

Minutes of the Meeting of the  
Arizona Game and Fish Commission  
Friday, October 10, 2008  
Saturday, October 11, 2008  
Arizona Game and Fish Department  
5000 W. Carefree Highway  
Phoenix, Arizona 85086

PRESENT: (Commission)

(Director's Staff)

Chairman William H. McLean  
Vice Chairman Robert D. Hernbrode  
Commissioner Jennifer L. Martin  
Commissioner Robert R. Woodhouse  
Commissioner Norman W. Freeman

Director Larry D. Voyles  
Acting Deputy Director Harry Seck  
Chief of Staff Gary Hovatter  
Assistant Attorney General Jim Odenkirk  
Assistant Attorney General Shelley Cutts

Chairman McLean called the meeting to order at 8:00 a.m. This meeting followed an agenda revision #1 dated September 29, 2008. The Commission went immediately into Executive Session.

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### 1. Executive Session

The Commission voted 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.

**Motion:** Woodhouse moved and Martin seconded THAT THE COMMISSION VOTE TO GO INTO EXECUTIVE SESSION.

**Vote:** Unanimous

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The Public Meeting reconvened at 9:23 a.m.

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Chairman McLean called the meeting back to order and lead those present through the Pledge of Allegiance. The Commission introduced themselves and Chairman McLean introduced the Director and the Director's staff.

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### 2. Commission Briefing on the Department's Involvement in Mexican Wolf Reintroduction in Arizona and New Mexico and Related Mexican Wolf Recovery and Conservation Issues.

**Presenter:** Terry B. Johnson, Endangered Species Coordinator

Mr. Johnson briefed the Commission using a PowerPoint presentation on Mexican wolf conservation efforts over the past 25 years. Arizona's involvement in Mexican wolf conservation

began in the mid-1980s, with tentative exploration of the feasibility of reintroduction in Arizona and New Mexico. It continues to date, with the Department a leader in the multi-agency reintroduction project in the Blue Range Wolf Recovery Area (BRWRA) and the Fort Apache Indian Reservation, and in striving to develop long-term strategies for successful reintroduction and rangewide recovery. The process has included more than 100 formal state and federal public meetings, Commission decisions and guidance to the Department in several more public meetings, National Environmental Policy Act (NEPA) compliance, and federal rule-making. In the mid-1990s, the Department also participated in U.S. Fish and Wildlife Service (USFWS) efforts to revise the 1982 Mexican Wolf Recovery Plan, in part to provide long-term guidance for reintroduction. However, USFWS suspended that effort prior to the final federal decisions on reintroduction in 1997-98.

The state-federal planning process for reintroduction occurred in several stages and culminated with the following: a Final Environmental Impact Statement (EIS; published November 1996); a NEPA Record of Decision (issued March 4, 1997); a final nonessential experimental population rule (Final Rule; published January 12, 1998 and effective January 24, 1998); importation of 11 captive-reared Mexican wolves into Arizona (January 25, 1998); a USFWS Mexican Wolf Interagency Management Plan (approved March 27, 1998); and release of 11 captive-reared wolves from acclimation pens at three sites on the Apache National Forest near Alpine, Arizona, in the Primary Recovery Zone of the Blue Range Wolf Recovery Area (BRWRA) (March 29, 1998).

Mexican wolf conservation is and always has been complex, conflicted, confusing, controversial, and costly. Common ground among stakeholders is very hard to find and once found is at least as difficult to maintain. Polarity among the public, sometimes even among cooperating agencies, is often pronounced, if not absolute. Vitriolic rhetoric constantly inflames the discussion. Core values and agendas are involved that sometimes have little if anything do to with the Mexican wolf, which too often is used as a means toward other ends. It's almost always about people, not wolves.

Despite all that, Commission guidance to the Department over the years has always been clear and consistent with Title 17 authorities and responsibilities. Guidance has come at crucial points along the way, including: October 21, 1995 (final comment on the draft EIS, advocating changes in the preferred alternative); January 22, 1997 (assurance that, despite USFWS selection of a preferred alternative different than the one we favored, Arizona would "diligently work with USFWS to ensure that the effort has every reasonable opportunity for success, and that any impacts on other resources and the public are minimized to the fullest extent possible."); September 14, 2002 (notice of changes that must be achieved in six areas of concern; otherwise "The Commission reserves the right, if these issues are not resolved within the timeframes outlined in the letter, to take further action on the Department's participation in this project).

Since 1997, the Commission, acting through the Department, has approved three Memorandums of Understanding (MOUs) among the Department, USFWS, and other governmental cooperators in Mexican wolf conservation. The first was signed in 1997. It was superseded by another in 1998, which was superseded by an October 2003 MOU that is due for renewal in October 2008. Each MOU has reflected Commission desire to fully engage in Mexican wolf conservation, consistent with Title 17 and to ensure that Arizona's best interests – all of them, not just wolf conservation and not just rural or urban interests – are fully represented.

Signatory agencies in the current state-tribally led MOU are: Arizona Game and Fish Department; New Mexico Department of Game and Fish; White Mountain Apache Tribe; USDA-APHIS

Wildlife Services; U.S. Forest Service; USFWS; New Mexico Department of Agriculture; Graham, Greenlee, and Navajo counties (Arizona); and Sierra County (New Mexico). Renewal of the MOU provides an opportunity to consider what the cooperators have collectively accomplished, what is ongoing, and what has not been accomplished and why. Rigorous evaluation of all aspects of our involvement and the involvement of others, and of our shared objectives and individual cooperator commitments to achieving them, is essential to determining whether we are on the road to success and making appropriate use of state resources.

Stakeholders in Mexican wolf conservation tend to repeatedly emphasize several key issues, many of which were voiced long before Mexican wolves were released in 1998. These concerns include: reintroduction is unlawful and/or doomed to failure for any number of reasons; Mexican wolves are genetically deficient and/or hybrids with domestic dogs and/or coyotes; Mexican wolves are a threat to human health and safety and/or to elk and/or deer herds; the BRWRA does not have adequate habitat or prey base to sustain a Mexican wolf population; the Final Rule is flawed in substance and/or application; the BRWRA internal and external boundaries constrain (or prevent) rather than promote accomplishing the project's population objective; social carrying capacity in the BRWRA has been reached and efforts to increase the wolf population should cease; cooperating agencies are unwilling or unable to commit sufficient resources to manage wolves effectively; wolves should not be controlled to prevent or in response to livestock depredation; wolf depredation on livestock is unacceptable at any level and inadequately compensated when it does occur; lack of a current recovery plan precludes defining what the BRWRA effort is intended to accomplish and whether it can be achieved; the cooperating agencies establish operating procedures but do not implement them consistently; population growth has fallen well short of numbers projected in the EIS; the cooperating agencies do not know or they lie about how many wolves are out there, but there are enough that the population objective has been achieved and the project should end, now. Privately and publicly, the more vocal critics, depending on their perspective, dismiss the cooperating agencies as fronts for the livestock industry, for environmental extremists, or for big game interests to the exclusion of other wildlife values. Vocal elements at one or both ends of the stakeholder spectrum dismiss project reviews (2001 and 2005) as fatally flawed (sometimes for diametrically-opposed reasons) and public meetings as time- and money-wasting facades, asserting their voices are never heard. However, the measuring stick for "being heard" often seems to be whether a particular interest is fully served by a given decision. Since virtually all project decisions reflect a balance of wolf (recovery) interests and social (impact mitigation) interests, extreme viewpoints are likely never to be fully served.

In concert with the issues mentioned above, five specific topics merit careful consideration. First, Arizona leadership (beyond mere participation) in Mexican wolf conservation has been essential to ensuring that Arizona's interests are best served. Second, although extremist "pro" and "anti" wolf perspectives exist in Arizona, just as they do in New Mexico and elsewhere, constructive engagement by local stakeholders in the reintroduction effort is quite evident in Arizona. It likely is at least partially a reflection of (a) Commission willingness to commit Department resources to address social as well as biological issues, and (b) Department willingness to adhere to agreed-upon management standards and procedures until (after public vetting) they are changed. Third, it is essential to success for the cooperating agencies to engage local stakeholders in more effective wolf conservation measures through adequately-funded and procedurally-reliable incentives-based programs that provide effective means of preventing or mitigating occurrence and impacts of wolf-caused nuisance problems and wolf depredation on livestock. Fourth, stakeholder concerns regarding Mexican wolf impacts on hunting opportunity, specifically on elk and deer populations,

have not been realized in Arizona or New Mexico; hunting opportunities have not been adjusted in either state or on the Fort Apache Indian Reservation because of wolf impacts. Fifth, these and all other substantive concerns must be fully evaluated, in terms of wildlife and social costs/benefits, as USFWS and its cooperating agencies (including the Department) move through the NEPA process that was initiated in 2007 to develop a new EIS on possible changes in the Final Rule and in other aspects of on-the-ground conservation of Mexican wolves.

At this meeting, the Department asked the Commission to vote to reaffirm existing policy guidance and/or to provide additional policy guidance on Mexican wolf conservation efforts, including reintroduction and recovery. This briefing and Commission action are particularly timely because the 2003 MOU for the BRWRA reintroduction project expires at the end of October 2008. Although renewal was delegated to the Department Director when the Commission approved the MOU in 2003, it seemed appropriate to ask for Commission guidance again, given that the current Commission had not previously been briefed in public session on Mexican wolf conservation.

#### Public Comment

Mr. Johnson submitted two statements to the Commission: One from Hector Ruedas, Chairman of the Greenlee County Board of Supervisors, and the other from Steve Clark, President of the Arizona Elk Society, Jeff Dickey, President of the Arizona Deer Association and Dave McCasland, President of the Arizona Bighorn Sheep Society. Both statements are attached to these minutes.

Hector Ruedas, Chairman, Greenlee County Board of Supervisors, read his statement to the Commission (attached) and discussed his views and position with the Commission.

Stephanie Nichols-Young, Animal Defense League of Arizona, addressed the Commission in support of the reintroduction of Mexican wolves, but discussed some of the issues including the decision making processes.

Sandy Bahr, Chapter Director, Sierra Club – Grand Canyon Chapter, supports the reintroduction of the Mexican wolf and discussed with the Commission several issues relative to the program over the past years. Ms. Bahr stated for the record that the Sierra Club has always supported full protection of the Mexican wolves under the Endangered Species Act, but are not fans of the 10j Rule and do not support the Standard Operating Procedure #13. Ms. Bahr further discussed several other issues with the program.

Suzanne Gilstrap, Executive Director and Lobbyist, Arizona Sportsmen for Wildlife, stated that continued engagement is very important for the Commission, but it should come with some sideboards. Arizona should not be putting more money than other partners into the program and there should be a clear and realistic population objective aimed for delisting. Ms. Gilstrap also questioned whether Pittman-Robertson funds were being used for the program and asked the Commission to look into that.

Eric Gardner, Nongame Branch Chief, explained to the Commission that Pittman-Robertson allows for a portion to be used for the management of birds and mammals and the Department uses that money to staff one position and associated operating expenses.

Steve Clark, President, Arizona Elk Society, submitted a speaker card but did not address the Commission (statement attached).

C.B. "Doc" Lane, Executive Vice President, Arizona Cattle Growers' Association, addressed the Commission stating that his organization fully supports the comments made by Hector Ruedas.

Bobbie Holaday submitted a written statement (attached) since she could not be present at this meeting.

The Commission discussed how to best direct the Department considering that this was such a complex issue.

Commissioner Martin offered the following motion in writing (provided to the public and the Commission):

"I move that the Commission instruct the Director to continue to work toward establishment of an Arizona population of Mexican wolves that is a component of a larger metapopulation capable of sustaining itself in the long term.

I further move that the Commission instruct the Director, as a condition of Commission's continued support for wolf conservation, to employ the following principles and actions over the next five years (2009 through 2013) to ensure measurable progress toward that goal:

1. Continue to provide leadership and assertively represent the interests of the Commission and the State of Arizona in all areas of Mexican wolf conservation.
2. Collaborate with the U.S. Fish and Wildlife Service to complete a revised Mexican Wolf Recovery Plan that provides recovery context (i.e. achievable and legally-defensible population objectives adequate to justify and sustain delisting) for wolf conservation efforts in Arizona and elsewhere.
3. Renew the existing Memorandum of Understanding (MOU) among the Blue Range Wolf Recovery Area reintroduction project's signatory cooperators, to continue providing a foundation for collaborative adaptive management of the project.
4. Continue to commit funds sufficient to sustain all Department commitments under the renewed MOU.
5. Secure private and Federal funding sufficient to provide incentives for and underwrite full participation in the renewed MOU by willing Native American Tribes within the existing experimental population area in Arizona, particularly the White Mountain Apache Tribe, which has demonstrated its substantial commitment to wolf conservation over these past several years.
6. Secure commitment of financial and other resources by the State of New Mexico that are sufficient to sustain New Mexico Department of Game and Fish commitments under the renewed MOU, such that State of Arizona and Federal resources needed for wolf conservation efforts in Arizona are not directed to operations in New Mexico.
7. Secure Congressional funding for an interdiction, incentives, and compensation program that appropriately addresses the impacts of Mexican wolf reintroduction and recovery on the private sector and creates incentives for enhanced conservation and stewardship.
8. Productively engage public lands grazing permittees and private lands livestock operators in voluntary, incentives-based Mexican wolf conservation measures.

9. Continue, as incentives-based conservation measures are developed and deployed, to modify reintroduction project operating procedures and management efforts as necessary to:
  - a. Offset unlawful killing of Mexican wolves,
  - b. Achieve the project's annual population objectives,
  - c. Increase genetic diversity of the wild population to reflect better representation by all three Mexican wolf lineages and reduce inbreeding coefficients to acceptable levels,
  - d. Ensure that wolf conservation benefits accrued through the project are appropriately balanced by on-the-ground interdiction, incentive, and compensation measures that offset impacts on the private sector.
10. With regard to the phrase "applicable circumstances" in clarification 9a of the public review draft SOP 13.0 Clarification Memo, ensure that the final Clarification Memo affirms that the following information will be considered in reaching a Project decision regarding management response for the wolf or wolves under review:
  - a. Depredation and nuisance history.
  - b. Response to previous management actions.
  - c. Past, current, and likely future alpha status (including age and breeding potential).
  - d. Certainty of existence of dependent pup(s).
  - e. Effects of removal on pack continuity through the current and next breeding season.
  - f. Genetic lineage and inbreeding coefficient.
  - g. External factors contributing to most recent depredation incident(s).
  - h. Total number of permanent removals and unlawful killings within the Project area during the past 12 months.
  - i. Any other relevant factors or information.
11. Continue to ensure that, in accordance with reintroduction project operating procedures, responses to potential depredation incidents in Arizona are initiated within 24 hours of receiving such reports and that initial releases and planned translocations of Mexican wolves in Arizona are vetted with the public.
12. Collaborate with the U.S. Fish and Wildlife Service through the National Environmental Policy Act process and an Environmental Impact Statement (EIS) to objectively evaluate the potential benefits and costs, in terms of wildlife and social capital, of any changes in the current nonessential experimental population boundaries, management guidelines, and population objectives for Mexican wolf reintroduction in the Southwest, and to bring recommendations on the draft EIS to the Commission for discussion and approval prior to submittal to the U.S. Fish and Wildlife Service.
13. Provide briefings on each of the preceding actions at the Commission's October meeting each year through 2013, which would be the final year of the renewed MOU".

Due to the length and detail of the motion, the Commission was in consensus to break for lunch to allow the public and each Commissioner time to read and consider the motion. This item was reopened following the 2:00 p.m. Time Certain License Revocations and Civil Assessments.

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Meeting recessed for lunch at 12:23 p.m.

Meeting reconvened at 2:00 p.m.

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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:** Gene Elms, Law Enforcement Branch Chief

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

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This agenda item was tabled at 2:46 p.m.

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2. (Continued) Commission Briefing on the Department's Involvement in Mexican Wolf Reintroduction in Arizona and New Mexico and Related Mexican Wolf Recovery and Conservation Issues.

**Presenter:** Terry B. Johnson, Endangered Species Coordinator

Public Comment

C.B. "Doc" Lane, Executive Vice President, Arizona Cattle Growers' Association, addressed the Commission regarding Commissioner Martin's motion. He didn't have any issues with the motion and stated that it was very similar to previous Commission direction to the Department.

Sandy Bahr, Chapter Director, Sierra Club – Grand Canyon Chapter, stated that she didn't find anything in the motion that was troublesome and further suggested that incentives be put in place to reward good stewardship.

**Motion:** Martin moved and Hernbrode seconded THAT THE COMMISSION VOTE TO APPROVE THE WRITTEN MOTION PROVIDED TO THE PUBLIC AND THE COMMISSION WITH THE FOLLOWING CHANGES: #7. **PURSUE CONGRESSIONAL FUNDING; AND #9.A. OFFSET UNLAWFUL KILLING OF MEXICAN WOLVES AND ENFORCE APPLICABLE LAWS.**

(complete revised motion attached)

Chairman McLean clarified for the record that this direction does not give the Director the authority to sign the MOU without bringing it to the Commission for approval, and it does not give the Department the authority to act on such things as Congressional authorization of funding but it does give the Department the authority to collaborate.

**Vote:** Unanimous

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3. Litigation Report

The Litigation Report (attached to these minutes) was provided to the Commission prior to this meeting and was available to the public. There were no comments or questions on this report.

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#### 4. State and Federal Legislation

**Presenter:** Anthony Guiles, Legislative Liaison

Mr. Guiles briefed the Commission using a PowerPoint presentation on the current status of selected state and federal legislation and current elective issues. The Commission was provided with informational materials on proposed legislation (also available to the public). Mr. Guiles further briefed the Commission on the following:

**Budget:**

- \$800 million-\$1 billion dollar deficit projected for current FY-09
- There may be a post-election Special Legislative Session.

**Elections:**

- There are 14 seats with no General Election opponent
- House Speaker Race: Jim Weiers, Kirk Adams, and Steve Yarbrough
- Senate President Race: Bob Burns and Thayer Verschoor.

**Proposed State Legislation:**

- Aquatic Invasive Species: (rough draft provided to Commission) Broad Scope Legislation- AIS, not specified species; modeling a few states' existing statutory language and A.R.S. 17-250; Proposed 17-251, new Statute, new Language; caution used in not contradicting existing statute
- Wasting Game Meat-Revocable Offense: Simple addition of language to the revocation code, A.R.S. 17-340 to include under subsection A: 'A violation of section 17-309, subsection A, number 5, allowing any edible portion of game meat to go to waste
- Rabies: The Department received an invitation from ADOA to further discuss pursuing coverage of rabies exposure treatments. In the event those meetings do not produce the intended effect, the Department will revisit the proposed legislation and present it to the Commission
- State-Level EPA: The Department's recommendation is to table the proposal at this time. Significant hurdles were identified during the Department's review; Alternative proposals currently being reviewed by Department staff will be brought before the Commission in November
- Protection of Game and Fish Funds: Voter-Protection would be the only solution for genuinely preventing fund sweeps; Issues include: One of Legislative Leadership's biggest complaints is that 80% of funds are already spoken for; the legislature seeks MORE appropriations authority; Legislator Push-back from asking a body to relinquish it's current (prescribed) authority, much in the way the Game and Fish Commission does not want to relinquish any of its prescribed authority; current budget climate/ bi-annual GF budget concerns; Bi-annually, JLBC recommends a 7% increase from non-appropriated to appropriated fund status.

#### Federal Legislation

- Currently: The Senate is in a Pro Forma Session, No Business is conducted and no votes taken; Lame Duck Session in November; Members reconvene, post-election, on an even numbered year. Some members will return to this special session, who failed re-election, hence the term 'lame duck'
- SB 3213 – Omnibus Public Land Management Act of 2008 (Public Lands Omnibus) is on the Senate Calendar, Language includes: Fossil Creek- Section 501, Pima County Land Exchange- Section 251
- House Chamber passed HB 3036 –'No Child Left Inside' bill. Has not been heard in the Senate

#### Department Legislative Tours/Miscellaneous

- Habitat Tour: Representatives David Bradley and Chad Campbell
- Watercraft Tour: Representatives David Bradley, Linda Lopez and staff
- Leopard Frog Tour: Representative John Kavanagh and staff
- Mexican Wolf Tour: Representative Chad Campbell
- Upcoming Bill Signing Ceremony SB 1167- OHV: November 12th

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

**Presenter:** Gene Elms, Law Enforcement Branch Chief

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

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Meeting recessed for a break at 3:46 p.m.

Meeting reconvened at 4:16 p.m.

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#### 5. Information and Education Activities Briefing

**Presenter:** Ty Gray, Assistant Director, Information and Education Division

The Commission was provided with an Information and Education Program Report prior to this meeting (also available to the public), which presented new information as well as progress toward ongoing issues and concerns related to Information and Education programs. The update covered activities and events that occurred since the September 2008 Commission meeting and was provided in fulfillment of the Department's commitment to brief the Commission on a regular basis regarding the Department's Information and Education programs.

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#### 6. 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 this meeting and is included as part of these minutes. The update addressed decisions or activities since the August 2008 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.

Mr. Avey provided the following additional updates:

The Department had two coordination meetings, one with the Forest Service and one with BLM. The following are action items that came from those meetings:

Forest Service Meeting:

- The Department will be working with the Forest Service on updating the master MOU
- A cooperative curriculum will be developed introducing training courses for both agencies' personnel, to include the Federal Advisory Committee Act (FACA) and the North American Model
- Work will continue on consistency and delivery of alternatives for motorized big game retrieval
- Work will continue on improved coordination and implementation on the wilderness policies and guidelines as approved by AFWA.

BLM Meeting:

- Both agencies will work cooperatively to address the issue of municipal annexation of state and federal lands
- Increase coordination on addressing expanding rural populations on federal land
- Continued focus on capturing funding through the Healthy Lands Initiative for multiple projects that were cooperatively agreed on

Additionally, the Department was solicited by ADOT to participate in a coordination meeting between multiple federal land management agencies and federal highway administrations. This will be the first time the Department will participate in these meetings.

Lastly, the Department has several concurrent efforts in process to emphasize additional components for the Geospatial Planning tool (GPT). The GPT is a comprehensive GIS modeling tool that will allow the Department and our partners to consider many different layers of data for future planning efforts. The GPT is intended to evolve into a primary tool for the Department for many of our management decisions.

Chairman McLean requested that the Department provide him with a copy of the Pinal County Air Quality Ordinance and to let him know when the hearing dates are set, and for the Pinal County Planning and Zoning Commission regarding their comprehensive plan revision. Chairman McLean also requested a copy of the applicable portions of that document.

Public Comment

C.B. "Doc" Lane, Executive Vice President, Arizona Cattle Growers' Association, addressed the Commission regarding land planning in the National Forests. Part of the revised draft plan states that there will be no livestock carcasses present in certain areas. If no livestock carcasses can be present then no livestock can be present. Mr. Lane believes this is related to the wolf issues in an effort not to bait wolves. Further, Mr. Lane believes this will cause lawsuits and wanted to make the Department aware.

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#### 7. Director's Goals and Objectives Update - 2008

**Presenter:** Larry D. Voyles, Director

This item was not discussed, but will be discussed in detail at a special Commission meeting scheduled for November 2008.

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#### 8. Call to the Public

Sandy Bahr, Chapter Director, Sierra Club – Grand Canyon Chapter, addressed the Commission requesting limitations on lead ammunition in California condor areas. Ms. Bahr provided the Commission with 1000 postcards from people who care about California condors in Arizona and seek to have them protected from lead exposure. Also, Ms. Bahr provided the Commission with a short film that gives an overview of what's going on at the U.S./Mexico border as it relates to wildlife.

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#### 2. Request to Approve the Article 1 Five-Year Rule Review Report on Definitions and General Provisions for Filing with the Governor's Regulatory Review Council.

**Presenter:** Jen Stewart, Rules and Risk Manager

The Commission was asked to approve the Five-Year Rule Review Report on Commission Rules in Article 1, dealing with definitions and general provisions, for filing with the Governor's Regulatory Review Council under A.R.S. § 41-1056. Under A.R.S. § 41-1056, each state agency must review its rules every five years on a predetermined schedule set by the Governor's Regulatory Review Council. The Department's Article 1 rules, covering definitions and general provisions, were analyzed for the 2009 review cycle.

The Department considered the following factors in its recommendations:

- 1) Comments received from Department personnel and the public during the past 5 years.
- 2) State and federal legislative changes.
- 3) The impact of other rule changes made within the past 5 years.
- 4) The conformity of rule language with current Administrative Procedure Act requirements for rulemaking language and style.

The review team also considered the following questions for each rule:

- 1) Does the rule meet its objective?
- 2) Is the rule currently being enforced and are there any enforcement problems?
- 3) Is the rule necessary and in line with the Department's overall mission?
- 4) Is the rule clear, concise, and understandable?
- 5) Does the rule need revision? If so, what is the nature of the revision?

The team completed its study in accordance with these provisions and statutory requirements. The Department recommends pursuing the following substantive amendments during the regular rulemaking cycle:

#### R12-4-101. Definitions

- Define additional terms as necessary in response to proposed rulemaking changes to R12-4-307 and statutory changes to A.R.S. § 17-333.

#### R12-4-102. Fees for Licenses, Tags, Stamps and Permits

- Change nonresident trout stamp fee from \$57.75 to \$25 in response to decreased sales
- Amend the resident and nonresident youth fee under the Class F combination hunting and fishing license so it applies before and through the calendar year of an applicant's 17th birthday. This increases consistency with Junior's Only Hunts (age 10-17). Currently applicants can purchase a Youth Combo license through age 20, but cannot participate in Junior's-Only hunts if they are older than 17 years of age.

#### R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Drawing and Purchase of Bonus Points

- Allow the Department to issue a license and award a bonus point if an application is solely rejected for insufficient funds, but there are enough funds to cover the application and license fees. This prevents applicants from forfeiting a loyalty bonus point due to incorrect fee calculations. Instead of rejecting the application, the Department will issue a license, convert the application to a bonus point application, and refund any additional enclosed fees
- Refunds or overpayments of less than \$1.00 will not be sent back to applicants because the processing costs associated with refunding them exceed the amount of money being returned. Refunds or overpayments will be donated to the Big Game Habitat Fund.

#### R12-4-106. Licensing Time Frames

- Amend the title and language to clearly indicate the rule only addresses special licenses
- Include the new "Off-Site Weigh-In Permit" in special license time frames list.

#### R12-4-108. Management Unit Boundaries

- Revise game management unit description boundaries as necessary.

#### R12-4-110. Posting and Access to State Land

- Amend the definition of "existing road" to clearly indicate the road referenced has not been closed by the Commission
- Amend rule language to maintain consistency with State Land Department access and enforcement policies

- Clearly indicate a license holder hunting, fishing, or trapping on state land shall not operate motor vehicles off road except to pick up lawfully taken big game animals.

#### R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags

- Ensure the 10% nonresident cap applies to all 3 passes of the draw
- Expand 10% nonresident cap to include all deer, elk, and black bear in accordance with A.R.S. § 17-332, which requires capping all big game
- Allow at least one permit-tag to be available in the bonus point pass for residents if there are less than 5 tags available for the hunt. This provides a chance for resident maximum bonus point holders to be drawn for one of the hunts during the bonus point pass.

#### R12-4-121. Big Game Permit or Tag Transfer

- Allow a grandparent or legal guardian to transfer tags to their minor child or grandchild in response to statutory changes in A.R.S. § 17-332, and include the transfer of non-permit and special license tags.

The Commission may modify any of the material prior to approval and will have the opportunity to approve or deny proposed rule amendments as part of the Proposed and Final Rulemaking process for Article 1. If approved by the Commission, the Article 1 Five -Year Rule Review Report will be filed with GRRC for final approval by the February 2009 deadline.

Chairman McLean clarified that in R12-4-104, second bullet, the term “insufficient funds” means “less than the correct amount” and is not the same as the term “insufficient funds” that is commonly used in banking.

The Department will look into using another term besides “insufficient funds”.

Commissioner Hernbrode questioned R12-4-102 regarding the change for the nonresident trout stamp fee from \$57.75 to \$25 and discussed the Department’s rationale as it relates to decreased sales.

Commissioner Freeman asked about R12-4-108 and whether the boundaries were changing or just the description of the boundaries.

Jay Cook, Education Branch Chief, said it was mostly just clarification and updating for the most current information.

Chairman McLean requested that any changes made in the boundaries be noted in the regulations.

**Motion:** Hernbrode moved and Martin seconded THAT THE COMMISSION VOTE TO APPROVE THE ARTICLE 1 FIVE-YEAR RULE REPORT, COVERING DEFINITIONS AND GENERAL PROVISIONS, FOR FILING WITH THE GOVERNOR'S REGULATORY REVIEW COUNCIL UNDER A.R.S. § 41-1056 WITH THE EXCEPTION THAT IN R12-4-102, THE NONRESIDENT TROUT STAMP FEE REMAIN AT \$57.75.

**Vote:** Unanimous

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11. Request to Approve a Notice of Docket Opening and a Notice of Proposed Rulemaking to Amend Article 6 Rules addressing Rules of Practice Before the Commission.

**Presenter:** Jen Stewart, Rules and Risk Manager

The Commission was asked to approve a Notice of Docket Opening and a Notice of Proposed Rulemaking to amend Article 6 rules, addressing rules of practice before the Commission. If approved, the notice will be submitted to the Secretary of State's Office for publication in the *Arizona Administrative Register*.

The Department proposed rulemaking changes to Article 6 rules, addressing rules or practice before the Commission, in response to suggestions provided in the previous 5-year rule review. The report identified improvements to increase rule effectiveness, understandability, and enforcement. The Department has not received any written criticisms of these rules during the previous five years. The Department proposes the following substantive rule amendments:

R12-4-605. Standards for Revocation, Suspension, or Denial of a License

- Include additional offenses for which the Commission may revoke, suspend, or deny a license. These changes are necessary to reflect recent statutory changes to A.R.S. § 17-340 and A.R.S. § 17-309(A)(1). This allows the Department to more effectively address the unlawful sale of wildlife and the unlawful use of aircraft regarding taking, locating, or assisting in the location of wildlife.

R12-4-606. Proceedings for License Revocation, Suspension, or Denial of Right to Obtain a License, and Civil Damages

- Amend the rule to provide the Commission further discretion regarding the time frames for revocation, suspension, and denial of license privileges for individuals repeatedly convicted of revocable offenses. These changes are necessary to reflect recent statutory changes to A.R.S. § 17-340 and A.R.S. § 17-309(A)(1).

In addition, R12-4-601, R12-4-610, and R12-4-611 were updated to reflect the Department's new address and R12-4-602 was updated to clearly reflect existing Department practices regarding the submission of written comments by individuals on behalf of a group or organization

The Notice of Docket Opening and Notice of Proposed Rulemaking were provided to the Commission prior to this meeting for consideration. If the Commission approves, these documents will be submitted to the Secretary of State's Office for publication in the *Arizona Administrative Register* by October 17, 2008. The Department must file a Notice of Docket Opening at the same time to formally initiate the rulemaking process. The Department will begin to accept public comment for 30 days after the Notice of Proposed Rulemaking is published. Once the public comment period has passed, the Department will present a Notice of Final Rulemaking to the Commission for approval.

**Motion:** Hernbrode moved and Martin seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF DOCKET OPENING AND NOTICE OF PROPOSED RULEMAKING TO AMEND ARTICLE 6 RULES, ADDRESSING RULES OF PRACTICE

BEFORE THE COMMISSION. THE NOTICE WILL BE SUBMITTED TO THE SECRETARY OF STATE'S OFFICE FOR PUBLICATION IN THE ARIZONA ADMINISTRATIVE REGISTER.

**Vote:** Unanimous

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12. Call to the Public

There were no requests to speak at this time.

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Meeting recessed for the day at 4:54 p.m.

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Meeting reconvened Saturday at 8:00 a.m.

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Chairman McLean called the meeting to order and lead those present through the Pledge of Allegiance. The Commission introduced themselves and Chairman McLean introduced the Director and the Director's staff. Assistant Attorney Shelley Cutts was not present for Saturday's meeting.

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Awards and Commissioning of Officers

Director Voyles presented Service Pin Awards to the following Department employees:

35 Year Service Pin

Phyllis Dudycz

25 Year Service Pin

Terry Johnson  
Paul Puckett  
Larry Riley  
Leonard Ordway  
Stewart Kohnke

20 Year Service Pin

Ken Dinquel  
Kyle Cooper  
Craig Heath  
Ron Christofferson  
Kirk Young

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1. Request to Amend Commission Order 40: Fish, Concerning Specific Proposals for Bag and Possession Limits, Special Regulations, and Specific Closures for Sport Fishing for calendar year 2009 and 2010.

**Presenter:** Kirk Young, Fisheries Branch Chief

The Commission was asked to adopt Commission Order 40: Fish, establishing open seasons, open areas, closures and bag and possession limits for calendar year 2009 and 2010. The Department biennially reviews Commission Order 40 and proposed changes to the Commission Order. Change proposals frequently come from the public, fisheries program personnel, or from Commissioners. As part of the public input process, the Department hosted five public meetings (Flagstaff, Mesa, Tucson, Phoenix, and Yuma) and is conducting a statewide survey of licensed anglers (3,000 surveys mailed; soliciting online comments) requesting them to voice their support or opposition to proposed regulation changes. To date the Department has received 691 questionnaires from the mail survey (24%) and 38 written comments via email and public meetings. The Commission was provided with the public input to date along with their Commission meeting packets prior to this meeting for consideration.

Based upon initial management proposals and public input received to date, the Department formulated several proposed amendments to the Fishing Regulations for 2009 and 2010 to which the Commission voted as follows:

Reduce the bag and possession limit for trout from 6 to 4 (from 3 to 2 for unlicensed anglers) at Woodland Lake.

Woodland Lake is a small 10 acre lake located within the town limits of Pinetop-Lakeside and receives heavy fishing pressure when stocked. It is easy to catch trout at Woodland when stocking occurs in the spring and early summer, averaging close to one fish per hour in the spring, which is very high compared to most other lakes in the area. This high catch rate leads to anglers reaching their trout limit quickly and results in the fish being harvested quickly from the lake. High catch rates and easy fishing, especially for kids, are our objectives at Woodland Lake; however poor water quality during June and July stops trout stocking at this lake. The goal with this regulation change is to better spread out the catch and harvest of trout among anglers and extend the opportunity to catch trout later in the summer increasing catch and harvest rates during June and July, the time of year when kids are out of school and families on vacation.

Commissioner Hernbrode questioned the science of the survey and requested that the Department only use survey data that is representative of all Arizona anglers.

**Motion:** Martin moved and Hernbrode seconded THAT THE COMMISSION VOTE TO ESTABLISH A BAG LIMIT OF FOUR TROUT AT WOODLAND LAKE.

**Vote:** Unanimous

Remove bag limits for bass and catfish at Willow Springs Lake, Woods Canyon Lake, Black Canyon Lake, Bear Canyon Lake, Chevelon Lake, CC Cragin Reservoir (Blue Ridge Reservoir), Knoll Lake, and Long Tom Lake.

The Rim Lakes, consisting of Woods Canyon Lake, Willow Springs Lake, Black Canyon Lake, Bear Canyon Lake, Chevelon Lake, Blue Ridge Reservoir, Knoll Lake, and Long Tom Tank in southern Coconino and Navajo Counties, are managed exclusively for trout fishing. These Rim Lakes are a very popular recreation destination, receiving over 200,000 angler use days per year, and ranking 4<sup>th</sup> and 5<sup>th</sup> in the top trout waters in the state. The illegal introduction of warm water

species in these lakes threatens the management of trout in these waters and native species located downstream, and increases the risk for transferring fish diseases and aquatic invasive species into the drainage area. The Department plans to maintain an emphasis on trout management in the Rim Lakes and discourage the illegal stocking of all warm water species in these reservoirs. Opening the Rim Lakes to unlimited harvest of warm water species should minimize the impact of illegally stocked warm water fishes on trout management, lower the chance of their escapement into the streams where sensitive native fishes exist, and discourage future illegal stockings.

Commissioner Martin commented on one of the public comments that stated it would be beneficial to manage for bass in these lakes and that they've been supporting bass for a long time. Commissioner Martin stated that she didn't agree that just because they were illegally stocked years ago that they should be left that way and that there are many opportunities elsewhere for year round bass.

**Motion:** Martin moved and Woodhouse seconded THAT THE COMMISSION VOTE TO ESTABLISH UNLIMITED HARVEST (BAG & POSSESSION) LIMITS FOR SMALLMOUTH BASS, LARGEMOUTH BASS, CHANNEL CATFISH AND FLATHEAD CATFISH AT WILLOW SPRINGS LAKE, WOODS CANYON LAKE, BLACK CANYON LAKE, BEAR CANYON LAKE, CHEVELON LAKE, CC CRAGIN RESERVOIR (BLUE RIDGE RESERVOIR), KNOLL LAKE, AND LONG TOM LAKE.

**Vote:** Unanimous

For Apache trout re-establishment and recovery: Extend closures on Bear Wallow Creek, Snake Creek, Fish Creek (including tributaries Double Cienega and Corduroy creeks but excluding Ackre Lake), upper East Fork Little Colorado River, Hayground Creek, Conklin Creek, South Fork Little Colorado River, and Stinky Creek to fishing until population criteria are met.

The Department proposed extending closures on specific Apache trout recovery streams following renovation while new Apache trout populations are being established. These streams will remain closed to allow their populations to re-establish to a level that can support angler use and will be re-opened when fully re-established. Donor fish for these replicate populations are being taken from wild streams on the National Forest and Fort Apache Indian Reservation and released into the indicated recovery streams. Relatively small numbers of donor fish are being used so as not to impact the donor stream populations, thus the donor fish are very valuable. Extending the closure on these streams will allow the populations to establish and expand more quickly by reducing angling induced stresses and mortalities on the valuable adult (breeding) fish; also likely to be most targeted by anglers. The Department proposed that the closures extend until fish populations reach a level of recovery where: 1) Apache trout distribution occurs throughout the treated, previously occupied reaches, 2) a minimum of three year classes are present in the recovery stream, and 3) population size is at least 500 adults or at maximum potential. Status updates will be provided to the Commission every two years.

Commissioner Martin commented on how much she appreciated the support of the angling community, even when waters are closed, when it comes to native fish recovery.

**Motion:** Hernbrode moved and Freeman seconded THAT THE COMMISSION VOTE TO EXTEND CLOSURES ON BEAR WALLOW CREEK, SNAKE CREEK, FISH CREEK (INCLUDING TRIBUTARIES DOUBLE CIENEGA AND CORDUROY CREEKS BUT EXCLUDING ACKRE LAKE), UPPER EAST FORK LITTLE COLORADO RIVER, HAYGROUND CREEK, CONKLIN CREEK, SOUTH FORK LITTLE COLORADO RIVER, AND STINKY CREEK TO FISHING UNTIL POPULATION CRITERIA ARE MET, AND REPORT TO THE COMMISSION ON CLOSURE STATUS OF EACH OF THESE STREAMS EVERY TWO YEARS.

**Vote:** Unanimous

Open a roundtail chub artificial fly and lure fishing season at Fossil Creek.

Managing Fossil Creek as a catch and release fishery for roundtail chub, a sportfish native to Fossil Creek, would allow the public an angling opportunity where none is available now with a very low risk of impacting the sensitive fish species in the system. The proposed management designates a limited season fishery and allows the Department and its partners to promote the fishery as a special angling opportunity with an opening day “special event” that would include fishing demonstrations and outreach. The timing of the fishing season is selected to reduce the chance of conflicts between anglers and other users during the summer months. When the renovation of Fossil Creek was first proposed many angling groups and anglers said they would support the project but would prefer that the stream eventually be reopened for angling. The Department proposed a catch and release artificial fly and lure, single barbless hook fishery with a season opening the first Saturday in October through April 30<sup>th</sup>, extending from the waterfall located approximately 1 mile above the Flume Trailhead parking lot downstream to the lower most power line crossing (immediately downstream of Sally May Wash), approximately five miles.

Public Comment

Sally Stefferud, Fish Biologist, Retired USFWS, opposed this recommendation; does not believe this roundtail chub population is stable enough and Fossil Creek should remain closed to fishing.

Dick Kennedy, Conservation Chairman and Roger Cahoun, Vice President, both with the Arizona Fly Casters, addressed the Commission in support of this proposal.

Richard Brown, Federation of Fly Fishers, supports as long as it’s catch and release with barbless hooks. His organization will put up signs at locations approved by the Department.

Steve Spangle, Field Supervisor, Arizona Ecological Services Office, USFWS, supports the recommendation, but suggested careful oversight and increased law enforcement.

Commissioner Martin asked about monitoring and how would the Department know if there needed to be an emergency change to the Commission Order.

Mr. Young stated that the Department is drafting a monitoring approach that will involve a baseline prior to the implementation of the regulation structure in October of 2009, and then

there will be a follow up annually to determine whether the population was declining or unhealthy.

The Commission further discussed the law enforcement presence that will be in that area during the fishing season, and that there will be organizations willing to volunteer to assist with the oversight and self policing of the area.

**Motion:** Woodhouse moved and Martin seconded THAT THE COMMISSION VOTE TO CLOSE FOSSIL CREEK TO FISHING YEAR AROUND EXCEPT FOR THE SECTION OF THE CREEK BETWEEN THE WATERFALL LOCATED APPROXIMATELY 1 MILE ABOVE THE FLUME TRAILHEAD PARKING LOT, DOWNSTREAM TO THE LOWER-MOST POWER LINE CROSSING (IMMEDIATELY DOWNSTREAM OF SALLY MAY WASH) FROM THE FIRST SATURDAY OF OCTOBER THROUGH APRIL 30, CATCH AND RELEASE ONLY, ARTIFICIAL FLY AND LURE ONLY, SINGLE BARBLESS HOOK ONLY.

**Vote:** Unanimous

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Meeting recessed for a break at 9:50 a.m.

Meeting reconvened at 10:10 a.m.

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1. (Continued) Request to Amend Commission Order 40: Fish, Concerning Specific Proposals for Bag and Possession Limits, Special Regulations, and Specific Closures for Sport Fishing for calendar year 2009 and 2010.

**Presenter:** Kirk Young, Fisheries Branch Chief

Allow take of one bass in the slot at Roosevelt Lake. The limit is 6 bass, of which no more than 1 bass between 13 and 16 inches (protected slot limit) in length may be in possession.

The recent above average inflows of water into Roosevelt Lake during the winter months of 2005 and most notably 2007 has created a "new lake effect". This increase in nutrients and the thousands of acres of newly flooded vegetation will bolster all fish populations, including largemouth and smallmouth bass. Excellent habitat and spawning conditions are expected to improve fish condition and increase reproduction rates and result in strong year classes, ultimately leading to more fish made available for anglers in coming years. The proposed regulation change will allow for the take of one bass in the slot limit. The goal is to create additional angler opportunity and heighten angler satisfaction while the additional resources are available. A strategy to take advantage of the current opportunity is an approach that still protects the spawning fish, but allows for some increased harvest during a window of high productivity. If lake levels and population numbers decline, the Department will return to the current slot regulations to protect the resource if necessary.

Public Comment

Ron Schofield, United Arizona Anglers Foundation, strongly urged the Commission to support this proposal.

**Motion:** Freeman moved and Martin seconded THAT THE COMMISSION VOTE TO APPROVE THAT AT ROOSEVELT LAKE, THE LIMIT IS 6 BASS, OF WHICH NO MORE THAN 1 BASS BETWEEN 13 AND 16 INCHES (PROTECTED SLOT LIMIT) IN LENGTH MAY BE IN POSSESSION.

**Vote:** Unanimous

Allow harvest of striped bass at Lake Pleasant by means of spear fishing.

Currently there is no bag restriction on Striped Bass at Lake Pleasant and managers encourage anglers to harvest as many striped bass as possible. Spear fishing for Striped Bass is currently allowed on Lake Powell, Lake Mead and on the Colorado River from Hoover Dam downstream to Cottonwood Landing and the Arizona Game and Fish Department received a request from the public to allow spear fishing of striped bass at Lake Pleasant. Currently, spear fishing is allowed for carp and tilapia at Lake Pleasant.

Public Comment

Aaron Crist, addressed the Commission in support of this recommendation.

The Commission discussed safety issues with Mr. Crist related to visibility, training, and types of spearguns. Mr. Crist stated that he has researched spearfishing accidents and has not found any.

Commissioner Martin asked about restricting the more powerful spearguns.

Mr. Odenkirk advised the Commission that limiting the weapon type would have to be done in Rule, Article 3.

**Motion:** Woodhouse moved and Martin seconded THAT THE COMMISSION VOTE TO APPROVE THAT STRIPED BASS MAY BE TAKEN BY SPEAR OR SPEAR GUN AT LAKE PLEASANT.

**Vote:** Unanimous

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1.a. Salt River Reservoirs Golden Alga Action Plan Update and Commission Order 40 Recommendations for Saguaro, Canyon, and Apache Reservoirs

**Presenter:** Kirk Young, Fisheries Branch Chief

The Commission was provided an update on the Salt River Reservoirs Golden Alga Action Plan and provided with recommendations for changes to Commission Order 40: Fish, establishing open seasons, open areas, and bag and possession limits for calendar year 2009 and 2010 at Saguaro, Canyon, and Apache Reservoirs.

In April of 2007 the Commission approved implementation of the Golden Alga Action Plan for the Salt River reservoirs – Saguaro, Canyon, and Apache. In October 2007, the Commission directed the Department to assess the biological need and public support for regulation changes. Over the past three to four years golden algae blooms at Saguaro, Canyon and Apache reservoirs have resulted in fish kills of varying severity. Largemouth and smallmouth bass populations were impacted, and the Department is currently monitoring, conducting research, and stocking bass at all three lakes as part of the Golden Alga Action Plan. Successful largemouth bass spawning has been documented in all three reservoirs suggesting that the fisheries may recover on their own. At this time harvest restrictions are not being recommended for bass populations at Saguaro, Canyon and Apache reservoirs for the following reasons:

1. Creel data collected from June 2007 to May 2008 indicate that harvest of both smallmouth (SMB) and largemouth bass (LMB) is very low at all three reservoirs and suggests that harvest is not a significant factor affecting the bass population at the three reservoirs.
2. LMB bass populations at the three reservoirs are exhibiting natural recruitment and appear to be recovering. Recruitment of SMB has not been documented; however stocking will continue, reproduction is expected by 2010, and population modeling indicates that harvest is expected to have little impact on smallmouth bass population.
3. Population modeling was conducted to assess impacts of current and predicted harvest on LMB and SMB bass populations at varying levels of angler effort and harvest at the three reservoirs. The models predicted little impact on populations as a result of harvest.
4. One of the primary objectives of the Salt River Lakes Golden Alga Response Plan is a research component intended to determine: a) if stocking is an effective tool to manage golden alga impacted waters, and b) if stocking is effective, what type of stocking is most effective and at what times. Creating a regulation change that restricts harvest of fish adds another layer of complexity and variability that will make it more difficult to develop meaningful conclusions regarding the objectives.

#### Public Comment

The following members of United Arizona Anglers Foundation (UAAF) addressed the Commission requesting protection of spawning size fish by using a slot limit of 13 to 20 inches that would automatically expire in two years. Also requested was to divert the next allotment of stock fish to Canyon and Apache Lakes from Saguaro Lake since Saguaro Lake was recovering, and that small mouth and large mouth bass be moved from Roosevelt Lake, by way of collection at bass tournaments, to the three reservoir lakes to add brood stock.

Ron Schofield  
Denny Anderson  
John Mergener  
Jim Patterson  
Justin Seay

The Commission discussed that the 13 to 20 inch slot was very restrictive compared to the 13 to 16 inch slot at Roosevelt Lake and that there was no real biological need for it. The Commission further expressed concerns about taking away harvest opportunity for anglers as well as protecting the investment in the lakes' recovery, including the Department's time and research.

Commissioner Martin asked Mr. Young about what the impacts would be to the Department's ongoing research if the regulations were changed in the middle of it.

Mr. Young stated that adding a variable like protection will be something the Department will have to look at. It will complicate the study, but he could not say if the effect would compromise the results or make the study mute; however, he did not think so.

**Motion:** Martin moved and Freeman seconded THAT THE COMMISSION VOTE TO IMPLEMENT A 13 TO 16 INCH SLOT AT SAGUARO, CANYON, AND APACHE LAKES.

Chairman McLean suggested a 13 to 16 inch slot with a one fish take so that it is consistent with Roosevelt Lake.

Mr. Young reminded the Commission that it would sunset in two years.

**Amended Motion:** Martin moved and Freeman seconded THAT THE COMMISSION VOTE TO IMPLEMENT A 13 TO 16 INCH SLOT AT SAGUARO, CANYON, AND APACHE LAKES WITH A ONE FISH TAKE TO MAKE IT A SLOT CONSISTENT WITH THE ROOSEVELT LAKE SLOT TO BE EFFECTIVE JANUARY 1, 2009 ALONG WITH COMMISSION ORDER 40 AND TO EXPIRE IN TWO YEARS ON DECEMBER 31, 2010.

**Vote:** Unanimous

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Meeting recessed for lunch at 11:59 a.m.

Meeting reconvened at 1:34 p.m.

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4. Petition from Mr. Richard Hobson of Globe, Arizona for revision of rule language R12-4-524.

**Presenter:** Jen Stewart, Rules and Risk Branch Chief

Mr. Richard Hobson of Globe, Arizona requested that the Commission modify the rule language in R12-4-524. Mr. Hobson disagrees with current rule language, requiring an observer of a water skier to be at least twelve years of age, in addition to being physically capable and mentally competent to act as an observer. Mr. Hobson states in his petition that under current rules, a 5-year old child can operate a watercraft while waterskiing, but cannot hold the flag when the skier falls down. Mr. Hobson is requesting that the rule language be changed to "a competent observer" without specifying any minimum age requirement.

The Department's Article 5 Rules, covering Boating and Watercraft Sports, were recently revised during the normal rulemaking cycle and became effective Feb 2, 2008. At that time, the

Department expressed concerns over the use of underage youth as waterskiing observers, like very young children or toddlers. The Department believes that an individual younger than 12 is not of sound enough temperament to act as an observer, and this mirrored the requirements of other states at that time, including California and Nevada. The responsibilities of an observer include watching for hazards, observing water skiers, notifying boat operators when a skier has entered the water, and being able to determine approximate points of entry in the water. An observer must be able to perform these tasks without direct supervision.

Under A.R.S. § 5-341, an individual under the age of twelve may operate watercraft only if the persons' parent or legal guardian or at least one person who is eighteen years of age is present on the watercraft. The intent of this statute is to ensure someone under age 12 is under direct supervision while operating the watercraft. If the Commission votes to approve the petition, it can direct the Department to initiate out of cycle rulemaking to amend R12-4-524 according to the intent of the petitioner or to include the concept in the next regular rulemaking cycle for Article 5. If the Commission votes to deny the petition, it can direct the Department to include the concept in the rulemaking record for consideration during the regular rulemaking cycle, or to exclude it from the record and no further action will be taken.

#### Public Comment

Mr. Hobson was present and addressed the Commission on behalf of his petition.

The Commission discussed with the Department's Boating Law Administrator, Kevin Bergersen, the sources of danger that the observer needs to alert the boat operator of, which included other vessels coming near, personal watercraft attempting to jump behind the wake of the skier, things in the water that the skier may need to be diverted around, and that the observer needs to be able to articulate where the skier went down in the water. An observer needs to be aware of the risks involved and be able to sufficiently warn the operator.

Commissioner Martin stated that she will vote to deny this request because it is too much responsibility to place on a young child, especially considering if something bad should happen to the skier and that child has to live with that for the rest of his life.

Commissioner Freeman commented that he believed that some 10 year olds are capable, but some are not, and there is no way to control that.

**Motion:** Woodhouse moved and Martin seconded THAT THE COMMISSION VOTE TO DENY THE PETITION SUBMITTED BY MR. HOBSON AND TO NOT INCLUDE THE CONCEPT DESCRIBED IN THE PETITION FOR CONSIDERATION DURING THE REGULAR RULEMAKING CYCLE FOR ARTICLE 5.

**Vote:** Unanimous

Chairman McLean explained his vote stating that he questioned whether or not 12 year olds were too young, much less 5 year olds, and further that he personally believed that a person should not be a boat operator or an observer until they have a driver's license.

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## 2. Statewide Shooting Range Briefing

**Presenter:** Jay Cook, Education Branch Chief

The Commission was provided with a Statewide Shooting Range Update prior to this meeting of Department activities related to shooting range support and development statewide. The update, also available to the public, covered activities that occurred since the September 2008 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.

Mr. Cook recapped several items in the Update using a Power Point presentation and discussed some of the items with the Commission.

### Public Comment

Tom Timmons, Contract Administrator, Maricopa County Parks and Recreation, addressed the Commission regarding the Maricopa County Buckeye Hills Shooting Range and asked for the Commission's and Department's assistance and support in getting the range up and running safely and open to the public. The Buckeye Sportsman Club will be running the range.

Dan Bauer, President, Buckeye Sportsman Club, addressed the Commission in support of Mr. Timmons request and further briefed the Commission on his organizations activities regarding the range. Mr. Bauer requested financial support from the Commission for equipment and additional facilities.

Manuel Alvarez, Vice President, Buckeye Sportsman Club, added that club members were motivated and ready to get this range open and further discussed with the Commission how the range would be run.

Mr. Cook stated that there is currently \$30,000 that could be made available to fund the Buckeye Hills Shooting Range.

Director Voyles stated that he wanted to complete the budget analysis before committing to any funding.

The Commission was in consensus to direct the Department to explore an MOU with Maricopa County and/or the Buckeye Sportsman Club, as approved by the Attorney General's Office and after considering current budget issues, and to bring that back to the Commission at the special Commission meeting in November or the regular Commission meeting in December.

Commissioner Martin stated for the record that she is generally uncomfortable with awarding funds outside of the granting process in which organizations have competed for funds. A surplus of grant funds usually goes to the next one that competed, but because of the opportunity to get so much for so little, she is willing to support it. Also, Commissioner Martin wanted to be clear for the record that if it appeared the Commission was freezing some of the wildlife grants, yet continuing with shooting sports grants, that it has to do with the sources of funds involved.

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3. Adobe Mountain Wildlife Rehabilitation Center Relocation**Presenter:** Ty Gray, Assistant Director, Information and Education Division

At the September Commission meeting, the Commission directed the Department to provide cost estimates for moving the Adobe Mountain Wildlife Center to the Deer Valley South (DVS) property that is held on lease from the City of Phoenix and to identify real costs associated with individual animal enclosures. Mr. Gray briefed the Commission on those estimates including costs to bring the DVS facility up to operational standards, the possible use of current DVS structures, procurement options for acquiring building materials, and inflation estimates associated with postponing construction of the new facility at Ben Avery. The following is the overall cost estimate to move the facility to the Deer Valley South Property:

Administration Building	\$ 93,000
Outdoors Presentation Area	\$ 105,000
Exhibit pens	\$ 81,000
Grounds /Maintenance Building	\$ 22,000
CWD / Dangerous mammal pens	\$ 5,000
Flight Pens	\$ 84,000
Mammal holding pens	\$ 114,000
Care & educational holding Building	\$ 356,000
Bunk House	\$ 30,000
Vehicle Storage Building	\$ 24,000
Subtotal	\$ 914,000
10% Contingency	\$ 91,000
<b>TOTAL ESTIMATED COST</b>	<b>\$ 1,005,000</b>

The Commission was in consensus to continue with previous Commission direction to move forward with the new facility. The budget will cover the administration building and then everything else possible such as pens and enclosures would be moved from the current facility and made functional until improvements can be made.

Commissioner Freeman commented that once the groundbreaking begins, fundraising efforts can be energized in order to raise funds for necessary improvements.

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5. Call to the Public

There were no requests to speak at this time.

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6. Request to Adopt Commission Order 25: Raptors

**Presenter:** Eric S. Gardner, Nongame Branch Chief

Mr. Gardner briefed the Commission using a Power Point presentation on Department recommendations for Commission Order 25: Raptors. The Commission was asked to adopt Commission Order 25: Raptors, establishing open areas, season dates, and bag and possession limits for 2009 and 2010 as proposed by the Department.

From May through June 2008, the Department received recommendations from stakeholders, other government agencies, and Department employees for proposed changes to Commission Order 25: Raptors. The U.S. Fish and Wildlife Service (USFWS) published the new Federal Falconry Regulations on October 8, 2008. The Department submitted 10 recommendations for public comment in July 2008 that were consistent with these regulations. From July through August 2008, the Department received 15 letters from the public, and met with members of the falconry community to discuss the recommended changes.

The Department recommended the following changes to Commission Order 25 for 2009-2010:

1. Modify the Season Dates from January 1 to January 31 and May 1 to December 31 to allow more opportunities to harvest raptors. Exceptions include: 1) January 1 to February 28 and June 1 to December 31 season date for northern goshawks with open areas described, 2) open season dates for passage merlins, 3) open season dates for ferruginous hawk within the open areas described, 4) fall only season for adult and passage American kestrel, western screech owl, and great horned owl harvest, 5) a shorter peregrine falcon eyas season due to Federal Regulations on Migrant Take.
2. Move adult and passage American kestrel and great horned owl to a fall season.
3. Modify the language within the Open Areas for ferruginous hawk capture.
4. Remove the gender specific peregrine falcon hunts and combine the number of permits offered into one general nestling harvest.
5. Remove the 30 days after fledging restriction on the harvest of peregrine falcons and extend the season end date to August 15.
6. Add northern goshawks to the list of species that must be banded.
7. Modify the language within Resident Licenses Required.
8. ~~Modify the language within the Live Bag Limit Only~~ (Removed on the floor from the Department's recommendation – Must first be approved in Rule)
9. Update the effective dates of the Commission Order.

Two recommendations, 1) to remove the western screech owl from the list of legal raptors harvested and 2) to limit the harvest age of nestlings, were previously presented to the public for comment and were part of the Department's presentation, but were not carried forward in the Department's recommendation to the Commission.

#### Public Comment

Charlie Kaiser, Vice President, Arizona Falconers Association, addressed the Commission with concerns about removing the western screech-owl from the list of legal raptors harvested since there is a low number of take and no pressure on the species.

Commissioner Hernbrode questioned why western screech owls were on the list for harvesting because even though we are able to harvest them, it does not mean that we should. This is a social issue and the birding community would be opposed to this harvest.

Commissioner Freeman stated for the record that taking a screech owl does not mean it is killed, but rather that it is used as a falconry bird and may live many years or even be released back to the wild, which makes this more sociably acceptable.

Commissioner Woodhouse stated that according to the history of only five screech owls being taken in the past several years, he didn't see any need to change the regulation.

Commissioner McLean stated that he does not understand the falconry community's justification for why the western screech owl should be harvested, but he does not feel that it should be removed just because it is an unusual species for falconry harvest.

#### Public Comment

Gary Lollman, Liaison, Arizona Falconers Association, opposed the removal of western screech owls from the list of legal raptors harvested, and reiterated Commissioner Freeman's statement.

Ron Palmer, Treasurer, Arizona Falconers Association, supported the Department's recommendations.

Bob Witzeman, Conservation Chairperson, Maricopa Audubon Society, stated that it was not biologically or socially appropriate to use western screech owls as falconry birds.

Commissioner Martin questioned whether 5 birds over the course of 4 years is a biological issue or an ethical issue, and further stated that it seems illogical not to include them as a legal raptor considering the low level of demand.

Mr. Gardner clarified that the Department put forth a recommendation to remove western screech owls from the list of legal raptors harvested, but that it was not carried forward in the final proposal. If the Commission approves the Department's recommendation as described, it will not remove western screech owl from the list of harvested species. If the Commission chose to direct the Department to change it, then it would need to be an amendment to the recommendation.

Mr. Gardner further briefed the Commission on the other recommendations as well as season dates, and bag and possession limits for 2009 and 2010. The season dates allowed for take of American kestrels and red-tailed hawk by Class I falconers were changed on the floor to include the period of January 1 to January 31.

**Motion:** Freeman moved and Martin seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 25: RAPTORS, ESTABLISHING OPEN AREAS, SEASON DATES, AND BAG AND POSSESSION LIMITS FOR 2009 and 2010, AS PROPOSED BY THE DEPARTMENT.

Commissioner Hernbrode stated that he would vote no solely due to the issues regarding the western screech owl, but wanted it known that he does support falconry.

**Vote:** Aye - McLean, Martin, Woodhouse, Freeman  
Nay - Hernbrode  
Passed 4 to 1

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#### 7. Request to Adopt Commission Order 41: Amphibians

**Presenter:** Eric S. Gardner, Nongame Branch Chief

The Commission was asked to adopt Commission Order 41: Amphibians, establishing open areas, season dates, and bag and possession limits for 2009 and 2010, as proposed by the Department. From May through August 2008, the Department solicited recommendations from staff, stakeholders, and government agencies for proposed changes to Commission Order 41: Amphibians. The Department received no recommendations.

The Department recommended the following with regard to Commission Order 41 for 2009 and 2010:

1. Update the effective dates of the commission order.

**Motion:** Hernbrode move and Martin seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 41: AMPHIBIANS, ESTABLISHING OPEN AREAS, SEASON DATES, AND BAG AND POSSESSION LIMITS FOR 2009 and 2010, AS PROPOSED BY THE DEPARTMENT.

**Vote:** Unanimous

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#### 8. Request to Adopt Commission Order 42: Crustaceans and Mollusks

**Presenter:** Eric S. Gardner, Nongame Branch Chief

The Commission was asked to adopt Commission Order 42: Crustaceans and Mollusks, establishing open areas, season dates, and bag and possession limits for 2009 and 2010, as proposed by the Department.

From May through July 2008, the Department solicited recommendations from stakeholders, other government agencies, and Department employees for proposed changes to Commission Order 42: Crustaceans and Mollusks. The recommendations were evaluated with regard to current rules and regulations, Department conservation priorities for crustaceans and mollusks, and carried forward these recommendations for public comment. No changes to bag limits or method of take for crayfish were forwarded for public comment. The Department received two

comments from the public during the open comment period, which were provided to the Commission with their packets.

The Department recommended the following with regard to Commission Order 42 for 2009-2010:

1. Modify Note 4 to add the following language at the end of the note: “(with the exception of preserved scientific and educational specimens)”.
2. Update the effective dates of the Commission Order.

**Motion:** Hernbrode moved and Freeman seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 42: CRUSTACEANS AND MOLLUSKS, ESTABLISHING OPEN AREAS, SEASON DATES, AND BAG AND POSSESSION LIMITS FOR 2009 and 2010, AS PROPOSED BY THE DEPARTMENT.

**Vote:** Unanimous

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#### 9. Request to Adopt Commission Order 43: Reptiles

**Presenter:** Eric S. Gardner, Nongame Branch Chief

The Commission was asked to adopt Commission Order 43: Reptiles, establishing open areas, season dates, and bag and possession limits for 2009 and 2010, as proposed by the Department. From May through August 2008, the Department solicited recommendations from staff, stakeholders, and government agencies for proposed changes to Commission Order 43: Reptiles and received no recommendations.

The Department recommended the following with regard to Commission Order 43 for 2009 and 2010:

1. Update the effective dates of the Commission Order.

**Motion:** Martin moved and Woodhouse seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 43: REPTILES, ESTABLISHING OPEN AREAS, SEASON DATES, AND BAG AND POSSESSION LIMITS FOR 2009 and 2010, AS PROPOSED BY THE DEPARTMENT.

**Vote:** Unanimous

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#### 10. Call to the Public

There were no requests to speak at this time.

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## 11. Director and Chairman's Report

Director Voyles reported the following activities since the last Commission meeting:

- Attended the AFWA Annual Conference in Saratoga Springs, NY
- Provided a presentation at the Bill Williams River Scientific Strategy Workshop
- Attended the Department's Annual Coordination meetings with the Forest Service and BLM
- Attended a briefing at the Governor's Office on the Status of the FY2009 State Budget
- Attended the White House Conference on North American Wildlife Policy in Reno, NV
- Met with Jim Apperson along with several other Department staff
- And attended yesterday's AORCC meeting

Chairman McLean reported the following activities since the last Commission meeting:

- Met with/had phone conversations with a number of senior Department Staff and discussed a number of issues
- Drafted and sent a letter (copies) to a number of conservation non-government organizations informing them that the Commission had voted unanimously to oppose Proposition 105 (did not use any Department assistance or funding)
- And spent two weeks hunting in Wyoming

Chairman McLean further announced that the Commission and the Department are the recipients of The Nature Conservancy's Outstanding Conservation Achievement Award, also known as the Morris K. Udall Conservation Award, related to the Commission's acquisition of the Verde Springs property and its incorporation into the Upper Verde River Wildlife Area.

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## 12. Commissioner's Reports

Each Commissioner reported on their activities since the last Commission meeting.

Commissioner Woodhouse:

- Talked with a couple of members of the Yuma Valley Rod and Gun Club to discuss the suit and settlement on the Kofa
- Talked with Region IV Supervisor Pat Barber and have a meeting scheduled with him and the YPG on October 23 to discuss issues
- And went elk hunting in Northern Arizona.

Commissioner Martin:

- Attended the AFWA Annual Conference in Saratoga Springs, NY and attended several committee meetings; also chaired the Commissioner's Forum
- Went with some Audubon folks to the Appleton Motel Research Ranch to discuss some of the Audubon's direction and strategic planning
- Trapped a wolf with the Regional staff in the White Mountains
- Met with Herb Guenther with ADWR regarding water rights issues
- Met with the Governor's Office Natural Resources Policy Advisor

- Met with Department staff on wolf issues
- Attended Commissioner Freeman's pumpkin festival
- Helped with the release of black-tailed prairie dogs
- Worked with Department staff on legislative proposals
- And prepared for this meeting.

Commissioner Martin also drafted the notes from the Conservation Committee meeting and asked Eric Gardner to send those notes to each Commissioner.

Commissioner Hernbrode:

- Attended and chaired the HPAC at the Vermillion Cliffs
- Spent the following night on the Kaibab doing a deer survey
- Participated in a two hour talk radio program on National Hunting and Fishing Day
- Spent two days working with Department Nongame staff in their restoration program on Bonita Creek

Commissioner Freeman:

- Attended the Off-Highway Vehicle Jamboree with Commissioner Woodhouse
- Had phone calls and meetings with Department staff regarding the Adobe Mountain facility engineering, design and budget
- Did a radio interview in Prescott regarding Information and Education items and promoted the Watchable Wildlife Book
- Did a newspaper interview regarding the same
- Attended a legislative meeting with Department staff and Commissioner Martin
- Participated in staff briefings for this meeting

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### 13. Approval of Minutes and Signing of Minutes

**Motion:** Martin moved and Hernbrode seconded THAT THE COMMISSION VOTE TO APPROVE THE COMMISSION MEETING MINUTES DATED AUGUST 27-28, 2008 AND SEPTEMBER 5-6, 2008.

**Vote:** Unanimous

Following approval, the Commission signed the minutes from August 27-28, 2008 and September 5-6, 2008.

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### 14. Future Agenda Items

Mr. Seck reported capturing the following action items and future agenda items from this meeting:

- Place "Funding for the Buckeye Hills Shooting Range" on the December Commission meeting agenda

Chairman McLean requested, as a part of the Director's Goals and Objectives to be discussed in November, that the Commission talk about the process of entering into a new contract with the Director with an eye toward formalizing that process by either December or January. The Director's current contract expires in January 2009.

Commissioner Martin requested reviewing and updating the Commission Awards including how they are done and what awards are given out.

Director Voyles requested to meet with each Commission individually following the meeting.

Mr. Odenkirk clarified for the record that the Commission would not be meeting jointly following this meeting.

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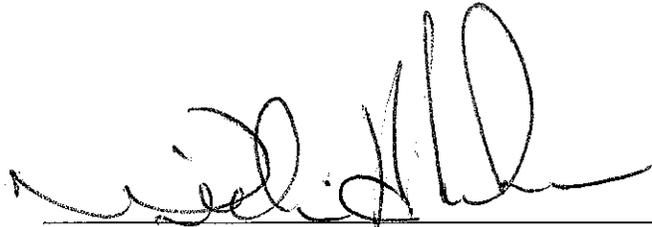
**Motion:** Hernbrode moved and Martin seconded THAT THE COMMISSION VOTE TO ADJOURN THIS MEETING.

**Vote:** Unanimous

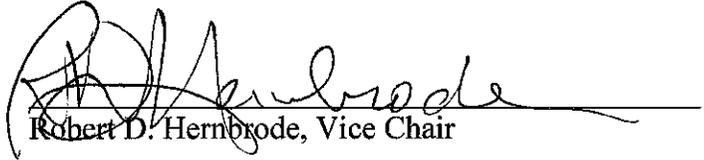
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Meeting adjourned at 4:26 p.m.

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William H. McLean, Chair



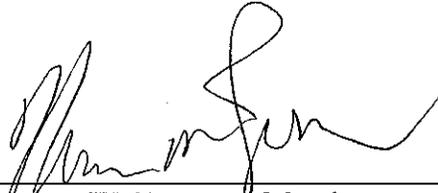
Robert D. Hernbrode, Vice Chair



Jennifer L. Martin, Member

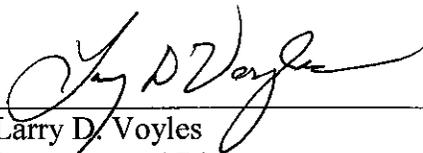


Robert R. Woodhouse, Member



Norman W. Freeman, Member

ATTEST:



Larry D. Voyles  
Secretary and Director

**Game and Fish Litigation Report**  
**Presented at the Commission Meeting**  
**October 7, 2008**

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. *Wilderness Watch, Inc. et al. v. United States Fish and Wildlife Service et al., CV01185-MHM.*** Plaintiffs filed suit on June 15, 2007, challenging the decision of the U.S. Fish and Wildlife Service ("FWS") to redevelop two water structures on the Kofa National Wildlife Refuge. The water structures provide supplemental water to wildlife populations that have suffered due to persistent drought. Plaintiffs allege that these water developments violate the National Environmental Policy Act because the FWS did not first determine the environmental impact of these projects. Plaintiffs also allege that such permanent structures are prohibited by the Wilderness Act. Plaintiffs seek declaratory and injunctive relief. They are asking the court to find that the FWS violated the law and to order the FWS to remove the structures.

The Commission has voted to file an application with the court to intervene on behalf of the FWS. Any court order finding that the FWS violated federal law will impair the Commission's ability to restore the wildlife populations in the refuge and in other wilderness areas in Arizona. The Attorney General's Office anticipates that a motion to intervene will be filed by August 15<sup>th</sup>.

On August 7, 2007, the State filed its Motion to Intervene. Plaintiffs, in response to the State's motion, did not object to the State's permissive intervention, so long as the court imposes restrictions on the State's participation, such as page limits, requiring the State to file joint briefs with the other intervenors, and prohibiting the State from duplicating arguments made by the federal defendants. On August 29, 2007, the State filed a reply in support of its Motion to Intervene and opposed any restrictions on the State's intervention.

On August 20, 2007, the State also filed a response to plaintiffs' Motion for Temporary Restraining Order.

On August 30, 2007, the federal defendants filed an answer to plaintiffs First Amended Complaint.

The court has issued a scheduling order for the parties to file motions for summary judgment. The plaintiffs' motion is due December 14, 2007; the defendants' cross-motion and response is due February 1, 2008; plaintiffs' response/reply is due February 29, 2008 and defendants' reply is due March 14, 2008.

Plaintiffs have withdrawn their motion for a temporary restraining order so the status quo will remain until the court rules on the motions for summary judgment.

As for the motions to intervene filed by the State of Arizona and various conservation organizations, the court has indicated it will not likely rule on these motions prior to the time the

parties file their motions for summary judgment. The court, however, granted permission to the applicants for intervention to file motions for summary judgment. Also, the plaintiffs stated on the record that they have no objection to the State of Arizona intervening in the case.

On February 1, 2008, the State of Arizona, the federal defendants and conservation groups filed separate cross motions for summary judgment and responses to the plaintiffs' summary judgment motion.

On February 29, 2008, the plaintiffs filed a response to the cross motions for summary judgment. Defendants have until March 14, 2008, to file replies.

On March 4, 2008, the court granted the motions to intervene by the State of Arizona and the conservation groups.

On March 14, 2008, the State of Arizona and the other defendants filed replies to the plaintiffs' cross motion for summary judgment.

On April 2, 2008, the organization Public Employees for Environmental Responsibility ("PEER") filed a motion for leave to file an amicus curie brief in support of the plaintiffs' cross motion for summary judgment. At the same time, PEER lodged its amicus brief with the court clerk. Each defendant has filed a response opposing PEER's motion for leave. Not only is the motion untimely, the brief that PEER has lodged contains many additional factual assertions not included in the administrative record. This attempt to supplement the administrative record with new information violates the established law in this area.

The parties filed supplemental briefs on June 3, 2008, addressing the issue whether the Wilderness Act or the National Wildlife Refuge Improvement Act controls in this case. Oral argument on the cross motions for summary judgment took place on June 12, 2008. The court has taken the motions under advisement.

**The court issued an order on September 5, 2008, denying the plaintiffs' cross motion for summary judgment and granting the defendants' and interveners' cross motions for summary judgment. Judgment in favor of the defendants was entered on September 11, 2008. The plaintiffs have sixty days from date the court entered judgment to file a notice of appeal.**

(10/7/08) (JFO/SDC)

**Lands Update**  
For the Arizona Game and Fish Commission  
October 3, 2008  
Phoenix, Arizona

**FEDERAL LAND MANAGEMENT PLANNING**

Coronado National Forest

On September 3<sup>rd</sup>, the Department attended a Travel Management Meeting on the Douglas Ranger District. Forest staff generated maps showing existing roads, from GPS data obtained prior to the meeting, against the official roads on the Forest map. Meeting participants evaluated which roads should stay, be added, or deleted from the system. A few non-essential roads or roads that existed on the map but not on the ground were deleted from the system. Generally, all roads existing on the ground will either remain or be added to the system. There was also some discussion of cutting new roads to bypass private property to improve access and to move existing roads out of a creek or wash bottom

Tonto National Forest

The Forest is moving forward with their travel management planning. The Ranger Districts should have their proposed action maps completed by the end of January, and Department personnel are meeting with District personnel to make sure our concerns are addressed. The National Environmental Policy Act (NEPA) analysis will be completed by the Supervisor's office.

**U.S. FOREST SERVICE**

**Coronado National Forest**

The Draft Environmental Impact Statement (DEIS) for the Pinaleño Ecosystem Restoration Project will be ready for public review in October. The Forest worked closely with the Department to develop this proposal that will address both the forest health needs and the sensitive wildlife needs. A major objective of the project is to protect the habitat of the Mount Graham red squirrel. On September 8, the Department hosted a meeting of the Pinaleño Science Collaborators, a group of interested scientists and conservationists, to ensure that this group is informed of the project and the design criteria for protecting wildlife habitat. The Department will be following up with some of the conservation groups that did not attend to ensure that they are informed about the project.

The Department has a meeting scheduled for October 6 to meet with Jamie Sturgess, Vice-President of Sustainable Development for Rosemont Copper Project, and with Gordon Cheniae, a consultant, regarding Department concerns about wildlife impacts from the proposed Rosemont Copper Project. This project is proposed in the Santa Rita Mountains on the Forest.

The Department and the Douglas Ranger District completed work on a new well in Middlemarch Canyon and installed a 1500 gallon wildlife drinker and a 3000 gallon storage tank to supply water inside a wildlife enclosure. The new well will also provide water to two other livestock and wildlife drinkers on the allotment. This project was funded in part through a Habitat Conservation Protection (HCP) grant.

## **Kaibab National Forest**

The Department is about to begin work on the Westside Mule Deer Habitat project. Fall 2008 seeding and herbicide applications began on Tuesday September 30<sup>th</sup>. Together with the Forest we'll be doing approximately 312 acres of seeding and 195 acres of herbicide application using contractors. For seeding, we will be including the same shrub species as last year which includes cliffrose, sagebrush, 4-wing saltbush, and winterfat. Due to the poor quality of the cliffrose on the Kaibab this year, we were unable to harvest enough locally for this project, therefore this seed will be coming from an adjacent area. In general, the Department will do it's best to include the most local seed available each year. In addition to the shrub seed, the Forest will be including some grass seed within treatments in areas that burned in the Slide Fire last summer.

Herbicide treatments will follow the seeding and being provided by the subcontractor Horizon Environmental. Like last year, we are using Plateau™ herbicide for the control of cheatgrass, which has become established on the Kaibab. The Grand Canyon Trust plans to continue monitoring these areas as the project proceeds. In addition, the Department continues to work with the Trust on planning for volunteer projects on the Westside. The first project took place on National Public Lands Day and involved hand raking of native seed into Pinyon and Juniper woodlands.

## **BUREAU OF LAND MANAGEMENT (BLM)**

### **Arizona Strip Field Office**

On May 9, 2008, the Record of Decision and Approved Resource Management Plan for the Arizona Strip Field Office were released to provide guidance for the management of 1,679,896 acres of BLM-administered lands in northern Arizona. The Department continues to coordinate closely with the Field Office (FO) in development of implementation-level plans, including Travel Management Plans and associated route networks.

On September 23<sup>rd</sup>, Department personnel attended a BLM field trip related to uranium mining on the Arizona Strip. In attendance were the BLM, the Department, the Sierra Club, the Grand Canyon Trust, and several people from ongoing exploration and mining companies (Quaterra Resources, Vane Minerals, Dennison, Uranium One, and a few others). We visited several reclaimed mine sites including the Hack Canyon mine, Hermit mine, and Arizona #1, which is the mine that is slated to reopen once permits are in place. Ore was never removed from this mine and it is expected that it could be up and running sometime in 2009. Lastly, we visited a site planned for new mine, that if approved will be mined underground. Dennison Mines is currently putting together their Plan of Operation to submit to the BLM.

Other visits on the field trip were ongoing exploration sites in which drill rigs were present. The AZ Strip continues to see increased interest in uranium as the price currently is around \$60.00/lb. The Department's main concerns related to uranium mining are the effectiveness of current reclamation strategies, potential of uranium ore to contaminate seeps and springs, and the increased traffic volume due to hauling in this remote portion of the state (estimate of 12 hauls/mine/day). The Department will continue working with the BLM to ensure that reclamation strategies are sufficient for quality wildlife habitat recovery in these areas.

### **Havasu Field Office**

The Lake Havasu Field Office Record of Decision and Approved Resource Management Plan were released on July 9, 2007. The Department continues to coordinate closely with the Field Office in the development of subsequent implementation-level plans, including Travel Management Plans and associated route designations.

The Department reviewed the Environmental Assessment (EA) and Alternatives associated with the Lake Havasu Field Office's Route Evaluation and Travel Management Planning efforts for the Bullhead Unit. Upon first inspection, the Alternatives appeared to require a choice between protecting wildlife and habitat - and hunter access to the unit's resources. However, after careful review, support was expressed for the proposed "Protective" Alternative. It appeared to provide optimal protection of wildlife and habitat, while preserving requisite recreational access for sportsmen and hunters. Other Alternatives were rejected due to the "open- status" awarded to many redundant routes within the unit. The Department was concerned that route redundancy would contribute to proliferation of unauthorized routes, cross-county travel, and continued OHV degradation to the unit's wildlife and habitat resources.

### **Lower Sonoran Field Office**

The BLM is preparing a preliminary preferred alternative draft Resource Management Plan to be released for public review. The Department continues to participate in cooperative meetings and proactively develop comments throughout the planning process.

### **Kingman Field Office**

The Kingman Field Office completed its route evaluation for the Hualapai Mountain Resource Management Unit. Results from this effort will be used in the NEPA process to produce a Travel Management Plan for the Hualapai Mountain Unit's Resource Management Plan.

### **Yuma Field Office**

The Proposed Resource Management Plan and Final Environmental Impact Statement has been released to the public. The Final Resource Management Plan and Record of Decision will be issued after protest resolution. The Department continues to work with BLM on the development of subsequent implementation-level plans, including the La Posa Travel Management Plan.

### **Tucson Field Office**

BLM notified the Department that the Middle Gila Travel Management plan is near completion but public release will be delayed due to Arizona State Land Department (ASLD) not allowing the BLM to map roads crossing state lands. Since BLM land in this area is essentially surrounded and interspersed with state trust lands, this presents a serious problem for the travel management plan which cannot show roads that appear and disappear everywhere BLM and state lands meet. The entire area was originally mapped in coordination with ASLD who helped in writing the grant that funded the original road inventory used as the basis for the map. ASLD staff, funded by OHV dollars, also contributed a significant amount of effort in producing the original three alternatives for the travel management plan. ASLD participation in the planning process ended in 2006 with little explanation, leaving BLM to develop the final alternative without showing routes connecting across state land. The Department has urged completion of the travel management plan since 2000 and has expended significant staff time to see the project to fruition due to the extreme OHV pressure put on wildlife habitat. This pressure is expected to increase by several orders of magnitude in the next decades due to development of a city the

size of present-day Denver on State Trust Land at Superstition Vistas, east of Apache Junction, immediately adjacent to the BLM lands. The Department will meet with BLM to discuss the future of the plan and examine alternatives for dealing with ASLD. The BLM has requested that the Department take a pro-active role in retaining public access to these lands.

## **BLM NATIONAL MONUMENTS & CONSERVATION AREAS**

### **Grand Canyon-Parashant National Monument / Vermillion Cliffs National Monument**

On May 9, 2008, the Records of Decision and Approved Resource Management Plans for the Grand Canyon-Parashant and Vermillion Cliffs National Monuments were released to provide guidance for BLM-administered lands in northern Arizona. The final plan includes a series of unique route networks and designations.

### **Agua Fria National Monument**

The Proposed Resource Management Plans and Final Environmental Impact Statement for the Agua Fria National Monument and Bradshaw-Harquahala Planning Area were released on August 8, 2008. A 30 day protest period follows. The Department continues to work with the Field Office in the development of subsequent implementation-level plans, including Travel Management Plans and associated route designations.

### **Las Cienegas National Conservation Area**

The Department arranged for an archaeological survey on one of the proposed ASLD black-tailed prairie dog release sites. The survey was completed and cleared for the project. Department personnel have been working to clear the project area and to establish release pens. The effort included the clearing of mesquites and the mowing of grass at the release site. Personnel constructed 25 prairie dog chambers and their associated pipeline burrows and a holding pen. The 25 chambers were then buried approximately 5 feet below the surface and a 5-foot plastic pipeline run from the chamber on a 45 degree angle to the surface. The pipeline emerges inside a small holding pen that is staked to the ground. Prairie dogs captured in New Mexico will be released into the holding pens, where they will be monitored. The desired end result is for the prairie dogs to burrow their way out of the holding pen, thus creating a network of tunnels necessary for predator avoidance and to assist in the development of site fidelity. The release of the prairie dogs is currently scheduled for October 4- 7, but is dependent upon a successful trapping effort in New Mexico that is to occur prior to the release. The Department continues to work with the BLM on completion of the Environmental Assessment that will allow additional release sites for future relocation efforts.

### **Sonoran Desert National Monument (SDNM)**

The BLM continues to develop its preliminary preferred alternatives for the draft Resource Management Plan in association with the Lower Sonoran management area to be released for public review. The Department continues to participate in cooperative meetings and proactively develop comments throughout the planning process.

BLM has closed approximately one third of the SDNM to all vehicle entry due to environmental damage caused by OHV use. The area that was closed is north of State Route 238 and the closure is expected to be in effect for 2-3 years. The Department provided comments on a draft Recreation Management Plan

and will continue to work with BLM to regain vehicular access for wildlife-related recreation, including hunting, as expeditiously as possible.

### **Ironwood Forest National Monument (IFNM)**

The Tucson Field Office (TFO) continues to work on the development of a proposed final Resource Management Plan and Environmental Impact Statement for the Ironwood Forest National Monument. The TFO has indicated they are nearing completion but continue to work on issues, including recreational shooting, before the document goes out to the public.

## **U.S. FISH AND WILDLIFE SERVICE**

### **Kofa National Wildlife Refuge**

The Department continues to work with the U.S. Fish and Wildlife Service (USFWS) to plan, fund, and implement actions to aid restoration of the bighorn sheep population on Kofa. The Department is serving as a cooperating agency in the preparation of an Environmental Assessment (EA) for their Mountain Lion Management Plan. The public scoping period for the EA has ended and the first cooperating agency meeting was held August 28. The Department is working with Kofa to evaluate comments and draft management alternatives for the EA. As in 2007, efforts to capture and collar additional lions on Kofa were suspended in June for the summer. Staff remained alert for recent lion sign (tracks, scats, kills, and waterhole cameras) that might have presented a capture opportunity, but none were sufficiently promising. Fish and Wildlife Service monitoring of waterhole cameras indicate there are at least three lions still routinely using the Kofa Mountains Complex: one in the Castle Domes and two in the Kofas. No cubs have been seen in any of the waterhole camera images. Of the 30 bighorn sheep ewes collared by the Department and USFWS in 2007, two (one in March and one in August) have become mortalities, both as a result of lion predation. While thunderstorm activity has been somewhat cellular, the extent and timing of summer rains have sustained better than average water and forage conditions throughout the refuge. Kofa is initiating a study to map bighorn sheep habitat and relate that to known use. Efforts continue on a study to document and monitor body condition of bighorn sheep on Kofa. Plans remain on track for the next annual survey of the Kofa bighorn herd in October. The survey will include fitting more ewes with GPS collars and replacement of 2007 collars that are no longer fully functional. More complete information on the management of bighorn sheep, lions, and water on the Kofa NWR can be found on the Department's web site. This web site has not been updated during the summer months.

The Sonoran Pronghorn Recovery Team continues to evaluate potential sites for establishing a second population in the U.S. Kofa is one of the primary sites being evaluated for this effort. The team expects to begin public scoping related to the NEPA process in November.

The lawsuit brought against the U.S. Fish and Wildlife Service, et al. by Wilderness Watch et al. related to the reconstruction of 2 wildlife waters in wilderness on Kofa has been settled in favor of the FWS. The lawsuit contended that the FWS violated the Wilderness Act and the National Environmental Policy Act (NEPA) in the redevelopment of these waters. The judge ruled that neither act was violated because the FWS followed appropriate and established procedures under those acts. A Categorical Exclusion under NEPA was utilized and a Minimum Requirements Analysis under the Wilderness Act was conducted.

## **GENERAL UPDATES**

### **ADOT**

#### **SR 260 Passing Lane Project**

Department personnel attended the kickoff meeting and field review for the SR 260 Heber to Show Low Passing Lane Project. The project consists of the proposed construction of three passing lanes within the project area. As proposed, the new passing lanes would be constructed within high wildlife-vehicle collision areas. The Department recommended that ADOT evaluate the potential to move the passing lanes to areas with lower wildlife-vehicle collision rates or incorporate measures at the currently proposed sites to reduce the wildlife-vehicle collision risk, which is expected to increase once the passing lanes are constructed.

#### **Design Concept Report US 60**

ADOT is conducting a study to develop a Design Concept Report for the stretch of US 60 from Superior to Globe. The result will be a 4 lane highway connecting these towns. Alternative routes include a new route to the north of Superior through the Peachville Mountain area, a route to the north or south of Globe, and basically following the existing alignment. Problems with following the existing alignment involve widening the road through a long, deep canyon and the impacts to that canyon and wildlife movement.

#### **Arizona State Land Department (ASLD)**

ASLD submitted an application for a Habitat Conservation Plan (HCP) grant from the U.S. Fish and Wildlife Service for selected state lands in Pinal County. ASLD is looking at a three phase approach and is examining three areas of primary interest: 1) Superstition Vistas at Florence Junction, 2) lands in Unit 37A east of Red Rock, 3) San Pedro River and area surrounding San Manuel.

#### **Buckeye Hills**

The Bureau of Land Management indicated that the next draft of the Lower Gila South Plan will designate the Buckeye Hills as a high-use OHV area. Buckeye and Maricopa County Parks have not shared since May regarding their proposal for OHV use in the Buckeye Hills. The BLM would like the Department to develop a compromise land use plan for the Buckeye Hills that includes a higher level of OHV use for at least a portion of the subject lands.

#### **Chino Valley Bypass**

The Department continues to cooperate with the Central Yavapai Metropolitan Planning Organization (CYMPO) and the Coordinated Transportation–Land Use Planning Group (CT-LU) in the design-planning efforts for the Chino Valley Bypass and related projects. CT-LU is a cooperative planning group composed of management from ADOT's Prescott Office and Yavapai County's Planning, Zoning, Public Works, and Board of Supervisors. As of September 11<sup>th</sup>, the date of the last CYMPO Corridor Study Meeting, there have been no new developments. In the meantime, the Department continues coordination with TNC, USFWS and other stakeholder entities.

### **City of Coolidge Annexation**

The intergovernmental agreement between the Department and the City of Coolidge to allow hunting with firearms within the city limits in designated areas was approved by the Commission and has been sent to Coolidge for signatures.

### **City of Tucson**

The City of Tucson has received funding for three Section 6 grants to develop their Habitat Conservation Plans (HCP) thus far. They are currently finishing work for the second grant and are about to begin tasks associated with the third grant. They are developing two separate HCPs to cover lands in 3 specific areas: the extra-territorial holdings of the Tucson Water Department (the major regional water utility) located within Avra Valley (AV), west of the City; the Santa Cruz River (SCR) corridor within the City; and the undeveloped lands south and east of the City core, both within and outside of the current City limits, known as the "Greater Southlands" (GS). The permit area for the AV HCP includes 19,821 acres, and activities covered by the proposed Incidental Take Permit (ITP) include Tucson Water development projects and associated capital improvement projects.

The GS/SCR HCP permit area encompasses 129,982 acres, of which, 34,554 acres are annexed by the City. Covered activities include residential, commercial, and industrial development; widening or resurfacing of existing roads; construction of new roads, bridges, trails, and parks; and maintenance associated with these activities. Preliminary drafts of both City HCPs have been prepared and are undergoing review. The third grant will also accomplish development of a draft Environmental Impact Statement (EIS) for the AV HCP. The Department also received funding from the third grant to conduct an urban movement study of lesser long-nosed bats. This study is in its second year.

### **Executive Order: Facilitation of Hunting Heritage and Wildlife Conservation**

U.S. Department of the Interior Secretary Gale Norton created the Sporting Conservation Council, a federal advisory committee created to advise the Department of the Interior on resource conservation issues of interest to the hunting community. The council was tasked with providing important input in the areas of habitat restoration and protection; the impact of energy development on wildlife resources; forest and rangeland health; hunting access to federal lands; and other issues in which the sporting and conservation community can provide a valuable perspective to resource managers and senior leaders throughout the department. The Council was later expanded to also advise the Department of Agriculture. On August 13, 2007, President George Bush signed the Facilitation of Hunting Heritage and Wildlife Conservation Executive Order. The core component of the Executive Order called for federal agencies to help expand hunting opportunities and enhance the management of game species and their habitat. Because of the EO, federal agencies have already begun to evaluate how their actions impact hunting participation and implement actions that expand and enhance hunting opportunities. Included in this was an overall mandate to work with state and tribal governments to ensure healthy game populations and to provide opportunities for the public to hunt those species. Beyond the tangible agency actions that have come from the executive order, it also calls for the Chairman of the Council on Environmental Quality and the Secretaries of Agriculture and Interior, working with the Sporting Conservation Council, to convene a wildlife policy conference that would be the foundation for a ten-year Recreational Hunting and Wildlife Resource Conservation Plan. The Plan is to be prepared not later than 1 year following the conclusion of the conference which is scheduled for October 1 – 3, 2008 in Reno, NV. Attached is the Executive Order.

### **Pima County**

Pima County has already prepared a draft Multi-species Conservation Program (MSCP) and draft EIS. The MSCP covers 36 species including four plants, eight mammals, eight birds, six fishes, two amphibians, seven reptiles, and one invertebrate. The County received a Section 6 HCP grant to develop a monitoring plan. Their intent is to design a science-based cost-effective monitoring strategy to inform their adaptive management program. The County has developed a draft recommended monitoring approach for the MSCP. This report addresses the challenges of effectiveness monitoring, a required component in an HCP monitoring plan.

### **Pinal County**

The Department submitted extensive comments on Pinal County's Final Draft Comprehensive Plan. Comments were due September 5<sup>th</sup>. It will now be reviewed by the Planning and Zoning Commission and is scheduled for public hearings in October.

### **Maricopa County Ordinances P-28 and P-27**

Department Personnel continue to work with Maricopa County Air Quality Department (MCAQD), Sheriff's Office (MCSO), County Parks, Arizona State Parks, Arizona State Land Department, the US Forest Service, and the Bureau of Land Management on implementation of the recently enacted P-28 and P-27 Ordinances. These strict liability ordinances are designed to address dust abatement issues in unincorporated Maricopa County by making operation or parking of vehicles on lands other than roads (as defined in ordinance) unlawful. In late June the Department met with the Maricopa County Division of Air Quality and the Sheriff's office to draft a policy allowing hunters and anglers access and parking privileges on some of the non-exempted properties in unincorporated Maricopa County. On August 25<sup>th</sup>, 2008 Department personnel met with MCAQD and the MCSO to finalize the policy exemption for hunters and anglers operating on unpaved roads in Maricopa County. To date there has not been a revised version of the policy available for Department review. On September 10<sup>th</sup>, 2008 the Pinal County Board of Supervisors approved a new air quality ordinance (4-6-210.3) affecting OHV use. Don Gabreilson, Director of the Pinal County Air Quality Department incorporated language provided by the Department into the ordinance helping to ensure continued access for hunters and anglers. On September 30<sup>th</sup> 2008, the MCAQD conducted a workshop to revise ordinances P-28 & P-27. The Department attended this meeting, made comments and will follow up with a formal letter to the Air Quality Department. In addition Department personnel have made presentations to sportsmen groups informing them of the county ordinances and Department efforts to maintain access for hunting and fishing opportunities.

### **Multi Federal Coordination for Transportation Issues**

On September 19<sup>th</sup> the Department held a meeting with biologists from the Coconino National Forest, Kaibab National Forest, Apache Sitgreaves National Forest as well as personnel from the USFWS Ecological Services in Flagstaff. The goal of the meeting was to provide an opportunity for each of our agencies/districts to share information on transportation issues (new roads, re-alignments, research, planning) we are facing in our areas, how we currently work with ADOT and other stakeholders for permitting, consultation, etc. and if this process is working or not working. The Department presented its current process for transportation projects and the priority of our agency for future wildlife connectivity planning (Areas of Conservation Priority modeling tool). Also presented was current and past projects with wildlife and roadways in the state. Recently the Coconino has been more engaged in transportation issues and the discussion of speaking with "one voice" on these issues was important to all participants.

Discussed was how (with limited resources and time) to best get our comments incorporated into ADOT's planning process. We also discussed how we can incorporate wildlife connectivity into future planning efforts. The Forest Service (FS) has been interested in getting language related to connectivity issues within the Land Management Plan revision, and the Department will stay engaged to try to assist the FS with this language.

### **Town of Marana**

The Town of Marana is currently working on their second Section 6 grant for developing an HCP. They began their HCP effort in 2002. Products from the current grant will be a final EIS and final Multi-Species Habitat Conservation Plan (MSHCP). The permit area covers 76,500 acres. Activities proposed for coverage under the Incidental Take Permit (ITP) include maintenance and operation of Town facilities, infrastructure and open-space system, implementation of capital improvement projects, and issuance of permits for residential and commercial development.

### **Towns of Eagar and Springerville**

The Department has been cooperatively working with the Towns of Eagar and Springerville to broker an agreement which would transfer surplus treated wastewater from the Eagar wastewater treatment plant to the Springerville Marsh Wildlife Area. The Springerville Marsh Wildlife Area houses the Springerville wastewater facility, and all their treated wastewater is used to create wetland habitat for waterfowl and other wildlife species. There currently are about five acres of wetland habitat wholly supported by Springerville's water. However there is room for additional wetland habitat, if more water was available. The Arizona Department of Environmental Quality administers the operational permits for both plants, and required amendments to both permits before any water could be transferred to Springerville Marsh. After approximately 22 months and several permit revisions, the final permits were issued to the two municipalities. It is anticipated that Eagar's surplus water will flow into Springerville Marsh Wildlife Area starting this fall and winter creating an additional five or more acres of habitat for migrating waterfowl.

### **Western Interstate Energy Board Committee**

The Department participated in the Western Interstate Energy Board Committee in Denver on September 17<sup>th</sup> and 18<sup>th</sup>. This is the second time that this committee has met. This committee provides a forum for states to discuss both conventional and in-situ mining topics. Those topics included a state roundtable to share updates/information for both conventional and in-situ mining topics. These were the items listed on the agenda for each state to discuss:

1. Ongoing uranium demand and public concern
2. Uranium permitting/mine operation status reports
3. Description of agency jurisdiction structure responsible for regulation of conventional, in-situ uranium prospecting by state
4. Legislative activity

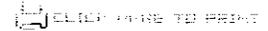
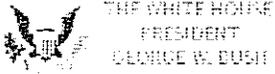
There were also some discussions related to specific compliance or environmental problems encountered:

1. Prospecting notice/permitting procedures by state (how permitted, is information confidential/public?)
2. Bonding practices for in situ operations
3. Cleanup standards for uranium mines

4. Cultural resources and tribal consultation

**Wildlife viewing programs conducted for Arizona Outlaw Trail ATV Jamboree**

Department personnel assisted the Apache County Rough Riders ATV Club, based in Springerville, with their 5th Annual Outlaw Trail ATV Jamboree on September 3-6. The club conducts ATV trail rides on over 1,200 miles of trails and road network on the Springerville and Alpine Ranger Districts of the Apache-Sitgreaves National Forests. The club also accesses and crosses the Department's Sipe White Mountain Wildlife Area. This year's event had approximately 300 registrants. Department personnel provided daily tours of the wildlife area's visitor center and conducted two evening programs on wildlife viewing at the wildlife area. They also provided support and assistance to the organization and event by conducting a beginning ATV training class and setting up and manning an OHV information booth at the event's staging area in Eagar, speaking with participants on ATV and OHV rules, regulations, safety and ethics and handing out printed materials on preferred-use ATV areas located in eastern Arizona.



For Immediate Release  
Office of the Press Secretary  
August 17, 2007

## Executive Order: Facilitation of Hunting Heritage and Wildlife Conservation

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

[White House News](#)

**Section 1. Purpose.** The purpose of this order is to direct Federal agencies that have programs and activities that have a measurable effect on public land management, outdoor recreation, and wildlife management, including the Department of the Interior and the Department of Agriculture, to facilitate the expansion and enhancement of hunting opportunities and the management of game species and their habitat.

**Sec. 2. Federal Activities.** Federal agencies shall, consistent with agency missions:

- (a) Evaluate the effect of agency actions on trends in hunting participation and, where appropriate to address declining trends, implement actions that expand and enhance hunting opportunities for the public;
- (b) Consider the economic and recreational values of hunting in agency actions, as appropriate;
- (c) Manage wildlife and wildlife habitats on public lands in a manner that expands and enhances hunting opportunities, including through the use of hunting in wildlife management planning;
- (d) Work collaboratively with State governments to manage and conserve game species and their habitats in a manner that respects private property rights and State management authority over wildlife resources;
- (e) Establish short and long term goals, in cooperation with State and tribal governments, and consistent with agency missions, to foster healthy and productive populations of game species and appropriate opportunities for the public to hunt those species;
- (f) Ensure that agency plans and actions consider programs and recommendations of comprehensive planning efforts such as State Wildlife Action Plans, the North American Waterfowl Management Plan, and other range-wide management plans for big game and upland game birds;
- (g) Seek the advice of State and tribal fish and wildlife agencies, and, as appropriate, consult with the Sporting Conservation Council and other organizations, with respect to the foregoing Federal activities.

**Sec. 3. North American Wildlife Policy Conference.** The Chairman of the Council on Environmental Quality (Chairman) shall, in coordination with the appropriate Federal agencies and in consultation with the Sporting Conservation Council and in cooperation with State and tribal fish and wildlife agencies and the public, convene not later than 1 year after the date of this order, and periodically thereafter at such times as the Chairman deems appropriate, a White House Conference on North American Wildlife Policy (Conference) to facilitate the exchange of information and advice relating to the means for achieving the goals of this order.

**Sec. 4. Recreational Hunting and Wildlife Resource Conservation Plan.** The Chairman shall prepare, consistent with applicable law and subject to the availability of appropriations, in coordination with the appropriate Federal agencies and in consultation with the Sporting Conservation Council, and in cooperation with State and tribal fish and wildlife agencies, not later than 1 year following the conclusion of the Conference, a comprehensive Recreational Hunting and Wildlife Conservation Plan that incorporates existing and ongoing activities and sets forth a 10 year agenda for fulfilling the actions identified in section 2 of this order.

**Sec. 5. Judicial Review.** This order is not intended to, and does not, create any right, benefit, trust responsibility,

or privilege, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

GEORGE W. BUSH

THE WHITE HOUSE,

August 16, 2007.

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ARIZONA GAME AND FISH COMMISSION MEETING COMMENTS  
OCTOBER 10, 2008

GOOD MORNING. My name is Hector Ruedas. I am Chairman of the Greenlee County Board of Supervisors, a position I have held for 16 years. I was recently elected to my fifth term as supervisor representing the northern portion of Greenlee County including the Morenci mining district and the Apache-Sitgreaves National Forest, home of the reintroduction effort of the Mexican Gray Wolf.

I am here today to give you background on Greenlee County's involvement in the wolf program and to advise you of some of our concerns. Greenlee County became involved in the program from the day that it was determined that the Blue Range would be designated as the recovery area. That isn't our backyard. It's our front yard. As you are aware, wolves have been released in our county since 1998. We have been active members of the Adaptive Management Oversight Committee since its' inception because of the impacts to the local residents.. Greenlee County is not anti-wolf...we became involved in the program when we were being advised to run as far from it as possible because it would look like we were in support of the program. Our concern from the very first day was two fold. First, that it would not be funded to the level that was necessary to make it successful and secondly, that the social and economic impacts on the residents would not be addressed. Both fears have become a reality. We have stayed active in the program in order to help mitigate those impacts. We have spent these past years trying to give all of our residents a voice. We feel like we have been successful in getting our ranching community to take steps towards the common goal of reintroduction by helping them work within the confines of the program and mitigate their financial impacts. We believe that we have made great strides in that direction.

We want to commend the staff of the Arizona Game and Fish Commission for their leadership in this program. Terry Johnson has been the backbone and we will not support allowing the leadership role to be shifted to the New Mexico Game and Fish designee. The working relationship between Az Game and Fish, Wildlife Services, White Mountain Apache Tribe and the county has been outstanding. The kind of cooperation we have with these agencies makes it easy for us to want to be a part of the program. Unfortunately, we can not say the same for the U.S. Fish and Wildlife Service nor the Forest Service. Actually, the staff members from those agencies that are assigned to the program on the ground are also dedicated, hard working individuals that we enjoy working with. It is the political interference at the upper levels that has been devastating to the program..

Events over the past year have caused the cooperation and collaboration that had been extremely successful to take a downward spiral. The credibility of AMOC is in serious jeopardy. Greenlee County has spent the past five years trying to convince our counterparts in eastern Arizona to join the AMOC group

and become cooperators. Just as we achieved that goal and had Graham County and Navajo County on board, they are now questioning whether it is a good use of taxpayer dollars in light of the outcomes of the recent AMOC meetings and the EIS meeting in Albuquerque.

With the memorandum of understanding up for renewal, we believe that the Arizona Game and Fish Commission should consider the following:

1. The lead agencies must affirm that the decision making process at the AMOC level is utilized and not overridden. We have a program that puts each of us in a damned if you and damned if you don't scenario. The process that has been developed is the only thing we have to fall back on. If we don't follow our own process, then we will have nothing but chaos. The AMOC meetings have become chaotic, unproductive, and frustrating.
2. There is a movement by FWS to make changes to expand the area that naïve wolves would be released by doing an environmental assessment instead of an EIS. We feel this is in direct conflict and a violation of the 10j rule, current EIS, the SOP's and the clarification memos and should not be allowed..
3. With the current NEPA process underway, we recommend strongly that the commission direct the agency to continue supporting the current use of the SOP's, in particular 11 and 13, without change until the NEPA process is completed. We understand the need for flexibility. We believe that the SOP's have been written and vetted in good faith and have worked well up to the recent interference that has been based on political views rather than the sound policy that has already been developed. We are wasting valuable resources by rehashing decisions over and over.
4. Funding for the program is at a critical juncture. Arizona as well as the rest of the country is in a state of economic distress. We have to be cognizant of that fact and make decisions that are fiscally sound and appropriate for the program. The current proposal for new releases and translocations may sound good in the context of increasing numbers, but you need to consider whether there will be enough manpower to handle the increase. We currently believe that the program is underfunded. Putting more wolves on the ground will have a severe impact on the management of the program. In addition, the recent decision by Dr. Tuggle to not accept the recommendation of the IFT and AMOC on the permanent removal of a wolf in New Mexico by lethal take has resulted in the need for additional resources that you simply do not have. This decision was a total disregard for the time and effort put in by the IFT and AMOC members. This program crosses a border. In the past when the level of cooperation was outstanding, it was easy for everyone to be willing to assist our neighbor and truly be cooperators. We do not support the use of Arizona resources in New Mexico until there is a substantial

increase in the amount of funding that New Mexico puts into the program to offset the amount that Arizona has expended within their boundary. We also will be recommending that US FWS increase their funding dramatically if they go forward with this direction. This is a federal program that we have been willing partners in. At some time, they need to put their money where their mouth is. As we have seen very clearly, they call the shots. Since this is the case, then they should provide the lions share of the funding. Arizona should not be footing the bill.

5. We recommend that FWS be requested to address the issue of lethal removal as provided for in the rules. If they are going to disallow lethal take as an option in New Mexico, then they need to be up front and state that lethal removal is off the table as an alternative in depredations. In doing so, they should be responsible for the financial impact. If they ever have the courage to officially state this, then, in our opinion, they will be in violation of the rule.
6. Finally, if the ability for AMOC to return to a viable, cooperative group that follows the rules set forth by the 10j, EIS, and SOP's does not occur in the very near future, then we recommend that steps be taken to separate the program. Arizona's program would be run separately from New Mexico.

As I said at the beginning, I am elected to represent the portion of Greenlee County that lies within the Blue Range. But, I pride myself in representing everyone in Greenlee County. The election results for my district shows that I received every vote for supervisor in my district. I hope that shows that I have had a balanced, objective view of issues that transcends into good, responsible decisions that represent the best interest of all of my constituents. I speak from the heart. We are not against the wolf. We are against programs that are inherently designed for failure. This one is on that track.

Again, thank you for the opportunity to speak today. Each of you should be commended for wanting to take on the tasks of this commission. I would hope that at some time soon, you can visit Greenlee County. I am willing to answer any questions you may have.

October 9, 2008

**Arizona Game and Fish Commission**

William H. McLean, Chairman

Bob Hernbrode

Jennifer L. Martin

Robert R. Woodhouse

Norman W. Freeman

Dear Commissioners:

The Arizona Elk Society, the Arizona Deer Association, and the Arizona Desert Bighorn Sheep Society all have a long history of support for wildlife management programs including the reintroduction of endangered species. We have carefully evaluated the progress of the Mexican wolf reintroduction program as well as the various recommendations of the Adaptive Management Oversight Committee and wanted to take this opportunity to provide the attached Position Statement wherein we offer input on this program as background as you are briefed on the program in the upcoming Commission meeting.

Thank you in advance for reviewing this position statement. If you have questions or need any additional information on this statement, I look forward to discussing this with you at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to be 'Steve Clark', written over a horizontal line.

Steve Clark, President  
Arizona Elk Society

CC: Mr. Larry Voyles, Director, Arizona Game and Fish Department  
Mr. Terry Johnson, Endangered Species Coordinator, Arizona Game and Fish  
Department

Position Statement on the  
Mexican Gray Wolf Reintroduction Program

Prepared by:  
Arizona Elk Society  
Arizona Deer Association  
Arizona Bighorn Sheep Society

October 2008

Prior to European settlement of western North America, the Mexican wolf occupied much of the American Southwest, ranging as far south as perhaps central Mexico. This subspecies occupied most biotic communities with the exception of low deserts. The Mexican wolf's diet consisted primarily of deer (both white-tailed and mule) and elk. With European settlement of northern Mexico and the American Southwest, domestic livestock including cattle and sheep were introduced and wolf depredation on these animals occurred. This in turn set up a conflict between livestock operators and wolves that led to programs to eradicate the Mexican wolf, which was accomplished.

Two decades, the 1980s and 1990s were dedicated to the evaluation of the potential for a Mexican wolf recovery and to establish the most appropriate approach to make such efforts successful. During this time, public involvement and agency coordination was extensive and resulted in development of an Environmental Impact Statement (1996) and a Final Rule (1998) under the auspice of the National Environmental Policy Act. These documents provide guidance for the Mexican gray wolf reintroduction program.

As a result of the nearly 20 years of discussions and scientific review relative to the best approach to take in reintroducing the Mexican wolf and as outlined in the FEIS, the Blue Range Wolf Recovery Area (BRWRA) was established as the core of the reintroduction program. This decision was based on both societal and biological factors and was believed to be the best location to begin recovery efforts for this extirpated wildlife resource. As a major step in the reintroduction program, in 1998, Mexican wolves were returned to the wild and with varied success, the program continues to the present. In 2002, the White Mountain Apache Tribe signed an agreement with the U. S. Fish and Wildlife Service which added approximately 2,440 mi<sup>2</sup> to the area where direct release of Mexican wolves was permitted. This addition resulted in an area of nearly 10,000 mi<sup>2</sup> of what is presumably the best available habitat for this reintroduction project to occur.

Although the success of Mexican wolf reintroduction program is certainly subject to question, it is important to note that some successes have been obtained. In 2007, approximately 75% of the radio-collared individuals and 90% of all documented wolves were born in the wild. In the Mexican Wolf Blue Range Reintroduction Project 5-year Review, the Adaptive Management Oversight Committee reported that one of the most important factors in predicting success of a wolf's introduction was the time that that animal had spent in the wild. Thus, the high proportion of wolves produced in the wild has to be viewed as an important accomplishment. Other successes in 2007 include successful production of pups in the wild and the natural formation of new packs.

It is also important to recognize that there have been many problems encountered with the reintroduction program. To date, the Mexican wolf recovery program has failed to achieve goals outlined in the 1996 Final EIS, and in fact, Mexican wolf population levels were reported to have declined in 2007 compared to reported data from 2006. Further, the population count as projected in the FEIS has failed to meet objectives in all but one year and the number of breeding pairs has never met the FEIS targets and in 2006, were less than 40% of the FEIS targets. It is clear that progress has been made, but that both social and biological problems exist with this program.

Although by most measures, the reintroduction program has failed to meet targets in the 1996 FEIS, Southwest Regional Director Benjamin N. Tuggle, PhD decided, in 2007, that the

reintroduction project would continue, but that modifications were needed and should be analyzed through the environmental impact statement (EIS) process, as mandated by the National Environmental Policy Act. Our organizations believe that this is an essential action that when completed will have allowed full public involvement in decision making, an element that has been limited.

In reviewing the current status of the Mexican wolf reintroduction program, the Arizona Elk Society, the Arizona Deer Association, and the Arizona Desert Bighorn Sheep Society strongly support the decision by Regional Director Tuggle that an EIS be conducted to direct biologically and socially important modifications to this program. We also believe that there have been some successes in the Mexican wolf reintroduction program and that the direction provided by the 1996 FEIS and the 1998 Record of Decision has been appropriate and should guide the Mexican wolf reintroduction program until the ongoing EIS is completed. As we stated, this would allow for program modifications, if necessary, that are made with full public disclosure and involvement as prescribed by the National Environmental Policy Act.

We believe this is a prudent approach as there is a lack of urgent circumstances that require major modifications until the ongoing EIS is complete. Additionally, there are several factors that need to be considered during the intervening time that the EIS is being prepared and incremental changes to the program are being considered.

- The Blue Range Wolf Recovery Area was selected based upon considerable deliberation as an area that offered the highest potential for successful Mexican wolf reintroduction. With the substantial expansion of this area with the addition of the White Mountain Apache Nation, there is nearly 10,000 mi<sup>2</sup> of prime habitat for reintroduction to occur and until some of the limits to successful reintroduction are better understood, any further recovery area expansion, as recommended in the AMOC 5-year review, is not warranted and is clearly opposed by the organizations that are signatory to this statement.
- Like all recovery programs, the cost for the Mexican wolf reintroduction is substantial and our argument is not with the total cost to date, but rather, a disproportionate share has been paid by the Arizona Game and Fish Department. Further, in reviewing the AMOC 5-year review, there are several areas where lack of funding has been identified. Our organizations recognize the fiscal realities that agencies face particularly limited funding and the annual allocation process, but feel that further success in the program is dependent upon more equal and continuous appropriation of funds among the cooperating agencies.
- Dietary studies have documented that Mexican wolves prey heavily on native ungulates, including elk, mule and white-tailed deer, and potentially bighorn sheep and pronghorn, and that their diet does contain domestic livestock as well. Livestock production is a common practice in the area being evaluated for recovery area expansion and it is likely that introducing wolves into this area would heighten conflict between legally-permitted livestock use and wolf reestablishment efforts. This has a high potential to cause eroded support for the reestablishment program in BAWRA, an unfortunate outcome. We believe that it is important that a more complete understanding of the impact to these resources is necessary as the reintroduction program continues. This will necessitate better documentation of ungulate densities and trends within the recovery area.
- Published data from Mexican wolf diet studies indicate that nearly 90% of the diet of this subspecies consists of native ungulates, primarily elk. It is important to note that both wildlife viewing and big game hunting are important economic factors in the Mogollon Rim/Coconino National Forest area and any conservation program that would have the end result of reduced native wildlife densities would be viewed negatively by the conservation community, which could erode support for the BAWRA program.

- Much of the funding appropriated for the reintroduction program has been dedicated to on-the-ground management activities which while important, leave many unanswered questions relative to limitations on the reintroduction success. As an example, data collected to date suggest that wild-born litters average approximately 2.1 pups/litter, yet females in captivity have an average litter size of approximately 4.6 pups/litter. Also, female wolves taken from the wild that give birth also had an average litter size of approximately 4.6. As is pointed out in several reports on the reintroduction effort, population trajectory is driven by both successful recruitment into the population and mortality/removal rates. Understanding what limits pup recruitment seems to be a key question that needs to be answered and funding is required to do so. This is but one example of what we see as a series of important data gaps that must be answered before major changes are made to this program to ensure that future actions optimize the potential for programmatic success. We also believe that it is critical to have an independent evaluation of the causes for limited success in the Mexican wolf reintroduction program prior to completion of the EIS so any modifications that are made are based on a sound scientific review of the program and not solely on public sentiment.
- Although some of the adverse impacts to the local ranching community and to hunters in the area predicted in the FEIS have not been realized, this is in part due to the relatively small number of Mexican wolves that have established in the area, but the socio-economic impacts to these user groups need to be foremost considerations as the cooperating agencies continue operations as the ongoing EIS is completed.

In summary, the majority of the membership of the Arizona Elk Society, the Arizona Deer Association, and the Arizona Desert Bighorn Sheep Society recognize that the current Mexican wolf reintroduction program is a reality, but are adamantly opposed to the incremental modifications that are occurring to this program at a time when the cooperating agencies are working on a new EIS. This concern is particularly important at a time where we see an absence of unexpected or urgent biological challenges to the program. Some of the social and biological issues that the Mexican wolf reintroduction program faces are substantial, but the program must be looked at as a program that was implemented and has achieved some success under the direction of the FEIS and Record of Decision for this project. Until such time as these documents are replaced by those currently being developed by the U. S. Fish and Wildlife Service and cooperating agencies, we believe that major programmatic changes are not needed and such changes would be contrary to the National Environmental Policy Act. If indeed there are exigent circumstances that dictate major changes before the on-going EIS is completed, please advise us of these needs.

To reiterate, the Mexican wolf recovery effort has had limited success and expanding efforts to other areas before meeting projected targets in the 1996 FEIS will have adverse societal and biological ramifications. Until greater success is obtained in the recovery program, all efforts should focus on the Blue Area, the area selected after 2 decades of study. To do otherwise is both fiscally and biologically irresponsible for all cooperating agencies.

Position Statement submitted by:

Arizona Elk Society – Steve Clark, President

Arizona Deer Association – Jeff Dickey, President

Arizona Desert Bighorn Sheep Society – Dave McCasland, President



Bobbie Holaday  
1413 East Dobbins Road  
Phoenix, Arizona 85042  
Phone: 602 268-1089  
azwolflady1@cox.net

October 3, 2008

Arizona Game and Fish Commission  
William H. McClean, Chairman  
5000 W. Carefree Highway  
Phoenix, AZ 85086-5000

Dear Chairman and Members of the Commission:

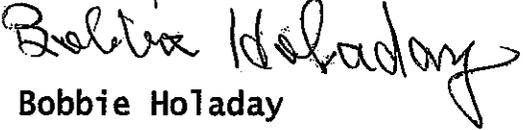
I write concerning item number 2 on your October 10 agenda: Commission Briefing on the Department's Involvement in Mexican Wolf Reintroduction. I ask that my letter be read into the transcript for this meeting because it appears unlikely that I will be able to attend. For many years I have actively supported this program because I believe that Arizona deserves to have a full complement of wildlife in our forest and because the wolf plays such an important role in fine-tuning game populations and in itself represents the essence of wilderness.

While the Mexican Wolf Recovery Program has met with many difficulties and seems at present to be struggling to achieve the desirable viable population of wolves in the wild called for in the original plan, it must be remembered that this has been an experimental program. Considering the number of setbacks the program has faced and surmounted, it is remarkable that a wild population still thrives and appears to be increasing. The Arizona Game and Fish Department and all Arizonans should be proud that the outlook for success of the recovery program is positive.

I request that the Commission members vote to continue their full support for the establishment of a viable Mexican wolf

population in the Blue Range Wolf recovery Area of Arizona and New Mexico and on the adjacent Fort Apache Indian Reservation.

Sincerely,

A handwritten signature in cursive script that reads "Bobbie Holaday". The signature is written in black ink and is positioned above the printed name.

Bobbie Holaday

Copy: Terry B. Johnson, Endangered Species Coordinator

Commissioner Martin's motion as voted and approved by the Commission

I move that the Commission instruct the Director to continue to work toward establishment of an Arizona population of Mexican wolves that is a component of a larger metapopulation capable of sustaining itself in the long term.

I further move that the Commission instruct the Director, as a condition of Commission's continued support for wolf conservation, to employ the following principles and actions over the next five years (2009 through 2013) to ensure measurable progress toward that goal:

1. Continue to provide leadership and assertively represent the interests of the Commission and the State of Arizona in all areas of Mexican wolf conservation.
2. Collaborate with the U.S. Fish and Wildlife Service to complete a revised Mexican Wolf Recovery Plan that provides recovery context (i.e. achievable and legally-defensible population objectives adequate to justify and sustain delisting) for wolf conservation efforts in Arizona and elsewhere.
3. Renew the existing Memorandum of Understanding (MOU) among the Blue Range Wolf Recovery Area reintroduction project's signatory cooperators, to continue providing a foundation for collaborative adaptive management of the project.
4. Continue to commit funds sufficient to sustain all Department commitments under the renewed MOU.
5. Secure private and Federal funding sufficient to provide incentives for and underwrite full participation in the renewed MOU by willing Native American Tribes within the existing experimental population area in Arizona, particularly the White Mountain Apache Tribe, which has demonstrated its substantial commitment to wolf conservation over these past several years.
6. Secure commitment of financial and other resources by the State of New Mexico that are sufficient to sustain New Mexico Department of Game and Fish commitments under the renewed MOU, such that State of Arizona and Federal resources needed for wolf conservation efforts in Arizona are not directed to operations in New Mexico.
7. Pursue Congressional funding for an interdiction, incentives, and compensation program that appropriately addresses the impacts of Mexican wolf reintroduction and recovery on the private sector and creates incentives for enhanced conservation and stewardship.
8. Productively engage public lands grazing permittees and private lands livestock operators in voluntary, incentives-based Mexican wolf conservation measures.
9. Continue, as incentives-based conservation measures are developed and deployed, to modify reintroduction project operating procedures and management efforts as necessary to:
  - a. Offset unlawful killing of Mexican wolves and enforce applicable laws,
  - b. Achieve the project's annual population objectives,
  - c. Increase genetic diversity of the wild population to reflect better representation by all three Mexican wolf lineages and reduce inbreeding coefficients to acceptable levels,
  - d. Ensure that wolf conservation benefits accrued through the project are appropriately balanced by on-the-ground interdiction, incentive, and compensation measures that offset impacts on the private sector.

10. With regard to the phrase “applicable circumstances” in clarification 9a of the public review draft SOP 13.0 Clarification Memo, ensure that the final Clarification Memo affirms that the following information will be considered in reaching a Project decision regarding management response for the wolf or wolves under review:
  - a. Depredation and nuisance history.
  - b. Response to previous management actions.
  - c. Past, current, and likely future alpha status (including age and breeding potential).
  - d. Certainty of existence of dependent pup(s).
  - e. Effects of removal on pack continuity through the current and next breeding season.
  - f. Genetic lineage and inbreeding coefficient.
  - g. External factors contributing to most recent depredation incident(s).
  - h. Total number of permanent removals and unlawful killings within the Project area during the past 12 months.
  - i. Any other relevant factors or information.
11. Continue to ensure that, in accordance with reintroduction project operating procedures, responses to potential depredation incidents in Arizona are initiated within 24 hours of receiving such reports and that initial releases and planned translocations of Mexican wolves in Arizona are vetted with the public.
12. Collaborate with the U.S. Fish and Wildlife Service through the National Environmental Policy Act process and an Environmental Impact Statement (EIS) to objectively evaluate the potential benefits and costs, in terms of wildlife and social capital, of any changes in the current nonessential experimental population boundaries, management guidelines, and population objectives for Mexican wolf reintroduction in the Southwest, and to bring recommendations on the draft EIS to the Commission for discussion and approval prior to submittal to the U.S. Fish and Wildlife Service.
13. Provide briefings on each of the preceding actions at the Commission’s October meeting each year through 2013, which would be the final year of the renewed MOU.