

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, August 26, 2016
Saturday, August 27, 2016
Show Low City Council Chambers
181 N. 9th Street
Show Low, Arizona 85901

PRESENT: (Commission)

(Director and Staff)

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

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

Chairman Madden called the meeting to order at 8:00 a.m. and led those present through the Pledge of Allegiance followed by a moment of silence in honor of Border Patrol Agent Manuel Alvarez who was killed in a motorcycle accident on August 11, 2016.

The Commission and Director Voyles introduced themselves followed by introductions of the Director’s staff. Chairman Madden recognized several community members that were present. This meeting followed an agenda revision #1 dated August 24, 2016.

Awards and Recognition

Chairman Madden presented a Commission Certificate of Appreciation to Department employee Richard Langley in recognition of his exemplary efforts to increase understanding and distribution of Merriam’s Turkeys and Rocky Mountain Bighorn Sheep.

Pinetop Regional Supervisor Chris Bagnoli presented the Commission’s Commendation of Achievement to John Rohmer for his contributions to quality trout fishing and management in the White Mountains.

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1. Call to the Public

Maurice Colwell, White Mountain Open Trails, provided an update on the Maverick Trail Marking project. All of the trail markings were completed last month to comply with the new federal trail marking requirements. Reinforced nylon posts have been installed every quarter mile. The database for latitude/longitude/elevation has been recorded and provided to the Forest Service, and they are in the process of distributing that to all first responders. Additionally, a grant was submitted and approved by the Arizona State Parks Board to develop a map of all motorized and non-motorized trails in the Lakeside Ranger District.

Tony Martins addressed the Commission regarding a proposed rule change concerning hunting with airbows (arrow shooting airguns). He proposes defining .35 caliber and larger PCP airbows as the equivalent to crossbows, so disabled hunters with legitimate crossbow permits can enjoy

the benefits of this new technology. He also proposes the take of elk during general (rifle) hunts with .35 caliber and larger PCP airbows. Mr. Martins presented an upgraded high power airbow to the Commission and encouraged them to attend an airbow demonstration scheduled to follow the opening ceremonies at the Second Knoll Target Range planned for tomorrow, Saturday, August 27, 2016.

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1A. 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 none were removed for discussion.

a. Approve Renewal of a Special Use Permit with USFS Coronado National Forest at Cluff Ranch Wildlife Area

Presenter: Joyce Francis, Habitat, Evaluation and Lands Branch Chief

The Lower Ash Creek pipeline and diversion dam was originally included in a special use permit (SUP) for maintaining multiple wildlife developments on the USFS Coronado National Forest (Forest). That joint SUP came up for renewal, and the Department and the Forest have decided to create two separate SUPs. The Lower Ash Creek pipeline and diversion dam are important to the Cluff Ranch Wildlife Area to supply surface water to the property.

The Department recommends THAT THE COMMISSION VOTE TO APPROVE THE RENEWAL OF A SPECIAL USE PERMIT WITH USFS CORONADO NATIONAL FOREST, AND AUTHORIZE THE DIRECTOR AS SECRETARY TO THE COMMISSION, TO EXECUTE THE AGREEMENT AS RECOMMENED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

Motion: Davis moved and Zieler seconded THAT THE COMMISSION VOTE TO APPROVE ITEM A ON THE CONSENT AGENDA.

Vote: Unanimous

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2. Legislative Engagement and State and Federal Legislation

Presenter: David Fernandez, Legislative Specialist

Mr. Fernandez 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

Election 2016: This election will see significant turnover in both chambers of the State Legislature for various reasons. This will result in new leadership and significant shuffling of committee members. Department staff will be diligently working to inform and educate new members about the Department, particularly the Department's funding sources and that the Department receives no general fund dollars.

2017 Legislative Reintroduction – The Department will be reintroducing the following measures that did not make it last year:

- In-Lieu Fee & Restoration Endowment: Permits the Department to invest ILF fund monies in a higher yield account to provide long-term O&M
- LE Omnibus: Includes USCG PFD Definition Conformity (2014 Rule); Wildlife Theft Prevention Fund; Illegal Take; License Fraud; Unlawful Feeding.

2017 Legislative Proposals (new):

- Law Enforcement Omnibus Additions – Wildlife Decoys (illegal take, damage penalty)
 - Adds “Wildlife Decoy” definition to Title 17
 - Includes decoys in definition of take
 - Allows Commission to impose \$400 assessment for take of a decoy.
- Accompaniment of Minor / Tag Transfer
 - Statute allows a parent or grandparent to transfer a permit or tag to their child or grandchild, pursuant to commission rules
 - Current statute requires the child to be accompanied by the parent or grandparent transferring the tag. Change to a parent or guardian may accompany in the case where a grandparent transferred the tag (less restrictive).
- Disposal of Property- Public good
 - Permits the Commission to dispose of lands without monetary compensation, in compliance with the Gift Clause of the Arizona constitution (sometimes, in regards to small properties, the cost of the appraisals outweigh the value of the property, and sometimes there are entities that would be willing to take over management of the properties, but cannot meet the price of the appraisals).

Timeline for 2017 legislative proposals:

- September 15 – Governor's Deadline
- October – November
 - Develop language
 - Stakeholder meetings
- December
 - Final Commission Decision.

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3. Commission Priorities Update

Presenter: Kent Komadina, Special Assistant to the Director

Mr. Komadina provided updates on the Department's progress towards accomplishing items related to Commission Priorities. The Commission Priorities are as follows:

- 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
- Process Improvement.

Public Comment

Bobby Wright, President, Arizona Catfish Conservation Association, addressed the Commission in support of the Department's proposal #7 of Commission Order 40 (agenda item #13) relative to trophy catfish take on Roosevelt Lake.

Fisheries Branch Chief Chris Cantrell provided a PowerPoint presentation and update on the Arizona Hatchery Program related to the Commission Priority on Sportfish Opportunities. The presentation included sportfish stocking information for 2016 in ponds and lakes across the state and plans for 2017, which include:

- Minimum 610,000 lbs of sportfish stocked
- Minimum 129 locations stocked
- Expand to 2 new community fishing locations
- Initiate 6 new habitat enhancement phases or projects.

Commissioner Zieler commented on the great success of Paterson Pond in St. Johns.

Commissioner Sparks asked about the plan to bring in new species to improve fishing in Arizona.

Mr. Cantrell provided an update on Florida strain bass brought into Bubbling Ponds Hatchery. The Department hopes that within 3-5 years the Department can begin producing its own fish from this stock for stocking in Arizona's warm waters.

Commissioner Davis asked about the economic impact of sportfishing in Arizona.

Mr. Cantrell stated that an economic study in 2013 showed that fishing contributed between 1.47 and 1.59 billion dollars in economic impact to the State of Arizona. This includes licenses and purchases, including travel, gas, hotels, food, etc.

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3A. Request to Approve Proposed Rulemaking Amending Article 4 Rules Addressing Live Wildlife.

Presenter: Jennifer Stewart, Rules and Risk Branch Chief

Ms. Stewart briefed the Commission via video teleconference on the Department's request to approve a Notice of Rulemaking Docket Opening, Notice of Proposed Rulemaking, and Economic Impact Statement amending rules within Article 4, addressing live wildlife. The Department proposes to amend Rule 12-4-402 to clearly state that a permit or license issued by the Game and Fish Department or the Department of Agriculture is required when conducting any activities with live wildlife to ensure the Department maintains sovereignty over Arizona's wildlife and wildlife habitat. The Department received permission from the Governor's Office to proceed with this request.

If approved by the Commission and in accordance with the exemption authorized under item #2 of Executive Order 2016-01 Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-service Oriented Agencies, the Department will submit this rulemaking to the Secretary of State's office for publication in the *Arizona Administrative Register*. The Department will accept public comment for 30 days after the Notice of Proposed Rulemaking is published. Once the public comment period has passed, the Department will present Final Rulemaking to the Commission for their consideration.

Motion: Zieler moved and Davis seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF RULEMAKING DOCKET OPENING, NOTICE OF PROPOSED RULEMAKING, AND ECONOMIC IMPACT STATEMENT AMENDING R12-4-402, ADDRESSING LIVE WILDLIFE.

Vote: Unanimous

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7. Threatened and Endangered Wildlife Briefing

Presenter: Jim deVos, Assistant Director, Wildlife Management Division

Mr. deVos provided a PowerPoint presentation and briefing on Bald and Golden Eagle recovery efforts. The presentation highlighted wildlife management and recovery efforts and successes on these socially and economically important species. The presentation included charts, graphs and maps regarding the Department's Arizona Bald Eagle Management Program and Arizona Golden Eagle Monitoring Program, and included the following:

Arizona Bald Eagle Management Program:

- Population history and statewide distribution
- Past, current and future management guidance
- Projects, goals and responsibilities.

Arizona Golden Eagle Monitoring Program:

- Historical Golden Eagle surveys and current status
- Southwestern Golden Eagle Management Committee (19 members/founded June 2010)
- Intensive statewide data collection underway, including transmitter deployments.

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Meeting recessed for a break at 9:34 a.m.

Meeting reconvened at 10:00 a.m.

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

Presenter: Gene Elms, Law Enforcement Branch Chief

Records of these proceedings are maintained separately.

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Meeting recessed for a break at 11:21 a.m.

Meeting reconvened at 11:36 a.m.

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4A. Rehearing Request Regarding Previous License Revocation/Civil Assessment

Presenter: Gene F. Elms, Law Enforcement Branch Chief

Mr. Elms briefed the Commission regarding a request by Jason Pryor for a rehearing regarding the revocation of his license privileges. On July 2, 2015, Mr. Pryor was convicted in the East Mesa Justice Court for obtaining a 2015 resident hunt/fish license by misrepresentation. On January 21, 2016, Mr. Pryor responded in writing asking the Commission to not revoke his hunting privileges. Mr. Pryor was unable to attend the hearing in person. On February 5, 2016, the Commission revoked Mr. Pryor's hunting, fishing and trapping licenses for a period of five years and further required him to complete a Hunter Education Course before obtaining any license(s) to take wildlife in the State of Arizona.

Mr. Pryor had moved after receiving his initial Notice of Hearing and had not notified the Department of his change of address. Therefore Mr. Pryor's Findings of Fact, Conclusions of Law, and Order (FFCLO) were returned unclaimed. Due to not receiving his FFCLO, Mr. Pryor was unable to meet the 30 day requirement to request a rehearing. Mr. Pryor only found out about his revocations status when he was denied a license in Oregon. Mr. Pryor has requested a rehearing of this matter and decision because he feels that he has received excessive penalties. Mr. Pryor has been notified of this hearing to consider his request by email. The Commission has been provided with all documents related to this case for consideration.

Mr. Pryor was not present.

Motion: Ammons moved and Madden seconded THAT THE COMMISSION VOTE TO AFFIRM ITS DECISION AND DENY MR. PRYOR'S REQUEST FOR REHEARING.

Vote: Unanimous

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5. Rehearing Request Regarding Previous License Revocation/Civil Assessment

Presenter: Gene F. Elms, Law Enforcement Branch Chief

Mr. Elms presented a request for rehearing by Michael S. Foote regarding the revocation of his license privileges. On November 9, 2015, Mr. Foote was convicted in the North Canyon Justice Court for guiding without a license. On May 5, 2016, the Commission revoked Mr. Foote's hunting, fishing and trapping licenses for a period of five years and further required him to complete a Hunter Education Course before obtaining any license(s) to take wildlife in the State of Arizona. Mr. Foote has requested a rehearing of this matter and decision because he feels that he has received excessive penalties. Mr. Foote has been notified of the hearing to consider his request by certified mail. The Commission was provided with all documents related to this case for consideration.

Mr. Foote was not present.

Motion: Davis moved and Zieler seconded THAT THE COMMISSION VOTE TO AFFIRM ITS DECISION AND DENY MR. FOOTE'S REQUEST FOR REHEARING.

Vote: Unanimous

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6. Rehearing Request Regarding Previous License Revocation/Civil Assessment

Presenter: Gene F. Elms, Law Enforcement Branch Chief

Mr. Elms presented a request for rehearing by David A. Long regarding the revocation of his license privileges. On January 15, 2016, David A. Long was convicted in the Flagstaff Justice Court for possession of unlawfully taken elk. On June 10, 2016, the Commission revoked Mr. Long's hunting, fishing and trapping licenses for a period of five years and further required him to complete a Hunter Education Course before obtaining any license(s) to take wildlife in the State of Arizona. Mr. Long has requested a rehearing of this matter and decision because he feels that he has received excessive penalties. Mr. Long has been notified of the hearing to consider his request by certified mail. The Commission has been provided with all documents related to this case.

Commissioner Davis confirmed with Mr. Elms that Mr. Long's request for rehearing was within the required timeframe.

Mr. Long was present and addressed the Commission. Mr. Long stated that he was not able to be at the first hearing. He stated that what he did was wrong, but the five year revocation was excessive. The related case had the same charges and did not get the five year revocation and he believes they should be the same, since they both did the same thing in helping to transport and clean the animal.

Case Officer Clay was present and answered questions for the Commission. He wasn't present at the hearing for Fulkes and Long, but Officer Wagner was. His understanding is that at the hearing, Fulkes had denied knowing that the animal was illegally killed and that is why his revocation period was lighter than Mr. Long's. In his initial contact with the camp, Mr. Long stated that his aunt had killed the elk the night before and then left for work, which we know is not true, and that makes him culpable.

Motion: Ammons moved and Sparks seconded THAT THE COMMISSION VOTE TO AFFIRM ITS DECISION AND DENY MR. LONGS'S REQUEST FOR REHEARING.

Vote: Unanimous

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6C. Appeal of Denial of Wildlife Holding License

Presenter: Mike Demlong, Wildlife Education Project Manager

Mr. Demlong presented to the Commission, via video teleconference, an appeal by Jacob Elliot regarding the Department's denial of his application for a wildlife holding license for educational purposes. Mr. Elliot, a minor, appeals the denial of his application for a Wildlife Holding License to hold a Gila monster, an Arizona black rattlesnake and a black-tailed rattlesnake for educational purposes. The Arizona Game and Fish Department, Region III denied his application because he is not an educator affiliated or partnered with an educational organization or institution, as required by Commission Rule R-12-4-417(C). Mr. Elliot's application states that his plan is to "use the wildlife for education purposes by displaying them in a triple locked cage" for public display. His appeal letter states that he is affiliated with one Russ Dunn who has been mentoring him for six months.

Mr. Elliot was present via video teleconference and addressed the Commission on behalf of his appeal. His dream has been to provide education and teach people about wildlife, such as rattlesnakes and Gila monsters. He has been working with a volunteer of the Department.

The Commission discussed with Mr. Elliot that he doesn't meet the criteria for the wildlife holding license for educational purposes.

Commissioner Davis stated that he appreciates Mr. Elliot's earnest efforts, but the facts for denial of the permit have not changed.

Commissioner Sparks advised Mr. Elliot that he can still go on and get an education and associate with education organizations that may qualify him to obtain a Wildlife Holding Permit in the future.

Motion: Sparks moved and Zieler seconded THAT THE COMMISSION VOTE TO DENY MR. ELLIOT'S APPEAL FOR DENIAL OF A WILDLIFE HOLDING LICENSE.

Vote: Unanimous

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6A. Petition by Frank Hogleund on behalf of Mr. Jamie Nehrenz to provide Resolution for his 2016 Elk Draw.

Presenter: John Bullington, Assistant Director, Support Services

Mr. Bullington presented a petition by Mr. Hogleund on behalf of Mr. Nehrenz to be allowed to surrender his 2016 tag and be given a 2017 tag instead. Mr. Nehrenz was one of three applicants who were drawn for an early bull archery hunt from Sept 9 - Sept 22, 2016 in units 3A and 3C. Due to a serious medical procedure Mr. Nehrenz is now unable to use his tag. Mr. Hogleund contacted the Department to find out what options existed for Mr. Nehrenz's situation. Mr. Hogleund was not satisfied with the options of donating the tag or letting it go unused and so decided to petition the Commission. This is Mr. Nehrenz first time applying and so he did not forfeit any points upon being drawn. Mr. Hogleund has requested that the Department allow Mr. Nehrenz to surrender his 2016 elk tag for the same tag valid for 2017.

Commissioner Davis stated that the Commission does not have the authority to provide the solution to the issue as requested by Mr. Hogleund.

Mr. Hogleund was present via video teleconference and addressed the Commission on behalf of his request for Mr. Nehrenz.

Commissioner Davis stated that the Commission has taken steps to resolve these kinds of situations and it was through legislation that the Department is now able to offer PointGuard. Unfortunately, PointGuard was not available at the time this situation occurred.

Motion: Zieler moved and Davis seconded THAT THE COMMISSION VOTE TO DENY MR. HOGLUND'S PETITION.

Vote: Unanimous

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6B. Petition by Heith Brewer to provide Resolution for his 2016 Fall Draw.

Presenter: John Bullington, Assistant Director, Support Services

Mr. Bullington presented a petition by Heith Brewer to be allowed to purchase PointGuard to surrender his deer tag. Mr. Brewer submitted an online deer application for the 2016 Fall draw. According to his petition for the last few years he has submitted hunt numbers for late winter deer hunts. Mr. Brewer was drawn for hunt 1001, his second choice, for any antlered deer Oct 21 – Oct 30, 2016 in Unit 1 in the recent draw. In his petition he explains this was not one of his normal hunt choices and so he contacted the Department immediately. He spoke with Kathy Ford, Draw Supervisor. She confirmed that his application was submitted with hunt 1001 as the second choice. Although there is no way to know what happened, Kathy explained that the process for choosing a hunt is by selecting it from a drop down list. The online draw system also allows for a scroll feature to be used to make your selection. The scroll feature remains active

until the next field is clicked on. There are additional points after the selection page for the applicant to verify the application information is correct. PointGuard was available during this draw, although Mr. Brewer states he was not aware of the PointGuard program. Mr. Brewer is requesting he be allowed to purchase PointGuard now to use in surrendering his tag.

Commissioner Davis confirmed with Mr. Bullington that there are multiple occasions to edit your choices before you complete the application.

Motion: Davis moved and Sparks seconded THAT THE COMMISSION VOTE TO DENY MR. BREWER'S PETITION.

Vote: Unanimous

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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 Sparks 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 12:08 p.m.

Meeting reconvened at 1:30 p.m.

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9. Approve Renewal of a Road Closure on State Trust Land Approximately Ten Miles South of Winslow, Arizona

Presenter: Al Eiden, Landowner Relations Program Supervisor

Mr. Eiden briefed the Commission on a request submitted by Pat Browning to renew a road closure on State Trust Land located approximately ten miles south of Winslow, Arizona. A map of the area was provided in a PowerPoint presentation. Mr. Browning, manager of Hopi 3 Canyon Ranches, has requested a renewal of a closure to vehicular access which was originally granted by the Arizona Game and Fish Commission, with concurrence from the State Land Department, in 1978. The closure allows for the locking of six gates which access the Clear Creek Ranch from State Route 87. Three gates are for cattle and have no associated roads. The remaining three gates have roads which can be accessed by sportsmen after signing in at the ranch headquarters and obtaining the lock combinations.

The closure has been successful in reducing damage to soils and vegetation due to off-road travel. Regional personnel say this closure has also allowed wildlife, such as pronghorn, to escape the constant vehicle pressure often experienced elsewhere with Arizona's vast road systems. The Arizona State Land Department supports renewal of this closure for natural resource protection.

A good working relationship between the Hopi Tribe, ranch managers, and Department exists and has led to a hunter access agreement with the Hopi Tribe as well as various habitat enhancement projects. Renewing this road closure is more crucial than ever with the land status change, which occurred in 2008. Our continued cooperation with the Hopi tribe will help ensure co-management into the future, which is key to maintaining hunter access onto these lands.

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

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10. Approve Renewal of a Road Closure on State Trust Land Approximately Thirty Miles Southwest of Tucson, Arizona

Presenter: Al Eiden, Landowner Relations Program Supervisor

Mr. Eiden briefed the Commission on a request submitted by John King to renew a road closure on State Trust Land located approximately thirty miles southwest of Tucson, Arizona. A map of the area was provided in a PowerPoint presentation. Mr. King, of the King's Anvil Ranch in Unit 36C, has requested the renewal of a closure to vehicular access which was originally granted by the Arizona Game and Fish Commission, with concurrence from the Arizona State Land Department, in 1995. The closure allows for the locking of one gate on State Trust land; it restricts vehicular access on a narrow road next to the Tohono O'Odham Indian Reservation boundary. This closure has been successful in alleviating problems with people camping and parking near two water sources. It has also preserved the quality of hunting on Saucito Mountain and hunters often access the area by foot in pursuit of game. Regional personnel and the Arizona State Land Department support renewal of this closure for natural resource protection.

The closure is well-accepted; in fact most hunters park their vehicles at a gate approximately $\frac{3}{4}$ of a mile before the closure because the road is in very bad shape. A sign has been installed at that gate warning the public of the poor road conditions, and that they travel at their own risk.

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

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11. Approve Renewal of a Road Closure on State Trust Land Approximately Fifteen Miles Northeast of Bonita, Arizona

Presenter: Al Eiden, Landowner Relations Program Supervisor

Mr. Eiden briefed the Commission on a request submitted by Roger Warner to renew a road closure on State Trust Land located approximately fifteen miles northeast of Bonita, Arizona. A map of the area was provided in a PowerPoint presentation. Mr. Warner, of the Eureka Springs Ranch in Unit 32, has requested the renewal of a closure to vehicular access which was originally granted by the Arizona Game and Fish Commission with concurrence from the Arizona State Land Department in 2011. The closure allows for the locking of one gate on State Trust land in order to prevent recreational users who have traversed over 11.5 miles of 4-wheel drive road from continuing down a steep 1.5 mile two-track road only to discover locked gates at the bottom of the hill on the private property behind the ranch headquarters. Landowner Respect Program signs were initially tried, but there continued to be problems with recreational users trying to find ways out through the headquarters or other developed deeded parcels.

The issue relates to wildlife management in that another option for Mr. Warner to correct this problem would be to lock another piece of his deeded property approximately 2.5 miles to the south of the proposed closure on the only access road into the area. If this other gate is locked it would deny recreational users vehicular access to over 9 sections of State and Federal lands known as the Eureka Black Hills and Paddy River. Alternately, the requested closure will not deny any access to Federal lands or to the majority of State Trust lands within this area. The only vehicular access denied will be the 1.5 mile two-track road behind private property and ranch headquarters. Non-motorized access by sportsmen will continue to be allowed at the locked gate. Regional personnel and the Arizona State Land Department support renewal of this closure for natural resource protection.

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

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14. Game and Fish Fund Revenue and Budget Update

Presenter: Ty Gray, Deputy Director

Mr. Gray provided an update and PowerPoint presentation on the Game and Fish Fund revenue and budget figures. The Commission requested the update based on revenue license sales reports and because there is additional information following the end of FY16 budget cycle. The presentation included informational charts and graphs on the following:

- Five Year Revenue / Budget Targets
- CY License Sales by Year 2012-2016
- FY License Sales by Year 2012-2016
- Hunt Applicants by Draw Type
- GF Fund Revenues FY 2012 – FY 2016
- Implemented Budget Controls to Accommodate WM Market Adjustment (FY16-17)
- Game and Fish Fund Projected Savings vs. Actual Savings
- 5-Year Budget Plan with FY 2016 Year End Results (Projected and Actual)
- 2016 Fishing License Promotions
- Adventure Renewed Campaign
- Game and Fish Target Revenue vs. Actual FY 2012 – FY 2016

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15. 2016 Annual Commission Awards Selection

Presenter: Kent Komadina, Special Assistant to the Director

The Commission was provided with a list of 2016 Commission Award nominees and nominee background information for review and consideration prior to this meeting. Mr. Komadina provided the Commission with an overview and facilitated the Commission's ballot selection process.

The following 2016 award recipients were selected through the Commission ballot process:

- Award of Excellence: Sonoran Sky Elementary
- Youth Environmentalist of the Year: Matteo Bailloux
- Outdoor Writer of the Year: Jim and Carol Allen
- Media of the Year: Arizona Antelope Foundation
- Conservation Organization of the Year: Mule Deer Foundation
- Conservationist of the Year: Jim Lawrence
- Natural Resource Professional of the Year: Gloria Tom
- Volunteer of the Year: Robbie Love
- Educator of the Year: Karen Klein
- Mentor of the Year: Steve Sams
- Advocate of the Year - State: Gail Griffin
- Advocate of the Year – Federal: Don McDowell
- Business Partner of the Year: Linda Morgan
- Buck Appleby Hunter Education Instructor of the Year: Bobby Goita
- Wildlife Habitat Steward of the Year: Bill Cordasco
- North American Model Commissioners Award: Celeste Cook

Motion: Zieler moved and Ammons seconded THAT THE COMMISSION VOTE TO APPROVE THE AWARD RECIPIENTS AS SELECTED THROUGH THE COMMISSION BLOT PROCESS.

Vote: Unanimous

The Commission commented that the selection was very difficult with so many well deserving nominees.

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Meeting recessed for lunch at 1:46 p.m.

Meeting reconvened at 2:00 p.m.

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12. Approval of Proposed Commission Orders 25, 41, 42, and 43 for the 2017-2018 Hunting Seasons.

Presenter: Josh Avey, Terrestrial Wildlife Branch Chief

Mr. Avey presented the Commission with a PowerPoint presentation on Department recommendations for Commission Order 25 (Raptors), Commission Order 41 (Amphibians), Commission Order 42 (Crustaceans and Mollusks) and Commission Order 43 (Reptiles) establishing seasons and season dates, bag and possession limits, and open-closed areas. From April through June 2016, the Department received recommendations from stakeholders, other government agencies, and Department employees for proposed changes to Commission Orders 25, 41, 42, and 43. Department employees recommended the changes taken to the public. One member of the public commented on all four Commission Orders, and there were no requests for formal public meetings. The Department evaluated all comments with regard to current rules, regulations and Department conservation priorities. Common changes to all Commission Orders were:

1. Date changes to reflect the appropriate years
2. Minor editorial changes to improve clarity.

Department recommendations to the individual Commission Orders were presented as follows:

Commission Order 25 - Raptors

In June 2016, the Department recommended one change to Commission Order 25:

1. Increase the number of peregrine falcon permits available to nonresident falconers from one to two based upon 2015 post-delisting monitoring results.

Commission Order 41 - Amphibians

In June 2016, the Department recommended no change to Commission Order 41.

Commission Order 42 - Crustaceans and Mollusks

In June 2016, the Department recommended two changes to Commission Order 42:

1. Among closed season species under Commission Order 42, recommend adding the following land snails that will be covered under a new conservation agreement: Pinaleno talussnail (*Sonorella grahamensis*), mimic talussnail (*S. imitator*), Clark Peak talussnail (*S. christenseni*), Pinaleno mountainsnail (*Oreohelix grahamensis*), shortneck snaggletooth (*Gastrocopta dalliana*), and cross snaggletooth (*G. quadrigens*). Adding these mollusks as closed season species is consistent with past Commission Order 42 updates to protect other talussnails covered under conservation agreements.
2. Under Note 4, add applesnails (genus *Pomacea*) as prohibited for intentional transport. Applesnails are listed under Director's Order 1—list of Aquatic Invasive Species in Arizona. This would be consistent with how other crustaceans and mollusks recognized as Aquatic Invasive Species in Arizona under Director's Order 1 are covered under Commission Order 42.

Commission Order 43 - Reptiles

In June 2016, the Department recommended two changes to Commission Order 43:

1. Adding banded watersnake (*Nerodia fasciata*) to the list of invasive species and establishing a bag limit of unlimited dead. Although adding banded watersnakes to Commission Order 43 will not necessarily solve the problem, this measure is consistent with current treatment of other invasive exotic species in Commission Order 41 and Commission Order 43 that have bag and possession limits of unlimited dead, including bullfrogs, Rio Grande leopard frogs, red-eared sliders, spiny soft shell turtles, and others.
2. Removing Reptile Note 7 that says, “Shovel-nosed snakes (*Chionactis occipitalis*) may not be taken from Pima County east of the Tohono O’odham Indian Reservation or from Pinal County.” This change would reopen the entire range of shovel-nosed snakes to take, with a bag and possession limit of four per year or in possession, live or dead. Reopening shovel-nosed snakes from throughout their geographic distribution in Arizona is consistent with the results of the listing history and the Department’s understanding of the distribution and abundance of this species.

Motion: Zieler moved and Davis seconded THAT THE COMMISSION VOTE TO APPROVE COMMISSION ORDERS 25, 41, 42, AND 43 AS PRESENTED.

Vote: Unanimous

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13. Request to Amend Commission Order 40: Fish, Concerning Specific Proposals for Bag and Possession Limits, Special Regulations, and Specific Closures for Sport Fishing for Calendar Year 2017 and 2018.

Presenter: Chris Cantrell, Aquatic Wildlife Branch Chief

Public Comment

Dell Owens addressed the Commission in opposition to closing Roosevelt Lake to bowfishing. To his knowledge, from information he has gathered, bowfishing for catfish has not impacted catfish at Roosevelt Lake.

Dean Linne agreed with Mr. Owens in opposition to closing Roosevelt Lake to catfish bowfishing.

Bobby Wright, President, Arizona Catfish Conservation Association, addressed the Commission in support of the Department’s proposal #7. Since bowfishing is lethal, there is no option for catch and release of a trophy catfish.

Commissioner Davis clarified with Mr. Cantrell, that bowfishing will be allowed at three lakes, Apache, Canyon and Saguaro, and asked Mr. Cantrell to simplify the Department's objective in closing Roosevelt to bowfishing.

Mr. Cantrell stated that the Department intends to continue bowfishing opportunities at Apache, Canyon and Saguaro Lakes, and allow the sunset to occur on September 31, 2016 on Roosevelt Lake. The sunset was the Commission's direction at the time to allow the Department to evaluate it. The Department spent 203 days evaluating these reservoirs and their catfish populations. What was found is that there is a world class fishery at Roosevelt Lake and something worth protecting long-term. The Department is looking at modeling a successful voluntary incentive-based catch and release program in Florida called Trophy Catch. It puts the decision in the angler's hands to release one of those trophies back into the wild to provide the opportunity for someone else to catch that fish. The motto in Florida is "My trophy swims again." This is something that the Department plans to present to the Commission at the December meeting on a warm water framework for the future of Arizona.

Commissioner Davis stated that he understands both sides of the issue and further discussed with Mr. Cantrell the metrics the Department will be using to know if they are successful in their efforts.

Mr. Cantrell moved forward with his briefing using a PowerPoint presentation on Commission Order 40: Fish, establishing open seasons, open areas, closures and bag and possession limits for calendar year 2017 and 2018. The Department biennially reviews Commission Order 40 and proposes amendments to the Commission Order as needed. Proposed amendments frequently come from the public and or fisheries program personnel. This year, the Department is approaching the Commission to consider seven proposed amendments to Commission Order 40 for calendar year 2017 and 2018.

As part of the public input process, the Department held eight public meetings. Three meetings were scheduled as stand-alone public meetings at Department offices (Phoenix Headquarters, Tucson and Mesa) and four meetings were held in conjunction with local sportsman or fishing clubs that were open to the public (Lakeside, Flagstaff, Yuma, Mesa). The proposed changes were posted on the Department's portal page from June 17 until August 11 and comments were accepted by email, phone and mail. On a community level, regional aquatic wildlife program personnel networked with local residents and clubs to inform them of the proposed changes to fishing regulations and provide an opportunity for feedback. In addition, the Department also conducted a Facebook Live event focused on obtaining comments on these proposals. All comments received, as well as letters of support, were provided to the Commission prior to this meeting for consideration. To date, a total of 168 contacts were made via public meetings and emails. The Facebook Live event generated three comments, 89 views, and eight likes. Based upon the initial management proposals and public input received to date, the Department has formulated the following seven proposed amendments to the Fishing Regulations for 2017-18.

1. Reduce bass and catfish bag limits at Whitehorse Lake with size limited Largemouth Bass harvest
2. Reduce the daily bag limit on Lees Ferry to 2 Rainbow Trout
3. Simplify and reduce the trout bag limit to 5 at the Colorado River from Lake Mead to California-Nevada boundary (including Lake Mohave and Willow Beach)

4. Close the Kino Environmental Restoration Project to fishing
5. Simplify the trout bag limit at Frye Mesa Reservoir
6. Allow live bait caught on site to be used at Riggs Flat Lake
7. Continue the bow and arrow fishing season for catfish at Apache, Canyon and Saguaro Lakes.

Commissioner Davis asked if there were any public comments about going to catch and release only at Lee's Ferry.

Mr. Cantrell stated there were a number of folks at the Flagstaff meeting that had recommended going to fully catch and release, but there are a core group of folks that fish in the walk-in for consumption, including our friends on the Navajo reservation that live nearby. The Department felt it was a good compromise for that user group in the walk-in. The Department looked at catch and release only towards the dam, but 98% of our anglers in the boating area are already catch and release, and that mentality is not likely going to change, so harvest will not likely be affected.

Commissioner Davis and Mr. Cantrell further discussed rainbow trout populations at Lee's Ferry. Mr. Cantrell provided a historical chart in his presentation.

Motion: Zieler moved and Ammons seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 40 (FISH) AS AMENDED, ESTABLISHING BAG AND POSSESSION LIMITS, SPECIAL REGULATIONS, OPEN SEASONS, OPEN AREAS, AND SPECIFIC CLOSURES FOR CALENDAR YEAR 2017 AND 2018 AS PROPOSED.

Vote: Unanimous

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18. Approval of Minutes and Signing of Minutes

Motion: Davis moved and Zieler seconded THAT THE COMMISSION VOTE TO APPROVE THE MINUTES FROM AUGUST 5-6, 2016.

Vote: Unanimous

The Commission signed the minutes following approval.

* * * * *

19. Commissioner Committee Reports

Commissioner Ammons commented that he attended a Payson Natural Resources HPC meeting and it was very impressive. It was a fully packed meeting and they were well organized. It may be the best local HPC in the state. They have about 25 well organized proposals to submit to the Department.

Chairman Madden commented on a Fair Chase meeting he attended. Several issues were discussed and will be discussed again at the Commission workshop.

* * * * *

20. Director and Commissioner Comments

Director Voyles briefed the Commission on the following activities:

- Attended the Navajo Nation Traditional Feast along with a couple Commissioners
- Participated in a trip to Botswana, which gave him a chance to see a different approach to wildlife conservation. They have an amazing diversity of wildlife, but they are largely restricted to a few areas. It was interesting to see the different philosophies, one creating protected areas to manage and protect wildlife vs. protecting and managing wildlife across all of the landscapes, both private and public. It reaffirmed to him that we have something worth fighting for right here.

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17. Litigation Report

There were no comments or questions regarding the Litigation Report.

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21. Future Agenda Items and Action Items

There were no action items or agenda items resulting from this meeting.

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16. (continued) Executive Session

The Commission voted to meet in Executive Session in accordance with A.R.S. § 38-431.03 (A)(3) and (4) for the purpose of discussion and consultation with legal counsel.

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

Vote: Unanimous

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Motion: Davis moved and Zieler seconded THAT THE COMMISSION VOTE TO ADJOURN THIS MEETING.

Vote: Unanimous

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Meeting adjourned at 4:00 p.m.

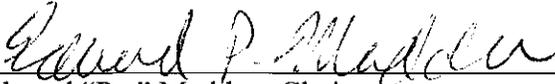
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Saturday, August 6, 2016 at 8:00 a.m.

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Field Trip: From 8:00 a.m. to 11:00 a.m. the Commission and Department staff traveled to the Second Knoll target range for its grand opening ceremony. The Second Knoll range is the first developed large scale shooting range in Northeastern Arizona and will serve the communities of Pinetop-Lakeside, Show Low, Snowflake-Taylor and Springerville-Eagar. The event was open to the public. No legal action was taken by the Commission during the field trip.



Edward "Pat" Madden, Chairman



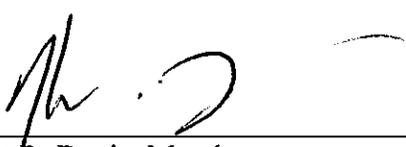
James R. Ammons, Member



James S. Zieler, Member

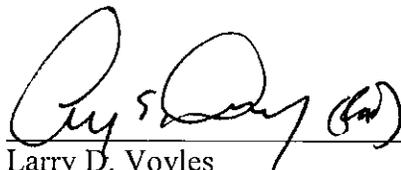


Eric S. Sparks, Member



Kurt R. Davis, Member

ATTEST:



Larry D. Voyles
Secretary and Director

**Game and Fish Litigation Report
Presented at the Commission Meeting
August 26, 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 July 20, 2015, the court granted the plaintiffs' motion and granted a motion to consolidate the lawsuit *WildEarth Guardians v. Ashe, CV 15-00285*. On July 23, 2015, the court issued a scheduling order.

WildEarth Guardians filed its lawsuit on July 2, 2015, alleging violations of ESA and

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

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

On January 8, 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.

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

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

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

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

December 14, 2012, on the basis the Court lacks jurisdiction.

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

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

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

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

The superior court denied the State's Motion to Dismiss, stating that the language and legislative history of A.R.S. §17-314 only authorizes the courts of this state to assess civil damages for the loss of wildlife to the state. The Commission has directed the AGO to file suit in the superior court to collect civil damages from Holden and Guynn for the unlawful take of big game.

5. *WildEarth Guardians et al. v. United States Forest Service*, 3:16-cv-08010-PCT-PGR. This suit, filed January 25, 2016 by WildEarth Guardians, Grand Canyon Wildlands Council and the Sierra Club, seeks a ruling that the Forest's travel management decision on the Williams, Tusayan and Kaibab Ranger Districts allowing motorized retrieval of legally-harvested big game (elk and, for the Kaibab, elk and bison) during designated hunting seasons violates the Forest's Travel Management Rule, NEPA, and the National Historic Preservation Act. The suit also seeks injunctive relief enjoining Forest from allowing motorized big game

retrieval until the Forest “can demonstrate compliance with federal law”. The Department, along with Safari Club International, filed motions to intervene. The Plaintiffs and the Department of Justice did not oppose the motions. At the AGO’s request DOJ forwarded the Forest’s administrative record. Department staff have reviewed it to ensure all written submissions of the Department are included in the record.