

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, October 19, 2001 – 8:00 a.m.
Saturday, October 20, 2001 – 8:00 a.m.
Fraternal Order of Police Lodge #2
12851 N. 19 Avenue, Phoenix, AZ

PRESENT: (Commission)

(Director's Staff)

Chairman Dennis D. Manning
Commissioner Michael M Golightly
Commissioner Joe Carter
Commissioner Sue Chilton
Commissioner W. Hays Gilstrap

Director Duane L. Shroufe
Deputy Director Steve K. Ferrell
Asst. A.G. Jay R. Adkins
Asst. A.G. Jim Odenkirk

Chairman Manning called the meeting to order at 8:02 a.m.

1, Executive Session

- a. Legal Counsel. *Forest Guardians v. APHIS*, CIV 99-61-TUC-WDB; *State of Arizona v. Norton*, CIV 98-0632-PHX-ROS; *Conservation Force v. Shroufe*, CIV 98-0239 PHX RCB; In Re *General Stream Adjudication for the Little Colorado River and Gila River*; *Center for Biological Diversity v. Dombeck et al.*, CIV 00-1711-PHX-RCB and *Mark Boge v. Arizona Game and Fish Commission & Shroufe*, CIV 2000-020754 and *Mary R. LLC, et al. v. Arizona Game and Fish Commission*, CIV 2001-015313.
- b. Litigation. Access to adjacent private properties and cause of action associated with Page Springs Fish Hatchery.

Motion: Carter moved and Chilton seconded THAT THE COMMISSION GO INTO EXECUTIVE SESSION.

Vote: Unanimous

* * * * *

Meeting recessed 8:02 a.m.

Meeting reconvened 9:00 a.m.

* * * * *

Chairman Manning called the meeting to order at 9:00 a.m. Members of the Director's staff were introduced. The meeting followed an addendum dated October 12, 2001. Chairman Manning stated that a candle would burn during the Commission meetings during his tenure as Chair of the Commission in honor of those who died in attacks upon this country caused by terrorists on September 11, 2001, and those who died in rescue efforts and in honor of law enforcement and military personnel. The flame symbolized a nation united in the war against terrorism. He continued with introductions of the other Commission members, who in turn, expressed their thoughts and sympathies regarding the tragic events of September 11. Commissioner Golightly requested a moment of silence in memorium.

* * * * *

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

Presenter: John Kennedy, Habitat Branch Chief

A copy of the printed update, which was provided to the Commission prior to today's meeting, is included as part of these minutes.

Clarification was provided on several issues in the update. Mr. Kennedy stated the Apache-Sitgreaves (A-S) National Forests did not receive the federal lands update to review and had comments they wanted clarified.

There had been substantial conversations with the A-S regarding the Beehive/Sheep Springs Allotment. In the first sentence of the first paragraph under A-S, the word, "extensive" should be deleted. In the third sentence of the first paragraph, the words, "continued to" should be deleted and "express" should be "expressed". In the sixth sentence of the first paragraph, the words, "recommendations from the permittee" should be deleted, and the following words added, "based primarily on the current use on the Heber-Reno/Morgan Mountain Sheep Driveway." The last sentence of the first paragraph should be deleted and replaced with, "The Department and the Forests will continue to coordinate on the District's Preferred Alternative." Mr. Kennedy anticipated a meeting would occur within the next two weeks with the Department and Springerville Ranger District to continue discussions regarding the Beehive/Sheep Springs AMP revision.

Also relevant to the Beehive/Sheep Springs Allotment, a chronology of events was developed for clarification for the Commission per Commissioner Golightly's request.

A letter was recently received from John McIvor of the Springerville Ranger District that could be interpreted that the Department would be a member of the ID Team for the Heber-Reno Sheep Driveway.

* * * * *

3. Request for the Commission to Provide Direction to the Department regarding Options for Gaining Greater Commission Involvement in the Land Acquisition Process

Presenter: John Kennedy, Habitat Branch Chief

(For additional information, see minutes of the June and September 2001 Commission meeting minutes.)

In accordance with the Commission's request in June, the Department provided information regarding current and proposed opportunities for Commission involvement in the land acquisition process in a memo dated July 11, 2001.

As explained in the July 11 memo, for each potential land acquisition, the current Lands Protection Evaluation Process includes two formal opportunities for Commission involvement: a briefing to the Commission during Executive Session (Step J) and a decision by the Commission during a public meeting (Step L). The Department is also in the process of updating the Lands Protection Evaluation Process (Department Policy

I2.4). The Department will ensure this process continues to provide formal mechanisms for Commission involvement in each potential acquisition. The draft-updated process will be provided to the Commission for review and input when completed.

In addition to Commission review during the formal land acquisition process, other options and opportunities for gaining greater Commission involvement in the land acquisition process include Commission review of updated material in the land acquisition matrix (table) and notebook on a regular basis and Commission review of the Habitat Branch Chief's update to Executive Staff every month. After review of the monthly update, it was the preference of the Department that each commissioner contact Director Shroufe, Executive Staff or Mr. Kennedy to discuss specific issues related to a particular land acquisition. All of the information contains confidential, sensitive material, that if disclosed to the public before final decision, could compromise the Commission's real property acquisition negotiations.

Motion: Gilstrap moved and Carter seconded THAT THE COMMISSION VOTE TO PROVIDE DIRECTION TO THE DEPARTMENT REGARDING OPTIONS FOR GAINING GREATER COMMISSION INVOLVEMENT IN THE LAND ACQUISITION PROCESS, AS DESCRIBED IN THE DEPARTMENT'S JULY 11, 2001, MEMO AND THIS PRESENTATION.

Vote: Unanimous

Commissioner Gilstrap thought the Commission could work within and monitor the parameters outlined by Mr. Kennedy. On an "as needed" basis, either from the Commission or the Department, a presentation on acquisitions should be made in executive sessions.

Commissioner Carter agreed with Commissioner Gilstrap and would like to see direction from the Commission to the Department to:

1. Provide an initial briefing in executive session as to what the Commission's interests are
2. As the land acquisition process proceeds, the Commission should be kept informed of "hot" issues, e.g., access, water, boundary disputes, to have a better understanding of potential concerns and roadblocks, including costs.

Chairman Manning suggested that if a potential roadblock occurs, the Commission should be involved and a Commission representative should be present to observe and assist in getting over hurdles.

Mr. Kennedy offered that the Department could continue to provide a table and matrix to the Commission for every step in the acquisition process. The Department could continue to provide updates for the Commission's notebooks. The Department may be able to address the Commission's concerns with regard to "hot" issues in the monthly updates. The executive session allows the Commission to deliberate and discuss legal issues with its attorneys regarding land acquisitions as opposed to a general update on land acquisitions.

Director Shroufe wanted a way to measure communications between the Commission and Department. A sheet could be attached to the update for the Commission to fill out regarding adequacy of the information. The Department could discuss issues at any time but the Department needed feedback from the Commission to successfully measure the process. Commissioner Carter thought it best to have a motion that frames where the Department and Commission go from here, how interactions occur, and responsibilities for each commissioner in terms of following up on issues that may be of concern. It does not replace the need, if there are issues, to have an executive session to provide clarification. He asked that a motion be prepared to put into the record that formally speaks to the situations under which the Commission would be informed in executive session as well as when "hot" topic items occur throughout the process in terms of individual components of the review criteria, and that it be made a matter of record. He wanted a specific motion that would clarify not only the obligations of the Department to bring an issue to the Commission, but also the Commission's responsibilities with respect to direction on an individual issue.

Commissioner Golightly stated some commissioners have prejudices on land acquisitions based on boundaries that may be reflected in a vote. Mr. Adkins stated the Department needs feedback from the Commission as to whether or not enough information was being provided.

* * * * *

4. Request for the Commission to Approve the Acquisition of Approximately 25 Acres and Easement Rights from Maricopa County as Part of the Mitigation Plan Associated with the 116th Avenue Bridge Crossing of the Gila River, Maricopa County

Presenter: John Kennedy, Habitat Branch Chief

In 1997, the Commission approved the conveyance of a right-of-way to Maricopa County through the Commission's Base and Meridian Wildlife Area for construction of a four-lane bridge across the Gila River in the vicinity of 116th Avenue. Because of conflicts associated with the construction starting time and the completion of necessary administrative procedures, including completion of the approved mitigation plan to issuing the right-of-way, the Commission and Maricopa County entered into a Right-of-Entry Agreement (1997). Now that all necessary administrative procedures have been completed, the right-of-way will be conveyed to Maricopa County, consistent with Commission direction in 1997 and the goals of the Right-of-Entry Agreement.

Consistent with the Final Environmental Assessment (Special Mitigation Measure #6) and the Final Impact Analysis and Mitigation Plan for the 116th Avenue Bridge Crossing of the Gila River, Maricopa County acquired lands adjacent to the bridge crossing and will convey approximately 25 acres and easement rights to the Commission for wildlife management purposes. These 25 acres are adjacent to the Commission's Base and Meridian Wildlife Area and will be incorporated into the wildlife area following Commission approval and revision of the management plan.

Motion: Carter moved and Chilton seconded THAT THE COMMISSION VOTE TO APPROVE THE ACQUISITION OF APPROXIMATELY 25 ACRES AND EASEMENT RIGHTS FROM MARICOPA COUNTY AS PART OF THE MITIGATION PLAN ASSOCIATED WITH THE 116TH AVENUE BRIDGE CROSSING OF THE

GILA RIVER, MARICOPA COUNTY. IN ACCORDANCE WITH ARS §17-241.A., THIS ACQUISITION IS SUBJECT TO THE APPROVAL OF THE GOVERNOR.

Vote: Unanimous

* * * * *

5. Request for the Commission to Approve a New Agreement between the Commission and the Sierra Vista Rod and Gun Club for Management of the Sierra Vista Shooting Range as a Public Shooting Facility in Cochise County

Presenter: John Kennedy, Habitat Branch Chief

In 1982 the Commission authorized the Department to file an application with the Bureau of Land Management under protection of the Recreation and Public Purposes Act for the Sierra Vista Shooting Range and to enter into an agreement with the Sierra Vista Rod and Gun Club (Club) to manage the range as a public shooting facility. The 1983 Recreation and Public Purposes Lease has been extended and will expire on December 11, 2004. The original 1984 agreement between the Commission and the Club expired in 1994. The Department has developed a new agreement between the Commission and Club that will provide for continued management of the shooting range by the Club.

Motion: Carter moved and Golightly seconded THAT THE COMMISSION VOTE TO APPROVE THE NEW AGREEMENT BETWEEN THE COMMISSION AND THE SIERRA VISTA ROD AND GUN CLUB FOR MANAGEMENT OF THE SIERRA VISTA SHOOTING RANGE AS A PUBLIC SHOOTING FACILITY IN COCHISE COUNTY, AND EXECUTE THE AGREEMENT AS ATTACHED OR AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

Vote: Unanimous

* * * * *

6. Request for Commission Approval of a Cooperative Agreement between the Arizona Game and Fish Commission, MLY Ranch and X Diamond Ranch for Identification of Terms and Conditions for Grazing on the Grasslands Wildlife Area

Presenter: John Kennedy, Habitat Branch Chief

Maps of the area were distributed to the Commission.

Through the acquisition of the Grasslands Wildlife Area, the Department acquired state grazing lease lands that are administered by the State Land Department (SLD). Applications for assignment of the state grazing leases have been submitted to SLD, which will transfer the state grazing leases and appoint the Department as the grazing lessee. A total of 8,141 acres will be assigned to the Commission and addressed in the Wildlife Area Management Plan as follows: approximately 2,024 acres will be managed as wildlife habitat through a Special Use Permit and approximately 5,967 acres will be managed for wildlife and livestock grazing purposes through a Livestock Grazing Lease. A cooperative agreement between the Commission and the grazing sub lessees (the MLY Ranch and X Diamond Ranch) has been completed. This agreement identifies terms,

conditions and responsibilities of both the Department and the grazing sub lessees for management of the state livestock grazing lease lands and other considerations, including development and maintenance of fences, development of water for livestock and wildlife purposes, use and maintenance of existing ditches and other day-to-day operations.

Motion: Gilstrap moved and Carter seconded THAT THE COMMISSION VOTE TO APPROVE THE COOPERATIVE AGREEMENT BETWEEN THE ARIZONA GAME AND FISH COMMISSION, MLY RANCH AND X DIAMOND RANCH FOR IDENTIFICATION OF TERMS AND CONDITIONS FOR GRAZING ON THE GRASSLANDS WILDLIFE AREA AND AUTHORIZE THE DIRECTOR TO EXECUTE THE AGREEMENT AS ATTACHED OR AS APPROVED BY THE ATTORNEY GENERAL'S OFFICE.

Commissioner Carter inquired about the movement of cattle across one property to the other and the assurance to permittees that the access would be accommodated. Mr. Kennedy would provide a written briefing later today to the Commission on the current status of the Grasslands Wildlife Area that encompasses most of the issues, including those that may not be addressed in the cooperative agreement.

Chairman Manning asked about the first sentence in C.5., page 3 of the agreement and wanted to know if this was an automatic extension if the lessees were adhering to all the conditions and requirements of the lease. Mr. Kennedy stated no, for all practical purposes it would remain in effect for the five-year period. If the management were to continue, it would involve a modification and extension. Mr. Adkins referenced paragraph 10 on page 5 provides for the option to renew. If the lessees were in compliance, there would be an automatic extension if there is mutual agreement. Chairman Manning asked what would happen if there were more than one applicant for the lease. Messrs. Adkins and Kennedy concurred that both parties needed to agree before anything could occur. The language would be clarified in the clause.

Mr. Kennedy stated clarification of all access issues identified during this discussion would be provided to the Commission by the end of the day or in a written update to the Commission.

Vote: Unanimous

* * * * *

17. Request for Commission Approval to Renew, or Amend as Appropriate, State Land Department Right-of-Way No. 18-81229 for Hunter Access and Recreational Purposes at Redfield Canyon, Pima County

Presenter: John Kennedy, Habitat Branch Chief

At a public meeting held in June 1991, the Commission authorized the Department to renew, and amend as appropriate, State Land Department Right-of-Way 18-81229 for a 10-year period for hunter and recreational access into Redfield Canyon. The right-of-way, approximately 600 feet in length, provides access from the San Pedro River to North Redfield Canyon Road and thus into Redfield Canyon.

The Department has reviewed the right-of-way and has determined that it continues to be necessary for hunter access and recreational purposes. The existing right-of way is for 10 years, and if approved, would remain in effect through November 22, 2011.

Motion: Carter moved and Chilton seconded THAT THE COMMISSION VOTE TO APPROVE A RENEWAL AND/OR AMENDMENT FOR A 10-YEAR ROAD RIGHT-OF-WAY WITH THE STATE LAND DEPARTMENT (SLD #18-81229) FOR HUNTER ACCESS AND RECREATIONAL PURPOSES AT REDFIELD CANYON, PIMA COUNTY.

Vote: Unanimous

* * * * *

Meeting recessed 9:55 a.m.

Meeting reconvened 10:03 a.m.

* * * * *

7. Request for Commission Approval of an Interagency Management Plan for the Conservation of Black-tailed Prairie Dogs in Arizona

Presenter: Terry Johnson, Nongame Branch Chief

(For additional background information, see Commission meeting minutes for March 18, 2000, pages 20-22, and February 7, 2000, pages 3-6.)

In March 1999, an agreement was reached by 11 western states to begin development of a range-wide conservation plan to meet the black-tailed prairie dogs' conservation needs and preclude the need for federal listing.

In November 1999, nine state wildlife agencies within the species' historic range finalized a black-tailed prairie dog conservation agreement, "*The black-tailed prairie dog conservation assessment and strategy.*" The purpose of the document was to provide guidance for the conservation and management of the species and the habitats they depend upon for survival. As a cooperating interstate member, Arizona agreed to initiate the process of preparing its own black-tailed prairie dog management plan using a state work group as part of the coordinated interstate conservation assessment and strategy to manage the species. The draft Arizona black-tailed prairie dog management plan presented today marks the result of that effort. Signatory states agreed to have plans completed by October 2001 and submitted to the U.S. Fish and Wildlife Service (FWS) for its annual status review. The deadline for information for the 2001 status evaluation is November 2, 2001.

The management plan presented at today's meeting outlined the necessary elements to contribute to the national range-wide conservation effort in mutually agreed upon equitable manner and standards, while recognizing Arizona's unique characteristics and management options. On August 14, 2001, the Western Governors' Association (WGA) unanimously supported this approach in its Policy Resolution 01-09.

To finalize the plan, the work group held four open houses on September 12, 14, 19 and 20 in Willcox, Safford, Sierra Vista, and Douglas to further facilitate public comment on

the state's management plan. Numerous comments were received that were directed more toward the listing of the species and possible management actions being evaluated by the Commission and the Department. Comments relevant to the plan were reviewed and addressed in the management plan revision.

Mr. Johnson stated that the legal status of the black-tailed prairie dog in Arizona is nongame animal (defined in ARS §17-101). It is not classified as a pest by the Arizona Department of Agriculture or the U.S. Department of Agriculture. The FWS has not listed the species; the FWS determination was warranted but was precluded by higher priorities.

Participation in the work group was open to the public and meetings of the work group were open to the public. The draft black-tailed prairie dog management plan meets the requirements of the Black-tailed Prairie Dog Conservation Agreement, provides a framework and guidance for the management of black-tailed prairie dog habitat (occupied or not) and continues the Commission's commitment to use the 12-step process to assess the feasibility of reintroducing black-tailed prairie dogs. The Arizona management plan does not make the decision on the species' reintroduction into Arizona. A decision will be reached using the 12-step process, which is open to the public for participation.

The subject of today's meeting was the draft management plan, not reintroduction. Reintroduction would be addressed at subsequent Commission meetings; when and where depends on the outcome of today's meeting and developments during the 12-step process.

The petitioner (National Wildlife Federation) and other conservation organizations have affirmed they will renew efforts to secure federal listing if and when they believe the multi-state conservation effort has failed because a sufficient number of states have not met their obligations under the agreement.

The public comment period ended on September 30, 2001. Comment received after that date was not considered in making the revisions in the management plan. A total of 43 comments were received through September 30 regarding the management plan; of those, 27 were regarding reintroduction and not on the plan itself.

Comments were received with requests that they be read into the record at today's meeting. They were from Josiah T. Austin, a private landowner in southeastern Arizona; Arizona Senator Marsha Arzberger; Margie Buyer from Poco Toro Ranch in the San Rafael Valley; National Wildlife Federation and Linda Kennedy, Assistant Director of the Appleton-Whittell Research Ranch in Elgin.

The management plan consists of two components. One addresses management of prairie dog habitat (grasslands) regardless if prairie dogs are physically present in the state. The other addresses the issue by opening the door the Commission has already opened for the evaluation of the reintroduction using the 12-step process.

Chairman Manning referenced a letter dated September 12, 2000, from the FWS, stating its position on this reintroduction program. A letter dated October 15, 2001, was distributed to the Commission. Mr. Johnson noted the FWS was in contact with the Department throughout August and September, but for some reason failed to submit a

letter during the public comment period. The Department had not addressed this letter in any way. He noted the revised final draft that was presented to the Commission today was not available to anyone prior to today's meeting. The review draft was available to the FWS the same time it was available to the public and the Commission.

Commissioner Carter noted the letter retained the FWS position that if there were no provisions within the plan that called for processes related to reintroduction and concrete progress for re-establishment in Arizona, it could be a factor in terms of listing even though Arizona had 2% of the historic range. Mr. Johnson stated the FWS lead for the reintroduction program for the black-tailed prairie dog was in a different FWS region. The Phoenix FWS field office offered its perspective on the Arizona plan and was not directly involved. The Conservation Agreement that was crafted and consummated at a higher level than the Arizona field office of the FWS does not require reintroduction to be a component of the plan. It only requires that it not preclude reintroduction and requires that management issues be addressed and to develop information which will help a state determine how to proceed with management of prairie dogs.

Chairman Manning resented the implication that unless the Commission adheres to every aspect of the FWS's desires, there would be dire consequences for Arizona. Mr. Johnson stated that was the reason why the Department worked to maintain the state lead on wildlife management.

Mr. Johnson noted David Harlow's letter represented the official FWS Region 2 position. He did not know if there would be other letters from the FWS in conflict. Region 2 (the area for Arizona) has different philosophies on many issues from other FWS regions. The Department has worked, through the International Association of Fish and Wildlife Agencies to encourage consistencies between FWS regional offices.

Commissioner Carter stated Mr. Harlow in his September 2000 letter was not pleased with the initial draft because it did not focus specifically on reintroduction.

Public comment

Mike Seidman, Conservation Coordinator for The Phoenix Zoo, was The Phoenix Zoo representative on the work group. Of the 11 states, Arizona was the only state that had extirpated the black-tailed prairie dog. To be part of the effort to avoid listing, the species must first be reintroduced into its former range and then must seek to establish a population about 1% of its historical abundance. Reintroductions of extirpated species in Arizona go through a 12-step process. The plan is a framework for recovering the species in Arizona if, after the 12-step process, the decision is made for reintroduction. Approval of the plan is not a commitment to reintroduction but to continue the process that will result in a decision one way or the other. Black-tailed prairie dogs were important to the recovery of grasslands. They do so by reducing invasion of mesquite and other woody plants and encouraging populations of native wildlife in grasslands.

Leslie Thompson, Cochise County Supervisor, opposed the plan. He worked on the state committee as much as possible. New Mexico Department of Game and Fish will not sign anything relative to CAAs, with rationale being they would have to accept financial responsibility for the reintroduction of black-tailed prairie dogs. He noted court decisions made recently that overturned designations of critical habitats.

Sue Krentz, member of the work group and rancher from southeastern Arizona, stated Arizona was in a different position than other states that are maintaining populations of and habitat for prairie dogs since there were no prairie dogs in Arizona. This was an unnecessary expense for Arizona.

Charles B. (Doc) Lane, representing the Arizona Cattlemen's Association, asked questions of Mr. Johnson. He asked if the FWS agreed to plans from any other states; Mr. Johnson stated there have been no plans brought forth at this time. Mr. Lane asked about listing. Mr. Johnson stated there was no listing proposal in front of the FWS; listing proposals are coordinated out of Washington and are not made by states or individual regions. Mr. Lane asked how many states presented plans. Mr. Johnson stated one (Arizona); the plans were due by the end of the month. Mr. Lane stated 10 of the 11 states have the species; none of them have presented plans. Arizona does not have the species but was trying to submit a plan. It does not seem logical that states with the species would not already have plans before Arizona started its plan. He urged the Commission to oppose the management plan.

Dixie Zumwalt, County Supervisor for Greenlee County, opposed the plan and reintroduction of the black-tailed prairie dog. She was concerned about them being carriers of plague. She noted an article in a children's magazine published by the National Wildlife Federation contained misinformation about human-wildlife interactions. Money should be spent fighting terrorists and not against rural Arizona.

Courtney Coffman, representing self, stated she was a recent graduate of Northern Arizona University and looked at scientific evidence involving studies that had been done with prairie dogs and their effects on beef cattle and vegetation. She gave key points in a recent study that indicated this keystone species was beneficial to grassland habitat.

Stephanie Nichols-Young, representing the Animal Defense League of Arizona, thanked the Department and the work group for their efforts. She asked the Commission to adopt the plan. The process to develop the plan was constructive; diverse groups were involved. This was not an issue that was going to go away. The Department has done good research and she did not want to have litigation control the issue.

Mark Herrington, Chairman of the Board of Supervisors for Graham County, opposed the plan. He could not find any value for reintroduction of the black-tailed prairie dog in his county. The county supported grazing and economic benefits to ranchers.

Mac Donaldson, representing the Empire Ranch LLC, noted there were seven listed and/or endangered species on the ranch. The Empire Cienega is a possible site for evaluation of the black-tailed prairie dog. The species is compatible with grazing and is easily controlled. He wanted to be in front and part of the reintroduction plan to be able to manage them.

Tricia Gerrodette, representing the Huachuca Audubon Society and a member of the work group, urged adoption of the management plan. She commended the work of Bill Van Pelt and the Department's outstanding public outreach. She urged the Commission to adopt the plan in recognition of the effort that went into it; reintroduction was a separate issue. The prairie dog was not a threat to ranching; cooperation needed to exist

with ranching and cattle to be able to reintroduce the species. The process needed to move forward.

Jeff Williamson, Executive Director of the Phoenix Zoo, thanked the Department for bringing this plan forward. The Zoo worked on the development of the plan and urged adoption.

Martin Moore, representing the Eastern Arizona Counties Organization, opposed the adoption of the management plan. The Secretary of the Interior wants to work with states and not threaten them. It was important to build community stability in rural areas, especially economic security. Philosophically, he asked why there was a proposal for the protection of habitat for an unlisted species when there were so many important issues demanding attention. This was a time for heightened consideration of the productive potential of the state.

Connie Cowan, representing self, talked about the economic impact and focus of this issue. In light of recent events, this issue was not important any more.

Sandy Bahr, representing the Grand Canyon Chapter of the Sierra Club, was supportive of the management plan as it provides for a general framework for management of the black-tailed prairie dog. She supported the purpose statement in the management plan (to identify and implement management strategies in Arizona that would contribute to the range-wide prairie dog conservation) but was concerned with provisions in the plan that limit the species to areas more than two miles from private property. She thought that emphasis should be on a strong sustainable population rather than a minimum viable population size.

Bobbie Holaday, representing self, commended Bill Van Pelt, Terry Johnson and members of the work group for putting together the management plan and urged adoption of it.

* * * * *

Meeting recessed at 11:20 a.m.

Meeting reconvened 11:28 a.m.

* * * * *

Motion: Golightly moved and Gilstrap seconded THAT THE COMMISSION VOTE TO AUTHORIZE THE DEPARTMENT TO FINALIZE, IMPLEMENT, AND AMEND AS NECESSARY, A MANAGEMENT PLAN FOR THE CONSERVATION OF THE BLACK-TAILED PRAIRIE DOG IN ARIZONA.

Ongoing activities for the recovery of the black-tailed prairie dog in New Mexico were briefly discussed. Mr. Johnson stated he would provide additional information to the Commission after today's meeting.

Commissioner Golightly asked if there was any evidence of prairie dog interference with ranching operations in northern Arizona. Mr. Johnson noted there were ongoing reductions of Gunnison's prairie dogs for purposes of disease control. There was no evidence of ranching operations being constrained by prairie dogs.

Commissioner Golightly asked that of the 11 states that participated in the development of the agreement, how many pulled out. Mr. Johnson stated only nine states signed the agreement; all 11 states were committed to developing their states' management plans and meeting the October 31 deadline. New Mexico was unwilling to embrace Candidate Conservation Agreements with Assurances, which was not the same as the state management plan for black-tailed prairie dogs. The CCAAs may or may not be a component of an individual state's management plan. Most states are skeptical of CCAAs because no standards have been established by the FWS

Commissioner Carter referenced the September 2000 letter and statements made by the FWS in the second paragraph related to the first draft of the document and the lack of emphasis on the methods of reintroduction. If the Commission were to approve a management plan that deleted those components related to that issue, how would that be received by the FWS. Mr. Johnson assessed that the FWS would state it was not responsive to the Conservation Agreement because it did not directly address the black-tailed prairie dog. The letter in question did not drive the development of the management plan. The concept of reintroduction was embraced to the extent to do two things: 1) assure that the plan does not preclude evaluation and the decision on reintroduction and 2) to put in the document wherever appropriate that if a decision is made and prairie dogs come back into the landscape in Arizona, certain things would be considered.

With respect to other states, Commissioner Carter asked if they had prairie dog seasons that "slow" the demise of the species, e.g., Gunnison's in Arizona. Mr. Johnson stated several states have adopted seasons or closed seasons. The regulatory issues are being addressed by the states.

Commissioner Carter asked if population levels across historic range were verifiable and whether or not there was, in fact, a decline in population with many issues contributing toward that factor. Mr. Johnson stated every status review since 1998-99, whether on regulatory or habitat fragmentation/degradation issues, should be considered in the next assessment. Things have changed in a variety of places.

Regarding prairie dogs being carriers of anthrax spores, Mr. Johnson did not know but would get an answer to the Commission.

Commissioner Carter had some concerns. Arizona was the only state of the 11 that did not have prairie dogs today and was less than 2% of the historic range. Interim measures may be considered if and when the FWS moved forward. He wondered if it might be premature in submitting a plan that has all of these components and dynamics.

Commissioner Chilton stated she would be voting against the motion. The Department put in a lot of work on the document. She had personal concerns for the commitment, time and effort required of the Department and the public to something that had an inevitable outcome (reintroduction). She read an excerpt from the Governors' policy statement. The statement noted that the WGA believed that the designation of the black-tailed prairie dog as a candidate species may be in error and requested the FWS to reconsider the designation. The Commission should proceed to conserve a species because Arizona has it, wants it and it is important to Arizona and was not detrimental to

rural or urban populations. She felt Arizona would be led down the path of inevitability of reintroduction.

Commissioner Carter asked about the FWS taking a look at the science for the black-tailed prairie dog. Mr. Johnson stated the black-tailed prairie dog, as all candidate species, was subject to an annual review. The review process would happen. The governors asked for a specific reinitiation of a status review for the FWS. There was no indication from the FWS that a special status review had been precipitated. The FWS would do a reassessment of all findings and new information as a part of its routine review and the assessment of the effectiveness of the Conservation Agreement and the management plans.

Commissioner Carter was not ready to vote on this until there was more information from the FWS and until it was known about how receptive the FWS was to the management plans from other states where there were prairie dogs. If you do not meet the stated goals of an organization, it was difficult to meet on middle ground. He believed there would be an effort to list the species. The document would be just as good next year as it was today. It was not wasted time or effort by the Department or the work group.

Chairman Manning thought the management plan was a reintroduction document. If the Commission approved it and refused to reintroduce prairie dogs into Arizona within the 12-step process, the Department would be open to a lot of lawsuits.

Commissioner Golightly asked if the plan were approved, would a door be opened for a willing landowner to put prairie dogs on his property and preclude public lands from being used. Mr. Johnson stated it would provide the Department with guidelines that would need to be applied to work with a willing landowner. The landowner would have to receive approval from the state to bring in prairie dogs. The situation was different in New Mexico. If the prairie dogs were allowed to spread from the Gray Ranch in New Mexico and come into Arizona, Arizona has to have some kind of management response and that was a part of this plan.

Commissioner Golightly asked what would happen in the absence of a management plan. Mr. Johnson stated the presence or absence of the plan does not affect the basic Title 17 responsibilities and authorities of the Department. If the FWS were to determine to do something else with prairie dogs with a private landowner, the state would have a seat at the table if brought into the process. The management plan would be a reminder to the FWS that the Department wanted to be a full player in the process.

Commissioner Gilstrap asked about expenses. Mr. Johnson stated expenses would come with a full evaluation under the 12 step process, e.g., public process, public meetings, outreach, development of information, writing of the actual assessment to the feasibility, writing of a more detailed plan and going through NEPA compliance. He reiterated that approval of this plan does not commit the Department or Commission to reintroduce black-tailed prairie dogs into Arizona.

Mr. Johnson was convinced there could be reinitiation of litigation to force listing of the species by the National Wildlife Federation if it decides the states were not moving forward in good faith with the components of the Conservation Agreement. He noted if the FWS listed the species, any management plan that was adopted would have higher

standards to meet because of the protections and covenants of the Endangered Species Act than it would have now as a candidate species.

Commissioner Carter believed that regardless if the FWS decides to upgrade the status of the species and follow it with critical habitat designation, there would be actions through the courts to force the FWS to do something. Historically, federal agencies do not defend themselves well in court. The result is that courts are managing wildlife, not policymakers. He wanted to table the action. He wanted to be able to negotiate with the FWS for a plan as opposed to acceptance. This issue was premature; he did not want to jump out front without looking at things that have occurred that might influence where the FWS might be in the future.

Vote: Golightly and Gilstrap – Aye
Carter and Chilton – Nay
Chair voted Nay
Motion failed

Commissioner Gilstrap explained his vote. The management plan does not predetermine reintroduction. He believed the Secretary of the Interior would work with the states. The management plan provides a vehicle to work with the Secretary to assist the people in Arizona. He thought conservation plans collectively were a good concept.

Commissioner Carter preferred to table the item until it was known what the other states have done. This document could be brought back at any time at a future Commission meeting.

Motion: Chilton moved and Carter seconded (for discussion purposes) THAT THE COMMISSION DIRECT THE DEPARTMENT TO POSTPONE THE DEVELOPMENT OF THE MANAGEMENT PLAN FOR THE BLACK-TAILED PRAIRIE DOG UNTIL SUCH TIME AS THERE MIGHT BE LISTING, IF LISTING WERE TO OCCUR, AND TO IMMEDIATELY BEGIN THE PROCESS OF PETITIONING THE U.S. FISH AND WILDLIFE SERVICE FOR REVIEW OF THE CANDIDATE STATUS OF THE SPECIES BASED ON THE NEW DATA REFERRED TO IN THE WESTERN GOVERNORS' ASSOCIATION POLICY STATEMENT.

Commissioner Chilton explained her motion. She stated the prairie dog was not listed and Arizona did not have critical habitat and it was unknown whether or not there would be critical habitat in Arizona. A recent court decision stated an economic impact statement needed to be done at the time of listing. This might limit the willingness of the people who were drawing the critical habitat lines. The plan should be shelved and the Department should vigorously intervene with the FWS to get the candidate status reviewed in light of the most recent information. Management of a species should be addressed after critical habitat designation or a listing that does require this action.

* * * * *

Meeting recessed at 12:25 p.m.

Meeting reconvened 12:30 p.m.

* * * * *

Commissioner Chilton wanted to keep Arizona as a player at the table without continuing to project the impression that we want to re-establish prairie dogs and that the Commission may have decided that the 12-step process was a façade from here on. It would take an effort to convince the FWS that a decision has not been made already. She did not want to toss out the management plan and she did not want to withdraw Arizona entirely from discussions that were occurring in other states. She wanted to continue to investigate the parameters of CCAAs; they may be applicable elsewhere. She wanted to keep working on what needed to be done but she did not want to carry the ball for people who were forcing the Department down the road.

Commissioner Gilstrap was concerned that the public may perceive the 12 step process as a façade. Commissioner Chilton stated she did not think the process was a façade but it could be perceived as such when a document was issued that contained management parameters for a species that was not in Arizona. The management plan was more of a façade, not the 12-step process.

Commissioner Chilton referenced the motion on the floor and stated Director Shroufe had noted there was a later version of the WGA policy. The wording she previously stated was not entirely accurate but it added up to the idea that the WGA wanted the FWS to look at newly developed science. The new version also seemed to say that the WGA wanted to develop state plans before the FWS looked at the science and she did not agree with that statement.

Commissioners Chilton and Carter withdrew the previous motion.

Motion: Chilton moved and Manning seconded THAT THE COMMISSION DIRECT THE DEPARTMENT TO POSTPONE THE DEVELOPMENT OF THE SPECIFIC MANAGEMENT PLAN FOR THE BLACK-TAILED PRAIRIE DOG BUT TO CONTINUE TO BE PRESENT IN THE MULTI-STATE CONSERVATION PLAN PROCESS TO CONTINUE TO KEEP ARIZONA PRESENT IN THE U.S. FISH AND WILDLIFE SERVICE DISCUSSIONS OF THE SPECIES WHILE VIGOROUSLY PETITIONING FOR THE FISH AND WILDLIFE SERVICE TO REVIEW THE CANDIDATE STATUS BASED ON NEW DATA REFERRED TO IN THE WESTERN GOVERNORS' ASSOCIATION POLICY STATEMENT.

Commissioner Carter asked Mr. Johnson if this motion provided him with the proper tools to continue being a full partner at the table if development of the management plan was temporarily suspended and to try to get the partners to join with Arizona to petition the FWS to raise the priorities related to other parts. Mr. Johnson stated it did, but the Department would be precluded from further developing a management plan for Arizona. The Department could assist the other states with their management plans but would have to come back to the Commission to further develop the management plan for Arizona. He saw this as difficult to do.

Mr. Johnson noted there must be a management plan offered to reach a decision in the 12-step process. Progress within the lower steps of the plan would ultimately lead to the necessary development of a reintroduction plan, but it was not required at step 4. The Commission has four opportunities to give direction in the 12-step process (steps 4, 7, 8 and 10).

Mr. Odenkirk noted that the first part of the motion was directed toward the management plan; the second part referred to an independent petition to the FWS regarding the legal status of species. The scope of the agenda was for the management plan. It would be outside the scope of the agenda and not authorized under the Open Meeting Law to go further and direct the Department with regard to the petition.

Mr. Odenkirk continued with clarification that the public was aware that the Commission would be considering an issue regarding the management plan. The public would have interest if the Commission were to take additional action to consider a petition on the status of the species. Because the issue was not publicly noticed, the public would be unaware that a decision was before the Commission and not able to comment.

Commissioner Gilstrap noted the importance of having a management plan in force in case something happens. If the Department was prepared, it would show good management even if nothing happened in the future.

Chairman Manning noted the inappropriateness of the latter part of the motion. He asked Commissioner Chilton to amend the second part of her motion.

Amendment to the Motion: Chilton moved and Manning seconded (for discussion purposes) THE TERMINATION OF THE DEVELOPMENT OF THE MANAGEMENT PLAN FOR THE BLACK-TAILED PRAIRIE DOG; ALSO, THAT THE DEPARTMENT CONTINUE TO ATTEND THE MUTLI-STATE PROCESSES AND CONTINUE TO WORK ON THE PARAMETERS OF CONSERVATION AGREEMENTS WITH ASSURANCES AND ACTIVELY PROMOTE CONSTRUCTIVE WAYS TO COLLABORATE IN INTRODUCTIONS OR SPECIES CONSERVATION ACTIONS THAT ARE NOT OPPOSED BY LARGE NUMBERS OF PEOPLE IN THE STATE.

Commissioner Carter asked if activities on the management plan had been terminated by the first vote. Chairman Manning stated the plan could be brought back to the Commission within 20 days' notice. A special Commission meeting could also be called. Commissioner Carter noted that termination of the process did not occur with the earlier vote and did not understand the purpose of this motion. Chairman Manning thought the intent of the motion was that if discussion were to be stopped, the Department would be able to continue in the process at the state level but the state plan would not be implemented. The management plan could be revisited on short notice. Mr. Johnson stated that step 3 would be completed and the process would continue. Through the 12-step process, a management plan would have to be developed and brought back for public participation. Chairman Manning stated that if no more motions were passed, the Commission would have prerogatives available to continue in a constructive manner and the Department would not be precluded from active participation on the interstate conservation team.

Commissioner Chilton and Chairman Manning withdrew the previous motion.

* * * * *

Meeting recessed at 1:00 p.m.

Meeting reconvened 1:25 p.m.

* * * * *

13. Call to the Public

Carolyn Colangelo, representing self, stated she had been drawn for a bighorn sheep tag in Unit 43A. Even though the unit was not her first choice, it was a one hunter unit. Region IV Game Specialist Bob Henry told her that another hunter had been added to that unit because of Department error in the draw. She felt that Unit 43A could not biologically or socially support two rams being taken this year. Unit 43A has been designated a one hunter sheep unit for the past ten years. She has been in friendly contact with Jay Johnson, D.V.M. (the second hunter). They both talked and feel they deserve fair treatment and quality, uncompromised hunts. A solution was suggested. Doctor Johnson's first choice hunt was 43A. She was willing to let him hunt 43A this year if she could be awarded her first choice (45A) for next year. She was aware that no decision could be made today and there would have to be 20 days' notice for a meeting to be held to decide on this issue. This action could have been taken care of earlier had the Department informed her of the circumstances. The hunt begins seven weeks from today.

Richard Rico, Assistant Director for Special Services, stated it was the intention of the Department to try to set up a telephonic Commission meeting with 20 days' notice from this Monday to address the issue. Doctor Johnson was assigned a tag due to an error on how his application was processed by the Department. The Region was consulted with regard to the biological impact of having an additional hunter in Unit 43A. It was felt there would be no biological impact to have one more ram harvested from that unit.

Director Shroufe stated the issue could be addressed in a properly noticed meeting. The Commission gave direction to the Department to hold a conference call on this issue.

* * * * *

14. Hearings on license revocations for violation of Game and Fish codes and civil assessments for the illegal taking and/or possession of wildlife

Presenter: Leonard Ordway, Law Enforcement Branch Chief

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

* * * * *

15. Appeal of Department Action by Mr. William W. Bloom

Even though this item was noticed as time certain, it was deferred to later in the afternoon.

* * * * *

8. State and Federal Legislation

Presenter: Richard Stephenson, Legislative Liaison

Legislative issues were presented to the Commission. Distributed to the Commission were draft bills that were received from Legislative Council and information that addressed the license dealer penalty bill. He made appointments with a few legislators to

discuss the license dealer penalty bill. Senator Guenther seemed to have no problem with what the Department wanted to do with the bill (the Department has other ways to address the auditors' desires and there was no need for a bill).

November 15 is the deadline to submit requests for bills to Legislative Council. We have already done that and the drafts have been returned to the Department.

Mr. Stephenson met with Senator Smith who provided him with a draft of a bill with respect to shooting range protection. Various approaches and language were discussed. The Department would support Senator Smith in his efforts if the bill language was suitable to the Commission. Senator Smith would like to have comments on the draft bill by next Wednesday. Copies of the draft bill were also given to Messrs. Baldwin, Burton and Turner.

* * * * *

9. Statewide Shooting Range Project Update

Presenter: Kerry Baldwin, Education Branch Chief

Written updates were provided to the Commission on various issues in the program prior to today's meeting.

An update on Bellemont was given. There was a draft letter prepared to the Arizona congressional delegation informing them of the concerns with getting a shooting range built in northern Arizona; the letter was held in abeyance until other alternatives pursued by the Department were culminated.

The Department would be meeting on October 24 with the people in Pinetop who have shown interest in having a shooting range in the White Mountain area. Mr. Baldwin met with John Cooley, Director of the White Mountain Apache Tribe Wildlife and Recreation Department. Mr. Cooley would like to pursue a clay target shooting center as a business orientation, but they are also interested in pursuing other ideas for rifle and pistol opportunities on reservation lands.

A Shooting Range Protection Act would be an important piece of legislation to support and protect our ongoing range development activities.

The Department, Forest Service (FS) and Bureau of Land Management continue to make progress on the shooting range task force. Public meetings were planned in November.

Director Shroufe gave further details regarding Bellemont. The indemnification language on the Special Use Permit was not acceptable to the FS but they did agree to submit it to their solicitor and get us a final answer to a letter in response the Department sent to Jim Golden. Shortly after the Commission meeting in Pinetop, the Department was able to answer questions and was promised a response from the FS on our response. To date, that response has not been received. The response is still with the FS solicitor in Washington, D.C. with the caveat that it was very high profile item and they wanted to be sure of their response.

Director Shroufe discussed the well at Bellemont with various FS staff (Forest Supervisor, Regional Forester, and the Deputy Chief). This is the first time the drilling of a well has occurred in the land exchange process. The decision has been made at the Forest Supervisor level, with the concurrence of the Regional Forester. The FS appraiser would consider that there was water under the Bellemont property and exhibit that in the final appraisals; or the FS could drill the well, which was postponed until next summer because the NEPA compliance could not be done this fall. The FS could come up with \$40,000 for the well, but could not come up with \$10,000 a year ago to do the NEPA process that the Department had to do. It appeared that there may not be a Special Use Permit issued by the FS on a range. Director Shroufe asked if the Commission wanted to wait until next spring before the FS drilled the well to find out if there was water, or to have the appraiser look at the final figures. The pros and cons of the issue are if they drill and hit water, the appraisal will be the same as it is now and he was not sure there was enough on the table. The land value could double or triple if there was water; if so, the Department could not afford the land.

A letter has been drafted to the Arizona congressional delegation for the Commission to review. Commissioner Carter stated the letter had to be strong. Director Shroufe noted some people in the FS were concerned that there might be a congressional hearing on this issue but they were not concerned enough to solve it on their own.

Commissioner Golightly felt that each Forest has its own program that was separate from the national program. The Department should have been more aggressive the last nine years. If the Department was committed to a statewide shooting range program, the Department better not get soft. One Forest (Coconino) has allowed the Department to spend almost 1/3 of a million dollars when they could have stopped us a long time ago and told us they were not going to support a shooting range. It would behoove each commissioner to call his or her congressional representatives once a week regarding this issue. He wanted to put Director Shroufe on a weekly plan of action that would incorporate involvement by the Commission until there was newspaper support showing Jim Golden killed the shooting range. The community will back up the Commission and Department. Mr. Golden has let some of his staff dictate the dirty work and this must come to a close. There were national cases where indemnification did not apply and those needed to be cited for a Special Use Permit. Mr. Adkins stated that the Forest Service Office in Albuquerque told him that any Special Use Permit entered into with a state agency requires indemnification without exception. Commissioner Golightly stated the Department has relinquished too much property for the shooting range. Another issue was that the Commission would have to return \$50,000 of the community's money it was holding in trust for the shooting range. The community, state and regional shooters were not going to be happy.

Commissioner Gilstrap asked what the process was with regard to the letters. Director Shroufe thought there would be responses because the situation was brought to their attention. Commissioner Carter suggested minor modifications to the language in the letters. There needs to be consistency and the delegation must be asked to do something specific, including opportunities to meet with them or their staffs and brief them on the issues and clarify our concerns. The letters do not mention the community investment. The letter must go to each member of the Arizona delegation and must show the inconsistencies of federal policies. There needs to be an explanation as to why the FS is taking so long in dealing with this issue. He hoped and thought that at least one senator

would get his staff to look into the issue; there may be a few representatives that may have interest. A letter also needs to go to the Secretary of Agriculture on the same issue. A follow up should occur one week after the letters are sent. Chairman Manning suggested sending copies of the letters to the newspapers in the Flagstaff area. Commissioner Carter suggested letting the shooters work with the media. Director Shroufe stated the letters would be finalized today and mailed. Commissioner Chilton suggested sending a chronology of events with the letters. Director Shroufe stated that could be accommodated later; the letter needed to be signed and sent immediately.

Commissioner Golightly stressed the importance of following up. The Department needed to get tough and perhaps he needed to have weekly meetings with Jim Golden and he needed ammunition. Mr. Golden needs to state point blank that he was going outside the normal appraisal process. It was not acceptable to conduct business this way and Commissioner Golightly was frustrated with the process.

* * * * *

10. Legislative Day 2002

Presenter: James Burton, Assistant Director, Information and Education Division

(For additional information, see Commission meeting minutes for September 7, 2001, pages 26-27.)

Estimated costs would include approximately \$4000 for rental fees associated with the tent, tables, chairs, and port-a-johns. Mr. Burton noted that that expense could come from the I&E budget. Also, an estimated \$3000 would be needed for food and drinks to be served at the luncheon. The event was scheduled at Wesley Bolin Plaza on January 16, 2002. The Arizona Game and Fish Game Rangers Lodge and the Arizona Game and Fish Employees Association would be willing to work together to insure that the event is a Game and Fish event so that all participants in the Legislative Day are associated with the Department. It was recommended that the Commission direct the Department to move forward with Legislative Day 2002 with the assistance of the Arizona Game Rangers Lodge and the Arizona Game and Fish Association.

Motion: Carter moved and Gilstrap seconded THAT BASED ON THE BRIEFING PROVIDED MR. JAMES BURTON WITH RESPECT TO ITEM F-10, FRIDAY, OCTOBER 19, THE COMMISSION CONCUR WITH THE RECOMMENDATIONS PRESENTED AND THAT WE MOVE FORWARD WITH THE LEGISLATIVE DAY.

Vote: Unanimous

* * * * *

11. Purpose of the Heritage Public Advisory Committee (HPAC) and Appointment of HPAC Member

As noted on the addendum, this item was deleted.

* * * * *

16. Update and Status of Current Issues Involving the Anderson Mesa Antelope Herd

Presenter: Ron Sieg, Flagstaff Regional Supervisor

The Commission was provided with an information briefing and update on the current status of issues and resolution process involving the Anderson Mesa antelope herd. No action was taken.

The Anderson Mesa antelope herd numbers are down and long-term survival of a healthy herd should be about 30 fawns to 100 does during the 1990s the average was 12.9:100.

There were many potential causes for the decline. Among them were changes in vegetation structure and composition, woody species encroachment due to fire suppression, elk and livestock grazing, fences and increased land use such as recreation, subdivisions and woodcutting.

Department staff raised this as an issue and in 1999 recommended further evaluation of the causes of the decline. Since that time the Department has taken several steps including a recommendation for additional research on fawn recruitment; evaluation and modification of antelope hunting seasons; coyote control efforts on state and private adjacent land; working with the Coconino National Forest on allotment management plans, including habitat modification to improve antelope numbers; setting up a work group of Department and Forest Service employees to come up with projects to improve antelope herd health (there have been three meetings of that group); conducting a fence inventory on the Raymond Ranch Wildlife Area and making modifications to the fencing in that area and using Department staff to monitor fence conditions on over 100 miles of allotments on Forest Service land to determine where the fences are in relation to the 18" goal for the bottom wire and looking at 1913 vegetation maps of the area to see what areas were historic grasslands to prioritize habitat treatments for the area (an agreement was signed with the Forest to start doing pinyon-juniper treatments on approximately 200 acres of land in the area to improve grassland conditions).

Representatives of the Arizona Wildlife Federation have met with the Director the past two years to try to get the Department more actively involved in the process. They have also had field trips to raise issues on the Mesa. They, along with the National Wildlife Federation, have tried to raise nationwide public awareness of this issue with articles in their publications.

The Department prepared an operational plan for the Anderson Mesa antelope herd, which was currently being reviewed internally with the goal of sending it out to the work group. The purpose of the plan was to provide an organized framework for the work group discussions. The plan lays out seven strategies that the Department feels would be beneficial in speeding along the process of habitat enhancement. They were:

1. To improve forage diversity and health and fawn hiding cover; to evaluate and manage elk herd numbers if necessary; to modify livestock grazing in selected pastures to improve fawn hiding cover; to conduct research on disease and nutrition in the herd and improve the condition of ephemeral wetlands

- 2. To improve distribution of pronghorn access and migration routes by improving fences; completing a fence inventory and prioritizing which fences should be modified in the first and second years of the program and to remove any unneeded fences
- 3. To evaluate the use of short-term coyote control to avoid further fawn declines if necessary
- 4. To evaluate and reduce as needed disturbance during antelope breeding and fawning periods
- 5. To improve water availability
- 6. To improve the ability of antelope to move between habitat areas
- 7. To consider hunting season modifications

* * * * *

3. Request for the Commission to Provide Direction to the Department regarding Options for Gaining Greater Commission Involvement in the Land Acquisition Process – cont’d.

Director Shroufe noted the Commission directed the Department to prepare a motion that would incorporate its suggestions made earlier this morning. A draft motion was distributed to the Commission for consideration.

Motion: Carter moved and Gilstrap seconded THAT THE DEPARTMENT IMPLEMENT THE IMPROVEMENTS DESCRIBED BY THE DEPARTMENT DURING ITS PRESENTATION OF ITEM F-3 TODAY WITH RESPECT TO INVOLVEMENT OF THE COMMISSION IN THE LAND ACQUISITION PROCESS. ADDITIONALLY, THAT THE DEPARTMENT PROVIDE THE COMMISSION WITH AN INITIAL BRIEFING REGARDING THE POTENTIAL DEPARTMENT INTERESTS IN A NEWLY CONSIDERED PROPERTY AND THAT THE DEPARTMENT IDENTIFY ANY ISSUES OF SIGNIFICANT CONCERN, SUCH AS POTENTIALLY ILL-DEFINED BOUNDARIES, WATER RIGHTS OR TITLING ISSUES TO THE COMMISSION IN A TIMELY MANNER AND ALLOW FOR TIMELY COMMISSION DISCUSSION AT AN AUTHORIZED EXECUTIVE SESSION OF THE ARIZONA GAME AND FISH COMMISSION FOR THE PURPOSE OF ACQUIRING LEGAL COUNSEL ON THE COMMISSION’S POSITION REGARDING NEGOTIATIONS ON A PROPERTY; AND FURTHER, THAT THE DEPARTMENT PROVIDE A SURVEY TO THE COMMISSIONERS ALONG WITH THEIR MONTHLY LAND ACQUISITION PACKET TO PROVIDE THE DEPARTMENT WITH FEEDBACK ON THE VALUE OF THE INFORMATION CONTAINED IN THE PACKET.

Vote: Unanimous

* * * * *

18. Call to the Public

There were no comments.

* * * * *

19. Approval of Minutes

Motion: Carter moved and Gilstrap seconded THAT THE MINUTES FOR AUGUST 21, 2001 AND SEPTEMBER 6-8, 2001 BE APPROVED.

Vote: Unanimous

The minutes for August 1, 2001 and August 10-11, 2001 were signed.

* * * * *

20. Director's and Chairman's Reports

Chairman Manning participated in an elk survey in Unit 27. He attended the memorial service for past Game and Fish Director and past Director for the U.S. Fish and Wildlife Service Robert Jantzen.

Director Shroufe noted Division updates had been provided to the Commission.

Director Shroufe noted the International Association of Fish and Wildlife Agencies annual meeting was cancelled due to events on September 11, 2001; it was rescheduled for December 2-6, 2001, in Wichita, Kansas.

Director Shroufe attended two Management Team meetings, a Wildlife for Tomorrow Board meeting and a Wildlife Conservation Council meeting. He attended a meeting with the Department of Administration and the Governor's Office of Excellence on the performance measures that the Governor's Office has selected for the Department to monthly report on. He attended a Barry M. Goldwater Executive Committee meeting at Gila Bend and the memorial service for Robert Jantzen. He worked with Region II and members of the public on the antelope issues on Anderson Mesa. He spent time working with the Forest Service on Bellemont Range issues. He met with the Arizona Game Rangers Lodge 71 and talked with its board of directors regarding significant activities in the Department that were of interest to them.

* * * * *

21. Commissioners' Reports

Commissioner Chilton met with Dr. Phil Rosen, who was an expert on the Chiricahua leopard frog, to look at potential introduction sites on ranchlands. She spent time working on range management issues. She met with the Altar Valley Conservation Alliance, staffs from the Game and Fish Department and U.S. Fish and Wildlife Service and Dr. Rosen to discuss fish species and the Chiricahua leopard frog introduction issues.

Commissioner Carter's activities were limited to the prairie dog issues and the Cowan access issue.

Commissioner Gilstrap participated in the Unit 4A antelope hunt. He attended the meeting of the Arizona Quail Alliance and participated in the State Employees' Charitable Campaign fundraising trap shoot.

Commissioner Golightly worked on shooting range issues with the local community. Personal time was spent hunting.

* * * * *

Meeting recessed at 3:02 p.m.

Meeting reconvened 3:16 p.m.

* * * * *

15. Appeal of Department Action by Mr. William W. Bloom

Mr. Odenkirk stated prior to the meeting this afternoon he had discussion with Mr. Bloom's counsel with regard to some new information that Mr. Odenkirk felt he should share with the Commission in the form of legal advice in Executive Session. Mr. Bloom's counsel was present and had no objection to proceeding into Executive Session. Mr. Odenkirk agreed to offer a continuance in this matter to a later date with regard to the hearing itself because Mr. Bloom's counsel had another commitment at 3:30 today. The Commission would be asked to reschedule the hearing for a later Commission date.

Motion: Carter moved and Chilton seconded THAT THE COMMISSION GO INTO EXECUTIVE SESSION.

Vote: Unanimous

* * * * *

Meeting recessed at 3:17 p.m.

Meeting reconvened 3:45 p.m.

* * * * *

Mr. Odenkirk stated that regarding William Bloom, the Commission was requested to consider rehearing his case at the December Commission meeting.

Motion: Carter moved and Gilstrap seconded THAT THE HEARING ON MR. BLOOM BE EXTENDED TO THE DECEMBER COMMISSION MEETING.

Mr. Odenkirk clarified his earlier statement to mean the public hearing and not the Executive Session hearing.

Vote: Unanimous

* * * * *

12. Format for Future Quarterly Budget Briefings

Presenter: Steve K. Ferrell, Deputy Director

The Commission requested quarterly briefings regarding the year-to-date status of current year operating budgets. The Department presented a sample format for these updates. The Commission was also asked for direction regarding the way it wanted the Department to present the information. Options were formal presentations at Commission meetings, an informational memo to the Commission mailed to them in their weekly packets, or to put the briefing in an informational memo in their Commission meeting packets.

Commissioner Carter believed there was a need for the Commission to understand the budget process. His interests laid in three areas: the source of the funds or the budget unit, the number of FTEs authorized within that fund, what the authorized fund was and what the spending plan was year to day. He did not have any desire to have the information split into little pieces because it may be too long of a document. He was interested in the bottom line. He did not know if it should be in an informational memo or if it should be something that should be put on the Commission agenda every quarter.

Chairman Manning wanted to see more information and would like to see further breakdown in some areas. Mr. Ferrell stated each one of the items listed on the Game and Fish Fund budget page are line items; to break them down further would mean breaking them into work units (PCAs) and this becomes very detailed. There would be a line in Personal Services for every work unit in the agency. Personal services contain the salaries within the Game and Fish Fund. Finer detail could be given, however, for All Other Operating.

Commissioner Gilstrap supported the quarterly budget reporting process. The Department could start with something that has been presented and then be more specific as time goes on.

Director Shroufe stated there would be ups and downs having this on the agenda every quarter because the budget would be open to public comment. There would be a lot of public opinion on how the money was being spent which may become a target of controversy among Department supporters. Director Shroufe noted the Department could answer the Commission's questions on the budget at any time. Mr. Ferrell added that defining the budget in every detail each quarter would require a lot of staff time and effort to compile year-to-date balances.

Commissioner Gilstrap wanted a report on the status of expenditures. The Commission may be called upon to make adjustments during the two-year period. The Commission needed to be educated. As it relates to the public, he could appreciate the potential. On the other hand, maybe by presenting it to the public on a quarterly basis, the public may become less involved because there would be no hidden information.

Commissioner Carter thought that the report could be done quarterly with totals only with numbers of FTEs. If there was a line item that the Department was concerned about in a report, a footnote should be prepared underneath the budget item. The report should be presented in a public forum.

Commissioner Gilstrap stated that within this process there could be semi-annual and annual reports that go into more detail. Rather than have the report as an agenda item, the information could be mailed in the Commission's packets and could be on the agenda as needed as opposed to always. The other commissioners agreed on this approach.

* * * * *

20. Director's and Chairman's Reports – cont'd.

Director Shroufe distributed information from the Governor's Office regarding precautions with respect to bioterrorism.

* * * * *

Motion: Carter moved and Gilstrap seconded THAT THE MEETING ADJOURN.

Vote: Unanimous

* * * * *

Meeting adjourned 4:12 p.m.

* * * * *

Saturday, October 20, 2001 – 8:00 a.m.

Chairman Manning called the meeting to order at 8:05 a.m. Members of the Commission and Director's staff were introduced. The meeting followed an addendum dated October 12, 2001.

Awards

Employees receiving 20-year service pins included: Tim Baumgarten, Region 3 Law Enforcement Program Supervisor; Jack Beyer, Water Navigational Aid Technician; Ken Branson, Navigational Aids Field Supervisor; Dan Gaska, Region II Wildlife Manager (Unit 8); Joe Hall, Joe Hall, Region V Wildlife Manager (Safford Unit); Dana McGehee, Region VI Wildlife Manager (Unit 24B) and Ken Stirn, Region V Wildlife Manager (Unit 36B/C).

Employees receiving 25-year service pins included: Kerry Baldwin, Education Branch Chief; Art Fuller, Region III Game Specialist and Lowell Whitaker, Region IV Wildlife Manager, Wellton District.

Marvin Robbins, representing the Arizona Chapter of the National Wild Turkey Federation (NWTF), presented the Department and Commission with a DART system. Mr. Robbins also presented Director Shroufe with an artist print in appreciation of his hard work and interest in wild turkeys both at the state and national levels. Director Shroufe's work with the NWTF was instrumental in the reintroduction of Gould's turkeys in Arizona. There have been increased opportunities to hunt the Merriam's species and turkey habitat in the state has been increased. Larry Cullen, representing the Arizona Desert Bighorn Sheep Society, presented the Department with a transport trailer to be used in all facets of big game.

* * * * *

1. Briefing on the Fisheries Program Accomplishments during 2000 and 2001

Presenter: Larry Riley, Fisheries Branch Chief

Mr. Riley introduced five of the Regional Fisheries Program Managers who were present at today's meeting, as well as the staff of the Fisheries Branch and Department employees who were involved in the fisheries program.

A presentation was provided to the Commission highlighting fisheries management program activities, achievements, challenges, and accomplishments since last October. Insights were also provided into challenges and activities for the months to come. Poster presentations were available for the Commission and public to review as well.

* * * * *

2. 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 2002

Presenter: Larry Riley, Fisheries Branch Chief

Overheads were shown in the presentation.

As part of the public input process, the Department hosted seven public meetings statewide and conducted a statewide survey by mail and in person of licensed anglers (2400 mailed with a 28% response). Public comment on proposed regulation changes was also invited by email.

Regulation proposals:

Trout-Legal fish and daily bag and possession limits

At East Clear Creek (including Blue Ridge and Knoll Reservoirs), Nutrioso Creek (including Nelson Reservoir), and Chevelon Creek, decrease the liberalized bag limit (unlimited) season from September 1 through May 1 by one month, to September 1 through April 1.

The current unlimited bag/possession limits prevent the Department from stocking in April. This is especially critical for Nelson Reservoir, which normally has a 4-6 week stocking window due to rapid plant growth and resultant pH spikes. Reducing the liberalized bag limit season by one month would allow the Department to extend angler opportunity and maximize use of the narrow stocking window at Nelson Reservoir. Creel use data for Nelson Reservoir demonstrates that this reduction will not impact the existing trout or native Little Colorado spinedace populations.

There was broad angling public support for this proposal.

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO ADOPT THE PROPOSAL AS WRITTEN, MODIFYING THE UNLIMITED BAG LIMIT SEASON FOR RAINBOW AND BROWN TROUT IN EAST CLEAR CREEK, NUTRIOSO CREEK, AND CHEVELON CREEK FROM SEPTEMBER 1 THROUGH MAY 1 TO SEPTEMBER 1 THROUGH APRIL 1.

Vote: Unanimous

A reduction was proposed in trout and channel catfish bag and possession limits at Fortuna Pond. Trout limits would be reduced from six fish to four fish.

An intensive put-and-take fishery was developed at Fortuna Pond in 1999. The fishery, within 10 miles of Yuma, is frequently stocked with trout (winter) and channel catfish (summer). Because of positive input and intensive use from the angling public, the Department requested a reduction in bag and possession limits for trout and channel catfish. The daily bag limit reductions would establish a more fair and equitable distribution of fish per angler.

There was strong angling public support for this proposal.

Motion: Gilstrap moved and Carter seconded THAT THE COMMISSION VOTE TO ADOPT THE PROPOSAL AS WRITTEN, REDUCING THE ALLOWABLE BAG

AND POSSESSION LIMIT FOR TROUT AT FORTUNA POND, YUMA COUNTY, ARIZONA, TO FOUR FISH.

Largemouth Bass and Smallmouth Bass – Legal fish and daily bag and possession limits

A reduction was proposed in the allowable bag limit from six largemouth bass to four and to establish a minimum length limit of 13” at Tempe Town Lake.

Recent surveys of Tempe Town Lake have shown limited reproduction of largemouth bass in the lake. Because this lake is located within the City of Tempe, this water would continue to have growing angling pressure. The proposed regulation change would protect recruiting age classes of bass and would establish regulations similar to urban lakes within the area.

Angling public support for the proposal was positive.

Motion: Gilstrap moved and Carter seconded THAT THE COMMISSION VOTE TO ADOPT THE PROPOSAL AS WRITTEN, REDUCING THE DAILY BAG LIMIT OF LARGEMOUTH BASS AT TEMPE TOWN LAKE TO 4 FISH AND ESTABLISHING A MINIMUM SIZE LIMIT FOR LARGEMOUTH BASS AT TEMPE TOWN LAKE AT 13 INCHES.

Vote: Unanimous

Proposals for Lake Powell included increasing the bag limit on smallmouth bass to 20, reducing the bag limit for largemouth bass from six to five fish. These changes would be consistent with proposals by the Utah Division of Wildlife Resources.

The average size of smallmouth bass in Lake Powell is smaller now than it was from 1990 to 1997. Growth has slowed for most fish due to competition with each other for limited food. The physical condition of the fish has also declined. Increasing harvest to reduce the population would enhance growth and condition of the smallmouth bass population. Largemouth bass, on the other hand, are not present in large numbers due to limited nursery areas. They grow larger than smallmouth bass and are highly prized by anglers. The proposed bag limit decrease would further protect the largemouth bass population.

Angling public opinion showed 88% support for the largemouth and smallmouth proposal as well as the proposal for crappie.

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO ADOPT THE PROPOSAL AS WRITTEN, ESTABLISHING A SEPARATE BAG AND POSSESSION LIMIT FOR LARGEMOUTH AND SMALLMOUTH BASS AT LAKE POWELL, INCREASING THE POSSESSION LIMIT FOR SMALLMOUTH BASS TO 20 FISH AND REDUCING THE POSSESSION LIMIT FOR LARGEMOUTH BASS FROM SIX TO FIVE FISH.

Vote: Unanimous

Channel Catfish – Legal fish and daily bag and possession limits

At Fortuna Pond, channel catfish limits would be reduced from 25 fish to four fish.

This proposed change was a proactive action aimed at establishing a fair and equitable distribution to anglers of a finite number of stocked channel catfish.

Angling public opinion showed 85% support for the proposal.

Motion: Gilstrap moved and Carter seconded THAT THE COMMISSION VOTE TO ADOPT THE PROPOSAL AS WRITTEN, REDUCING THE ALLOWABLE BAG AND POSSESSION LIMIT FOR CHANNEL CATFISH AT FORTUNA POND, YUMA COUNTY, ARIZONA, TO FOUR FISH.

Vote: Unanimous

Crappie-Legal fish and daily bag and possession limits

At Lake Powell, the daily bag and possession limit for crappie would be reduced from 20 to 10 fish. This proposal was made to align with recent regulation changes by the Utah Division of Wildlife Resources.

The lack of nursery cover also limits black crappie, which has resulted in limited crappie survival. Harvest reduction would also safeguard this population.

Angling public opinion showed 88% support for the proposal.

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO ADOPT THE PROPOSAL AS WRITTEN, REDUCING THE POSSESSION LIMIT FOR CRAPPIE AT LAKE POWELL FROM 20 FISH TO 10 FISH.

Vote: Unanimous

Artificial Lures and Flies Only

The Department proposed regulation changes on JD Dam, Middle, Elk and Perkins Tanks (Coconino County) to catch and release only, artificial lures and flies with single barbless hooks.

It has been proposed to change JD, Middle, Elk and Perkins Tanks from a protected slot limit-regulated fishery to a catch-and-release fishery. These waters are currently managed under the Blue Ribbon concept to provide larger than average fish and a quality experience. All are small productive bodies of water (six surface acres or less) located south of Williams and all but Perkins are on the same drainage.

Response from the angling public was generally favorable of the proposal.

Public comment

Richard Brown, representing the Northern Arizona Flycasters and Federation of Fly-fishers, supported the recommendation even though there was a problem with enforcement of the more stringent regulations. The organization's goal was to provide quality habitat for fish to allow them to carry over year to year and for waterfowl. The tanks were constructed 60-100 years ago and probably have never been cleaned out. The organization's major effort has been to clean out the silt (at JD Tank, 36,000 cubic yards of silt were removed).

Motion: Gilstrap moved and Carter seconded THAT THE COMMISSION VOTE TO ADOPT THE PROPOSAL AS WRITTEN, DESIGNATING JD DAM LAKE, MIDDLE, ELK AND PERKINS TANKS IN COCONINO COUNTY, ARIZONA, AS CATCH-AND-RELEASE ONLY, USING ARTIFICIAL FLIES AND LURES WITH SINGLE BARBLESS HOOKS.

Vote: Unanimous

Closed to Fishing-Identifying specific areas closed to fishing

Close Raspberry Creek in Greenlee County to fishing for Gila trout recovery.

Gila trout were introduced into formerly fishless Raspberry creek in November 2000 and they are the only fish species that occur in the creek. Gila trout cannot be legally taken or possessed until they are downlisted and a special rule is enacted allowing for sport harvest. No fishing opportunity would be lost as a result of the closure.

The angling public showed 88% support for the proposal.

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO ADOPT THE PROPOSAL AS WRITTEN, CLOSING RASPBERRY CREEK IN GREENLEE COUNTY, ARIZONA, TO FISHING.

Vote: Unanimous

Identify existing seasonal U.S. Fish and Wildlife Refuge closures at Cibola and Martinez Lakes.

Both Cibola Lake and portions of Martinez Lake have been closed to entry in the Refuge regulations for some time to protect waterfowl. This was a request from the Cibola National Wildlife Refuge and the Imperial National Wildlife Refuge to clarify and provide consistent regulations.

Overall support from the angling public was good.

Motion: Gilstrap moved and Carter seconded THAT THE COMMISSION VOTE TO ADOPT THE PROPOSAL AS WRITTEN, CLOSING CIBOLA LAKE TO FISHING FROM THE FIRST MONDAY IN SEPTEMBER (LABOR DAY) THROUGH MARCH 15, AND CLOSING POSTED PORTIONS OF MARTINEZ LAKE TO FISHING FROM OCTOBER 1 THROUGH MARCH 1.

Vote: Unanimous

The Department also made sure the fishing regulations were consistent with state law (ARS §17-303 and ARS §17-304) regarding posting of lands by landowners.

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO ADOPT THE PROPOSAL AS WRITTEN, CLOSING ALL AREAS LEGALLY POSTED IN ACCORDANCE WITH AND PURSUANT TO ARS 17-303 AND ARS 17-304.

Vote: Unanimous

Also, the Fisheries Branch recommended some “clean up” on the regulations to ensure that season dates and closure dates were accurate and easy to follow. Removal of redundant language was recommended regarding closures at Alamo Lake and correct dates on closures for posted portions of Mitty Lake to November 15 through February 15. Also recommended were correct dates on closures for posted portions of Becker Lake to December 15 through June 15.

Motion: Golightly moved and Carter seconded THAT THE COMMISSION VOTE TO ADOPT THE PROPOSAL AS WRITTEN, ELIMINATING THE REDUNDANT CLOSURE LANGUAGE FOR ALAMO LAKE (COMMISSION ORDER 40.V.A.8) AND REVISING THE CLOSURE DATES FOR MITTRY LAKE (COMMISSION ORDER 40.V.A.14) AND BECKER LAKE (COMMISSION ORDER 40.V.A.15) TO CONFORM WITH EXISTING DATES IDENTIFIED IN RULE R12-4-802.

Vote: Unanimous

Live Baitfish – legal areas

Use of carp as legal live bait would be allowed at Lake Pleasant, Maricopa and Yavapai Counties.

Motion: Carter moved and Chilton seconded THAT THE COMMISSION VOTE TO ADOPT THE PROPOSAL AS WRITTEN, INCLUDING THE USE OF CARP (*Cyprinus carpio*) AS LEGAL BAIT IN LAKE PLEASANT, MARICOPA AND YAVAPAI COUNTIES, ARIZONA.

Vote: Unanimous

The Commission gave direction for no action on the following proposals:

- 1) Modify the closure of state fish hatcheries to allow them to be open for Department-sponsored fishing clinics
- 2) Modifications of regulations for all catch-and-release waters to require single barbless hooks
- 3) Bait seining in city parks and designated Urban Fishing Lakes
- 4) Bow fishing on Salt River Project canals in the metropolitan Phoenix area

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 40: FISH, ESTABLISHING OPEN SEASONS, OPEN AREAS AND BAG AND POSSESSION LIMITS FOR CALENDAR YEAR 2002.

Vote: Unanimous

* * * * *

3. Addition of Sahuarita Lake to the Urban Fishing Program and Approval of the Interagency Agreement Between the Arizona Game and Fish Commission and the Town of Sagarita

Presenter: Larry Riley, Fisheries Branch Chief

In August 2001, the Town of Sagarita completed construction of the ten acre Sagarita Lake and approached the Department regarding adding this lake to the Urban Fishing Program. The lake was designed, in consultation with Department biologists, to maintain good water quality and to accommodate fishing. The addition of Sahuarita Lake to the Urban Fishing Program, beginning January 1, 2002, would increase the current Urban Fishing Program operation to include nine municipalities and 17 lakes, totaling 153 surface acres of water.

Adoption of this proposal would also result in a change in Commission Order 40.

Motion: Chilton moved and Carter seconded THAT THE COMMISSION VOTE TO APPROVE THE ADDITION OF THE TEN (10) ACRE SAHUARITA LAKE IN THE TOWN OF SAHUARITA TO THE URBAN FISHING PROGRAM EFFECTIVE JANUARY 1, 2002, AND TO AUTHORIZE THE DIRECTOR TO EXECUTE AN INTERAGENCY AGREEMENT BETWEEN THE TOWN OF SAHUARITA AND APPROVE ASSOCIATED CHANGES TO COMMISSION ORDER 40.

Vote: Unanimous

* * * * *

4. Call to the Public

Cookie Nicoson, representing the Arizona Elk Society (AES) and speaking on behalf of president Sharon Eichelberger, stated the AES was a new wildlife organization. The AES wanted to work collectively and cooperatively with the Rocky Mountain Elk Foundation. The AES mission was noted. All funds raised and donations would be for the benefit of Arizona only. A membership drive has been underway. The first fundraising effort has been scheduled on March 16, 2002, at the Shrine Auditorium.

* * * * *

5. Request to Adopt Commission Order 25: Raptors

Presenter: Terry B. Johnson, Nongame Branch Chief

The following recommendations were made by the Department regarding Commission Order 25 for 2002:

1. No changes in species coverage; no change in bag or possession limits for any species covered; and no other substantive changes
2. Addition of rule numbers to the notes referenced

- 3. Addition of two notes to ensure compliance with the new Federal Falconry Guidelines with regard to the peregrine falcon hunt
- 4. Change all dates to refer to the appropriate calendar year
- 5. Change wording and notes as necessary to ensure consistency with other Commission Orders previously approved by the Commission

Motion: Carter moved and Chilton seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 25: RAPTORS, ESTABLISHING OPEN AREAS, SEASON DATES, AND BAG AND POSSESSION LIMITS FOR 2002, AS PROPOSED BY THE DEPARTMENT.

Vote: Unanimous

* * * * *

6. Request to Adopt Commission Order 41: Amphibians

Presenter: Terry B. Johnson, Nongame Branch Chief

The following recommendations were made by the Department regarding Commission Order 41 for 2002:

- 1. No changes in species coverage; no change in bag or possession limits for any species covered; and no other substantive changes
- 2. Change all dates to refer to the appropriate calendar year
- 3. Change wording and notes as necessary to ensure consistency with other Commission Orders previously approved by the Commission

Motion: Carter moved and Gilstrap seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 41: AMPHIBIANS, ESTABLISHING OPEN AREAS, SEASON DATES, AND BAG AND POSSESSION LIMITS FOR 2002, AS PROPOSED BY THE DEPARTMENT.

Vote: Unanimous

* * * * *

7. Request to Adopt Commission Order 42: Crustaceans and Mollusks

Presenter: Terry B. Johnson, Nongame Branch Chief

The following recommendations were made by the Department regarding Commission Order 42 for 2002:

- 1. No changes in species coverage; no change in bag or possession limits for any species covered; and no other substantive changes
- 2. Change all dates to refer to the appropriate calendar year
- 3. Change wording and notes as necessary to ensure consistency with other Commission Orders previously approved by the Commission

Motion: Carter moved and Golightly seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 42: CRUSTACEANS AND MOLLUSKS,

ESTABLISHING OPEN AREAS, SEASON DATES, AND BAG AND POSSESSION LIMITS FOR 2002, AS PROPOSED BY THE DEPARTMENT.

Vote: Unanimous

* * * * *

8. Request to Adopt Commission Order 43: Reptiles

Presenter: Terry B. Johnson, Nongame Branch Chief

The following recommendations were made by the Department regarding Commission Order 43 for 2002:

1. No changes in species coverage; no change in bag or possession limits for any species covered; and no other substantive changes
2. Change all dates to refer to the appropriate calendar year
3. Change wording and notes as necessary to ensure consistency with other Commission Orders previously approved by the Commission

Motion: Golightly moved and Gilstrap seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 43: REPTILES, ESTABLISHING OPEN AREAS, SEASON DATES, AND BAG AND POSSESSION LIMITS FOR 2002, AS PROPOSED BY THE DEPARTMENT.

Vote: Unanimous

* * * * *

9. Proposed Amendment to Commission Order 5

Presenter: Tice Supplee, Game Branch Chief

At the August 2001 meeting, the Commission voted to approve the 2002 recommendation for spring turkey seasons. The approved open area for Hunt 4027 was Unit 35A (except for Fort Huachuca).

On September 10, 2001, the Department was informed by Colonel Boardman, Commander of the Fort Huachuca Military Garrison, that Fort Huachuca had reconsidered its earlier decision and requested that Fort Huachuca lands be open to the two hunters who receive tags for Unit 35A for the spring turkey hunt in 2002. The Department concurred with the request. The individual who receives the tag for Hunt 4027 will be notified that the hunt unit includes all of 35A including Fort Huachuca lands. The auction tag would be approved (Commission Order 29) later today.

Marvin Robbins, representing the Arizona Chapter of the National Wild Turkey Federation, stated this proposal would be beneficial to sportsmen and the relationship with the base.

Motion: Chilton moved and Carter seconded THAT THE COMMISSION VOTE TO APPROVE AN AMENDMENT TO COMMISSION ORDER 5 AS PROPOSED.

Vote: Unanimous

* * * * *

10. Update of Master Agreements with the Conservation Organizations that Sponsor the Special Big Game License-Tags

Presenter: Tice Supplee, Game Branch Chief

Each non-profit conservation organization that sponsors Special Big Game license-tags enters into a master agreement with the Commission for the administration of the Special Big Game license-tags and funds raised through the program.

Master agreements are currently in place and active with the following organizations:

Arizona Desert Bighorn Sheep Society (updating a 1993 agreement)
Arizona Mule Deer Association (updating a 1996 agreement)
Arizona Antelope Foundation (updating a 1993 agreement)
Rocky Mountain Elk Foundation (updating a 1988 agreement)
National Wild Turkey Federation (updating a 1996 agreement)
Safari Club International – Phoenix Chapter (updating a 1993 agreement)
Safari Club International – Arizona Chapter (updating a 1993 agreement)

Specific recommended revisions are:

Issuance of Permits - Change the language for when the Commission will approve the season dates for the Special Big Game license-tags from the April meeting to the October meeting in the year prior to the hunt season.

Establishment of Special Season - Change to read that Commission Order 29, Special Hunting Seasons, would be approved by the Commission at its October meeting in the year prior to the recommended hunt seasons in Commission Order 29.

Transfer of Proceeds - Allow proceeds to either be transferred to the Arizona Game and Fish Department for deposit to a special donation account or deposited into a dedicated Arizona Game and Fish Department account with the non-profit organization. Delete the language that states the Department and conservation organization will deliver a copy of the agreement to the Arizona State Treasurer to advise how monies in the special account may be spent. The Arizona State Treasurer does not require copies of agreements for establishment of special donation accounts.

Motion: Gilstrap moved and Chilton seconded THAT THE COMMISSION VOTE TO APPROVE THE UPDATED SPECIAL BIG GAME LICENSE TAG AGREEMENTS WITH THE ARIZONA DESERT BIGHORN SHEEP SOCIETY, ARIZONA MULE DEER ASSOCIATION, ARIZONA ANTELOPE FOUNDATION, ROCKY MOUNTAIN ELK FOUNDATION, NATIONAL WILD TURKEY FEDERATION, SAFARI CLUB INTERNATIONAL-PHOENIX AND SAFARI CLUB INTERNATIONAL-ARIZONA CHAPTER AS ATTACHED OR AS APPROVED BY THE ATTORNEY GENERAL'S OFFICE.

Vote: Unanimous

* * * * *

Meeting recessed at 10:26 a.m.

Meeting reconvened 10:45 a.m.

* * * * *

11. Consideration of Applications for Special Big Game Hunt License-Tags for Mule Deer, White-tailed Deer, Antelope, Elk, Turkey, Javelina, Bighorn Sheep, Buffalo, and Black Bear for 2002-2003

Presenter: Tice Supplee, Game Branch Chief

The Department received applications for Special Big Game License-Tags from the following non-profit organizations:

Arizona Antelope Foundation (AAF): Two antelope tags-one to be auctioned at the Arizona Desert Bighorn Sheep Society fundraiser banquet in March 2002 and the other at the Arizona Elk Society fundraiser banquet in March 2002 or at the Arizona Mule Deer fundraiser banquet in 2002.

Arizona Desert Bighorn Sheep Society (ADBSS): Two bighorn sheep tags-one to be auctioned at either the Foundation for North American Wild Sheep convention in January 2002 or at the ADBSS fundraiser in Phoenix in March 2002. The other tag would be raffled with the drawing held at the September 2002 hunter awards banquet.

One buffalo tag to be auctioned at the ADBSS fundraiser.

One bear tag to be auctioned at the ADBSS fundraiser.

Two elk tags-one to be auctioned at the Arizona Elk Society fundraiser and the other to be raffled with a drawing held in late summer 2002.

Arizona Mule Deer Association (AMDA): Two mule deer tags to be auctioned at the AMDA fundraising banquet in June 2002.

One white-tailed deer tag to be auctioned at the AMDA fundraiser.

One buffalo tag (Raymond Ranch) to be auctioned at the AMDA fundraiser.

One javelina tag to be auctioned at the AMDA fundraiser.

Mule Deer Foundation (MDF): One mule deer tag to be auctioned at the National Convention Exhibition Banquet to be held in Reno.

One elk tag to be auctioned at the National Convention Exhibition Banquet

National Wild Turkey Federation (NWTF): Two turkey tags to be auctioned at the NWTF Annual Convention in North Carolina in 2002.

Safari Club International, Phoenix Chapter (SCI-PHX): One Coues whitetail deer tag to be auctioned at the SCI-PHX 2002 banquet.

One mule deer tag to be auctioned at the 2002 banquet.

One elk tag to be auctioned at the 2002 banquet.

One buffalo tag to be auctioned at the 2002 banquet.

One black bear tag to be auctioned at the 2002 banquet.

One javelina tag to be auctioned at the 2002 banquet.

Rocky Mountain Elk Foundation (RMEF): Two elk tags-one to be auctioned at the 2001 International Elk Camp in Reno and the other to be raffled by the Arizona RMEF Chapters.

One Coues whitetail deer tag to be auctioned by an Arizona RMEF Chapter at a fundraising banquet.

One buffalo tag to be auctioned by an Arizona RMEF Chapter at a fundraising banquet.

Safari Club International-Northern Arizona Chapter (SCI-NAC): One white-tailed deer tag to be auctioned at the annual banquet to be held in Flagstaff in April 2002.

Safari Club International-Arizona Chapter, Tucson (SCI-ACT): One white-tailed deer tag to be auctioned at the annual fundraising auction in 2002.

One buffalo tag to be auctioned at the annual fundraiser.

One black bear tag to be auctioned at the annual fundraiser.

One javelina tag to be auctioned at the annual fundraiser.

Ms. Supplee noted a change in the matrix on page 4 of the Commission memo. The Safari Club International Club, Phoenix Chapter, asked for one of the elk and one of the mule deer tags. A summary of all the organizations' projects for the past year was attached to the Commission memo.

The following individuals from organizations spoke:

Marvin Robbins, representing the NWTf

Gilbert Houseaux, representing the SCI-Phoenix Chapter

Pete Cimellaro, representing the AMDA (Coue's whitetail deer)

Pete Cimellaro, representing the AMDA (mule deer)

Pete Cimellaro, representing the Arizona Elk Society

Dan Hunter, representing the RMEF Arizona Chapters

Lyle Button, Regional Director for Arizona of the RMEF

Larry Cullen, representing the ADBSS

Ms. Supplee stated the Department would recommend THAT THE COMMISSION AWARD TWO AUCTION ANTELOPE TAGS TO THE ARIZONA ANTELOPE FOUNDATION, ONE AUCTION AND ONE RAFFLE BIGHORN SHEEP TAG TO THE ARIZONA DESERT BIGHORN SHEEP SOCIETY, TWO AUCTION TURKEY TAGS TO THE NATIONAL WILD TURKEY FEDERATION.

Motion: Carter moved and Chilton seconded THE ABOVE RECOMMENDATION.

Vote: Unanimous

Motion: Gilstrap moved and Carter seconded THAT ONE BEAR TAG BE GIVEN TO THE SAFARI CLUB INTERNATIONAL-PHOENIX AND ONE BEAR TAG BE GIVEN TO THE SAFARI CLUB INTERNATIONAL-TUCSON.

Vote: Unanimous

Motion: Carter moved and Gilstrap seconded THAT ONE JAVELINA TAG BE GIVEN TO THE SAFARI CLUB INTERNATIONAL-PHOENIX AND THE OTHER TO THE SAFARI CLUB INTERNATIONAL-TUCSON.

Vote: Unanimous

Motion: Gilstrap moved and Carter seconded THAT TWO MULE DEER AUCTION TAGS BE AWARDED TO THE ARIZONA MULE DEER ASSOCIATION.

Vote: Unanimous

Motion: Gilstrap moved and Carter seconded THAT ONE BUFFALO TAG BE AWARDED TO THE ARIZONA DESERT BIGHORN SHEEP SOCIETY AND ONE TO THE ARIZONA MULE DEER ASSOCIATION.

Vote: Unanimous

Motion: Gilstrap moved and Carter seconded THAT ONE WHITE-TAILED DEER AUCTION TAG BE AWARDED TO THE ARIZONA MULE DEER ASSOCIATION AND ONE TO SAFARI CLUB INTERNATIONAL-PHOENIX.

Vote: Unanimous

Commissioner Gilstrap asked to be recused from deliberations on awarding of the special elk license-tags.

Motion: Golightly moved and Chilton seconded THAT THE COMMISSION AWARD ONE AUCTION ELK TAG TO THE ROCKY MOUNTAIN ELK FOUNDATION AND ONE RAFFLE ELK TAG TO THE ARIZONA DESERT BIGHORN SHEEP SOCIETY.

Vote: Golightly and Chilton – Aye
Carter – Nay
Chair voted Nay
Gilstrap – Recused
Motion failed to pass

Motion: Carter moved and Manning seconded THAT THE ONE RAFFLE ELK TAG AND ONE AUCTION ELK TAG BE AWARDED TO THE ARIZONA DESERT BIGHORN SHEEP SOCIETY.

Vote: Carter – Aye
Golightly and Chilton – Nay
Chair voted Aye
Gilstrap – Recused
Motion failed to pass

Motion: Golightly moved THAT ONE AUCTION ELK TAG GO TO ROCKY MOUNTAIN ELK FOUNDATION AND ONE ELK TAG GO TO THE ARIZONA DESERT BIGHORN SHEEP SOCIETY TO BE RAFFLED THROUGH THE ARIZONA ELK SOCIETY.

Mr. Cimellaro wanted a working relationship between the Rocky Mountain Elk Foundation (RMEF) and the Arizona Elk Society (AES). He proposed a solution that the RMEF would get the auction tag through the AES and would have that tag at the RMEF convention but it would need to go through the AES for Arizona's elk. It was important to keep the monies in Arizona. He was looking for assurance that these elk tags would be addressed by an Arizona group.

Commissioner Chilton seconded the above motion for discussion.

Commissioner Carter believed there was a large agenda related to elk in Arizona that involve many interests. It was an extension of effort to create a partnership by RMEF and AES. For that reason, he could not vote for the motion. There needed to be an Arizona organization that would give its full resources and energy to Arizona elk issues.

Mr. Button believed there was no one better than the RMEF that was aware of elk issues in Arizona. As a national organization, RMEF had the ability to move things on a higher scale. He clarified that the suggestion on the table was the auction elk tag would come to the RMEF through the AES for auctioning at the Reno banquet in 2002. It would not have anything to do with the raffle tag. The RMEF raffle tag was under audit at the present time by the national headquarters and because of that his hands were tied and he did not know how that would work. He requested that RMEF receive the auction tag and the raffle tag. Monies raised on the tags would come back to Arizona.

Commissioner Carter stated he did not mean to diminish previous contributions of the RMEF and he wanted to continue in a good relationship. If he had a choice between a state organization that can devote full energies and resources to the issues within the state vs. an organization that has the same concerns but its resources are spread across the nation or region, he would support the state organization.

Mr. Button thought that RMEF could bring a lot to the future as it has in the past. The volunteers of the RMEF will continue to do what they've done in the past.

Commissioners Golightly and Chilton withdrew their motion.

Motion: Manning moved THAT THE ARIZONA DESERT BIGHORN SHEEP SOCIETY GET ONE AUCTION AND ONE RAFFLE ELK TAG. Commissioner Golightly seconded with one stipulation: THAT THE ROCKY MOUNTAIN ELK FOUNDATION BE GIVEN A WEEK TO RUN IT THROUGH ITS BOARD AND DETERMINE IF THEY WOULD TAKE THE OFFER FROM MR. CIMELLARO WITH A DECISION THAT COULD COME BACK THROUGH DIRECTOR SHROUFE AND THEY MAY DECIDE TO TAKE THE AUCTION TAG AS OFFERED BY THE LOCAL ORGANIZATION. IF THAT WERE THE CASE, HE WOULD DIRECT THAT TAG, THROUGH THE ARIZONA ELK SOCIETY, BE GIVEN TO THE ROCKY MOUNTAIN ELK FOUNDATION FOR AUCTION IN RENO.

Mr. Button expressed appreciation for the chance. He would get with his board of directors to find out the status of the issue.

Vote: Golightly, Carter and Chilton – Aye
Chair voted Aye
Gilstrap – Recused

* * * * *

12. Hearing on Proposed Commission Order 29 for Special Big Game License-Tag Seasons for Mule Deer, White-tailed Deer, Antelope, Elk, Turkey, Javelina, Bighorn Sheep, Buffalo and Black Bear for 2002-2003

Presenter: Tice Supplee, Game Branch Chief

Recommended open areas and season dates for the special license-tag hunts were:

Mule Deer: August 1, 2002-January 31, 2003

Tags would be valid for Units 1-16A (except Camp Navajo) and 17A-45C (except Fort Huachuca, but including the Kofa NWR)

White-tailed Deer: September 1, 2002-January 31, 2003

Tags would be valid for Units 6A, 6B (except Camp Navajo), 8, 21, 22, 23, 24A, 24B, and 27-36C (except Fort Huachuca)

Antelope: August 1-October 8, 2002

Tags would be valid for Units 1-10 (except Camp Navajo), 12A, 12B, 13A, 13B, 15A, 15B, 17A, 17B, 18A, 18B, portions of 19A, 19B, 21, 30A, 31, 32, 34B, 35A (except Fort Huachuca), and 35B.

Elk: September 1-December 31, 2002

Tags would be valid for Units 1, 2B-10 (except Camp Navajo), 12A, 12B, 16A (except Mohave County Parklands), 17A, 17B, 18A, 18B, 19A, 19B, 21, 22, 23, 27, 28 31 and 44A.

Javelina: October 1, 2002-March 3, 2003

Tags would be valid for Units 1-6B (except Camp Navajo), 8, 10, 15A, 15B, 15C, 15D, 16A (except Mohave County Parklands), 17A-24B, 27-37M (except Fort Huachuca) and 39-44BB.

Turkey: April 1-May 31, 2002

Tags would be valid for Units 1, 3B-10 (except Camp Navajo), 12A, 13A, 13BS, 17A, 17B, 20A, 22, 23, and 27. The second tag would be valid for these units and Unit 35A (including Fort Huachuca).

Bighorn Sheep: October 1, 2002-January 31, 2003

The raffled tag would be valid for Units 9, 10, 12A, 12B, 13A, 13B, 15A, 15B, 15C, 15D, and 16A. The auctioned tag would be valid for Units 1, 16B (north of Lake Havasu City), 22, 27, 28, 31 (north of Township 8 South), 32, 37A, 39, 40A, 40B, 41, 43A, 43B, 44A (west of Swansea Road), 44B, 45A 45B, 45C (including the Kofa NWR), 46A, and 46B (including the Cabeza Prieta NWR). Unit 32 south of Township 8 south is closed to the auction tag and will be open to the general season hunter for 2002 in a rotation approved by the Commission in October 2000.

Buffalo: September 1, 2002-June 30, 2003

Tags would be valid for the House Rock Wildlife Area in Units 12A and 12B.

Black Bear: March 18-May 31, 2002

Tags would be valid for Units 1, 3B, 27, 31 and 32.

Public comment

Marvin Robbins, representing the Arizona Chapter of the National Wild Turkey Federation, supported the turkey dates as mentioned.

Chris Denham, representing the Arizona Mule Deer Association, requested a change in the mule deer special tags. He asked that the dates be shifted one month (September 1,

2002 through February 28, 2003 instead of August 1, 2002-January 31, 2003). Ms. Supplee did not think this would cause any difficulty.

Motion: Chilton moved and Carter seconded THAT THE COMMISSION VOTE TO APPROVE COMMISSION ORDER 29, SPECIAL HUNTS, AS AMENDED.

Vote: Unanimous

* * * * *

13. Request to Approve the Notice of Proposed Rulemaking and the Preliminary Economic, Small Business and Consumer Impact Statements for R12-4-119, R12-4-304, R12-4-307, and R12-4-309

Presenter: Mark Naugle, Manager, Rules and Risk Management

(For additional background information, see Commission meeting minutes for June 23, 2001, pages 21-22 and May 11, 2001, pages 7-9.)

The draft rulemaking package was sent to the Governor's Regulatory Review Council (GRRC) staff on July 31, 2001, for a courtesy review. The GRRC staff recommended minor, nonsubstantive changes that the Department incorporated into the Notice of Proposed Rulemaking and the preliminary Economic, Small Business and Consumer Impact Statements presented to the Commission for approval.

Public meetings were held on the proposed rule changes in Flagstaff and Tucson. Mr. Frank Riggs also provided comments and a detailed presentation at the public meeting held in Flagstaff on September 12, 2001, and addressed the reasons for his recommended rule changes.

The Department recommended the following rule changes:

R12-4-119. Arizona Game and Fish Department Reserves

- The 1998 five year rules review of R12-4-119 concluded that the reference to "Arizona Law Enforcement Advisory Council" was no longer correct due to the amendment of Title 13. The correct reference is now "Arizona Peace Officers Standards and Training Board."

R12-4-304. Lawful Methods for Taking Wild Mammals, Birds and Reptiles

- The proposed rulemaking amends the rule to allow individuals holding a crossbow permit issued R12-4-216, to use a crossbow as a legal method of take for all big game species, with the exception of buffalo at Raymond Ranch Wildlife Area. (Crossbows would be allowed as a legal method of take for buffalo at the House Rock Wildlife Area.)
- The proposed rulemaking amends the rule to add centerfire handguns no less than .41 Magnum or centerfire handguns with an overall cartridge length of no less than 2" as a legal method of take for buffalo at the House Rock Wildlife Area.

- R12-4-304 (D)(4) contains an inaccurately phrased cross-reference to R12-4-307. The proposed rulemaking amends the rule to change the phrasing of the cross-reference to “Traps not prohibited by R12-4-307.”

R12-4-307. Trapping Regulations: Licensing Methods; Tagging of Bobcat Pelts

- The proposed rulemaking amends the rule as follows to clarify the use of water set traps:
 1. Add new subsection (A)(9) stating that “Water set” means any trap set and anchored in water rather than on land
 2. Adds new subsection (D)(10) stating that it is unlawful for any individual to use a leghold trap with an open jaw spread exceeding 7 ½” for any water set.
 3. Adds new subsection (D)(11) stating that it is unlawful for any individual to use a body-gripping or other instant kill trap with an open jaw spread exceeding 10” for any water set.
 4. Clarifies that subsection (E) applies only to land sets by making the following revision to the rule language:
 - E. An individual who uses a leghold trap to take wildlife with a land set shall use a commercially manufactured padded or rubber-jawed trap, or an unpadded trap with jaws permanently offset to a minimum of 3/16”.

Note: The water set provisions of the proposed rulemaking for R12-4-307 detailed in number 1-4 above are the result of specific recommendations made in a withdrawn petition by Mr. Riggs. The Rules and Risk Management Section, Article 3 five-year Rules review team and experts from the Department’s Game Branch have worked closely with Mr. Riggs in an attempt to reach a consensus on his requested amendments to the rule. Proposed rule changes presented to the Commission were a direct result of the Department’s efforts in this matter.

- R12-4-307 was also amended to change the March 10 deadline for the issuance of bobcat permits and the tagging of bobcat pelts to April 10 to accommodate the season for predator hunters.

R12-4-309. Restricted Hunts

- The proposed rulemaking repeals this rule.

Public comment

Mr. Riggs provided handouts to the Commission and gave a presentation. The item discussed was in subsection (D) (1) (2) and (3) which describes offset distances for traps

set on land. He pointed out that the distances were based on facts; the facts were derived from terrible trapping violations in the late 1970s. There were two major elements that had to be addressed. One was dogs and the other was traps in the open that would leave the trapped animal in view of the public. Human safety was not an issue. The media was to blame with brainwashing the public that people were getting seriously injured in traps.

With regard to the separation distance for water traps, dogs do not tend to get caught in beaver traps. As for the animal struggling in view of the public, the animals are dead or caught in a slidelock trap. A demonstration was given of the operation of the slidelock trap. The public would not see a struggling animal. These were the two principles the two separation distances were predicated upon; there was no reason at all why there should be any restriction on where these traps could be. Trappers in other states have never heard of separation distances for water traps. His suggestion a modification to the rule that would state, "applies to land sets only."

The size of a body-gripping trap to be used on land was specified in D.(9). The trap specified was a 4" 110. A 6" trap would be large enough to trap a raccoon. Mr. Riggs provided a demonstration. He stated there was no human safety problem but was being played by the media as being a hazard to humans. He recommended that D.(9) be amended to include a 6" body grip set in a container and set back 5" from the entrance.

Chairman Manning clarified that Mr. Riggs had two recommendations: 1) distance between traps in water traps and 2) the size defined in D.(9).

Ms. Supplee noted there were some concerns about the specifications of the container and whether or not there would be the ability to insure that this would not result in incidental take of non-target species. Mr. Riggs' later suggestion to add "on land" for (D) on 1, 2, 3 so it would exclude water sets caused legal consideration around the sequence in which that was introduced into the process.

Mr. Naugle stated that the first time the Department had any knowledge of Mr. Riggs' request to eliminate the distances for water sets came about at the meeting in Flagstaff. This brought on a series of issues 1) that we had not had the opportunity to fully evaluate 2) that particular aspect of it was never incorporated into the rulemaking package; therefore, GRRC never took a look at it and 3) that particular request was never incorporated as part of the over 2000 mailings sent to the public. No one else had an opportunity to review and make comment on this aspect. Therefore, that prompted the October 5 letter to Mr. Riggs expressing Department concern with his request.

Mr. Naugle offered language THAT THE COMMISSION VOTE TO DIRECT THE DEPARTMENT TO FURTHER CONSIDER THE FOLLOWING POTENTIAL RULE AMENDMENT AS PART OF THE ARTICLE 3 REGULAR RULEMAKING PROCESS WHICH WILL BEGIN IN MAY 2002 WITH AN ANTICIPATED EFFECTIVE DATE OF JANUARY 2004; EVALUATE ADDITIONAL CHANGES TO R12-4-307 PER THE REQUEST OF PETITIONER FRANK RIGGS.

This current out-of-cycle package would move forward with part of Mr. Riggs' request in the package that would address the elimination of water sets and the trap issue when the

regular Article 3 process opens next year. There would be two 307s going through the process.

The above recommendation was moved by Commissioner Gilstrap and seconded by Commissioner Carter.

Vote: Unanimous

Motion: Golightly moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF PROPOSED RULEMAKING AND THE PRELIMINARY ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENTS FOR R12-4-119, R12-4-304, R12-4-307 AS AMENDED AND R12-4-309 FOR FILING WITH THE SECRETARY OF STATE.

Mr. Naugle explained Mr. Riggs' request would be incorporated for his petition on R12-4-307, 1-4 that was presented earlier. The current direction was to look at the remaining issues for consideration for amendments in the Article 3 regular rulemaking process that begins in May 2002.

Vote: Unanimous

* * * * *

14. Call to the Public

There were no comments.

* * * * *

15. Future Agenda Items

Commissioner Chilton suggested placing on the next agenda the subject of the Western Governors' Association's recommendations regarding the black-tailed prairie dog for potential action by the Commission to consider supporting the action taken by the governors.

It was agreed the wolf issue would be on the agenda for the Commission meeting following publication of the U.S. Fish and Wildlife Service report in *The Federal Register*.

Commissioner Carter supported placing on the agenda some of the components of the WGA resolution related to the calling for a re-investigation of the science associated with the justification of the action that was taken at that point.

* * * * *

Motion: Gilstrap moved and Chilton seconded THAT THE MEETING ADJOURN.

Vote: Unanimous

* * * * *

Meeting adjourned at 12:35 p.m.

* * * * *