



PUBLIC MEETING NOTICE AND AGENDA
REVISION #2

November 23, 2022

A public meeting of the Arizona Game and Fish Commission will be held on **December 2, 2022**, at the **Arizona Game and Fish Department, 5000 W. Carefree Highway**. The public may attend the meeting in person or 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 may only address the Commission by attending in person or from any regional office. Copies of any presentations, documents, etc. discussed during the meeting will be available by contacting okline@azgfd.gov. Unless expressly provided otherwise with any matter, the Commission may discuss and may vote to take action on the following matters:

Friday, December 2, 2022 - Meeting begins at 8:00 A.M.

Pledge of Allegiance

Welcome/Introductions

Awards, Recognition, and Regional Highlights

- 1) **Call to the Public.** Those persons wishing to speak on a matter not on the agenda should complete a speaker's card and present it to the host. No discussion or action will be taken by the Commission. Any items requiring further discussion or action will be included on a future Commission meeting agenda.
- 2) **Consent Agenda.** The following item is hereby noticed as a consent agenda item 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) **Modification of the License Agreement with John and Michelle Holbrook at Horseshoe Ranch. Presenter: Jim Ruff, Land and Water Program Supervisor.** Modification of the License Agreement with John and Michelle Holbrook to occupy

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5000 W. CAREFREE HIGHWAY, PHOENIX AZ 85086

GOVERNOR: DOUGLAS A. DUCEY **COMMISSIONERS:** CHAIRMAN JAMES E. GOUGHNOUR, PAYSON | TODD G. GEILER, PRESCOTT
CLAY HERNANDEZ, TUCSON | MARSHA PETRIE SUE, SCOTTSDALE | LELAND S. "BILL" BRAKE, ELGIN
DIRECTOR: TY E. GRAY **DEPUTY DIRECTOR:** TOM P. FINLEY

and use the Horseshoe Ranch Property and public land improvements for a term to commence on the date of the last signature until January 24, 2025.

- 3) **Consideration of Proposed Commission Orders 3, 4, 5 (fall and spring), 26, and 30 for 2023-2024 Fall and Spring Hunting Seasons. Presenter: Callie Hartson Cavalcant, Big Game Management Program Supervisor, Terrestrial Wildlife Branch.** The Commission will consider and may approve Commission Orders 3 (pronghorn), 4 (elk), 5 (turkey, fall and spring), 26 (population management), and 30 (limited-entry) establishing seasons and season dates, bag and possession limits, permit numbers or authorized limits, and open areas for the respective 2023- 2024 fall and spring hunting seasons.
- 4) **Approve the Notice of Proposed Rulemaking and Economic Impact Statement Amending Rules Within Article 1. Definitions and General Provisions to Implement House Bill 2741 and Senate Bill 1170. Presenter: Tyler VanVleet, FOR6 Law Enforcement Program Manager.** The Department will ask the Commission to vote to approve the Notice of Proposed Rulemaking and Economic Impact Statement Amending Rules Within Article 1. Definitions and General Provisions to Implement House Bill 2741 and Senate Bill 1170.
- 5) **Drought Response Strategy, FY 2023 Quarter One Updates. Presenter: Karen Klima, Regional Supervisor, Kingman.** The Department will provide an overview of the progress made by the three drought teams addressing Commission Priority #9, “Develop and Implement a Comprehensive Drought Response Strategy.” The Commission may provide the Department direction on this item.

TIME CERTAIN AT 10:00 AM

- 6) **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
Brian Fisher	2022-0029	Take Mountain Lion By Unlawful Method.
Brian Fisher	2022-0035	Take Mountain Lion By Unlawful Method (2 Counts).
Danny Mack	2022-0031	Trap On Public Lands. Use Sight Exposed Bait.
Chad Baker	2022-0041	Possess Unlawfully Taken Mule Deer.

Martin Holloway	2022-0042	Knowingly Take Elk During Closed Season. Knowingly Waste Edible Game Meat. Take Elk Without A Permit. Take Elk With Unlawful Method.
Johnny Martinez	2022-0043	Take Elk Without A Valid Tag.
Johnny Martinez	2022-0044	Take Elk Without A Valid Tag.
Robert Piper	2022-0045	Attach Tag To Elk Taken By Another

- 7) **Hearing on Administrative Law Judge Decision recommending the imposition of a civil penalty against John Ottley for his unlawful possession of two Gila monsters and unlawful possession of 68 Rosy boa snakes in excess of possession limits (*In the Matter of John Ottley, Respondent, No. 22A-0003-AH-AZGFD*). Presenter: Gene F. Elms, Law Enforcement Branch Chief.** The Commission will consider and take action on the Decision and Recommended Order. The Commission may accept, reject or modify the Decision and determine the amount of a civil penalty, if appropriate, which may not be less than the statutory-minimum amount of \$250.00 for each unlawfully-possessed reptile pursuant to A.R.S. § 17-314.
- 8) **Rehearing Request Regarding Previous License Revocation. Presenter: Gene F. Elms, Law Enforcement Branch Chief.** Randell J. Long has requested a rehearing regarding the revocation of his license privileges.

LUNCH BREAK (BEGINS AT 12:00 PM)

Agenda items # 9-13 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.

- 9) **Acquisition of Road Easement with Silicon Ranch at Whitewater Draw Wildlife Area. Presenter: Jim Ruff, Land and Water Program Supervisor.** Acquisition of a road easement with Silicon Ranch to continue administrative use of the privately-owned roadway to provide the Department access to the Whitewater Draw Wildlife Area, Cochise County, AZ.
- 10) **Easement Agreement for Realignment of a Piped Ditch Delivering Water to Becker Lake. Presenter: Jim Ruff, Land and Water Program Supervisor.** Easement Agreement with the Stewards for the realignment of a newly piped ditch that crosses their property, delivering water to Becker Lake, Springerville, Apache County.

- 11) **Renewal of the Memorandum of Understanding between the Arizona Game and Fish Commission and the Commission of Ecology and Sustainable Development of Sonora. Presenter: Francisco Abarca, International and Borderlands Program Manager.** The Commission may approve a renewal Memorandum of Understanding with the Commission of Ecology and Sustainable Development of Sonora for conservation and management activities in Mexico related to shared wildlife species and habitats.
- 12) **Cooperative Agreement with Mainstream USA LLC for the Importation of Barramundi for Aquaculture Production. Presenter: Julie Carter, Aquatic Wildlife Branch Chief.** The Commission will be presented with a Cooperative Agreement with Mainstream USA LLC for the importation of Barramundi for aquaculture production.
- 13) **Cooperative Agreement with Albri Farms for the Importation of Barramundi for Aquaculture Production. Presenter: Julie Carter, Aquatic Wildlife Branch Chief.** The Commission will be presented with a Cooperative Agreement with Albri Farms for the importation of Barramundi for aquaculture production.
- 14) **Property lease agreement between the Arizona Game and Fish Department and the City of Phoenix. Presenter: Judd Bickel, Chief Pilot.** The Commission may approve an Agreement between the Arizona Game and Fish Department and the City of Phoenix for the lease and use of a corporate hangar at Phoenix Deer Valley Airport (DVT) for the storage and maintenance of Department aircraft.

****REVISED****

- 15) **Threatened and Endangered Wildlife Briefing. Presenter: Francisco Abarca, International and Borderlands Program Manager.** The Commission will be provided a briefing on the Department's efforts for conservation and management activities in Mexico for shared wildlife species and habitats.
- 16) **Commission Priority Report. Presenter: Kent Komadina, Special Assistant to the Director.** The Department will provide an update on the Commission Priorities and Metrics. The Department will also provide an extended presentation by Josh Avey, Terrestrial Wildlife Branch Chief, on Establishing a Comprehensive Wildlife Management Approach.
- 17) **Proposed Amended Dates of Arizona Game and Fish Commission Meetings for 2023. Presenter: Kent Komadina, Special Assistant to the Director.** The Department will ask the Commission to consider and select a proposed amended meeting date for the December 2023 Commission Meeting in Phoenix.
- 18) **State and Federal Legislative Update. Presenter: Ed Sanchez, Legislative Liaison, Government Affairs.** 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 related to Department responsibilities.

- 19) **State and Federal Lands Planning Update. Presenter: Luke Thompson, Habitat, Lands, and Evaluation 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.
- 20) **Chairman, Commissioners and Director Comments.** The Chairman, Commissioners and Director may provide brief comments 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.
- 21) **Future Agenda Items and Action Items.**
- 22) **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); *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; Tonto NF Travel Management Plan; litigation challenging the revised 10(j) rule for Mexican gray wolves.

****NEW****

- 23) **Office of Administrative Hearings Case Status Report.** *In the Matter of John Ray, Respondent*, No. 22A-0002-AH-AZGFD. The Administrative Law Judge issued a report and recommendation on November 18, 2022. This matter will set on the Commission's January 20, 2023 meeting agenda. *In the Matter of Austin Lewis and Newell Lewis, Respondents*, No. 22A-0004-AH-AZGFD. This matter is set for hearing before OAH on January 10, 2023.
- 24) **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);, *et al.*, CV 2018-010149; *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; *California v. Wheeler*, CV 20-03005; Zachary Nipp notice of claim; Tonto NF Travel Management Plan; litigation challenging the revised 10(j)rule for Mexican gray wolves.

- 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 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 contract negotiations over access to the Big Boquillas Ranch.
- 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 cattle trespasses on the Commission's Coal Mine property and the State Parks & Trails Sonoita Creek State Natural Area.
- f. 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 Commission authority over license revocation and civil penalties for wildlife-related criminal violations under Title 13, Arizona Revised Statutes.
- g. 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.

- 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”