



PUBLIC MEETING NOTICE AND AGENDA **REVISION #1**

September 21, 2020

A public meeting of the Arizona Game and Fish Commission will be held on **September 25, 2020** at the **Greer Community Center, 74 Main Street, Greer, AZ 85927**. The public may attend the meeting in person but the number of people allowed in the meeting facility will be limited based on social distancing requirements. In the alternative, the public **may view the meeting at www.azgfd.gov/commissioncam** or may listen to the meeting by calling **404-397-1516**, Access code: **280 046 234##**. Members of the public may view the meeting from any Department Regional Office and the Department's Headquarters via video teleconference. Members of the public attending in person wanting to speak on a specific agenda item may submit Speaker Cards (Blue Cards) if they wish to speak to the Commission. Members of the public viewing via video teleconference wanting to speak to the commission on specific agenda items can call **602-962-8790** and follow the prompts to say your name, where you are calling from, and the agenda item you wish to speak about. Copies of any presentations, documents, etc. discussed during the meeting will be available by contacting sbernal@azgfd.gov. Unless expressly provided otherwise with any matter, the Commission may discuss and may vote to take action on the following matters:

Friday, September 25, 2020 - Meeting begins at 8:00 A.M.

Pledge of Allegiance

Welcome/Introductions

Awards and Recognition

- 1) Consent Agenda.** The following items have been grouped together and are hereby noticed as consent agenda items to expedite action on routine matters, which may not require public discussion. The Commission will be asked to approve briefings and updates without further public input or discussion and to approve other matters as presented, subject to approval or recommendations of the Commission's legal counsel. Commission members may remove certain items if further public input or discussion is deemed necessary.
 - a) Approve Subcontract for Fourth Priority Colorado River Water Rights. Presenter: Jade Dickens, Water Resources Program Manager.** Subcontract for Fourth Priority Colorado River Water Rights for development of a backwater pond as part of the larger Bullhead City - Laughlin bridge project on the Colorado River Nature Center Wildlife Area.
 - b) Approve License Agreement with Jonathan and Rebecca Simons on the Lower San Pedro Wildlife Area. Presenter: Clay Crowder, Habitat, Evaluation, and Lands Branch Chief.** License Agreement with Jonathan and Rebecca Simons for non-exclusive access on the Lower San Pedro Wildlife Area.

azgfd.gov | 602.942.3000

5000 W. CAREFREE HIGHWAY, PHOENIX AZ 85086

GOVERNOR: DOUGLAS A. DUCEY **COMMISSIONERS:** CHAIRMAN KURT R. DAVIS, PHOENIX | LELAND S. "BILL" BRAKE, ELGIN
JAMES E. GOUGHNOUR, PAYSON | TODD G. GEILER, PRESCOTT | ERIC S. SPARKS, TUCSON **DIRECTOR:** TY E. GRAY **DEPUTY DIRECTOR:** TOM P. FINLEY

- c) **Approve Pinetop Office Space Lease Agreement with USFWS. Presenter: Clay Crowder, Habitat, Evaluation and Lands Branch Chief.** Office Space Lease Agreement with the USFWS for the purpose of leasing office space located at the Pinetop Region 1 Office in order to maintain a field office for the management of the Mexican Wolf Recovery Program.

****NEW****

- d) **Approve Agreement with Bullhead City to Maintain an Access Road on the Colorado River Nature Center Wildlife Area. Presenter: Jim Ruff, Land and Water Program Supervisor.** License agreement with Bullhead City to provide O&M for an access road to be constructed on the bridge embankment and noise berm as part of the larger Bullhead City - Laughlin bridge project on the Colorado River Nature Center Wildlife Area.

****NEW****

- e) **Approve Horseshoe Ranch Research Area Property Use License Agreement. Presenter: Clay Crowder, Habitat, Evaluation, and Lands Branch Chief.** The Commission may approve entering into a License Agreement with Northern Arizona University and the Desert Botanical Garden for continued research at Horseshoe Ranch, Yavapai County, AZ.

- 2) **State and Federal Legislation. Presenter: Ed Sanchez, Legislative Liaison.** The Commission will be briefed on the status of State and Federal legislation. The Commission may take a position or provide direction to the Department for coordination, action, or proposed changes to legislation or other elective issues related to Department responsibilities.
- 3) **Commission Priorities Update. Presenter: Kent Komadina, Special Assistant to the Director.** The Department will provide an update on the Commission Priorities and Metrics and will provide an expanded presentation by Wildlife Recreation Branch Chief, Scott Lavin regarding Fair Chase.
- 4) **State and Federal Lands Planning Update. Presenter: Clay Crowder, Habitat, Evaluation, and Lands Branch Chief.** The Commission will be updated on Department activities and involvement with land management planning and other actions regarding state and federal lands in Arizona.

****PULLED****

- 5) Update on agency marketing efforts and projects; FY21 Conserve and Protect strategy; public-private alliances; and 10 in 10 revenue results and planning.
- 6) **Request to Approve Draft Notice of Exempt Rulemaking Amending R12-4-102. License, Permit, Stamp, and Tag Fees, R12-4-202. Disabled Veteran's License, and R12-4-412. Special License Fees. Presenter: Celeste Cook, Rules and Policy Manager.** The Department will ask the Commission to vote to approve a Draft Notice of Exempt Rulemaking amending R12-4-102. License, Permit, Stamp, and Tag Fees, R12-4-202. Disabled Veteran's License, and R12-4-412. Special License Fees to implement new fees, establish a Reduced-fee Disabled Veteran's License and establish or increase special license fees.

- 7) **Approve Final Rulemaking Amending Article 2 Rules Addressing Licenses; Permits; Stamps; Tags. Presenter: David Fernandez, Legislative Specialist.** The Department will ask the Commission to vote to approve a Notice of Final Rulemaking, and Economic Impact Statement amending rules within Article 2, Addressing the Licenses, Permits, Stamps, and Tags for the take of wildlife.
- 8) **Request to Approve Draft Notice of Exempt Rulemaking Amending Article 8, Wildlife Areas and Department Property. Presenter: Jim Ruff, Land and Water Program Manager.** The Department will ask the Commission to vote to approve a Draft Notice of Exempt Rulemaking amending Article 8, Wildlife Areas and Department Property.

TIME CERTAIN AT 10:00 AM

- 9) **Hearings on License Revocations for Violations of Game and Fish Codes and Civil Assessments for the Illegal Taking and/or Possession of Wildlife. Presenter: Gene F. Elms, Law Enforcement Branch Chief.** The Commission will consider and take action on the license revocations and/or civil assessments for the individuals listed below:

Name	Docket #	Conviction
Andrew Schmuker	2020-0021	Take Wildlife Javelina A Valid Permit Tag. Take Javelina During A Closed Season. Exceed The Bag Limit.
Jeree Schmuker	2020-0022	Take Javelina Without A Valid Permit Tag. Take Javelina During A Closed Season.
Robert E. Nelson	2020-0025	Possess Unlawfully Taken Mule Deer.
David Wood	2020-0026	Amended Charge - Possession Of Unlawfully Taken Mule Deer.
Leland Cormell III	2020-0033	Amended Charge - Unlawfully Take Wildlife.
Margi McDaniel	2020-0046	Possess/Transport Unlawfully Taken Mule Deer).
Jeffery Gese	2020-0049	Possess/Transport Unlawfully Taken Bull Elk. Take Wrong Sex (Bull Elk).
Randal Ashton	2020-0050	Possess/Transport Unlawfully Taken Bull Elk.
Justin Neese	2020-0051	Possess/Transport Unlawfully Taken Bull Elk.

Mark Carlisle	2020-0052	Knowingly Waste Edible Portions Of Elk Meat.
Alan Townsend	2020-0058	Possession Of Unlawfully Taken Mule Deer.

- 10) Hearing on Guide License Revocation for Violations of Game and Fish Codes for the Illegal Taking and/or Possession of Wildlife. Presenter: Gene Elms, Law Enforcement Branch Chief.** The Commission will consider and take action on the guide license revocation for the individual listed below.

Name	Docket #	Conviction
Blake Owens	2020-0060	Possess Or Transport Any Wildlife Or Parts Of The Wildlife That Was Unlawfully Taken. (4x4 200" Mule Deer).
Blake Owens	2020-0061	Take Big Game During a Closed Season. Game. (3x3 Drop Tine Mule Deer).
Blake Owens	2020-0062	Possess Or Transport Any Wildlife Or Parts Of The Wildlife That Was Unlawfully Taken. (5x4 Mule Deer).

- 11) Possible Vote to Modify the License Revocation Periods for Nicholas Slater and Kelly Slater to Accord with the Agreement for the Dismissal of Case No. 2:18-cv-04251, United States District Court for the District of Arizona.** Presenter: John LeSueur, Assistant Attorney General, Arizona Attorney General's Office.
- 12) Rehearing Request Regarding Previous License Revocation/Civil Assessment. Presenter: Gene F. Elms, Law Enforcement Branch Chief.** Kelly Slater has requested a rehearing regarding the revocation of her license privileges (2019-001).
- 13) Rehearing Request Regarding Previous License Revocation/Civil Assessment. Presenter: Gene F. Elms, Law Enforcement Branch Chief.** Nicholas Slater has requested a rehearing regarding the revocation of his license privileges and civil assessment (2019-002, 2019-003, 2019-004, 2019-005).
- 14) Rehearing Request Regarding Previous License Revocation/Civil Assessment. Presenter: Gene F. Elms, Law Enforcement Branch Chief.** Thomas J. Purinton has requested a rehearing regarding the revocation of his license privileges. (2020-0042, 2020-0043, 2020-0044, 2020-0045)

Lunch Break (Begins at 12:00 p.m.)

- 15) Establishing an Intergovernmental Agreement between Arizona State Parks and Arizona Game and Fish Department, Site Steward Program. Presenter: Abraham Arnett, Cultural Resource Compliance Manager, Habitat, Evaluation, and Lands Branch.** The Commission

may approve an Intergovernmental Agreement (IGA) with Arizona State Parks to monitor cultural resources with the use of volunteers on lands owned by the Commission and administered by the Arizona Game and Fish Department.

- 16) **Establishing Memorandums of Understanding with Primary Federal Agencies with Land or Jurisdictional Authority in Arizona. Presenter: Clay Crowder, Habitat, Evaluation, and Lands Branch Chief.** The Commission will be briefed on draft Master Memorandum of Understanding and may approve the Department to execute MOUs with the U.S. Bureau of Land Management Arizona State Office and the U.S. Fish and Wildlife Service Interior Region 8 (Albuquerque) Office.
- 17) **Consideration of Habitat Partnership Committee (HPC) Charter. Presenter: Kirby Bristow, Habitat Partnership Committee Coordinator.** The Commission will be presented with the updated HPC Charter.

****REVISED****

TIME CERTAIN AT 1:00 PM

- 18) **Approve Proposed Commission Order 40: Fish, Concerning Specific Proposals for Bag and Possession Limits, Special Regulations, and Specific Closures for Sport Fishing for Calendar Year 2021 and 2022. Presenter: Andy Clark, Asst. Aquatic Wildlife Branch Chief, Sportfish Management.** The Commission may vote to adopt Commission Order 40: Fish, establishing open seasons, open areas, closures and bag and possession limits for calendar year 2021 and 2022.
- 19) **Consider and Approve Amendments to Commission Orders 11, 12, 14, 16 (Small Game), 13 (Predator/Furbearer), and 19–22 (Migratory Game Birds) for the current 2020-2021 hunting season. Presenter: Larisa Harding, Small Game Management Program Supervisor.** The Commission will consider and may approve amendments to open certain national wildlife refuges to hunting in accordance with Federal changes to refuge hunt plans in Commission Orders 11 (tree squirrel), 12 (cottontail rabbit), 13, (predator/furbearer), 14 (other birds and mammals), 16 (quail), and 19-22 (dove, band-tailed pigeon, waterfowl, and snipe) for the 2020-2021 hunting season.

Agenda Items #20 and #21 are first read items. The Commission may choose to take action on first read items as needed or may direct the Department to place first read items on the consent agenda for approval at the next Commission meeting.

- 20) **Robbins Butte WA License Agreement with Maricopa County Parks and Recreation. Presenter: Kelly Wolff, Habitat Evaluation, and Lands Manager, Region VI.** The Commission may approve entering into the License Agreement with Maricopa County Parks and Recreation on the Robbins Butte WA for Access and Maintenance of a Trail.
- 21) **License agreement for five piezometer wells on Robbins Butte Wildlife Area, Sovereign Lands and PLO-1015 lands. Presenter: Kelly Wolff, Habitat Evaluation, and Lands Manager, Region VI.** The Commission may approve entering into a License Agreement with

U.S. Geological Survey to install and maintain a network of five piezometer wells on Robbins Butte Wildlife Area, Sovereign Lands, and PLO-1015 lands, Maricopa County, AZ.

****PULLED****

- 22) Grazing Allotment and Horseshoe Ranch Property License Agreement with JH Cattle Company.

****NEW****

- 22A) **Approve General Agreement for Bison Reduction at Grand Canyon National Park. Presenter: James Odenkirk, General Counsel.** The Commission may approve an agreement between Arizona Game and Fish and the National Park Service for bison reduction at Grand Canyon National Park.

- 23) **2020 Annual Commission Awards Selection. Presenter: Kent Komadina, Special Assistant to the Director.** The Department will present the 2020 Commission award nominees and will ask the Commission to select the award recipients.

- 24) **Commissioner Committee Reports.** Commissioners may provide an update on the subcommittees that they chair regarding current events and issues. This item is for information only. Items requiring discussion, deliberation or legal action must be placed on a future Commission meeting agenda.

- 25) **Director and Commissioner Comments.** The Director and the Commissioners may provide brief comment on current events and issues. This item is for information only. Items requiring discussion, deliberation or legal action must be placed on a future Commission meeting agenda.

- 26) **Future Agenda Items and Action Items.**

- 27) **Litigation Report.** The Department's legal counsel may report on the status of the litigation matters: *In re General Stream Adjudication for the Little Colorado River and Gila River; Zuni water rights settlement agreement; Center for Biological Diversity v. U.S. Forest Service*, CV 12-0817 (AZ); *Center for Biological Diversity v. Zinke*, CV 15-00019 (AZ); *Center for Biological Diversity v. Zinke*, CV 18-00047; *WildEarth Guardians v. Ashe*, CV 15-00285 (AZ); *Safari Club International v. Zinke*, 16-00094 (AZ); *Hamberlin v. State of Arizona, et al.*, CV 2018-010149; *State of Arizona v. Hamberlin*, No. 1 CA-CV 18-0435; *Slater v. State of Arizona, et al.*, CV 2018-097090; *The National Trust for Historic Preservation v. Bernhardt*, CV 19-05008; *Wildearth Guardians v. Bernhardt*, CV-19-00441. *State of California v. Bernhardt*, CV 19-06013 and companion cases challenging the USFWS's ESA rule changes.

- 28) **Executive Session (The Commission will not vote to take on any action during Executive Session).**

- a. **Litigation and Legal Advice.** The Commission may vote to meet in executive session in accordance with A.R.S. § 38-431.03(A)(3) and (4) for the purpose of discussing and consulting with legal counsel for legal advice in order to consider its position and to instruct legal counsel regarding the Commission's position concerning *In re General Stream Adjudication for the Little Colorado River and Gila River; Zuni water rights settlement*

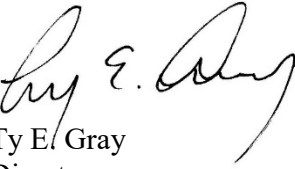
agreement; Center for Biological Diversity v. U.S. Forest Service, CV 12-0817 (AZ); Center for Biological Diversity v. Zinke, CV 15-00019 (AZ); Center for Biological Diversity v. Zinke, CV 18-00047; WildEarth Guardians v. Ashe, CV 15-00285 (AZ); Safari Club International v. Zinke, 16-00094 (AZ); Hamberlin v. State of Arizona, et al., CV 2018-010149; State of Arizona v. Hamberlin, No. 1 CA-CV 18-0435; State of Arizona v. Tim Downs, Pinal County Justice Court No. CM2018-000584; State of Arizona v. James Hamberlin, Pinal County Justice Court No. CM2018-000583; Slater v. State of Arizona, et al., CV 2018-097090; Center for Biological Diversity v. U.S. Forest Service, CV 20-00075; The National Trust for Historic Preservation v. Bernhardt, CV 19-05008; Wildearth Guardians v. Bernhardt, CV-19-00441; State of California v. Bernhardt, CV 19-06013 and companion cases challenging the USFWS's ESA rule changes; Owens notice of claim; Center for Biological Diversity's NOI for Mexican spotted owl; legal action related to restricting outdoor recreation on federal public lands in Arizona due to COVID-19; California v. Wheeler, CV 20-03005.

- b. Litigation and Legal Advice.** The Commission may vote to meet in executive session in accordance with A.R.S. § 38-431.03(A)(3) and (4) for the purpose of discussing and consulting with legal counsel for legal advice in order to consider its position and to instruct legal counsel regarding the Commission's position concerning the legal strategy recommendations from the Department's legal strategies team.
- c. Litigation and Legal Advice.** The Commission may meet in executive session in accordance with A.R.S. § 38-431.03(A)(3) and (4) for the purposes of discussing and consulting with legal counsel for legal advice in order to consider its position and to instruct legal counsel regarding the Commission's position concerning an alleged criminal damage claim against an individual the Commission has taken license revocation action.
- d. Legal Advice.** The Commission may vote to meet in executive session in accordance with A.R.S. § 38-431.03(A)(3) for the purpose of discussing and consulting with legal counsel for legal advice regarding the Commission's authority to close state trust lands to hunting and to close roads providing access to state trust lands.
- e. Legal Advice.** The Commission may vote to meet in executive session in accordance with A.R.S. § 38-431.03(A)(3) for the purpose of discussing and consulting with legal counsel for legal advice regarding the Commission's authority to suspend or revoke license privileges based on a violation of federal law.
- f. Purchase or Disposal of Real Property and Legal Advice.** The Commission may vote to meet in Executive Session pursuant to A.R.S § 38-431.03(A)(3) and (7) for the purpose of discussion or consultation with Department staff in order to consider its position and instruct its representative regarding the purchase or disposal of real property and for the purpose of discussing and consulting with legal counsel for legal advice.
- g. Contract Negotiations.** The Commission may vote to meet in executive session pursuant to A.R.S. § 38-431.03(A)(4) for purposes of discussion or consultation with the Commission's legal counsel in order to consider its position and instruct legal counsel

regarding the Commission's position on negotiations over the GCNP Draft Bison Reduction Agreement.

- h. Personnel Matters.** The Commission may vote to go into executive session in accordance with A.R.S. § 38-431.03(A)(1) to discuss personnel matters associated with the Director's duties, responsibilities and performance. The Commission may take action in the public session or defer any action to a later date.

* * * * *



Ty E. Gray
Director

* * * * *

The agenda may be revised and additional items may be added prior to the meeting as authorized by A.R.S. §38-431.02. In that event, an addendum to the agenda will be noticed and posted prior to the meeting at Department offices. Commission agenda items not noticed for a specific time may be taken out of order. Background materials provided to Commission members concerning public agenda items are available for public inspection at the main office of the Arizona Game and Fish Department at 5000 W. Carefree Highway, Phoenix, at Department regional offices in Pinetop, Flagstaff, Kingman, Yuma, Tucson, Mesa and at the meetings.

During the public meeting, the Commission may afford any person, their duly authorized representative, or both, the opportunity to present statements relating to agenda items, with or without the opportunity to present them orally. The Commission may go into Executive Session for the purpose of obtaining legal advice from the Commission Attorneys on any of the above agenda items pursuant to A.R.S. § 38-431.03 (A) (3) & (4). One or more members of the Commission may appear and participate in the meeting telephonically or by other electronic means.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, or this document in an alternative format, by contacting the AGFD Deputy Director, 5000 W. Carefree Highway, Phoenix, Arizona 85086, 602-942-3000. Requests should be made as early as possible to allow time to arrange the accommodation.

The Arizona Game and Fish Department is responsible for managing Arizona's fish and wildlife resource as an enduring public trust. In addition, the Department is charged with promoting safe and responsible use of watercraft and off-highway vehicles. Funding is provided from the sale of licenses and permits; watercraft registration fees; federal excise taxes on firearms, fishing equipment, boats, and other sporting goods; State lottery revenues; donations on State income tax forms; and various contracts and grants. Department policy is set by the Arizona Game and Fish Commission, whose five members are appointed by the Governor.

“Managing Today for Wildlife Tomorrow”