

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, January 13, 2017
Saturday, January 14, 2017
Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, Arizona 85086

PRESENT: (Commission)

(Director and Staff)

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

Director Larry D. Voyles
Deputy Director Ty E. Gray
Assistant Attorney General Jim Odenkirk
Assistant Attorney General Linda Pollock

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 in honor and remembrance of National Pearl Harbor Remembrance Day on December 7, 2016 and John Glenn, former astronaut and US Senator, who passed away on December 8, 2016. The Commission and Director Voyles introduced themselves followed by introductions of the Director's staff. This meeting followed an agenda revision #1 dated January 11, 2017.

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1. Call to the Public

John Spear, Western Wildlife Alliance, stated opposition to mule deer doe hunts on the Kaibab; would like to see Unit 3C made into a limited weapon or no optics in that area to hunt deer; would like to pull back on turkey in Unit 3C for less pressure.

Chairman Madden recommended to Mr. Spear that he attend the Department's hunt recommendations meetings in Region I, Pinetop and discuss his recommendations.

Teleconferenced from Region III, Kingman:

Tim Goldsmith commented regarding over-the-counter archery deer tags; populations are dwindling; there are too many hunts for too long of hunt periods.

Kevin Larimore stated that with today's technology with archery bows, there are more and more archery deer taken; he is concerned about reduced deer populations; something needs to be done about it.

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2. Consent Agenda

The following items were grouped together and noticed as consent agenda items to expedite action on routine matters, and/or they were previously presented to the Commission as a "first

read” item. There items were presented to the Commission and none were removed for discussion.

a. Approve Renewal of Arizona State Land Department Agricultural Lease and Sublease Renewal at the Lower San Pedro River Wildlife Area

Presenter: Joyce Francis, Habitat Branch Chief

The Department holds an Arizona State Land Department (ASLD) agricultural lease for 10 acres that was acquired with the Lower San Pedro River Wildlife Area. The agricultural lease is managed in association with the grazing lease which is subleased to G&H Land and Cattle Company through a Cooperative Agreement. The primary goal is to manage the wildlife area for wildlife and wildlife habitat while at the same time cooperating with the G&H Land and Cattle Company on the management of both leases.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE RENEWAL OF THE ARIZONA STATE LAND DEPARTMENT AGRICULTURAL LEASE AND SUBLEASE AT THE LOWER SAN PEDRO RIVER WILDLIFE AREA AS PRESENTED.

b. Approve Memorandum of Understanding with Adventure for Charity, L.L.C.

Presenter: Jim deVos, Assistant Director, Wildlife Management Division

The Arizona Game and Fish Department and Adventure for Charity, L.L.C. propose to work cooperatively for the common purpose of providing outdoor recreation opportunities for the public, and educating and informing participants about the Department and the wildlife it manages. This Memorandum of Understanding provides a relationship and framework for creating opportunities to engage the public and/or industry to participate in ‘challenge’ events that promote outdoor recreation while educating participants about wildlife and the Department’s conservation programs. These challenge events provide a unique opportunity for generating additional funding to support wildlife conservation.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE A MEMORANDUM OF UNDERSTANDING WITH ADVENTURE FOR CHARITY, LLC AND TO AUTHORIZE THE DIRECTOR, AS SECRETARY TO THE COMMISSION, TO EXECUTE THE AGREEMENT AS PRESENTED.

c. Approve Memorandum of Understanding with Pheasants Forever/Quail Forever, Inc.

Presenter: Jim deVos, Assistant Director, Wildlife Management Division

The Arizona Game and Fish Department and Pheasants Forever/Quail Forever, Inc. propose to work cooperatively for the common purpose of improving the status of quail, pheasants and other wildlife and the habitat upon which these species depend. This Memorandum of Understanding provides a relationship and framework for conservation actions that benefit populations of these species and associated opportunities to inform and educate the public.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE A MEMORANDUM OF UNDERSTANDING WITH PHEASANTS FOREVER/QUAIL FOREVER, INC. AND TO AUTHORIZE THE DIRECTOR, AS SECRETARY TO THE COMMISSION, TO EXECUTE THE AGREEMENT AS PRESENTED.

Motion: Ammons moved and Zieler seconded THAT THE COMMISSION VOTE TO APPROVE ITEMS A, B, AND C ON THE CONSENT AGENDA.

Vote: Unanimous

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3. 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

FY18 Budget

- The Department is awaiting the Executive Budget to be released this afternoon
- FY18 Department Budget Requests:
 - Law Enforcement Vehicle Replacement
 - Aquatic Invasive Species Program
 - Watercraft Safety
 - Lake Havasu Law Enforcement Water Safety Center
- The Department's budget presentation is scheduled for January 26, 2017 before the House Appropriations Subcommittee on Public Safety Infrastructure and Resources

Arizona Game and Fish Commission: A Senate Confirmation Hearing for Commissioner Kurt Davis is scheduled for January 23, 2017.

2017 Legislative Agenda:

G&F Omnibus (no HB number yet); Sponsor: Senator Gail Griffin

- Personal Flotation Device - Update 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.

(Unlawful feeding of wildlife was removed from this bill)

Assistant Director of the Wildlife Management Division Jim deVos will provide a Mexican Wolf Update to the House Committee on Energy, Environment and Natural Resources on January 17, 2017.

The Arizona Game and Fish Department will participate again this year in Legislative Day on February 14, 2017 on the Senate Lawn at the State Capitol from 11:30 a.m. to 1:30 p.m.

Congressional Update

National Monument Designation:

- It appears that President Obama will not create a Grand Canyon National Monument; however, Representative Grijalva has submitted a bill to create a Grand Canyon National Monument; H.R. 360, the Greater Grand Canyon Heritage National Monument Act

SB33; Improved National Monument Designation Process Act:

- Requires legislation before any national monument designation; requires specific authorization by an act of Congress and approval by the state legislature, and certification of compliance with NEPA

Department Priority – Protect and Maintain States' Authority

- The Department is currently working with the Arizona Delegation to address legislative priorities as follows:
 - Sportsman Conservation & Outdoor Recreation Act
 - Bison Management Act
 - Amend and strengthen Pittman-Robertson
 - Recovering America's Wildlife Act of 2016 – H.R. 5650: Wildlife Conservation and Restoration Subaccount; \$1.3 Billion (Outer Continental Shelf Revenue, Mining Revenue)

Motion: Davis moved and Zieler seconded THAT THE COMMISSION VOTE TO SUPPORT SB33, IMPROVED NATIONAL MONUMENT DESIGNATION PROCESS ACT, WITH THE CAVEAT THAT A PROVISION BE CONSIDERED IN THE MODIFICATION THAT UNTIL THE CONGRESSIONAL BUDGET OFFICE IS ABLE TO SANCTION THAT THE CURRENT EXISTING INFRASTRUCTURE DEFICIT WITH THE CURRENT MONUMENTS AND PARKS IS ACHIEVED THAT THERE SHOULD NOT BE ADDITIONAL DESIGNATIONS.

Vote: Unanimous

Public Comment

John Spear, Western Wildlife Alliance, commented that there is a legislative act regarding cameras on wildlife waters and he wants to support that in regards to removing cameras on the waterholes.

Chairman Madden stated that the issue Mr. Spear is referring to is currently going through the Department's rulemaking process.

Mesa Regional Supervisor Jay Cook informed the Commission and Mr. Spear that the rule as referenced will be presented to the Commission in February and then brought back to the Commission in March for approval.

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4. Commission Priorities Update

Presenter: Kent Komadina, Special Assistant to the Director

Mr. Komadina provided the Commission with a Commission Priorities Report (attached) and highlighted several activities. 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 Sparks confirmed with Mr. Komadina that the Department's online draw system was up and running.

Commissioner Davis recommended the Department have conversations with Arizona's Delegate on the Appropriations Committee regarding the burro issue as they begin to work through the budget process. About 60% of the expenditures for the burro program occurs in Washington D.C. We might want to be talking about caps on administrative overhead and look at the expenditure ratios, and put those dollars into the field where the management of burros is supposed to occur.

Al Eiden, the Department's Landowner Relations and Habitat Enhancement Program Manager, provided a PowerPoint presentation and progress report on the Commission priority for habitat improvement and conservation. The presentation included an overview and status update of the following goals/targets as of December 2016:

- 500,000 acres of habitat restored
- \$1 million in external funding secured for habitat restoration project
- 6 aquatic restoration projects completed
- Engage in federal planning activities
- Rebuild or build 20 new water catchments

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5. Commission Committee Appointments

Presenter: Kent Komadina, Special Assistant to the Director

Mr. Komadina presented the Commission with the current Commission Committee appointments through June 30, 2017 for review and possible changes. No changes were recommended by the Commission. The appointments presented were as follows:

- Heritage and Habitat Committee (Combined HPAC and HPC)
 - Commissioner Ammons, Chair
 - Commissioner Sparks, Vice Chair
- Legislative Committee
 - Commissioner Davis, Chair
 - Commissioner Madden, Vice Chair
- Budget and Commission Priorities Committee
 - Commissioner Zieler, Chair
 - Commissioner Davis, Vice Chair
- Constituency and Landowner Partnerships Committee (Combined LLSRC and SCG)
 - Commissioner Sparks, Chair
 - Commissioner Ammons, Vice Chair
- Hunt Orders, Guidelines, and Rules Committee
 - Commissioner Madden, Chair
 - Commissioner Zieler, Vice Chair

Motion: Ammons moved and Sparks seconded THAT THE COMMISSION VOTE TO APPROVE THE COMMISSION COMMITTEE APPOINTMENTS AS PRESENTED.

Vote: Unanimous

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5A. Briefing on the Development of a Long Term State Wide Public Awareness Campaign

Presenter: Tony Guiles, Assistant Director, Information, Education, Recreation Division

Mr. Guiles requested that the Commission allow this briefing to be postponed to the February Commission meeting. In discussions with consultants from Off-Madison Avenue (OMA), a couple more weeks to work on developing the 10-year plan would be beneficial and provide for a more robust and thorough presentation.

The Commission was in consensus.

Commissioner Zieler commented on the presentation provided by OMA at the Western Association of Fish and Wildlife Agencies (WAFWA) annual conference was well received and he is looking forward to Mr. Guiles' presentation in February.

Commissioner Davis requested that part of the presentation include the linkage between information and communication and developing the customer/constituent base, both traditional and non-traditional, as we grapple with how this Department is funded appropriately in the future with regards to all wildlife species.

Commissioner Davis added that the presentation at the WAFWA meeting, as mentioned by Commissioner Zieler, was a great example of where this Department is absolutely a national leader. Clearly the Department is setting the pace for state wildlife agencies.

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6. Threatened and Endangered Wildlife Briefing

Presenter: Jim deVos, Assistant Director, Wildlife Management Division

Mr. deVos provided a PowerPoint presentation and briefing on the Department's Amphibians and Reptiles Program. The presentation highlighted Department recovery efforts and successes for the Chiricahua leopard frog, listed threatened in 2002, and the Narrow-headed and Mexican gartersnakes, listed threatened in 2014. The Department's objective is to actively manage these species so they can be removed from the Threatened and Endangered Species list. Partnerships with many agencies and organizations have accomplished projects for the benefit leopard frogs and gartersnakes. Recovery efforts have had several years to mature and to build multiple successes across the range for the Chiricahua leopard frog. The Narrow-headed and Mexican gartersnake is in the discovery and experimental stage, but we are already seeing positive effects.

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Meeting recessed for a break at 9:39 a.m.

Meeting reconvened at 9:44 a.m.

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8. Approve Landowner-Lessee/Sportsman Relations Committee Appointment

Presenter: Al Eiden, Habitat Enhancement and Landowner Relations Program Supervisor

Mr. Eiden presented the Commission with a nomination and biography for Kurt Bahti to fill the vacant sportsmen group representative spot on the Landowner-Lessee/Sportsman Relations Committee. Mr. Kurt Bahti is interested in helping to improve access issues.

Motion: Ammons moved and Zieler seconded THAT THE COMMISSION VOTE TO APPROVE THE NOMINATION FOR MR. KURT BAHTI TO FILL THE VACANT SPOT ON THE LANDOWNER-LESSEE/SPORTSMAN RELATIONS COMMITTEE.

Vote: Unanimous

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9. Approve Purchase and Sale Agreement to Acquire the EC Bar Ranch

Presenter: Joyce Francis, Habitat Evaluation and Lands Branch Chief

Dr. Francis provided the Commission with a PowerPoint presentation and briefing on a request for approval of the Department's purchase and sale agreement with Mr. James Crosswhite for the acquisition of EC Bar Ranch in Nutrioso, Apache County, Arizona. The Department has been in negotiations with Mr. Crosswhite for the acquisition of the EC Bar Ranch. The Ranch is located along Nutrioso Creek and the Department considers the Ranch to hold significant wildlife values and riparian habitat. The acquisition would contribute to recovery of Little Colorado River spinedace, a federally threatened species, and the New Mexico meadow jumping mouse, a federally endangered species. The proposed acquisition would include approximately 391 acres of deeded property, 111 surface water rights, and 45 acre feet of storage in the Nutrioso Reservoir. The Department has been awarded a US Fish and Wildlife Service Section 6 Recovery Land Acquisition Grant in the amount of \$1,000,000 that will contribute toward the purchase. The grant will be matched with Heritage acquisition funding.

Motion: Ammons moved and Sparks seconded THAT THE COMMISSION VOTE TO APPROVE ACQUISITION OF EC BAR RANCH IN NUTRIOS, APACHE COUNTY, ARIZONA, AND TO AUTHOIZE THE DIRECTOR, AS SECRETARY TO THE COMMISSION, TO EXECUTE THE PURCHASE AND SALE AGREEMENT AS APPROVED OR RECOMMENDED BY THE OFFICE OF THE ATTORNEY GENERAL.

Chairman Madden confirmed with Dr. Francis that there were no structures of historical value on the property.

Vote: Unanimous

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7. 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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10. Approve Proposed Rulemaking Amending Article 5 Rules Addressing Boating and Water Sports.

Presenter: Gene Elms, Law Enforcement Branch Chief

Mr. Elms presented a PowerPoint presentation and briefing on a Notice of Rulemaking Docket Opening, Notice of Proposed Rulemaking, and Economic Impact Statement amending rules within Article 5 Rules addressing boating and water sports. The Department proposes to amend rules within Article 5 to enact recommendations developed during the preceding Five-year

Review Report approved by the Commission in January 2016 and by the Governor's Regulatory Review Council in June 2016. The Department proposes the following rule amendments:

R12-4-501. Boating and Water Sports Definitions

- Define "Authorized third-party provider" to reflect new third-party program
- Revise the definition of "abandoned watercraft" to establish a watercraft remaining unattended in a designated mooring/anchorage area is not considered an "abandoned watercraft" to make the rule more concise
- Repeal the definition of the "Nonresident Boating Safety Infrastructure decal"
- Define "wearable" and "throwable" PFDs and revise the definition of "personal flotation device" to remove references to Type.

R12-4-502. Application for Watercraft Registration

- Require the owner's signature to be notarized/witnessed when seller is not listed as owner or the buyer/seller signature is in question
- Require a physical inspection of a watercraft when it is new to AZ and required information cannot be provided
- Establish a dealer certificate is subject to invalidation if used for personal recreational purposes.

R12-4-503. Renewal of Watercraft Registration; Duplicate Watercraft Registration

- Establish online duplicate watercraft registration system. This change is in response to customer comments received by the Department.

R12-4-505. Hull Identification Numbers

- Allow a person to present a bill of sale with a nonconforming HIN if it matches the HIN on the watercraft to make the rule more concise and reduce costs to persons regulated by the rule.

R12-4-506. Invalidation of Watercraft Registration and Decals

- Allow the Department to invalidate a watercraft registration erroneously issued by a third party provider (agent)
- Allow the Department to invalidate a dealer watercraft registration when the watercraft dealer registration is used contrary to law
- Allow the Department to invalidate a watercraft registration when the watercraft registered or used as a livery is operated in violation of A.R.S. § 5-371 or R12-4-514.

R12-4-507. Transfer of Ownership of an Abandoned or Unreleased Watercraft

- Allow an agent to act on behalf of the lienholder for watercraft abandoned on foreclosed real property. This change is in response to customer comments received by the Department.

R12-4-509. Watercraft Agents

- Allow a used watercraft dealer to issue a temporary certificate of number for a used watercraft they sold. This change is in response to customer comments received by the Department
- Increase the time for which a temporary certificate of number is valid from 30 to 45 days. This change is in response to customer comments received by the Department
- Increase the time in which a watercraft dealer must submit fees and documentation for a watercraft they sold from 72 hours to 5 business days. This change is in response to customer comments received by the Department

- Establish an online system that allows a watercraft agent issue temporary certificates of number
- Remove language referencing prenumbered temporary certificates of number processes and reporting requirements as the Department will no longer provide prenumbered temporary certificates of number to watercraft agents and will obtain data from the online system.

R12-4-510. Refund of Fees Paid in Error

- Allow a person who renewed the watercraft registration in error to obtain a refund to increase customer satisfaction. This change is in response to customer comments received by the Department
- Establish a person who renewed their watercraft registration at a third-party provider must request a refund from the third-party that issued the registration.

R12-4-511. Personal Flotation Devices

- Reflect changes made to U.S. Coast Guard regulations concerning throwable and wearable PFDs.

R12-4-514. Liveries

- Require a person who rents, leases, or offers a watercraft for hire to register the watercraft as a livery
- Require a livery vehicle to affix a placard or other form of display indicating the name and number of the business
- Establish a watercraft registration/decals may become invalid for failure to comply with this Section.

R12-4-517. Watercraft Motor and Engine Restrictions

- Restrict electric motors to 10 hp or less to address technological advances in electric motors and watercraft. This change is in response to customer comments received by the Department.

R12-4-520. Arizona Uniform State Waterway Marking System

- Combine R12-4-520, R12-4-521, and R12-4-522 into one overarching rule that addresses regulatory markers and aids to navigation. This repeals R12-4-521 and R12-4-522
- Prohibit the use of lights to mark waterways or their shorelines without authorization.

R12-4-524. Towed Water Skiing Sports

- Replace references to "water skiing" with "towed water sports" to address other sports requiring an observer
- Require a wakesurfer to wear a PFD and an operator to ensure an observer is on duty at all times a person is being towed behind a watercraft/surfing a wake created by the watercraft
- Prohibit teak surfing to address a new/dangerous fad.

R12-4-526. Unlawful Mooring

- Require owner to remove abandoned/submerged watercraft within 72 hours when notified in person or in writing
- Establish owner shall be responsible for towing and storage fees. This change is in response to comments received from Law Enforcement and Department personnel.

R12-4-527. Transfer of Ownership of a Towed Watercraft

- Establish time-frames in which a towing company must request owner/lienholder information (15 days) and notify owner/lienholder of possession/location (15 days). Both time-frames mirror statutory time-frames applicable to the tow company.

R12-4-529. Nonresident Boating Safety Infrastructure Fees; Proof of Payment; Decal

- Remove references and requirements that relate to the Arizona NBSIF Decal.

R12-4-530. Third-party Provider; Agent

- Establish the Department to enter into a contract, through the State procurement process, with a private entity to perform limited or specific services on behalf of the Department
- Authorize a third party vendor to process watercraft transfers, watercraft registration renewals, duplicate watercraft registrations and decals, and new watercraft registrations
- Establish the Department shall determine minimum quality standards of service and a quality assurance program
- Require a third-party provider to collect and remit the State's fees to the Department
- Authorize a third-party provider to collect and retain a reasonable and commensurate fee for its services
- Require a third-party provider to identify to the applicant the Department's fees separately from any other costs
- Authorize the Department to suspend or cancel an authorization/certification when it determines the third-party provider made a material misrepresentation or misstatement in the application for authorization or certification, been convicted of fraud or a watercraft related felony in any state or jurisdiction of the U.S. within the ten years immediately preceding the date a criminal records check is complete or any other felony within the five years immediately preceding the date a criminal records check is complete, violated a rule or policy adopted by the Department, failed to keep and maintain records required by the rule, failed to remit to the Department the State's fees, or allowed an unauthorized person to engage in any business pursuant to this Section
- Authorize the Department to order a summary suspension of a third-party provider's authorization if the Department has reasonable grounds to believe a certificate holder or other person employed by an authorized third-party provider has committed watercraft registration fraud, improperly disclosed a watercraft owner's personal information, committed bribery or theft
- Establish an appeal process pursuant to A.R.S. Title 41, Chapter 6, Article 10.

If approved by the Commission and in accordance with the exemption authorized under item #2 of Executive Order 2016-01 Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-service Oriented Agencies, the Department will submit this rulemaking to the Secretary of State's office for publication in the *Arizona Administrative Register*. The Department will 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 Final Rulemaking to the Commission for their consideration.

Commissioner Zieler stated that the rules subcommittee concurs with the Department's recommendations.

Motion: Zieler moved and Davis seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF RULEMAKING DOCKET OPENING, NOTICE OF PROPOSED

RULEMAKING, AND ECONOMIC IMPACT STATEMENT AMENDING RULES WITHIN ARTICLE 5, ADDRESSING BOATING AND WATER SPORTS.

Vote: Unanimous

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11. Approve Draft Notice of Exempt Rulemaking Amending Article 5 Rules Addressing Boating and Water Sports.

Presenter: Gene Elms, Law Enforcement Branch Chief

Mr. Elms provided a PowerPoint presentation and briefing on a draft Notice of Exempt Rulemaking amending Article 5 Rules addressing boating and water sports. The Department has prepared the Notice of Exempt Rulemaking amending Article 5 Rules addressing boating and water sports; watercraft fees to enact recommendations developed during the preceding Five-year Review Report approved by the Commission in January 2016 and by the Governor's Regulatory Review Council in June 2016. The current watercraft transfer, \$2 duplicate certificate of number or annual decal, and \$2.50 dealer certificate of number fees have been in place for over 28 years. At the January 2016 Commission Meeting, the Commission directed the Department to recover the costs of providing these services now and into the future because it will be a long time before these fees are raised again. The Department proposes the following rule amendments:

R12-4-504. Watercraft Fees; Penalty for Late Registration; Staggered Registration Schedule

- Increase the watercraft transfer fee to \$13 from \$4; the duplicate certificate of number and annual decal fee to \$8 from \$2; and the dealer certificate of number fee to \$20 from \$2.50
- Establish a \$100 abandoned watercraft application fee to help defray Department costs
- Establish a \$100 unclaimed towed watercraft application fee to help defray Department costs.

R12-4-507. Transfer of Ownership of an Abandoned or Unreleased Watercraft

- Require a person submitting an abandoned/unreleased watercraft application to pay the fee required under R12-4-504.

R12-4-527. Transfer of Ownership of a Towed Watercraft

- Require a towing company submitting an unclaimed towed watercraft application to pay the fee required under R12-4-504.

If approved by the Commission, the Department will post the Draft Notice of Exempt Rulemaking to the Department's Internet site for a period of 30 days for public comment. Once the public comment period has passed, the Department will present the Final Exempt Rulemaking to the Commission for their consideration.

The Commission discussed the \$100 fee and how the rules subcommittee discussed and decided on that amount, even though it does not fully cover the Department's cost for abandoned or unclaimed watercraft.

Commissioner Zieler stated that the rules subcommittee concurs with the Department's recommendations.

Motion: Zieler moved and Davis seconded THAT THE COMMISSION VOTE TO APPROVE THE DRAFT NOTICE OF EXEMPT RULEMAKING AMENDING ARTICLE 5 RULES ADDRESSING BOATING AND WATER SPORTS.

Vote: Unanimous

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11A. Announcement of the 2017 Heritage Grant Outdoor Education Award Recipients

Presenter: Marty Herrera, Heritage Fund Administrator

Pursuant to R12-4-702.I, Mr. Herrera informed the Commission and the public of the Heritage Grant Outdoor Education award recipients for the 2017 Heritage Fund grant cycle. In October, 2016 the Department received a total of ninety-four grant applications from applicants competing for a 2017 Heritage Grant award, with a total of \$412,000 available. Grant applications received were considered in all six of the Department's designated fund sub-categories for a Heritage Grant award. The evaluation and scoring process for the Outdoor Education sub-category is complete, while the evaluation and scoring process for the other five Heritage Grant sub-categories is still ongoing. The Outdoor Education (OE) received a total of twenty applications and the amount available is \$16,000.

The following nine Arizona schools or organizations are awarded a 2017 Outdoor Education Heritage Grant:

1. Grand Canyon Trust a non-profit organization for the project titled "4FRI Student Assessments and Monitoring." The award amount is \$ 1,619
2. The Washington School District, Orangewood School for the project titled "Orangewood at Camp Colley Environmental Workshop." The award amount is \$ 2,310
3. The Flagstaff Unified School District, Flagstaff High School for the project titled "Service Learning and Outdoor Leadership." The award amount is \$1,212
4. The Gilbert Unified School District, Quartz Hill Elementary for the project titled "Exploring Ecosystems – Day trip to Arizona Sonoran Desert Museum." The award amount is \$2,200
5. The Paradise Valley School District, Sweetwater Elementary for the project titled "Crayfish Project." The award amount is \$2,000
6. Oak Creek Watershed Council, a non-profit organization for the project titled "Water Sample Week." The award amount is \$1,591
7. The Gilbert Unified School District, Superstition Springs Elementary for the project titled "Second Grade Butterfly Wonderland Field-Trip." The award amount is \$600
8. Flagstaff Unified School District, Marshall Magnet Elementary for the project titled "Phoenix Zoo." The award amount is \$2,000
9. Safari Club International, a non-profit organization for the project titled "Transportation Funding for Conservation Education." The award amount is \$2,468.

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12. 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 Ammons 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 12:32 p.m.

Meeting reconvened at 2:00 p.m.

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13. Litigation Report

There were no comments or questions regarding the Litigation Report.

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14. Approval of Minutes and Signing of Minutes

Motion: Madden moved and Zieler seconded THAT THE COMMISSION VOTE TO APPROVE THE MINUTES FROM DECEMBER 2-3, 2016.

Vote: Unanimous

The Commission signed the minutes following approval.

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15. Commissioner Committee Reports

Commissioner Zieler commented on the rules committee and thanked Department staff for a great job.

Chairman Madden reported on going to the Legislature with Commissioner Davis to discuss fair chase with Representative Cobb; also met with Senator Griffin regarding the Department's Omnibus bills.

Commissioner Ammons talked about the HPC funding meeting in which they funded 2.5 million dollars. On Saturday, the committee will discuss how the funds will be allocated. The sportsmen can rest assured that their money is well watched over by the groups.

Commissioner Davis added that the legislative meetings with Chairman Madden were very fruitful and positive.

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16. Director and Commissioner Comments

Director Voyles provided comments about his activities. He participated in the Director's invitational quail hunts and spent some time with the head of the Boone and Crockett club. They went hunting in the morning and talked conservation in the evening. Conversation included the importance of developing a collaborative sportsmen's voice and discussions of the initiative of the Boone and Crockett club to re-energize their fair chase initiatives in light of some of the challenges to sport challenges that have come about in the last year and a half. To that end, Director Voyles has been invited to sit on a panel discussion on the issues at the SHOT Show next week. Director Voyles also spent some time in the invitational hunts with one of the leaders of Audubon and discussed his interests in Audubon coming closer to the hunting community and developing a shared voice with sportsmen.

Chairman Madden commented on his meeting with the Article 3 working group. Fair chase is a big portion of what they are working on. It will be coming to the Commission in March.

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17. Future Agenda Items and Action Items

There were no action or future agenda items captured in this meeting.

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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: Sparks moved and Ammons seconded THAT THE COMMISSION VOTE TO GO INTO EXECUTIVE SESSION.

Vote: Unanimous

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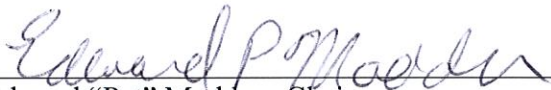
Chairman Madden adjourned this meeting.

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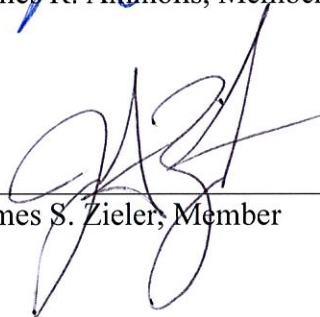
Meeting adjourned at 3:00 p.m.

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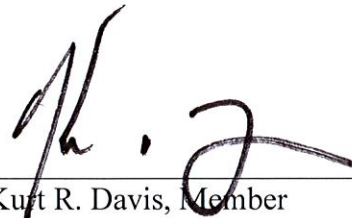
On Saturday, January 14, 2017, from 5:00 p.m. to 8:30 p.m., the Commission participated in the annual Commission Awards Banquet held at the Arizona Grand Resort, 8000 S. Arizona Grand Parkway, Phoenix, Arizona 85044. The Commission did not discuss any official business or take any legal action.


Edward "Pat" Madden, Chairman


James R. Ammons, Member


James S. Zieler, 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
January 13, 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

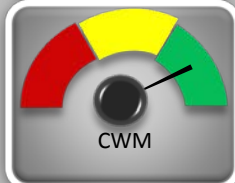
January 14, 2017



FY17 Target of 200,000 acres secured for access: 0 new agreements- got extension on VPA grant to cover regional staff salary another year; Target of 5,000 Volunteer hours: ~2,500 hours coordinated; Target 3 outreach efforts on Access Program targeting sportsmen: 3 for year-0 so far.



Since the ISW Launch, more than 2,174 accounts have been purchased. More than 80,856 (1,246 new accounts in Dec) Portal accounts have been established.



Summary data sheet development initiated to integrate digital survey and hunter questionnaire data received. Broader discussions to include small game and non game species data ongoing. GDMS is on schedule to be completed in July, 2017



Condition assessment data for HQ building entered into the Facilities Inventory and Assessment Tool (FIAT); SSDV Ops building advertised for bid; options for Raymond residence advertised for bid and RFP; Three Mile Shooting Range building advertised for bid; BASF Water and Wastewater plans finalized.



TARGET: 630,000lbs in 122 locations. To date the aquatic wildlife program has stocked 337,657 lbs. in 99 unique waters.



A3's of selected projects tracked and updated monthly. Working with Governor's Transformation Office to identify just-in-time Arizona management system (lean) training for project leads for implementation of additional projects. EEC 2017 program in development, still focusing on '10 things we can stop doing'.



Law Branch and FOD recently retooled the new wildlife manager post academy training schedule. The changes, as approved by the director, will enable new officers to complete training 7 weeks earlier and reduced the time commitment of Field Training Officers by 269 hours.



Thanksgiving license sale showed 208% increase (YOY); Social media policy ready for launch in '17; Added new AV supervisor; interviewing for new PIO2; continued messaging on critical issues.



Successful launch of 2nd season Sandhill Crane Cam. Successful recruitment for replacement of Statewide Shooting Ranges Administrator position. Successful recruitment for replacement of Statewide Shooting Sports Program Coordinator.



TARGET: 500,000 acres restored- 378,195 completed; TARGET: \$1 million in funding secured- received \$1.5 million grant through Farm Bill; Target: 6 aquatic restoration projects- on track. TARGET: Engage in 2 federal planning activities per quarter: on track; TARGET: 20 catchments- 9 complete.



BURROS: habitat damage study in process. MONUMENTS: Continuing education. KNF/MBGR Lit: Motions filed. DE FACTO WILDERNESS: document review in process. LTMEP: Final Comment Letter completed re high flows and O2 in tail waters.