

Minutes of the Meeting of the
Arizona Game and Fish Commission
Thursday, May 5, 2016
Friday, May 6, 2016
Cottonwood Recreation Center
150 S. 6th Street
Cottonwood, Arizona 86326

PRESENT: (Commission)

(Director and Staff)

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

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

Chairman Davis called the meeting to order at 8:00 a.m. and led those present through the Pledge of Allegiance. The Commission and Director Voyles introduced themselves followed by introductions of the Director’s staff. This meeting followed an agenda revision #1 dated May 3, 2016.

Awards and Recognition

Mike Ingram with the Shikar Safari Club International Foundation, presented Wildlife Manager Aaron Hartzell with the 2015 Shikar Safari Wildlife Officer of the Year Award. Each year this award is presented to conservation officers in all 50 states. The award recognizes officers for their outstanding performance and dedication to protecting and preserving wildlife.

Chairman Davis presented the following Commission award certificates:

- Commission Commendation of Achievement to the Prescott Chapter, Mule Deer Foundation for its dedication to the conservation of mule deer, their habitat and our hunting heritage
- Commission Certificate of Appreciation to Department employee Matt Chmiel for his professional innovation and commitment in the implementation of the Commission’s priorities and the tenants of the North American Model.

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1. Call to the Public

There were no requests to speak to the Commission.

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2. Legislative Engagement and State and Federal Legislation

Presenter: Jorge Canaca, Legislative Liaison

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

Budget

The Legislature passed the budget. The Commission will receive an in-depth review and analysis at the June Commission meeting. The budget package is on the Governor's desk awaiting signature.

State Legislative Update

The following Commission supported bills are scheduled for a third read:

- HB2324: G&F; military spouses; resident licenses
- HB2465: G&F; in-lieu fee; trust fund
- HB2575: G&F; penalties; law enforcement; omnibus
- SB1361: G&F; heritage fund; expenditures.

SCM1014: administratively recommended wilderness; urging Congress

- The Department developed a Memorial addressing this bill and it has passed the Legislature. The Department is working to ensure that the Congressional Delegation is aware of the issues in Arizona.

SB1243: Mexican wolf; G&F approval; reporting

- Passed the Senate on a 22-8 vote and has been transferred to the Governor's desk.

Other Bills of Interest

SCM1018: recreational shooting; Sonoran Desert Monument

- Provisions: Urges the U.S. Bureau of Land Management to Maintain Access to Public Recreational Shooting Opportunities in the Sonoran Desert National Monument.

The Department has been working with the National Rifle Association and the Congressional Sportsmen Foundation on a Memorial regarding this bill. The Department recommends that the Commission vote to support SCM1018.

Motion: Madden moved and Zieler seconded THAT THE COMMISSION VOTE TO SUPPORT SCM1018.

Vote: Unanimous

Director's Presentation to CSA

Director Voyles provided a presentation to the County Supervisors Association. All Arizona Counties participated. The presentation included an update and discussion on the following:

- Antiquities Act
- Burro Overpopulation
- ESA Proposed Listings

- Mexican Wolf Recovery
- Department role/presence in every County
- Department Economic Benefits
- Future Partnerships

Congressional Update

S.2012: Energy Bill; Bipartisan Sportsmen's Act of 2015

- Includes 12 Provisions
 - Pitt/Rob Shooting Range
 - Polar Bear Provision
 - Farmer/Hunter Protection Act
 - Army Corps Firearms
 - NAWCA Re-up
 - FS/BLM - Hunt/Fish/Shoot
 - Public Lands Filming
 - Transporting Bows NPS
 - Making Public Lands Public (LWCF 1.5%)
 - Hunt Act
 - FLTFA Reauthorization
 - National Fish/Wildlife Foundation Re-up

Last week during a markup, the Bipartisan Sportsmen's Act (S. 659) passed out of the Senate Environment and Public Works Committee on a bipartisan vote. S.659 includes: the Hunting, Fishing, and Recreational Shooting Protection Act (adding lead fishing tackle to the list of exempted products from EPA regulation); Target Practice and Marksmanship Training Support Act; Polar Bear Conservation and Fairness Act; Farmer and Hunter Protection Act; protecting the right of individuals to bear arms at water resource development projects; and the reauthorization of the North American Wetlands Conservation Act and the Multinational Species Conservation Funds Act.

Among other provisions that were added to the bill today, were the authorization of Fish Habitat Conservation Act; reauthorization of the Neotropical Migratory Bird Conservation Act; and an amendment to uphold the U.S. Fish and Wildlife Service delisting of the Great Lakes region and Wyoming gray wolves from the Endangered Species Act.

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3. Commission Priorities Update

Presenter: Kent Komadina, Special Assistant to the Director

The Department provided an update on progress towards accomplishing the following Commission Priorities:

- Increase Access/Landowner Relations
- Customer Service, Technology, Research and 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.

Chairman Davis commented on the recent Department Employee Engagement Conference and complimented the Director and staff for putting on this outstanding event. He would like to add to the Commission priorities a regular update on the implementation of the process improvement recommendations that came out of the conference.

Chairman Davis discussed with Mr. Komadina that the Commission would like the Department to add to these presentations, items that are accomplished and completed related to the priorities list.

Mr. Komadina will expand the presentation to include the projects that drive the priorities and include their status or accomplished successes.

Law Enforcement Branch Chief Gene Elms provided a PowerPoint presentation and update on the Commission Priority related to “Maximize Officer Field Time and Promote Fair Chase.” Mr. Elms briefed the Commission on Department activities in working toward the items related to this category, which are:

- Fair chase/hunter ethics
- Free up officer time for field activities
- Community relations
- Implement steps to drive voluntary compliance
- Community policing model
- Build presence through positive relationship building
- Ensure equipment and training needs are met.

The presentation included an update on the following:

- Law enforcement staffing
- Youth camps, clinics, press releases and Article 3 revisions to promote fair chase and hunter ethics
- Volunteer efforts to free up office time
- Officer training and equipment
- Financial enhancements.

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Meeting recessed for a break at 9:10 a.m.

Meeting reconvened at 9:25 a.m.

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5. Shooting Range Development Grant Requests for FY 2017

Presenter: Mike Raum, Statewide Shooting Range Administrator

Mr. Raum provided a PowerPoint presentation and briefing on the Department's Shooting Range Development Grant Program, which received 6 grant applications for fiscal year 2017. The Department requests Commission approval for 5 of the 6 applications, totaling \$99,921.50 of the \$100,000 available. The following is a summary of the grant applications received for the FY17 Shooting Range Grant cycle and the Department recommendations:

Tri-State Shooting Park (Bullhead City): Requested \$33,804.00 for construction of the Five Stand and Skeet Range, including construction of high and low skeet houses, rabbit trap house, sidewalks and shooting stations. The Department recommends funding total the amount requested.

Tucson Trap and Skeet Club (Tucson): Requested \$33,000 for improvements to the facility, including perimeter fence signage, road improvements, card readers and safety fences. The Department recommends partial funding for safety projects (\$13,000).

Town of Oro Valley, Naranja Park Archery Range (Oro Valley): Requested \$34,000 for phase II construction projects, including two new shade structures. The Department recommends partial funding to complete 1 new shade structure (\$10,000).

Pima Pistol Club (Catalina): Requested \$32,855 for construction of new shade ramada and concrete slab. The Department recommends funding project (\$31,117.50).

Yuma Trap & Skeet Club (Yuma): Requested \$12,000 to replace existing electrical wiring to the trap and skeet ranges. The Department recommends funding total amount.

Town of Chino Valley Trap Range (Chino Valley): Requested \$50,000 to construct a trap range in conjunction with their existing range. The Department recommends not funding at this time.

Chairman Davis discussed project opportunities that go above the grant cap of \$50,000 and questioned whether there should be a cap.

Director Voyles noted that there are other opportunities and options available for funding larger projects, however, the Department will review the design of the grants and bring that back to the Commission with recommendations.

Motion: Sparks moved and Madden seconded THAT THE COMMISSION VOTE TO APPROVE THE SHOOTING RANGE GRANT APPLICATIONS AS PRESENTED FOR THE FY17 GRANT CYCLE FOR A TOTAL OF \$99,921.50.

Vote: Unanimous

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8. Memorandum of Understanding with the National Audubon Society and the Tucson Audubon Society.

Presenter: Josh Avey, Branch Chief, Terrestrial Wildlife

Mr. Avey briefed the Commission on a Memorandum of Understanding (MOU) with the National Audubon Society and the Tucson Audubon Society to implement conservation and environmental education programs for the benefit of native birds and their habitats. The purpose of this MOU is to establish a framework for collaboration and cooperation between the Department, the National Audubon Society and the Tucson Audubon Society to conserve and enhance bird populations and their habitats in Arizona. Conservation and enhancement of bird populations may be accomplished through the Arizona Important Bird Areas Program, educational programs, and other projects of mutual interest. This MOU will continue a standing relationship between the Department, the National Audubon Society (including Audubon Arizona) and the Tucson Audubon Society, and will allow collaboration, cooperation, exchange of expertise, labor, materials and funding to assist the Department in conservation and management of bird species in Arizona.

Public Comment

Tice Supplee, Bird Conservation Director for Audubon Arizona, addressed the Commission in support of the MOU.

Motion: Sparks moved and Zieler seconded THAT THE COMMISSION VOTE TO APPROVE THE MOU AS PRESENTED OR AS RECOMMENDED BY THE OFFICE OF THE ATTORNEY GENERAL.

Vote: Unanimous

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9. Approve Memorandum of Understanding with the Natural Resource Conservation Service (NRCS) for a Habitat Restoration Project Located North of the Colorado River.

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

Mr. Eiden briefed the Commission on a Memorandum of Understanding (MOU) to allow the Department to cooperate with the Natural Resource Conservation Service (NRCS) on projects that improve wildlife habitat. The Department and the NRCS agree to work cooperatively to conduct habitat enhancement projects for mule deer and all other wildlife species occurring in Arizona north of the Colorado River. This MOU provides a framework for the relationship with regard to future activities and directs funding from NRCS, the Department, and several other partners towards priority habitat projects for the Department.

Motion: Ammons moved and Madden seconded THAT THE COMMISSION VOTE TO APPROVE A MEMORANDUM OF UNDERSTANDING WITH THE NATURAL RESOURCE CONSERVATION SERVICE AND TO AUTHORIZE THE DIRECTOR, AS SECRETARY TO THE COMMISSION, TO EXECUTE THE AGREEMENT AS PRESENTED OR AS RECOMMENDED BY THE OFFICE OF THE ATTORNEY GENERAL.

Vote: Unanimous

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10. License Agreements for Management of the Nine Commission Shooting Ranges

Presenter: Mike Raum, Statewide Shooting Range Administrator

Mr. Raum provided a PowerPoint presentation and briefing on the Department's proposed revision of License Agreements for management of the Commission's nine shooting ranges. The Department currently needs to execute a license agreement with White Mountain Shooters Association for management of the Second Knoll Target Range, a new shooting range located on forest service land just east of Show Low, Arizona. The Department has a Special Use Permit from the Apache-Sitgreaves National Forest Service for the purpose of maintaining a public shooting range on the property. The license agreement incorporates the Forest Service terms and conditions for management of the range. It is also the intention of the Department, that this license agreement be used to update current club licenses for all Commission shooting ranges. The reason for updating all licenses at this time is to bring them all up to date with new requirements such as the handling of hazardous materials and new Arizona Department of Administration insurance requirements.

Motion: Zieler moved and Sparks seconded THAT THE COMMISSION VOTE TO APPROVE LICENSE AGREEMENTS FOR MANAGEMENT OF THE NINE COMMISSION SHOOTING RANGES AND AUTHORIZE THE DIRECTOR, AS SECRETARY TO THE COMMISSION, TO EXECUTE THE AGREEMENT AS PRESENTED OR AS RECOMMENDED BY THE OFFICE OF THE ATTORNEY GENERAL.

Vote: Unanimous

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11. Intergovernmental Agreement with Mohave County

Presenter: Chris Cantrell, Aquatic Wildlife Branch Chief

Mr. Cantrell briefed the Commission on an Intergovernmental Agreement between the Department and Mohave County to facilitate the construction of a fishing pond in the City of Kingman. Multiple partners including Mohave County, City of Kingman, Kingman Elks Club and the Arizona Game and Fish Department been working to secure funding, find a suitable location and create a construction plan to build a fishing pond in the City of Kingman. A suitable site has been selected and a plan has been completed. The Department wishes to contribute secured funding, held in trust by Mohave County for up to three years, to encourage other partners that have committed in principle to commit funding. Mohave County is supportive of accepting up to \$100,000 in an effort to contribute towards the creation and maintenance of a fishing pond within the City of Kingman. The terms of the agreement are as follows:

The Commission agrees that the Department shall:

1. Contribute funding not to exceed \$100,000 to the County to hold in trust to use toward the construction and maintenance of a fishing pond within five miles of the incorporated boundaries of the City of Kingman
2. Continue to facilitate plans, contribute technical and biological expertise toward pond construction and maintenance as necessary and reasonable.

Mohave County shall:

1. Hold in trust, Department contributed funding, to be utilized for the construction, operation and/or maintenance of a fishing pond within five miles of the incorporated boundaries of the City of Kingman.

Both parties mutually agree to:

1. Work in harmony for the common purpose of constructing, managing and promoting a fishing pond within five miles of the incorporated boundaries of the City of Kingman.

Motion: Madden moved and Zieler seconded THAT THE COMMISSION VOTE TO AUTHORIZE THE DEPARTMENT TO FINALIZE NEGOTIATIONS, EXECUTE, AND AMEND AS NECESSARY A INTERGOVERNMENTAL AGREEMENT AS RECOMMENDED BY THE OFFICE OF THE ATTORNEY GENERAL BETWEEN THE DEPARTMENT AND MOHAVE COUNTY.

Vote: Unanimous

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Meeting recessed for a break at 9:57 a.m.

Meeting reconvened at 10:00 a.m.

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

Presenter: Gene Elms, Law Enforcement Branch Chief

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

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13. 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 Madden 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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7. Petition by David Meyer to Amend the Pronghorn Season Open Areas in Commission Order 29 (Special Big Game Tag Seasons).

Presenter: Josh T. Avey, Terrestrial Wildlife Branch Chief

Mr. Avey briefed the Commission on a petition by David Meyer to amend Commission Order 29 (Special Big Game Tag Seasons) to add Units 35A and 35B as open areas during the pronghorn season. Mr. Meyer feels that Units 35A and 35B should have been included as an open area for the special tag hunters since it is open to the general hunter in the computer draw. In his petition, Mr. Meyer indicates that a precedent was set by the Commission in the late 1990s when the Commission approved amending Commission Order 29 to add Unit 19A to the pronghorn season.

Open areas are added to Commission Order 29 once a hunter issued a hunt permit-tag through the computer draw has had the opportunity to hunt that area. This supports the North American Model of Wildlife Conservation tenet of hunting opportunities for all, ensuring everyone has the opportunity. In 2012, Units 35A and 35B were closed to pronghorn hunting when the population surveys revealed only 26 pronghorn and no fawn recruitment. Since then, the Department in conjunction with the Arizona Antelope Foundation has completed habitat improvements, fence modifications, targeted coyote removal prior to fawning season, and a supplemental translocation. The pronghorn population has responded well to these activities. In December 2015, the Department recommended opening these units again to hunting with a conservative number of permits, as the population is recovering and the age structure of the population is fairly young.

In the case of this petition, a pronghorn hunt in Units 35A and 35B was authorized by the Commission for September 2-11, 2016 but the general hunter has not yet had the opportunity to hunt the units. The proposed amendment, if approved, would allow the special tag hunters access to this area before the general hunter had access; the special tag season starts August 15, 2016. In Mr. Meyer's example, Unit 19A had been opened to the general hunter and that hunt had already occurred; thereby making Unit 19A an eligible open area for the special tag pronghorn season. That year, the Department inadvertently missed recommending Unit 19A as an open area when Commission Order 29 was brought before the Commission. The Department disagrees that a precedent was set in the Unit 19A example, as the Commission acted to amend an inadvertent omission.

Motion: Madden moved and Sparks seconded THAT THE COMMISSION VOTE TO DENY THE PETITION TO AMEND COMMISSION ORDER 29.

Vote: Unanimous

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7A. Planet Ranch Lease Amendment No. 1

Presenter: Pat Barber, Yuma Regional Supervisor

Mr. Barber presented a PowerPoint presentation and briefing on the Department's proposed Planet Ranch Lease Amendment No. 1 between the Bureau of Reclamation/MSCP and the Commission. In December 2015, the Commission received Planet Ranch which included 3,413 acres of land and 5,541 acre feet per year of water. The donation of land and water included a 50 year lease of the property to Bureau of Reclamation (BOR) to permit habitat enhancement and restoration activities as part of the LCR MSCP. Through subsequent discussion, both agencies identified some necessary clarifications within the lease and collaborated to develop this amendment.

The Planet Ranch Lease Amendment No 1 includes the following:

- Defines MSCP Habitat area under primary control of MSCP, remaining area under primary control of Commission (consultation, Commission use does not unreasonably interfere)
- Specifies public access will occur over main ranch road, other access outside MSCP Habitat will be determined by Commission after consultation with MSCP
- Creates mechanism for reimbursement to the Department for current farm contract
- Clarifies how the program may be renewed at the end of the initial 50 year commitment.

Motion: Zieler moved and Madden seconded THAT THE COMMISSION VOTE TO APPROVE THE PLANET RANCH LEASE AMENDMENT NO. 1 AND AUTHORIZE THE DIRECTOR, AS SECRETARY TO THE COMMISSION, TO EXECUTE THE AGREEMENT AS PRESENTED OR AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

Vote: Unanimous

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12. FY 18 Proposed Budget & FY 17 Modification

Presenter: Ty Gray, Deputy Director

Mr. Gray provided a PowerPoint presentation and 1st read briefing on the Department's draft FY 18 budget and proposed modifications to the FY 17 budget. The presentation included an overview of the Department's objectives, revenue sources, and the budget cycle, as well as

Commission Priorities. The Commission will be provided with a final budget presentation at the June Commission meeting.

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14. Litigation Report

There were no questions or comments regarding the Litigation Report.

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15. Approval of Minutes and Signing of Minutes

Motion: Ammons moved and Madden seconded THAT THE COMMISSION VOTE TO APPROVE THE MINUTES FROM APRIL 8-9, 2016.

Vote: Unanimous

The Commission signed the minutes following approval.

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16. Commissioner Committee Reports

Chairman Davis stated that the Commission Budget Sub-committee were in agreement with a the Department's budget processes and conclusions.

Commissioner Ammons reported on the HPAC meeting in Sonoita, which he and Commissioner Sparks attended. It was a good meeting and well attended. Attendees went on a tour to Apache Ranch to look for leopard frogs, but none were found. The next meeting will be in July.

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17. Director and Commissioner Comments

Director Voyles briefed the Commission on several of his activities in the past month as follows:

- Attended the Federal Aid Joint Task Force in Las Vegas
- Traveled to Patagonia and Tucson for a number of meetings with Bill Brake, Ron Pullium and the Catalina Bighorn Sheep members
- Traveled to Eagar to attend the Livestock Loss Board Meeting and Livestock Symposium at A Diamond Ranch
- Spoke at the County Supervisors meeting
- Attended the Arizona Government Transformation Workshops
- Attended the Employee Engagement Conference

Chairman Davis briefed the Commission on several of his activities in the past month as follows:

- Attended a Congressional Field Hearing in Kingman held by Congressman Gosar and testified on behalf of the Commission regarding the monument situation in Arizona. The Hearing was very well attended and created a critical public record.

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18. Future Agenda Items and Action Items

Deputy Director Gray captured the following future agenda and action items from this meeting:

- At the June meeting, the Department will present the annual selection of the dates and locations for Commission meetings for 2017, and the selection of the new Chairman and Vice Chairman
- The Department will add to the update on Commission Priorities, the progress on implementation of ideas and process improvements identified at the Employee Engagement Conference, and will add more robust reporting on the Commission Priorities in order to identify and check off items that have been successfully completed
- The Department will reconsider the \$50,000 cap on the shooting range grants and provide the Commission with a recommendation prior to the next grant cycle.

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13. (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: Madden moved and Zieler seconded THAT THE COMMISSION VOTE TO GO INTO EXECUTIVE SESSION.

Vote: Unanimous

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

Vote: Unanimous

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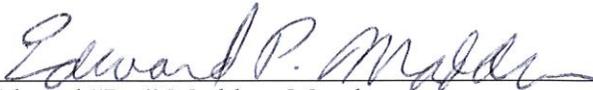
Meeting adjourned at 3:15 p.m.

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Field Trip: From 8:30 a.m. to 10:30 a.m. the Commission and Department staff participated in a tour of Page Springs Hatchery at 1600 N. Page Springs Rd, Cornville, AZ 86325. No legal action was taken by the Commission during the field trip.



Kurt R. Davis, Chairman



Edward "Pat" Madden, Member



James R. Ammons, Member

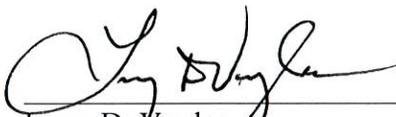


James S. Zieler, Member



Eric S. Sparks, Member

ATTEST:



Larry D. Voyles
Secretary and Director

**Game and Fish Litigation Report
Presented at the Commission Meeting
May 5, 2016**

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.

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 May 26, 2015, Arizona filed a motion to dismiss. A joint case management report was filed on July 2, 2015, and a scheduling conference occurred on July 9, 2015. On June 29, 2015, the plaintiffs filed a response in opposition to Arizona's motion to dismiss. On July 6, 2015, Arizona filed a reply in support of its motion to dismiss. On July 9, 2015, the plaintiffs filed a

motion for leave to file a surreply to Arizona's reply. 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.

Due to issues with the administrative record and time needed to resolve these issues, the court entered an order modifying the scheduling order to extend the date for filing opening motions for summary judgment. On January 8, 2015, 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*.**

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 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. Plaintiffs filed a response to NRA's motion to intervene on January 4, 2013. On January 22, 2013, the National Shooting Sports Foundation (NSSF) filed a separate motion to intervene.

On February 5, 2013, the plaintiffs filed a response to the USFS' motion to dismiss. On February 22, 2013, the District Court issued an order granting the USFS until March 25, 2013 to file a reply in support of its motion to dismiss. On March 25, 2013, the Forest Service filed a reply in support of its motion to dismiss. The parties are awaiting an oral argument hearing on the motion to dismiss.

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. On November 27, 2013, plaintiffs (now appellants) filed an opening brief with the Ninth Circuit Court of Appeals. The Forest Service filed its opening brief on January 29, 2014 and the Commission filed its amicus brief on February 7, 2014. Plaintiffs filed their reply brief on March 21, 2014.

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.

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 civilly assessed by the Commission for the loss of wildlife to Arizona. Their 28-page complaint alleges that A.R.S. §17-314 does not authorize the Commission to impose civil assessments and claims several due process violations in the manner in which the hearing was noticed and conducted. They seek an order from the court declaring the Commission's actions unlawful, enjoining the Department and Commission from levying the civil assessments, and requiring the Department to issue resident/nonresident hunting licenses to Plaintiffs and permitting them to apply for big game tags.

Holden and Guynn filed a petition for review with the Arizona Supreme Court seeking a reversal of the Court of Appeal's ruling that the Attorney General is authorized to represent the Commission in this matter. The Arizona Supreme Court denied the plaintiffs' petition for review. **The case is now remanded back to the Superior Court. A court status conference is set for May 6.**

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 will file a motion to intervene in this action.