

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, March 21, 2003 – 8:00 a.m.
Best Western Innsuities
6201 N. Oracle Rd.
Tucson, Arizona

PRESENT: (Commission)

(Director's Staff)

Chairman Joe Carter
Commissioner Sue Chilton
Commissioner W. Hays Gilstrap
Commissioner Joe Melton
Commissioner Michael M. Golightly

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

Chairman Carter called the meeting to order at 8:00 a.m.

1. Executive Session

- a. Legal Counsel. *State of Arizona v. Norton*, CIV 02-0402-PHX-FJM; *Montoya v. Manning*, 301. F.3d 985 (9th Cir. 2002); *In Re General Stream Adjudication for the Little Colorado River and Gila River*; *Mark Boge v. Arizona Game and Fish Commission & Shroufe*, CIV 2000-020754; *Mary R. LLC, et al. v. Arizona Game and Fish Commission*, CIV 2001-015313, and *Ameduri and Yee et al. v. U.S. Forest Service et al.*, U.S. District Court No. CIV 02-2495 PCT FJM and *Bar D Cattle Co. v. Shroufe*, CIV2002-0872.
- b. Purchase of Real Property and associated water rights

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

Vote: Unanimous

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Meeting recessed at 8:00 a.m.

Meeting reconvened at 9:00 a.m.

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Chairman Carter called the meeting to order at 9:00 a.m. The commissioners introduced themselves and Chairman Carter introduced Director's staff. The meeting followed a revision to the agenda dated March 17, 2003.

Awards and Commissioning of Officers

There were none.

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2. Commission Briefing on Economic Importance of Fishing and Hunting

Presenters: Bruce D. Taubert, Assistant Director, Wildlife Management
Dr. Jonathan Silberman, Arizona State University

For additional information, see Commission meeting minutes for August 10, 2001, pages 14-15, and June 22, 2001, pages 8-10.

Mr. Taubert introduced the subject. The purpose of the economic study was to estimate the economic importance of fishing and hunting to each Arizona county and to do something similar for OHV and to design a methodology that the Department can readily update and replicate at reasonable cost in the future. He presented credentials on Dr. Silberman.

Dr. Silberman briefed the Commission on the results of the Economic Importance of Fishing and Hunting for the state of Arizona and for each Arizona county. The OHV information would be available in a month. He felt that the estimates in the report were conservative and have a high degree of credibility. He gave the reasons why.

Activity on the reservations was not included. Information was not obtained from Colorado River Special Use Stamps. Information was obtained on scouting days but it came in too late to be included in the major estimates (data was included in the appendix). No information was obtained from auxiliary expenditures for hunting (items used for multiple purposes, e.g., camping equipment), but was obtained for fishing (e.g., boat).

The estimates were conservative because of the input/output multipliers, which are the secondary impacts of the spending. Each Arizona county benefits from spending by anglers and hunters. Reported were the 2001 multiplier impacts of the initial retail sales in each Arizona county – total spending, salaries and wages, full and part-time jobs and state tax revenues. The IMPLAN input/output model is designed to estimate economic impacts for fishing and hunting at the county level. It was not designed for summing county-level multiplier impacts to estimate an overall statewide impact.

Arizona county economic importance measures also include fishing and hunting, activity days, fishing trip expenditures and equipment, and hunting trip expenditures and equipment.

Two types of measures are included in economic benefits: economic importance and economic values. Economic importance addresses the business and financial activity resulting from the use of a resource and these measures for fishing and hunting were reported in the study. Economic value is a non-financial measure that estimates the value people receive from an activity like hunting or fishing after subtracting costs and expenses. Economic values were not reported in the study.

The study showed spending by anglers and hunters in Arizona during 2001 was shown to have created a statewide economic impact of \$1.34 billion; supported 17,190 jobs in Arizona; created household income (salaries and wages) for Arizona residents totaling \$314 million and added \$58.2 million to annual state tax revenues.

The method to update the study was described. Angler/hunters days were the critical component in the study. Information comes from game harvest, angler and small game surveys, and number of licenses sold. Once data are obtained, it is easy to replicate the angler day information. Inflation adjustment can be used on current estimates on expenditure information. More updated information can be obtained on the schedule of the angler and hunter opinion surveys.

Strengths of the study were given. License sales were used, which is very hard data about who is hunting and fishing. There were a high number of returned surveys for hunting and fishing.

Mr. Taubert explained the changes made on the short term would be carried over to the long term to have better quality information in the future. Scouting has not been effectively evaluated in the past but would be in the future. There are potentials for future changes in the federal surveys. Non-traditional uses in the federal survey tend to exceed those of traditional hunting and fishing, therefore, dollar values tend to be greater. In the future, a survey is planned of nongame users in the state. A draft has been prepared; Southwick is now doing an analysis of the expenditures. Immediate plans for the survey information is to put it on the Department's website and to put out a news release detailing all the county impacts as given on page 10 of the study. Localized news releases to each county would be done. Chairman Carter asked that a direct mailing be made to executive directors of the Chambers of Commerce in each of the counties.

Public comment

Tricia Gerrodette, representing self, stated she knew a lot about birding. Economic surveys specific to areas within Cochise County had been done but were limited in focus. The estimate for the bird watching impact in Cochise County was \$18-\$26 million, depending on the multiplier used. She hoped the Department would pursue the same detail on a county-by-county basis. This would be very useful.

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Chairman Carter introduced past Commissioners Beth Woodin and Frances Werner.

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3. A Briefing on the Heritage Fund Land Acquisition Process

Presenter: John Kennedy, Habitat Branch Chief

The briefing included specific information regarding the major stages of the acquisition process; timeframes for evaluating proposed acquisitions; common problems encountered during the evaluation of proposed acquisitions and the status of Heritage Fund acquisitions since 1992.

Consistent with ARS §17, Commission policies A2.23 (Policy Statement on Heritage Fund Acquisitions of Sensitive Habitat for Endangered, Threatened and Candidate Species) and A2.32 (Heritage Program Expenditure), Heritage funds shall be spent on the protection (including but not limited to acquisition) of sensitive habitat for the present and future benefit of endangered, threatened, and candidate species of fish and wildlife.

Mr. Kennedy explained Commission direction limits land acquisitions to offers received by the Department from willing sellers. The Department cannot pursue an acquisition unless a landowner approaches the Commission with an offer to sell.

Proposed Heritage Fund acquisitions must be thoroughly analyzed by the Department prior to presentation before the Commission. All Heritage Fund acquisition proposals must be developed in compliance with existing rules and regulations governing the expenditure of Heritage Funds. All lands and waters acquired as sensitive habitat are to be managed with primary focus toward producing benefits for endangered, threatened or candidate species. All proposed Heritage Fund acquisitions are analyzed through the Land Protection Evaluation Process (Policy I2.4). For each proposed Heritage Fund acquisition, the Land Protection Evaluation Process requires evaluation of the property and development of reports and other decision documents through the following major stages: 1 through 3-preliminary analyses for determining compliance with existing rules and regulations governing the expenditure of Heritage Funds; 4-biological review; 5-feasibility review; 6-briefing to the agency's director and executive staff; 7-Commission briefing in executive session; 8-negotiations and 9-Commission decision in public session.

The process ensures consideration of several important factors. These factors are related to the Endangered Species Act, water rights, future management of the property, economic issues, political issues associated with the state purchasing property, and audit findings.

Mr. Kennedy explained the process and timeframes associated with the land acquisition process (Policy I2.4).

Mr. Odenkirk explained what was behind the Department's interest in water rights and how those are complicated, yet critical for the overall acquisition of the property. Mr. Odenkirk stressed the importance of water rights to Heritage land acquisitions. The vast majority of species on the threatened and endangered list are either aquatic or riparian-dependent. As a result, the Department takes a serious look in evaluation of water with any land acquisition. Water is usually the primary purpose in a land acquisition and because it is, an extensive process must be used to ensure several things: 1) that we are acquiring valid water rights that can be used for the purposes that we need and 2) that we do not overpay for water. This entails a typical due diligence process.

The Attorney General's Office works closely with the Department in evaluating water rights associated with a proposed acquisition. When the Department has interest in a parcel, the Attorney General's Office is asked to do an investigation and prepare a report on water rights that would be a part of the package for the acquisition. The report generated would contain research done on all relevant legal documents associated with water rights on a particular parcel; then a field investigation of the parcel would be done to assess the existing water rights and how the water might be converted to uses beneficial to wildlife. After the review is done, the generated report is given to the Department. Typically within the report, are a number of unresolved issues that have to be taken care of prior to acquisition to ensure good water rights for the parcel. These issues must be taken care of by the seller. There has been a recent effort to ensure water rights

issues are fully resolved before the Department acquires a parcel. A few of the problems involving water rights were described.

The first issue is to ensure that the seller actually owns the water rights. The second is the most important but time-consuming issue, and that is to correlate water rights on paper to the actual use. The third issue is the cost of the water. Water is a separate value in an acquisition; the value increases depending on the amount and quality of water. The value of water assigned to a property must be consistent with the actual amount of water. This could involve surveys, negotiations, etc.

Mr. Kennedy explained Heritage Funds are not put into an escrow account until step 9 (very late in the process). He also noted payments in lieu of taxes since the early 1990s amounted to approximately \$63,000.

Commissioner Gilstrap was concerned and asked about operation and maintenance costs on purchased property. He asked about internal adjustments within the Department that could expedite or smooth the process. He asked about the \$10.2 million removed from the Heritage Fund by the Legislature and administration and how the Department is preparing to deal with the lack of those funds for acquisitions, which may include water settlements. He also asked if there was a difference between the Department process and other parties' processes for acquiring properties.

Mr. Kennedy explained other entities' and organizations' processes for acquiring properties can complement the Department's acquisition program. The Department is working with those entities and organizations to take a lead role in our acquisitions. Operation and maintenance responsibilities are delegated to the regional offices. It takes time to develop a management plan with funding identified to complete management actions, which must occur prior to final approval of the acquisition by the Commission. Internally, there are many work units involved in acquisitions. There is not a consistent land acquisition program or theme in all the work units. Organization, accountability and staffing could occur to streamline the process. The fate of certain properties discussed since 2001 was noted. One was delayed due to local landowners' issues; those issues have been worked out and Mr. Kennedy will present this acquisition to the Commission at the next Commission meeting. The other three or four properties could be discussed in executive session.

Commissioner Melton asked if there was a way the money could be set aside up front for a particular piece of property when discussions start in the process. Mr. Kennedy stated there is an advantage in waiting for final approval following the negotiation stage so the purchase agreement is complete and the Commission is ready to approve the acquisition in public session. This could possibly be moved to occur earlier in the process. Chairman Carter asked the Department to look at opportunities to formally obligate funds short of an escrow account.

Commissioner Chilton asked about the opportunity and authority to pursue the purchase of development rights in order to achieve the objective of keeping lands in habitat for wildlife. Mr. Kennedy stated it would be difficult, if not impossible, for the Commission to move forward with purchase of development rights with Heritage Funds. Like conservation easements, even if the Department could, there would be complications.

Sellers are not coming to the Department with conservation easement potential, but are, instead, coming with property sale.

Director Shroufe noted that the Department received direction after the first Heritage audit to pursue conservation easements. Several were pursued. The issue with the law for the Department's Heritage Fund is different from the one governing State Parks. The Department cannot buy development rights, but has to buy habitat that is going to be available to the species being accommodated or improved. Negotiations on potential conservation easements have resulted in a long, drawn-out process. It was difficult for the landowner to maintain required standards.

Public comment

Beth Woodin, Secretary of the Arizona Heritage Alliance (AHA), focused on the recent loss of the acquisition funds. Ways should be found to allow the Commission to report regularly to the public on the status of acquisitions. She noted the Department could approach willing sellers as long as there was no condemnation occurring. Any offers could be prioritized. The Auditor General's report noted that if land was purchased for threatened and endangered species, a list needed to be active and usable for that purpose so there is criteria for purchasing those lands. Either the federal list should be adopted or the Department's candidate list needed to be approved. She stressed the importance of partnerships.

Margaret Bohannon, President of the AHA, stated the AHA wanted to partner with the Commission and the Department to save the Heritage Fund. There was a public perception that the Commission was lagging in the acquisition of property. There has to be a new perception of what the Commission was about. The streamlining process was a top priority for acquisitions. She requested that the AHA be involved in setting new policies and criteria to expedite the acquisition process.

Jan Anderson, representing the Sierra Club, stated there has been limited action. Over \$15 million has been spent to acquire properties but over \$10 million was unspent and lost. She recommended that the Commission be proactive and get in front of the process.

Pam Jones, Executive Director of the AHA, stressed the importance of communication between the Commission and the AHA to protect the Heritage Fund. She had asked how much was in the acquisition fund and was told \$4 million; now she found out it was over \$10 million.

Commissioner Golightly stated the 2001 Auditor General's Performance Audit noted the Department needed to adopt a state list of endangered, threatened and candidate species. He asked if there would be an advantage in adopting a list in terms of acquiring property. Mr. Kennedy stated the Department was in the process of developing the list through implementation of the Heritage Fund Expenditure Policy. The Department does think having the list would provide a benefit.

Commissioner Gilstrap wanted clarification on several items. He was concerned that Ms. Jones was given an inappropriate figure as to what was in the acquisition fund. He wanted someone to get with her and him regarding the miscommunication. He thought it

prudent to work on a master plan of advantageous properties. Mr. Kennedy stated it was feasible and the Department was currently in the process of doing that at the present time.

It was being done independently and it was part of the cooperative work that was being done by the Department and The Nature Conservancy, which was consistent with our agreement.

Commissioner Golightly believed the land acquisition process was cumbersome and lengthy in terms of time and the restrictions that have evolved.

Motion: Golightly moved and Gilstrap seconded THAT THE DEPARTMENT BE DIRECTED TO IDENTIFY CURRENT LAND ACQUISITION PROCESS IMPEDIMENTS THAT SLOW DOWN THE PROPERTY ACQUISITION PROCESS AND TO HAVE THE DEPARTMENT BRING BACK FOR COMMISSION DISCUSSION AT THE JUNE COMMISSION MEETING A REVISED LAND ACQUISITION POLICY THAT WILL SPEED UP LAND ACQUISITIONS AND, IF NEEDED WITHIN THAT POLICY, IDENTIFY ADDITIONAL STAFF TO ACCOMMODATE THE POLICY CHANGE.

Commissioner Gilstrap was uncomfortable with the revised land acquisition policy and he felt the information in the acquisition policy needed to be discussed. He wanted to look at streamlining the process. Commissioner Golightly thought the policy could be much clearer. Chairman Carter suggested the Department be given the flexibility to enhance and streamline the process that was in place. The problem was moving the process expeditiously whether internally and/or in combination with external components, including the responsibilities of sellers.

Amended motion: Golightly moved and Gilstrap seconded THAT THE DEPARTMENT BRING TO THE JUNE COMMISSION MEETING A LAND ACQUISITION PROCESS THAT WILL SPEED UP LAND ACQUISITIONS.

Commissioner Carter suggested that the Department bring back recommendations that streamline the existing process. The amended motion was clarified as follows:

Amended motion: Golightly moved and Gilstrap seconded THAT THE DEPARTMENT EXAMINE THE CURRENT PROCESSES AND BRING BACK RECOMMENDATIONS THAT WOULD STREAMLINE OR EXPEDITE THOSE PROCESSES WITHIN THE EXISTING LAND ACQUISITION POLICY AT THE JUNE COMMISSION MEETING.

The first part of the original motion remained the same that the Department identify current land acquisition process impediments that slow down the property acquisition process. Only the second part of the original motion was amended.

Commissioner Chilton stated it should be stressed that the Commission was looking at willing sellers. The Department was working under certain legal restrictions as a governmental body. It had a responsibility to know particulars in a property acquisition and these could not happen in a short period of time. There were many potential acquisitions and she did not favor eliminating any parts of due diligence that ensured

value for money spent. Purchase money did not cover operation and maintenance. Operation and maintenance were a permanent encumbrance to the Department budget and had to be taken into consideration.

Vote: Unanimous

Chairman Carter suggested looking at partnerships also as part of the recommendation.

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Meeting recessed at 11:05 a.m.

Meeting reconvened 11:16 a.m.

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4. An Update on Forest Insect and Disease Conditions and Related Forest Health Activities in Arizona

Presenter: John Kennedy, Habitat Branch Chief

Mr. Kennedy presented the following introductory remarks:

Ponderosa pine and pinon forests in Arizona have sustained significant impacts from the bark beetle outbreak of 2002. The most heavily impacted forests are the Tonto, Apache-Sitgreaves (A-S) and the Prescott National Forests. Some stands in these forests have 80%-90% ponderosa pine tree mortality; other stands have less than 1% mortality. Mortality in pinon pine forests is equally high. A late season survey of 28 square miles of pinon pine forests southeast of Flagstaff revealed 700,000 dead trees or more than 90% of the mature pinon trees in the area. Bark beetles have also attacked spruce and several trees in the juniper family. Native junipers, native Arizona cypress, and Leyland cypress are among those trees being killed by the cypress bark beetle. Spruce bark beetle activity has occurred on over 35,000 acres of spruce. According to the Forest Service, the two main reasons why bark beetles are killing so many trees: 1) the forest has too many trees and 2) the trees are very dry (stressed) due to the ongoing drought. Dry conditions, coupled with high levels of over-wintering bark beetles, could lead to greater bark beetle outbreaks in 2003. The Commission will be briefed on the status of forest management activities in Arizona (specifically within the A-S and Prescott National Forests) to address forest insect and disease conditions. The Commission was also briefed on forest insect and disease conditions and issues related to overall forest health and wildlife resources on Mount Graham.

Mary Lou Fairweather, Plant Pathologist from the U.S. Forest Service's (USFS) Arizona Zone of Forest Health Protection, gave a Powerpoint presentation. She stated that her unit provides services to resource managers of federal and state agencies. Her office was located out of the USFS Regional Office, with the zone office being located in Flagstaff. She stated her office provides only technical information.

The highlight of the 2002 survey was the bark beetle in the ponderosa and pinon pine. There were several species of bark beetles. In the higher elevation forests, there was a lot of mortality caused by the spruce beetle. Defoliator impact has occurred mostly in the spruce type. One of the less known or observed was the aspen decline.

Bark beetles killed more than two million ponderosa pines in 2002 (as shown in aerial surveys through August 2002). Millions of pinon pines were killed also. Most mortality is caused by the Ips species. Other beetle species are common in the lower portions of trees.

Causes for beetle infestation include drought, stand structure and high density of trees with most mortality occurring across a wide range of tree sizes due to various sizes of the beetles.

Essentially nothing can be done on a landscape scale; however, some things can be done on local levels. One is changing the stand condition so that there are less trees competing against each other. Another is removal of infested trees before the beetles leave the trees. There are some chemicals that can be used, but it is not good to use chemicals in large areas and they cannot be used once the beetles are in the trees.

Ms. Fairweather then described impacts of the spruce beetle on Mount Graham. A sequence of events occurred that is natural in spruce types. A shift occurred in larger component sub alpine fir that caused the introduction of the spruce aphid. There was concern regarding the Mount Graham red squirrel that likes spruce. Spruce beetles also have been found to occur on the San Francisco Peaks, in the White Mountains and in the Pinalenos. Defoliation mortality in the White Mountains is estimated at 25-30%. The lower canopies are more heavily defoliated so smaller trees are more likely to die.

Defoliation on aspen has been recorded for a number of years and it is a natural event to have the insect/disease combination. There has been little regeneration of trees because of ungulate pressure.

Commissioner Gilstrap asked about the effects of the beetles on utilization of diseased or dead trees. Ms. Fairweather stated there could be a slight difference on how trees deteriorate from fire compared to beetles. The bark beetles carry fungi which invade the outer layers of the trees to prevent the flow of water. This does not actually deteriorate the wood. It takes about a year before one can see the process start; but even after a year, the timber can still be typically utilized.

Dr. Martin Moore from the Environmental Economic Communities Organization (ECO) gave a presentation from a county perspective. In response to the bark beetle epidemic and the fallout from the Rodeo-Chediski fire on the watershed and landscape to wildlife and to safety concerns in the communities, Apache, Gila, Graham, Greenlee, Navajo and Cochise Counties each declared a state of emergency to the Governor. This state of emergency touched on two issues. One dealt with specific threats to public health and safety (threats to major infrastructure, e.g., utility lines); the other, under the Department of Agriculture, was a more general agricultural type of declaration.

It was a concern that habitat for aquatic and terrestrial wildlife was disappearing at an alarming rate. Entomologists and pathologists have concluded the beetle epidemic is unprecedented in recorded history in Arizona. The fallout is unknown. The major reasons for declaring a state of emergency were widow-maker trees close to homes and schools causing concerns for human safety and economic concerns (areas are threatened from an aesthetic and fire threat point of view).

With the help of the USFS, communities are thinning trees in limited areas. The White Mountain Apache Tribe report that the spruce-fir components in the Mount Baldy watershed is in grave danger.

Dr. Moore stated the ECO requested that the Commission consider at a future meeting supporting the counties' request to the governor to declare emergencies and to have an educational component related to the Rodeo-Chediski fire, the bark beetle, and wildlife. The Department was invited to provide financial support and to participate in helping to put together the informational brochures; contributions range \$5,000-\$30,000. The ECO has had discussions with the Sierra Club in an effort to thin small diameter trees to affect positive change.

The Tonto National Forest was prepared to proceed on a 10-year plan to clear 15,000 acres/year if they had the resources and if the projects that went through NEPA had not been appealed. The Apache-Sitgreaves was also prepared to do the same. It was a shame not to do something about this emergency. He hoped Arizona and New Mexico would be able to work together cooperatively on this issue.

Commissioner Chilton asked Dr. Moore about progress made in trying to find a market for small diameter trees. Dr. Moore stated on the White Mountain Apache Reservation, approximately 250 million board feet of burned material were removed. One of the companies was taking some of the lower value burned timber, and it could also take lower value beetle killed timber, to allow it to be used for other things, e.g., railroad ties. A lot of the wood now can only go towards specialty products and cannot go out of state. Also being worked on are deposit sites for removed smaller diameter timber. There has been some interest expressed for mulching, pallets and fence posts. Dr. Moore noted the congressman was working on pieces of legislation that would open the supply line to the markets. The USFS needs to have the ability to enter into contracts that provide some level of financial guarantee to the industries that are taking smaller diameter timber.

Chairman Carter stated the Commission looked forward to the request from the ECO and the Commission and Department were committed to assist in the effort.

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8. Statewide Shooting Range Project Update

Presenter: Kerry Baldwin, Education Branch Chief

A written summary was provided to the Commission on major issues in the program prior to today's meeting.

For background and Commission direction to the Department regarding options or recommendations for reopening the Tucson Rod and Gun Club's (TRGC) shooting facility at Sabino Canyon, see Commission meeting minutes for February 21, 2003, pages 12-13.

The meeting between the Department, National Rifle Association (NRA) and TRGC was held. Commissioner Melton also attended the meeting. Several letters were received. One was dated March 19, 2003, from the TRGC; the other was just received from the NRA.

The Department looked at the Sabino Canyon range site to do preliminary reference. A map of the site was presented. A recreational area that gets over one million visitors a year and residential homes were near the shooting range boundary. A school was about ½ mile from the range. The range has been in existence since the 1950s, and included a number of high-power pistol/multi-purpose ranges at different distances. There was a trap and skeet range as well as an archery range. It was an active hunter education facility for the Department. The major range portion contained 17 acres. At the peak of use, the facility provided approximately 25,000-30,000 shooter days a year.

The purpose of the meeting was to explore opportunities. The basis of the meeting was that the NRA board directed its staff to assist TRGC and approach the Commission to support potential legislation to acquire the area at Sabino Canyon to reopen the range for some recreational shooting. It was realized the range could not be reopened for the type of shooting that was done previously. The Commission would be asked about its interest in supporting legislation to acquire the site.

Public comment

Sandy Froman, Second Vice President of the NRA and representing the NRA, noted even though the range has been closed for seven years, the TRGC still had 3000 members. The solution NRA proposed was a legislative one in Congress. She asked the Commission for a specific commitment that would allow them to go forward in seeking legislation; the commitment was to accept the property if legislation would allow transfer from the U.S. Forest Service (USFS) to the state. The NRA would partner with Game and Fish to work out what could be done with the facility that would end up in Department hands.

Jason Osborn, Federal Affairs Liaison for the NRA, spoke about the importance of what NRA was doing at the federal level. He reiterated that the NRA proposed to introduce legislation in Congress through the Arizona delegation to transfer or convey the land from the USFS to the Department. The NRA wanted to look at as much area as it could possibly get that would suffice for a buffer area and satisfy safety and noise concerns. The NRA wanted to work with the Commission and Department in getting legislation introduced. This site is the only one to work with. A range design expert would be brought in to tell them how the land could be configured based on the available area. The degree of utilization of the range would be determined.

Mr. Osborn stated the legislation could incorporate other ranges in which the Commission has an interest as well as additional issues.

Motion: Melton moved and Chilton seconded THAT THE COMMISSION DIRECT THE DEPARTMENT TO WORK WITH RECREATIONAL SHOOTING GROUPS AND FEDERAL LAND MANAGEMENT AGENCIES IN THE TUCSON AREA TO INVESTIGATE POTENTIAL SHOOTING RANGE LOCATIONS ON FEDERAL

LANDS IN A 25 MILE RADIUS OF TUCSON, WITH AN EMPHASIS ON SERVING NORTHWEST TUCSON AND REPORT THE FINDINGS BACK TO THE COMMISSION AT THE JUNE COMMISSION MEETING. FURTHER, THAT THE COMMISSION DIRECT THE DIRECTOR TO WORK WITH THE NATIONAL RIFLE ASSOCIATION TO EXPLORE THE FEASIBILITY OF GETTING CONGRESSIONAL SUPPORT FOR A SHOOTING RANGE BILL AT THE NATIONAL LEVEL THAT WILL SECURE LANDS AT DOUGLAS, SHOW LOW, AND TUCSON AREAS TO ADDRESS THE LONG-RANGE SHOOTING RANGE NEEDS.

Commissioner Golightly asked for an amendment to add Bellemont to the motion. Commissioners Melton and Chilton had no problem with adding Bellemont to the motion.

Chairman Carter stated there were other groups in Tucson looking to build ranges and asked if they should be involved in the process. He thought state and local governments should be included in the motion, in addition to the recreational shooting groups and federal land managers. Commissioners Melton and Chilton had no problem with this amendment.

Mr. Osborn asked if the motion would allow him to get legislation introduced as soon as possible to satisfy concerns for the Sabino Gun Range. Commissioner Melton stated the motion did not give that direction today but NRA would work with the Director. Mr. Osborn stated he would have to go back to the NRA Board and ask if other sites were permissible. He hoped to get legislation introduced within a month. Several commissioners advised Mr. Osborn to make an on-site visit of the current location of the range.

Mr. Osborn agreed with Commissioner Chilton's statement that the TRGC was looking at a small recreational shooting range for family use. Director Shroufe believed the Commission did not give direction to introduce legislation. The other issue the Commission needed to work on with was liability. Commissioner Chilton stated the Commission needed to see what it signed on to as federal legislation.

Amended motion: Melton moved and Chilton seconded THAT BELLEMONT BE ADDED TO THE MOTION.

Vote on amended motion: Unanimous

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Meeting recessed at 12:52 p.m.

Meeting reconvened at 1:20 p.m.

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5. An Update on Current Issues, Planning Efforts, and Proposed Projects on State and 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 the meeting, is included as part of these minutes.

Commissioner Gilstrap noted there were several inclusions of national monuments in the update. He asked about the progress of the Department staff person's involvement and relationship with the BLM regarding national monuments. Mr. Kennedy gave an update and noted the Department was comfortable with its involvement and coordination with regard to BLM development of new resource management plans and monument plans.

Commissioner Gilstrap asked for a briefing on the Governor's Symposium on Forest Health held earlier in the week in Prescott. Mr. Kennedy stated there were two recent forums in which the Governor was involved. He attended the one in Prescott, along with the Director and various Research Branch staff. Mr. Kennedy noted a written update on both workshops would be provided to the Commission after today's meeting. He also noted there was no Governor's advisory committee established at this point; the Department hoped that would happen and anticipated being on such a committee.

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6. Consent Agenda

- a. Request for Commission Approval of a Right-of-Way Through Arizona State Trust Land for Access to the Chevelon Creek Wildlife Area in Navajo County, Arizona. Department recommendation: that the Commission vote to approve the acquisition of a right-of-way (in perpetual) through Arizona State Trust land for access to the Chevelon Creek Wildlife Area, and authorize the Director to execute all documents necessary to obtain the right-of-way as attached or as approved by the Office of the Attorney General.
- b. Proposed Modifications to Department Operating Manual Policy L1.5, Landowner-Lessee/Sportsman Relations Operating Procedures. Department recommendation: that the Commission vote on the requested changes.

Motion: Melton moved and Chilton seconded THAT THE COMMISSION APPROVE ITEMS ON THE CONSENT AGENDA.

Vote: Unanimous

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7. Litigation Report

State of Arizona v. Norton, CIV 02-0402-PHX-FJM; *Montoya v. Manning*, 301. F.3d 985 (9th Cir. 2002); *In Re General Stream Adjudication for the Little Colorado River and Gila River*; *Mark Boge v. Arizona Game and Fish Commission & Shroufe*, CIV 2000-020754; *Mary R. LLC, et al. v. Arizona Game and Fish Commission*, CIV 2001-015313, and *Ameduri and Yee et al. v. U.S. Forest Service et al.*, U.S. District Court No. CIV 02-2495 PCT FJM and *Bar D Cattle Co. v. Shroufe*, CIV2002-0872.

A copy of the report, which was provided to the Commission prior to today's meeting, is included as part of these minutes. There was nothing further to add.

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10. Call to the Public

Danny Dobbs, representing self, spoke regarding the number of muzzleloader permits and having additional days to hunt with muzzleloaders.

John Capps, representing self, spoke with regard to changing the rule to allow suppressed firearms for sport hunting in Arizona. Suppressed firearms are widely used in Europe to prevent hearing loss and reduce noise pollution. He distributed information to the Commission.

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12. 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.

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9. Request to Approve the Notice of Final Rulemaking and the Economic Impact Statement for R12-4-504, R12-40-507, R12-4-509 and R124-527

Presenter: Carlos Ramirez, Rulewriter

For additional background information, see Commission meeting minutes for December 7, 2002, pages 34-35; October 18, 2002, pages 12-14.

If approved by the Commission, the Notice of Final Rulemaking will be filed with the Secretary of State on March 24, 2003, with an effective date of July 9, 2003.

Motion: Gilstrap moved and Melton seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF FINAL RULEMAKING AND THE ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENTS FOR R12-4-504, R12-4-507, R12-4-509 AND R12-4-527 TO BE FILED WITH THE SECRETARY OF STATE.

Vote: Unanimous

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11. Wildlife for Tomorrow Memorandum of Understanding

Presenter: Kerry Baldwin, Education Branch Chief

Since its creation in 1990, the Foundation has steadily grown in its influence and the diversity of projects upon which it has focused. The Foundation provides support for a number of Department initiatives. It co-sponsors natural history workshops with the Education Branch, provides meals to winners at the annual Commission Awards banquet,

helps host the Conservation Workshop, black bear research, administers the Chaparral Sportsman Club donation for Department youth education and shooting sports activities and provides a pass through function for grants and donations.

The Foundation also has several ongoing efforts it primarily coordinates on its own. The Foundation is sponsoring organization of the Arizona Outdoor Hall of Fame and conducts an annual induction ceremony and auction in support of Foundation activities.

One major project of the Foundation is the development and support of a Wildlife Conservation Learning Center in the Phoenix area. The Foundation has worked closely with the Department to coordinate efforts on the site and integration into the Department's educational/outreach efforts.

As the Foundation moves to a higher level of fundraising and project development, it is desirable to establish a clear framework for the diverse projects the Foundation and Department see possible. This MOU will allow the two entities to develop specific collection agreements on cooperative projects.

Sandy Froman, a member of the Wildlife for Tomorrow foundation board, gave a brief presentation to the Commission. The MOU being considered today would strengthen the relationship between the Foundation and the Department and would enable more complex projects. Handouts were provided to the Commission.

Motion: Melton moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE A MEMORANDUM OF UNDERSTANDING WITH THE WILDLIFE FOR TOMORROW FOUNDATION TO ESTABLISH A COOPERATIVE PARTNERSHIP IN SUPPORT OF THE DEPARTMENT'S MISSION AND AUTHORIZE THE DIRECTOR TO EXECUTE OR MODIFY THE MOU AS APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

Vote: Unanimous

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Meeting recessed at 2:35 p.m.

Meeting reconvened at 2:42 p.m.

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13. Request from Mr. Paul M. Capps for a Hearing Associated with the Fall 2002 Buffalo Hunt at House Rock Wildlife Area

Presenter: Richard Rico, Assistant Director, Special Services

The Department received a letter dated February 3, 2003, from Paul M. Capps, requesting a hearing before the Commission. In his letter, Mr. Capps states the Commission should provide him with some form of relief due to his belief that buffalo were not available to be harvested during the fall 2002 hunt at the House Rock Wildlife Area (HRWA), Hunt #7008, specifically during the 12/6/02-12/31/02 timeframe when he hunted. In his letter he states he believes all the buffalo moved onto the Grand Canyon National Park and were unavailable for harvesting. Mr. Capps also states he spent a considerable amount of time and effort to prepare for the hunt to increase his chances of being successful. While

he did not hunt during the opening of the season (11/1/02-11/10/02), he believed his chances for a successful hunt in December were as great as they would have been in November, especially since there were 26 days to hunt in December. Department records indicate Mr. Capps hunted 9 of the 26 days available in December. Further, Mr. Capps purchased Arizona licenses on two different occasions to hunt mule deer and, while he was unsuccessful on both occasions, he strongly believed in those instances he had a reasonable chance of being successful.

In researching this issue with personnel from the Flagstaff Regional office and the Game Branch, they indicated hunters did have difficulty in locating buffalo during the December season and some believed the buffalo had moved onto the Grand Canyon National Park. Department and Park Service personnel were aware of only a few buffalo on the park and at least one group of hunters found buffalo on adjacent Forest Service lands.

In a memo dated January 9, 2003, to the Commission, a summary of the fall 2002 HRWA buffalo hunts was provided. This information indicated hunt success was significantly higher than in the previous year.

John Capps was present on behalf of his brother, who was from Massachusetts. From past experience and advice derived from various other people, they decided to hunt buffalo during December. Nowhere in the hunt regulations or the package that was sent to buffalo hunters, did it state the buffalo may move onto national park lands where they could not be legally hunted. He asked the Commission to give his brother another buffalo tag or state in the regulations December is not a good time to hunt and that there is a possibility the buffalo may go into an area where they cannot be legally taken.

Commissioner Melton stated he knew Mr. Capps and would not participate in the vote.

Commissioner Chilton stressed the regulations should state there were significant challenges, including the fact that a large number of buffalo may move on to the national park. Mr. Rico noted that depending on the weather, December could be a much better month to hunt than in November. The Department would look at modifying the wording in the block in the hunt regulations booklet to explain buffalo hunt conditions on the HRWA.

Motion: Gilstrap moved and Carter seconded THAT THE COMMISSION VOTE TO DENY MR. PAUL M. CAPPS' REQUEST FOR A HEARING TO ADDRESS ISSUES RELATED TO HIS FALL 2002 BUFFALO HUNT AT THE HOUSE ROCK WILDLIFE AREA.

Vote: Chilton, Gilstrap and Golightly – Aye
Chair voted Aye
Melton - Abstained

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14. State and Federal Legislation

Presenter: Anthony Guiles, Legislative Liaison

The Governor called the Legislature into special session on Monday regarding the '03 budget. Included in the legislation was \$10.2 million from the Heritage Land Acquisition Account. The money would be distributed as follows: \$6.1 million would go to the State Parks Department for operating budgets; \$1 million would go to State Land for operating budgets and \$3 million would go to the Wildfire Suppression Fund. Also included was the transfer of \$1.5 million from the Watercraft Fund to relieve the General Fund balance. Work will start on the '04 budget this week.

An update was given on the following bills: S 1282 (Wildlife diseases; agency orders) was heard in the Environment Committee last Monday. There was a concern brought forward by the Arizona Cattle Growers; language was worked out that was agreed to by them and the Department.

S 1283 (Watercraft; boating while intoxicated) was not heard in the House Transportation Committee due to the special session. He believed the bill was scheduled for this coming Monday.

The Governor vetoed H 2248 (Federal monies appropriation). HCR 2034 (Public lobbyists; public money) is dead this session. S 1292 (Buffalo ranches; sale) is dead. HCR 2018 (Ballot measure resubmittal) was scheduled for a hearing in the Senate Judiciary Committee this week.

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15. Call to the Public

There were no comments.

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16. Director's and Chairman's Reports

Chairman Carter spent time dealing with budget issues in the Legislature and issues in the Governor's office.

Director Shroufe noted the Division reports had been previously provided to the Commission. He attended the annual Arizona Flycasters banquet. He met with U.S. Fish and Wildlife Service Regional Director Dale Hall, Region V, Habitat Branch and Buenos Aires Refuge staff regarding CCP efforts. There was a coordination meeting at the state level with The Nature Conservancy.

Director Shroufe chaired the North American Wetlands Conservation Council meeting and attended a meeting of the Invasive Species Advisory Council in Washington, D.C. He attended the Governor's first Forest Health and Safety Conference. He attended a joint Region V and VI meeting in Safford. He met with commissioners and the Governor's policy staff on budget issues. A predator management meeting was attended. Discussions were held with various constituent groups regarding the water catchment

report sent out for public comment. Discussed were 1) the areas in which the Department had complete agreement to integrate into the plan and 2) issues that needed to be clarified in the groups' comments.

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17. Commissioners' Reports

Commissioner Melton attended the Sportsmen's Expo. He attended banquets for the Arizona Mule Deer Association (AMDA) and Arizona Elk Society (AES), where an elk tag went for \$137,500. He met with the NRA in Tucson regarding shooting range issues. He attended a Region IV meeting dealing with the Goldwater Range and its new military plan.

Commissioner Gilstrap attended meetings in the Governor's Office and Legislature. He also attended the Sportsmen's Expo. He attended banquets for the AMDA, AES and Arizona Desert Bighorn Sheep Society.

Commissioner Chilton attended the Sonoran Desert Conservation Plan Steering Committee and the Altar Valley Conservation Alliance meeting.

Commissioner Golightly attended meetings in Flagstaff related to shooting range issues. He attended sportsmen's banquets. He met with the Ben Avery Shooting Facility user groups.

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18. Approval of Minutes

Motion: Gilstrap moved and Chilton seconded THAT THE MINUTES FOR FEBRUARY 21, 2003, BE APPROVED.

Vote: Unanimous

The minutes for January 15 and 17, 2003, were signed.

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19. Future Agenda Items

Deputy Director Ferrell reviewed action items brought forth by the Commission at today's meeting.

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Meeting adjourned 3:15 p.m.

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