

Minutes of the Telephonic Meeting of the
Arizona Game and Fish Commission
Friday, November 2, 2007
Arizona Game and Fish Department
2221 W. Greenway Road
Phoenix, Arizona 85023

PRESENT: (Commission)

(Director's Staff)

In person:
Commissioner Robert D. Hernbrode

In person:
Director Duane L. Shroufe

Via telephone:
Chairman Michael M. Golightly
Commissioner William H. McLean
Commissioner Jennifer L. Martin
Commissioner Robert R. Woodhouse

Via telephone:
Assistant Attorney General Shelley Cutts

Chairman Golightly called the meeting to order at 9:30 a.m. Director Shroufe conducted roll call and all five Commissioners were present. Several Department staff members were present along with one member of the public. This meeting followed an agenda dated October 31, 2007.

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1. Tumacacori Highlands Wilderness Act of 2007

Presenter: Anthony Guiles, Legislative Liaison

Mr. Guiles provided an update on H.R. 3287, proposed legislation for the designation of the Tumacacori Highlands Wilderness Area within the Coronado National Forest. At the October meeting the Commission directed the Department to provide some draft language that they would like to see added to the bill. The Department drafted four alternatives (attached to these minutes).

The Commission discussed Alternatives 3 and 4 as potential language. It was agreed that the mention of the Association of Fish and Wildlife Agencies (AFWA) should be dropped from Alternative 4.

Commissioner McLean suggested going into Executive Session to get legal advice on how to approach public discussions regarding the Commission's position and potential negotiations with Congressman Grijalva's Office on the language in the bill.

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3. Executive Session

The Commission voted to meet in Executive Session in accordance with A.R.S. § 38-431.03 (A)(3) and (4) for the purpose of discussion and consultation with legal counsel.

Motion: McLean moved and Golightly seconded THAT THE COMMISSION VOTE TO GO INTO EXECUTIVE SESSION.

Vote: Aye – Golightly, McLean, Martin
Nay - Hernbrode, Woodhouse
Passed 3 to 2

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1. (Continued) Tumacacori Highlands Wilderness Act of 2007

Presenter: Anthony Guiles, Legislative Liaison

Commissioner Hernbrode asked which of the four alternatives provided by the Department best fits Commission direction given in his motion at the October meeting as follows: “That the Arizona Game and Fish Department staff be instructed to draft language that ensures that the State has adequate authority to manage wildlife and wilderness throughout the rest of the State and further to work with Congressman Grijalva and the rest of the Arizona Delegation to ensure that clear and concise language that articulates Arizona’s role and authority to manage wildlife in wilderness is ensured.”

Director Shroufe stated that the alternatives were a place to start and that the Commission needs to give direction from there. The Department needs very strong and concise direction from the Commission on what the Department can do in negotiations on the language of the bill. Just recently the Department was criticized by some constituents for not following what they thought was Commission direction to the Department.

The Commission discussed the language in the alternatives and whether to give the Department authority to negotiate or to have them come back to the Commission for further direction.

Motion: Martin moved and Hernbrode seconded THAT THE COMMISSION VOTE TO DIRECT THE DEPARTMENT TO TAKE ALTERNATIVE 3 TO CONGRESSMAN GRIJALVA AND FURTHER DIRECT THE DEPARTMENT TO USE THAT AS A STARTING POINT AND NEGOTIATE LANGUAGE THAT IS ACCEPTABLE TO THE CONGRESSMAN AND THE DEPARTMENT, AND IF THEY ARE ABLE TO ACHIEVE SUCH LANGUAGE, THEN BRING THAT BACK TO THE COMMISSION FOR APPROVAL OR FURTHER DIRECTION.

Amended Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO AMEND THE MOTION TO PLACE A SENTENCE IN FRONT OF ALTERNATIVE 3 AS FOLLOWS: “WILDERNESS IS HEREBY RECOGNIZED AS A CRITICAL WILDERNESS RESOURCE UPON WHICH THE QUALITY OF THAT WILDERNESS AND THE HUMAN EXPERIENCE IN WILDERNESS IS MEASURED.”

Commissioner Martin suggested changing her motion to alternative 4 and striking the AFWA language rather than add the sentence suggested by Commissioner Hernbrode.

Vote: Aye - Hernbrode

Nay - Golightly, McLean, Martin, Woodhouse
Failed 4 to 1

Commissioner McLean offered an amendment to Commissioner Martin's motion by striking it in its entirety and inserting the following language; "Wildlife is hereby recognized as a critical wilderness resource in all wilderness areas within the State of Arizona. Accordingly, any and all wildlife management activities designed to protect, maintain and enhance wildlife populations and their habitat shall be regarded as furthering the purpose of the wilderness Act (16 U.S.C. 1131-1136) and shall not be subject to the limitations and prohibitions otherwise imposed by the Wilderness Act," and then to reinsert in this motion, "to direct the Department to take this language to Congressman Grijalva to use as a starting point and negotiate language that is acceptable to the Congressman and the Department, and if they are able to achieve such language, then bring that back to the Commission for approval or further direction."

The Commission discussed and clarified that the amended motion pertained to all wilderness areas within the State of Arizona and further confirmed with Mr. Guiles that he understood the direction to the Department in the motion.

Motion: McLean moved and Woodhouse seconded THAT THE COMMISSION VOTE TO AMEND THE MOTION.

Vote: Unanimous

Amended Motion: Martin moved and McLean and Hernbrode seconded THAT THE COMMISSION VOTE TO APPROVE THE FOLLOWING LANGUAGE: "WILDLIFE IS HEREBY RECOGNIZED AS A CRITICAL WILDERNESS RESOURCE IN ALL WILDERNESS AREAS WITHIN THE STATE OF ARIZONA; ACCORDINGLY, ANY AND ALL WILDLIFE MANAGEMENT ACTIVITIES DESIGNED TO PROTECT, MAINTAIN AND ENHANCE WILDLIFE POPULATIONS AND THEIR HABITATS SHALL BE REGARDED AS FURTHERING THE PURPOSE OF THE WILDERNESS ACT (16 U.S.C. 1131-1136) AND SHALL NOT BE SUBJECT TO THE LIMITATIONS AND PROHIBITIONS OTHERWISE IMPOSED BY THE WILDERNESS ACT." AND FURTHER, THE COMMISSION DIRECTS THE DEPARTMENT TO TAKE THIS LANGUAGE TO CONGRESSMAN GRIJALVA TO USE AS A STARTING POINT AND NEGOTIATE LANGUAGE THAT IS ACCEPTABLE TO THE CONGRESSMAN AND THE DEPARTMENT, AND IF THEY ARE ABLE TO ACHIEVE SUCH LANGUAGE, THEN BRING THAT BACK TO THE COMMISSION FOR APPROVAL OR FURTHER DIRECTION."

Vote: Unanimous

Commissioner Hernbrode briefed the Commission on proposed changes to resolve access issues on the proposed Wilderness addition of the Tumacacori Highlands and the Pajarita. Commissioner Hernbrode and Gerry Perry, Tucson Regional Supervisor, worked together to make changes and clarifications and put them on an updated map (attached to these minutes). Mr. Perry was present via telephone. The Commissioners did not have a copy of the updated map, so Commissioner Hernbrode described the main changes as follows:

- Forest Road 4148 is back in as well as a smaller leg to the east

- Closure of Forest Road 4147, because it has no public access
- Minor changes to the next mark north on the map
- Forest Road 4145 extends the cherry stem
- There is a new cherry stem coming off of Forest Road 4138
- Keeping Forest Road 4856 and keeping cherry stems that are there
- Add Forest Road 4857 to create a loop in the southeasterly corner of Pima County
- Continue the cherry stems off of Forest Road 4857, plus add two cherry stems as it turns north
- Cherry stem put back in below Forest Road 4187

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO ACCEPT THE MAP WITH THE CHANGES DISCUSSED AS THE NEGOTIATING POINT FOR THE DEPARTMENT AND TO DIRECT THE DEPARTMENT TO TAKE THIS MAP WITH THE CHANGES TO CONGRESSMAN GRIJALVA TO USE AS A STARTING POINT AND NEGOTIATE THAT WHICH IS ACCEPTABLE TO THE CONGRESSMAN AND THE DEPARTMENT, AND IF THEY ARE ABLE TO ACHIEVE RESOLUTION, THEN BRING THAT BACK TO THE COMMISSION FOR APPROVAL OR FURTHER DIRECTION.”

Vote: Unanimous

Mr. Guiles further informed the Commission that a hearing is tentatively scheduled for November 13, 2007 on the Tumacacori Wilderness proposal. The Department has not been contacted at this point to testify.

The Commission gave direction to the Department to communicate with Congressman Grijalva’s Office as soon as possible prior to November 13 and to request to testify at the hearing. How the Commission will testify depends on the outcome of the negotiations with Congressman Grijalva’s Office.

Chairman Golightly requested that the Commission be kept updated as this progresses.

The Commission directed the Department to issue a news release on the Commission’s direction to the Department and its position pertaining to the Tumacacori Wilderness proposal.

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2. H.R. 3301 Southeast Arizona Land Exchange and Conservation Act of 2007

Presenter: Anthony Guiles, Legislative Liaison

Mr. Guiles briefed the Commission on a hearing yesterday with Congressman Grijalva’s Natural Resources Sub-committee regarding H.R. 3301, which is a Resolution Copper land exchange. At the end of the committee hearing, Congressman Grijalva outlined seven points he felt needed to be worked on before the bill proceeded any further. Those items were:

- Lands hold cultural and religious values to Ft. McDowell Yavapai Nation and the San Carlos Apache, both tribes need to be included on this matter in the future
- More needs to be done to equalize the land exchange

- Not enough time is given for NEPA and ESA consultation and tribal consultation
- Funding is inadequate for campground
- BLM does not have the capacity to manage the rock climbing park should the state not take it
- Governor Napolitano thinks Resolution Copper should provide \$8 million to cover the cost of State Park
- Hydrology concerns.

Commissioner Martin clarified that the second bullet, equalize the land exchange, refers to dollar figures on appraisals for the surface area taken up by the mine itself and what properties will be exchanged for that. They are not talking about the land that is going to be developed to support the mine.

Mr. Guiles further stated that the comment period was extended for five days past yesterday's hearing and asked the Commission if they would like to send a letter with any comments that they have on this legislation. There will probably not be any further action on this bill during this session.

Commissioner Hernbrode noted that there was nothing in the bill pertaining to wildlife and the direct or indirect impact on wildlife, and recommended that the Commission send a letter.

Commissioner Martin added that the bill should mirror the language of H.R. 2262 in terms of as follows: As a contingency of the land swap that Resolution Copper draft a complete operational plan that describes how they will be mitigating for wildlife throughout the course of the mine and not just reclaiming at the end; that a complete reclamation plan with a funding mechanism to fully implement that plan be identified up front; and that any land swap be contingent upon those plans being completed in cooperation with State and Federal agencies.

The Commission directed the Department to work with Commissioners Hernbrode and Martin to draft and send a letter signed by the Chairman on behalf of the Commission.

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4. Call to the Public

There were no requests from the public to speak.

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

Vote: Unanimous

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Meeting adjourned at 10:50 a.m.

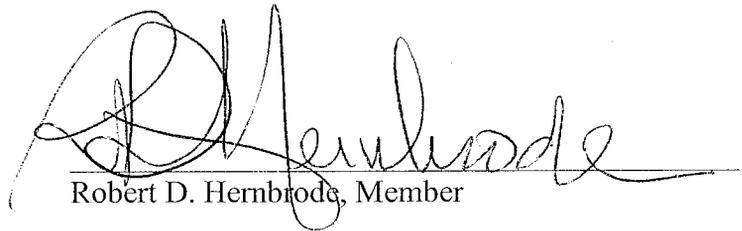
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Michael M. Golightly, Chair



William H. McLean, Vice Chair



Robert D. Hernbrode, Member



Jennifer L. Martin, Member



Robert R. Woodhouse, Member

ATTEST:



Duane L. Shroufe
Secretary and Director

WILDLIFE MANAGEMENT LANGUAGE

H. R. 3287

Tumacacori Highlands Wilderness Act of 2007

Alternative #1

(3) WILDLIFE MANAGEMENT- The provisions of the wilderness act shall not be construed to prevent the jurisdiction of the State of Arizona with respect to fish and wildlife management under existing agreements, policies and guidelines entered into by federal and state agencies.

Alternative #2

(3) WILDLIFE MANAGEMENT.

(1) IN GENERAL- In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this title affects or diminishes the jurisdiction of the State of Arizona with respect to fish and wildlife management, including the regulation of hunting, fishing, and trapping, in the wilderness areas designated by this title.

(2) COOPERATIVE AGREEMENT- No later than one year after the date of enactment of this Act, the Secretary shall enter into a cooperative agreement with the State of Arizona. The cooperative agreement shall specify the terms and conditions under which the State (including a designee of the State) may use wildlife management activities in the wilderness areas designated by this title

(3) MANAGEMENT ACTIVITIES- In furtherance of the purposes and principles of the Wilderness Act, management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas designated by this title where consistent with relevant wilderness management plans, in accordance with appropriate policies such as those set forth in Appendix B of House Report 101-405, including the occasional and temporary use of motorized vehicles, if such use, as determined by the Secretary, would promote healthy, viable, and more naturally distributed wildlife populations that would enhance wilderness values and accomplish those purposes with the minimum impact necessary to reasonably accomplish the task.

(4) EXISTING ACTIVITIES- Consistent with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)) and in accordance with appropriate policies such as those set forth in Appendix B of House Report 101-405, the State may continue to use aircraft, including helicopters, to survey, capture, transplant, monitor, and provide water for wildlife populations, including bighorn sheep, and feral stock, horses, and burros.

(5) WILDLIFE WATER DEVELOPMENT PROJECTS- Subject to subsection (f), the Secretary shall authorize structures and facilities, including existing structures and facilities, for wildlife water development projects, including guzzlers, in the wilderness areas designated by this title if--

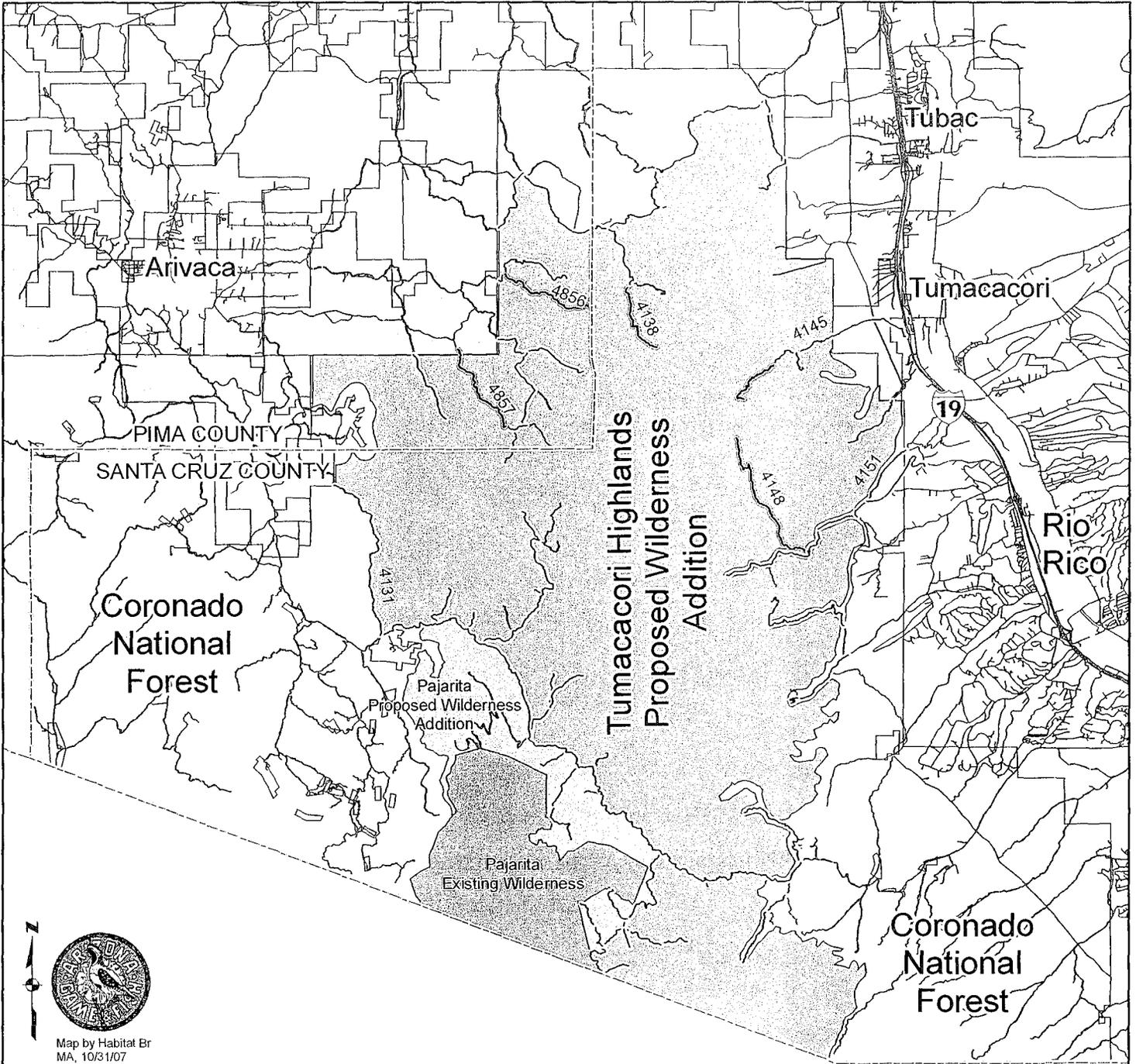
- (a) the structures and facilities will, as determined by the Secretary, enhance wilderness values by promoting healthy, viable and more naturally distributed wildlife populations; and
- (b) the visual impacts of the structures and facilities on the wilderness areas can reasonably be minimized.

Alternative #3

(3) WILDLIFE MANAGEMENT- The provisions of the wilderness act shall not be construed to prevent the jurisdiction of the State of Arizona with respect to fish and wildlife management.

Alternative #4

Wildlife is hereby recognized as a ^{critical} vital wilderness resource in all designated wilderness areas within the State of Arizona. Accordingly, any and all activities designed to protect, maintain and enhance wildlife populations and their habitats shall be regarded as furthering the purpose of the Wilderness Act (16 U.S.C. 1131-1136) and shall not be subject to the limitations and prohibitions otherwise imposed by the Wilderness Act. ~~The Association of Fish and Wildlife Agencies (AFWA) document; Policies and Guidelines for Fish and Wildlife Management in National Forest and Bureau of Land Management Wilderness shall be used as guide in administrating and implementing wildlife management activities in all State of Arizona Wilderness Areas~~



Map by Habitat Br
MA, 10/31/07

- Private Land
- State Trust Land
- BLM Land
- U.S. Forest Land
- Game and Fish Land
- National Wildlife Refuge
- Tumacacori Highlands Addition
- Pajarita Addition
- Pajarita Existing

Tumacacori Highlands

