

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, June 20, 2003 – 8:00 a.m.
Saturday, June 21, 2003 – 8:00 a.m.
Pinetop Regional Office,
2878 E. White Mountain Blvd.
Pinetop, 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 8:03 a.m.

1. Executive Session

- a. Purchase of real property and associated water rights
- b. 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; *Bar D Cattle Co. v. Shroufe*, CIV2002-0872; and in the matter of *Search Warrant No. CR 2002-2395SW*; *The Fund for Animals et al. v. Norton et al.*; USDC D.C. 1:30-CV-00892 (RJL); and *Phelps Dodge v. Arizona Dept. of Water Resources*, LC2003-000243-001DT

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

Vote: Unanimous

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Meeting recessed at 8:03 a.m.

Meeting reconvened at 9:05 a.m.

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Chairman Carter called the meeting to order at 9:05 a.m. The commissioners introduced themselves and Chairman Carter introduced Director's staff. The meeting followed an agenda dated May 30, 2003.

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2. 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.

Mr. Kennedy provided more information regarding the proposed Johnson development lease/purchase applications and annexation proposals that have occurred the past several months (see pages 9-10 in the update). During the June 10 meeting of the Planning and Zoning Council, the Council decided to take no further action on the annexations at this time. The State Land Commissioner also had concerns on the proposed development; the project was on hold with the local community and local government.

Commissioner Melton asked for an update on further developments on the Integrated Resource Management Plan (INRMP) for the Barry M. Goldwater Range. Mr. Kennedy stated there has been substantial ongoing interagency work on the INRMP. The Department continues to negotiate issues regarding access. Director Shroufe noted he attended a meeting to address access issues with Colonel Uken and his staff. The Department would have to look at the final draft INRMP that goes out to the public. This should be sometime in August. Mr. Kennedy noted there have been serious issues raised recently on the INRMP and EIS by the State Historic Preservation Office regarding potential impacts to cultural resources that could cause delay.

Commissioner Chilton referenced monies available through the National Fire Plan for taking action prior to fires. She wanted the Department to enumerate projects that could be undertaken and cleared by the U.S. Fish and Wildlife Service for completion in Arizona. The state was dealing with huge, unnatural situations and action should be taken beforehand. The Department was not a land management agency but it could put issues in front of the public, various agencies, congressional delegation and the Governor. Mr. Kennedy noted there were approved projects at this time that have gone through the environmental compliance process. These projects were primarily near communities and the urban interface areas. The Department sees opportunities as well for wildlife in these projects. The Department has also received direction from the Governor that it would work with agencies and support the projects. The Department is now represented on the Governor's new advisory council. Monies were being provided through the National Fire Plan to fight fires but were not provided to prevent fires. The Commission previously developed a resolution. It may be in the Commission's interest to reaffirm the importance of the resolution and correspond with those entities that can do something to get more money through the Plan and other avenues. The Department could come back to the Commission at a future meeting with a more detailed package and potential recommendations. Commissioner Chilton noted public funds were limited, but private funds and action were available. The public and federal government should not be afraid of using the term, "managed commercial harvest". Private enterprise should be involved in making the forest a healthier place. Game and Fish should be allowed to have input regarding the harvest of trees. Commissioner Golightly stated Department staff was busy working on this issue in northern Arizona. The Habitat Partnership Committee (HPC) was ahead in managing some of the forest health issues with cutting and burning. He was pleased with the Department's involvement to date and did not think any more involvement was feasible. Commissioner Chilton stated the Department needed to put pressure on the federal land management agencies, other state agencies and the congressional delegation so that they know the Department did not want this situation to be one that is only reacted to but dealt with proactively.

Chairman Carter brought up the wildlife water issue in the Sonoran Desert. He wanted to know what kind of avenues would be available to pressure IBLA for a decision on water catchment maintenance. Director Shroufe noted he met with the Bureau of Land Management (BLM) state director recently and she indicated BLM was reluctant to go to the Interior Secretary and ask her to take jurisdiction on that matter. The Department and several organizations have contacted and asked the Secretary to resolve the issues.

Chairman Carter was appreciative of the Department's efforts on Frye Mesa. It was a cooperative effort to get the road that leads to Forest Service lands repaired; more effort should be put forth to complete the project, including the transfer of the right-of-way to local jurisdictions.

Regarding forest health, Chairman Carter stated at the May 10 Heritage Public Advisory Council (HPAC) meeting, one of the presentations focused on the issue and its associated problems. One of the recommendations that resulted from the meeting was to encourage the Commission and Department to continue to be aggressive in promoting forest health, particularly where it impacts wildlife and sensitive species. Many governmental entities are concerned with forest health conditions. No recommendations came out of the Western Governors Association meeting. The Department has been aggressive in working with state and federal land management agencies. At an upcoming Commission meeting, he wanted to reaffirm the Commission's position on the need for an array of activities in terms of forest health, which includes fire and fire management. He asked the Department to do an update and draft a resolution that would reaffirm the Commission's commitment and desire to work collaboratively with land management agencies as well as bringing in other partners. He asked to be on the HPC agenda in July to talk about forest health issues and ways to take this issue to another level.

Motion: Chilton moved THAT THE DEPARTMENT BE DIRECTED TO PREPARE A LETTER INCORPORATING THE OBSERVATIONS MADE BY THE CHAIRMAN AND BY HER EARLIER FOR SIGNATURE BY THE COMMISSIONERS REGARDING THE HIGH PRIORITY OF PROJECTS THAT ARE ALREADY APPROVED FOR FIRE MANAGEMENT AND FOR PREVENTION OF FIRES IN THE STATE OF ARIZONA, FOR TRYING TO GET THE NATIONAL FOREST PLAN DOLLARS TO WORK PRIOR TO FIRES, FOR TAKING ACTION PRIOR TO FIRES ON A WATERSHED BASIS SO IT IS BROAD ENOUGH TO AFFECT HABITAT AND ADDRESS THE ISSUES OF SAFETY, PUBLIC HEALTH AND THE COSTS AND DANGERS OF FIGHTING FIRES AND DEALING WITH THE AFTERMATH.

Commissioner Gilstrap wanted to look at the current resolution to see how closely it mirrored the motion. A cover letter could then be done to reaffirm the resolution at the next meeting.

He was concerned about the potential annexation of the City of Show Low that would impede the Department's cooperative work in the region. He was concerned about direction on some of the monuments and the interest in wilderness preservation. Even though many people like the preservation concept, it impedes the Department's ability to manage wildlife. He asked Mr. Kennedy keep the Commission informed as to cooperative efforts on Anderson Mesa by the Arizona Antelope Foundation, Diablo Trust and Metzger family.

Chairman Carter recognized former Commissioner Dennis Manning and Vice Chair of HPAC Margaret Bohannon who were in the audience.

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3. An Update on the Land Acquisition Process, Impediments to Acquisition, and Recommendations to Streamline and Expedite the Acquisition Process

Presenter: John Kennedy, Habitat Branch Chief

All proposed land acquisitions are evaluated through the Lands Protection Evaluation Process (Policy I2.4). The process requires complete evaluation of the property and development of reports and decision documents through the following major stages: preliminary biological review and analyses for determining compliance with existing rules and regulations governing the expenditure of acquisition funds; complete biological review; feasibility review, site design, identification of future operations and maintenance activities and opportunities; briefings to the agency's Director and Executive staff and the Commission in Executive Session; negotiations with the private property owner; Commission decision in public session and approval by the Governor's Office.

The Commission was briefed on the land acquisition process, impediments to acquisition, and recommendations to streamline and expedite the acquisition process. A copy of Policy I2.4 was distributed to the Commission, along with a summary of the acquisition process.

A section of the handout entitled, "Challenges to Acquisition and Recommendations to Streamline the Acquisition Process" was reviewed.

1. Acquisition Priorities

Challenge: Working on too many potential acquisitions at the same time

Recommendation: Continue to implement an aggressive prioritization process to ensure all available resources are focused on the highest priority properties. Focus on the high priority acquisitions but maintain flexibility to consider a new offer if it has merit greater than one of the existing priorities. Note - Some process improvements have already been incorporated into the land acquisition process to address this challenge (preliminary biological review; coordination with Executive Staff on a regular basis; eliminating low-priority properties early in the process).

2. Partnerships

Challenge: Land acquisitions are complex, time-consuming and part of our larger mission (the Department cannot dedicate all agency resources to land acquisitions).

Recommendation: Work with The Conservation Fund and the Trust for Public Land to purchase properties on behalf of the Commission. The mission of these organizations is to work for state wildlife agencies to purchase properties. Note - Money would be saved by working with these organizations and there is no additional cost to compensate these organizations for doing what they do, i.e., they negotiate with the land; once the

agreement is established and the property is sold, the Commission would be buying the property from these organizations at fair market value.

3. Process Ownership, Accountability and Oversight

Challenge: The land acquisition process involves multiple work units within the agency. Coordination among all the work units is time-consuming and keeping all the work units on the same schedule is challenging.

Recommendation: Establish one lead work unit for each acquisition assignment. The lead work unit will be responsible for coordinating with other work units and completing the assignment on time.

4. Time required to complete the biological surveys and report

Challenge: Biological surveys and development of the biological report require a significant amount of time and involve multiple work units within the agency.

Recommendation: Contract out the biological survey work.

5. Time required to complete the Feasibility Report and associated actions

Challenge: The analyses necessary to determine the feasibility of acquiring a property requires a significant amount of time and involve multiple work units within the agency.

Recommendation: Contract out the feasibility work, including the evaluation and resolution of all ownership issues (e.g., boundary survey work; preliminary analyses of water rights and leases; Phase I survey work).

6. Site design/management plan; future operations and maintenance of the property

Challenge: Development of a comprehensive management plan identifying resource management and conservation goals/objectives, short and long-term operating budgets, and all other considerations outlined in the existing acquisition process, requires a substantial amount of time and resources.

Recommendation: For each high-priority acquisition, develop a 1-5 page document outlining: resource management goals and objectives and potential funding sources to achieve those goals and objectives. The Field Operations Division, in consultation with the Development Branch, will be responsible for completing this step in the acquisition process. Note - This would be outside the lands program focused on acquiring the property.

7. Funding for Operations and Maintenance

Challenge: The identification of funds for future operation and maintenance of the property is required before acquisition, which adds a substantial amount of time to the process. In nearly all cases, this occurs during the fiscal year and outside of normal budget preparation work.

Recommendation: A comprehensive management plan that addresses operations/maintenance needs and associated funding will be completed by Field Operations (in conjunction with other work units) outside of the acquisition process. Note – The acquisition is not contingent upon the completion of the management plan.)

8. Negotiations with the landowner

Challenge: Negotiations with the landowner occurring late in the existing acquisition process can require 1-4 months or more to complete and can result in the identification of issues requiring re-development of the Feasibility Report and other acquisition documents. Also, negotiations with the landowner can result in the identification of issues and concerns that terminate the potential acquisition after the Department has contributed a substantial amount of time and money toward the acquisition.

Recommendation: Negotiations with the landowner should begin as soon as the Department's Executive Staff and the Commission (through Executive Session) approve work on the acquisition.

9. Commission involvement in the land acquisition process

Challenge: Maintaining greater Commission involvement in the acquisition process is extremely time consuming.

Recommendation: Reestablish Commission involvement in two stages of the process; work with the Commission early in the process (when developing priorities) in Executive session and final approval by the Commission in public session. Discontinue development and distribution of monthly updates and acquisition notebooks (and other acquisition documents) to the Commission.

Other challenges to acquisition:

Commission direction: Requirement to have support from local government prior to acquisition (process challenge).

Commission direction: The Department cannot pursue an acquisition unless a landowner approaches the agency with an offer to sell (reactive vs. proactive work on acquisitions).

Commissioner Chilton stated it was important to have local support for acquisitions. She did not want to proceed with purchases that were not supported locally. Chairman Carter agreed the component should be kept in the process. Local governments should be educated as to the value of wildlife recreation in many different forms. There was value in outsourcing some of the activities as long as it was done in a manner consistent with the state procurement process, both for legal language regarding boundaries and water rights, if the Department 1) feels that would significantly expedite the process and 2) has adequate resources available within the various categories to accommodate them. It was important for the Department and Commission to take whatever steps were necessary to ensure Heritage Funds are spent responsibly and in a manner that was consistent with the purpose of the Heritage Fund in terms of benefiting wildlife, with a primary focus on protection of sensitive/endangered species.

Commissioner Gilstrap noted the importance of having available a process map or flow chart because the process had so many components and was very complex.

Commissioner Golightly spoke regarding the requirement to have local government support prior to acquisition. This has been encumbering efforts in certain acquisitions and challenging in some other areas of the state. This slows the process. When there is a willing seller, he doubted everyone's support was needed to spend Heritage dollars. The Department could provide a checklist showing the level of local government support desired or required. Arizonans voted on Heritage Fund monies to be spent responsibly. He wanted to know what would happen if a local government entity refused to give support. There needed to be a full vote or agreement on some criteria.

Commissioner Melton was concerned with #2 in that it might cause conflict. Mr. Kennedy stated the Department needed to work with counsel on the issue. The two particular organizations have been purchasing properties for many years in nearly all states. This issue has been challenged in some states but there have not been any conflicts with state wildlife agencies at this point that we know about. The Commission would be purchasing the property at fair market value. The Department was looking at getting approval to move forward with some of these potential process improvements and evaluating them before incorporation into the acquisition process.

Regarding Commissioner Golightly's comment, Chairman Carter stated the Department should inform local communities of a potential land acquisition by the Commission. A briefing has been provided followed by a written letter of support by the local governments. This was not a time-consuming process because it improves the relationship with the communities. The real problem in the total process is that there are many different work units involved in pieces; there was no single head that moved it. Projects tend to have different priorities in various work units, including the Habitat Branch, Regions, and Development Branch. He noted there were recommendations that give options in terms of restructuring and streamlining the process including outsourcing some of the components. He wanted the Department to be proactive and build partnerships. The Commission should not make a decision just because a local government did not give its support.

Commissioner Golightly noted times have changed and he did not feel comfortable with being bound by a previous Commission's direction in today's world after the loss of \$10 million. The requirement of a written authorization to proceed in a county should be removed. It was an impediment today and was not useful.

Chairman Carter believed local government support was not a major impediment to acquisitions. Time-consuming processes consisted of the challenges for biological review and other work assignments; legal issues in terms of boundaries and with research to ensure valid water rights exist to benefit wildlife. Options needed to be looked at to outsource some of the current priorities and obligations of the various divisions within the agency to cut some time.

Director Shroufe noted the Department starts getting Heritage Fund monies in March and receives its last installment in August. Commissioner Golightly wanted to add to the report the Commission cannot buy land on time and the Commission cannot borrow money to buy land.

Commissioner Melton stressed his concern with the non-governmental organization process. Constituents would perceive The Conservation Fund buying property as strictly a political process. It could then offer to sell the property to the Commission for half or one third more of the appraised value. He asked how the Department would deal politically with its constituents.

Commissioner Gilstrap stated the acquisition process needed to be looked at as the best way of acquiring land and not in response to being forced to spend dollars. Chairman Carter stated the Department had an obligation to its constituents to streamline the process. The Department needed to bring back to the Commission recommendations for outsourcing pieces of the process; the person who would supervise the activity and estimated associated costs. Also, a discussion dealing with internal priorities should occur with the Director.

The consensus of the Commission was for the Department to proceed with Chairman Carter's direction.

Commissioner Chilton stated the Department should be driven by the need to find appropriate biologically valuable habitat, not by spending funds quickly. Second, property should not be looked at that has environmental cleanup hazards. Third, local support is needed or the Commission will be galvanizing opposition to the Heritage Fund.

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Chairman Carter recognized former Commissioner Bill Berlat in the audience.

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4. Request for the Commission to Approve a Cooperative Agreement Between the Altar Valley Conservation Alliance and the Commission to Facilitate Development of a Habitat Conservation Plan for the Altar Valley, Pima County, Arizona

Director Shroufe noted this item was pulled from today's agenda.

The Alliance would develop drafts of a Habitat Conservation Plan, Implementing Agreement and environmental compliance documentation necessary for the ESA Section 10 permitting process (incidental take permit). The Alliance will be reimbursed for costs associated with Phase I activities and, if funded, Phase II activities.

Director Shroufe noted the Department had been working hard with the Alliance but there was one issue on which agreement could not be reached regarding reimbursement of Phase I funding. The representative for Altar Valley will be sent a letter stating the issue would be tabled until a decision was made on their participation. There is a deadline for grant applications.

Commissioner Chilton noted the Alliance was having a meeting within a month and the HCP would be on the agenda. The public meeting of the Alliance was held in June. This included all the agencies but it was not a forum that permitted discussion of regular business. The request was to postpone until the Alliance could meet in a business session and discuss the terms.

Director Shroufe hoped Commissioner Chilton would represent the Commission and Department to get things going or the money may not be reimbursed.

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5. An Update on the Rodeo-Chediski Rehabilitation and Salvage Program Activities

This item was pulled from the agenda because people who were to be at today's meeting to give a presentation were fighting forest fires.

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6. Consent Agenda

- a. Request for Commission Approval of a Memorandum of Understanding Between the Commission and the Pueblo of Zuni to Strengthen the Cooperative Approach to the Management of Fish and Wildlife Habitat on the Zuni Reservation. Department recommendation: That the Commission vote to approve a Memorandum of Understanding between the Commission and the Pueblo of Zuni to strengthen the cooperative approach to the management of fish and habitat on the Zuni Reservation, and authorize the Director to execute the agreement as attached or as recommended or approved by the Office of the Attorney General, and to amend or extend the agreement as necessary.
- b. Request for Commission Approval to Remove 6.53 Acres from Commission-leas Land at the Yuma Regional Office for the U.S. Fish and Wildlife Service's New Kofa National Wildlife Refuge Office. Department recommendation: That the Commission vote to approve the removal of 6.53 acres from Commission-leas land at the Yuma Regional Office for the U.S. Fish and Wildlife Service's new Kofa National Wildlife Refuge Office, and authorize the Director to execute agreements and/or other documents as necessary to accomplish the project.
- c. Approval of the Interagency Memorandum of Understanding (IMOU) for the Control and Eradication of Giant Salvinia (*Salvinia molesta*) in the Lower Colorado River. Department recommendation: That the Commission vote to authorize the Director to execute an Interagency Memorandum of Understanding for the control and eradication of Giant Salvinia in the Lower Colorado River.
- d. Renewal of Interagency Agreements for the Urban Fishing Program between the Arizona Game and Fish Commission and the Cities of Chandler, Gilbert, Mesa, Payson, Phoenix, Sahuarita, Scottsdale, Tempe and Tucson. Department recommendation: That the Commission vote to authorize the Director to finalize negotiations, execute, and amend as necessary interagency agreements between the Department and cities of Chandler, Gilbert, Mesa, Payson, Phoenix, Sahuarita, Scottsdale, Tempe and Tucson to conduct an Urban Fishing Program for a period of three years commencing July 1, 2003 through June 30, 2006, on 17 designated urban lakes.

Motion: Melton moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE THE CONSENT AGENDA ITEMS AS PRESENTED.

Vote: Unanimous

Chairman Carter referenced item c., which was discussed as it related to invasive species in general by the Heritage Public Advisory Council in May. It was the Council's recommendation that the Commission stay proactive with the control of invasive species by cooperating and educating the public on this issue.

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Meeting recessed at 10:35 a.m.

Meeting reconvened 10:50 a.m.

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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; *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.

Mr. Odenkirk noted the only addition to the report was the minute entry he provided to the Commission regarding *Mark Boge v. Arizona Game and Fish Commission & Shroufe*. He believed there was a good chance Boge would appeal the case. The appeal would be heard in the State Court of Appeals.

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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.

Additional information was provided. Everything was moving along on the Tri-State Shooting Range. There was an issue involving mineral rights. The Bureau of Land Management (BLM) does not have mineral rights to a portion of the land because it was a part of the old railroad exchange process that occurred in alternate sections. The Department would be working with representatives from the railroad to obtain a minimal price for those mineral rights. There were no marketable minerals in the area other than sand and gravel. The goal was to have the railroad give the Department a non-use agreement for an extended period of time. The costs of the acquisition of the 785 acres associated with Tri-State from BLM should be about \$7,850.

Last Monday, Director Shroufe convened a meeting with the State Director of BLM; the State Land Commissioner and Regional Forester were invited, along with staffs of the Coconino and Tonto National Forests. Shooting range issues were discussed, especially the Interagency Shooting Range Committee that has been working in the Phoenix area. Mr. Baldwin felt it was a successful meeting. He noted the Regional Forester and State Director of BLM took a strong position in support of shooting range issues and to commit with the Director to try to work to clarify ongoing issues. The agencies agreed to

establish a single contact on shooting range issues. Mr. Baldwin would be the contact person for Game and Fish. The Regional Forester did not feel some of the activities occurring around Phoenix and Tucson were adequately addressing the need for shooting ranges statewide. We need to have a strategic status analysis on recreational shooting on public lands. He proposed that we work together (Game and Fish, State Land, counties) to create a white paper on recreational shooting issues that the U.S. Forest Service (USFS) can adopt into its planning process in the next few years. Major needs should be identified as well as well as operational elements of ranges that we need to work on together. It was suggested to build the document on the Commission's strategic plan on shooting ranges.

Director Shroufe noted the only person who was not in attendance at the meeting was the State Land Commissioner but he did send a representative. It was hoped the State Land Commissioner would personally participate.

Mr. Baldwin noted a commitment was made to State Land, BLM and the USFS that the Department would put together a training session within the next six months for managers on shooting ranges. The Department would push identification and support of existing policies for shooting ranges.

Public comment

Margaret Conlin, Arizona State Rifle and Pistol Association Treasurer and Range Fund Manager, was interested in everything the Commission was doing with shooting ranges in the state, especially at the Ben Avery Shooting Facility.

Blaine Bickford, President of the White Mountain Rod and Gun Club, spoke regarding the need for a shooting range in the White Mountain area. He was still interested in the Grasslands and would work with the Commission, community and Region I in pursuing a shooting range in this area. This was an important resource in the White Mountain area.

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9. Statewide Shooting Ranges Grant Approval

Presenter: Kerry Baldwin, Education Branch Chief

The Department originally received three grant proposals for FY 04 cycle, which totaled \$129,012. The Commission has \$100,000 to allocate in the FY 04 cycle.

One of the grants was removed from the list for approval: 2004-03 Ye Olde Route 66 Trap, Skeet and Sporting Clay Club. Questions were raised regarding how the state would administer funds because it was a for-profit private individual and more information was needed.

The remaining two proposals for consideration totaled approximately \$29,000.

2004-01 Rio Salado Sportsman's Club Usery Mountain Shooting Range
Funds Requested: \$9,750

Project Summary: To replace the old office trailer (rangemaster's office) with a new larger combined office and maintenance/storage building.

Recommendation: Award \$9,750 in matching statewide shooting ranges grant funds with stipulations described.

Stipulations: Structure plans must be approved in advance by Department Engineering Branch and State of Arizona Department of Administration per grant requirements.

2004-02 Tucson Trap and Skeet Club Tucson Trap and Skeet Range
Funds Requested: \$19,262

Project Summary: To upgrade five trap machines, which would allow a greater number of participants at major shoots, free up singles only machines for other uses and provide the ability to have a doubles program under lights for league shooting.

Recommendation: Award \$19,262 in statewide shooting ranges grant funds with stipulations described.

Stipulations: The improvement must be available for public shooting at a cost similar to existing facilities in Arizona and without requirement of an additional membership fee.

Motion: Gilstrap moved and Melton seconded THAT THE COMMISSION VOTE TO APPROVE THE TWO GRANTS RECOMMENDED BY THE DEPARTMENT WITH DEPARTMENT STIPULATIONS NOTED.

Vote: Unanimous

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10. Request for Commission Action on the Tucson Rod and Gun Club Land Acquisition Proposal

Presenter: Kerry Baldwin, Education Branch Chief

For background information, see Commission meeting minutes for March 21, 2003, pages 10-12, and February 21, 2003, pages 12-13.

The Department has done additional work on possible shooting facility locations in the Tucson basin as directed. Because recreational shooting issues have taken a high profile status for the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS), an independent study has been commissioned for the Tucson basin to develop a situation analysis. The study will look at the current status of recreational shooting activities and issues raised by the major stakeholders. Formal shooting ranges will be included in the study.

Department staff looked at possible issues specifically related to the National Rifle Association (NRA) proposal on the shooting range site in Sabino Canyon. The model

referenced for congressional action was recent legislation (S 1451) transferring BLM lands to Clark County, Nevada, for a shooting facility. The legislation was reviewed. Several areas of concern were noted and had to do with required reversion of the land back to the federal government, a lack of waiver of existing environmental contaminant liabilities and transfer costs/process requirements.

It is the Department's opinion the legislative approach will not protect the Commission from past or future liability concerns. If the Department were to operate the facility as a shooting range, the Commission would be liable for all site remediation costs regardless of when the elements of concern were deposited onsite. There is a question if the Commission could even accept the property knowing it contained existing questionable environmental hazards. Also, the lands involved are USFS lands and not BLM lands. Based on the Department's ongoing experience with the Bellemont land exchange, the conditions placed on the transfer may be extensive.

An initial analysis of the site raises significant concerns on safety and sound remediation costs. Much work would be necessary to establish new shooting ranges, site infrastructure to state standards and new operational approaches. Preliminary cost estimates associated with just the initial range improvements and redesign have been estimated in excess of \$800,000. The range has been closed since March 1997. Local neighbors have communicated to the Department they would strongly resist any attempt to reopen the range.

The Department does not support the Sabino site as a viable project. While there is still significant need for additional recreational shooting facilities in the area, the Department feels there are better options and opportunities in the Tucson basin and statewide that warrant attention for its limited resources at this time.

Director Shroufe noted the Commission may want to consider pursuing congressional approval of shooting range sites, including Bellemont. He thought NRA might lend support on that aspect. Director Shroufe noted the Department has talked with Congressmen Kolbe and Shadegg; Shadegg has drafted legislation. His staff is waiting for the Department to come back with specifics.

Public comment

Bill Berlat, representing self, believed there were no problems at the Sabino Shooting Range. It has been in existence for 40 years with a perfect safety record. Regarding environmental cleanup, the lead posed no health risk or hazard since it was not in a major drainage. The range was closed due to political pressure by real estate developers. There was a need for a shooting range in the Tucson area. The shooting range at Sabino Canyon was there and ready for use. The range could be limited as to the type of weapons but it was definitely an asset to the City of Tucson.

Mr. Baldwin believed there would be a lot of costs involved and there were a lot of things that needed to be looked at. The Department thought this was not a priority on which the Commission needed to be focused. This does not preclude the Tucson Rod and Gun Club (TRGC) from coming back if it tried to open the facility under the direction it now has and asking the Department for technical support and asking for a grant for shooting range dollars. The USFS has said the facility cannot be operated the way it exists today, but the

TRGC could come back with a proposal that would include a fully-enclosed range concept. Also other concepts for an open range would be looked at that met sound and safety standards. Pima County has resolved its problems on the range and was looking for construction to start in 90 days, with a 6-8 month construction timeline.

Commissioner Chilton stated the Commission's interest was to insure there were shooting facilities in Pima County. It was not a commitment to a site. If the Commission reiterates its support for a shooting facility in Pima County and its need to be closely involved in the process, the Commission could let the TRGC come up with an alternative plan and also see how many obstacles are thrown in the path in the 6-8 month development of the other site. She wanted to show support for site availability for a TRGC shooting range.

Chairman Carter noted there were a number of issues: 1) the business of shooting ranges will always have liabilities associated with it in terms of environmental and public safety issues; 2) if the Commission were to take the action as recommended today, it would cast a shadow over a decision of the USFS later with respect to what is being submitted by the TRGC or the time frame set aside for them to have that opportunity. If they were successful in getting a permit at the Sabino Canyon, there would be limitations. The Commission needed to be aggressive in identifying additional sites in Pima County.

Commissioner Melton asked what would happen if TRGC could not come up with a proposal for a range. Mr. Baldwin stated under terms of the special use permit, if the TRGC had to vacate and clean up the area, it would cost a substantial amount of money and bankrupt the Club.

Public comment

Bill Berlat, representing self, believed the TRGC would never come up with another proposal for a site because the USFS had set high standards that would be impossible to reach.

Motion: Golightly moved and Gilstrap seconded THAT THE COMMISSION DIRECT THE DEPARTMENT TO TAKE NO FURTHER ACTION ON THE PURCHASE AND ACQUISITION OF THE SABINO CANYON FACILITY AND DIRECT THE DEPARTMENT TO PURSUE ADDITIONAL SITES AND SHOOTING RANGE PARTNERSHIPS IN THE TUCSON BASIN AREA.

Vote: Gilstrap, Melton and Golightly – Aye
Chilton – Nay
Chair voted Aye
Motion passed 4 to 1

Commissioner Chilton explained her vote. She did not want to support anything that could be interpreted by the press as the Commission putting a roadblock in the path of the TRGC in its process of finding a new place in six months or saddling the Club with a debt that will surely bankrupt it.

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11. Report on the Shooting Ranges Economic Development Committee Activities

Presenter: Kerry Baldwin, Education Branch Chief

The Commission was briefed on the current activities of the committee.

The Committee met on June 9. The Committee has collected a lot of background data and information on opportunities and processes to follow. It was at a point where it needed to bring forth a formal request for proposal (RFP) for the Commission that delineates the elements based on discussions during the past 18 months. One of the things that the Committee feels is, because of the potential economic implications in development of the RFP, the agency may not have the technical expertise to draft the right document. Because of the sensitivity and need to have the best information from which to make a decision, the State Land Department may be asked for assistance, or an external vendor may have to be hired to help produce the document.

The framework of the RFP should be discussed with the public so that it understands the protections the Commission will write in for Ben Avery and the direction it would be going. The Committee felt it was time to bring forth a more substantive document that defines elements more clearly. It would be an extensive process.

Commissioner Golightly stated the Committee has probably gone as far as it could. In its objective of developing a RFI and asking for input, it was believed more input would be provided than was actually provided. A RFP would provide more information to take to the public. It would provide the potential companies a better idea of what we were looking for in the request.

Commissioner Gilstrap noted as a result of the RFP, the Committee may find out it can accomplish what it wants with less than 130 acres.

Commissioner Golightly supported excess non-usable land that cannot be utilized for the Ben Avery Shooting Facility in terms of shooting sports. He identified excess land area in terms of 130 or less acres.

Chairman Carter expanded the general direction to the Committee by stating these would be properties surplus to both current and long-term development plans for the shooting facility, as opposed to talking about parcels A, B, C, etc. The Commission was committed to protecting the Ben Avery Shooting Facility in a manner consistent with the long-term plan previously adopted.

Mr. Baldwin believed the RFP would have to legally define the exact land being discussed because it would be excess land. The block of land would be in parcels A, B or C. Chairman Carter asked if that limits the flexibility the Commission may need if it were to look at some other parcel that was not necessary for the long-term development plan. Mr. Baldwin stated if that occurred, it would be brought before the Commission for discussion in public session.

Mr. Odenkirk wanted to make sure the Commission knew what the next step was. It was not soliciting buyers or lessees; it was identifying some extent of property willing to be evaluated by a consultant as to what would be the best use of the property from a

financial point of view, while at the same time protecting the range. The RFP is to essentially purchase information that will then assist the Committee and the Commission in determining what would be the next step.

Commissioner Melton stated the Commission needed to think long-range in this process. He was concerned about development in the area of the facility. There should be a long-range plan to protect the range or ensure that it stays for the future. As for the future, determinations needed to be made on usage by the public living in the area. The range could be modified to make it more efficient.

Mr. Odenkirk stated the next step would not be too different than the original RFI process as to the type of information being looked for. In the case of the RFI, the Department did not get the information that was needed. We asked entities to give us information at no cost. Now we need to purchase information and hire a consultant to get us the information we need. The State Land Department may be able to do it outside a formal RFP or procurement process.

Public comment

Margaret Conlin, Arizona State Rifle and Pistol Association Treasurer and Range Fund Manager, was at the last committee meeting and she felt the discussion focused primarily on the easement that the City of Phoenix wanted to put on the south end of the property. There was little mention made of the actual usage of any of the excess property. It was mentioned the committee wanted to have another study as to the best use of parcels identified as A, B, C and D. Chairman Carter noted Mr. Odenkirk explained this as related to the RFI process.

Mr. Baldwin noted updates on this issue would be provided to the Commission as a separate agenda item when there were substantive communications in which the Commission was asked to provide direction.

Mr. Odenkirk thought legally under the Open Meeting Law, the Commission needed to vote on a specific matter. The committee has already been charged to proceed with these matters. The Commission may decide to put on record the decision and take a position formally today if the Commission wanted to concur on the proposed direction of the committee. It would be sufficient if the Commission wanted to concur on the proposed direction of the Committee.

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12. Call to the Public

There were no comments.

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13. State and Federal Legislation

Presenter: Duane L. Shroufe, Director

Director Shroufe noted the Senate confirmed Commissioner Golightly's appointment.

Chairman Carter noted he asked the Department to prepare letters of appreciation to some people and organizations that helped in getting the Department's budget passed in the final legislative process.

Commissioner Melton expressed appreciation to Tony Guiles, Legislative Liaison and Teresa Pulido, Legislative Assistant.

Director Shroufe noted that on Wednesday morning, the House Natural Resources subcommittee in Congress marked up the state wildlife grants bill and proposed \$75 million as opposed to the \$60 million received last year.

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Meeting recessed at 12:20 p.m.

Meeting reconvened at 1:33 p.m.

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14. Hearings on License Revocations for Violations 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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15. Overview of the Arizona Game and Fish Department Headquarters Master Plan

Presenter: Fred Bloom, Development Branch Chief

A Powerpoint presentation was given. Hard copies of the presentation were provided.

The Department began its state headquarters master plan process in 1997 with a Phase 1 site analysis of the Deer Valley North campus. In 1998, Phase 2 was completed with a similar analysis of the Deer Valley South campus.

The majority of the issues identified concerning the infrastructure at Deer Valley can be summarized in the following categories:

Fire Code violations

Roofing

Space allocation (specifically storage and meeting space)

Americans with Disabilities accessibility issues

Critical adjacencies (functionality of the facilities)

Parking

Aged facilities

Phase 3 was completed in 2002. Several conceptual alternatives were developed based on potential locations at the Greenway site, Ben Avery and a generic commercial site.

Planning considerations include:

- A single site, everyone together
- Health, safety and welfare
- Accessibility
- Technology
- Adequate space (meetings/storage)
- Mission-consistent buildings
- Quality of environment
- Functionality between branches
- Security
- Flexibility
- Community

Upon determining space needs and other planning priorities, the planning team developed two conceptual plans for the Ben Avery site and three options for the Greenway/Deer Valley site. The generic site could essentially apply any of the five options or multiple story options based on the area of the parcel.

In January 2000, the Commission approved the Ben Avery 10-year plan. In that plan, a 30-acre section in the southwest corner was identified for development of a nature center and other administrative facilities. This parcel is the basis for the site alternatives developed. The two options were described.

The three options for the Greenway/Deer Valley site were described. The analysis on a third or generic site centered primarily on land area requirements and associated costs. The generic site would include any potential site in the greater Phoenix area and is based on typical land development practices relative to the overall space needs determined in the study.

Advantages and disadvantages of the site alternatives were described.

Possible Next Steps:

- Investigate potential funding
 - Internal or consultant
 - Bonding
 - Creative leasing (similar to ADOA)
 - Appraise value of Deer Valley North
 - Investigate State Trust Fund grant issues

Develop detailed architectural and site concept plans (based on a specific site)

Mr. Bloom noted 15 acres would be the ideal area for the project and would be optimum for today and in the future. Many things were used to determine square footage: 1) the input from employees as far as functions; 2) ADOA guidelines and 3) professional planning guidelines architects use based on their expertise.

Mr. Bloom also noted a multi-level facility tended to be slightly more expensive.

The issue of financing was discussed. Mr. Bloom stated the constraint on the amount that can be bonded is \$7.5 million. The Commission has flexibility with respect to issuing

bonds. The term can go up to 40 years. It would cost \$12 million-\$15 million to build a new facility. The consultant determined the value of commercial land in the Greenway area would be \$2 million-\$3 million for the land. Mr. Bloom was unsure of the appraised value of the facilities, but thought it might be \$100-\$125 per square foot, depending on the age of the facilities and marketability.

Chairman Carter stated the long-term investment would be more conducive at the Ben Avery site. Regarding utilities, he hoped an agreement would be reached soon with the City of Phoenix.

Commissioner Melton asked about projected future growth of the Department. Mr. Bloom stated the number of full-time employees has remained constant for a long time, but fluctuations result due to interns and limited positions. Deputy Director Ferrell noted the figures were based on static population needs. Significant growth has come about only with new funding sources. He did not see huge increases in the employment of the Department. If there was to be an expansion of programs that results in more people in the regional offices, there would have to be more people in the overhead positions in Phoenix to support them.

Regarding the bonding authority, the Department could pursue raising the limit. Director Shroufe noted the bonding authority was put into statute about 20 years ago. There would be a legitimate reason to raise the amount due to inflation. It may be worthwhile to get the authority expanded.

Deputy Director Ferrell stressed this was only a Department long-term plan or vision.

Commissioner Chilton thought the best location for expansion was at the Ben Avery site. Commissioner Golightly did not feel comfortable selecting the Ben Avery site at the present time. The property on Greenway Road was worth some money.

The location was further discussed. Chairman Carter wanted the Commission to focus on a particular area and felt Greenway Road was not the area. The Commission should look at Ben Avery because it would complement overall development of that area. In 10 years the current Greenway facility would be dilapidated to the point where it would be expensive to make necessary major repairs. Commissioner Gilstrap recommended pursuing additional bonding.

Chairman Carter hoped the site would be something Game and Fish owned or could acquire in the general area of Ben Avery so long as it did not impact the long-term development plans for Ben Avery Shooting Facility and potential revenue generating components of Ben Avery. He asked the Department to come back to the Commission with a plan for fine-tuning the facility's needs; updating information, including space allocation; costs; assessment of updating the current value of the property (land and facilities) and financing all or portions thereof.

Commissioner Melton would like to pursue the possibility of buying or leasing a portion of the State Trust lands south of Ben Avery. Commissioner Chilton thought that building in the Ben Avery area was a good idea because it could be seen as a form of range protection. It has beneficial possibilities.

Public comment

Blaine Bickford, President of the White Mountain Rod and Gun Club, stated the public would be upset if the Department did not make long-range plans. The public would be proud if expansion of Department facilities occurred around the Ben Avery area. The public wanted to defend the range. The Department should not be afraid of the Legislature and put this off. He thought building south of Carefree Highway was a good idea.

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Meeting recessed at 3:15 p.m.

Meeting reconvened at 3:25 p.m.

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16. Request to Approve the Heritage Fund Budget Amendments and Off Highway Vehicle Budget Amendments for Fiscal Year 2004

Presenter: Steve K. Ferrell, Deputy Director

These requests ensure remaining unspent balances in the Heritage and Off Highway Vehicle Programs are available for expenditure in Fiscal Year 2004 for additional qualifying projects and related inter-fund cost transfers and the Department's ability to respond to revenue shortfalls and unforeseen needs.

Handouts were provided to the Commission.

Off-Highway Vehicle Fund: The Department requested unspent fund balances be made available for expenditure in FY 2004. The anticipated carry forward balance for this fiscal year is \$702,000. Mr. Ferrell noted \$692,000 was swept from the OHV program for next fiscal year. The carry forward balance is what the Department will be using for the OHV program.

Public Access: The Department requested unspent fund balances be made available for expenditure in FY 2004.

Identification, Inventory, Acquisition, Protection and Management: The Department requested unspent fund balances be made available for expenditure in FY 2004. All property acquisition proposals utilizing unspent acquisition monies will be brought before the Commission for individual review and approval for actual funding authority.

Habitat Evaluation and Protection: The Department requested unspent fund balances be made available for expenditure in FY 2004.

Urban Wildlife and Urban Wildlife Habitat: The Department requested unspent fund balances be made available for expenditure in FY 2004.

Environmental Education; The Department requested unspent fund balances be made available for expenditure in FY 2004.

Heritage Fund Administration and Support Services (Interest monies): The Department requested unspent fund balances be made available for expenditure in FY 2004.

There was still \$2 million in the Commission budget that was unexpended for this fiscal year. The amount of \$10.1 million was swept from the Heritage Acquisition Fund for next fiscal year. The Department was asking for permission to spend the projected balance of \$11.1 million in carry over funds.

Motion: Melton moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE THE EXPENDITURE OF UNSPENT FUND BALANCES FROM THE PUBLIC ACCESS; IDENTIFICATION, INVENTORY, ACQUISITION, PROTECTION AND MANAGEMENT; HABITAT EVALUATION AND PROTECTION; URBAN; ENVIRONMENTAL EDUCATION; ADMINISTRATION AND SUPPORT SERVICES (INTEREST MONIES) PROGRAMS AND THE OFF-HIGHWAY VEHICLE FUND FOR FISCAL YEAR 2004.

Vote: Unanimous

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Director Shroufe noted the Legislature went sine die at 6 PM, June 19, 2003.

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17. Proposed Dates and Locations of Arizona Game and Fish Commission Meetings for 2004 and January 2005

Presenter: Steve K. Ferrell, Deputy Director

It was the Legislative Liaison's opinion that the Legislator Day occurred too early in the year and he asked to move it forward to January 28, 2004. The date was available and reserved pending Commission approval.

Dates and locations were discussed and selected for the remainder of calendar year 2004 and January 2005. They are as follows:

<u>Date</u>	<u>Location</u>
January 16, 2004	Phoenix-Commission Meeting
January 17, 2004	Phoenix-Meet the Commission
January 28, 2004	Phoenix-Legislator Day
February 13-14	Yuma
March 12-13	Tucson
April 16-17	Phoenix (hunt orders)
May 14-15	Pinetop
June 18-19	Phoenix (budget)

August 13-14	Flagstaff
September 24-25	Open
October 22-23	Phoenix (fish orders)
December 10-11	Phoenix
January 13, 2005	Phoenix-Legislator Day
January 14, 2005	Phoenix-Commission Meeting
January 15, 2005	Phoenix-Meet the Commission

Motion: Melton moved and Gilstrap seconded THAT THE COMMISSION VOTE TO ADOPT THE SCHEDULE AS REVISED.

Vote: Unanimous

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18. Call to the Public

There were no comments.

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19. Director's and Chairman's Reports

Chairman Carter attended Department School and the awards ceremony; he talked to the Legislature about the Game and Fish budget.

Director Shroufe noted the Commission was previously provided with written updates from the divisions. He met with Luke Air Force Base personnel regarding access issues on the Goldwater Range. He met with IMADES (the natural resource organization in Sonora, Mexico). He attended a small portion of time at Department School; the other portion of time was spent either at the Legislature or participating in the Governor's Cabinet meeting in Tucson.

Director Shroufe noted June 30 was the deadline for receiving travel claims.

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20. Commissioners' Reports

Commissioner Melton spent most of his time with visiting family members.

Commissioner Gilstrap went fishing at Big Lake and Christmas Tree Lake and attended Department School and the awards ceremony.

Commissioner Golightly went on an Anglers United outing to Hurricane Lake. He attended the Arizona Wildlife Federation annual meeting and Department School and the awards ceremony.

Commissioner Chilton worked on the Altar Valley Habitat Conservation Plan and attended the Altar Valley Conservation Alliance public meeting and Sonoran Desert

Conservation Plan Steering Committee meetings. She assisted in writing the minority report and distributed to the commissioners copies of a letter she wrote related to the report.

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21. Approval of Minutes

Motion: Melton moved and Chilton seconded THAT THE MINUTES FOR MAY 16, 2003 BE APPROVED.

Vote: Unanimous

The minutes for March 21, 2003 and April 11-12, 2003 were signed.

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Meeting recessed at 4:00 p.m.

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Saturday, June 21, 2003 – 8:00 a.m.

Chairman Carter called the meeting to order at 8:00 a.m. The commissioners introduced themselves and Chairman Carter introduced Director’s staff. The meeting followed an agenda dated May 30, 2003.

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Awards and Commissioning of Officers

There were none.

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1. Request to Adopt Commission Order 19: Dove; Commission Order 20: Band-tailed Pigeon and Commission Order 24: Sandhill Crane

Presenter: Sam Lawry, Migratory Game Bird Supervisor

Hard copies of the Powerpoint presentation were given to the Commission.

Commission Order 19: Dove

The Department recommended the following Falconry-only season dates: September 12 through October 28. This season recommendation includes the maximum number of hunt days available (47). Falconry is also a legal method of take during the early and late dove seasons.

The Department recommended no change to the season structure for mourning doves and white-winged doves. The early September season was recommended to be 15 days per federal frameworks starting on September 1. The late season hunt was recommended to open November 21, 2003, and close January 4, 2004. The early season North Zone was recommended to be open to all day shooting and the South Zone having ½ day shooting hours starting ½ hour before sunrise and closing at noon. The late season would be for mourning doves only and would be open to all day shooting statewide.

The juniors-only season would be for those areas and dates closed to afternoon dove hunts during the September season. This year the hunt opportunity is recommended at the Robbins Butte Wildlife Area. Recommended dates are September 6-7. Should demand exceed supply, shooting stations will be assigned by a drawing at 4:45 a.m. at the Robbins butte Wildlife Area headquarters.

A portion of Unit 39M has been closed to hunting. Hunting is not permitted in the following area of Unit 39M: an unincorporated portion of land within the City of Mesa known as the Elliot and Hawes County Island in Section 16, Township 1 South, Range 6 East. Hunting is not permitted in Unit 42M in the following described area: those private lands lying just north of the Town of Cave Creek in Sections 10, 11, 12, 14 and 15 of Township 6 North, Range 3 East.

Commission Order 20: Band-tailed Pigeon

Results from the Department's 2001 questionnaire and lack of reliable HIP data accounted for the Department's recommendation of a more conservative season length than allowed by federal frameworks. Until such time federal frameworks become more restrictive or population data suggest restricted bag limit, the Department would strive to offer maximum bag limit opportunities while maintaining a conservative season length.

The Department's recommendation was to continue with the full federal frameworks for bag and possession limits, which are 5 and 10 respectively. The 2003 recommendation was to open the season on September 26 and close it on October 6. This recommendation reflected no change from the 2002 season and provided for two weekend opportunities.

Commission Order 24: Sandhill Crane

The Department recommended a 3-day archery-only hunt starting October 31 and ending November 2, increasing the available permits to 25 from 10. All other regulations with exception to mandatory check out would be the same as the general hunt. The 2003 archery participation and harvest would be estimated using questionnaires.

The allowed federal season dates and bag limits for Arizona were outside dates of the season must fall between September 1 and January 31, and not to exceed 30 days. The bag limit may not exceed 3 per day or 9 per season.

The Department recommended four 3-day general hunts beginning November 7, with 75 permits in each hunt. Each hunt would have a non-hunt day between hunts. Under the terms of the Rocky Mountain Sandhill Crane Management Plan, Arizona's maximum allowable harvest of the Rocky Mountain Population was 44 for 2003.

Mr. Lawry noted that starting this summer there will be a national mourning dove banding effort. The state will be divided into 10 blocks where 1000 bands will be placed on doves this year. In subsequent years, there will be reward bands placed on mourning doves; a hunter will receive a sum of money from the federal government when he submits a reward band. This will be tested to see if there is more likelihood of a person turning in a reward band vs. a standard band with no money. Once these two are calibrated, there will be better information on population and harvest structure. A study

also has to be developed to look at what is occurring with the landscape. Doves are shifting patterns around urban areas.

Motion: Chilton moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE, SUBJECT TO FINAL FEDERAL FRAMEWORKS, COMMISSION ORDER 19: DOVE; COMMISSION ORDER 20: BAND-TAILED PIGEON AND COMMISSION ORDER 24: SANDHILL CRANE, AS PRESENTED.

Vote: Unanimous

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2. Request to Approve a Notice of Rulemaking Docket Opening for Article 6, Rules of Practice Before the Commission

Presenter: Carlos Ramirez, Rulewriter

For additional information, see Commission meeting minutes for June 22, 2002, page 31.

The complexity of the rulemaking and the need to add an additional rule to the package has necessitated extending the timeline for the completion of this rule package. This requires the filing of a new Notice of Rulemaking Docket Opening to allow for the completion of the rule changes.

The Commission approved amendments to the following rules as part of the 2002 5-year rule review package:

- R12-4-601 Amendments related to petition for rule
- R12-4-602 Amendments related to written comment on proposed rules
- R12-4-603 Amendments related to oral proceedings before the Commission
- R12-4-604 Amendments related to *ex parte* communication
- R12-4-605 Amendments related to standards for revocation and denial of right to obtain license
- R12-4-606 Amendments related to proceedings for license revocation, denial of right to obtain license and civil damages
- R12-4-607 Amendments related to petition for requesting closure of hunting, fishing or trapping privileges on state or federal lands

In addition to amendments approved as part of the five-year rule review, new section R12-4-611 was also added to the Article 6 rule package at the request of the Department's Assistant Attorney General. This new section will establish a process for the public to petition the Commission for a hearing to address a problem or issue when no remedy is provided in statute, rule or policy.

Motion: Melton moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE A NOTICE OF RULEMAKING DOCKET OPENING FOR ARTICLE 6, RULES OF PRACTICE BEFORE THE COMMISSION, FOR THE AMENDMENT OF R12-4-601, R12-4-602, R12-4-603, R12-4-604, R12-4-605, R12-4-606, R12-4-607, AND R12-4-610, AND FOR THE PROMULGATION OF NEW RULE R12-4-611.

Vote: Unanimous

3. Request to Close the Rulemaking Record and Adopt the Notice of Exempt Rulemaking for Amendments to Administrative Rules R12-4-802, Wildlife Area Restrictions and R12-4-803, Wildlife Area Boundary Descriptions

Presenter: Carlos Ramirez, Rulewriter

ARS §41-1005(A)(1) exempts the Commission from the rulemaking requirements of ARS Title 41, Chapter 6 for Chapter 8, Wildlife Areas. The wildlife area rules provide protective measures for wildlife and habitat, allow for special management and research practices, and enhance wildlife and habitat conservation. This exempt rulemaking amends R12-4-802 and R12-4-803 to address the incorporation of the newly acquired Enders property into the Becker Lake Wildlife Area. This portion of the property needs to be closed to hunting. Also being recommended is a new restriction that would limit the legal weapon types to bow and arrow and shotguns shooting shot. Region I staff met with the U.S. Forest Service from the Pinetop/Lakeside District to discuss the Jacques Marsh Wildlife Area. At issue are conflicts with the new Penrod Road, non-consumptive users, and firearms hunting on the wildlife area. As an alternative to closing the area to all firearm discharge, placing a limitation on the use of firearms to shotgun only is believed to be acceptable because an estimated 95% of the hunting activities are waterfowl related.

Motion: Gilstrap moved and Melton seconded THAT THE COMMISSION VOTE TO CLOSE THE RULEMAKING RECORD AND ADOPT THE NOTICE OF EXEMPT RULEMAKING FOR AMENDMENTS TO ADMINISTRATIVE RULES R12-4-802, WILDLIFE AREA RESTRICTIONS, AND R12-4-803, WILDLIFE AREA BOUNDARY DESCRIPTIONS. THE AMENDMENTS WILL REMOVE THE DECEMBER 15 TO JULY 31 HUNTING CLOSURE FOR THE BECKER LAKE WILDLIFE AREA, MAKING THE AREA OPEN TO HUNTING IN SEASON, EXCEPT WHERE POSTED; WILL LIMIT LEGAL WEAPONS AT BECKER LAKE WILDLIFE AREA AND JACQUES MARSH WILDLIFE AREA TO SHOTGUN SHOOTING SHOT AND BOW AND ARROW ONLY AND WILL AMEND R12-4-803 TO ADD A NEW PARCEL OF LAND (FORMERLY KNOWN AS THE ENDERS PROPERTY) TO THE BECKER LAKE WILDLIFE AREA.

Vote: Unanimous

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4. Proposed Substantive Policy Statement for Public Records Requests for Commercial and Other Uses of Private Personal Identifying Information

Presenter: Dana Yost, Executive Staff Assistant

Hard copies of the Powerpoint presentation were given to the Commission. A copy of the draft Substantive Policy Statement is included with these minutes.

A brief history of the Department's actions to date was given.

January 2003: To address legal concerns regarding privacy rights, the Department instituted an interim policy to deny commercial public records requests for private personal identifying information.

February-March 2003: The Department developed a draft Substantive Policy Statement, public meeting schedule and questionnaire.

April 2003: The Department issued a Call for Comment on the proposed Public Records Policy and sent questionnaires and the public meeting schedule to licensed guides and taxidermists, meat processors, and approximately 750 individual customers (2,500 total).

Questionnaires and meeting schedules were also sent to stakeholder groups statewide and were distributed to representatives at a Wildlife Conservation Council meeting and to members of the Yuma Valley Rod and Gun Club who attended a recent meeting.

May 2003: The Department held a series of public meetings on this issue in Tucson, Flagstaff, Pinetop and Phoenix. A total of 39 individuals attended and provided comments on the proposed policy.

Comments were also received by email and postal mail, with 83 comments supporting the proposed policy and 39 opposing.

Recommendations were received from the public on ways to either change or mitigate the policy so that impacts would not be so great on commercial customers. One of the recommendations was to list the contact information for guides, taxidermists and meat processors on the Department's website. This was implemented in May 2003.

Another recommendation from the public was to offer an opt-in/opt-out option. There were two ways this could be implemented. The sportsman's and watercraft databases would be affected.

Requirements to Implement Opt-In for the Sportsman's Database Only

1. Modify on-line license, draw and first-come application screens and system. Cost \$4,500.
2. Provide a check box on the 2004 manual draw application. Cost: negligible, but there would be costs involved due to lost inventory because applications would have to be disposed of annually
3. Modify database to include opt-in/opt-out field, transfer data from online applications and input screen. Cost: \$20,000

Total cost: \$24,500

Implementation: March 2004

Requirements to Implement Opt-In for the Watercraft Database Only

1. Modify the on-line system to accommodate opt-in option. Cost \$5,000
2. Provide a check box on the manual renewal applications. Cost: negligible
3. Modify database to include field, etc. Cost: \$24,000

Total cost: \$29,000

Implementation: March 2004

The Department is working on an agency-wide customer database. This database would include opt-in/opt-out functionality with the ability for customers to make changes

to preferences online. The completion of the customer database is dependent on availability of funding, which would cost approximately \$200,000, with funding not identified to date.

The public had several recommendations. One was that the Department would send out mailings for those requesting commercial lists. Appropriate fees would have to be collected to cover all costs, including temporary staff to perform the service. The basic cost would be \$400 per 1000 pieces of mailing, plus the cost of mailing list. This could be implemented immediately.

A second recommendation was to use a pre-sort direct mailing service. Those requesting mailing lists would be able to send mailings through a vendor by supplying promotional materials ready to mail to vendors. This could be implemented immediately.

A third recommendation was to use a vendor mailing service. Those requesting mailing lists would be able to send mailings through a vendor who would contract with the Department for this service (mailing lists would only be provided to the vendor). A procurement solicitation (RFP) is currently underway to allow for the implementation of this option. This would provide for more flexibility and could be implemented by September 1, 2003. Costs would be determined.

A fourth recommendation was to produce an advertising resource guide. A contracted vendor would be responsible for producing and distributing a resource guide in which ad space would be offered for sale. This requires a RFP. The guide could be available for distribution by November 1, 2003. Costs would be determined.

Alternatives available to the Commission were:

1. Adopt the Policy as proposed: To deny public records requests for the exclusive commercial use of private personal identifying information and for any use the Department determines has no public interest or purpose for the use of the private information.

The Department would be able to supply mailing lists for non-profit organizations, e.g., elk or youth camps, that play an important role in the Department's mission to educate current and future hunters and anglers.

2. Continue providing lists to commercial vendors
3. Adopt one or more of the alternatives:
 - Opt-in/Opt-out Options
 - Department or Vendor Mailings
 - Resource Guide

Commissioner Golightly mentioned the option of advertising on the Department's website. Mr. Yost stated Executive Staff looked at the proposal and discussed the option with the Director. The decision was made not to pursue advertising on the website because the Department would have to accept ads from organizations or people it did not want to have advertise. Also, it would be difficult to determine costs.

Commissioner Chilton noted the Department may be held responsible if these ads failed to perform as to what was advertised. She suggested using a guide's website in a similar manner to phone book yellow pages. Mr. Yost stated the Department was looking at providing links to guides' websites for addresses and phone numbers. There was a disclaimer on the website that the Department did not endorse anything.

Mr. Odenkirk stated the database contains personal information about customers but were public records. However, the Department had the ability to restrict access to information. The courts have created exceptions to public records disclosure requirements. One was in the area of privacy, i.e., privacy interests must be considered in determining whether to release public records. More and more the courts are giving more deference in protecting privacy interests, specifically personal identifying information (phone numbers, dates of births, names and addresses). The Department has historically released this information for mailing lists. There has been an increasing concern regarding privacy over the years. There were concerns regarding identify theft and unasked for solicitations coming into people's homes. Congress recognized privacy as an important issue and passed the Drivers' Privacy Protection Act, which prohibits all motor vehicle departments from selling lists unless a driver specifically opted-in to allow his or her name to be included in the list.

There has been a change in case law in this area and there are increasing concerns by the Department and customers regarding private information. When there is an analysis whether or not to release personal information, privacy interests have to be balanced with public interest in getting information. The courts employ a balancing test: privacy concern (invasion of privacy) vs. public purpose in getting access to private information. When it relates to the public records law, the public interest is in trying to determine what activities the government was involved in. The public interest can be beyond that and can include public safety and informing the public of a concern. In applying this balancing test to exclusive commercial use, it was determined the privacy side outweighed commercial use. In that case, the Department instituted the policy to restrict access for exclusive commercial use. Requests are evaluated on a case-by-case basis. There were different levels of privacy and different levels of concern with information that is released.

Public comments

David Willie, co-owner of American Wildlife Outfitters (AWO), stated he was not looking for a name but only an address to send solicitations. He asked why non-profits were receiving information and businesses such as his will not. The website was a good idea but only guides are listed in the state; no outfitters were listed. More research needed to be done before the policy was passed and action should be postponed until next year.

Gary Howell, co-owner of AWO, opposed denial of public access for commercial use of records. He questioned the precedence and the need to implement a policy at this time. His business and partners in the business (taxidermists, meat processors, guides and outfitters) is the lifeline of the list. A client's name and address are needed because different hunters are drawn each year. Customers have the right to investigate his or other partners' businesses. The denial of public records without advance notification was going to cause the demise of his business and many of the partners in this industry. They

should be allowed to purchase lists. More time should be allowed to investigate this issue and to come up with an amiable decision.

Pete Cimellaro, representing self, had concerns with the proposed policy. It was an arbitrary policy. We wanted to see it plain and simple. As a commercial guide and outfitter, he had been in competition with other guides and outfitters. Now he was in competition with application services outside the state. The Department and Commission needed to take time to do this right.

Bill Keebler, past president of the Arizona Antelope Foundation (AAF) and president of the Arizona Desert Bighorn Sheep Society (ADBSS), was concerned with non-profits. The AAF gives free clinics and it was important to have lists to mail notices of these free clinics to hunters. The ADBSS runs a raffle for a tag that an average person can afford. He wanted to be able to mail raffle ticket applications. It was important to nonresidents to have information. It was a service to the hunter. The Commission should accept alternative #2.

Ron Eichelberger, representing the Arizona Elk Society (AES), stated the AES also conducts a raffle; without lists, the program would be killed. One of the youth programs had to be cancelled because the AES could not get a list. Speaking as an outfitter, application services needed to be addressed.

Gary Allen, owner of Ramslam Outfitters, stated lists for clientele were important to his livelihood. A person could choose to opt-out so his name would not be added to the list. He was concerned with the policy.

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Meeting recessed at 9:32 a.m.

Meeting reconvened at 9:45 a.m.

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John Nevins, owner of Four Peaks Game Processors, stated he needed names as his business was not yet established. He felt the impact of not buying names. Because of the ability to apply for big game hunts online, people were not reading the regulations and ads as they have done in the past. Most people want to receive information. A lot of new people moving into the state needed to have information.

Blaine Bickford, representing the Arizona Deer Association and White Mountain Rod and Gun Club, stated the availability of the applicants to non-profits specifically through a variety of juniors programs has not been adequately addressed. Junior hunters and their families would be impacted if they did not have information on the programs. Education and assistance by these organizations were provided before and during hunts. It was important to contact these youths.

Chairman Carter stated the ramifications of the Commission's action today as it relates to the Department's mission would be far reaching. There are a number of industries that provide and complement services to the Commission's constituencies. He felt that, based on the presentation, there were legal issues to consider regarding privacy. If the Commission moved too quickly, there would be an impact on a valuable service to the constituencies. He suggested the Commission seriously consider Alternative #2. The Department could continue to move forward on individual rights of constituents (license

purchasers) to allow them to make decisions as to whether or not they want to be provided with information on a service. This process should have no time frame on it at this point with respect to completion dates.

Commissioner Gilstrap was concerned with identity theft and realized the importance of privacy.

Commissioner Chilton thought in the long-term responsible steps should be taken to ensure information was not being handed out that could not be obtained elsewhere easily. She agreed with the Chairman that the Department should look at opt-in/opt-out provisions.

Commissioner Melton agreed with the Chairman's suggestion.

Motion: Melton moved and Chilton seconded THAT THE COMMISSION CONTINUE PROVIDING LISTS TO COMMERCIAL VENDORS AND LOOK INTO OPT-IN/OPT-OUT OPTIONS.

Commissioner Golightly asked if the motion could be separated. He did not think the Commission needed to do anything with opt-in/opt-out. Chairman Carter asked if the maker and second of the motion would agree to modify the motion to TERMINATE THE INTERIM POLICY AND CONTINUE TO PROVIDE LISTS TO COMMERCIAL VENDORS. Commissioners Melton and Chilton agreed.

Vote on Amended Motion: Unanimous

Chairman Carter stated from a legal perspective the agency needed to pursue a course with respect to privacy, but there were no urgent timeframes unless the Department was forced. He hoped the Commission would give direction to modify the system to provide the ability for an individual to opt-in/opt-out of the service.

Commissioner Gilstrap preferred not to limit the decision to opt-in/opt-out, but to allow the Department to develop a plan to protect the identity of constituents. Commissioner Golightly noted people were not used to opt-in/opt-out and he did not want the Department to spend time and money on this option. He wanted the Department to bring back something in terms of time and cost.

Chairman Carter stated at some time in the future, there would be a legal challenge to the Department's policy; it would be short sighted not to look at something long term. Every entity that has looked into it has opt-in/opt-out. The individual has the responsibility to make a choice. The long-term objective of the Department needed to be consistent with where they were at today in the environment related to the individual's right to be on or off a list. The Department should be given general direction to start pursuing that and identify how they can do other things that enhance the technology related to wildlife management, its constituencies and those who provide services.

Director Shroufe stressed the need to be specific. He did not see the need to go through a lot of scenarios. The Department could develop an opt-in/opt-out option and then come back in a reasonable amount of time before the process was implemented for Commission direction.

Mr. Odenkirk added it was important to look at a litany of options and keeping some flexibility in terms of time. There was a difference in the effectiveness of opt-in/opt-out approaches. The agency needed time to investigate the effectiveness of one approach over the other with regard to privacy. The opt-in/opt-out approach would reduce the chance of being sued for invasion of privacy as the individual made a choice regarding his or her privacy. Some perspective needs to be placed on the issue of liability to the agency for privacy violation. There is always the risk that the agency could be subject to litigation with regard to the issue. There was an increasing number of people expressing concern that the Department was releasing private information.

Chairman Carter asked Mr. Odenkirk if it would be advantageous to work towards a system that unless a person opts in, the person's privacy is protected. Mr. Odenkirk stated this would provide the greatest level of protection to the public and would be consistent with the Department of Motor Vehicles. With the decision to continue to allow access to information, he stressed the Department should stop releasing dates of birth. As part of the Commission direction, the Department would not be releasing dates of birth. There could be public records requests that come in that are evaluated regarding privacy vs. public interests. The Department could determine when dates of birth should be released. He did not want the Commission to preclude the Department from having to take an action it needed to take legally.

Commissioners Golightly and Chilton preferred opt-out.

Motion: Gilstrap moved and Melton seconded THAT THE COMMISSION ASK THE DEPARTMENT TO CONTINUE ITS EVALUATION OF THE ALTERNATIVES FOR THE PROTECTION OF THE IDENTITY OF LICENSE AND PERMIT HOLDERS.

Vote: Unanimous

Mr. Yost noted the Department was pursuing an agency wide customer database for over a year and an initial prototype phase has been implemented to get some of the initial programming done.

Public comment

Gary Howell stated an important option was forgotten in that names would be omitted from the list. Mr. Yost stated the idea had been explored. A certain segment of the population (guides and taxidermists) didn't want to see names omitted because it would cost more to do mailings. The Department could look into this further as part of the overall direction from the Commission.

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5. Call to the Public

Steve Chevront, representing the Arizona Deer Association, spoke about water projects. There was a lot of volunteer help from different wildlife organizations in northern Arizona and the Buckskin Chapter has established a good rapport with the Bureau of Land Management and U.S. Forest Service. He appreciated the Department's participation.

Ron Eichelberger, representing self, spoke regarding bonus points. He helped clients apply for hunts in Arizona. Every year, there are some people who want to apply in order to keep their bonus points, but they would not hunt if drawn. He has to put them in for a unit with low draw odds and hope they don't get drawn to take someone else's permit who really wants to hunt. He wanted to find a way for these people to keep bonus points without getting drawn. He suggested a "dummy" hunt for a species with bonus points, but with no permits available. Or a bonus point could be bought without actually applying.

Mr. Ferrell noted a rule that would be presented to the Commission at a future meeting. The Article I team is looking at the five-year rules package. In that package is a proposal to establish a hunt number for each genus specifically for bonus point purposes, with no allocation of permits.

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6. Future Agenda Items

Commissioner Chilton noted a letter she wrote with regard to the Sonoran Desert Conservation Plan report was given to the other commissioners. She raised issues in that letter where she felt there needed to be a briefing on how that proposed plan and the proposed Multi-Species Habitat Conservation Plan would affect state control of wildlife management and how that control could be potentially federalized and the unintended effects on habitat that might result from the plan. She requested a briefing and asked issues expressed in her letter be addressed.

Commissioner Chilton asked for a briefing on the latest research results of Dr. Medina on endangered fish in the upper Verde River. It had been scheduled before but was cancelled by Dr. Medina because of other obligations. Director Shroufe stated the Department would contact Dr. Medina again to see if he was ready to give a presentation.

Mr. Ferrell reviewed action items and future agenda items previously discussed.

1. Stimulate activity with the U.S. Forest Service to move towards completing the Frye Mesa road project and ultimately transfer to a willing jurisdiction.
2. Revisit Commission's prior resolution re: forest health to determine if it already addresses the proactive use of the National Forest Plan avenues to reduce the risk of wildfire and improve forest health on a watershed basis. If the Commission determines the existing resolution is adequate, it will reaffirm it in a letter. This would be a future Commission meeting agenda item. A letter would be established for Commission signature by the first week in July.
3. Direction to flesh out the land acquisition process improvement recommendations with cost estimates where appropriate and identify who was supervising those outsourcing efforts and who will supervise the overall process to insure equal prioritization. This would be on the August agenda.
4. Send a letter to the Altar Valley Conservation Alliance advising them we will wait to hear from them as to when they wish to have the item on the agenda. This will be on a future agenda, date unknown.
5. Pursue additional sites in the Tucson basin for shooting range development. The Commission intends to take no further action on the purchase or transfer of the Sabino Canyon Range.

6. With regard to proposed planning for a new headquarters, pursue increased limits on bonding authority within the '04 legislative session; update current concept with revised cost estimates; focus on a site in the general vicinity of the Ben Avery Shooting Facility; get an appraised value on the Greenway property and explore financial options. This item could be on the agenda for September.
7. Terminate the interim policy on commercial public records and continue with Alternative 2. At a future meeting, date undetermined, the Department would continue its evaluation of alternatives to protect privacy interests and share with the Commission prior to implementation.

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

Vote: Unanimous

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Meeting adjourned 10:45 a.m.

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