

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, February 3, 2017
Saturday, February 4, 2017
ASU Colleges at Lake Havasu City
100 University Way
Lake Havasu City, Arizona 86403

PRESENT: (Commission)

(Director and Staff)

Chairman Edward "Pat" Madden
Commissioner James R. Ammons
Commissioner James S. Zieler
Commissioner Kurt R. Davis

Deputy Director Ty E. Gray
Assistant Attorney General Linda Pollock
Assistant Attorney General John LeSueur

Chairman Madden called the meeting to order at 8:00 a.m. and led those present through the Pledge of Allegiance followed by a moment of silence for the interment of Congressional Medal of Honor recipient Lance Corporal Jose Jimenez who was killed in Vietnam. Lance Corporal Jimenez was originally buried in Mexico, but his remains were moved to Arizona where he was interred next to his mother on January 17, 2017. The Commission and Deputy Director Gray introduced themselves followed by introductions of the Director's staff. This meeting followed an agenda revision #2 dated February 1, 2017.

Commissioner Eric Sparks and Director Larry Voyles were not present.

Awards and Recognition

Chairman Madden presented a Commission Certificate of Appreciation to Department Officer Suzanne Ehret for her outstanding performance as a District Wildlife Manager and for her strong willingness to assist in activities outside of her District.

Yuma Regional Supervisor Pat Barber presented a Commission Commendation of Achievement to J.C. Sanders, President of the Arizona Peace Trail Committee and past-president of the Bouse Ghost Riders ATV Club, for his efforts to preserve off-highway vehicle recreation opportunities for current and future generations.

Deputy Director Gray presented a Commission Commendation of Achievement to Jim Salscheider, President of the Lake Havasu Marine Association, for his efforts to preserve watercraft recreation opportunities for current and future generations.

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1. Overview of the Havasu Riviera Project

Presenter: Pat Barber, Yuma Regional Supervisor

Mr. Barber introduced Lake Havasu City Manager Charlie Cassens. Mr. Cassens provided a PowerPoint presentation and briefing on Havasu Vision 2020, which included an overview of an extensive planned project called the Eco-Environmental Learning Center. The Center will be a

multi-function public facility with classroom, meeting and lecture space, as well as a water quality laboratory with work stations, technology and support. The Center will also have interactive science and nature exhibits, educational programs, a botanical garden with walking paths, and will be a venue for public gatherings and events.

Lake Havasu City is currently working to hire architects, professional fundraisers and grant writers for the project. Mr. Cassens invited the Department, along with others, to participate in the planning and function of the project.

Mr. Barber stated that Department regional staff will be looking for ways for the Department to have a role in this project and may bring some recommendations to the Commission in the future.

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2. Overview of the Havasu Watercraft Registration Pilot Project

Presenter: Pat Barber, Yuma Regional Supervisor

Mr. Barber provided a PowerPoint presentation and briefing on the results of the Lake Havasu Satellite Watercraft Registration Pilot Program (June – December 2016). The presentation included charts and graphs, and provided an overview of the project, the level of participation by local partners, and an evaluation of the project to include quantitative and qualitative information.

Prior to this pilot project, boat owners in the Lake Havasu area were required to haul their boat 50 miles to the Region III Office in Kingman. With the pilot program, two days each month (Tuesday-Wednesday of 3rd week), the Department provided watercraft registration in the service center in back of the Lake Havasu City MVD office. With minimal and manageable costs, the Department created a significant value for its customers that enhances the sustainability of the watercraft program as well as enhancing credibility and partnerships within the community.

If or when Article 5 rules are approved and a third party vendor program is implemented, the Department will consider the use of private vendors to provide these services. Until then, the Department will be looking for alternative venues, including expanding its volunteer use, potentially hiring additional staff, and may consider providing additional services.

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3. Call to the Public

There were no requests to speak from the public.

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4. Legislative Engagement and State and Federal Legislation

Presenter: Ed Sanchez, Legislative Liaison

Mr. Sanchez provided a PowerPoint presentation and briefing on the current status of selected state and federal legislative matters. The presentation included the following:

State Legislative Update

- The Department's budget presentation is scheduled for February 16 before the House Appropriations Subcommittee on Public Safety, Infrastructure & Resources
- It is the 26th day of regular session; 926 bills have been posted
- The Senate confirmed the reappointment of Commissioner Davis on January 23.

Commission Supported Legislation:

- SB1154: G&F Omnibus; Provisions: Personal Flotation Device - Updates old and outdated safety standards to clarify PFD guidelines and provide clear instructions for boating public; Wildlife Theft Prevention Fund - allows the Department to investigate a full spectrum of wildlife crimes such as fishing license fraud (unlawful take and possession); Youth Tag Transfer - Removes requirement that a minor child be accompanied by a parent, grandparent or guardian when hunting with a transferred tag.
 - Passed Senate Natural Resources & Energy Committee 8-0

Other Bills of Interest:

- SCM 1001: Critical Habitat; Expansion; Urging Repeal Provisions: Urges the President and Congress of the United States to repeal the final rules expanding the definition of critical habitat.
 - Passed Senate Natural Resources & Energy Committee 5-3
- SCM 1009: Urging Delisting of Gray Wolf; Provisions: Urges the USFWS to delist the gray wolf from the Endangered Species Act; Copies of memorial to be sent to USFWS, the President and each member of the Arizona Congressional Delegation
 - Referred to Senate Natural Resources & Energy Committee
- SB 1182: G&F; Protected Species; Taking Prohibition; Provisions: Would make unlawful for a person to knowingly take a protected felid (mountain lion, bobcat, jaguar, ocelot or Canada lynx); G&F Commission is authorized to issue a permit to take a protected felid for specified purposes; Civil penalty of \$8000 for the unlawful take of a protected felid; Exemptions include if a livestock operator has livestock attacked or killed by protected felid; under specific steps, operator may be issued take.
 - Referred to the Senate Natural Resources & Energy Committee
- SB 1285: Technical Correction; Game; Fish; Facilities (G&F; in-lieu fee; trust fund); Provisions: Gives State Treasurer authority to move in Lieu fee funds to an investment pool account that has a higher return and support long term management for the account.; Industry can purchase in-lieu fee credits that fund the restoration of wetland and riparian habitats; Department is responsible for managing habitats in perpetuity.
 - Potential striker bill; Hearing scheduled for February 6 in Senate Natural Resources & Energy Committee.

Congressional Update

Representative Ryan Zinke advances to full Senate confirmation vote for Interior Secretary; the Senate Energy & Natural Resources Committee voted 16-6 in support; Possible floor vote by next Tuesday, February 7.

Monuments: Senate Energy and Natural Resources Committee elevates issue of national monuments to the jurisdiction of the full Committee.

Commissioner Davis suggested the Department have some conversations with Arizona's Congressional Delegation regarding some reforms that the Department/Commission believe important in the monument process, including better definitions in the Antiquities Act (ie. what is meant by smallest amount of land possible) and budgetary constraints (current monuments and parks budget and backlog of infrastructure needs must be met before designation of new monuments and parks).

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3. (re-opened) Call to the Public

Lake Havasu City Sheriff Doug Schuster addressed the Commission and introduced himself as the new elected Sheriff. Sheriff Schuster welcomed the Commission to Lake Havasu and encouraged continued law enforcement partnerships between Lake Havasu and the Department.

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5. Commission Priorities Update

Presenter: Kent Komadina, Special Assistant to the Director

Mr. Komadina provided the Commission with a Commission Priorities Report (attached) and discussed several activities with the Commission and Department staff. The Commission sets its priorities on an annual basis with some adjustments during the year. The Department regularly reports to the Commission on its progress for each priority. Currently, the Commission Priorities are as follows:

- Increase Access/Landowner Relations
- Business Enterprise Development
- Comprehensive Wildlife Management
- Facility Maintenance, Improvements & Real Estate Strategies
- Maximize Officer Field Time and Promote Fair Chase
- Public Affairs
- Customer Recruitment, Retention, & Reactivation
- Habitat Improvement & Conservation
- Sportfish Opportunities
- Maintaining Department and State Authorities for Conserving Wildlife
- Update on the implementation of process improvements

Commissioner Davis discussed significant issues with the USGS in Denver and the internal investigation of manipulation of science related to the designation of the monument on the North Kaibab. A USGS study concluded that there was not a connection between uranium mining and impacts on water sources in the canyon. This study was completed prior to, but not released for four days after a change in administration, and critical information was not disclosed to the public in a critical decision making matrix. Commissioner Davis requested that the Department reach out to Arizona's Congressional Delegation and request that they ask a series of questions of the USGS about their operating procedures and conduct a thorough review of the situation. Clearly, these action demonstrate a politicization of that office.

Development Branch Engineer Manager Fred Bloom, provided a PowerPoint presentation and update on the Commission Priority "Facility Maintenance, Improvements & Real Estate Strategies." The following highlights were included in the update:

- The Department's implementation of FIAT (Facility Inventory Assessment Tool) database. FIAT is a multi-purpose management tool with the following attributes:
 - Budget Tool: Data driven budget development; Demonstrate and forecast long-term resource needs; Recognize and quantify the value of facilities as a Department asset; Identify/prioritize areas of greatest need; Record asset maintenance costs
 - Operational Tool: Identify, prioritize and schedule maintenance projects; Facilitate efficient use of resources; Detect and reduce excessive or inefficient maintenance
 - Reporting Tool: Deferred maintenance/cost reporting; Scheduled cyclic maintenance/cost; Facility condition audits
- The Department's implementation of the Land and Water Program's WLW (Wildlife Land and Water) application, also a multi-purpose management tool with the following attributes:
 - Real Property Management: A comprehensive, user-friendly tool used to manage real property and water rights on Commission owned lands
 - Activity Tracking: Provides a depiction of land ownership and management with capabilities for planning, tracking and accounting for activities involved with that property.

FIAT and WLW are linked and data can be integrated into the Department's GIS system.

Notable Current Projects:

- Sterling Springs Fish Hatchery Phase I Planning/Design: Three year timeline; Renovation of the spring delivery system; Facility master plan
- Raymond Wildlife Area Manager's Residence: 1850 sqft, site build; Construction to begin in late February with completion by June; Replaces the existing 70+ year old "hodgepodge" residence
- Three Points Public Shooting Range Office/Classroom Building; 2435 sqft, pre-engineered metal building to be completed by June 2017; Replaces office structure destroyed by fire; additional classroom facility

- Ben Avery Shooting Range Welding Shop and Laundry Facility: 2080 sqft, pre-engineered metal building to be completed by June 2017; Replaces the existing 65+ year old shop/laundry facility; Department Facility Standards/Signage Standards; Provide clear direction for facility renovations, improvements and future development that will provide a unified Department identity moving into the future.

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

Meeting reconvened at 10:00 a.m.

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10. 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

Records of these proceedings are maintained separately.

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11. Request Regarding Previous License Revocation/Civil Assessment.

Presenter: Gene F. Elms, Law Enforcement Branch Chief

Mr. Elms briefed the Commission on a request by David Silva that his license revocation be placed on the agenda for the Commission to consider modifying the terms of his license revocation. On December 13, 2011, Mr. Silva was convicted in the Mayer Justice Court for taking a Mule Deer with a White-tailed Deer tag. On April 13, 2012, the Commission revoked Mr. Silva's hunting, fishing and trapping licenses for a period of five years and further required him to complete a Hunter Education Course before obtaining any license(s) to take wildlife in the State of Arizona. Mr. Silva submitted a request for rehearing on May 10, 2012. Mr. Silva's request for a rehearing was denied at the June 22, 2012, Commission meeting. Mr. Silva is requesting that the Commission modify the terms of his original revocation period by shortening his suspension by two months so he can apply for the 2017 Elk draw, which closes February 14, 2017. Mr. Silva has been notified of this hearing to consider his request by certified mail. The Commission was provided with all documents related to this case for review and consideration prior to this meeting.

Mr. Silva was present and addressed the Commission on behalf of his request.

Case Officer Fousek was present via video teleconference and answered questions for the Commission. Officer Fousek stated that Mr. Silva was polite and cooperative during his investigation, however, Mr. Silva made statements/observations that were not consistent with the evidence.

Motion: Ammons moved and Zieler seconded THAT THE COMMISSION VOTE TO DENY DAVID SILVA'S REQUEST TO MODIFY HIS LICENSE REVOCATION TERM.

Commissioner Ammons stated that while Mr. Silva's request is only for a two month reduction, it would set a precedence that he doesn't think the Commission wants to do.

Commissioner Davis stated that he struggled with this initially, but he agrees with Commissioner Ammons' wisdom. If the Commission agreed to this, there would be many requests to follow.

Vote: Unanimous

4 to 0

Sparks not present

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6. Briefing on the Development of a Long Term State Wide Public Awareness Campaign

Presenter: Tony Guiles, Assistant Director

Mr. Guiles introduced Sasha Howell with Off-Madison Avenue (OMA) who provided the Commission with an update on efforts to devise and implement a long term state wide outreach campaign to increase public awareness of the Department, its mission, and how it is funded. The Department hired OMA, a Phoenix-based advertising firm, in October 2014 to begin pre-campaign research to shape messaging, identify target audiences, gauge public attitudes and build an outreach strategy.

For the past three years now, OMA has worked with the Department on a comprehensive statewide outreach and awareness campaign, which has generated a significant lift in the public's awareness of the Department. It is now time to transition from the awareness campaign to a larger strategic plan. OMA has been working with the Department on a 10-year plan with the goal to build on this momentum and create the framework for the Department's future financial success. The 10-year plan will consist of: 1) Protecting the heritage of hunting and angling, 2) Expanding the customer base to include wildlife and outdoor enthusiasts, and 3) creating channels for new revenue. The next steps will be to present the Commission with the framework for a 10-year plan for approval and then for OMA to begin work on the tactical roadmap and major milestones for the plan.

The Commission expressed appreciation for the work that has been done so far and are looking forward to seeing the framework for a 10-year plan.

Deputy Director Gray stated that the Department will include how it might cover the costs of the plan in the budget that will be presented to the Commission at the May Commission meeting.

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7. Threatened and Endangered Wildlife Summary Briefing Including a Resolution In Support of the Association of Fish and Wildlife Agencies' (AFWA) Blue Ribbon Panel Recommendations.

Presenter: Josh Avey, Terrestrial Branch Chief

Mr. Avey provided a PowerPoint presentation and briefing on the Department's Threatened and Endangered species program, which included a resolution in support of the Association of Fish and Wildlife Agencies' (AFWA) Blue Ribbon Panel's recommendation to the United States Congress to dedicate up to \$1.3 billion annually to support the State Wildlife Action Plan and wildlife diversity funding. AFWA has asked state wildlife commissions to develop resolutions to support the efforts of the Blue Ribbon Panel. The Commission has previously supported this program and a formal resolution, if adopted, would be provided to the current congress.

AFWA's Blue Ribbon Panel Recommendations are as follows:

1. That Congress dedicate up to \$1.3 billion annually in existing revenue from the development of energy and mineral resources on federal lands and waters to the Wildlife Conservation Restoration Program
2. That the Panel examine the impacts of societal changes on the relevancy of fish and wildlife conservation and make recommendations on how programs and agencies can transform to engage and serve broader constituencies.

The Department recommends that the Commission vote to approve a resolution in support of the recommendations of the AFWA Blue Ribbon Panel on sustaining America's diverse fish and wildlife resources.

Commissioner Davis stated that the Commission should support this, but the model for distribution of the dollars should be based on the number of species managed per state as the model for distributing the dollars. He would like to see that caveat in the Commission's resolution of support and asked the Department to make that recommendation to the Blue Ribbon Panel to include in their recommendation.

The Commission discussed that Arizona manages over 800 species, more than any other state that is not a coastal state. The old method for distribution was based on land mass and human population, but it's time for a new model for distribution of funds based on the number of species managed per state, which is more in line with sustaining America's diverse fish and wildlife resources.

Motion: Zieler moved and Davis seconded THAT THE COMMISSION VOTE TO APPROVE A RESOLUTION IN SUPPORT OF THE RECOMMENDATIONS OF THE ASSOCIATION OF WILDLIFE AGENCIES BLUE RIBBON PANEL ON SUSTAINING AMERICA'S DIVERSE FISH AND WILDLIFE RESOURCES, AND REQUEST THAT THE BLUE RIBBON PANEL CONSIDER IN THE LEGISLATION THAT DISTRIBUTION OF FUNDS BE BUILT ON A MODEL OF THE NUMBER OF SPECIES IN EACH STATE.

Vote: Unanimous
4 to 0
Sparks not present

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8. Memorandum of Understanding with Arizona Antelope Foundation

Presenter: Josh Avey, Chief, Terrestrial Wildlife Branch

Mr. Avey provided a PowerPoint presentation on a request for approval of a Memorandum of Understanding (MOU) to allow the Department to partner with Arizona Antelope Foundation on conservation and education programs. The Department and the Arizona Antelope Foundation propose to work cooperatively for the common purpose of improving the status of pronghorn and other wildlife and the habitat upon which these species depend. This MOU provides a relationship and framework for conservation actions that benefit populations of these species and associated opportunities to inform and educate the public.

Motion: Zieler moved and Madden seconded THAT THE COMMISSION VOTE TO PLACE THIS ITEM ON THE CONSENT AGENDA FOR THE NEXT REGULAR COMMISSION MEETING.

Vote: Unanimous
4 to 0
Sparks not present

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9. License Agreement with Triskee Farms LLC at Quigley-Achee Wildlife Area

Presenter: Pat Barber, Yuma Regional Supervisor

Mr. Barber provided a PowerPoint presentation on potential License Agreement with Triskee Farms LLC for the purpose of planting and harvesting crops on the Quigley-Achee Wildlife Area. The Quigley-Achee Wildlife Area burned in June of this year. The burn cleared tamarisk out of the Wildlife Area and presented an opportunity to improve the soil conditions by utilizing common agricultural practices for future wildlife habitat restoration. Triskee Farms LLC would grow and harvest 130 acres of commercial crops such as Bermuda grass and alfalfa, would level the fields, install ditches to provide water to more portions of the property, and condition the salty soils so the fields would be ready for a switch to more wildlife friendly vegetation at the end of the agreement. Additionally, trees would be planted along the farm fields during farming operations for the benefit of wildlife.

The Commission was in consensus to place this item on the consent agenda for the next regular Commission meeting.

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11A Request to Commission to permit Department to contract with OAH to conduct a hearing for the Commission

Presenter: Linda Pollock, Assistant Attorney General

Ms. Pollock presented the Commission with the option to have the Arizona Office of Administrative Hearings conduct the administrative hearing of the appeal of Lisa Bates, dba

Tucson Wildlife Center, of the Department's decision to issue a Wildlife Rehabilitation License with stipulations.

On December 29, 2016 the Department reissued a Wildlife Rehabilitation License to Lisa Bates, dba Tucson Wildlife Center. The license contains several stipulations governing the care and treatment of injured, orphaned, or debilitated wildlife for the protection of wildlife in the possession of Tucson Wildlife Center. On January 30, 2017 the Department received a Notice of Appeal of an Appealable Agency Action from the licensee. The appeal objects to the stipulations and raises several issues for appeal.

Commission Rule A.A.C.R.12-4-409 provides that if an applicant is denied a special license, the applicant may appeal the denial to the Commission as prescribed in A.R.S. Title 41, Ch. 6, Art. 10. The appellant in this case was not denied a license, but in fact received a license with stipulations. Therefore, a threshold determination to be made in this case by the hearing officer is whether the licensee is even entitled to a hearing. The hearing may take one or more days. As a self-supporting regulatory body, the Commission may elect to either conduct the hearing or contract with the Arizona Office of Administrative Appeals to conduct the hearing for the Commission. A.R.S. § 41-1092.01(E). Following the conclusion of the hearing, the administrative law judge will send a copy of the decision to the Department and Commission, along with the record of the hearing upon request. The Commission retains its authority to make the final administrative decision on the appeal by accepting, modifying or rejecting the administrative law judge's decision. A.R.S. § 41-1092.08.

Motion: Zieler moved and Davis seconded THAT THE COMMISSION VOTE TO HAVE THIS CASE REFERRED TO THE ARIZONA OFFICE OF ADMINISTRATIVE HEARINGS AND TO FILE A MOTION TO DISMISS BASED ON THE LEGAL BASIS THAT THE APPEAL IS NOT FOR DENIAL OF LICENSE BUT FOR STIPULATIONS IN THE LICENSE.

Vote: Unanimous

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13. A Briefing on Public Comment Received on Hunt Guidelines.

Presenter: Amber Munig, Big Game Program Supervisor

Ms. Munig provided a PowerPoint presentation and briefing on the comment received thus far on the existing hunt guidelines and on the timeline that will be followed in review and approval for the remainder of this guideline cycle. The Department began taking comment on the existing hunt guidelines formally on January 1, 2017, although any comment received by the Department since September 2015 (last guideline adoption by Commission) regarding hunt guidelines has been retained on file for evaluation during this evaluation cycle.

The Commission was provided with all comments prior to this meeting for review and consideration (also available to the public). As part of the hunt guidelines review process, the Commission requested an opportunity to formally identify to the Department any areas of inquiry in which they might have interest. This briefing was the first formal opportunity for the

Commission to provide the Department with direction regarding this process. The Commission will have additional opportunities at its June meeting and again when the next guidelines are submitted for their final approval in September. The following guidelines process and proposed remaining timeline was reviewed in the presentation.

Guidelines Process (two-year framework):

- Commission and public input solicited
- Agency recommendation of changes
- Input: public meetings, written comments
- Agency revision and final recommendation
- Commission review and approval (September)
- Hunt recommendations then follow approved guidelines for Fall 2018 through Spring 2020.

Timeline:

- January 6: E-News sent soliciting internal and external comment on the current hunt guidelines
- January-February: Solicit Commission input/direction. Begin soliciting input from the Wildlife Conservation Organizations
- March-May: Team evaluates data and comments for development of the draft proposed hunt guidelines
- March: Public comments shared with the Commission; Solicit Commission input/direction.
- Early May: News Release noticing Hunt Guidelines public meetings
- Mid May: Second News Release
- Late May: Hunt Guidelines Team finalizes the draft proposal and provides to Commission
- May 25: Draft Proposed Hunt Guidelines posted on the website
- June 1-15: Host public meetings around the state
- June 30: Public comment period ends
- July: Team evaluates and drafts responses to all comments to the draft proposed hunt guidelines
- Early August: Proposed hunt guidelines to Executive staff and Commission for review
- Late August: Proposed hunt guidelines posted on website
- September: Proposed hunt guidelines presented to the Commission for approval.

The Commission discussed how to get more public engagement and participation in the hunt guidelines process.

Ms. Munig stated that extra emphasis will be placed on local announcements and that she has also participated in radio interviews, which resulted in additional comments on the guidelines.

Commissioner Davis stated that people not providing comment is generally a sign that they are satisfied, which is a testament to the Department, but he suggested a telephonic town hall type of meeting, because it is an effective tool to communicate with thousands of people simultaneously

Mr. Gray stated that Commissioner Davis' idea came up in the Employee Engagement Conference and the Department is already looking into it.

Commissioner Zieler suggested for the local meetings that other areas be considered rather than just at the regional offices.

Commissioner Ammons suggested making presentations at meetings of various wildlife organizations.

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14. 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: Zieler moved and Davis seconded THAT THE COMMISSION VOTE TO GO INTO EXECUTIVE SESSION.

Vote: Unanimous

The Commission had a working lunch during Executive Session.

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Meeting recessed for lunch at 12:00 p.m.

Meeting reconvened at 1:30 p.m.

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12. Preview of Five-year Rule Review Report Recommendations for Article 3 Taking and Handling of Wildlife.

Presenter: Jay Cook, Regional Manager FORVI

Mr. Cook provided a PowerPoint presentation and review for future approval of the proposed recommendations to be included in the five-year rule review report for Article 3, regarding taking and handling of wildlife. The presentation included information on proposed recommendations and provided the Commission with an opportunity to provide guidance as recommendations are developed. The Five-year Review Report for Article 3, which is due to the Governor's Regulatory Review Council by March 31, 2017, will be brought to the Commission in early March for approval. This presentation indicates changes the Department would like to make during the rulemaking process which follows completion of the review, provided the Department receives permission to pursue rulemaking from the Governor's office. The Department's proposed draft recommendations are the results of the Article 3 review report team and included the following:

- R12-4-301 Definitions

- Revise the definition of “aircraft” to clarify drones are aircraft; "Aircraft" means any contrivance used for flight in the air or any lighter-than-air contrivance, including unmanned aircraft systems also known as drones
- Revise the definition for "artificial flies and lures" to prohibit the use of chemical and organic attractants; Reverse the terms "flies" and "lures" to reflect language used in Commission Orders and public outreach materials
- Define the term "single-point barbless hooks" to address fish mortality issues; “Single-point barbless hook” means a fishhook with a single point, manufactured without barbs, or on which the barbs have been completely closed or removed; This does not include a treble fishhook
- Define and update terms for: Hybrid device; Muzzleloading shotgun; Pneumatic weapon; Rifle; Shotgun; Smart device; MAG Bow; and others
- R12-4-101 Definitions
 - Define and redefine for clarity: “Bow” means a long bow, flat bow, recurve bow, or compound bow of which the bowstring is drawn and held under tension entirely by the physical power of the shooter through all points of the draw cycle until the shooter purposely acts to release the bowstring either by relaxing the tension of the toes, fingers, or mouth or by triggering the release of a hand-held release aid; "Crossbow" means a device consisting of a bow affixed horizontally on a stock having a trigger mechanism to release the bowstring and often incorporates or is accompanied by a mechanism for bending the bow. The most common methods used to bend the bow are a manual pull, rope, or crank; “Handgun” means a firearm designed and intended to be held, gripped, and fired by one hand and that uses the energy from an explosive in a fixed metallic cartridge to fire a single projectile through a barrel for each single pull of the trigger
 - Define "edible portions of game meat" to increase consistency between statute, Commission Orders, and rules; "Edible portions of game meat" means the part or parts of a game animal that are usually eaten, as follows: Upland game birds, migratory game birds and wild turkey: breast. Bear, bighorn sheep, bison, deer, elk, javelina, mountain lion, and pronghorn antelope: hind quarters, front quarters, loins (backstraps), and tenderloins; Game fish: fillets of the fish
 - Define “Point Source Water” to mean a single identifiable, localized water source with a negligible extent; Examples include but not limited to a spring or seep.
- R12-4-101 Definitions
 - Define “Developed Water Source” to mean any developed or manmade structure intended to collect water
 - Define "Live-action trail camera" to mean an unmanned device capable of transmitting real-time images, still photographs, video, or satellite imagery, wirelessly to a remote device such as but not limited to a computer, smart phone, or tablet; This does not include a trail camera that only records photographic or video data and stores the data for later use, provided the device is not capable of transmitting data wirelessly

- Define "Passive-action trail camera" to mean an unmanned device capable of recording and storing images, still photographs or video, and incapable of transmitting data wirelessly
 - Define "Smart device" to mean any device that is equipped with a target-tracking system or an electronically-controlled, electronically-assisted, or computer-linked trigger or release; This includes but is not limited to smart rifles.
- R12-4-303 Unlawful Devices and Ammunition
 - Clarify the use of full-jacketed ammunition as it relates to hunting; Prohibit the use of any smart device, which includes but is not limited to any device equipped with a target-tracking system; electronically-controlled, electronically-assisted, or computer-linked trigger
 - A person shall not use or possess any of the following while taking wildlife: Poisoned projectiles or projectiles that contain explosives
 - Prohibit the discharge of an arrow or bolt while taking wildlife within one-fourth mile of an occupied farmhouse or other residence, cabin, lodge or building within municipal boundaries without permission of the owner or resident
 - Restrict the use of trail/game cameras that send data wirelessly
 - Prohibit the use of passive trail cameras for the purpose of taking or aiding in the take of wildlife within one-fourth mile of a developed water source or point water source
 - Restrict the use of real time satellite imagery.
- R12-4-304 Lawful Methods for Taking Wild Mammals, Birds, and Reptiles
 - Add foot pounds of energy (FPE) requirements wherever a pre-charged pneumatic weapon is authorized for that species to prevent wounding loss and ensure the lethal and humane take of that species
 - Allow the use of pre-charged pneumatic weapons using arrows or bolts with broadheads no less than 7/8 inch in width with metal cutting edges and capable of firing a minimum of 250 feet per second, except bison and elk; Makes the MAG Bow unlawful width; The MAG Bow is currently unlawful.
- R12-4-305 Possessing, Transporting, Importing, Exporting, and Selling Carcasses or Parts of Wildlife
 - Require a person gifting fish to obtain the name of the person to whom the fish was given
 - Require a person being "gifted" fish to obtain the name and fishing license number of the person who gave them the fish.
- R12-4-307 Trapping Regulations: Licensing; Methods; Tagging of Bobcat Pelts
 - Require a trapper to ensure a bobcat seal is attached to a bobcat no later than April 1 of each year to reduce the burden on persons regulated by the rule.
- R12-4-309 Authorization for Use of Drugs on Wildlife
 - Remove requirements for proof of federal approval and permits and add language that indemnifies Department

- R12-4-317 Seasons for Lawfully Taking Fish, Mollusks, Crustaceans, Amphibians and Aquatic Reptiles
 - Establish the Commission's authority to limit an “artificial flies and lures only” season to the use of a single-point barbless hook
- R12-4-318 Seasons for Lawfully Taking Wild Mammals, Birds, and Reptiles
 - Proposed language restricts muzzleloader to zero magnification scopes or open sites only. (Commission directed no changes)
- R12-4-301 Definitions, R12-4-319 Use of Aircraft to Take Wildlife and R12-4-320
 - Revise the definition of “aircraft” to clarify drones are aircraft
- R12-4-321 Restrictions for Taking Wildlife in City, County, or Town Parks and Preserves
 - Amend R12-4-321 as follows: Prohibit a person from setting a trap within one-half mile of certain public use areas to align this rule with R12-4-307(H)(2)(a); Add “developed trailhead” and “developed wildlife viewing platform” to align this rule with R12-4-307(H)(2)(a); Clarify a hunter shall declare their intent to hunt when the park or preserve has a check in process.

The Commission discussed the proposed changes and provided input.

The Commission discussed a Department survey in which muzzleloader hunters were asked if they would prefer to see the muzzleloader season limited to something more primitive and 82.2% indicated that they would not like to see the muzzleloader season restricted. The Commission agreed to no change on this, but suggested adding to the comments for the next five-year rule review cycle.

Commissioner Ammons requested that the team discuss and research restrictions on scope magnification.

Commissioner Zieler discussed with Mr. Cook that additional clarification may be needed regarding water sources, stating that it does not include wallows, but refers to well-known and established waters like a seep that has water in it all the time.

Commissioner Zieler suggested that the Department should clarify in rule that one fourth mile restrictions should include the actual distance of 440 yards.

Mr. Cook stated that this presentation was a preview for the Commission and the final report will be presented to the Commission at its March meeting. If approved by the Commission, the Rule Review package will go to the Governor’s Rule Review Council, and if approved, the Department will begin the rule review and public outreach.

* * * * *

15. Litigation Report

There were no comments or questions regarding the Litigation Report.

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16. Approval of Minutes and Signing of Minutes

Motion: Davis moved and Zieler seconded THAT THE COMMISSION VOTE TO APPROVE THE MINUTES FROM JANUARY 13-14, 2017.

Vote: Unanimous

The Commission signed the minutes following approval.

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17. Commissioner Committee Reports

There were no updates on Commissioner Committees.

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18. Director and Commissioner Comments

Commissioner Davis commented on fair chase and law enforcement, and suggested having a discussion of potentially adding a draw for tags for those folks who help by reporting unlawful activities. In regards to fishing, he would like to discuss potentially providing a free license for three years or something to that affect.

Assistant Director Tom Finley stated that the Department has looked into Commissioner Davis' suggestion in the past. He will look into what was done and provide that to the Commission.

* * * * *

19. Future Agenda Items and Action Items

Mr. Gray captured the following action and future agenda items from this meeting:

- Discuss 2018 meeting dates and locations at the Commission workshop prior to the regular meeting in June
- Pending a discussion with the Governor's Office, the Department may add a standing item to all Commission meetings relating to the Arizona Management System
- The Department will talk with Congressional Delegation in regards to USGS Denver Office Operations and data related to release date of USGS study on uranium and GCNP water and recent investigation
- Regarding the Blue Ribbon Panel, the Department will ask AFWA/Congress to consider that the legislation is amended to include distribution of funds be based on the number of species in the state

- Regarding the Hunt Guidelines/Orders Public meetings, the Department will consider using teletownhall technology to conduct meetings in more efficient manner
- The Department will incorporate Commission suggestions/guidance into the Article 3 rulemaking process
- Regarding tags/license rewards for reporting violations, the Department will consider issuing tags as rewards for those reporting violations – tags given out at end of year through a draw, on community fishing side, a 3 year fishing license will be looked at. The Department will benchmark other states.

* * * * *

12. (continued) 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: Davis moved and Zieler seconded THAT THE COMMISSION VOTE TO GO INTO EXECUTIVE SESSION.

Vote: Unanimous

* * * * *

Motion: Madden moved and Ammons seconded THAT THE COMMISSION VOTE TO ADJOURN THIS MEETING.

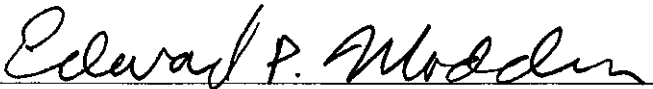
Vote: Unanimous

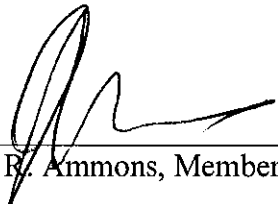
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Meeting adjourned at 3:15 p.m.

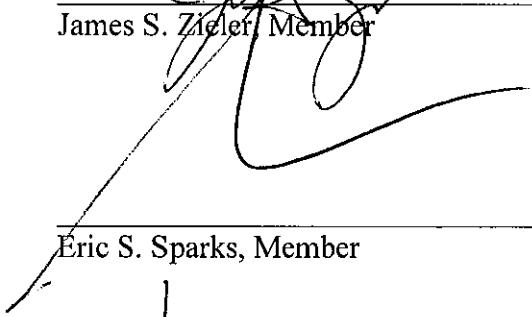
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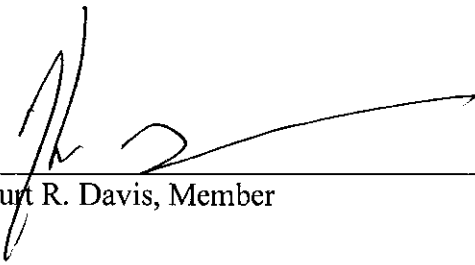
On Saturday, February 4, 2017, from 8:00 a.m. to 10:00 a.m., the Commission participated in a field trip/boat tour with leaders from the Lake Havasu community who provided a briefing on conservation and recreation projects on Lake Havasu. The Commission did not discuss any official business or take any legal action.


Edward "Pat" Madden, Chairman

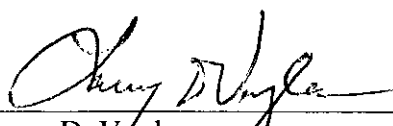

James R. Ammons, Member


James S. Ziegler, Member


Eric S. Sparks, Member


Kurt R. Davis, Member

ATTEST:


Larry D. Voyles
Secretary and Director

**Game and Fish Litigation Report
Presented at the Commission Meeting
February 3, 2017**

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

1. *State of Arizona v. Jewell*, CV 15-00245-CKJ. On June 8, 2015, the State of Arizona filed suit against the Secretary of Interior and the U.S. Fish and Wildlife Service ("FWS") for violations of the Endangered Species Act ("ESA"). Arizona alleges in the lawsuit that the FWS has failed to develop a new recovery plan for the Mexican wolf that complies with the requirements of ESA. The FWS prepared an original recovery plan for the Mexican wolf in 1982, but that plan has since expired, and it does not include the necessary elements ESA requires for a recovery plan. Arizona will seek declaratory and injunctive relief compelling the FWS to develop a new recovery plan within a reasonable period.

On its own motion, the court transferred this case to the same court assigned to *Center for Biological Diversity v. Jewell*, CV 15-00019. Due to ongoing settlement discussions, the federal defendants filed a motion on January 29, 2016, seeking an additional 45 days to file an answer to the complaint. The Commission voted on February 5, 2016, to approve the agreement in principle.

On April 26, 2016, the parties submitted the settlement for court approval and filed a joint motion to enter the settlement. On October 18, 2016, the court issued an order approving the settlement agreement and ordering the parties to comply with the settlement. The settlement requires the FWS to complete a revised Mexican wolf recovery plan no later than November 30, 2017. In approving the settlement, the court also ordered the dismissal of the complaint.

2. *Center for Biological Diversity v. Jewell*, CV-15-00019-JGZ; *WildEarth Guardians v. Ashe*, CV 15-00285. CBD filed its lawsuit on January 15, 2015, alleging violations of the Endangered Species Act ("ESA") and the National Environmental Policy Act ("NEPA"). Plaintiffs contend that the U.S. Fish and Wildlife Service's ("FWS") final revised rule governing the Mexican wolf experimental population, and a research and recovery permit issued under Section 10(a)(1)(A) of ESA impede Mexican wolf recovery and survival. Plaintiffs also allege the final environmental impact statement ("EIS") and a biological opinion associated with the final rule are inadequate. Plaintiffs seek a court order to set aside and remand to the FWS portions of the final rule, the permit and final EIS.

On April 15, 2015, the State of Arizona on behalf of Game and Fish filed a motion to intervene in support of the FWS. At the same time, Arizona filed a motion to dismiss the lawsuit on the basis the court lacks subject matter jurisdiction. The federal defendants filed an answer to the complaint on April 22, 2015.

On May 12, 2015, the court granted a motion to consolidate a case from New Mexico brought by various livestock organizations and local governments. On May 12, 2015, the court also granted Arizona's motion to intervene and authorized Arizona to file either a motion to dismiss or an answer. On July 20, 2015, the court granted the plaintiffs' motion and granted a motion to consolidate the lawsuit *WildEarth Guardians v. Ashe*, CV 15-00285. On July 23,

2015, the court issued a scheduling order.

WildEarth Guardians filed its lawsuit on July 2, 2015, alleging violations of ESA and NEPA. The plaintiffs contend that the FWS's final revised rule and the research and recovery permit impede Mexican wolf conservation. The plaintiffs also allege the final EIS and the biological opinion associated with the final rule are inadequate. The plaintiffs contend the FWS has a duty to reconsider its decision that the Mexican wolf population is nonessential. The plaintiffs seek a court order to set aside and remand to the FWS portions of the final rule, the permit and final EIS.

On August 7, 2015, the Game and Fish Commission voted to intervene in the WildEarth Guardians case on behalf of the FWS. On December 2, 2015, the court granted Arizona's motion to intervene and ordered the filing of Arizona's motion to dismiss.

On January 8, 2016, the parties filed a joint stipulation to amend the scheduling order to delay the start of briefing an additional 30 days. The parties filed the stipulation to allow the New Mexico District Court to issue an expedited ruling on the motion to transfer SCI v. Jewell to Arizona and to consolidate the case with the other Arizona cases challenging the Mexican wolf 10(j) rule. On February 11, 2016, the New Mexico District Court granted the motion to transfer the SCI case to the Arizona District Court. On February 26, 2016, the Arizona District Court issued an order consolidating the SCI case with the other Arizona cases. On February 23, 2016, the plaintiffs in three of the consolidated cases filed motions for summary judgment.

On March 31, 2016, the court issued an order denying Arizona's motion to dismiss in CBD v. Jewell. On April 18, the federal defendants filed a cross motion for summary judgment in CBD v. Jewell and on April 25, Arizona filed its cross motion for summary judgment in the same case. On April 25, the federal defendants filed a cross motion for summary judgment in WEG v. Ashe, and on May 2, Arizona filed its cross motion for summary judgment in the same case. On May 2, the federal defendants filed a cross motion for summary judgment in Arizona and New Mexico Coalition v. Jewell.

On June 20, 2016, the plaintiffs filed responses in opposition to the federal defendants' and Arizona's cross motions for summary judgment. The federal defendants filed replies on July 20 and July 27, and Arizona filed replies on July 27 and August 3. The briefing is now complete and the next step will be a hearing on the summary judgment motions.

3. *Center for Biological Diversity et al. v. United States Forest Service, CV-12-8176-PCT-SMM.* Plaintiffs filed an action in the U.S. District Court for Arizona on September 4, 2012. The lawsuit alleges the U.S. Forest Service ("USFS") is violating the Resource Conservation and Recovery Act ("RCRA") by allowing the disposal of lead ammunition on the Kaibab National Forest, and the disposal results in significant harm to the California condors and other avian wildlife. Plaintiffs are seeking declaratory and injunctive relief requiring the USFS to abate the harm.

On November 4, 2012, the State of Arizona, on behalf of the Arizona Game and Fish Commission, filed a limited motion to intervene for the sole purpose of filing a motion to dismiss on the grounds that the State of Arizona is a required party but joining the State is not feasible due to sovereign immunity. Because the State is a required party that cannot be joined, the case must be dismissed. Plaintiffs filed a response to the State's motion on November 20, 2012. Plaintiffs did not object to the State's intervention but argued that the State does not meet the requirements of a required party.

The National Rifle Association (NRA) and Safari Club International (SCI) filed motions to intervene on November 21, 2012. The State filed a reply on December 4, 2012, to the Plaintiffs' response to the State's motion to intervene. The USFS filed a motion to dismiss on December 14, 2012, on the basis the Court lacks jurisdiction.

On July 2, 2013, the court granted the Forest Service's motion to dismiss. The court agreed with the Forest Service that CBD did not have standing to bring the RCRA challenge against the Forest Service. The court found that CBD could not satisfy the requirements for standing because redressability was speculative on two grounds. First, in order for the Forest Service to regulate the use of lead ammunition, it would need to undertake a rulemaking process, comply with NEPA and consult with the Arizona Game and Fish Commission. Due to uncertainty with this process, the court found the outcome of the process speculative. Second, the court found that condors range in an area well beyond the Kaibab National Forest and into areas that do not prohibit the use of lead ammunition. Therefore, even if the Forest Service banned lead ammunition, this would not necessarily reduce the level of lead ingestion in condors.

Plaintiffs filed a notice of appeal on August 21, 2013. The Ninth Circuit held oral argument on November 19, 2015, and took the case under advisement. The Ninth Circuit issued a decision on January 12, 2016, reversing the lower court decision dismissing the complaint on the basis of standing. The court found that CBD satisfied the constitutional standing requirements, but the court remanded the case back to the district court to resolve the Forest Service's separate motion to dismiss on the basis CBD failed to allege a legal cause of action. On remand, the district court must decide whether the Forest Service can be held legally liable under RCRA. If the court finds the Forest Service is not liable as a "contributor" to causing harm to the environment, then the court will need to dismiss the case for failure to state a claim.

The district court held a status conference for April 18, 2016. The court agreed to resolve the pending motions to intervene filed by NRA, SCI and NSSF, and then take up the Forest Service's motion to dismiss for failure to state a claim. On June 10, 2016, the court granted NSSF's, NRA's and SCI's motions to intervene. On July 21, 2016, the court granted the parties' stipulated motion to set a briefing schedule on the motions to dismiss. The federal defendants and intervenor NSSF filed their motions on August 12, 2016. The NRA and SCI will file their motions to dismiss by August 26, 2016. The parties have completed briefing the motions to dismiss and now await a hearing or a decision from the court.

4. *Holden and Guynn v. Arizona Game and Fish Commission*, Maricopa County Superior Court CV 2014-013211 (filed October 14, 2014). The Plaintiffs, whose Title 17 criminal charges were dismissed by the justice court (Guynn) or resulted in an acquittal following a justice court bench trial (Holden) were separately civilly assessed by the Commission for the loss of wildlife to Arizona. The Plaintiffs, who have not paid their civil assessments, filed their suit against the Commission after they were denied the right to purchase hunting licenses and big game tags.

The superior court denied the State's Motion to Dismiss, stating that the language and legislative history of A.R.S. §17-314 only authorizes the courts of this state to assess civil damages for the loss of wildlife to the state. The Commission has directed the AGO to file suit in the superior court to collect civil damages from Holden and Guynn. On September 26, 2016, the AGO filed an action against Guynn (CV 2016-015578) and a separate action against Holden (CV 2016-015579). The AGO then moved to dismiss Holden and Guynn's suit (CV 2014-013211) as moot. On November 14, 2016, Judge Brodman issued an order transferring the two new actions to his division but not consolidating them together or with the existing action. The court stayed all three actions until February 14, 2017, by which time the parties must file their

position with the court regarding whether the two new cases are subject to compulsory arbitration and Holden and Guynn must file their opposition to or agree to the dismissal of their action.

5. *WildEarth Guardians et al. v. United States Forest Service*, 3:16-cv-08010-PCT-PGR. This suit, filed January 25, 2016 by WildEarth Guardians, Grand Canyon Wildlands Council and the Sierra Club, seeks a ruling that the Forest’s travel management decision on the Williams, Tusayan and Kaibab Ranger Districts allowing motorized retrieval of legally-harvested big game (elk and, for the Kaibab, elk and bison) during designated hunting seasons violates the Forest’s Travel Management Rule, NEPA, and the National Historic Preservation Act. The suit also seeks injunctive relief enjoining Forest from allowing motorized big game retrieval until the Forest “can demonstrate compliance with federal law”. The Department, along with Safari Club International, filed motions to intervene. The Plaintiffs and the Department of Justice did not oppose the motions. At the AGO’s request DOJ forwarded the Forest’s administrative record. Department staff have reviewed it to ensure all written submissions of the Department are included in the record. **All parties have completed their motions and cross-motions for summary judgment. The Court has not yet set the matter for oral argument.**

Commission Priorities Report

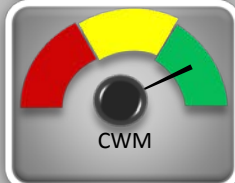
February 3, 2017



FY17 Target of 200,000 acres secured for access: 2 new agreements; Target of 5,000 Volunteer hours: ~2,500 hours coordinated; Target 3 outreach efforts on Access Program targeting sportsmen: 5 for year- 2 this 1/4; NPR radio interview, national NRCS blog.



Since the ISW Launch, more than 2,200 accounts have been purchased. More than 82,500 (over 1,700 new accounts in Jan) Portal accounts have been established.



A new Burro Collector APP was generated that has allowed all field staff to collect real time locations on burros. Received ~13,000 amphibian and reptile locality records from HerpMapper, this has allowed us to utilize citizen science to expand our capacity.



Condition assessment data for Horseshoe Ranch will be collected for (FIAT) via new mobile app; Raymond residence bid and RFP options under review; Pinetop office remodel is at 90%; Development of projects proposal module in Lands and Water Program database nearing completion.



Target: 610K lbs. of sport fish in a minimum of 122 locations. To date = 337,000lbs in 98 locations
Target: Implement six aquatic habitat improvement projects. To date = 0 Projects-tied up in federal compliance. Should be on track by Summer 2017.



Developed structure for Dep't employees to: 1) submit topics for workouts at EEC 2017, 2) test eval. tools for EEC 2017. A3 projects tracked and updated monthly. Will be submitting eligible projects and staff for training via Governor's Transformation Office on '7 Step Problem Solving' through AMS rollout.



MOFT: In order to increase officer field time, the Department hired nine new Wildlife Managers. These men and women will graduate on May 4th.
Fair Chase: Article 3 Rule preview to be presented at this meeting.



No GCNM designated. Begin revamp of Dept. social media policies and sites; pilot-test Facebook Workplace as internal communication mechanism; Approve OMA ad campaign for 3Q-4Q '17; Advised OMA on 10-year strategic marketing plan.



Development of a third live wildlife viewing camera is in development and on schedule. AZGFD IEWR was key partner in a multi-regional R3 Conference, post WAFWA.



TARGET: 500,000 acres restored- 418,316 completed;
TARGET: \$1 million in funding secured- met with new RCPP-getting \$2 million from partners; Target: 6 aquatic restoration projects- on track. TARGET: Engage in 2 federal planning activities per quarter: on track; TARGET: 20 catchments- 11 complete.



BURROS: Data gathering in process. MONUMENTS: Continue to monitor. DE FACTO WILDERNESS: Document review in process. LTMEP: Final Comment Letter completed re high flows and O2 in tail waters. TRAVEL MANAGEMENT: FS plans under review.