

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, September 4, 2015
Saturday, September 5, 2015
Springerville Town Hall
418 E. Main Street
Springerville, Arizona 85938

PRESENT: (Commission)

(Director and Staff)

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

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

Chairman Davis 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 of the five United States service members killed by a gunman in Chattanooga, Tennessee.

The Commission and Director Voyles introduced themselves and Director Voyles introduced his staff. This meeting followed an agenda revision #1 dated September 2, 2015.

Introductions and Welcome

Regional Supervisor Chris Bagnoli addressed the Commission and welcomed them to Springerville and Round Valley, and provided a brief overview of the area and community.

Phelps Wilkin, Springerville Town Councilman welcomed the Commission. He appreciates the projects that the Department and the Town of Springerville have worked on together.

David Gowan, Arizona Speaker of the House of Representatives, addressed the Commission. He appreciates the Commission traveling to different communities for their meetings, and also appreciates the big issues the Commission is involved with such as the Mexican Wolf Recovery Program and federal land issues.

Special Recognitions and Commendations

Chairman Davis presented Department employee Mike Godwin with a Commission Certificate of Appreciation for his exemplary efforts working to recruit and retain the next generation of hunters and for working to improve wildlife habitat across the Pinetop Region.

Commissioner Zieler presented Bill and Barbara Marks with a Commission Commendation of Achievement for their exemplary efforts working with the Arizona Game and Fish Department to manage natural resources on the Marks Ranch.

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1. Call to the Public

Cinda Howard, works for a guide service and has concerns about the Department's plans for the west fork of the Black River; it is a good viable brown trout hatchery and she is concerned about the Department killing the brown trout for introducing Apache trout.

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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. Director Voyles presented these items to the Commission and no items were pulled for discussion. The Commission took action on the following:

a. Approval of Revised Commission Policy A2.18, Multiple-Use Management of Public Lands.

Presenter: Kent Komadina, Special Assistant to the Director

The Department requested the Commission to approve revised Commission policy A2.18, Multiple-Use Management of Public Lands (attached). The policy has been revised to increase clarity and understanding.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE THE REVISED COMMISSION POLICY A2.18, MULTIPLE-USE MANAGEMENT OF PUBLIC LANDS.

b. Approval of Amended Commission Policy A2.29, Undercover Operations Outside of Title 17 and Title 5

Presenter: Gene Elms, Law Enforcement Branch Chief

The Commission was presented with a recommendation to amend the Commission policy that provides the Commission's position on undercover operations outside of Title 17 and 5. The Commission policy is amended to update language relating to requests for special operation assistance outside of Title 17 and 5. In addition, the procedures contained within the policy were moved to the Department's Law Enforcement Manual.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE THE REVISED COMMISSION POLICY A2.29, UNDERCOVER OPERATIONS OUTSIDE OF TITLE 17 AND TITLE 5.

Motion: Mansell moved and Madden seconded THAT THE COMMISSION VOTE TO APPROVE CONSENT AGENDA ITEMS A AND B.

Vote: Unanimous

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3. 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:

State Legislative Update

2016 Department Recommended Legislative Proposals:

- **In-Lieu Fee and Restoration Endowment.** The Department is seeking the ability to transfer ILF funds into an equity type account to gain sufficient interest to provide for long-term O&M.
- **Methods of Take/ Exemption (Fair Chase).** Department recommendation in response to the Commission and Director's desire to have greater agility in acting quickly, outside of the normal rulemaking process in order to address rapidly evolving technology or practices that have ethical methods of take implications. The legislation may also provide the Commission with rapid response capability for rule changes in response to an unanticipated crisis in wildlife health or population control.
- **Use-Tax Exemption.** Amend ARS 42-5159 to include exemptions from Use Tax for three important commodities: 1) Commercially-produced live fish that are purchased for stocking into public waters for recreational and economic benefits to the general public and Arizona communities, 2) Fish feed used to grow fish in State and private aquaculture facilities for recreational and economic benefits to the general public and Arizona communities, and 3) FDA-approved drugs used to treat fish in an aquaculture facility. The Department paid over \$63k in use tax in FY14. Est. Use Tax for these items is expected to surpass \$72k in FY16. These exemptions would be similar to exemptions made for commercial livestock & poultry farms.
- **LE Omnibus-USCG PFD Definition, Wildlife Theft Prevention Fund, Unlawful Feeding**
 - **USCG PDF Definition.** The United States Coast Guard (USCG) has issued a final rule that will replace references with a more simple labeling system for personal flotation devices PFDs. The final federal rule instituting this change was effective October 22, 2014. The proposed changes to Title 5 referencing PFDs will bring Arizona's boating law into conformity with federal regulations as required by A.R.S. 5-311(A)(2).
 - **Wildlife Theft Prevention Fund.** The proposed change would allow Special Operation Unit investigators to use WTPF funds to investigate a much broader and much more commonly encountered wildlife crimes, other than unlawful commercial use of wildlife (ie. Unlawful take an possession). Adoption of the suggested statutory language will provide investigators much broader latitude in investigating a full spectrum of wildlife crimes and fraud.
 - **Unlawful Feeding of Wildlife.** This change would target individuals who habitually feed wildlife and create conditions where the health and welfare of the public becomes a concern. Feeding wildlife is a regular occurrence in urban areas and often results in property damage and human exposure to disease through bites incurred by offending animals. Offenders are cited after multiple warnings, however, the damage wildlife involved is done. This change will allow the

Department to recover established sums of damage for the loss of wildlife in the event of lethal removal due to violations of ARS 13-2927.

If the Commission approves, these proposals will be submitted to the Governor's Office by September 15th. During October and November, the Department will research and coordinate with stakeholders and potential sponsors. At the December Commission meeting, the Department will present the final proposals to the Commission for final direction.

Commissioner Ammons recommended that the Department look into potential legislation for a solution to the Department's Heritage property operation and maintenance issues.

Chairman Davis suggested bringing back potential legislation that was developed a year ago by an adhoc committee that was created to look into the issues as mentioned by Commissioner Ammons.

Mr. Canaca stated that he would bring that back to the Commission.

Chairman Davis discussed with Director Voyles another issue regarding the Department's law enforcement officers related to covered and uncovered status. Chairman Davis asked the Department to look into a potential legislation that would allow the Department's sworn law enforcement officers to remain covered, the same as other state agency law enforcement officers are covered.

The Commission was in consensus for the Department to move forward on potential legislation as presented and discussed.

Congressional Update

S.782: Grand Canyon Bison Management Act: The Department has been coordinating with Senator McCain's office. Senator McCain has indicated that he is willing to pursue a Mark-up of the measure in the Senate (ENR). The Department anticipates Congressman Gosar will do the same in the House.

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Meeting recessed for a break at 9:00 a.m.

Meeting reconvened at 9:08 a.m.

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4. Key Systems Development Initiatives

Presenter: Doug Cummings, Branch Chief, Information Systems

Mr. Cummings presented a PowerPoint presentation and update on key systems developments related to Portal releases, online systems rewrites, Portal operations, online draw, and the development of other related systems driving data integration and the ability to deliver additional functionality and content through the Portal. Included in the presentation was an overview of Portal 2.0 (tag surrender), Game Data Management 1.0 (surveys), and FINS 2.0 (Hatchery Management System).

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5. Wolf Briefing

Presenter: Chris Bagnoli, Pinetop Regional Supervisor

Mr. Bagnoli provided a PowerPoint presentation and overview of the Mexican wolf reintroduction program that included current project cooperators and project management, specifically the project management level related to the Interagency Field Team (IFT)'s implementation of management. The presentation included current wolf management guided by the IFT's Standard Operating Procedures and priorities, and an overview of management conflicts including wolf-livestock interactions, nuisance wolf behavior, health and human safety, and impact to ungulates. This update is provided to the Commission on a regular basis and includes all actions the Department has taken to accomplish prior direction provided by the Commission.

Commissioner Zieler thanked Mr. Bagnoli for his presentation and stated that he requested this briefing at this meeting in Region I because the public in this region is impacted directly by the wolf recovery program. He asked Director Voyles to make some comments and provide some background and information for the public.

Director Voyles provided a short briefing regarding the Department's compliance with the Endangered Species Act and the non-discretionary nature of it. The Endangered Species Act (ESA) in 1972 created federal controls over species that are listed and empowers the USFWS to make a determination over what species are or will be listed under the ESA. When the USFWS lists a species, it comes under federal control. This doesn't mean that the states have no role, but it means that the states don't get to define the programs or make the decisions. The State of Arizona works in collaboration with the USFWS and tries to maintain a place at the table to have influence to the degree possible on how management programs are implemented, including the development and/or expansion of the 10(j) rule, population limits, degrees of acceptable impacts to ungulate populations, and actions to protect livestock interests and mitigations for livestock losses or to prevent losses. Also, by having Department staff on-the-ground doing part of the work, the Department hopes to be able to create a communication conduit for awareness and influence on how the project is actually being managed close to the people that live here in Arizona.

Public Comment

The following members of the public were present and addressed the Commission or submitted comments in support of Mexican wolf recovery in Arizona:

- Mike Sorum, representing self: Supports Commission reconsideration to release adult captive-bred wolves into the wild (handouts provided and on file)
- Billie Hughes, Great Old Broads, White Mtn Conservation League: Stated that wolves belong here and we can live with wolves
- Dorothy Inman, representing self: Wolves are important for natural balance and for tourism; would like to see the Commission allow the release of captive-bred adult wolves

- Jean Ossoria, from Las Cruces, NM, representing self: Deeply disappointed in the Commission decision to cease approving the release of adult wolves from the captive population

Video teleconferenced from the Department's HQ in Phoenix:

- Kathy Walsh, Great Old Broads for Wilderness: Opposes the Commission's decision to not release adult wolves from captive breeding projects
- Sarah King, Arizona Faith Network (was not present at this time)

Video teleconferenced from Region II Flagstaff:

- Roxanne George, representing self: Requested the Commission do field trips on Fridays and regular agenda items on Saturday, so more people can speak to issues that are important to them; recommended more notice weeks in advance of decisions and more public input prior to decisions
- Toni Prothero, representing self: Expressed disappointment in the Commission's recent decision to block release of adult captive Mexican wolves and the process by which the decision was made; there should have been a public notice and public input prior to this decision; science and not politics should govern the Mexican wolf recovery program
- Jean Myers, representing self: Polls show public support of Mexican wolf recovery; captive adults should be released; wolf populations should increase to a minimum of 750
- Emily Renn, Grand Canyon Wolf Recovery Project: Supports increasing Mexican wolf population numbers; reminded the Commission that the Mexican wolf is an endangered species
- Kay Bordwell, representing self: Supports the recovery of Mexican wolf in Arizona; supports the release of adult wolves from captive breeding facilities
- Kathleen Cheatham, representing self: Mexican wolves need genetic rescue; there are too few wolves over thousands of acres; more focus should be on the economic value of wolves.

Video teleconferenced from Region I Pinetop:

- Hugh Murray, representing self, supports Mexican wolf recovery.

The following members of the public were present and addressed the Commission in opposition to Mexican wolf recovery in Arizona:

- Doug Stacy, rancher owner: Commented that most of the time, you can't confirm the loss or depredation by wolves on livestock
- Karol Clark, resident of Young, AZ, representing self: More transparency is needed; opposed to releasing wolves in Northern Gila County (written comments provided and on file)
- Mary Macnub, representing self: The science is not settled on whether the Mexican wolf is genetically eligible for recovery; the decision to recover is arbitrary and subjective
- Gerald Scott, representing himself: Is not in favor of the wolf program; the new population target is not acceptable
- Wink Crigler, X Diamond Ranch: Opposes the expansion of the Mexican wolf recovery area (written comments provided and on file)
- Barbara Marks, representing self: Opposes increasing wolf populations; appreciates no releases of naïve adult wolves from captive breeding facilities
- David Gowan, Speaker of the House of Representatives, representing self: Supports state sovereignty and questioned/elaborated on where the constitutionality was in regards to laws placed upon the states by the federal government.

Chairman Davis read the following statement into the record:

“Since the inception of the Mexican wolf program, the Arizona Game and Fish Commission and Department have supported the efforts to re-establish this component of Arizona’s diverse wildlife community in an organized and reasonable manner. From time to time, these restoration efforts have been controversial, and have often resulted in heightened opposition and concerns when the actual releases of wolves occur.

Conversely, there has also been criticism when releases have not occurred. Now having been on the Commission for nearly four years, I, like other Commissioners are frequently contacted by individuals and organizations who have strong opinions on both sides of the effort, with one common theme. There is a lack of information, input opportunities and transparency by the recovery lead, the U.S. Fish and Wildlife Service.

This was made abundantly clear to me recently when the federal agencies held planning meetings to select possible release sites. Unfortunately, rumors abounded on the intent of these meetings and I and other Commissioners were inundated with phone calls and emails expressing concern for lack of information about these meetings, their intentions and the decisions that may or may not have been made there.

My personal view is that in the absence of information and the opportunity for feedback being provided by the U.S. Fish and Wildlife Service, residents in the area were left to draw their own conclusions on what was occurring. This is fundamentally wrong and creates an environment where achieving a fruitful and transparent balance built on fundamental fairness, scientific integrity, social tolerance economic realities and historic context get lost in translation and instead create an environment of distrust, instability, frustration and misinformation.

As a result of this reality and the need to force changes in the current communications and decision making system that will respect transparency, increase feedback and enhance public participation with the citizens in the impacted areas, along the Arizona Game and Fish Department and the governments of our Native American partners. Thus, the Commission is directing the Department to work with the U.S. Fish and Wildlife Service to implement the following communication and transparency enhancements. The Commission is also clearly stating that these changes are necessary for there to be a continuation of a cooperative relationship between our agency and the U.S. Fish and Wildlife Service:

1. Initiate the development of an overarching management plan to guide the implementation of the new 10(j) rule and establish clear roles, relationships and operating standards.
2. As a required component of the overarching management plan, create a specific public process policy to notify and receive comment from stakeholders, potential impacted citizens and their local governments of any major actions to be taken by the USFWS for the Mexican Wolf Program. A minimum of 30 days to proposed actions through public meetings in the impacted area and via public comments should be included in the new process.
3. Develop an annual work plan that outlines key actions such as identification of release sites and particularly releases planned and dates for these actions. This would be made available to all interested parties on the Fish and Wildlife Service and Department websites. Any decisions on releases will be made public no less than 30 days before the release is planned and would involve public meetings and comments in the impacted area.

4. Maintain all documents, decisions, communications, etc. for the Mexican wolf Program on a web page specific location for the public to more readily be able to find important information about the program.
5. Work with the Fish and Wildlife Service to create a monthly public information newsletter that will be placed on both agency websites.

The Commission also directs the Department to provide the Commission with a status report on these efforts as part of the routine briefing to the Commission related to the Mexican Wolf Program.”

Motion: Zieler moved and Madden seconded THAT THE COMMISSION VOTE TO APPROVE DIRECTION TO THE DEPARTMENT AS PROVIDED IN CHAIRMAN DAVIS’ STATEMENT.

Vote: Unanimous

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Meeting recessed for a break at 10:55 a.m.

Meeting reconvened at 11:13 a.m.

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6. Shooting Sports Activities Briefing

Presenter: Marty Fabritz, Shooting Sports Branch Chief

Mr. Fabritz provided a PowerPoint presentation and update on Department activities related to shooting sports including shooting programs and shooting range development statewide. The update covered activities that have occurred since the February 6, 2015 Commission meeting. The following updates were included in the presentation:

Shooting Range Improvements and Activities:

- Northern Arizona Shooting Range
 - Completed construction of 4 new trap fields (Two were completed thanks to the help of a NRA grant)
 - Completed campground road and 16 camping spots
 - Installation of septic system
 - 3,600 tons of AB purchased and graded to improve FSR 128
 - Host site for BASF archery program’s 3D shoots throughout the summer (First archery events at the range)
- Ben Avery Shooting Facility
 - A cultural survey was completed for the entire property
- Second Knoll Target Range
 - Received SUP from Forest Service
 - Draft designs completed
- Sierra Vista Shooting Range
 - Constructed first skeet field
 - A cultural survey was completed for the entire property

- St. Johns Shooting Range
 - A cultural survey was completed for the property
 - New access road was constructed
 - Perimeter fence was completed
 - Installed 20 new concrete target stands
- Tri-State Shooting Park
 - Canopies were installed on the rifle, pistol and clay target ranges
- Usery Mountain Shooting Range
 - Construction of the new Shooting Sports and Hunter Education Training Center started this summer
- BASF Main Range
 - Berger Bullets donated a \$300,000 building to the range; New Berger building was completed in February
 - NightForce donated \$120,000 towards a new parking lot in conjunction with the new Berger Building
- BASF Clay Target Center
 - Placed a used mobile office at the FITA Range
 - Completed phase I construction of the new Pavilion

Recreational Shooting on Public Lands:

- The Department has been involved for the past couple of years with Tread Lightly and other partners in a campaign in Arizona called “Respected Access is Open Access. The campaign has included volunteer cleanup projects, outreach, and fundraising. A special event coming up will be a Fun Shoot and Dinner fundraiser scheduled for November 7, 2015 at the Arizona State Credit Union Pavilion located at the Ben Avery Shooting Facility.
- The Department is working with partners on the Coronado National Forest near Sierra Vista. Unmanned shooting range options are under consideration.

This presentation also included an overview and statistics related to special events held for shooters and archers, as well as information on volunteer hours, shooter days, and revenue.

Chairman Davis recommended that the information related to the economic impacts from shooting/archery events be sent to the mayors of the respective municipalities where those activities occur.

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7. Request to Approve Final Rulemaking Amending Article 1 Rules Addressing Definitions and General Provisions, R12-4-302 Use of Tags, R12-4-611 Addressing Petition for a Hearing Before the Commission When No Remedy is Provided in Statute, Rule, or Policy, and R12-4-804 Addressing Public Solicitation or Event on Department Property.

Presenter: Amber Munig, Big Game Supervisor

Ms. Munig provided a PowerPoint presentation and briefing on the Department’s request for the Commission to approve a Notice Final Rulemaking and Economic Impact Statement amending

Article 1 Rules Addressing Definitions and General Provisions, R12-4-302 Use of Tags, R12-4-611 Addressing Petition for a Hearing Before the Commission When No Remedy is Provided in Statute, Rule, or Policy, and R12-4-804 Addressing Public Solicitation or Event on Department Property.

The Department proposes to amend rules within Article 1 to enact recommendations developed during the preceding Five-year Review Report approved by the Commission in January 2014 and by the Governor's Regulatory Review Council in April 2014; incorporate direction provided in August 2014 regarding bundled services; and address legislative amendments related to tag transfer. The Department proposes the following rule amendments:

R12-4-103. Duplicate Tags and Licenses:

- Establish that duplicate licenses expire 12/31 when the expiration date cannot be verified.

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

- Prohibit a person who reached the bag limit specified in Commission Order from applying for another hunt permit-tag during the same year to increase consistency between rules.
- Clarify manual and electronic fee requirements in response to customer comments.
- Establish that overpayments of \$5 or less will not be refunded and are considered a donation to the Game and Fish Fund as the processing costs are greater than the refund.
- Allow a person to retain accrued loyalty and bonus points when the payment submitted is less than the required fees, but sufficient to cover the application/license fees in response to customer comments.

R12-4-105 License Dealer's License

- Establish a deadline by which a license dealer is required to transmit license/permit fees to align rule with statute and that the Department may allow a license dealer to issue licenses and permits via an online License Dealer Portal.

R12-4-106. Special Licenses Licensing Time-frames

- Establish time-frames for the Authorization for Use of Drugs on Wildlife.

R12-4-107. Bonus Point System

- Enable the Department to remove any bonus point fraudulently obtained to increase consistency between Commission rules.
- Establish that the Department shall restore bonus points when a person donates or surrenders a tag in compliance with R12-4-118 or R12-4-121.
- Simplify the military member/bonus point reinstatement process to provide better customer service (this change is in response to customer comments) and clarify that the requirements of R12-4-118 do not apply to a military member requesting reinstatement of bonus points.
- Allow a person to retain accrued loyalty and bonus points when the payment submitted is less than the required fees, but sufficient to cover the application/license fees in response to customer comments.

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

- Specify the Commission's interpretation of the recreational permit exemption provided by the State Lands Department.

- Indicate a license holder shall not operate motor vehicles off-road or on roads that are closed to the public, except to pick up lawfully taken big game animals to increase consistency between Commission Rules.

R12-4-111. Identification Number

- Remove language that allows a person to use their SSN as a Department ID number.

R12-4-113. Small Game Depredation Permit

- Establish that the Department shall determine allowable methods of take to ensure non-target wildlife health.

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

- Remove descriptive tag features to provide the Department with greater flexibility in procuring tags and allow for a paperless process.
- Reserve one hunt permit-tag for a hunt that has more than one but less than five hunt permit-tags (in the bonus pass of the computer draw).
- Establish the Department shall not issue more than 50% of the hunt permit-tags available to nonresidents through the initial bonus point pass of the computer draw to increase opportunity for nonresidents with low or no bonus points.
- Prohibit a person who reached the bag limit specified in Commission Order from applying for another hunt permit-tag during the same year to increase consistency between rules.
- Remove the 10% nonresident cap for javelina by hunt number to increase the odds for a nonresident to draw a tag.

R12-4-115. Supplemental Hunts and Hunter Pool

- Enable the Commission to approve a supplemental hunt by Commission Order to establish a more efficient process.

R12-4-116. Reward Payments

- Increase the reward value for all wildlife listed under this rule to \$500. Reward amounts were established in 1991 and have not changed since that time.

R12-4-118. Hunt Permit-tag Surrender

- Establish an online membership program that includes tag surrender, bonus point reinstatement, and tag re-issuance requirements.

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

- Allow a person to transfer an unused big game tag to a 501(c)(3) organization that provides hunting opportunities and experiences to a veteran of the U.S. Armed Forces with a service connected disability to align the rule with statute.
- Clarify that a tag may not be transferred to a person who has reached the applicable annual or lifetime bag limit for that genus to increase consistency between Commission laws and rules.
- Establish requirements for the reinstatement of bonus points when a person donates a tag to a qualified 501(c)(3) organization.

R12-4-124. Public Solicitation or Event on Department Property

- Amend and renumber to R12-4-804.
- Allow mid-level managers to approve minor, incidental solicitations on Department properties to increase efficiency and eliminate unnecessary administrative delay.
- Require a vendor who is working under a sponsor to provide certificates of insurance to the Department, when applicable.

- Remove the ability for the Department to waive a requirement due to an applicant's inability to pay a deposit, an insurance premium, or a service provider to reduce the Department's and State's liability.
- Require a sponsor who intends to serve alcohol at an event to present a valid liquor license and liquor liability rider (included with the insurance certificate).
- Prohibit the possession and use of unlawful drugs to reduce the Department's and State's liability.

R12-4-125 Proof of Domicile

- Establish a list of documents that may be used as proof of domicile as authorized under 17-101(A)(7).

R12-4-302. Use of Tags

- Remove descriptive tag language to provide the Department with greater flexibility when procuring tags or implementing new tag features.

R12-4-611. Petition for Hearing Before the Commission When No Remedy is Provided in Statute, Rule, or Policy

- Prohibit persons from petitioning the Commission for reinstatement of any expended bonus points, except as authorized under R12-4-107(J) and (M) and the proposed rule, R12-4-118.

The Commission approved the Notices of Docket Opening and Proposed Rulemaking at the June 2015 Commission Meeting. The rulemaking record was open for public comment from July 10 to August 10, 2015; a summary of public stakeholder comments received and the Department's responses are provided in the Notice of Final Rulemaking. The Notice of Final Rulemaking and Economic Impact Statement were provided to the Commission for consideration prior to this meeting. If approved by the Commission, and in accordance with the exemption authorized by the Governor's office, the Department will submit the rulemaking to the Governor's Regulatory Review Council (G.R.R.C.) for review and placement on a future agenda.

Chairman Davis discussed with Ms. Munig the proposed change affecting the Department not issuing more than 50% of the hunt permit-tags available to nonresidents in the initial bonus point pass of the draw with the remaining 50% available in the second pass of the draw, and clarified that this proposal will actually increase the opportunity for more nonresidents to have a chance at drawing a tag. This will provide a better chance at drawing a tag without having to have maximum bonus points.

Motion: Mansell moved and Madden seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF FINAL RULEMAKING AND ECONOMIC IMPACT STATEMENT AMENDING RULES WITHIN ARTICLE 1 DEFINITIONS AND GENERAL PROVISIONS, R12-4-302 USE OF TAGS, R12-4-611 PETITION FOR A HEARING BEFORE THE COMMISSION WHEN NO REMEDY IS PROVIDED IN STATUTE, RULE, OR POLICY, AND R12-4-804 PUBLIC SOLICITATION OR EVENT ON DEPARTMENT PROPERTY.

Vote: Unanimous

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8. Approve Proposed Hunt Guidelines for Fall 2016 through Spring 2018

Presenter: Amber Munig, Big Game Management Supervisor

Ms. Munig presented the Commission with a PowerPoint presentation and briefing on the Department's proposed hunt guidelines for fall 2016 through spring 2018. A detailed description of proposed hunt guidelines was available for public review online and at all Department offices and was provided to the Commission for review prior to this meeting.

The Arizona Game and Fish Department solicits public review and comment concerning proposed hunt guidelines every other year. The Department's proposed hunt guidelines were developed to reflect prior Commission direction, biological limitations, Department input, and public comment. The Department routinely receives comment regarding guidelines during the interim between review cycles. The Department shared 123 written comments with the Commission on March 6, 2015 and another 56 written comments on June 12, 2015. At the June meeting, the Department also shared comments provided by 35 participants at 10 public meetings held around the state from May 26–June 8, 2015, and provided for this meeting were another 14 comments the Department received between June 15 and July 31, 2015 (4 of the comments pertain to rulemaking and not hunt guidelines). Also provided at this meeting were the recommended amendments to the hunt guidelines based on biological analyses and public comment received to date (all documents were available to the public). The following is a summary of the Department's proposed substantive changes to the hunt guidelines:

Deer

- Allow for flexibility in the season length of 7 or 10 days when a single deer season is offered
- Clarifies the intent to rotate muzzleloader hunts when possible
- Changes the objectives for alternative mule deer management units in Units 12A/12B, 13A/13B, and 3A/3C
- Modifies the Unit 12A population objective to manage for an optimum but sustainable population level without negatively impacting deer condition or habitat condition.

Pronghorn

- No substantive changes recommended

Elk

- Clarifies the intent to rotate muzzleloader hunts when possible
- Clarifies the intent to have juniors-only hunts encompass a holiday when possible
- Allows for an early muzzleloader bull or early general bull season to precede an early archery bull season
- Changes the objectives for alternative elk management units
- Clarifies how harvest will be allocated by weapon type.

Turkey

- Allow for Gould's turkey hunts to start later if data for marked hens indicates a later nest initiation date
- Allow for closure of the fall hunt in units with fall hunt success less than 5% for 2 of 3 years.

Javelina

- No substantive changes recommended

Bighorn Sheep

- Clarifies that hunts will be 3 weeks in length when stratifying a unit.

Bison

- No substantive changes recommended.

Bear

- Includes specific provisions for condition under which a "restricted" season may be implemented for bear
- Provides for more flexibility in season dates for both spring and fall hunts.

Mountain Lion

- No substantive changes recommended.

Small Game

- Blue grouse and chukar seasons to open on September 1.

Migratory Birds

- No substantive changes recommended.

Predatory and Furbearing Mammals and Trapping

- Provides guidance on implementation of daylong seasons for coyote hunting.

Commissioner Mansell stated that the Hunt Guidelines Committee approved the Hunt Guidelines and recommended the Hunt Guidelines be approved with one change as follows: Regarding the Pronghorn fawn to doe ratio, change the decrease number <30 to <35, raise the stable number from 30-40 to 35-45, and change the increase number from >40 to >45.

Motion: Mansell moved and Zieler seconded THAT THE COMMISSION VOTE TO APPROVE THE HUNT GUIDELINES FOR 2016–2017 AND 2017–2018 HUNTING SEASONS AS PROPOSED WITH THE CHANGES PROPOSED BY THE HUNT GUIDELINES COMMITTEE REGARDING PRONGHORN.

Vote: Unanimous

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9. Gila Trout Recovery Briefing

Presenter: Chris Cantrell, Fisheries Branch Chief

Mr. Cantrell presented a PowerPoint presentation and briefing on the status of Gila Trout (*Oncorhynchus gilae*) and recovery actions implemented from 2010 to 2015. Gila Trout are one

of two native trout species in Arizona. Endemic to the Gila River Basin and tributaries, including the Blue, Verde, Agua Fria rivers, and Tonto Creek in Arizona, Gila Trout were listed as endangered under the Endangered Species Act (ESA) in 1975. Recovery efforts for the species began in the 1970s with the development of the original Gila Trout Recovery Plan.

Successful recovery actions in New Mexico and Arizona led to downlisting of the species to threatened in 2006 (USFWS 2006). The downlisting included a provision under 4(d) of the ESA, which allows the U.S. Fish and Wildlife Service (USFWS) and the Arizona Game and Fish Department (Department) to establish special regulations for threatened species. This management authority affords the Department the opportunity to provide angling opportunities for Gila Trout, while at the same time undertaking conservation actions focused on improving the overall status of Gila Trout in Arizona. The Department's goal for Gila Trout recovery in Arizona is to establish robust populations which are available to anglers. Numerous recreational and recovery actions have taken place over the past five years.

The Commission discussed brown trout with Mr. Cantrell as it relates to Haigler Creek to ensure that there are other nearby brown trout opportunities and that the Department is not taking a step backward with regard to brown trout in its effort to recover Gila trout.

Public Comment

Joe Miller, Regional Vice President, Arizona State Council with Trout Unlimited: Trout Unlimited strongly supports of the Department's efforts with native trout restoration as presented by Mr. Cantrell.

* * * * *

10. Request to Amend Commission Order 40: Fish, for Calendar Year 2016

Presenter: Chris Cantrell, Fisheries Branch Chief

The Commission was asked to adopt Commission Order 40: Fish, establishing open seasons, open areas, closures and bag and possession limits for Gila Trout (*Oncorhynchus gilae*) for calendar year 2016. Gila Trout (*Oncorhynchus gilae*) are currently listed as threatened under the Endangered Species Act, as a part of that listing, the 4(d) rule is included as a provision which allows the U.S. Fish and Wildlife Service (USFWS) and the Arizona Game and Fish Department (Department) to establish special regulations for the species. This management authority affords the Department the opportunity to stock Gila Trout into streams and lakes for recreational purposes, while at the same time undertaking conservation activities focused on improving the overall status of the species in Arizona.

Recent advances in captive culture of Gila Trout at Mora National Fish Hatchery have produced a significant increase in the number of fish available to be stocked for recreational purposes. With the increases in available trout, the Department now has the ability to stock into a number of locations across the state to advance the outreach, education, and recreational opportunities for Gila Trout in Arizona. The Commission has authority under A.R.S. 17-234 to open, close or alter seasons and establish bag and possession limits for wildlife. As such, the Department proposes to remove Gila Trout as a protected native fish and add Gila Trout to the list of trout

species in the statewide general regulation. The proposed regulation would include Gila Trout as a legal sport fish with the general daily bag limit for trout that apply to all fishing waters statewide unless site specific Special Regulations are already applied to that body of water for Gila Trout.

Proposed Regulation: Trout (includes rainbow, cutthroat, brown, brook, tiger, gila and apache trout; grayling)

Current Regulation: Trout (includes rainbow, cutthroat, brown, brook, tiger and apache trout; grayling)

Motion: Mansell moved and Madden seconded THAT THE COMMISSION VOTE TO AMEND COMMISSION ORDER 40 (FISH) AS PROPOSED, ESTABLISHING GILA TROUT AS A LEGAL SPORT FISH WITH THE GENERAL DAILY BAG LIMIT FOR TROUT THAT APPLY TO ALL FISHING WATERS STATEWIDE UNLESS SITE SPECIFIC SPECIAL REGULATIONS ARE ALREADY APPLIED FOR CALENDAR YEAR 2016.

Vote: Unanimous

* * * * *

16. 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

The Commission had a working lunch during Executive Session

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Meeting recessed for lunch at 12:30 p.m.

Meeting reconvened at 1:40 p.m.

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10A. Approve License Agreement with Navopache Electric Cooperative for Providing Electrical Service to the Show Low Lake Property.

Presenter: Joyce Francis, Habitat Branch Chief

Dr. Francis briefed the Commission on the Department's request for Commission approval of a License Agreement with Navopache Electric Cooperative for providing electrical service to the Show Low Lake property. The Department is currently upgrading the restrooms at the Show Low Lake property. The upgrade includes the installation of electrical service. This License agreement authorizes Navopache Electric Cooperative non-exclusive 10 and 20 foot wide

electrical service routes for installation and maintenance of electrical power to the facility. The agreement is for ten (10) years.

Motion: Madden moved and Mansell seconded THAT THE COMMISSION VOTE TO APPROVE A LICENSE AGREEMENT WITH NAVOPACHE ELECTRIC COOPERATIVE AT THE SHOW LOW LAKE PROPERTY, AND AUTHORIZE THE DIRECTOR, AS SECRETARY TO THE COMMISSION, TO EXECUTE THE AGREEMENT AS ATTACHED OR AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

Vote: Unanimous
4 to 0
Ammons not present

* * * * *

12. Approve Memorandum of Agreement with Southline Transmission, L.L.C.

Presenter: Joyce Francis, Habitat Branch Chief

Dr. Francis provided a PowerPoint presentation and briefing on the Department's request for approval of a Memorandum of Agreement (MOA) with Southline Transmission, L.L.C. to mitigate for impacts to Willcox Playa Wildlife Area from the Southline Transmission Line Project. The Commission was provided with a copy of the MOA prior to this meeting for review and consideration.

Southline Transmission, L.L.C. is developing the Southline Transmission Project to bring power from southern New Mexico to southern Arizona. The new section would involve the construction of approximately 240 miles of new 345-kilovolt (kV) double-circuit electric transmission lines in New Mexico and Arizona and 120 miles of upgrades to existing lines in Arizona from single circuit 115-kV lines to double circuit 230-kV lines. Whenever feasible, the new sections of line are sited along existing infrastructure corridors. A portion of the Southline Transmission Project may cross the Commission owned Willcox Playa Wildlife Area along an existing transmission line corridor in the vicinity of Crane Lake. Southline Transmission, L.L.C. has committed to the development and implementation of a Mitigation Plan to offset the wildlife and habitat impacts from the Southline Transmission Project as identified in the MOA.

Motion: Madden moved and Zieler seconded THAT THE COMMISSION VOTE TO APPROVE A MEMORANDUM OF AGREEMENT WITH SOUTHLINE TRANSMISSION, L.L.C. AND ASSOCIATED AGREEMENTS CONTEMPLATED IN THE MOA, AND AUTHORIZE THE DIRECTOR, AS SECRETARY TO THE COMMISSION, TO EXECUTE THE AGREEMENT AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

Vote: Unanimous

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13. Cooperative Agreement Renewal at the Lower San Pedro River Wildlife Area

Presenter: Joyce Francis, Habitat Branch Chief

Dr. Francis briefed the Commission on the Department's request to renew an existing Cooperative Agreement for management of the state grazing and agricultural leases associated with the Lower San Pedro River Wildlife Area. The Department currently has a Cooperative Agreement with Mr. John Smith that outlines the terms and conditions for managing the state grazing and agricultural leases associated with the Lower San Pedro River Wildlife Area. The agreement expires in December of this year. The Region is in the process of selecting a new ranch operator. The Department is asking for approval to renew the Cooperative Agreement with Mr. Smith for a one year period, or until such time as a new ranch operator can be selected.

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

Vote: Unanimous

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

Presenter: Gene Elms, Law Enforcement Branch Chief

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

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Meeting recessed for a break at 4:06 p.m.

Meeting reconvened at 4:23 p.m.

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15. 2015 Annual Commission Awards Selection

Presenter: Jim Paxon, Special Assistant to the Director

The Commission was provided with a list of 2015 Commission Award nominees and nominee background information for review and consideration prior to this meeting. Mr. Paxon provided the Commission with an overview and facilitated the Commission's ballot selection process.

Motion: Davis moved and Madden seconded THAT THE COMMISSION VOTE TO SELECT TWO NOMINEES FOR AWARDS OF EXCELLENCE.

Vote: Unanimous

The following 2015 award recipients were selected through the Commission ballot process:

- Award of Excellence: Hildy Angius

- Award of Excellence: Mark Brnovich
- Youth Environmentalist of the Year: KJ Aldridge
- Outdoor Writer of the Year: Margaret Anderson
- Media of the Year: Rosie Romero Jr.
- Conservation Organization of the Year: Heritage Park Zoological Sanctuary
- Conservationist of the Year: Steve Clark
- Natural Resource Professional of the Year: Ray Suazo
- Volunteer of the Year: Chad Villamor
- Educator of the Year: Melanie Engstrom
- Mentor of the Year: Richard Williams
- Advocate of the Year - State: David Gowan Sr., Speaker of the House
- Advocate of the Year – Federal: Senator John McCain
- Buck Appleby Hunter Education Instructor of the Year: Patrick Headington
- Wildlife Habitat Steward of the Year: Spider Ranch
- North American Model Commissioners Award: Carol Lynde

The Commission commented that all the nominations were very good and it was difficult to choose which ones to select.

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17. Litigation Report

There were no comments or questions regarding the Litigation Report.

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18. Approval of Minutes and Signing of Minutes

Motion: Madden moved and Zieler seconded THAT THE COMMISSION VOTE TO APPROVE THE MINUTES FROM AUGUST 7-8, 2015.

Vote: Unanimous

The Commission signed the minutes following approval.

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19. Director and Commissioner Comments

The Commission was in consensus to dispense with this item.

* * * * *

20. Future Agenda Items and Action Items

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

- The Law Enforcement Branch will provide law enforcement related casualties to be included in the moment of silence at the beginning of each Commission meeting
- The Department will investigate possible legislative solutions to the Heritage O&M issue and will bring back the original language the Commission had considered
- The Department will identify approaches to address the compensation strategies as related to covered and uncovered status in Personnel Reform
- Regarding the Mexican wolf, the Department will include status updates on the new Commission direction provided in this meeting
- The Department will provide information to municipalities regarding the economic impact to their communities related to shooting/archery events
- The Department will discuss with the Commission its strategies and risk regarding sportfish verses native fish management

* * * * *

16. Executive Session (continued)

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: Mansell moved and Madden seconded THAT THE COMMISSION VOTE TO GO INTO EXECUTIVE SESSION.

Vote: Unanimous

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Chairman Davis adjourned this meeting.

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Meeting adjourned at 5:00 p.m.

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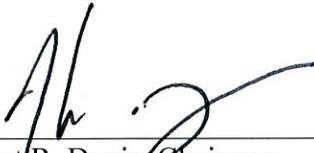
Saturday at 8:00 a.m.

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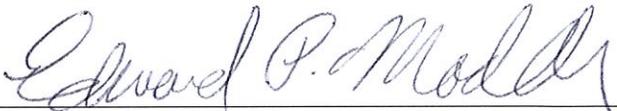
1. Tour of P.S. Ranch Wildlife Area.

The Commission and Department staff carpooled from the El Jo Motor Inn, 425 E. Main St., Springerville, Arizona to the P.S. Ranch Wildlife Area for a tour of the property. There was also a discussion of Aspen management within the Wallow Fire area on the Apache Sitgreaves National Forest as part of the tour. No action was taken by the Commission.

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Kurt R. Davis, Chairman



Edward "Pat" Madden, Member



James R. Ammons, Member

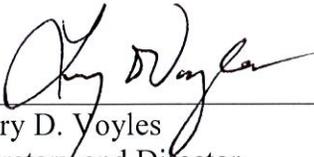


James S. Zielet, Member



Robert E. Mansell, Member

ATTEST:



Larry D. Voyles
Secretary and Director

**Game and Fish Litigation Report
Presented at the Commission Meeting
September 4, 2015**

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*. **On August 12, 2015, the court granted the FWS's request for an additional sixty to file an answer.**

2. *Center for Biological Diversity v. Jewell, CV-15-00019-JGZ.* Plaintiffs filed this 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 nonessential 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 because 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. On June 1, 2015, the court issued an order setting a case management conference for July 9, 2015. On June 8, 2015, the federal defendants filed a response taking no position on Arizona's 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.

3. *WildEarth Guardians v. Ashe*, CV 15-00285. Plaintiffs filed this lawsuit on July 2, 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 nonessential population, and a research and recovery permit issued under Section 10(a)(1)(A) of ESA impede Mexican wolf conservation. Plaintiffs also allege the final environmental impact statement (“EIS”) and a biological opinion associated with the final rule are inadequate. Plaintiffs contend the FWS has a duty to reconsider its decision that the Mexican wolf population is nonessential. 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 on behalf of the FWS.

4. *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.

3. *WildEarth Guardians v. Sandoval*, 12-00118 (LFG-KBM). Plaintiff challenges New Mexico's failure to regulate trapping in the Mexican wolf occupied range to avoid take of any wolves. The Commission authorized the filing of an amicus curiae brief in support of New Mexico. The Court granted the Commission's motion for leave to file an amicus brief and on September 19, 2012, the Commission filed its amicus brief. Plaintiff filed a response on October 9, 2012, and the Commission filed a reply on October 30, 2012.

The Court issued an order on December 3, 2012, granting Defendants' motion to dismiss for failure to state a claim. Plaintiff filed a notice of appeal on December 28, 2012. The Tenth Circuit issued a briefing schedule on January 3, 2013, ordering Plaintiff to file an opening brief within forty days.

On February 12, 2013, WildEarth Guardians filed an opening brief. On February 15, 2013, the Tenth Circuit issued an order extending the time to file an answering brief until April 17, 2013. The Commission's amicus brief is due seven days after the date the answering brief is filed. The Appellees filed the answering brief on April 17, 2013 and the State of Arizona filed an amicus curiae brief on April 23, 2013. Guardians filed its reply brief on May 20, 2013.

Oral argument occurred on January 24, 2014. The Court's questions focused primarily on the jurisdictional issues of sovereign immunity and standing. The Court issued an opinion on February 19, 2014. The Court held that Plaintiffs had no standing due to a lack of redressability because the Chair of the New Mexico Commission had no authority alone to correct any alleged violations. The Court ordered the case remanded back to the District Court with instruction to dismiss the case without prejudice to allow Plaintiffs to refile the case.

On March 7, 2014, the Tenth Circuit granted New Mexico's motion for clarification, in which New Mexico requested that the Court's decision would not affect the District Court's decision dismissing as to Director Lane. The District Court's decision as to Director Lane stands. On March 18, 2014, the District Court dismissed without the prejudice the case against the Chairman.

On April 17, 2014, New Mexico filed a motion for attorney fees and costs. New Mexico is seeking reimbursement for \$580,000.00 in costs and fees. This represents 1231 hours for six different lawyers who worked on the case.

5. *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 (Gynn) 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.

On November 13, 2014 the Department filed a motion to dismiss the complaint in its entirety for lack of subject matter jurisdiction. **Holden and Gynn filed a motion to disqualify the Attorney General's Office which the superior court granted, relying on a relict 1929 statute (A.R.S. §17-103). Commission appealed, and the Court of Appeals reversed the superior court's decision. On August 26 Holden and Gynn filed a petition for review with the Arizona Supreme Court seeking reversal of the Court of Appeal's ruling.**



A2.18 Multiple-Use Management of Public Lands

Effective: ##/##/20##
Policy Process Owner: DOHQ

The Commission supports cooperative, coordinated, and balanced multiple-use management of public lands in the State of Arizona, including lands managed by federal agencies.

Multiple-use management of public lands means:

1. Resources are used in the combination that best meets the present and future needs of the citizens of Arizona.
2. Resources are managed at a landscape level, which allows for effective response to the changing needs of Arizona citizens and resource conditions.
3. Resource management may allow for special consideration for unique situations, thereby creating areas of critical concern which may favor one use over others.
4. Management goals are designed to improve and preserve Arizona's resources, without impairment of the productivity of the land. However, it is the combination of uses that will provide the greatest dollar outcome that controls these goals.
5. Management goals must provide for safe, compatible outdoor recreation opportunities for current and future generations.
6. Management of resources must be integrated with and incorporate the conservation, social, economic, and environmental values of the citizens of Arizona.
7. Management of resources should be compatible with, complement, and enhance wildlife conservation.
8. Public involvement in all steps of the planning process is an essential part of multiple-use management.
9. Federal agencies must recognize the Department as a cooperating agency with the public trust responsibility and authority for Arizona's wildlife in determining multiple-use prescriptions on public lands in Arizona and must be consulted on wildlife conservation issues.
10. Multiple-use management recognizes that use and enjoyment of wildlife resources is an essential component of the funding and public support foundation for wildlife conservation.



A2.29 Undercover Operations Outside of Title 17 and Title 5

Effective: ##/##/2015

Policy Process Owner: Law Enforcement Branch Chief

The Commission acknowledges that the Department, as a law enforcement agency, has an obligation to assist in ensuring public safety for the citizens of Arizona. On occasion, the Department may be asked to participate in an undercover operation or special project in cooperation with other state or federal law enforcement agencies.

If the request is approved by the Director the Commission Chairman will be briefed prior to the Departments participation in the project. The briefing will not include information that could jeopardize the integrity of the operation or officer safety.

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