

Draft 12/28/10

MINUTES

NEW MEXICO STATE GAME COMMISSION
Clovis Community College – Town Hall, Rm. 154
417 Schepps Blvd.
Clovis, NM 88101
December 9, 2010
9:00 a.m. – 5:00 p.m.

CONTENTS:

AGENDA ITEM NO. 1:	Meeting Called to Order	1
AGENDA ITEM NO. 2:	Roll Call	1
AGENDA ITEM NO. 3:	Approval of Agenda	1
AGENDA ITEM NO. 4:	Introduction of Guests	2
AGENDA ITEM NO. 5:	Approval of Minutes (October 28, 2010 – Mescalero, NM)	2
AGENDA ITEM NO. 6:	Updates and Miscellaneous	2
AGENDA ITEM NO. 8:	Revocations	2
AGENDA ITEM NO. 7:	Williams Production & Exploration, Inc./NM-Sportsmen for Fish & Wildlife - Habitat Protection Donation and Appreciation Recognition	2
AGENDA ITEM NO. 9:	Falconry Rule Update (19.35.8, NMAC)	3
AGENDA ITEM NO. 10:	Adoption of a Proposed Private Land Antelope License Allocation Rule (19.30.12, NMAC)	3
AGENDA ITEM NO. 11:	Adoption of Proposed Amendments to the Pronghorn Antelope Rule (19.31.15, NMAC)	7
AGENDA ITEM NO. 12:	Lesser Prairie Chicken Management Update	7
AGENDA ITEM NO. 13:	Opening the Trapping and Furbearers Rule (19.32.2, NMAC)	8
AGENDA ITEM NO. 14:	New Mexico/Colorado Decision Support System Pilot Project	9
AGENDA ITEM NO. 15:	Appointment of Citizen Advisors to the Habitat Stamp Program	9
AGENDA ITEM NO. 16:	Update on Future Habitat Stamp Program Procedures	9
AGENDA ITEM NO. 17:	Discussion Regarding Modified Fish Bag Limits on Properties Subject to an Open Gate Agreement	10
AGENDA ITEM NO. 18:	Closed Executive Session	11
AGENDA ITEM NO. 19:	[DID NOT CONSIDER] Notice of Commission Contemplated Action	12
AGENDA ITEM NO. 20:	Proposed Conservation Easement	12
AGENDA ITEM NO. 21:	Update on White Peak Access Issues	12
AGENDA ITEM NO. 22:	Reconsideration of the 2011-2012 Special Hunt Application Deadline Dates	13
AGENDA ITEM NO. 23:	General Public Comments (Comments Limited to 3 Minutes)	15
AGENDA ITEM NO. 24:	Adjourn	17

AGENDA ITEM NO. 1: Meeting Called to Order.

Meeting called to Order at 9:00 a.m.

AGENDA ITEM NO. 2: Roll Call.

Chairman McClintic – present
Vice Chairwoman Buffett – present
Commissioner Arvas – present
Commissioner Fonay – present
Commissioner Salazar – present
Commissioner Salmon – present
Commissioner Salopek – present

QUORUM: present

AGENDA ITEM NO. 3: Approval of Agenda.

MOTION: Commissioner Arvas moved to accept the agenda for the December 9, 2010 State Game Commission Meeting.
Commissioner Salopek seconded the motion.

VOTE: Voice vote taken. All present voted in the Affirmative. **Motion carried unanimously.**

AGENDA ITEM NO. 4: Introduction of Guests.

There were approximately 125 members of the audience in attendance.

AGENDA ITEM NO. 5: Approval of Minutes (October 28, 2010 – Mescalero, NM).

Commissioner Salmon: On page 5 from the last meeting in the Minutes, about two-thirds of the way down, I'm quoted as saying "it wouldn't be a good idea to use as your population estimate the low end rather than midpoint, a suggestion to avoid overharvest.", I'm pretty sure I said or meant to say "it would be a good idea to use as your population estimate the low end rather than the midpoint", so I would change the word "wouldn't" to "would".

Commissioner Salazar: This is not a correction but a statement I'd like to make to the Department. If you've attended one of these meetings and listened to the tape to try and clarify what's going on, it's tough. It's hard to hear people if they don't get to the mic, but I'd like to see that we have an accurate record all the time. It's hard the way it's done currently with transcribing and trying to boil things down. I'd like to see a professional service produce a certified transcript. It'd be very effective for the Department as well as for the public when we do our Minutes.

MOTION: Commissioner Salopek moved to approve the Minutes of the October 28, 2010 State Game Commission Meeting in Ruidoso/Mescalero with Commissioner Salmon's changes. **Commissioner Fonay** seconded the motion.

VOTE: Voice vote taken. All present voted in the Affirmative. **Motion carried unanimously.**

NEW BUSINESS

AGENDA ITEM NO. 6: Updates and Miscellaneous.

Director Stevenson: Luis Rios, our Area Chief from Las Cruces, will retire at the end of the year, and this likely will be his last Commission meeting. I wanted to take this opportunity to thank Luis from both the Director's/Department's standpoints. Luis worked as a Division Chief of Wildlife Management for a long time, and in a variety of other places that served NM well. The last couple of years he's also been our representative on the tri-lateral and working with our counterparts in Mexico. I wanted to express both my personal gratitude for Luis' work and for the Department as well.

Luis Rios: Thank you very much for the recognition, particularly to Tod and to everyone present. It has been a joy to work for the Department during these many years. I wouldn't have chosen any other career. It's been a great and rewarding career. I'll be sad to go.

AGENDA ITEM NO. 8: Revocations.

Presented by Dan Brooks – The Department presented a list of individuals the Commission considered for revocation that met established revocation criteria. The hearing officer's recommendations for assessment of points against registered outfitters were included. **[Action Item]**

Chairman McClintic: What would you like us to do?

Dan Brooks: The Commission overall has a record of taking action once you receive the hearing officer's report. That's well within your prerogative. He's there to find the facts. He's found the facts and reported them to you. I wanted to make you aware that Mr. Adams is asking for an exception.

Commissioner Salazar: This strikes a chord with another thing you reported a while back in the northwest area where we had a trophy muledeer buck. Many bow hunters have been watching for years and photographed and it showed up in school with some kids bragging about dad taking. What was the outcome with that buck? There should be a trophy fine in addition to his regular fine. He needs to follow the law.

Dan Brooks: I think you're talking about that big buck in Unit 2 and that was killed during an elk hunt and it was close to the end of the rut, at the end of November, and we did find that and make that case. The officers in Unit 2, Kathy McKim and her crew, did make that case. That individual was not a landowner. That individual was a school teacher and, of course, he went through the court/revocation process.

MOTION: Commissioner Salazar moved to adopt the Department's and the Hearing Officer's recommendations on suspension, revocation and point assessment for the attached list of three individuals for the period of time specified. I do take note of his letter of exception but I do not feel he presented proper grounds for that. I move to follow the Department's recommendation. **Commissioner Salmon** seconded the motion.

VOTE: Voice vote taken. All present voted in the Affirmative. **Motion carried unanimously.**

AGENDA ITEM NO. 7: Williams Production & Exploration, Inc./NM-Sportsmen for Fish & Wildlife - Habitat Protection Donation and Appreciation Recognition.

Presented by Commission and Director Stevenson – The Commission and Department presented an award of appreciation to Williams Production & Exploration, Inc., of Farmington and New Mexico-Sportsmen for Fish & Wildlife for their joint efforts in

making a donation of approximately \$50,000 worth of pipe to the Department's Habitat Stamp Program. This represented one of the most significant private donations to habitat enhancement and protection in the state.

Director Stevenson: We had invited Williams Production & Exploration staff to come and because of the distance from both their Oklahoma/Farmington offices, they were not able to come today. They asked me to have Robert Espinoza accept this presentation for them. Williams Production & Exploration gave us around \$50,000 worth of pipe that will be used throughout the state on a variety of projects that will protect waters, protect a variety of different things for this program. It's one of the largest contributions we've had from a single outside agency and we want to go on record with our appreciation. The plaque says "Williams Production & Exploration, Inc., in appreciation for your contribution and support of New Mexico's wildlife in 2010." From the Department, we appreciate your organization's efforts to go out there and work with Williams Production to get this done and some of the other work that you folks are doing. I'd like to present a plaque to NM Sportsmen for Fish & Wildlife in appreciation for your contribution and support for NM's wildlife in 2010.

Robert Espinoza: On behalf of all SFW members, we thank you for this award/recognition. I want to especially recognize an employee of Williams', Dave Randallman. He was the one that planted the seed with Williams and made this a reality. This award generated a lot of interest in SFW. We recently got another commitment for another 10,000 feet of pipe from Yates Petroleum. We also have commitments and we're awaiting confirmation on deliveries from three other oil companies. That Yates Petroleum contribution is about \$14,000 worth of pipe, along with the matching funds that would put another \$60,000 worth of pipe or effort on the ground. The other three commitments will equate approximately \$250,000. With the three contributions and through SFW's efforts, that'll equate to about \$500,000 of effort for NM habitat/wildlife. Thank you for the award.

AGENDA ITEM NO. 9: Falconry Rule Update (19.35.8, NMAC).

Presented by Dan Brooks – The Department provided an update on proposed amendments to the Falconry Rule (19.35.8, NMAC) and public participation.

Commissioner Salmon: What kind of responses have you been getting from the falconry community to this new initiative?

Dan Brooks: The response we're getting from the falconers is positive. They're aware that we need to change our rules, are aware of the federal requirements, and this will be easier for them when they have one point of contact instead of the dual permitting system. It is extremely supportive.

Commissioner Salazar: How about staff training on this? Do we have staff that is up on this, or do you provide training for them on these aspects of falconry?

Dan Brooks: Yes, I'll probably have to provide additional information especially for conservation officers once this changes, and the rule becomes adopted. I'll try to meet with the officers and go through it in more detail so they know what's expected of the public/them as officers. Falconers have to undergo a test.

Public Comment:

Willard Heck: I've been a falconer since about 1974. I support these changes in rule.

Frank Bond: I've been a practicing falconer for 47 years. These regulations make it a good deal simpler both for the Department and the falconry community. I commend the Commission to go forward on the timeline, and you obviously have very good strong support from the falconry community, but nevertheless, it broadens the system to make it accessible to a younger group of people.

James Weaver: I've been a falconer for 55 years. I'm in favor. **[Discussion only]**

AGENDA ITEM NO. 10: Adoption of a Proposed Private Land Antelope License Allocation Rule (19.30.12, NMAC).

Presented by Jim Lane – The Department presented a proposed Private Land Antelope License Allocation Rule (19.30.12, NMAC) and discussed public comments received to date. The tragedy of the comments becomes a management dilemma when wildlife is found on private land which is protected by a different set of property rights. Private property rights in the U.S. include the rights to possess/enjoy/use/dispose of economic goods including one's land. Therefore, the public owns wildlife in theory but not in practice since most wildlife is under the control of private landowners. That's true in this state. Unless private landowners are willing to provide habitat for wildlife and grant access to the public, the public does not benefit from this resource. Without productive collaboration with private land managers, governments cannot exercise effective responsibility for wildlife and the public cannot benefit from the wildlife it owns. The A-PLUS system adjusts management of pronghorn from antelope management units to game management units.

Commissioner Salopek: The way it's set up now, if for some reason antelope leave after the first day, you can get permission from the game warden of that unit and move over, is that still in effect?

Jim Lane: The proposal would not allow that movement to happen.

Commissioner Salopek: Even with the game warden's permission?

Jim Lane: No, sir.

Director Stevenson: A limited number of people have actually been moved from one ranch to another. There are two ways currently in the system that people sign up under their authorizations: (1) we call ranch only which means they can only hunt their private ranch and the public land that's associated with that ranch, but they cannot move off of that ranch at all; (2) is called not-ranch only permits. The large majority when we're talking about antelope sign up is ranch only permit throughout the state. What we get is about 80%-90% of the kill typically on the first day on the majority of these ranches, so we only end up with a small

handful of that sign up on not-ranch only ranches that have actually come to us and asked to move. Typically those are small ranches. One thing this system does when we're looking at modifications of this antelope system as well as the landowner system is come to a standardized acreage which is going to eliminate those small ranches that we've had those types of problems on and associated with that. I wanted to make the Commission/public aware this was not allowed, has never been allowed, for all public hunters to draw out on those ranches. It's been limited to a few folks/folks who would allow for that opportunity needed to be able to take advantage of that.

Commissioner Salmon: Under the new proposal you indicated there'd be increased public participation/options for the draw as opposed to what we're currently using. Could you quantify that or put it in perspective?

Jim Lane: We increased youth hunting opportunity in the state about 10% across the board. We also, through enrollment, if this system is in fact adopted by the Department/Commission, will create public draw ranches that will increase hunting opportunity on lands that aren't currently hunted by about 100-150 hunters per year in the public draw.

Commissioner Salazar: Where I see a problem is where you said in practicality the wildlife controlled by the private owners, you need to make it clear that this Department controls that and I think we should never say that it's controlled by private landowners. We hold that as a Department in trust for the public and we always recognize private property rights. Public draw hunters have a limited number of opportunity and they're also on public lands which don't have the same quality all the time. We hold this in trust for everybody, but the people that are getting the opportunity, people with money that are buying it, so we need to have equity.

Chairman McClintic: I believe that a land authorization is not a tag. It's a right to trespass. They have to buy the license from the state so when I've heard about land authorizations, I thought basically what you're paying for is a right to trespass.

Jim Lane: An authorization does in fact get you access to the landowner's property. Requiring you buy a license for a hunting opportunity from NMDGF to harvest an animal.

Public Comment:

Pat Boone: The way the system has been has been the jewel of the Department. It's as close to perfect as it can get. As far as distribution of public/private lands, that's the way it is and understand that that's the way it's got to be.

Jeremy Vesbach: I represent the NM Wildlife Federation. Advancements that are happening to add more opportunity for public draw hunters are not in the A-PLUS rule. The increased youth licenses are a good thing, but that's part of the antelope rule, not part of the A-PLUS System you're looking at now. The public draw ranches exist now and that's not a new thing. This proposal is essentially *status quo*. Looking at the outcome of that *status quo*, we can talk about theory, about how it's working. Overall outcomes on one ranch, we have 23% licenses going to less than ¼ licenses going to residents through the draw. We have less than half the tags going to residents. The proposal before you today I wish we could be saying good job Department, we're making progress, there's been leadership. You have two options today. To adopt a rule that puts in place *status quo* and, in fact, may make things worse; we have that 10% coming off the top, we have not been presented with an upper limit on the transferable license system. We're looking for a better system.

Brandon Wynn: It seems that AZ Game Commission, whenever they make a rule, their primary concern is their resident public land hunters. Just by the fact that you're considering this rule that the public land hunters/NM citizens, we're the last people you think about.

Jess Rankin: Commissioner Salazar made a comment that public draw antelope hunters don't have the same opportunities as authorization hunters. I don't see how that can be because anybody who gets an antelope license is assigned to a ranch and they're allowed to hunt that entire ranch. It makes no difference whether it's state/BLM/national forest/private, their tag is valid on the entire ranch. There needs to be something in place that will allow a lottery draw hunter to switch to other public lands on the second day of this hunt.

Aleks Carone: I'm Manager on Singleton Ranches, large landowners in NM. We'd like you to keep the system intact as it is. We have a few concerns on GMU boundaries especially on some of our larger properties like the Conchas-Pecos which is a 385,000 block of ground, and the option of public draw and letting public hunters access our private land, we just can't make work because we are big and don't have resources/facilities to guide and the fact that they're uninsured creates a liability for our whole operation.

Commissioner Salazar: What are the liabilities regarding our current program on ranch-only as far as public hunters?

Aleks Carone: We require our outfitter to have a \$1M liability policy for the entire length of the hunt.

Jim Karp: There's a limitation of landowner liability to the extent he does not take any consideration for allowing the hunter on his property. If he takes consideration he does not have statutory protection.

Commissioner Salazar: So basically if you're allowing people with landowner authorizations then he'd better have an outfitter taking care of you. Otherwise, if it's a public draw it would not be the same situation because there'd be limited liability? Did you get that?

Aleks Carone: Yes, sir, but I still don't agree with that.

Joel Gay: You're not hearing from everyday NM sportsmen who think the A-PLUS System is a mess. When you started this recent round about two years ago, there were six points you requested the Department look at. One was making sure that the next A-PLUS proposal was professional/transparent, and you said you wanted sustainable harvest objectives. At the end of your six points you said that you wanted increased hunting opportunity.

Garth Simms: I'm with NM Outfitters Council and am speaking on behalf of Sportsmen's/Landowners Coalition. We support the proposal as presented by the Department. The members of our coalition are NM Cattle Growers/NM Wool Growers/Farm

Bureau/both state Chapters of Safari Club International/Trappers/Houndsmen Associations/(inaudible)/Wild Sheep Foundation/Council of Outfitters/Farm Credit Association. We'd like to add that in expanding opportunities for resident hunters, members of this coalition have offered the Department to provide people and equipment resources to help move antelope to re-establish new herds in NM, on both public/private lands for the purpose of increasing hunter opportunity.

Garrett Veneklasen: I'm Chairman of Back Country Hunters/Anglers and also a guide. I appreciate the Department's efforts in trying to come up with something that's fairer, but fair doesn't come into this equation. We need to uphold these American values and create a legacy for our children so that we honor American values.

S.T. Spencer: The issue that you were given six things to look at/review doesn't mean you have to change them, which means you're going to review them as to the best for the Department. Sportsmen experiences in NM are the best that happen in the nation because we don't follow what other states do.

Caren Cowan: On the issue of liability, with all due respect to Jim Karp/other attorneys in the room, anybody can sue anybody for anything, anytime as long as there's a lawyer to take the case. To say there's limited liability for landowners is simply not true. We urge you to support this proposal today.

Oscar Simpson: Representing myself on this private landowner system. Mr. Lane didn't tabulate data and never has and that's a lack of transparency all along the process the whole time.

Jim Lane: We have tabulated results. I don't see the word tabulate in that agenda item. I'm well aware of the stack of things that have been presented and I also have seen nearly, if not every comment, that has come through our door. This has not been presented today because this Commission I'm sure by now grows weary of the presentation I've given now for the third time. The comments remain the same. As you know, many sportsmen have spoken against this and this was not left out to be non-transparent, but rather for a savings of time.

Oscar Simpson: It's not transparent because you don't put it on the website and you only differentiate what people are saying. The Commission should terminate this proposal and start over next year where we have a clear transparent process.

Joel Alderete: I'm with NM Farm & Livestock Bureau. I support the Department's proposal.

Robert Espinoza: I've heard about fairness/equality. I'd bet the Department did the best job they could without trying to favor any one particular group, whether sportsmen/landowners/anybody.

Carl Johnson: This is a direct violation of Article V and XIV. I agree with Oscar Simpson, this should have been tabled before it got started and never brought up again.

Max Pastor: Please don't vote to keep the current status on A-PLUS. Please reconsider Option 3-A as presented this year by 5,700 comments sent to you.

Chairman McClintic: What's the deadline exactly if we were going to do something on A-PLUS, when do we have to have that in to get it on the Proclamation?

Pat Block: We've planned to have a final review meeting for rules/information booklet on Tuesday. We'll take what we've learned today, and our proclamation editor will make changes tomorrow and we'll go through final review. Our intent is to have it to the printer by December 15. I suppose if we don't hunt at all we could delete the antelope pages from the book and go to print without it, but our intent is to have that to the printer next week.

Chairman McClintic: I wanted you to clarify to the audience that we are under a deadline and there'd be no way we could re-visit this and still make the deadline for next year.

Pat Block: That's correct. There are 160,000 applications across all species and people rely on having that information. We will make it available online as soon as the final is done, but people still rely on the paper copies of that book to get that information.

Doug Beavers: When you draw an antelope tag to hunt on a ranch that's got state land on it, you can hunt the whole ranch?

Jim Lane: The question was if future of antelope tags through the public draw I assume?

Doug Beavers: Yes.

Jim Lane: If in fact that gives you authorization to hunt the entire ranch you are assigned including state/private/public land, the answer is yes.

Jeff Queener: I represent farm/ranch in Grady. We're not in favor of not knowing who's on our property and how well they will take care of it.

Joe Culbertson: I'm from a ranching family in Harding. I support the proposed rule.

Greg McReynolds: This issue around antelope has strayed. A system where you have a trespass fee is easier to figure out who's on your property because then you have control over it. The Department doesn't have any say. This is a legacy issue.

MOTION: Commissioner Salopek moved to adopt the Private Land Hunt Antelope License Allocation Rule, 19.30.12, NMAC, as presented by the Department. **Commissioner Arvas** seconded the motion.

Commissioner Salazar: At the last meeting we had we made some trespass changes to make it comply with manner/method. Is that change in this proposed by the Department?

Jim Lane: Yes, sir. That's reflected in our proposal.

Commissioner Salazar: Basically the portion of my proposal was that in Section B you've made it just ranch only, again which is *status quo*. There's no movement at all on hunters, is that correct?

Jim Lane: That's correct, ranch only, no movement.

Commissioner Fonay: This is probably the best we're going to accomplish in making adjustments to this current system. I think there is a better way to look at how the Department handles landowner authorizations. I think there's room to make that system better for all and the private landowners are a key piece of that. They're providing water/habitat for wildlife. This is something we can live with for the short term but realize that in the very near future we need to look at that general landowner authorization and see if we can't do that better.

Commissioner Buffett: I'd like to propose an amendment to the rule on the table.

Commissioner Salmon: Most input has come from sportsmen and most of them were against current proposal. At an earlier meeting we got a paper from Sportsmen & Landowners Coalition on antelope system proposals and they listed their top goal was "move toward parity between public/private antelope permits to address the Commission directive of equality in the system." Technically, the Commission directive was toward equity rather than equality, but that does indicate to me that even among Sportsmen & Landowners Coalition there was some recognition that we maybe are not at parity at this time. The main issue seems to be trying to get more permits for residents on the antelope system. The proposal as I see it doesn't seem to change that significantly which I have a problem with. I wish this weren't a four-year rule. It'd be easier to vote for it if we could take another look at it next year.

Jim Lane: To clarify, this rule is a permanent rule as are many of our rules. Now, that does not preclude the Commission/Department from recommending change each/every year, or each/every meeting. So certainly if it needs to be changed, if it in fact is adopted, we could come back with it next year.

Commissioner Salmon: That may be some of what Commissioner Fonay had in mind in his statement. I guess my general approach to this is a sincere effort by the Department but I'm not sure it does enough for resident sportsmen.

Commissioner Salazar: I'll be opposing this. I'd rather stay with the beast I know than pass something that's flawed.

Commissioner Salopek: To me sometimes it's about private property issue rights which equates to the rancher. I want more opportunity for sportsmen, but I also look at private property. I'd like to see how more NM sportsmen can get a hand on these tags, even if they're authorizations. All I'm asking is keep looking outside the box so we can all get along and keep them in NM.

Commissioner Arvas: The Department will continue working in the light of trying to do everything they can to increase hunter opportunity, but to do what's right for the resource also.

Commissioner Buffett: I'll pick up a copy of the book because it looks like it's got some good lessons about public/private partnerships in the role of landowners and providing for wildlife. I did find two references where it says specifically that the public owns wildlife, so there are a variety of perspectives we can gain from reading it. I don't think we're there yet and I respect private property rights and also can understand concerns of liability on a private ranch. I also feel that the elephant in the room of what people have to gain from the *status quo* has not even been discussed and that's the public's wildlife. We have to be frank about the current system that provides for some people and not for others.

MOTION: Commissioner Buffett proposed an amendment that if a landowner chooses to re-sell an A-PLUS landowner authorization on the secondary market, the re-sale value shall not exceed two times the value of the public draw tag.

Commissioner Salazar seconded the motion.

VOTE: Voice vote taken. All present voted: **Commissioners Buffett/Salazar, voted Yes. Commissioners Arvas/Fonay/Salmon/Salopek, voted No. Motion failed.**

MOTION: Commissioner Salazar moved an amendment on page two, 19.3I.15.9-B, this is that area again about movement we talked about validity entitled, "Validity of License or Permit", after the statement of valid only on the assigned ranch I would say for the remainder of the hunt period the public draw license should be valid unitwide within the assigned GMU's.

Commissioner Buffett seconded the motion.

VOTE: Voice vote taken. All present voted: **Commissioners Salazar/Buffett/Salmon, voted Yes. Commissioners Arvas/Fonay/Salopek/McClintic, voted No. Chairman McClintic voted to break the tie vote. Motion failed.**

VOTE: Voice vote taken. All present voted. **Commissioners Arvas/Fonay/Salopek/McClintic, voted Yes. Commissioners Buffett/Salazar/Salmon, voted No. Chairman McClintic voted to break the tie vote. Motion passed, 4-3.**

Public Comment (6 Minutes):

Brandon Wynn: On bighorn sheep there's no non-resident/resident quota on bighorn sheep and a few other species in NM. I'm not a legal expert but I understand the Turk case that created a situation where we couldn't have the quota. I also understand that there's been some change in the federal law when they had a problem in AZ where outfitters sued AZ and for a brief period they eliminated the quota and then Senator Harry Reid got a bill passed at the federal level that made it to where it reaffirmed the state's right to regulate it's game as far as resident/non-resident quotas. You might want to consider making everybody that applies in NM to pay fees between \$60-\$150, an average of \$100 for non-residents only, to buy a general hunting license to apply and accrue bonus points. I'd encourage you to raise money from out-of-state hunters and if they want to hunt in NM, they will pay that fee.

Director Stevenson: On Desert bighorn sheep, the Turk case law still applies to us regardless of the modification in Congress. We've got an official request before the NM Attorney General's office, and we've had that in place about four months referring to

the Congressional modification in that statute asking if that does provide a potential waiver of bighorn sheep and several other species not being covered under the statute. That's under statute and specific to those species under statute because of that law. Then Congress will give us the leeway to provide options on those species currently not covered.

Joel Alderete: My son is 9 years old and went through his Hunter Safety Course this year and I sat through it with him. Great/excellent program. The education program is a great program and I hope you can continue that. I don't know how much more you can improve on that, but when you're putting youth out with adults, we seriously need to look at that.

AGENDA ITEM NO. 11: Adoption of Proposed Amendments to the Pronghorn Antelope Rule (19.31.15, NMAC).

Presented by Jim Lane – The Department presented proposed amendments to the Pronghorn Antelope Rule (19.31.15, NMAC) for the 2011-2014 hunting seasons and discussed public comments received to date.

Jim Lane: There's one change and that's licenses/authorizations issued within this rule will be ranch only.

Commissioner Salazar: Did you have a chance to talk about that table that used to be in the old rule?

Jim Lane: The table that you saw was deleted. We condensed. It was an administrative cleanup. There was some duplicated stuff that we took care of. You also have within those tables those are up-to numbers. It's going to vary year to year depending on what the resource can sustain.

Commissioner Salazar: There were changes I had posed on the last regulation. Is that correct as well? The change on movement would have to stay consistent.

Jim Lane: That's correct. They are consistent.

Public Comment:

Jeremy Vesbach: Thank you for fixing the trespass issue in this to be consistent with manner/method as this is the rule that contains those youth licenses. I'm disappointed we didn't allow hunters to move who got a bad ranch assignment on those second/third days, but it's got to stay consistent now. **[Action Item]**

MOTION: Commissioner Salopek moved to adopt the Pronghorn Antelope Rule, 19.31.15 NMAC, as presented by the Department. **Commissioner Arvas** seconded the motion.

VOTE: Voice vote taken. All present voted in the Affirmative. **Motion carried unanimously.**

AGENDA ITEM NO. 12: Lesser Prairie Chicken Management Update.

Presented by Grant Beauprez and Jim Lane – The Department presented a summary of cooperative initiatives and planned habitat improvement projects for the Lesser Prairie Chicken in eastern New Mexico.

Commissioner Salazar: What would the consequences be to local industry as a result of the Endangered Species Act if they ever reached that?

Grant Beauprez: If there's endangered species on the property, they have to go through consultation with USFWS before they do anything that disturbs ground or putting up fences, or anything like that. It'll definitely be a game changer. With wind energy development if the bird is listed it might not stop wind energy development, but it'll definitely slow it down or impact it.

Commissioner Salazar: How does this tie into our Comprehensive State Wildlife Conservation Plan?

Director Stevenson: The Western Governors have put out a request that by 2013 the states come up with these kinds of tools. It will be a GIS layered tool and it's directly tied to our ability to move forward with comprehensive wildlife strategies that we have because they give us all the tools as far as when/where/how prioritization of all those conservation efforts that we haven't been able to move forward with. The tools we're working with here are moving us to do exactly what the CWS were intended to do and that's starting to look at multiple species, look at where the priorities are, and start moving those conservation dollars/efforts directly to them. We agree that that type of tool helps anybody out there whether they're looking at building things, or people who are trying to direct dollars towards conservation.

Commissioner Salazar: How does that wildlife plan help the Department financially? Talk a little about wildlife grants because people need to know how those are tied in.

Director Stevenson: Clearly the state/wildlife grant dollars we receive currently are about \$1M in NM. They're directly tied. We have to be able to demonstrate how they're tied to the state wildlife plans and how they're going to benefit. Typically more than one species is generally what we're trying to accomplish with those. Part of our bigger grant dollars from USFWS we also see that the efforts with LCC/DSS Programs likely in the future are going to direct more specially where likely USFWS is going to say you're going to have to be able to demonstrate to us that they're directly tied for us to be able to use a variety of our grant dollars.

Commissioner Fonay: This is a big issue to keep this off the endangered list. It's already impacted the oil/gas industry because you've got no ability to get on federal lands in some areas during the booming season. You've got lessened hours and if by some chance we ever got to endangered, the impact to southeast NM economically is significant. It's important for the bird but from a purely economic standpoint, it's important.

Grant Beauprez: I'd add that SCCA for oil/gas actually paid into a pot and that's part of the mitigation. They pay a certain amount please or that they develop oil/gas on and that money goes directly into mitigation/conservation efforts on the ground. Even though we've had only 2-3 oil/gas companies sign up for those, there's more that are seeing that example being set and starting to be more pro-active as far as conservation. It's easier to work with us now and do conservation before hand than after the fact.

Commissioner Salmon: I'm wondering with wind farms taking up more habitat out of the wild, how can you mitigate effectively against the net loss of habitat? What does mitigation involve?

Grant Beauprez: Mitigating/mitigating effectively might be sometimes two different things. The biggest thing is putting the towers in the right places and transmission lines which fragment habitat. It's using tools like this and trying to avoid large patches of habitat where prairie chickens occur. You may have to give up something similar to gain in another place where it's more valuable. Doing it effectively is going to be the hard part because there's a lot of potential in this area. Doing it effectively is not impossible, but it's going to be difficult. There's a lot of effort doing with multi-agencies, unprecedented as far as how many government/non-governmental agencies are involved.

Commissioner Arvas: From 2006 to 2008 we had quite a dramatic increase in terms of population numbers. What was so great about those years in reference to what we have now?

Grant Beauprez: It had been dry in those areas. Sometimes it's not how much rain, but when the rain falls which affects them. Basically, chickens need grass and the grass creates more diversity of insects and that's what chicks need to grow. If you don't have rain, you don't have grass, you don't have insects, and the population can't increase. My best guess for that increase is that we had good habitat, it rained at the appropriate times, and chickens were able to take advantage of that.

Commissioner Arvas: Do other states around us have hunts?

Grant Beauprez: The only state that has hunts is Kansas currently. TX just discontinued their hunt season.

Commissioner Arvas: I remember an instance where we had a proposal to hunt in 2007.

Grant Beauprez: It was a limited proposed hunt.

Public Comment:

Willard Heck: I represent Beaver Ranch/Grasslands Charitable Foundation. Thank you to the Department in engaging with us in an MOU to use the North Prairie Chicken area as a control study area for our ten-year study. We worked with Grant's predecessor, Dawn Davis, Grant, and R.J. I'm a main coordinator for the Prairie Chicken Festival and we want to also say thank you. As prairie chicken advocates we appreciate the Department seeing the importance of prairie chickens and having a biologist on the east side of the state to attend to these matters. If it goes endangered, all control of this bird is removed from the Department and goes back to the feds and everybody here has no say about it anymore. What we all need to do as ranchers/oil/gas we need to do the best job we can at conservation in the next 2-3 years until the time they review this listing, which may be as soon as 2013 to show them that there's enough going on, on the ground to give them cause to give us the threatened listing as opposed to going endangered. If nobody is playing together and nobody wants to do anything and what everybody cares about is wind towers/oil/gas wells everywhere, we're going to get endangered.

Vice-Chairwoman Buffett: Grant, can you make URL available on the website with all the best management practices that had Playa Lakes at the top? Does that link currently to the Department website?

Grant Beauprez: I don't think that's on our website currently, but we can work that out so that it is.

Vice-Chairwoman Buffett: If we could link the wind/gas VMP's the Department wrote a few years ago that would be helpful.
(Discussion only]

AGENDA ITEM NO. 13: Opening the Trapping and Furbearers Rule (19.32.2, NMAC).

Presented by Jim Lane – The Department recommended opening the Trapping and Furbearers Rule (19.32.2, NMAC) pursuant to State Game Commission direction given at their April 8, 2010 regularly scheduled meeting.

Public Comment:

Fred Moore: I'm Hunt Director for NM Houndsmen Association. We'd like to recommend that you keep raccoon separate from the rest of the furbearers.

Chairman McClintic: We're discussing opening/not opening the rule, not the merits if it's open. What we need to have changed, if the rule gets opened we'll go to that. I'd appreciate that you direct your comments to either wanting to see the rule opened, or you don't want to see it opened.

Chris Hammond: I'm a Junior Houndsman. I'd like a pursuit on the coon season.

Tom McDowell: I represent NM Trappers. I understood to open the rule was based on the Commission's vote to consider opening it. I ask for scientific basis and there were no grounds/recommendations that they were going to make at this time.

Jim Lane: The Department's recommendation before you was one that we were directed to give you at the April 8 meeting when we opened all of the big game rules for the rule development process this year. At that time, we were asked whether we should/could open the furbearer rule at the same time. As you've seen this last year has been a busy year for the Department and the rule development process knowing that when and if the trapping rule were open at that time, it would add to the workload of an already saturated staff. I suggested that if we were to open it that it should be later in the year.

Ian Frady: I'm a member of the Rio Grande Chapter of the Sierra Club. As you know our chapter has been requesting that the furbearer rules be reviewed. We are hopeful and urge the Commission to open the process. Reporting analysis in compilation of the reports, needs to be done in a timely manner. On public land, the public needs better protections from traps as well, and with a regular review period should be implemented in which the public can take part.

Caren Cowan: We respectfully request you not open this rule at this point in time. We believe the Department has the authority/ability to do the management changes that might be necessary over time. We could take a break for a while and get through the legislative session. The Commission can then review this as necessary in March/April. **[Action Item]**

MOTION: Commissioner Fonay moved to open the Trapping and Furbearers Rule (19.32.2, NMAC) as presented.

Commissioner Buffett seconded the motion.

VOTE: Voice vote taken. All present voted in the Affirmative. **Motion carried unanimously.**

AGENDA ITEM NO. 14: New Mexico/Colorado Decision Support System Pilot Project.

Presented by Matt Wunder – The Department of Game and Fish/Colorado Division of Wildlife received joint grant funding through the Western Governors Association for the development of a Decision Support System. The Commission was briefed on the background/scope/planned outcomes of the project.

Commissioner Salazar: This is the type of project that should have been going on years ago and I'm pleased this Department has stepped up with CO. I hate not having the funding not to participate as an equal partner with CO because the Land of Enchantment is a beautiful place if funding were not such an issue. Maybe some of these stakeholders by broadening it out could also bring in some of their own funding and offset some of your costs. **[Discussion only]**

AGENDA ITEM NO. 15: Appointment of Citizen Advisors to the Habitat Stamp Program.

Presented by Dale A. Hall – The Department sought appointment of 22 advisors throughout the State. In partnership with Federal land management agencies, sporting/conservation groups, and the Department, habitat improvement projects are designed each year for funding by the Habitat Stamp Program. These projects are reviewed and prioritized by the respective appointed regional Citizen Advisory Committee. There were 44 applicants and some were renewals. For the record, we recommend Bill Rehm, Willard Dunlap, Michele Goodson, Dennis (D.J.) Baca, and Dan Sutcliffe for the **Central Committee**; on the **NE Committee**, Scott Armstrong, Bruce Morrison, and Chuck Demos; on the **NW Committee**, we had a lot of spots on the NW Committee because we had people move from the areas and a lot of positions to fill, Doug Thomas, Albert Teupell, Gerry Johnson, Charles Wheeler, Lance Allgood, and Mike Schirer; **SE Committee**, Bob Parish, Scott Fletcher, Casey Summers, and Bart Hanson; **SW Committee**, Mark Spiess, Roberta Salazar-Henry, V.W. Howard, and Dean Wilson. **[Action Item]**

MOTION: Commissioner Arvas moved to accept the recommended list of Citizen Advisors as presented by the Department to Habitat Stamp Program and appoint them to a term that expires on December 31, 2013. **Commissioner Salopek** seconded the motion.

VOTE: Voice vote taken. All present voted in the Affirmative. **Motion carried unanimously.**

AGENDA ITEM NO. 16: Update on Future Habitat Stamp Program Procedures.

Presented by Dale A. Hall – Partnering agency leaders and Commission have established three primary goals for the future of the program: 1) to maintain existing structures, 2) improve more fishing/aquatic habitats, and 3) focusing planning and project work on landscapes. To implement landscape planning processes, alternative procedural changes to HSP processes and structure were provided to the public for comments. The results of that public participation process were presented for discussion and further direction. Introduced John Sherman with BLM to the audience.

John Sherman: I'm the Wildlife Program Lead out of Santa Fe for BLM. Linda Rundell would have liked to be here, but she sent me instead.

John Sherman: BLM was fully engaged for the whole process, development of the alternatives, solicitation what we did get as far as the public coming to the meetings and the e-mails and I wish we'd gotten a lot more response. It's unfortunate that sportsmen don't show up. Speaking for Linda, she's ready to implement whatever alternative and she'd hope that that alternative does address landscapes because BLM-NM is currently throughout the state implementing a program called Restore NM and that's a landscape-based program, and about six months we'd treated in one way/shape/form through either mechanical/chemical/road closures over a million acres.

Commissioner Fonay: What I see is that one of the pluses might be to take maybe half the funds and leave it local. Do you need to keep that for maintenance? Maybe the other half go into a pot from each region for the landscape.

Commissioner Arvas: My chief concern is that Forest Service is not here. From what you've said previously, they really don't have funds to contribute to us to start with.

Dale Hall: They're in a position of declining budgets and to do wildlife-type projects, they are reliant most heavily on the Habitat Stamp Project to do those wildlife-oriented projects.

Commissioner Arvas: What concerns me is that if they're not able to participate financially, then it's hard for me to see how BLM can be compensatory towards them. If we're going to use BLM money we have to take that money into consideration that it's probably going to be towards a BLM sponsored project.

Dale Hall: The Forest Service match to the program in the past few years has been their planning match: NEPA, our clearance costs have skyrocketed. These projects cost as much to do that arc clearance as it does to do the work itself. They've been contributing their match to the program through this non-direct match.

Commissioner Arvas: Without coming up with a set formula, are you ready to shift gears in the next 3-4 months and come back to the Commission with a game plan in terms of landscape projects plus give some of that money to the existing areas for their projects?

Dale Hall: With your direction today, what I feel we'll do is develop an alternative or two that's flushed out and complete and then we'll bring that back to the citizens for their feedback, then we'll come back to the Commission and see if the Commission is ready to adopt the procedures.

Commissioner Arvas: What's bothering me is the shifting gears, and does that mean we're not going to be doing anything for the next six months? How much of the money in place now will be used up between now and June?

Dale Hall: We collect about \$800,000-\$850,000 per year. That's about how much we're now expending is about \$800,000 per year so we'll be spending \$800,000 every year from here on out.

Commissioner Salopek: If you're going to wait around for another round of talks with citizen input you're wasting your time. You'll find out if you make the wrong decision because then you'll have your input. If you've done a good job it's the same amount of people that show up and I'd doubt if there'd be a mess up to where it's a bad idea.

Dale Hall: I'll bring that up to Director Stevenson and we'll consider that with Linda Rundell/Corbin Newman because they're wanting to hear how ready you are to go. We already have a list of 2012 projects coming up this July, but we also have ongoing 2011 projects they're doing now, so nothing has stopped and nothing will stop. In the future when we plan these things do we plan bigger projects or do we keep doing the bite size projects?

Commissioner Arvas: If you've already got plans for the \$800,000 in place now, does it make sense to spend all of that money between now and June, or should we keep half of that money for the bigger landscape projects. I'm worried that when the time comes for the bigger landscape project, we have enough money to do the project.

Dale Hall: We want to phase this in so that the projects you've already approved will get funded and they will get completed, but any new projects, then we'll start this new planning process. We'll start teaming that money to attacking some of these landscape plans.

Commissioner Salazar: We also have to deal with the reality that people whether they are/are not participating in these meetings they need to be educated as to what's going on because there's a fear level that they're going to lose their local thing. The hardest part of being a public agency is dealing with the public. If it was just wildlife we'd be happy, but we need to deal with them so I'd encourage you to reach out.

Public Comment:

Robert Espinoza: I'm a big proponent of the landscape approach. It eliminates redundancy. NEPA sometimes is done 2-3 times because projects get delayed, or whatever. NM will be better off. Because of landscape to be planned out you're able to plan further, get more partners in. As a sportsmen's group we'll be approaching the legislature to get any legislative money.

Director Stevenson: We're putting out more than \$800,000 with our deer/elk/bighorn sheep habitat programs, probably another \$1.2M on top of that. We're looking at the match dollars. Because part of the blip we're seeing with federal aid dollars because of gun sales and other things this year, can we match that with 3/2 Pittman-Robertson dollars out on the ground to try to help expand this program. If the Commission wanted to direct the Department to go forward with at least the 2013 with a 50/50 and at least get us started in that way, we could do some homework and come back with what that would potentially would look like. If you just want to move us forward because we agree with you that we'll probably not get a huge amount of public input. We're concerned about where we are, but what we thought we'd do is with the agencies come out here and put together what we see as our technical folks on the ground need to do and where and do that as a combination to go back to the public with some actual thoughts rather than go ask them what they want to do without some on the ground thoughts about what those are. It's within your purview if you want to give us some direction on a way that you want us to proceed.

Chairman McClintic: I think we definitely want you to proceed. The problem is exactly what percentage we want to break that up in because I don't think we have an idea.

Director Stevenson: If you want to do that we can come back as early as the next Commission meeting with some thoughts from the three agencies about what we might do.

Commissioner Salazar: I want to make sure the match is good with the agencies, that they can still effectively run some of these landscape projects so when you're analyzing what we're going to be doing make sure that we can effectively be a partner in these landscape projects as well as maintain the other thing, and still let's let people know what we're doing so that they don't come back to us. Tell them what we're looking at doing, it's a direction of the Commission, but we'd like to see more input. **[Discussion only]**

AGENDA ITEM NO. 17: Discussion Regarding Modified Fish Bag Limits on Properties Subject to an Open Gate Agreement.

Presented by Mike Sloane – The Department requested Commission direction regarding potential changes to the Fisheries, Open Gate, and Manner and Method Rules. The contemplated changes will allow more restrictive bag limits and manner and method techniques to be posted and enforced on Open Gate properties. The Department discussed pros and cons of these possible changes.

Commissioner Salazar: I prefer to see that it remains Commission authority on this, but the rule be developed in such a way that we don't have that onerous thing. It's ridiculous that we'd have to keep coming back. I don't think the Commission wants that, but I

think we could develop the rule in such a manner that we could refer to a current/certified list and people would have to refer to that and have it posted.

Mike Sloane: I think what you're suggesting are categories of different types of management. We would be required to come to you to add a water to that list. If we wanted to add a mile stretch on the Pecos River we'd have to come and say we want to add that stretch to that category of water so we'd still have to come before you each time, unless you chose to vest the Director with that. I guess you could do it that way.

Commissioner Salazar: Aren't we referring here to open gate properties, stretches of public water that go through private property of limited access?

Mike Sloane: Yes.

Chairman McClintic: To clarify that, the land on both sides usually of a river, the only thing owned by the public is the water. The land underneath the river is owned by the people we're doing open gate with, correct?

Mike Sloane: Yes, correct.

Commissioner Fonay: The reality is that this is not water that's going to be fishable by the general public as it currently exists. It would be friends or somebody that maybe asked, but substantially the water is not accessible, so to me the logical way to go would be to post. Let's say someone had a mile of stream and for whatever reason, that landowner wanted that to be a catch-and-release, single barbless hook only, and the rest of the water was still statewide five-fish limit. I don't think it's in our best interest to come back, change that rule for that mile, you'd want to print that in the annual proclamation, the posting lends itself well to this. This is a unique opportunity, it's going to be posted as open gate, and as the individual wanted to fish, you could say well you're getting an opportunity to fish this private property and we've got this special rule for this particular stretch of water, the Director would not let something be out of line or inconsistent with what we're trying to accomplish. We're trying to accomplish letting some people have an opportunity to fish on a property that wouldn't otherwise. In a year they may choose to opt out of the program, want to change that, and having authority at the Director level, I'm comfortable with. You could not change the whole rule, but under the posting requirement, require Commission action if somebody was concerned.

Commissioner Salmon: It's obvious you get better cooperation from the landowner and you get more landowners signing up for it if you had that option rather than the rule making option.

Commissioner Salopek: If you want input, to me posting would be the most simple if somebody wants to sign up to open gate and post it. If we don't meet until March, you're talking 2-3 months and that is the critical time when we're getting ready to fish. I like simplicity. I like the posting idea.

Commissioner Salazar: I'd go along with posting as long as we have some notice. It's a much less onerous procedure for everyone. I'd like to see some type of report to us about that because I don't want to lose that connection with the Commission on what's going on with open gate. **[Discussion only]**

AGENDA ITEM NO. 18: Closed Executive Session.

The State Game Commission adjourned into Closed Executive Session, pursuant to Section 10-15-1, H (1), NMSA, 1978, to discuss matters related to the possible acquisition of additional interests in lands for conservation and habitat purposes, and the determination of sending "Notice of Commission Contemplated Action" for outfitter and/or guide registration to any identified individual(s) that may have violated their Professional Code of Conduct as per 19.30.8, NMAC. If in the Commission's determination an individual shall be served notice, he/she will be afforded an administrative hearing following 19.31.2, NMAC.

MOTION: Commissioner Salopek moved to enter into Closed Executive Session pursuant to Section NMSA 10-15-1, NMSA, 1978, of the Open Meetings Act to discuss matters related to the possible acquisition of additional interests inlands for conservation and habitat purposes, and the determination of sending "Notice of Commission Contemplated Action: for outfitter and/or guide registration to any identified individual(s) that may have violated their Professional Code of Conduct as per 19.30.8, NMAC, if in the Commission's determination an individual shall be served notice, he/shall will be afforded an administrative hearing following 19.31.2, NMAC. **Commissioner Fonay** seconded the motion.

Roll Call Vote:

Chairman McClintic – yes

Vice Chairwoman Buffett – yes

Commissioner Arvas – yes

Commissioner Fonay - yes

Commissioner Salazar – yes

Commissioner Salmon - yes

Commissioner Salopek – yes

Motion carried unanimously.

Chairman McClintic entered into Open Session and stated for the record that the matters discussed in the Closed Executive Session were limited to those specified in the motion to close the meeting. No action was taken during the Closed Executive Session.

AGENDA ITEM NO. 19: [DID NOT CONSIDER] Notice of Commission Contemplated Action.

Presented by Dan Brooks – The State Game Commission determined, and directed the Department to send a Notice of Commission Contemplated Action to any outfitter or guide for whom evidence and information indicated they may have violated their Professional Code of Conduct or other matter contrary to 19.30.8, NMAC or Section 17-2A-3, NMSA, 1978. **[Action Item]**

AGENDA ITEM NO. 20: Proposed Conservation Easement.

Presented by Matt Wunder – Approximately \$5 million was appropriated to the NM Energy, Minerals and Natural Resources Department (NMEMNRD) for conservation easements and habitat restoration projects. Pursuant to a solicitation for proposals by EMNRD, the Department proposed and was awarded \$997,490 for the acquisition of a conservation easement on the H Bar V and Hay Vega Ranches north of Luna in SW New Mexico. The Commission was asked to consider and approve moving forward with acquisition of the proposed easement. **[Action Item]**

MOTION: Commissioner Buffett moved to recommend that the Department continue working with the landowner of the H Bar V and Hay Vega Ranches for the purchase of conservation easements on those properties. **Commissioner Salmon** seconded the motion.

VOTE: Voice vote taken. All present voted in the Affirmative. **Motion carried unanimously.**

AGENDA ITEM NO. 21: Update on White Peak Access Issues.

Presented by Bob Jenks and Lief Ahlm – The Department provided an update regarding White Peak access during 2010 fall hunts. Final outcome of this trade will depend on the NM Supreme Court decision. That's not been made as of this date, but the deeds from the trade between Stanley Ranch/SLO have been property filed in the Colfax/Mora courthouses; therefore, until such time that the Court decision is made, the land trade is in place and property boundaries have changed. The Supreme Court stay precludes the SLO from making any management decisions on properties received in the SLO trade. At this time there are only two legal open access areas to White Peak, one through NM 199 or off of the Sweetwater area across the UU Bar on the east side, or Sawmill access, and the other through the Aspen Hill area via an open gate agreement with ABC Land & Cattle Co. There is no easement with the Red Hill area as that road has been used at different times in the past by the public, but it does cross private land, and David Stanley, the landowner did choose to close that area. This hunting season with substantial amount of law enforcement effort, we've been there since August.

Vice-Chairwoman Buffett: Can you elaborate on volume of any kind phone calls you might have received regarding confusion of new boundaries and how you ameliorated those?

Lief Ahlm: We did not receive many. We directed those calls to the internet cite that had a map on it and a letter that went with that. We provided explanations for those. After only a few calls word was out where to find the information.

Commissioner Salazar: When we first got that deeded land thing and we realized they actually had to transfer those elk tags, we did lose 42 tags that he applied for on the deeded land, correct?

Lief Ahlm: I'm not sure of the exact number, but it was an increase.

Commissioner Salazar: Would we recover those if the Court case goes the other way, would we pull those since they are no longer part of the case?

Lief Ahlm: It's in the E-PLUS System depending on how it's signed up, percentage of public/private land would dictate how those tags are distributed, and if Mr. Stanley stays in the E-PLUS System, then that's how it would work out. Not to say there couldn't be something else done where we have large land holdings, where we negotiate a separate contract with that landowner, completely out of E-PLUS as a special management property. Right now it's straight E-PLUS.

Commissioner Arvas: Do we still pay access fees for that road, and to the same person?

Lief Ahlm: Yes, we're paying an access fee for the ABC Land & Cattle Co. Yes, same person.

Vice-Chairwoman Buffett: I heard about another road being cut into there. Is that ongoing?

Lief Ahlm: There is another road that was built that is a matter of contention between David Stanley and different parties, but it is not a road that's currently open through any legal public agreement, or a legal public permit.

Public Comment:

Ed Olona: I'm President of NM Wildlife Federation. In regard to White Peak, the allocation of the permits given to Mr. Stanley over this land swap, he did received 43. If the NM Supreme Court rules in favor of NM, we feel that we should return those permits to people of NM, not to Mr. Stanley. People paid big bucks to go there and enjoy themselves. Not only was it public access to White Peak, it was also a U.S. Mail route. A U.S. Mail route cannot be dissolved according to the Constitution. Problems have occurred there. The Commission should do a survey from all sportsmen that elk hunted in White Peak, and ask them what the overall impact of their hunt was in 2009-2010. I received a call from a hunter who said that there was a Raton District officer who walked into their camp at about sundown, they'd already set camp, and the officer asked them to leave. Regarding that no access road Mr. Ahlm is talking about, it has not been used. It was stopped by the U.S. Corp of Engineers and they still use that road. We have indicated to people that hunted that area not to use it.

Director Stevenson: To go on record with my understanding of the incident Mr. Olona is referring to, those individuals went past no trespassing signs, they were talked to by an individual from Mr. Stanley's ranch and told they could not be on that piece of

property before our officer responded to them. They were going to a piece of property previously state land but that had been through this trade put into private property. Mr. Stanley had posted that as he needed to on that road. Secondly, the road across Red Hill to clarify why some of those actions were taken, originally the AG's office had come to NMDGF when we were looking at trying to do an open gate agreement across that road and gave us an opinion that he felt that road was actually a potential public road and therefore, our access agreements were not legally done there. We went back to him and provided him with additional information which two weeks later he came to us and his staff asked us to go negotiate an agreement with Mr. Stanley on that Red Hill road, saying that Mr. Stanley did have authority to close that road and that potentially the state at some point may want to go forward with some litigation to look at it historically being an open road, but he felt that under the circumstances that it was private property and that Mr. Stanley did have authority to close. There were a lot of allegations around the Department's authority to do that, but I will tell you that the AG's office came to us subsequent to that asking us to negotiate an open gate agreement on that. That did not happen but we could never line up the different things about where that access would be. I want the Commission to understand why our officer took the action to ask those individuals to leave. They were on a 100% deeded piece of private property that belonged to Mr. Stanley at that point. Not only had they gone by no trespassing signs but they'd been asked to leave that piece of property and they refused to do so by that landowner who was taking care of his rights to do that. The issue about drinking, Mr. Olona, I'm not going to go into the middle of that in an open session. I'd have to go back and visit with our officer, but I will tell you he was doing due diligence as he's required to do under the trespass laws of NM and move forward with that action from that standpoint.

Ed Olona: Regarding the drinking during this situation, would it have been more appropriate/professional for this officer to advise these young men there to egress that area the next morning instead of that evening after they'd had a few drinks? I feel that the officer was in the wrong asking them to leave after drinking that night would have been rather offensive.

Lief Ahlm: None of us were at that incident at that time, and my officers use great discretion. They deal with lots of incidents with intoxicated hunters. They arrest intoxicated drivers/hunters. Had they felt that it was unsafe for these people to move, they would have not made that call. Obviously, and I have to trust my officers because we give them a big job, if he felt that it was proper to do that I think he made the right call. I don't think it's our job here to second guess what happened on the ground.

Chairman McClintic: The Director and I were summoned to the Governor's office and the topic was the White Peak issue. When we started to negotiate with Mr. Stanley for easement, we got a contemplated suit from the Wildlife Federation that if we tried to use our open gate money to get sportsmen in this state access, that they would sue us because that was inappropriate. We've got the letter. Tod forgot to bring it. I want to know what started that and when I got involved all of a sudden the Federation dropped trying to sue, but it was too late at that point. Mr. Stanley had gone south. What was that all about because I don't understand it?

Ed Olona: At the Game Commission meeting in Gallup, the Commission was asked to write a letter to the four agencies (CS Cattle Co./William Galloway/UU Bar Ranch/UU Bar Express Ranches) that own property up there. Nan, from the AG's office, directed Mr. Karp to write a letter to these gentlemen asking them to remove any obstructions from State Hwy 199. Mr. Karp has never done that until today. We had USGS mapping done of the whole road from the Black Lake side all the way to the Miami side. This road was the exact print of the USGS mapping that was done in Denver. Mr. Lyons says that nobody knew where that road is. Well if we didn't know where the road was, why was the mapping done exactly as USGS mapping cites up there? Incidentally, having to pay Bill Galloway access to state trust lands through his property is wrong. We should be utilizing that money for something else such as game preservation or whatever may be. Let us open 199. That is the legal access to the White Peak area and why should we be paying Mr. Galloway those amounts of money to access their own public lands? The AG's office told Mr. Karp that we'd support you if you are sued. The AG's office will support you in a lawsuit and nothing has been done. With that issue we would have the AG's office support.

Chairman McClintic: So your premise was that you didn't like the idea that we were paying for something that you thought was already ours?

Ed Olona: That's right.

Chairman McClintic: I wanted to make sure because we really got chewed on about getting sportsmen access for the hunting season up there, and when we got into the paperwork that's what stopped us cold with Mr. Stanley.

Ed Olona: I thank the Commission on behalf of sportsmen in NM who hunt Unit 48 for making this access available, otherwise we wouldn't have had access to that area. If you hadn't taken this action, we would not have been able to penetrate that area. There are landowners in that area currently that did not have access to their own private property because of that road closure permitted to block State Hwy 199. **[Discussion only]**

AGENDA ITEM NO. 22: Reconsideration of the 2011-2012 Special Hunt Application Deadline Dates.

Presented by Alexa Sandoval – The Department requested the Commission reconsider modifying the 2011-2012 special hunt application deadlines adopted at the October 28 Commission meeting due to unforeseen logistical issues that would potentially affect customer service.

Chairman McClintic: If I do a paper application in mid-March, I have until the deadline if I decide I don't want that application anymore, and I want to change it by voiding that application and re-doing it?

Alexa Sandoval: No, what you can do is you can go into the system and delete that paper application, that's all you can do with a paper application.

Chairman McClintic: You're saying that online they have the ability to change it?

Alexa Sandoval: That's correct. The system that was in place for online applicants last year is a more flexible system than the paper application process.

Chairman McClintic: Are you suggesting that when people submit, it's done?

Alexa Sandoval: If we are to hold with the application deadline of April 6, that would be correct. They would be locked down, they would not be able to make any changes, and in addition the deer applicants after March 23, would not even have the ability to go in and delete because we will have issued an authorization based on that application. Yes, it's more flexible for online system. Paper is a very static application process.

Chairman McClintic: Then why if you want to make everything equal, why don't you make everything equal, paper/online?

Alexa Sandoval: We've been trying to move towards online applications although I recognize people still want to do paper applications. People have enjoyed and we've gotten positive comments about the online application process. The term we use is a self-auditing process. When you apply online, and if you make it through and get it paid, you're good to go, whereas with paper applications we have a much higher rejection rate because people don't send the right amounts of money, they don't send the application, it's not filled out right.

Chairman McClintic: Last year we took a lot of heat from Senator Rehm that he wanted our license to be more user friendly, wanted all fees included. I thought if we had consistency because people get confused between online/paper applications, so I didn't know if we were going to make all these changes and try to get it cleaned up quite a bit and change dates. I didn't know how difficult it would be to take it that extra step to where we had it totally cleaned up.

Alexa Sandoval: I don't think we realized when I had put that procedure in place that they pay at the time of application what the implications were and as we started working with the development team, it just became abundantly apparent that we were becoming far more restrictive than we had provided online applicants in the past. Would it be on the level similar with paper at that point, yes, it would be if we did that full fee up front. That's correct, it would make it more equitable to paper but I think what we have in terms of feedback from our applicants, people do like that online system because it does allow for that ease and they know when they have submitted their application and they've paid for it, they're good to go, whereas paper applicants are not in that situation.

Chairman McClintic: Why would paper applicants not be in that situation if they submitted it/paid?

Alexa Sandoval: Paper applicants for whatever reasons have a higher rejection rate. I can't explain it.

Chairman McClintic: That's a personal deal. It's not our fault they're being rejected. It's because people aren't reading/giving the right number is what you're saying? If they don't use the right number/application fee online, it's impossible not to use the right number, correct?

Alexa Sandoval: That's correct.

Commissioner Fonay: To change the application deadline to March 28, that's for everybody?

Alexa Sandoval: That's correct.

Chairman McClintic: Didn't we have a lot of complaints from outfitters that because of their shows, and if we moved this application back it would cause them some trouble?

Alexa Sandoval: That's correct. The constituency group, guides/outfitters, we work with are opposed. I have struggled with bringing this in front of you. I know it's at the end of it, but when I look at 130,000 online applications, I had to weigh pros/cons of that.

Commissioner Salopek: I wanted simplicity and I know how the outfitters felt, but I was looking at authorizations when I can't fish or I get an authorization afterwards, to me it was a wreck. I was looking at moving it even further to mid-April. I think this is a compromise. You're talking 9-10 days. I like it.

Pat Block: In recognition of concerns we'd heard earlier, we did keep it as late as we possibly could to best accommodate them while still getting behind March 30. On March 31 it'll put the crew on a tight timeline. The draw will close on the 28th, they'll collect the money on the 29th, mail out authorization numbers on the 30th and 31st, so we absolutely bunched it up forward as we could to recognize their concern. We tried to accommodate their needs while still allowing customers to have as much flexibility as they could.

Chairman McClintic: Keep in mind you spoiled me last year. It was my first year on the Commission we didn't have to extend the deadline. We got everything done on time.

Commissioner Salopek: We were used to paper and that was final. Once you sent it in you didn't have options to change choices. If you were to make me mad by locking me down by March 23 me alone, you'd have about 100,000 unhappy people. It'd be unfair to lock somebody down where they couldn't change it and that's people that put in with outfitters.

Director Stevenson: As far as us not having to extend that deadline is a significant part of our discussion to get here. We clearly understand the potential impact to guides/outfitters. We looked at all options but our options of going to the 6th and trying to manipulate/build some of the intricate systems that would have been required to do this, we just felt that our ability to do that without making mistakes and get us into a situation that was untenable that the risk of that was not worth that few extra days. We know that that's a problem. If we do it this year we'll be locked in but we had to make a decision because of the Proclamation going out. We didn't want to come before you in February/late and say we've tried to do everything, but we can't get there without some major mistakes. Please understand that this has not been an easy issue for staff. We considered this on a risk analysis basis and

we felt the risk was high if we didn't come back to the Commission. We clearly understand the desires of guides/outfitters, but when we look at our other customers, is why we brought it to you.

Commissioner Salazar: Is there any fiscal impact?

Alexa Sandoval: No.

Chairman McClintic: I'd made a suggestion that if we moved our fishing license from March 31 into April, I know that statute would take legislative approval, and all I can tell you is that we may pursue trying to change that so we can get out of this situation.

Public Comment:

Garth Simms: You've characterized the concerns of the outfitting industry. The issue is that if we'd known what the issue was, we could've worked through this and maybe come up with proposals to do something different. I'd suggest that we can work over this coming interim committee between now and the time the Proclamation is set next and see if we can come up with a solution that would help swage our concerns and also accommodate what the Department/IT people need to do. If we'd had that six months ago we could have come up with something. Since it rose so late there's no way to deal with it and I respect the position the Department's in. If we can work with the Department over this coming year, we can work something out that might be better for all of us including the suggestion just made.

Jess Rankin: I'm an outfitter from Roswell. I don't think you know what a detrimental impact this will have on the outfitting business. Outfitters have printed brochures stating a deadline of April 6. I thought this was locked down at the October meeting. I understand there are problems, but I don't see going in and being able to change/delete an application is that big a deal. I think we're trying to accommodate too many wishy-washy people at the expense of the outfitting business. I wonder about the possibility of having a deadline in March, but still accept paper applications through March 6. That way if a hunter calls me I can say yes, you can apply, but you're going to have to put all the money up front which they have to do anyway, but we're going to have to do a paper application. That might get us through this interim year until we work out a plan, maybe go to the legislature and ask them to make fishing fiscal year April 20 through April 19 of the following year, or something.

Chairman McClintic: His last comment about leaving the online or making the paper application one day, would that work?

Alexa Sandoval: I have not done an assessment on what that would mean. I know that from printing of the rules/information booklet, that's a wholesale change and what that means in terms of our auditing/other processes in place, I'd have to do a full assessment of what that is.

Director Stevenson: We've broached that issue when we talked about that with the Directorate and it potentially causes chaos on that other end. It's not that the Commission could not do that, but it puts out there with the public one more time of saying well, I thought it was the other and causes a fair amount of controversy. What Mr. Simms put on the table, we wouldn't have brought this at the last Commission meeting and asked you to do this if we didn't think we could get it done. It's come about in the last ten days and we'll do whatever you like. My suggestion would be that we do it on the 28th and make it a hard deadline for everybody.

Alexa Sandoval: I think the solution is the 28th for all applicants. I've wondered about splitting applications between deadline dates for paper/online, and it's chaos/confusion for applicants. **[Action Item]**

MOTION: Commissioner Salopek moved that the Commission approve the Department's recommendation to revise the application deadline date for public land deer, elk, pronghorn antelope, ibex, Barbary sheep, bighorn sheep, javelina licenses to March 28, 2011 for the 2011-2012 hunting season. **Commissioner Salazar** seconded the motion.

VOTE: Voice vote taken. All present voted in the Affirmative. **Motion carried unanimously.**

Chairman McClintic: I'd recommend the Department try to see if there's a better solution for the next year. I apologize to everyone, but due to constraints, Garth, for the record, this has been posted for 40 days and we got no comments from guides/outfitters.

Director Stevenson: We just brought this forward within the last 48 hours.

Chairman McClintic: So we didn't give them a chance for public comment.

Director Stevenson: We did not. This is not a rule so did not.

Garth Simms: It showed up on a revised agenda that was released on Tuesday of this week, December 7.

Director Stevenson: That's correct.

Chairman McClintic: I'll try to figure out a way to put one person or get somebody to work diligently on this and we'll get comment.

Garth Simms: I'm confident we can work something out to everybody's benefit if we just get some time. I understand that fully and I was surprised we could postpone the antelope rule this late and still get a Proclamation done.

AGENDA ITEM NO. 23: General Public Comments (Comments Limited to 3 Minutes).

Public Comment:

Robert Espinosa: I'm tired of seeing stuff in the media that's one sided. Currently, NM has a thriving population of both Rocky Mountain bighorn sheep/Desert bighorn sheep in part owing the efforts to private landowners such as Leo Sims. If other conservation oriented landowners such as Ted Turner on the Armendarez had not been committed to the re-establishment of wild sheep on their private lands these populations would not in all likelihood even exist today. Not only have wild sheep benefitted from these commitments of both labor and financing, but deer/elk/antelope/turkey have become beneficiaries as well. Mr. Sims has been accused of having plans for establishing a private viewing and hunting operation via this effort. Bighorn sheep are designated

as big game species by the Department and as such are subject to regulation by the Department and cannot be hunted or harassed in any manner without a proper license. There's no high fence around the Sims Ranch and as such the herd is truly free to go wherever they desire. These animals are not privately owned and therefore are held in public trust and under the jurisdiction of the Department for management and harvest. If/when this population of bighorn sheep is deemed huntable, it will be the Department, not Leo Sims that dictates the terms/conditions of the hunts. Records indicate that Mr. Sims has contacted the New Mexico Department of Transportation to donate a portion of property in order to create a public viewing area. The state lands in question are not 1,000 acres of continuous real estate but comprised of numerous small sections of land that are in part land locked by Mr. Sims deeded property, therefore, not readily and legally accessible to the public, and as such, the project hasn't taken a lot of hunting opportunities away from NM citizens. What this has done is allow for a landscape approach for habitat and the private landowner to spend his private dollars on his land to benefit wildlife for all New Mexicans. An added plus, the SLO as dictated by statute for public education there's an increase in revenue as a result of the status change. The question raised is why the Dry Cimarron was selected over other areas for relocation. It was stated in the same article that the Department has sound sheep biologists on staff. Has it occurred to anyone that they chose the Dry Cimarron simply because it was the best choice? The herd has doubled in the four year period with the mild weather in the area and the habitat offered that includes supplemental feeding by Mr. Sims. The Dry Cimarron herd will produce excellent hunting opportunities and may produce larger than average trophies and may very well offer us a supply of sheep that can be transplanted to other areas of NM. My research of Minutes of Commission meetings over the past several years shows that the Dry Cimarron was considered as an area to transplant. At the Commission meeting held on May 25, 2006, Commissioner Arvas made a motion to affirm the Department's Rocky Mountain Bighorn sheep trapping and transplanting activities for 2007-2009 as discussed and directed the Department to designate a Dry Cimarron River Bighorn Restoration Project, the boundaries of which will be defined by the Department working with the Commission Chairman, local citizens, landowners, and sportsmen and to seek partnerships with private landowners to enhance wildlife habitat for all wildlife, but specifically for Bighorn sheep in the defined area. Commissioner Salmon seconded the motion. The motion carried. I like where it stated to seek partnerships with private landowners to enhance wildlife habitat for all wildlife, specifically bighorn sheep in the defined area. Mr. Sims has indicated that he's invested \$1.7M for this project. Since he has no control over hunting these animals, there's no evidence for the pay to play. The pay is probably there but where's the play? We should be applauding for Mr. Sims and others like him. His efforts have benefitted our citizenry and wildlife for years to come.

Leo Sims: It was discussed at six meetings of the public and others where sheep would be released. Jeremy Vesbach stated no one alerted the public and should have been announced on the private business lease that was done in favor for preservation of bighorn sheep. These articles ran for a ten-week period in the Santa Fe New Mexican, Albuquerque Journal, and The Clayton Newspaper, plus 14 weeks in hot topics on the front page of the SLO Hot Topics. The Dry Cimarron was talked about in many Game and Fish meetings on record. May 29, 2008 agenda, No. 16, and present at the meeting were Chairman Arvas, at the time a Federation member, Vice-Chairman Salmon at the time and at the time a Federation Board member, Commissioner Buffett, I believe a Federation member, Commissioner McClintic, Commissioner Simpson, on the Board again of the Federation, and Commissioner Sims, along with Kent Salazar, President of the NM Wildlife Federation. The Commissioner's statement read the Highway Commission has contacted us, this was when my aunt/uncle were still alive, and the sheep had moved off to an area that's state/private land. Department of Transportation has worked with us and we have donated land for a pull off/parking/viewing area and should be nice for tourists. I contacted Mr. Salmon and he didn't remember. Mr. Arvas remembers it, Mr. McClintic remembers it, and I don't know about you, Tod you were there, so let's describe what transparency is. You see right through somebody's crap, or is it the truth and it's laid out. If the Federation/Commission/Department has a problem with what I'm doing, it's been told to every one of you. Please come see what we're doing. That was prior to the release, after release, and during the release. Commission members were invited to those capture/release sites by me and the Department. Two other locations on the Dry Cimarron and other ranches were also used for this release. Jeremy Vesbach said well, he's got a right to later in the future conduct big game trophy hunts on his land. We always had that right since I owned it, but that's pretty transparent. If nobody knew this was going on, all you had to do was ask. It was used solely for cite preparation/land conservation/environmental research/feeder maintenance/preservation and care of bighorn sheep/other natural wildlife. That was all in the package that was on Hot Topics on the SLO front page. It's amazing that I slid that under everybody's nose for 14 weeks. Donations to Richardson that the Federation said I made in 2006 from the Leo V. Sims, LLC, were not from Mr. Sims. In 2006 Mr. Sims didn't own any of the LLC, wasn't associated with the LLC, had no membership in LLC. It belonged to Tom/Winnie Connan, which was the LLC which used to be my father's and was named after him. Wasn't my money, wasn't my decision, but I guess I got blamed for that one too. Actually my donation the whole time was \$2,500.

Chairman McClintic: What your donations were to Governor Richardson has no bearing on this sheep issue.

Leo Sims: It was donations to pay for play which this Commission/Department has been accused of. It has a bearing on how much they said I gave to pay for play.

Chairman McClintic: Dr. Arvas and I had the same accusation on this.

Leo Sims: I can spell that one for both of you. If you'll look at the Minutes of that meeting, you'll see who was at that meeting. All of you on the board except two. We've given one antelope and one deer permit away on this ranch, one to a close family friend and one to my son. How dare you and the organizations you belong to accuse me? Tom resigned, but it's an embarrassing state of affairs NM is in when people want to do something for sportsmen/wildlife of this state. You've got to stand up for what's

right/wrong, then you don't even need the word transparent. You're still invited to the ranch to come see what we're doing. We'll be glad to have you. We're proud of it.

AGENDA ITEM NO. 24: Adjourn.

MOTION: Commissioner Salopek moved to adjourn. Commissioner Buffett seconded the motion.

VOTE: Voice vote taken. All present voted in the Affirmative. **Motion carried unanimously.**

Meeting adjourned at 5:38 p.m.

Tod W. Stevenson, Secretary to the
New Mexico State Game Commission

_____, 2011
Date

Jim McClintic, Chairman
New Mexico State Game Commission
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