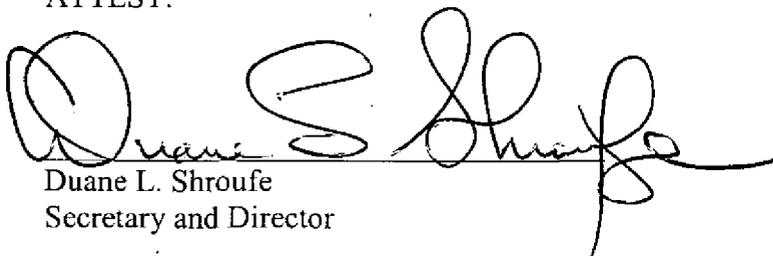

William H. McLean, Member


Robert Hernbrode, Member


Jennifer L. Martin, Member


Joe Melton, Member

ATTEST:


Duane L. Shroufe
Secretary and Director

Game and Fish Litigation Report
Presented at the Commission Meeting
February 19, 2007

The Assistant Attorneys General for the Arizona Game and Fish Commission and the Arizona Game and Fish Department are representing these agencies in the following matters in litigation. This report does not include claims and lawsuits for damages against these agencies in which the agencies are represented by Assistant Attorneys General in the Liability Defense Section of the Attorney General's Office.

1. ***State v. Johnson, CV2005-002692.*** On February 14, 2005, the State of Arizona ("State") filed a multi-count complaint against land developer George Johnson and related individuals and entities ("Defendants") alleging that Defendants: (1) bulldozed over 270 acres of State Trust Lands and 2,415 acres of other lands in and near the Ironwood Forest National Monument ("Monument") and the Los Robles Archeological District; (2) irreparably damaged protected archeological sites on State Trust Lands; (3) destroyed thousands of protected native plants; (4) discharged pollutants into waters of the State and altering and damaging watercourses of the State; (5) breached the terms of a State grazing lease; and (6) allowed diseased domestic goats to roam into the habitat of the Silver Bell desert bighorn sheep herd on the Monument, thereby infecting 47 desert bighorn sheep with keratoconjunctivitis and contagious ecthyma and causing the deaths of 21 members of the herd.

Along with the Complaint, the State filed a motion to place the case into Arizona Superior Court's Complex Litigation Pilot Program.

On March 18, 2005, the State filed an amended Complaint wherein the State Land Department added claims for waste and punitive damages.

On March 25, 2005, the Court issued an order designating the case as complex and assigning the matter to Judge Rebecca Albrecht. The parties held a case management conference before Judge Albrecht on May 11, 2005.

On May 23, 2005, Defendants filed motions to dismiss the Commission's negligence per se and unlawful killing of wildlife claims. Defendants did not move to dismiss the Commission's negligence claim. The Attorney General's Office filed responses to Defendants' motions on June 21, 2005. Defendants filed reply briefs in support of their motions to dismiss on July 6, 2005, and the Court heard oral argument on the motions on July 21, 2005.

On August 23, 2005, the Court issued a ruling denying both of Defendants' motions to dismiss. On September 15, 2005, the State filed a Second Amended Complaint at the Court's direction to more fully address the State's basis for asserting personal liability against George Johnson for certain of the State's claims related to trespass, destruction of native plants, damage to archeological sites, and violation of water quality and storm water discharge laws.

On October 13, 2005, Defendants filed a counterclaim for defamation against the Attorney General and the Director of the Department of Environmental Quality arising from statements made to the press about the case. On October 14, 2005, Defendants filed an answer to the State's Second Amended Complaint. As required by Rule 26.1 of the Arizona Rules of Civil Procedure, the parties

will exchange comprehensive disclosure statements regarding the factual and legal basis of the claims in the case on November 10, 2005.

The parties served initial disclosure statements on November 10, 2005, and are working on a proposed case management order. Due to the retirement of Judge Albrecht, the case was transferred to Judge Barton. The defendants filed a notice of change of judge with respect to Judge Barton, and the case has been reassigned to Judge Kenneth L. Fields. Judge Fields has scheduled a status conference for February 13, 2006 to discuss the proposed case management order. The parties held a status conference before the Court on February 27, 2006. The Court ordered the parties to prepare a Joint Case Management Order no later than noon on March 8, 2006. The parties have started the written discovery process, and depositions will commence the second week of May.

The parties held a status conference on June 5, 2006, and filed a Joint Alternative Dispute Resolution Statement with the Court. The parties agreed to mediate this dispute, and have Tom Toone of Beer & Toone to serve as mediator. On August 7, 2006, the parties filed their respective mediation statements. The mediation took place on August 18, 2006, but the parties were not able to resolve the dispute. Following the mediation, the defendants noticed the depositions of several Department employees. **These depositions took place in the fall of 2006. The depositions of Department witnesses Jim Heffelfinger and Brian Jansen will take place in early-2007.**

2. ***Charles M. Johnson v. Arizona Game and Fish Department, LC2006-000775.*** On November 13, 2006, Charles M. Johnson filed a Complaint in Arizona Superior Court appealing the Commission's orders revoking his license privileges for three (3) years, requiring him to complete a hunter education course before obtaining another license to hunt in Arizona, and denying his request for a rehearing. Mr. Johnson filed with his Complaint an Application for Order to Show Cause ("Application") asking the Court to stay his license suspension pending the outcome of the appeal. On November 17, 2006, Game and Fish filed an Opposition to Mr. Johnson's Application. On November 21, 2006, the Court issued a minute entry finding that Mr. Johnson's Application was "neither procedurally appropriate nor substantively adequate" and declining to issue a stay.

The parties held their first status conference before the Court on January 10, 2007. The Court set the briefing and oral argument schedule as follows: (1) Johnson's Opening Brief due March 5, 2007; (2) the State's Response Brief due April 16, 2007; (3) Johnson's Reply Brief due May 16, 2007; and (4) Oral Argument on May 30, 2007 at 9:00 a.m.

(1/17/07) (JFO/SDC)

Lands Update
For the Arizona Game and Fish Commission
February 9, 2007
Yuma, Arizona

U.S. FOREST SERVICE

Apache-Sitgreaves National Forests

The Department continues to coordinate with the Heber Wild Horse Territory ID Team in development of a management plan for the Territory consisting of approximately 14,000 acres on the Black Mesa Ranger District. A site specific proposal will be developed that addresses appropriate management, special consultation and coordination considerations, plans for removal or disposal of excess horses and other actions to achieve management objectives, and a monitoring plan. The Team is currently assessing forage needs and total forage availability for livestock and wild ungulates. These assessments will enable the Team to determine whether or not this area can support a viable herd of wild horses. Scoping will begin in late February. A Decision notice is expected in December 2007.

The Department attended the initial meeting of the Goshawk Guidelines Implementation Collaborative ID Team. Other Team members include the Forest and the local, citizen-based Natural Resources Working Group. The Team will provide input to the Forest on a goshawk guidelines demonstration project. The proposed project encompasses approximately 3,500 acres within the Eagar South Wildland Urban Interface Analysis Area in Apache County, and will be designed to implement and test goshawk guidelines based on thinning prescriptions to achieve fire hazard reduction objectives.

The Department is currently involved in the planning of an aquatic habitat improvement project on several lakes in Region I, including Fool Hollow, Show Low and Rainbow and Lyman. The goal of the project is to improve sportfish angling opportunities and conditions for children, which will help with overall angler recruitment. Partners in the project include Arizona State Parks, U.S. Forest Service, Show Low Irrigation, Lyman Lake Irrigation, City of Show Low, and the White Mountain Flyfishing Club.

The Department continues to participate on the Natural Resources Working Group. An oriented strand board plant proposed for the Winslow area by Arizona Forest Restoration Products, Inc. would promote forest restoration/fire hazard reduction activities by providing for a more cost-effective method to treat up to 38,000 acres of Forest lands in Arizona per year during the next 20 years. Long-term sustainability and actual acres required to meet projected volume still need to be determined.

Coconino National Forest

The Forest has begun planning efforts on the Fossil Creek, Hackberry and Pivot Rock Allotments located along the Mogollon Rim above Fossil Creek and the Verde River. These allotments contain valuable wildlife habitat. The Department and Forest met to develop a proposed action for the Fossil Creek Allotment. Meetings for the other allotments will occur in the near future.

The Department continues to participate on the Greater Flagstaff Forest Partnership (GFFP) to analyze fuels reduction projects. The Eastside Fuels Reduction and Forest Health Project's Final Environmental Assessment and Record of Decision/FONSI were released on January 8, 2007. The final EA calls for mechanical reduction of approximately 3,800 acres, hand thinning of

approximately 3,400 acres, prescribed burning on approximately 7,800 acres after thinning and over 12,300 acres without thinning. The project area includes Mountaineer, the east side of Flagstaff, Doney Park, Fernwood and Timberline. Implementation could begin in the Mount Elden interface in spring 2007. The Department will continue to collaborate with the Forest to implement the cliffrose rejuvenation project within the Eastside Project.

The Department is also participating with the GFFP in the Jack Smith/Schultz Fuels Reduction Project. The Forest released the Need for Change Analysis in January 2007, and the Department will review the report in collaboration with the GFFP to ensure elements of our draft document outlining Desired Future Conditions for wildlife in ponderosa pine forests are incorporated. The Proposed Action is scheduled for release in spring 2007.

Coronado National Forest

The Department met with the Forest and U.S. Fish and Wildlife Service (Service) to discuss mitigation needs for sensitive and listed species for the Pinaleño Ecosystem Management Plan. A compromise is being pursued for methods to treat mixed conifer habitat to address forest health issues (e.g., insect outbreaks and catastrophic fire) while preserving habitat for species that require specific conditions (e.g., Mount Graham red squirrel).

The Department met with the Forest, the Fish and Wildlife Service, and Arizona Department of Transportation (ADOT) regarding proposed changes to the Swift Trail in the Pinaleño Mountains. This road upgrade is currently in the pre-planning stage. However, participating agencies want to ensure ADOT understands the potential impacts of the project to wildlife by increased access to the mountains by large vehicles.

The Department continues to participate in the Pinaleños Partnership. The Partnership started mutual training sessions where experts in diverse fields will provide training to enable partners to obtain a broad understanding of issues affecting forest health and potential actions. At the last meeting, presentations were provided on: changes in mixed conifer habitats since Euro-American settlement; the history of forest insect outbreaks in the Pinaleño Mountains, and fire history of the Pinaleños.

Kaibab National Forest

The Department continues to participate in the North Kaibab Westside Habitat Project to improve deer habitat through vegetative treatments. The Decision Notice and Environmental Assessment are expected to be released in the near future by the Forest.

The Proposed Action for the Warm Fire evaluates a potential salvage of 9,900 acres, reforestation on approximately 14,690 acres, and natural regeneration of aspen on 4,050 acres. The Department submitted initial comments on the Proposed Action that included the amount and distribution of trees to be replanted within the fire footprint, weeds associated with the salvage on herbaceous understory response, and concern with the Service's recommended low amount of natural aspen regeneration. The Department will continue to participate throughout the process.

Coconino, Kaibab and Prescott Forests

The Department continues to be involved with the Land Management Plan revision process for the Coconino and Kaibab Forests. The Species of Interest list is being screened to ascertain which animals will be considered in the Forest's modeling effort. The modeling will be used to help determine potential impacts of the alternatives in the final plan. The Department and

special focus groups have asked the Forests to consider sites, such as House Rock Wildlife Area, as potential special areas in the process.

The Department is in the process of reviewing transportation system maps for the Coconino, Kaibab and Prescott Forests. The Coconino and Prescott Forests are evaluating the entire forest, whereas the Kaibab Forest is using a district-by-district approach. The Department supports a Wet Road System on the Coconino and Kaibab Forests, which will provide hunter access during most wet conditions and will reduce road damage.

BUREAU OF LAND MANAGEMENT

Tucson Field Office

The BLM has opened the public comment period for defining the preferred transportation plan alternative for BLM lands in Unit 37B north of the Florence/Kelvin highway, with the scoping period ending February 5. Workshops focusing on consensus of a preferred alternative will be facilitated by the U.S. Institute for Environmental Conflict Resolution, and will occur from February 15 to March 30. The Department will be an active participant in the workshops.

Safford Field Office

The Department reviewed draft NEPA documents for the construction of a fish barrier and chemical renovation of aquatic habitat in the lower reaches of Bonita Creek. The Department supports this effort that will increase protection of existing native fish populations in the upper portions of Bonita Creek.

BLM NATIONAL MONUMENTS

The Department continues to be involved as a Cooperative Agency in the planning efforts for the five national monuments and the adjacent BLM landscapes through direct participation in meetings and workshops or by reviewing draft documents and providing verbal and written comments. The Department continues to meet with the BLM State Office to discuss direction regarding consistency issues pertaining to transportation, recreation, and management of lands containing wilderness characteristics, among other resources. The Department supports consistent directives and is working with BLM to ensure they are incorporated into the planning efforts for each Field Office. The Department continues to work with the BLM State Office to update and finalize the statewide Master MOU consistent with Commission direction. The draft MOU has been finalized and sent to the Solicitor's Office of both agencies for review.

Grand Canyon-Parashant National Monument

The public review period ended on March 17, 2006, for the draft RMP/EIS. The proposed final RMP/EIS is anticipated to be released in early 2007. The plan includes the identification of a series of unique route networks designed for each alternative concept, including the preferred alternative. The Department continues to work closely with BLM at both the Field Office and State Office levels to ensure consistency in regards to wildlife and wildlife management.

Vermillion Cliffs National Monument

The planning efforts for the Vermillion Cliffs NM are incorporated into planning efforts for the entire Arizona Strip District.

Agua Fria National Monument

The public review period ended on April 5, 2006, for the draft RMP/EIS. The Department will be working closely with BLM to address any comments submitted regarding wildlife and wildlife management.

Sonoran Desert National Monument

The Phoenix Field Office continues to work on finalizing the range of alternatives along with the development of a preliminary preferred alternative. The Department continues to participate in cooperative meetings and is also proactively developing comments throughout the planning process.

Ironwood Forest National Monument

The Department continues to meet with BLM to review and discuss Department comments on the latest draft range of alternatives for biological resources, grazing, recreation, and water developments, transportation and public access. The Department submitted updated comments to the Field Office, and our efforts to incorporate those and additional comments into the preliminary draft alternative will continue. The Department will also continue to review and provide comments on any updated drafts as they become available.

The Department and BLM are working on a proposal to develop a new bighorn sheep catchment in the Waterman Mountains within the Monument. The Department met with representatives of the environmental community, Arizona Desert Bighorn Sheep Society, and BLM to discuss the issue. The catchment is going through environmental review within BLM and is meeting some resistance from the Recreation Program due to its placement on an old mining road identified in the draft Resource Management Plan (RMP) as a non-motorized trail. The Recreation Program staff believes there could be a conflict with trail users in the future, resulting in restrictions on use of the trail. The RMP is not currently in effect, however, this catchment is being considered under the 1989 Phoenix RMP. The site was chosen to minimize soil disturbance and environmental impacts.

The Department and BLM have been addressing travel management and other wildlife resource issues as part of the planning for the Ironwood Forest National Monument RMP. Department concerns were addressed in the latest draft plan.

U.S. FISH AND WILDLIFE SERVICE

Cabeza Prieta National Wildlife Refuge

The Department continues to work cooperatively with the Service on completion of the Comprehensive Conservation Plan for the Refuge. The Department met with the Service to discuss the draft final plan and awaits release of the final plan.

Kofa National Wildlife Refuge

The Department is working cooperatively with the Service to complete a white paper to be forwarded up the chain of command within the respective agencies with regard to the Refuge's bighorn sheep decline. Details of the recommended changes to the management of wildlife waters on the Refuge should be incorporated into the document by the end of next week. The white paper encapsulates a recommended plan of action for the recovery of this sheep population. Strategies addressed include mountain lion and water management, monitoring for potential diseases, and assessment of the potential restriction of recreational access to key lambing areas during the lambing season.

DEPARTMENT OF DEFENSE

Barry M. Goldwater Range

The final EIS/INRMP for the Goldwater Range has been released to the public. No formal comments were received during the comment period and the Department of Defense recently released a draft Record of Decision for agency review and comment.

Yuma Proving Ground

The Yuma Proving Ground (YPG) is proposing to expand military training activities into Game Management Unit 41 through a withdrawal of BLM land. The YPG staff completed the initial information gathering and evaluation phase and is starting the Army's process for approval of a withdrawal. The application process will further define the purpose and need for the mission. The timeline for completion of the withdrawal process is at the end of the 2008 Congressional session. The Department will be actively participating in this process and will provide the Commission with more information on this proposal when it becomes available.

LANDOWNER RELATIONS AND PUBLIC ACCESS

Aravaipa Canyon, BLM Safford

Access remains open along the road at the east entrance of the Aravaipa Wilderness Area. The Department will provide the Commission with a complete overview of three major road closures to public lands in southeastern Arizona at the March Commission meeting.

Galiuro Mountains, High Creek Road

The Department is completing construction of the new High Creek Road. The road will restore public access to thousands of acres of Forest and State Trust lands in the High Creek, Harrison Canyon, and Paddy's River areas of the Galiuro Mountains. Installation of new fencing along the roadway has been completed. A low-water crossing and cattleguards at the fence lines remain to be completed by the Department. The project should be completed by the end of January. The Department applied for a special use permit with the Forest to reconnect the new road to the existing Forest road system.

Whetstone Mountain Access

The Department submitted a revision of an earlier version of an Environmental Assessment that evaluates the impacts of reopening an existing road across BLM land near the Empirita Ranch. The project involves granting a perpetual easement to the Department by BLM provided we improve the road to BLM lands across State Trust land and install a cattle guard at the boundary. The Department met with BLM in mid-January to discuss NEPA issues involved with reopening the roadway. BLM expects the EA will be presented for public comment in March 2007. The Department anticipates the road will be reopened in time for fall hunts.

Rincon Mountain Wilderness Access, Catalina Mountains

The new Agua Verde Ranch manager had locked a gate on a STL lease, temporarily closing public access to the Forest wilderness area. This closure denied vehicular access along a power line road, near the north end of Agua Verde Road. The Department informed the ranch manager about the Department's access tools. The lessee was contacted by the State Land Department, and he instructed the ranch manager to remove the lock. The Department provided the manager with Respect Program signs and offered assistance on projects to negate impacts

GENERAL UPDATES

City of Flagstaff

The Department will continue to serve on the Restoration Technical Advisory Committee for the Picture Canyon Meander Restoration Project. Restoration of the Rio de Flag through Picture Canyon will provide benefits for wildlife and wildlife habitat including construction of ephemeral and perennial wetlands along the entrance to Picture Canyon near outfall of treated effluent from the City Wildcat Hill Wastewater Treatment Facility, restoration of wetland and riparian vegetation along the entire stream, removal of noxious weeds, and construction of a Watchable Wildlife nature trail.

Coconino County

The Department continues to review several County planning and zoning projects. The Department met with the County, NAU and Foresight Wind, Inc. to discuss wind anemometer plans and future wind energy development at Aubrey Cliffs and other sites in the County. This meeting initiated a dialog on an important land use issue that may impact wildlife populations in Arizona. As a result of the meeting, NAU has agreed to work collaboratively with the Department and the County to research the efficacy of attaching bird flight diverters to wind anemometer guy wires at Aubrey Cliffs. The results of this research will help the Department assess wind energy development impacts on wildlife at Aubrey Cliffs and will allow for more informed management recommendations for future statewide wind energy development projects.

La Osa Development

The Department has not been contacted by the developer. The Fish and Wildlife Service reports the developer is still entertaining the idea of designating a large area south of Sasco Road as a wildlife area. Many miles of riparian habitat have been delineated by the Army Corps of Engineers as waters of the United States, requiring mitigation if disturbed, which the developer will have to consider. The City of Marana could annex the area, which would provide a nexus for a Habitat Conservation Plan (HCP); however, the Department is not aware of a HCP being considered for this property.

Town of Marana HCP

The Department attended a meeting of the Technical Biological Team that has been reconvened by the Town of Marana to discuss the ramifications of a HCP.

Natural Resource Conservation Service-Tucson Office

The Department is working with the Conservation Service and the Fish and Wildlife Service on a project on private land near Sierra Vista owned by the Babocamori Ranch. The project involves rehabilitating an existing dam at T-4 Spring for Gila chub.

U.S. Border Patrol

The Department attended a meeting with the Tucson Sector of the U.S. Border Patrol to assist with the development of a script and facts for an updated Environmental Awareness Training DVD for use by Border Patrol agents in Arizona.