Minutes of the Telephonic Meeting of the
Arizona Game and Fish Commission
Tuesday, February 8, 2011 – 9:30 a.m.
Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, Arizona 85086

PRESENT: (Commission)

Via telephone:
Chairman Robert R. Woodhouse
Commissioner Norman W. Freeman
Commissioner Jack F. Husted
Commissioner Jennifer L. Martin

(Director's Staff)

In person:
Director Larry D. Voyles
Deputy Director Bob Broscheid
Deputy Director Gary R. Hovatter
Assistant Attorney General Linda Pollock

Via telephone:
Assistant Attorney General Jim Odenkirk

Chairman Woodhouse called the meeting to order at 9:30 a.m. Commissioner Harris was not present. There were several Department staff members present and no members of the public were present. This meeting followed an agenda dated February 4, 2011.

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1. State and Federal Legislation.

Presenter: Anthony Guiles, Legislative Liaison

Mr. Guiles briefed the Commission on several bills. Copies of these bills were provided to the Commission prior to this meeting for review. The Commission discussed and took the following actions:

SB 1392; Mexican Gray Wolf; Interstate Compact and SB 1395; Endangered Species Act; Interstate Compact

These two bills were scheduled for hearings this Thursday, but instead they will now be held until February 17. This is a positive thing because the Department is still looking at these bills and this will allow more time for the Department to prepare a recommendation to the Commission.

HB 2623; Landowner Prohibition of Hunting; Posting

The Department has some concerns with how the language is currently written. The Farm Bureau and Cattlegrowers are willing to work with the Department to come to a mutual agreement on the language.

HB 2485; Government Land; Replacing Private Land

The Department already has in statute the "in-lieu" process, so the sponsor is willing to work with the Department on amending the language to exempt the Game and Fish Department.

SB 1294 Strike Everything Amendment; Application of Aquatic Poison; Rotenone

The strike everything amendment SB 1294 (attached) will be heard tomorrow in the Senate Water Committee. This bill was precipitated by the Cattlegrowers with specific issues and concerns from southeastern Arizona.

Mike Senn, Assistant Director, Wildlife Management Division, briefed the Commission on Rotenone and provided them with a Rotenone Fact Sheet (attached). The Department has several concerns about this proposed legislation including the following:

- This bill will likely add an additional layer of regulation and bureaucracy. There is already three layers of oversight that occurs when rotenone is used: 1) the qualifications and review process by EPA, 2) a national pollution discharge permit required and administered by ADEQ, and 3) a NEPA and ESA evaluation process required when rotenone is used on public lands
- Rotenone is the only chemical currently available to the Department for treating and renovating stream systems. It is a major tool used by the Department in managing our sport fish and native fish programs, and in managing potential impacts to Arizona waters from invasive species, so it is a critical tool in native fish recovery efforts
- The Department estimates that this could impact approximately 30% of the Department's sport fish revenue and could have an impact to the Department of approximately 6 million or a loss in excess of $500 million annually in economic benefit to the State
- There would likely be a loss of sport fish waters because the Department would not be able to do what is needed to ensure that there can be a compatible co-management between sport fish and native fish as required in our Section 7 Sportfish consultation
- This bill is broad and regulates all types of piscicides that are used to control things like Quagga muscles, Rusty crawfish and Asian carp. Municipal and government water suppliers like CAP, and Cities and Townes regularly use piscicides and pesticides to control aquatic weeds and aquatic invasive species
- If the Department doesn't have a tool in place to recover and manage the state's endangered fish species it will inhibit the Department's ability to recover those populations to the point where they can be delisted or downlisted from the Endangered Species Act. Without the ability to manage some of the invasive species, the state could potentially see additional species listed and could lose the ability to manage those at the state level because the primary management authority reverts to the federal government once a species is listed.

The Commission discussed how this bill came about and was discouraged that it came up so hastily without discussion with the Department, especially in light of the huge impact on the Department.

Motion: Freeman moved and Martin seconded THAT THE COMMISSION VOTE TO OPPOSE THE STRIKE EVERYTHING AMENDMENT TO SB 1294 AS WRITTEN.

Vote: Unanimous
4 to 0

Harris absent

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3. Call to the Public

There were no requests to speak to the Commission.

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Motion: Husted moved and Martin seconded THAT THE COMMISSION VOTE TO ADJOURN THIS MEETING.

Vote: Unanimous

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Meeting adjourned at10:03 a.m.
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Robert R. Woodhouse, Chair

Norman W. Freeman, Vice Chair

Jack F. Husted, Member

John W. Harris, Member

Jennifer L. Martin, Member

ATTEST:

Larry D. Voyles
Secretary and Director

Fiftieth Legislature
First Regular Session

Water, Land Use and Rural Development
S.B. 1294

PROPOSED AMENDMENT

SENATE AMENDMENTS TO S.B. 1294

(Reference to printed bill)

Strike everything after the enacting clause and insert:

"Section 1. Title 49, chapter 2, article 6, Arizona Revised Statutes, is amended by adding section 49-311, to read:

49-311. Application of aquatic poison

A. A PERSON SHALL NOT APPLY ROTENONE, ANTIMYCIN A OR ANY SIMILAR AQUATIC POISON TO ANY SPRING, SEEP, STREAM, RIVER, STOCK POND, IRRIGATION WATER DELIVERY SYSTEM, LAKE OR ANY OTHER BODY OF STANDING OR RUNNING WATER IN THIS STATE, UNTIL SUBMITTING TO THE DIRECTOR A FULL IMPACT ANALYSIS OF ANY RISKS POSED TO THE ENVIRONMENT AND DOWNSTREAM POTABLE WATER SUPPLY OR LIVESTOCK WATER SUPPLY.

B. ON RECEIPT AND REVIEW OF THE SUBMITTAL, THE DIRECTOR SHALL ISSUE EITHER A WRITTEN DETERMINATION AND STATEMENT THAT THE APPLICATION WILL NOT ENDANGER THE HEALTH OF THE ENVIRONMENT, HUMANS OR LIVESTOCK OR A WRITTEN DETERMINATION OF ENDANGERMENT.

C. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF ENDANGERMENT AS PRESCRIBED IN SECTION 13-1201."

Amend title to conform

GAIL GRIFFIN

2/7/11
10:19 AM
S: KK/ly

Rotenone Fact Sheet

Background

- The use of rotenone as a piscicide is regulated by the U.S. Environmental Protection Agency (USEPA) under the authority in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Rotenone has been approved as a piscicide since 1947. Rotenone was recently (2004-2007) reevaluated by EPA for continuing registration. It was deemed eligible based on extensive review of human and environmental safety in 2007.

- Fish are the most sensitive animal to rotenone. It is effective at low concentrations because fish readily absorb rotenone into the bloodstream through the thin cell layer of their gills. Mammals and other non-gill breathing animals do not have this rapid absorption route into the bloodstream and can tolerate exposure to concentrations much higher than those used to kill fish. At treatment levels, non-target organisms that do not have this rapid absorption route are not negatively affected at the concentrations necessary to kill fish.

- Rotenone is a naturally occurring substance derived from the roots of tropical plants in the bean and pea family that are found in Australia, Oceania, southern Asia, and South America. People have utilized rotenone for centuries to capture fish for food in areas where these plants are naturally found. It has been used in fisheries management in North America since the 1930s.

- Rotenone acts by inhibiting oxygen transfer at the cellular level. The biochemical process affected by rotenone takes place within the cell mitochondria and involves blocking electron transport, resulting in the uncoupling of the metabolic pathway. Fish die from tissue anoxia resulting in cardiac and neurological failure.

- There are no known side effects to humans or other mammals when rotenone is used according to directions on the rotenone label. The directions are designed to minimize exposure to humans and the environment and provide for an effective treatment. At treatment concentrations used to remove fish, rotenone is safe. Birds and mammals are also not at risk under these conditions. Rotenone was historically used to control grubs on the backs of dairy and beef cattle. Another desirable trait is that rotenone does not persist long in the environment. Depending on temperature, rotenone typically degrades in 1-8 weeks in lakes and up to 24 hours in streams.

- Over two dozen biologists with the Arizona Game and Fish Department have received extensive training from the American Fisheries Society on the safe and effective use of rotenone. These biologists have attended the week-long training course, *Planning and Executing Successful Rotenone and Antimycin Projects,* which focuses on soliciting and incorporating public involvement, rotenone use strategies, planning, safety, and reading and following label, Material Safety Data Sheets, and the Rotenone Standard Operating Procedures Manual. This course is recommended training by the USEPA.

Redundant Regulation and Excessive Bureaucracy

- Proposed legislation will require another layer of evaluation exposing the state and agencies to additional litigation. There exist three layers of oversight for use of aquatic pesticides:

  1) Oversight and qualification through extensive safety testing and standards required for certification and labeling via FIFRA administered by the EPA, last reviewed in 2007;

  2) All applications to state waters (April 2011) require a National Pollution Discharge Elimination Permit under Clean Water Act, administered by ADEQ under primacy to EPA;

  3) All applications on public lands require extensive evaluations under NEPA and ESA. Further, federal land management agencies also require development and approval of extensive pesticide use plans.

Fiscal/Financial Impacts

- Proposed legislation likely to result in significant additional barriers to restoration and sport fish management activities (law suits, etc.), and could jeopardize the state's sport fish stocking program due to:
  - Although difficult to quantify, legislation could result in estimated potential loss of up to 30% of sport fish revenue to the Department (~$6 mil) and loss in excess of $500 million in economic benefit to the state annually (principally in rural areas). The sport fish program is currently valued at $1.3 billion to the state's economy,
  - inability to off-set impacts to ESA species (currently necessary to replicate 17 populations to offset impacts from stocking – piscicide renovation principal tool);
  - inability to manage problem species that reduce productivity of sport waters (e.g. illegally stocked pike, anchor worm parasites, etc).

- Proposed legislation likely to result in delays or barriers to ability to respond to aquatic invasive species (e.g. quagga mussel, rusty crayfish, Asian carp). There exists potentially large costs to industry if eradication treatments of aquatic invasives cannot be deployed in a timely fashion (when invasive species are most susceptible).

Reduced State Authorities/Increased Federal Control

- Inability to manage ESA listed and sensitive unlisted species will be greatly diminished through loss of or significant delay in the use of this tool, resulting in inability to recover and de- or down-list ESA listed species. Additional ESA listings, and concomitant greater presence and control over management actions by Federal agencies. With the addition of new ESA listings, there will be an increase in regulation and associated impacts to state and private actions on federal lands (e.g. multiple use).