

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, September 23, 2005 – 7:00 a.m.
Arizona Game and Fish Pinetop Office
2878 E. White Mountain Blvd.
Pinetop, AZ 85935

PRESENT: (Commission)

(Director's Staff)

Chairman W. Hays Gilstrap
Commissioner Melton
Commissioner Michael M. Golightly
Commissioner William H. McLean
Commissioner Robert Hernbrode

Director Duane L. Shroufe
Deputy Director Steve K. Ferrell
Assistant Attorney General Jim Odenkirk
Assistant Attorney General Shelley Cutts

Chairman Gilstrap called the meeting to order at 7:00 a.m. This meeting followed an agenda revision dated September 19, 2005.

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1. Executive Session

a. Legal Counsel. The Commission may vote to meet in Executive Session in accordance with A.R.S. §§ 38-431.03 (A)(3) and (4) for the purpose of discussing and consulting with legal counsel in order to consider its position and to instruct legal counsel regarding the Commission's position on *Montoya v. Manning*, CIV98-0239 PHX RCB; *Re General Stream Adjudication for the Little Colorado River and Gila River*; *Bar D Cattle Co. v. Shroufe*, CIV2002-0872; *Phelps Dodge Corp. v. Arizona Dept. of Water Resources*, LC2003-000243-001DT; *Arizona Zoological Society, et. al. v. BLM*, IBLA appeal no. 2002-412; *Audubon Society of Portland v. USFWS*, CV04-670-KI; and *State of Arizona v. George H. Johnson*, CV2005-002692.

b. Legal Counsel Regarding Open Meeting Law. The Commission may vote to meet in Executive Session in accordance with A.R.S. §§ 38-431.03(A)(3) and (4) for the purpose of discussing and consulting with legal counsel regarding the Commission's use of email for internal and external communications.

c. Legal Counsel Regarding Competition with Private Enterprise. The Commission may vote to meet in Executive Session in accordance with A.R.S. §§ 38-431.03(A)(3) and (4) for the purpose of discussing and consulting with legal counsel regarding whether the operation of the Ben Avery Shooting Facility is considered competition with private enterprise.

d. Review of RFP Responses for Construction of a New Department Headquarters Complex at the Ben Avery Shooting Facility. The Commission may vote to meet in executive session as provided under A.R.S. § 38-431.03(A)(2) to discuss or consider RFP responses for construction of a new Department headquarters complex at the Ben Avery Shooting facility. These documents are made confidential by A.R.S. § 41-2534 and are exempt from public inspection.

e. Personnel Matters. The Commission may vote to go into Executive Session to discuss personnel matters, including the Director's goals and objectives pursuant to A.R.S. § 38-431.01

(A) (1). The Commission may decide this matter in the public meeting or defer a decision to a later date.

Motion: Golightly moved and Hernbrode seconded THAT THE COMMISSION GO INTO EXECUTIVE SESSION.

Vote: Unanimous

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Chairman Gilstrap called the meeting to order at 8:00 a.m. following Executive Session. The Commissioners introduced themselves and Chairman Gilstrap introduced the Director and the Director's staff.

Chairman Gilstrap requested a moment of silence to respect the individuals in the Gulf Coast areas who are dealing with difficulties from the recent hurricane.

Awards and Commissioning of Officers – Director Shroufe introduced five new Wildlife Manage I Trainees who were present to be commissioned as officers; Mike Pastirik, Sophia Fong, Mark Frieberg, Virginia Gouldsbury and Micah White. Chairman Gilstrap lead the new officers through the oath, and congratulations were offered by the entire Commission.

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2. Update on Current Issues, Planning Efforts, and Proposed Projects on State and Federal Lands in Arizona and Other Matters Related Thereto

Presenter: Bob Broscheid, Habitat Branch Chief

A copy of the Lands Update report was provided to the Commission prior to today's meeting and is included as part of these minutes. The update addresses decisions or activities since the August 2005 Commission meeting. This update is in fulfillment of the Department's commitment to brief the Commission on a regular basis regarding decisions and actions on all state and federal lands in Arizona.

Mr. Broscheid further briefed the Commission on two updates. First, the process of the Inventoried Roadless Area; the Secretary of Agriculture promulgated a revised rule that allows the Governor of each state to develop and submit a petition that includes the states recommendation for how these Inventoried Roadless Areas will be managed. As a result, the Department is working cooperatively with the Governor's Office to evaluate the necessary steps in the petition process. Currently, the Department is finalizing detailed maps that clearly show existing roads and routes within each Roadless Area and these maps will be used to solicit public comments during the public involvement process, which is quite extensive in this petition procedure, and those will be subsequently sent to the Secretary of Agriculture as the Department's petition through the Governor's Office. This petition process is a very complicated procedure, but will ultimately establish the framework for how these areas are going to managed into the future.

Chairman Gilstrap asked Mr. Broscheid if he knew about other states involved in this same process.

Mr. Broscheid stated that Idaho and a couple other states are taking a proactive lead in this, but California, Oregon and New Mexico are actually going to litigate the matter to send this rule back. They didn't feel it was appropriate for the Secretary of Agriculture to lay this burden on the states. The Department is going to continue to proceed, believing that this is a really good opportunity to be involved in making sure that this petition addresses fish and wildlife management and wildlife related recreation in these areas.

Chairman Gilstrap asked if the potential lawsuits will slow down or even stop the process.

Director Shroufe stated that Arizona will have their petition submitted in 18 months, but even so the Forest Service and Secretary of Agriculture don't operate very fast in taking a position on a petition, and there will be a change in administration; also, it's very certain that if this gets tied up in court by other states, it will delay the other petitioning processes.

Mr. Broscheid added that the Governor's Office submitted a letter to the Secretary of Agriculture requesting funding to Arizona to help accomplish this task. Some states have been successful in receiving a stipend, but we haven't received a response yet.

Mr. Broscheid continued with the second update, which was the potential release of the Lake Havasu Resource Management Plan. The Department has been working with the Bureau of Land Management (BLM) as a cooperating agency in the development of this plan and it is anticipated that by the end of this month or early October, this will be released. The Department and BLM would like BLM to provide a brief overview of the plan to the Commission at the October Commission meeting.

Commissioner Melton asked if BLM was now better addressing Department concerns.

Mr. Broscheid stated that the Department is a lot more comfortable than before. These plans are very detailed and management specific. The Department helped to finalize three plans and the language in those plans that will address the Department's wildlife management authority and public recreation.

Commissioner Golightly asked in regards to Region III and BLM offering to cooperate with the Department in relocating some bighorn sheep off the Black Mountains.

Mr. Broscheid stated that the issue on the Big A Ranch allotment made the Department take a hard look at what was going on with that Black Mountain herd in regards to the highways, drought and livestock grazing. The Department decided that some necessary management actions needed to take place. Removal of sheep and maintenance of waters are two main areas the Department has been working on with BLM. The Department is collaring these sheep and finding where they are going in an attempt to find out why this herd is declining. The biggest change that the Department can make is in redoing the Black Mountain Ecosystem Management Plan when the Kingman RMP comes up for renewal. BLM is committed to working with the Department and we need to put into that RMP specific provisions for bighorn sheep in that area.

Commissioner Golightly asked about the bighorn sheep crossings that will continue to occur on Highway 93 and why there is confusion over allowing that highway to continue to be used with the new highway in place.

Mr. Broscheid stated the Department with Federal Highways and the Arizona Department of Transportation (ADOT) has incorporated in that project, crossings for bighorn sheep in that area. Highway 93 is not going over the dam anymore, it's going over a new bridge span further south of that area. There are crossings in place that were targeted and included and now there is also a research project in progress to find out if those bighorn sheep are in fact crossing back and forth across those areas. The Department is now working with the Bureau of Reclamation who is going to assume jurisdiction of that road, the old 93, that continues to be used for visitor purposes. When the planning documentation was being done for that project, that road was going to be closed and used for administrative purposes only. The Department is working with the Bureau of Reclamation to make sure that road stays as administrative use. Dam access will happen on the Nevada side. That was the plan from day one and when they signed the Environmental Impact Statement (EIS). The Department is also working further on down where ADOT is looking to improve the areas along 93 from milepost 4 to milepost 30, to find out where the sheep are crossing and that information will be used to incorporate crossings or other structures to facilitate bighorn sheep moving back and forth. So there are a lot of things going on in that Black Mountain area.

Commissioner Golightly stated that from milepost 4 to the Hoover Dam was very critical bighorn sheep habitat. If the Commission agreed and it becomes necessary, Mr. Broscheid should identify the issues to the Commission and maybe the Commission could take action and get involved through the Governor's Office.

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4. Consent Agenda

The following items were grouped together and noticed as consent agenda items to expedite action on routine matters. These items were provided to the Commission prior to this meeting and the Department requests that the Commission approve these matters as presented, subject to approval or recommendations of the Office of the Attorney General. All items were presented to the Commission and none were deemed necessary to remove for further public input or discussion.

4.a. Request for Commission Approval for Renewal of the Ten-Year Right-of-Way (No. 018-054116) for Continued Access into John Long Canyon in the Coronado National Forest, Cochise County, and to Pursue Acquisition of a Right-of-Way in Perpetuity from the Arizona State Land Department.

Presenter: Bob Broscheid, Habitat Branch Chief

In May of 1994, the Commission approved a ten (10) year Right-of-Way from the State Land Department (SLD) for roadway access into John Long Canyon in the Coronado National Forest. The current 10-year Right-of-Way expires February 14, 2006. Although the Department would like to purchase the Right-of-Way in perpetuity, the SLD anticipates that purchasing the right-of-

way would take 16-months. In order to avoid losing continuity, the SLD advises that the Commission renew the current 10-year Right-of-Way before applying for a Right-of-Way in perpetuity. Rental fees applied to the 10-year Right-of-Way should be prorated toward the purchase price.

The Department recommends that the Commission VOTE TO APPROVE RENEWAL OF THE TEN-YEAR RIGHT-OF-WAY (NO. 018-054116) FOR CONTINUED ACCESS INTO JOHN LONG CANYON IN THE CORONADO NATIONAL FOREST, COCHISE COUNTY, AND TO PURSUE ACQUISITION OF A RIGHT-OF-WAY IN PERPETUITY FROM THE ARIZONA STATE LAND DEPARTMENT AND AUTHORIZE THE DEPARTMENT TO ENTER INTO ALL RELATED DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTIONS APPROVED HEREIN.

4.b. Request for the Commission to Approve a Renewal of an Agreement for Permit with Mohave Electric Cooperative, Inc. for Continued Utility Services Across the Commission's Topock Marsh Wildlife Area, Mohave County, Arizona.

Presenter: Bob Broscheid, Habitat Branch Chief

In August 1995, the Commission approved an agreement for permit with Mohave Electric Cooperative, Inc. for a 69kV overhead electric line from the Swan Substation of the Golden Shores area. A portion of the utility lines crosses Commission deeded land at Topock Marsh providing utility service to others. Mohave Electric Cooperative advised the Department to move forward with a new agreement as the power lines are still in use. A new agreement has been prepared which will be valid for a period of 10 years beginning at the expiration date of the original agreement (copy attached). The Department has determined that this agreement is in the public interest, and is compatible with the operation of Topock Marsh.

Additionally, Topock Marsh was acquired with financial assistance from the U.S. Fish and Wildlife Service (USFWS) and the attached agreement requires the approval of the USFWS.

The Department recommends that the Commission VOTE TO APPROVE A RENEWAL OF AN AGREEMENT FOR PERMIT WITH MOHAVE ELECTIC COOPERATIVE, INC. FOR CONTINUED UTILITY SERVICES ACROSS THE COMMISSION'S TOPOCK MARSH WILDLIFE AREA, MOHAVE COUNTY, ARIZONA AND AUTHORIZE THE DIRECTOR TO EXECUTE THE AGREEMENT AS ATTACHED OR AS RECOMMENDED OR APPROVED BY OFFICE OF THE ATTORNEY GENERAL. THE AGREEMENT FOR PERMIT IS SUBJECT TO THE APPROVAL OF THE UNITED STATES FISH AND WILDLIFE SERVICE.

4.c. Request for Commission Approval for Renewal of the Ten-Year Right-of-Way (No. 018-54114) for Continued Access into Stanford-Pridham Canyon in Cochise County and to Pursue Acquisition of a Right-of-Way in Perpetuity from the Arizona State Land Department.

Presenter: Bob Broscheid, Habitat Branch Chief

In May of 1994, the Commission approved a ten (10) year Right-of-Way from the State Land Department (SLD) for roadway access through Stanford-Pridham Canyon in the Coronado National Forest. The current 10-year recreational Right-of-Way expires February 14, 2006. At

the request of the Landowner Relations Program, the Right-of-Way is being renewed. Although the Department would like to purchase the Right-of-Way in perpetuity, the SLD anticipates that purchasing the right-of-way would take 16-months. In order to avoid losing continuity, the SLD advises that the Commission renew the current 10-year Right-of-Way before applying for a Right-of-Way in perpetuity. Any unused rent applied to the 10-year Right-of-Way should be credited toward the purchase price.

The Department recommends that the Commission VOTE TO APPROVE RENEWAL OF THE TEN-YEAR RIGHT-OF-WAY (NO. 018-54114) FOR CONTINUED ACCESS INTO STANFORD-PRIDHAM CANYON IN COCHISE COUNTY AND TO PURSUE ACQUISITION OF A RIGHT-OF-WAY IN PERPETUITY FROM THE ARIZONA STATE LAND DEPARTMENT AND AUTHORIZE THE DEPARTMENT TO ENTER INTO ALL RELATED DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTIONS APPROVED HEREIN.

4.d. Request for the Commission to Approve the Agreement for Permit with Valley TeleCom Group for the Purpose of Constructing, Operating, and Maintaining Underground Utility Lines Through the Commission's Whitewater Draw Wildlife Area, Cochise County, Arizona.

Presenter: Bob Broscheid, Habitat Branch Chief

Valley TeleCom Group has requested a right-of-way for the purpose of constructing, operating, and maintaining underground utility lines and related appurtenances through the Commission's Whitewater Draw Wildlife Area. This agreement would serve to grant Valley TeleCom Group a ten-year, ten-foot wide right-of-way to construct, operate, and maintain the utility lines. The Department has determined that this right-of-way is in the public interest and consistent and compatible with the operation of the Whitewater Draw Wildlife Area

Additionally, Whitewater Draw Wildlife Area was acquired with financial assistance from the U.S. Fish and Wildlife Service (USFWS) and the attached agreement requires the approval of the USFWS.

The Department recommends that the Commission VOTE TO APPROVE THE AGREEMENT FOR PERMIT WITH VALLEY TELECOM GROUP FOR THE PURPOSE OF CONSTRUCTING, OPERATING AND MAINTAINING UNDERGROUND UTILITY LINES THROUGH THE COMMISSION'S WHITEWATER DRAW WILDLIFE AREA, AND EXECUTE THE AGREEMENT AS ATTACHED OR AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL. THE AGREEMENT FOR PERMIT IS SUBJECT TO THE APPROVAL OF THE UNITED STATES FISH AND WILDLIFE SERVICE.

Motion: Melton moved and McLean seconded THAT THE COMMISSION VOTE TO APPROVE THE DEPARTMENT RECOMMENDATIONS ON THE CONSENT AGENDA ITEMS 4.A THROUGH 4.D AS PRESENTED.

Vote: Unanimous

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5. State and Federal Legislation

Presenter: Anthony Guiles, Legislative Liaison

Mr. Guiles briefed the Commission on bills that the Commission gave the Department direction to pursue in the next legislative session. One of those was the Supplemental Watercraft Budget, which was submitted at the beginning of this month and is working its way through the process at the legislature. Another is the Wildlife Feeding Prohibition where the Department has been talking to certain members and gauging whether they would be willing to sponsor this piece of legislation. The Department is looking at having both an urban and a rural legislator sponsor this legislation.

Commissioner Golightly commented that he's been getting responses that the legislature is not interested in the Wildlife Feeding legislation and perhaps focus should be on the counties to encourage a feeding bill rather than go to the legislature. This bill has failed twice already.

Mr. Guiles stated that the Department has gone to the counties and asked them to work with it, and some of the County Supervisor Boards have not been very receptive. It was tried in Flagstaff and it was an issue there because they passed a smoking ban and didn't want to seem too heavy handed at that time. The Department has worked with the counties at the legislature and they would like to a statewide effort so it's not as heavy handed for them.

Commissioner Golightly stated that he thinks the counties are having an issue with the language in the bill. People who are uninformed think this bill includes birds.

Commissioner McLean stated that the fact that the feeding of wildlife does not include birds must to be addressed in the language, and not just say the definition of wildlife does not include birds. Also, the Department needs to talk with the County Supervisors Association (CSA) and try to work up a joint proposal.

Mr. Guiles stated that CSA was on board with the feeding bill, but there was some difficulty with the language, and also, the feeding legislation got caught up in a larger political battle last year and the feeding bill was dropped. This year, Mr. Guiles is going to work with the counties and any other interested parties to make the language in this proposed legislation the best it can be.

Chairman Gilstrap stated that the Department needs to keep the focus on public safety in regards to wildlife in back yards that are drawn there by people feeding them.

The Commission gave a consensus for Mr. Guiles to continue with this proposed legislation.

Mr. Guiles continued with his briefing and provided the Commission with proposed language for the Civil Process Enhancement legislation.

Commissioner McLean questioned the forfeiture of any vehicle, watercraft, aircraft, firearm or other device or equipment or an instrumentality used in the commission of a criminal offense, and asked if the Commission needed to be granted additional authority to initiate forfeiture proceedings or will they do those forfeiture proceedings in the name of the State of Arizona as they do for criminal forfeiture.

Mr. Odenkirk stated that this would fall under the Title 13 forfeiture provisions that lay out the process for forfeiture of property related to crime. A reference in Title 17 gives the authority to take forfeiture action under Title 13, and that would fall within the Attorney General's Office or the County Attorney's Office. Mr. Odenkirk would be reluctant to create a separate process because of the proceedings that occur and would want to make sure that the focus was on the forfeiture of the property and not create a separate process that may constitute double jeopardy issues.

Commissioner McLean mentioned equitable sharing doctrines and stated that having Department officers doing seizures is fine as long as appropriate guidelines are established, but if using Department manpower and resources, then the monies from those forfeitures need to be flowing back to the Department.

Mr. Odenkirk stated that it is the Attorney General's Office that has the authority and there are issues about what property or assets the Department will be able to retain under this program or if there will be any ability to have proceeds come back to the Department. Generally, the legislature is very concerned about this area on that particular point, and that is that forfeiture is used to enhance an agency's assets. There is a lot of concern that if it's abused, the authority could be taken away. It may be advisable to discuss this with the Attorney General's Office, to see if there is going to be opposition to including one more forfeiture provision that would add a workload issue to the Attorney General's Office, to ensure that the Department is not blindsided.

The Commission further discussed and expressed interest in broadening or stiffening penalties on license revocations, including guide licenses, lifetime revocation in certain cases, and for the unlawful use of aircraft.

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6. Statewide Shooting Range Briefing

Presenter: Marty Macurak, Assistant Director, Information and Education Division

The Commission was given an update of Department activities related to shooting range support and development statewide. The update covered activities that have occurred since the August 2005 Commission meeting and was provided to the Commission prior to this meeting.

First, using a Power Point presentation and a map, Mr. Broscheid from the Habitat Branch updated the Commission on the search for a Northern Arizona shooting range. The Department has been meeting and cooperating with the Forest Service to develop a modified planning area, and they are also gearing up for public meetings. The Department has met with user groups and have a shooting range open house planned for October 29. Department consultants met with local environmental organizations, including the Grand Canyon Trust and Friends of Flagstaff and worked out most of their concerns, which were lead and noise issues, and they wanted to avoid using State Land. The Department also continues to meet with law enforcement personnel, who greatly support the development of a shooting range as it is badly needed.

The planning area was modified from a 25-mile radius to a 30-mile around Flagstaff. The real issue is not distance, but drive time, so the potential sites were based on drive time and we tried to keep it at about 45 minutes from Flagstaff. The next steps are to finalize the preliminary program for the facility based on Department and user group input, and to physically look at the potential sites opened up by the increased radius. A three day tour is planned for October to start looking at the feasibility of those sites.

In regards to the issue about logging to clear land for a shooting range, it could potentially involve a couple hundred acres. The issue is that the Department would pay someone to log it and there is not a lot of old growth or commercial value timber. The mitigation that the Department would have to pursue as this project moves forward could be substantial, along with the appeals and litigation that could come out of that. In addition, the logging would be very expensive.

Commissioner Golightly stated that an appeal could come up before the exchange is made, but this would be private property and the Department would only have to follow the ordinances to keep a percentage of forest on the property. With a landscape and a site plan, the Department should be able to promote this, realizing that there will be tunnels that go out through the woods and those trees will have to be removed. As for the cost, the vendor would offset that by buying the timber.

Mr. Broscheid stated that he just wanted to point out this potential issue, but that the Department is now looking at some of the lower elevations and may find the right spot where logging is not an issue.

Director Shroufe stated that it is the Department's recommendation to continue to evaluate sites based on the criteria and get to the final selection, and then decide whether these potential issues are really issues. If the focus is on potential issues, then the Department may end up with nothing. We just want the Commission to be aware of potential issues that might come up.

Ms. Macurak continued with the Statewide Shooting Range Briefing.

Department Owned Ranges:

Ben Avery Shooting Facility, Phoenix - A meeting to reshape the Line Safety Officer program was held September 6; invitees included representatives of the Arizona State Rifle and Pistol Association. The goal was to completely revamp the recruitment, training, scheduling and recognition processes to ensure reliable line coverage and make volunteering at BASF a rewarding experience. Also, the Range Manager position was filled; plans were completed for a new telephone system at the facility; and a bid for lighting on the main range is expected to be posted in the second week of September, with a goal of beginning installation in late October.

Discussions have begun on a process to generate a Ben Avery master plan, to shape future improvements at the range to ensure efficient and appropriate use by shooters, and to ensure that the range will remain a good neighbor to nearby residents and businesses.

Meetings have taken place with the city of Phoenix to shape draft language for an Intergovernmental Agreement (IGA) to operate the facility, as per Commission directive. In

October, the Commission will receive the draft agreement, draft Request For Proposals (RFP), and information on the cost to the Department of operating the Clay Target Center.

Ms. Macurak and the Commission discussed the possibility of cooperating with Universities and Community Colleges with volunteers and internships at the Ben Avery and other shooting ranges.

Commissioner Golightly requested, in regards to the draft IGA and RFP options, that Ms. Macurak provide those to the Commission for review as they are completed.

Usery Mountain Shooting Range, Mesa - The Department has been asked to conduct sound studies on the range and is in the process of contracting for them. The Rio Salado Sportsman's Club continues work on its grant projects: a pole crib berm, range manager's office and construction of two new pistol ranges. The Department is awaiting documents from the Bureau of Land Management to finalize the land transfer. The final version of the remediation plan for chemicals in the septic system has been sent to the Department of Environmental Quality.

Sierra Vista Range - The Department will pay approximately \$2,000 for the right-of-way to the range and expect to finalize the purchase in November or December.

Shooting Programs and Other Activities:

Shooting Range Grants - All seven project agreements for FY2006 grant funds have been signed and returned to the Department.

Scholastic Clay Target Program (SCTP) - During the month of August instructor trainings were conducted in Phoenix and Tucson to welcome a total of 21 new instructors. The majority of the new instructors will help grow the programs based at the Ben Avery Shooting Facility and in Tucson; five instructors will start new programs in Wickenburg and Casa Grande. In September, the Department will re-enroll the kids who participated in the SCTP last year; enrollment of new participants will begin Oct. 1. The program coordinator is spending the month of September traveling the state to deliver new equipment and check the existing equipment.

White Mountain Trap and Skeet Club - In August, the Commission directed staff to work with the White Mountain Trap and Skeet Club to arrange for possible road improvements. It was discovered that most of the roads have public easements, but Navajo County informs us there are likely a few sections of private road and they are helping by checking on ownership. If approval can be secured from the owners, the Department will begin work on a cost-benefit analysis that will allow the Department to grade the road twice a year. In return for the grading, the Department will ask the club to enter into an agreement to designate days and hours when the public will be guaranteed access to the range, and will also request that the club erect a sign at the range acknowledging Department assistance.

Northeastern Arizona Sportsman's Association - The Association plans to request that the Commission acquire a shooting range in St. John's that is owned by Apache County. The range is approximately 400 acres and has a covered shooting station, one trap field, and features some landforms that create natural shooting bays. The range would benefit from roadwork, and it has no electricity, water or sewer service; additionally, vandalism may be problem there. The range

is currently used for club shoots, 4-H shooting programs and hunter education field days. The Northeastern Arizona Sportsman's Association has begun a process to incorporate as a 501(c)3 and would like to operate the range in a manner similar to the Rio Salado Sportsmen's Club's operation of the Usery Mountain Range. An assistant to one of the Apache County supervisors states that the board of supervisors would be interested in crafting an Intergovernmental Agreement to give the property to the Commission with a stipulation that the range be available for law enforcement training. The assistant says the board is still "down the road a bit" from having a document ready to present to the full board of supervisors for approval. Before finalizing any agreement, the Department would need to discover whether some of the roads leading to the range might be private roads and, if so, would need to secure easements.

Public Comment

Don Borg, President of the Northeastern Arizona Sportsman's Association addressed the Commission in regards to the St. John's shooting range as previously stated.

The Commission gave a consensus to move forward with this project and requested to be kept informed of the progress, so that the Department will be ready when it's time to take action.

On another subject and at Chairman Gilstrap's request, Ms. Macurak briefed the Commission on awards received by Information and Education Division personnel. The Audio/Visual Section participated in the Rocky Mountain Emmy Awards and received three awards; Best Public Affairs Program, Best Location Lighting on the Legends of the Owls, and Program Element Topical on the Return of the California Condor.

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Meeting recessed for a short break

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11. Public Comment

Richard Tharp turned in a Speaker's Card to address the Commission, but was not present at this time. Comments on the Speaker's Card read "New Mexico guides getting my address when I was drawn for elk. I don't like them sending me information."

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10. Request for Direction on Disposal of Captured Bison from Grand Canyon National Park

Presenter: Ron Sieg, Region II Supervisor

At the August Commission meeting the Commission was provided an update on recent surveys and population management hunts associated with the House Rock bison herd. Toward the end of that presentation the Commission was offered some options for dealing with any bison captured during the Grand Canyon National Park pilot trapping process. No direction was provided from the Commission at that time, so the Department is back to request that direction.

Trapping is planned the week of October 3 and up to 30 bison may be captured. Four options have been proposed.

1. Haul the trapped bison to the House Rock Wildlife area and feed them until population management hunts can be scheduled. A few hunters at a time would be called and bison would be turned into a pasture shortly before these proposed hunts.
2. Haul the trapped bison to the Raymond Wildlife area and feed them until population management hunts can be scheduled. A few hunters at a time would be called and bison would be turned into a pasture shortly before these proposed hunts. The Commission would have to authorize additional population management hunts for this option. Some concerns are that efforts have been made to reduce the Raymond Wildlife Area herd for 3 years due to concerns from neighbors and the fear that released bison might go onto the adjacent Coconino National Forest or toward Interstate 40.
3. Offer the captured bison for sale on the open market with some going to other states for breeding/rearing.
4. Offer the captured bison for sale on the open market with some going to slaughter, likely in Colorado.

For both of the later options, the Department would advertise on the National Bison Association web page and would incur costs associated with holding, feeding, testing and transporting the animals. Information was provided regarding the costs and market values for bison. The Department offers the option of allowing the Director the latitude to secure the best value for the State based on bids for disposal.

Commissioner Golightly stated that he understood that the Park classified bison as livestock and the Department does not have to pay to have them delivered back.

Mr. Sieg replied that bison are now classified as non-native wildlife and according to Mr. Odenkirk, in regards to the open range laws of Arizona, his opinion is that they don't apply to Park Service lands in terms of having to fence livestock out and the other associated rules.

Commissioner McLean asked about the cost of transporting the captured bison, to which Mr. Sieg replied that it would be approximately \$300 to \$500 per 15 bison at a time, and right now the agreed upon number of bison to capture is 30 head.

The Commission further discussed the number of bison on the Park and what number would satisfy the Park or the Forest Service, which is 100 for the Forest Service and zero for the Park; and about who's responsibility it actually is to remove the bison. The Commission further discussed the options for disposal of captured bison as presented by Mr. Sieg.

Commissioner Golightly suggested another option, and that was hazing the bison onto Forest Service lands and into hunting areas prior to hunts, making them more accessible. Another option was to do nothing and let the Park and the Forest Service deal with the bison.

Commissioners Gilstrap, Golightly and McLean recalled and concurred that in a meeting with the Forest Service, the National Park Service had planned to capture and deliver the bison to House Rock at their expense and then once delivered, the bison would become the Department's responsibility. Now, that has somehow changed to once they are captured, they become the Department's responsibility to transport them.

Mr. Sieg stated that at this point in time, all the Department has agreed to do was participate in the experimental process of capturing 30 bison, and nothing beyond that.

Commissioner Hernbrode stated that the bison are a public resource and they have a value for hunting and to the people who visit the Forest and the Park.

Public Comment

Pete Cimellaro, representing himself, does not believe that option 1 or 2 is an option for the Commission. Not to where you would capture bison, transport them, hold in a pen, call hunters, turn them loose and shoot them. That cannot be done, that is not a hunt, it's a shoot. The Park and the Forest Service has pushed this issue onto this agency and this would put the Department in a bad light.

Moved: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO APPROVE THAT ANY BISON CAPTURED BY THE NATIONAL PARK SERVICE CONTRACTOR AND DELIVERED TO THE DEPARTMENT BE OFFERED FOR SALE ON THE OPEN MARKET FOR BREEDING OR FOR SLAUGHTER; AND IN ADDITION THE DEPARTMENT AND THE COMMISSION NOT CONSIDER ANY ADDITIONAL REMOVAL AND NOT GO BEYOND THE AGREED UPON 30 ANIMALS FROM THE PUBLIC IN THIS MANNER; AND THAT THE DEPARTMENT'S AGREEMENT WITH THE NATIONAL PARK SERVICE DOES NOT STAND BEYOND OCTOBER 31, 2005; THIS DOES NOT INCLUDE, AS PART OF A REGULAR HUNTING SEASON OR PART OF A REGULAR POPULATION MANAGEMENT HUNT, BUT DOES INCLUDE ANY MORE TRAP AND SHOOT OR SLAUGHTER.

Commissioner Golightly stated that if bison were taken to Raymond Ranch, where that hunt is done in an open setting, it's guided by the Department, they are not in corrals, but are released in the wildlife area, there could be an opportunity to hold a population management hunt. So there may be some options that come up now and then, based on the capture, but this motion is cut and dried to sell or send them to slaughter.

Commissioner Melton disagrees with population management hunts at House Rock or at Raymond Ranch and believes that sale or slaughter is the best option.

Vote: Aye, Gilstrap, Melton, McLean, Hernbrode
Nay, Golightly
Passed 4 to 1

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3. A Presentation of the Arizona State Trust Land Reform Ballot Initiative.

Presenter: Bob Broscheid, Habitat Branch Chief

Recently, a statewide citizen's ballot initiative was filed with the State that outlines changes to the State Constitution and the Enabling Act to allow better management of Arizona's State Trust

lands. In part, this initiative identifies the long-term protection of approximately 694,000 acres of State Trust lands from future development; provides state and local authorities the power to limit and control development and force developers to build quality projects; and protects and guarantees classroom funding for the school system in Arizona.

The Commission was provided with an overview of the initiative and the significant provisions that provide for the long-term conservation and management of Arizona's fish and wildlife resources.

Pat Graham, State Director for the Arizona Chapter of the Nature Conservancy, addressed the Commission and using a Power Point presentation, briefed them with a detailed overview of the initiative. Copies of the presentation, which included maps, and a Guide to the Arizona State Trust Land Reform Initiative were provided.

It's been almost a century since the State Trust Land laws have been significantly reviewed and this offers a real opportunity for Arizona in several areas, including the interest of those who care about wildlife. On July 19, a broad coalition of conservation, education and business leaders filed with the Secretary of State, a petition to go out with a citizen's initiative called Conserving Arizona's Future that would be placed on the November 2006 ballot. The primary goals of this initiative are to conserve nearly 700,000 acres of Arizona lands from development for future generations of Arizona. It requires state and local authorities to cooperate in the planning of state trust lands and protects and guarantees an essential classroom funding stream.

The groups supporting this measure continues to grow and currently includes several conservation organizations, several land trust organizations, Arizona Public Service, Arboretum at Flagstaff, Chapters of the Audubon Society, and more. This group has spent almost four years trying to hammer out measures that could be brought before the voters.

The Conservation Reserve is broken down into three sections, Permanent Reserve 260,000 acres, Provisional 361,000 acres, and Education Reserve 73,000. The Permanent Reserve is protected from development, the Provisional Reserve are lands that would have to be purchased at a future date, triggered by a city or county initiating a Comprehensive Management Plan, and the Education Reserve is identified and currently used by the universities for research purposes.

The primary limitation is that these lands would not be made available for development. Development is defined as buildings and other improvements for public or private use not in existence as of November 2, 2006, but does not include fences, paths, trails, trailheads, roadways, utility lines and associated facilities, canals, drainage improvements, wells, signage, range improvements, environmental education facilities, communications facilities, research or monitoring stations and associated equipment or, in order to facilitate reasonable public access, picnic, camping, hunting, fishing, parking security, comfort, maintenance and similar facilities. Existing leases and uses, such as grazing or hunting and fishing would be grandfathered in and not affected. It also ensures guaranteed public access on those properties. The Conservation values for these lands include habitat and corridors for wildlife, buffers to parks and public lands, aquifer and watershed protection, and recreation and open space.

Using maps, Mr. Graham pointed out several areas and blocks of land that have been identified for Conservation Reserve areas.

Commissioner Hernbrode asked what percentage of total state trust land was involved in this initiative, to which Mr. Graham stated that this is about 6-7% of the approximate 9.3 million acres of state trust lands.

Commissioner Melton asked about hunting access. Some of these areas have private areas in them that doesn't allow hunting, so would non-hunting be grandfathered in.

Mr. Graham stated that hunting is not considered to be an inconsistent use of the lands, and for the purposes of hunting and fishing, it was put into the definition of development that hunting and fishing would be exempt. The definition of conservation would never be to preclude or limit hunting or fishing.

Commissioner Melton further stated that some of the designated lands are checkerboarded with private land where there is no access to the conservation area. If sportsmen can't use the conservation land, then it's not really conservation to the sportsmen. Finding a way to resolve the access issue would bring a lot more support to this initiative.

Mr. Graham stated that this plan doesn't effect access issues; it doesn't grant or preclude access.

Chairman Gilstrap commented that some of the areas identified are critical areas and whatever can be done to conserve them are good; however, the objective was to get people involved and to have an effect on wildlife, but the Department was not a participant, was not invited and was actually uninvited when they asked to participate (The Department provided maps with lands identified for conservation purposes, but was not involved in the drafting of the initiative). This is troubling as the Department is a major state agency with the responsibility of managing the states wildlife, but the Department was pleased to see that hunting and fishing were inserted into the initiative. Access issues are a concern, but most of all, this initiative is only a small portion of a big issue. By doing this, the opportunity may be stopped of really doing state land reform, which is broader than this initiative.

Mr. Graham stated that he is not aware of the Department being uninvited to participate and that they did meet and communicate with the Department in preparing this initiative. A larger package was tried and failed at the legislature, so they went with a small package. The bottom line is that this land is going to continue to be sold for development and the opportunity to do what's being done with the initiative will close. These are not the only lands that can be conserved, but it is what could be conserved upfront.

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8. Notice of Docket Opening to Amend R12-4-102 to Increase Fees as Authorized by Statutory Changes Made by the 47th Legislature

Presenter: Dustin McKissen, Rules and Risk Manager

In 2005, during the 47th Legislative Session, the Arizona State Legislature approved amendments to A.R.S. § 17-333 (dealing with licenses, classes, and fees) to raise the maximum amount the

Commission may charge for the licenses, permit-tags, and stamps listed in the statute, and to authorize new licenses established under the statute change. The Department intends to propose rulemaking to amend the fees listed in R12-4-102 and add new fees for new licenses.

The draft Notice of Docket Opening and the Department's proposed timeline were provided to the Commission prior to this meeting. If the Commission approves the Notice of Docket Opening, the Department will submit the Notice to the Secretary of State's Office for publication in the Arizona Administrative Register. The Department intends to implement these fees for all licenses, tags, stamps, or permits used in calendar year 2007.

Commissioner Hernbrode asked when the Commission would be able to see the draft language and the recommended fee structure, to which Mr. McKissen stated that after the Commission approves the opening of the docket, the Department would start working on the draft and bring that to the Commission in December.

Motion: McLean move and Hernbrode seconded THAT THE COMMISSION VOTE TO APPROVE A NOTICE OF DOCKET OPENING TO AMEND R12-4-102; DEALING WITH LICENSES, TAGS, STAMPS, AND PERMITS; TO INCREASE FEES AS AUTHORIZED BY STATUTORY CHANGES MADE BY THE 47TH LEGISLATURE TO RAISE FEE CEILINGS. THIS NOTICE WILL BE SUBMITTED TO THE SECRETARY OF STATE FOR PUBLICATION IN THE *ARIZONA ADMINISTRATIVE REGISTER*.

Vote: Unanimous

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9. Request to Approve a Notice of Termination of Rulemaking, a Second Notice of Docket Opening, and a Second Notice of Proposed Rulemaking to Restart the Rulemaking Process to Amend Article 3 rules to Authorize the Use of a Two-Part Tag, Prescribe Additional Check-Out Requirements for Mountain Lion Hunts, and to Authorize Possession of a Bear or Mountain Lion Taken Under A.R.S. § 17-302 During a Closed Season.

Presenter: Dustin McKissen, Rules and Risk Manager

At its last meeting in August, the Arizona Game and Fish Commission directed the Department to pursue rulemaking to authorize the use of a new two-part hunt permit-tag, so that an individual who possessed the original tag could allow another individual to possess and transport a portion of a wildlife carcass; establish a new season that would authorize an individual to keep the carcass of a mountain lion or bear that attacks or kills livestock, under A.R.S. § 17-302; and prescribe additional check-out requirements for those who take mountain lion or bear. At the August meeting, the Commission also heard public comment on the proposed rules, and gave the Department latitude to return to the following meeting in September with further rulemaking that addresses the concerns that were raised.

The Department filed the Notice of Proposed Rulemaking approved by the Commission but also reviewed the original proposal, and found it necessary to make substantive changes to address public concerns. Rather than file a Notice of Supplemental Rulemaking to make further changes (which would have delayed the rules' effectiveness), the Department will instead file a Notice of

Termination of Rulemaking to discontinue the current rule process. At the same time, the Department will file a new Notice of Docket Opening and a new Notice of Proposed Rulemaking to restart the rulemaking process and carry forward rule changes that are more responsive to the apprehensions of the regulated community.

Under the new Notice of Proposed Rulemaking:

- The Department will again propose authorization of a two-part tag to allow possession of a divided carcass, but will not give specific instructions for use with specific species. Instead, the agency will prescribe general guidelines for use of the portions of the tag that will establish lawful possession.
- The proposed rulemaking will not establish a new season under R12-4-318, but will instead, under R12-4-305, authorize possession of mountain lion or bear taken during a closed season, if authorized by A.R.S. § 17-302. Bear or mountain lion taken under this rule will also count towards the bag limit.
- The Department will again propose changes to check-out requirements for individuals who take mountain lion or bear. No substantive changes were made to the original proposed amendment.

The draft Notice of Termination of Rulemaking, new Notice of Docket Opening, new Notice of Proposed Rulemaking, and Economic Impact Statement are attached for the Commission's consideration. If approved, the Department will file the attached notices with the Secretary of State Publication's Office for posting in the *Arizona Administrative Register*.

Under the current rulemaking, the Department is scheduled to hold a public hearing on October 19. If the draft notices are approved, this hearing will be postponed to the Commission's December meeting.

The Department anticipates that the rules will still become effective by April, 2006.

Commissioner McLean asked Mr. McKissen to define the substantive changes.

Mr. McKissen stated that those were: One, not being species specific in the use of a two part tag to allow the Department more flexibility in how that is applied and to address the concerns of the user groups; and two, not establishing a new season, but rather allowing for take as a sport harvest of depredated bear and mountain lion under 17-302.

Commissioner McLean expressed concern as to whether the take of a depredated lion would be a depredated take or a fair chase sport harvest.

Director Shroufe clarified that presently the lion season runs year round and some lion takes are authorized by 17-302 for depredated. With this rulemaking there is a choice where a guide can work for a rancher and take a sport hunter out that is properly licensed and harvest that lion that was initiated by a 17-302 depredated complaint. What the Department wanted to do, perhaps in the future, was allow a closed season on the take of lions, and during that closed season, without this exception, every lion taken under the depredated clause would be illegal for possession as sport take.

Motion: McLean moved and Melton seconded THAT THE COMMISSION VOTE TO APPROVE A NOTICE OF TERMINATION OF RULEMAKING, A SECOND NOTICE OF DOCKET OPENING, AND A SECOND NOTICE OF PROPOSED RULEMAKING TO RESTART THE RULEMAKING PROCESS TO AMEND ARTICLE 3 RULES, DEALING WITH THE TAKING AND HANDLING OF WILDLIFE TO (1) AUTHORIZE THE USE OF A TWO-PART TAG; (2) PRESCRIBE ADDITIONAL CHECK-OUT REQUIREMENTS FOR MOUNTAIN LION HUNTS; (3) AND TO AUTHORIZE POSSESSION OF A BEAR OR MOUNTAIN LION TAKEN UNDER A.R.S. § 17-302 DURING A CLOSED SEASON. THE NOTICE WILL BE SUBMITTED TO THE SECRETARY OF STATE’S OFFICE FOR PUBLICATION IN THE *ARIZONA ADMINISTRATIVE REGISTER*.

Vote: Unanimous

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11. Public Comment (Continued)

Richard Tharp was called again to speak, but was not present.

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Meeting recessed for a lunch at 11:55 a.m.

Meeting reconvened at 1:00 p.m.

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1. Executive Session (Continued)

Motion: McLean moved and Melton seconded THAT THE COMMISSION GO BACK INTO EXECUTIVE SESSION.

Vote: Unanimous

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

Presenter: Ronald L. Day, Law Enforcement Branch Chief

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

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7. Proposed Construction of a New Department Headquarters Complex at the Ben Avery Shooting Facility

Presenter: Richard Rico, Assistant Director, Special Services Division

Using a Power Point presentation, Mr. Rico provided the Commission with an update on the proposed construction of the new Department Headquarters. At the December 2004 Commission meeting the Department was directed to initiate the Request for Proposal (RFP) process to finalize the selection of a qualified vendor for Commission approval to construct a new headquarters facility at the Ben Avery Shooting Complex. Since that time the Department has worked diligently to accomplish this task. In February of 2005 the Department advertised a Phase I RFP to identify potential vendor interest in the project and to begin the process of selecting a qualified private sector development team to finance, design, construct and operate a new facility. Six vendors provided proposals and subsequently four were selected to continue with a Phase II RFP. The second phase RFP was advertised beginning July 5, 2005 with a closing date of August 12, 2005.

This proposal was specifically designed to finalize the selection of a development team and to allow them the opportunity to produce a viable project concept (including a site master plan), corresponding construction guidelines and performance specifications that could be further developed through a distinct preconstruction process that would meet the needs and intent of the Department. While four vendors were selected to continue the process, one vendor decided to terminate their participation. The remaining vendors all submitted proposals by the due date.

Since that time the Department has conducted an extensive internal evaluation of all three proposals. The Department also contracted with DWL architects to provide a detailed performance specification analysis and a financial analysis of each of the proposals. This information was utilized extensively in establishing specific questions for each vendor that were subsequently asked during two hour presentations.

As a result of the interview process, the evaluation committee determined that in order to make a final decision, additional design guidelines and budget information were needed to facilitate a more comparative approach. This also provided vendors with the opportunity to amend or clarify their proposals with changes that could make their offer more competitive. The Department also specified that its budget for the total annual lease payment (including principal/interest, operations and maintenance and long-term major maintenance) could not exceed the range of \$1.0 to \$1.5 million. Depending on the length and terms of the finalized lease agreement, this would equate to an approximately \$16.5 million project. The goal of this request was to confirm that each offeror's proposed scope of work and associated cost estimates are all inclusive of the needs and intent of the Department. This information was required by September 20, 2005 and was used to finalize the selection process.

Once this process is completed, the proposed vendor will receive a notice of anticipated award. This will be the initial step in a process that will ultimately generate all the required agreements including a land lease agreement with the developer concurrent with the term of the lease purchase agreement, the final design/construction documents and the initiation of the construction process in mid 2006.

Commissioner Golightly asked if the Adobe Mountain Wildlife Center was included in with these plans.

Mr. Rico stated that the budget is only for the headquarters building, shop, warehousing, and associated infrastructure, and not the relocation of the Wildlife Center. We have other methods to address that building, possibly through the Capital Improvement Fund.

Chairman Gilstrap requested that the Department be extremely creative and efficient in disposing of the Greenway property to possibly reduce the gross cost of the new headquarters, and also to be vigilant to use funds other than the Wildlife Conservation Funds where legal and available.

Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION VOTE TO AUTHORIZE THE DEPARTMENT TO ENTER INTO ALL AGREEMENTS REQUIRED TO INITIATE A LEASE PURCHASE CONTRACT FOR THE CONSTRUCTION OF A NEW HEADQUARTERS COMPLEX WITH A TOTAL CONSTRUCTION BUDGET NOT TO EXCEED \$16.5 MILLION DOLLARS UTILIZING WILDLIFE CONSERVATION FUNDS.

Vote: Unanimous

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15. Request to Approve a Notice of Proposed Rulemaking to Amend Article 4, Dealing with Live Wildlife, Subsequent to the 2004 Five-Year Rule Review Approved by GRRC.

Presenter: Carlos Ramirez, Rule Writer

Under A.R.S. § 41-1056, each state agency is required to review all of its rules at least once every five years. In 2003, the Arizona Game and Fish Commission's Article 4 Live Wildlife Rules were under review as required by this Statute, and a report detailing the findings of the 5-year rules review was approved by the Commission in August of that year. As required under A.R.S. § 41-1056, the Arizona Game and Fish Department met the statutory filing requirement deadline for the five-year rules review report on Article 4, and the Governor's Regulatory Review Council approved the report at its January 6, 2004, meeting.

At its April 2004 meeting, the Arizona Game and Fish Commission directed the Department to submit a Notice of Docket Opening to begin the regular rulemaking process to amend the rules of Article 4 as identified in the rules review report. The report identified key areas where the Commission's rules were lacking in some respect, and prescribed methods to address those deficiencies. Since the opening of the original docket, additional rule revisions became necessary to address issues that arose after the original five-year rule review report.

In April of this year, the Department held public meetings at all of its regional offices and the Arizona State Fairgrounds Wildlife Building in Phoenix to receive comment on the proposed rule language; over 100 individuals attended the meetings collectively. The Department has taken into consideration the concerns raised by the public in this proposed rulemaking.

A second Notice of Docket Opening was approved by the Commission in June 2005 to complete the rulemaking process for the rules under this Article.

The Department is amending the rules generally as stated in the 2004 five-year rule review.

Several of the more substantial amendments in this rulemaking are as follows:

- The rules in this article have been amended overall to put them into the active voice, and to make requirements more understandable. Although this does not change the impact of the rules, this is a significant amendment that makes the rules more compelling.
- Amendments are being proposed throughout the rules to ensure public health and safety and to prevent threats to native wildlife populations. The Department is also proposing amendments that will give the agency greater authority to monitor wildlife activity in the state more closely.
- The Department will add new species to the list of restricted live wildlife, and will remove those that are no longer as great a wildlife concern. The Department is also establishing restrictions in regards to hybrid wildlife, domestic animals, and transgenic wildlife.
- The Department is amending the general application requirements for all special licenses to make them more consistent and to provide the agency with universally important information on the applicant and their intended activities. Annual reports will also be required to maintain special licenses that authorize activities that are of particular concern.
- The Department is amending special licenses rules to clarify which licenses allow commercial activity, and which do not.
- Amendments will be made to address the breeding of domestic animals with wildlife under a private game farm license.
- A wildlife service license holder will be able to engage in authorized licensed activities with javelina under R12-4-421, but must also comply with additional regulations to handle this species.
- Although it proposed to amend R12-4-422, Sport Falconry, in the five-year review, the Department will wait until federal amendments dealing with sport falconry are finalized.

The Notice of Proposed Rulemaking, the preliminary Economic Impact Statement, a summary of the preliminary public comments, and the rulemaking team's response to these comments were provided to the Commission prior to this meeting for consideration.

The Commission has the option of authorizing the Department to hold a public hearing to receive comments before presenting final rulemaking to the Commission. The public hearing would be held on December 3, 2005 at 9:00 a.m. at the Game and Fish Department Headquarters in Phoenix. If the Commission authorizes a separate public hearing, the Department requests that it also give the Director the authority to designate a public hearing officer to facilitate the meeting. If an individual cannot attend the hearing, the Department will still accept comments during the formal comment period from October 21 to November 20 of this year.

If the Commission approves the Notice of Proposed Rulemaking and the preliminary Economic Impact Statement, the Department will submit the notice to the Secretary of State Publications Office by September 30, 2005, for publication in the *Arizona Administrative Register*. The Department anticipates that the rules will become effective and enforceable no later than May 2006.

Motion: McLean moved and Golightly seconded THAT THE COMMISSION VOTE TO DIRECT THE DEPARTMENT TO HOLD A PUBLIC HEARING AND THEN PRESENT THE FINAL RULEMAKING AT THE DECEMBER 2005 COMMISSION MEETING; AND TO GIVE THE DEPARTMENT THE AUTHORITY TO DESIGNATE A HEARING OFFICER.

Vote: Unanimous

Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION VOTE TO APPROVE A NOTICE OF PROPOSED RULEMAKING TO AMEND ARTICLE 4, LIVE WILDLIFE, PRINCIPALLY AS STATED IN THE 2004 FIVE-YEAR RULES REVIEW REPORT APPROVED BY GRRC. THE NOTICE WILL BE SUBMITTED TO THE SECRETARY OF STATE'S OFFICE FOR PUBLICATION IN THE *ARIZONA ADMINISTRATIVE REGISTER*.

Vote: Unanimous

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14. 2005 Annual Commission Awards Selection

Presenter: Josh Avey, Executive Staff Assistant

The Commission was asked to select the 2005 Commission award recipients. An overview of the 2005 Commission award nominees were provided to the Commission prior to this meeting. Additionally, the Commission was asked for direction on the change from Youth Environmentalist of the Year to the Youth Conservationist of the Year, and the creation of a new category for Outdoor Woman of the Year.

Motion: Golightly moved and McLean seconded THAT THE COMMISSION VOTE TO AWARD THE RECIPIENTS AS FOLLOWS: AWARD OF EXCELLENCE TO AJO MIDDLE SCHOOL, YOUTH ENVIRONMENTALIST OF THE YEAR TO LEVI HEFFELFINGER, OUTDOOR WRITER OF THE YEAR TO MITCH TOBIN, MEDIA OF THE YEAR TO THE DEER TIMES, CONSERVATION ORGANIZATION OF THE YEAR TO ARIZONA ANTELOPE FOUNDATION, CONSERVATIONIST OF THE YEAR TO TICE SUPPLEE, ENVIRONMENTALIST OF THE YEAR TO BLAIN BICKFORD, VOLUNTEER OF THE YEAR TO SCOTT HEAP, WILDLIFE HABITAT STEWARDSHIP AWARD TO STEVE PIERCE, AND EDUCATOR OF THE YEAR TO TERRY ORR.

Vote: Unanimous

Motion: Golightly moved and McLean seconded THAT IN ADDITION TO AJO MIDDLE SCHOOL, THE COMMISSION VOTE TO AWARD AN AWARD OF EXCELLENCE TO PIMA COUNTY, C/O C.H. HUCKELBERRY, COUNTY ADMINISTRATOR, JERRY WEIERS, SOUTH EASTERN ARIZONA SPORTSMAN'S CLUB, AND TOM WOODS.

Vote: Unanimous

Motion: Melton moved and Golightly seconded THAT IN ADDITION TO THE FIVE SELECTED FOR AN AWARD OF EXCELLENCE THAT THE COMMISSION VOTE TO ADD LEON LESICKA FOR AN AWARD OF EXCELLENCE FOR A TOTAL OF SIX AWARDS OF EXCELLENCE.

Vote: Unanimous

Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION VOTE TO ADD AN AWARD FOR OUTDOOR WOMEN OF THE YEAR FOR NEXT YEAR, 2006.

Vote: Unanimous

Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION VOTE TO CHANGE THE AWARD FOR YOUTH ENVIRONMENTALIST OF THE YEAR TO YOUTH CONSERVATIONIST OF THE YEAR FOR NEXT YEAR, 2006.

Vote: Unanimous

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16. Litigation Report

A copy of this report was provided to the Commission prior to today's meeting and is included as part of these minutes. There were no further updates from Mr. Odenkirk and the Commission had no comments or questions.

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17. Call to the Public

There were no request from the public to speak at this time.

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18. Director's and Chairman's Reports

Director Shroufe reported on his Goals and Objectives, Goal #6, Ensure Revenue Streams and Find New Sources, and under that item there were three objectives given and those were: explore opportunities to all customers to contribute to the Department; work at a federal level to ensure state wildlife grants; and work at the state level to find new sources. In carrying out this direction over the past several months, the Department has been doing some fact finding as to how the public might accept a voter initiative to increase the state sales tax. Because of that fact finding and along with the direction to work at the state level to find new resources, the Department recommends that the Commission give direction to the Department to work in the legal realm of what it can do to form a Public Action Committee (PAC) and raise the necessary preliminary funds to work up ballot language to be ready to file with the Secretary of State; and once that is done, carry on a campaign for collecting signatures for putting the initiative on the 2006 ballot. The Department further recommends using the percentage of the sales tax of .05 percent, which is 1/20th of a cent. With last years revenues that were collected through sales tax, that would give the Department between 35-45 million dollars a year.

Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION VOTE TO DIRECT THE DEPARTMENT TO WORK IN THE LEGAL REALM OF WHAT IT CAN DO

TO FORM A PUBLIC ACTION COMMITTEE (PAC) AND RAISE THE NECESSARY PRELIMINARY FUNDS TO WORK UP BALLOT LANGUAGE AND BE READY TO FILE WITH THE SECRETARY OF STATE AND THEN TO CARRY ON A CAMPAIGN FOR COLLECTING SIGNATURES FOR PUTTING THE INITIATIVE ON THE 2006 BALLOT.

Chairman Gilstrap commented that if this passes, it will almost double the budget of the Department, and it is incumbent upon the Department to have a good plan in place to justify to the public how these funds will be effectively and efficiently spent. Additionally, whoever is going to be running the campaign, it is critical that this group not only have in mind the interest of the Arizona Game and Fish Commission and Department, but also has a spotless position with the public in regards to quality and integrity.

Commissioner Melton cautioned that this may cause the Department to be under even more scrutiny by some of the environmentalist groups, and it might also affect other sources such as the Heritage Fund.

Vote: Unanimous

Mr. Ferrell provided an update for the Director on another item in the Director's Goals and Objectives pertaining to employee raises. The Department has had some constructive dialogue with the Department of Administration (DOA) about the Wildlife Classification Maintenance Review (CMR), and things look favorable in that regard. There is no final CMR from DOA yet, but it seems that Department requests have been largely accepted. Some of those things are additional classifications and equity adjustments within the classifications and that is where the most meaningful increases are likely to occur. The cost for these increases might be close to 2.5 million dollars, which would come from the new license fee increase, so the Department will need to come back to the Commission and ask for direction to go to the legislature and ask for a supplemental appropriation. The Department proposes having a Telephonic Commission meeting, if necessary, to gain that direction. A request for additional funds for gasoline will also be added to that supplemental appropriation, due to increasing gas prices.

It's estimated that the salary increases might cost around 3 million dollars. The Department is at 2.5 million with just the wildlife series, so 3 million is probably accurate once the non-wildlife series is added, and it might exceed 3 million dollars. Some of the ways to pursue the non-wildlife series, depending on the DOA pilot study that may solve this, but if it doesn't, the Department is prepared to suggest a salary bill next year that might adjust the non-wildlife series in the same manner as the wildlife series; through a CMR and equity adjustments. The Department is also looking at building into statute, a permanent fix to address the wildlife series, like a step system or banding system, like the Department of Corrections, that would allow the Commission more latitude in addressing salaries in the wildlife series without having to go to the legislature every seven or eight years.

Director Shroufe continued with his Director's report. He attended the Wildlife for Tomorrow Banquet, a Director's Summit on the Mexican wolf reintroduction program, the Arizona Wildlife Federation's (AWF) Arizona Trophy Banquet, the Audubon Award Dinner, and the International Association of Fish and Wildlife Agencies (IAFWA) meetings in Nashville, Tennessee.

Commissioner Gilstrap reported the he attended the Outdoor Hall of Fame and IAFWA in Nashville.

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19. Commissioners' Reports

Commissioner Golightly attended the Rocky Mountain Elk Foundation (REMF) Banquet, worked on shooting range matters, and routine Department business.

Commissioner Melton attended and Arizona Trappers Convention and the National Trappers Convention in Indiana. As a result of those conventions, Commissioner Melton requested that the word "snare" be removed from the rule and replaced with the words "cable restraints."

Commissioner McLean attended the REMF Banquet, the AWF Trophy Awards Banquet, and worked on routine Department business.

Commissioner Hernbrode attended the Ironwood Forest National Monument Planning meeting with BLM, and his first HPAC meeting.

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20. Approval of Minutes

There were no minutes to approve at this time. The Commission signed the minutes for January 21, 2005; February 11, 2005; March 11 and 12, 2005; April 15 and 16, 2005; May 20, 2005; and May 24, 2005.

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21. Future Agenda

Presenter: Steve Ferrell, Deputy Director

Mr. Ferrell reported that he captured four future agenda items:

- Provide the Commission with a copy of the Department's records retention policy
- Provide the Commission with records retention training
- Provide the Commission with Open Meeting Law (OML) training with emphasis on how the OML would apply to constituent relations
- Give the Commission a preliminary review of the options for administrating the Ben Avery Shooting Facility as they become refined and well in advance of the October Commission meeting, and that those options will include a pro/con analysis of each
- Look at the article 3 rulemaking replacing the word "snare" with "cable restraints."

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Motion: Golightly moved and McLean seconded THAT THE MEETING ADJOURN.

Vote: Unanimous

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Meeting adjourned at 5:30 p.m.

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W. Hays Gilstrap, Chairman

Joe Melton, Member

Michael M. Golightly, Member

William H. McLean, Member

Robert Hernbrode, Member

ATTEST:

Duane L. Shroufe
Secretary and Director