

Draft 5/19/11

MINUTES

NEW MEXICO STATE GAME COMMISSION

University of New Mexico (UNM) Continuing Education Conference Center – Room C
(Just North of Indian School Road)
1634 University Blvd., NE
Albuquerque, NM 87131
May 5, 2011
9:00 a.m. – 5:00 p.m.

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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
Commissioner Arvas – present
Commissioner Bidegain – present
Commissioner Hoffman – present
Commissioner Maracchini – present
Commissioner Montoya – present
Commissioner Salopek – present

ABSENT: None
QUORUM: Present

AGENDA ITEM NO. 3: Approval of Agenda.

MOTION: Commissioner Arvas moved to accept the agenda for the May 5, 2011 State Game Commission Meeting in Albuquerque. Vice-Chairman Salopek seconded the motion.

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

AGENDA ITEM NO. 4: Introduction of Commissioners.

Introductions were made of the four (4) new Game Commissioners—Jerry Maracchini, former Director of NMDGF, retired; Robert V. Hoffman, former professor from NMSU, avid quail hunter and member of Quail Unlimited; Bill Montoya, former Director of NMDGF, from Alto, NM, retired; and Scott Bidegain, avid hunter/fisherman/rancher from Tucumcari, NM.

AGENDA ITEM NO. 5: Organizational Structure of State Game Commission.

Presented by Game Commissioners - State Game Commission members made decisions on organizational structure and committee assignments.

MOTION: Commissioner Arvas moved to nominate Commissioner Thomas (Dick) R. Salopek as Vice-Chairman of the New Mexico Game Commission. **Commissioner Bidegain** seconded the motion. There were no other nominations.

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

AGENDA ITEM NO. 6: Introduction of Guests.

There were approximately 60 members of the audience in attendance.

AGENDA ITEM NO. 7: Approval of Minutes (December 9, 2010 – Clovis, NM).

MOTION: Commissioner Arvas moved to accept the Minutes for the December 9, 2010 in Clovis, NM, State Game Commission Meeting. **Vice-Chairman Salopek** seconded the motion.

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

Director Stevenson: This will be Lief Ahlm's last Commission meeting as Lief will be retiring at the end of May. Lief has worked for the agency for over 24 years in a variety of capacities. He started out as a District Wildlife Officer in Reserve, in the Fisheries Division, as a sergeant in the Chama area, Assistant Chief of Area Operations, and Division Chief in Raton. I want to recognize Lief's dedication to the profession. Lief, I/Department/public appreciate what you have done during your time with the Department.

Lief Ahlm: I leave with mixed feelings, but it's time to go try something else in life. I hope I've made a difference in the profession and for wildlife. I'll miss the people the most and the outdoor experiences. I hope the agency/Commission will go on and keep in mind what the goals are. Wildlife belongs to the people of NM, it's their resource and we need to make sure that continues for many generations.

Chairman McClintic: You can hold your head up high, Lief. Everyone that works for the Department and serves on this Commission wants to leave knowing they did some good and you absolutely did some good.

Commissioner Maracchini: I knew he was going to make it. We'll miss you, Lief.

Commissioner Arvas: Every situation where I was fortunate enough to work with Lief, he always showed the highest level of professionalism. Thank you for all your years of service.

Commissioner Montoya: I'm glad he did a good job because I hired him. Lief, we'll miss you.

NEW BUSINESS:

AGENDA ITEM NO. 8: Overview of Commission, Department, Laws and Rules.

Presented by R.J. Kirkpatrick - The Department provided a brief presentation for discussion on the following:

- Chapter 17
- Title 19 Rules
- Agency Structure and Functions

(Discussion only)

AGENDA ITEM NO. 9: Designate Reasonable Public Notice for 2011 Commission Meetings.

Presented by Jim Karp - Section 19.30.3.8 (A)(1), NMAC, requires the Commission to take action at its first annual meeting to continue or amend its existing practice to determine what is reasonable notice of Commission meetings under Section 10-15-1D, NMSA, 1978 of the Open Meetings Act. The Department recommended continuing the present practice as contained in Section 19.30.3.8, NMAC.

Vice-Chairman Salopek: Does the Department have a 60-day notice on our meetings, publicize before we can vote on a rule? If we had had the 30 instead of 60 days last year on problem with antelope, we could've acted in September instead of December.

Jim Karp: The 60-day timeframe is under Commission policy. It's not a rule. The state does not require either 60 or 30, it only requires reasonable notice, and we have continually deemed the notice that we have in Section 9.30.3.8 as reasonable. You're not tied to a 60-day notice other than under policy.

Director Stevenson: The policy before you is part of an existing rule the Commission is required to adopt annually. What Vice-Chairman Salopek is raising is a Commission policy that was adopted two years ago that stipulates that adoption of any rule has to be posted 60 days prior to action being taken and a final rule that the Department is proposing being put out at 30 days. I'd like the

Commission to reconsider that issue. We find ourselves continually struggling to meet that specific requirement. We want to be transparent and we've got to make sure the public understands what we're taking action on. I suggest the Commission move forward and adopt this rule, but at the same I'd like to post a potential alternative of that 60-day rule, have the Commission come back and look at it at the June meeting to make sure we're being transparent, and able to do business, but still keep the public involved.

Commissioner Hoffman: What we currently do is propose something, have 30 days to take comments, then we modify or not, based on that 30-day public comment period? At that point, we post rule we're going to vote on for an additional 30 days? During that second 30-day period, are there any modifications done or is that just notification to the public of what the Commission plans to do and then vote?

Director Stevenson: That's primarily correct. What that rule says currently is that we post it. If we're going to be on a rule adoption say for the July meeting, and if the meeting were in July, we'd have to post a draft rule of what we're proposing, put that out to the public, and allow public input for 20 days. After that we'd incorporate those comments and then post from a Department perspective what the final rule is. That does not prevent Commissioners from taking additional input, and Commissioners still have the latitude to either choose the Department's proposal, or with requirements under law, you have full autonomy to modify that rule based on what you're hearing. The problem is that when we post the final rule, even if we're receiving input, we can't modify. I'd propose that we at least post something, get that out to the public, and then the Commission look at it at the subsequent meeting. We do need to at least adopt this as less restrictive since this is the first meeting of the year. This gives you the baseline requirements under the rule, and move on doing business from this point forward.

Commissioner Arvas: The 60-day policy Tod is referring to has been misconstrued to once the rule was published, nothing could change in the rule. The Commission was accused last year of changing the game. The Commission will then have the opportunity to look at it to be transparent, but yet we don't want to curb changes that could be to the benefit of the Department/constituencies involved by that 60-day policy.

Director Stevenson: The Commission is appointed by statute and it's your decision. The Commission wants to be responsive to the Department/public, but the Commission makes the ultimate decisions, and is not bound by something that was put out 30/60 days.

Commissioner Maracchini: Since the 30/60-day rule doesn't show up in this particular rule/policy, is it another regulation that we've adopted?

Jim Karp: This is a policy and it is not included amongst the rules; therefore, it doesn't require a rule change to modify.

Chairman McClintic: The make up of the Commission has changed. We've got four new members and the Commission's policy is that every time we have a change it should be up to the Commission to make the decision on policy they want with public input on. We'll post what we're going to discuss on policy changes, get public input, and then we'll move forward at the next meeting.

Director Stevenson: This would be restrictive in that we cannot go past requirements to post meeting notices.

MOTION: Commissioner Arvas moved to adopt the notice provisions for State Game Commission public meetings presently contained in Section 19.30.3.8, NMAC, as reasonable notice to the public as applied to public meetings held by the State Game Commission in the year 2011. **Commissioner Montoya** seconded the motion.

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

AGENDA ITEM NO. 10: Presentation of the Fiscal Year 2010 Financial Statements and Audit Report.

Presented by Alexa Sandoval - The State Audit rule requires that agencies governed by a board or commission present the annual financial statements and audit report to their governing body in a public meeting. According to Section 2.2.2.10.J (3)(d) of the New Mexico Administrative Code, "Once the finalized version of the audit report is officially released to the agency by the state auditor (via an authorizing letter) and the required 10-day waiting period has passed, the audit report shall be presented to a quorum of the governing authority of the agency for approval at a public meeting." This item fulfilled this requirement.

Commissioner Arvas: Are you anticipating any changes this year for the budget presentation?

Alexa Sandoval: We'll be following the same procedures for budget, and going through more detail on a few things because now we have four more FTE's and more money. We got the expansion request.

Commissioner Arvas: Could you get the information to the four new Commissioners as quickly as possible?

Alexa Sandoval: Yes, we will. Every July is when we receive direction from the Governor's office/DFA. We'll be incorporating those changes and then we'll come before the Commission in August to approve FY'13.

Commissioner Hoffman: It appears that tracking tagged items is the problem?

Alexa Sandoval: That was a portion of the issue we had with capital assets. We have a new policy in place on how capital assets will be handled within divisions.

MOTION: Commissioner Montoya moved to approve the Department Audit Report for Fiscal Year 2010. **Vice-Chairman Salopek** seconded the motion.

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

AGENDA ITEM NO. 11: Commission Approval to Dispose of Fixed Assets.

Presented by Alexa Sandoval – The Department requested that the Commission approve the disposal of fixed assets that are worn out, obsolete, or have reached the end of their service life. State statutes, §§ 13-6-1 and 13-6-2, NMSA, 1978, *Sale of Public Property*, requires that an agency's governing body approve the disposal of state property prior to disposing of the items.

Director Stevenson: We were going to try and get a few law enforcement trucks replaced. Unfortunately, GSD did not have a contract in place that would allow us to replace pickups for law enforcement. There is a restriction on buying additional non-law enforcement vehicles.

Vice-Chairman Salopek: What are the costs of repair to the Department? Are repairs more of a detriment?

Alexa Sandoval: In certain cases we have to look at eliminating that vehicle and replace it. Currently, our standard replacement cycle is about 100,000 miles on vehicles unless it's a blown engine, but yes, we've been discussing internally.

Vice-Chairman Salopek: There's room to take care of new purchases, is there not?

Alexa Sandoval: Yes, there is. We just don't have the ability currently. Unfortunately, the truck bid was posted April 28 and it expires May 31.

Commissioner Montoya: What's a \$12,000 mobile radio?

Alexa Sandoval: Those were radios that were in units that when we did that cost, we did not separate those costs per unit. When it was put into the capital asset ledger, and per accounting standards, you can't then put those up. You have to keep that whole, so those were several different pieces.

Commissioner Hoffman: We bought those for \$555,000. Typically, how much would you expect to get for the Department from these disposals? You don't bury them, you sell them somewhere?

Alexa Sandoval: We are no longer able to take computer equipment to the auction because a pallet of computers can be wrapped and sold for \$1, so we have to follow state law in terms of getting rid of computer equipment. A hole is drilled through the hard drive so they can't be used, then we have an eco-waste contract where monitors/computers are picked up. We don't get anything for radios/computers, or electronics because they're obsolete by the time we sell them. For a vehicle that we'd sell, depending on the condition, we'll typically get \$7,000-\$9,000. On ATV's/snowmobiles, we'll use those as trade ins to get new vehicles.

Commissioner Hoffman: So, very little cash comes back to the Department?

Alexa Sandoval: For all items except vehicles, that's true.

MOTION: Commissioner Bidegain moved to approve the Department's request to dispose of the list of fixed assets that was presented to the Commission today that are worn out, obsolete, or have reached the end of their service life, either by sale at public auction, or otherwise disposed of in accordance with state law. **Commissioner Montoya** seconded the motion.

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

AGENDA ITEM NO. 12: Legislative Session Update.

Presented by R.J. Kirkpatrick – The Department provided the Commission with an update regarding 2011 legislation impacting the Department and Game Commission.

Commissioner Maracchini: Do you happen to know whether Department has researched enabling legislation that created Bandelier? Oftentimes when federal parks/refuges are created, enabling legislation on hunting/fishing/trapping can be addressed to make it easier for those types of negotiations.

Director Stevenson: We have and it is not in the authorizing language for Bandelier. I believe both you/Commissioner Montoya were involved at different aspects of that with us meeting with a whole variety of constituents in Los Alamos/Bandelier areas in a memorial in 1997. At that point, response from Bandelier National Park was that it was not within their authorized abilities and they would not move forward. There's been discussion with the new manager and maybe different insight, so we're glad to do what's authorized, and if not, there is ability to go back to Congress and get modified if that's what it takes.

Commissioner Arvas: There's legislation concerning Valles Caldera that has language that we hoped would've been in Bandelier Park message that was sent. It would make sense to consider, and when you make your argument to Bandelier that the Secretary of Interior has right language.

Commissioner Maracchini: This has to be done through Congressional representatives/U.S. Congress and I urge sportsmen to contact local reps/senators because some of these things can be done through executive order through cabinet secretary/President, but will require support from Congress.

Representative Rehm: A year ago I passed memorial requesting the Department to look at consolidation of licenses/fees, in particular, Habitat Stamp fees, and make process more streamlined. I introduced HB 149 and the intent was to consolidate fees and return to old draw system that you'd change all first choice first, second, and third. The rationale is that there are individuals putting in for Valles Vidal and their second choice is another high-demand area, and put in a third choice. If their application is drawn, they end up at least getting their third choice. Sportsmen I spoke to believe that if they put in for high-demand hunts, they may not hunt for ten years. If they're going to hunt area where they live and frequent, and less demand, there's higher probability. There are individuals that have hunted first choice, gone out in the field and individuals hunting their third choice is difficult to swallow. Early in the process, BLM opposed legislation. They felt they were going to be precluded from receiving habitat funds. This would have at least doubled money in Habitat Stamp Program. Requiring everyone to purchase took the Habitat Stamp/Habitat Management and consolidated into one fund. Forest Service did not oppose legislation. They understood it would

bring more money to the table. NM Wildlife Federation opposed legislation, and gave me six goals. It was amended 20 times, and in the end, NMWF obtained all six goals and still stood in opposition. We'll work in the interim to see if we can come up with something.

Commissioner Arvas: The Governor might be able to entertain that and we'd like to see you pursue it.

Rep. Rehm: I believe it's a fiscal matter, but Commission support would be valuable particularly if you can endorse legislation.

Commissioner Arvas: Do you find anything in the legislation that the Department didn't like?

Alexa Sandoval: No. We'd been talking about it, and in terms of simplicity it would be something that would benefit everybody.

Rep. Rehm: There are some free permits the Department issues that you can only get online or from the Department— grouse/Band tailed pigeon/La Joya if you want to go there to hunt/goose permits. This raises a problem.

Vice-Chairman Salopek: What are the rules in the legislature that we push/not push?

Director Stevenson: The Commission, with guidance from the Department, would propose to the Governor's Office, and then that has to be approved by the Governor's Office. We haven't had discussions at this point with the Governor's Office, but about the June-July timeframe, they ask for legislation that the Department/Commission would want to move. They'll let us know whether they'd allow us to do that, and then move to draft the legislation. There is desire both internally/externally to let them know that this is something we'd like to pursue. I anticipate that'll be the process the Governor would follow.

Vice-Chairman Salopek: I'd like to see that done so we can get on board before the Special Session.

Director Stevenson: With regard to the special session, I anticipate redistricting will be the focus. If they can agree on capital, I doubt many other items will move forward in a special session, unless there's an emergency.

Rep. Rehm: If we have a special session in mid-September to deal with redistricting, special sessions typically don't have many items on the call and they'll only be emergency items.

Chairman McClintic: You believe next January's short session will be tough to push this through?

Rep. Rehm: I think it'd be fine. We've passed legislation in short sessions. In the interim I'd look at the committees that the Department deals with and inform those committees of legislative desires.

Commissioner Arvas: BLM did come back with their support?

Rep. Rehm: Yes, at the end. It took about three weeks for them to understand their beliefs were unfounded and then they supported it, but as you can see in any session, you've got 60 days and you've got three weeks where it's been held up, you've stopped the legislation.

Commissioner Arvas: Would it be fair to say you only have one major obstacle to overcome now?

Rep. Rehm: Fair to say that although the NMWF representative at the last meeting represented nearly all sportsmen's groups.

Commissioner Hoffman: As a member of SW Consolidated Sportsmen, we have lots of support. We have lots of questions about the Sikes Act aspects of your bill. The group generated a great deal of support for that discussion and we need to re-visit that.

Rep. Rehm: Groups came and met with me. We looked at different options. I had some sportsmen's group that represented a region of the state that demanded that they be guaranteed 60% of the habitat money for their region, and I was not going to guarantee that. I told BLM that this is a working relationship between BLM/Forest Service/NMDGF. I don't want to tell you as the Commission how to operate.

Vice-Chairman Salopek: Last year Jess brought up he'd had someone put in under his outfitter number, can that still happen?

Dan Brooks: Yes, that can still happen. The outfitter industry overall sign up and their number becomes valid and clients can use it, but if they don't enter into a contract with that person, and that person has gone through our draw, using a valid number, then they can seek another valid outfitter. That's because there's no contractually binding agreement, so it isn't an illegal act. It was once illegal, but we stopped that, and some may not agree, but it gives them the latitude to swap clients, so it's allowed.

Vice-Chairman Salopek: Have we looked at financial ramifications? I agree with this but it also means less money.

Alexa Sandoval: An analysis we completed on every version of this bill, we do not anticipate a revenue drop. With the current quota, we'll recognize everything holding true about \$500,000 revenue increase.

Director Stevenson: We sat with the Governor's Office while they were trying to determine whether she was going to sign the bill or not. She asked the Department to look at whether there were any components of this that we could refund if somebody was not successful, that we could refund a component of this game license. We believe we can do that. Currently under statutory authority, like with elk/other licenses, law gives us authority to hold funds in limbo while in the application process, and it allows us to refund monies. The Governor was concerned about folks having to buy a game license when it was not something that they really would pursue. A lot of our hunters do not hunt small game. From that standpoint, we will be bringing a rule that will potentially put that into effect. Once again, that'll be up to the Commission to approve or not, but the big concern is requiring someone to purchase something they'd not typically take advantage of. We believe the law is in place to provide that authority.

Vice-Chairman Salopek: We're trying to get more federal money for hunting/fishing, and if we refund, does that take us out of the base from the federal government? For \$15, I'd hope we can talk the Governor out of pushing that.

Alexa Sandoval: That's correct. If we were to refund a game hunting license for a person who did not draw, they would not be counted if they held no other hunting license for the entire year.

Vice-Chairman Salopek: How much is contributed from the federal government for hunting/fishing?

Alexa Sandoval: For every hunting license we receive approximately \$125 from the federal government. That's a head count, not the 312,000 licenses we sell. It's the 90,000 hunters that purchase, and then for each fishing license we receive about \$34-\$35 per head count.

Vice-Chairman Salopek: I wanted new Commissioners to know how that worked.

Alexa Sandoval: We'll have to look at how we provide that rule to you because if we do offer more than a general hunting/fishing license, that license then becomes valid April 1, and we would not have the ability at that point to refund because it's a valid license.

Commissioner Maracchini: I'm going to assume there's going to be a small percentage of resident applicants who will demand their small game license money. There may be a few non-residents. I'm not particularly concerned at this point that we'll be losing those funds.

Alexa Sandoval: Because this bill has not been enacted at this point, I cannot begin to venture as to what's going to happen.

Commissioner Arvas: What you're saying is the way not to lose any of the Dingell-Johnson funds is that if they bought the license, allows us to ask for the money even though we have to refund it?

Alexa Sandoval: No, we're not allowed to count that license if a license is bought and refunded/voided.

Commissioner Arvas: Because it's previous year's sales?

Alexa Sandoval: No, the way we account for those license fees is in the current license year and the federal government looks at it not when we receive the money, it's when those licenses are truly valid.

Commissioner Arvas: We get about \$9.2M a year?

Alexa Sandoval: We have in the last year received approximately \$9M because of the bump in purchase of firearms across the country in ammo. I don't anticipate that trend continuing. It will probably decrease because in years past we have gotten approximately \$6M-\$7M from Pittman-Robertson. **(Discussion only)**

Public Comment:

Jeremy Vesbach: I represent the NM Wildlife Federation. We're supportive of simplifying the license process.

AGENDA ITEM NO. 13: Delisting Desert Bighorn Sheep.

Presented by Jim Lane – The Department recommended delisting Desert Bighorn sheep and established a new set of public meeting dates as required by statute. This second recommendation is due to a procedural error in public announcements. The Director again presented a recommendation to delist desert bighorn sheep pursuant to Section 17-2-40, NMSA, 1978, based on his review of the final report as prepared by the Department. The delisting process and timeline were discussed.

Director Stevenson: Components of the Wildlife Conservation Act have to be met for us to move forward. One requires that I evaluate an investigation report implemented by the agency (Elise/Eric) that was peer reviewed by our four-state, four-year universities concurring we had met all criteria for downlisting, and analysis was proper. You've got my recommendation. I've got a typo where I talk about 535 animals, it should be instead of 5350 the 595 we currently have. I'm comfortable reviewing that information. Looking at data, we have complied and exceeded all delisting requirements. We're in third year of sustaining those populations above 500 criteria, and 100 per each in those meta-populations. I recommend the Commission move forward on downlisting. We'll have to go to a noticing process to comply with the act in the same way we did when we opened this investigation/started process. This is third time the Department is before the Commission with this action. Jim/Elise have reiterated that this will be the first time since the Wildlife Conservation Act was put into place that we've actually achieved delisting because we've achieved population enhancements and have gotten these recovered to get off the list. There have been rumors that either I/agency do not want this to happen. I assure you that's not the case.

Elise Goldstein: The Wildlife Conservation Act specifies timeframes/number of days by which various things need to happen. I propose we have two meetings: Truth or Consequences on September 6, 2011; and Deming on September 6, 2011, both public hearings to give the public opportunity to comment on delisting process.

MOTION: Commissioner Maracchini moved to accept the Department's proposed motion to hold meetings at the particular locations and dates. **Commissioner Arvas** seconded the motion.

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

Public Comment:

Robert Espinoza: I'm Executive Director for NM Sportsmen for Fish & Wildlife, and we congratulate Elise/Eric/Department for their efforts in delisting.

Commissioner Arvas: Did your sportsmen's group support Rep. Rehm's bill?

Robert Espinoza: Yes, we did.

Jeremy Vesbach: I'm with NM Wildlife Federation. I commend the Department on meeting an important milestone of having a great species no longer threatened with extinction.

Mary Katherine Ray: I'm wildlife chair for the Rio Grande Chapter/Sierra Club. I want to echo congratulations, but I'm concerned about the continued controlled killing of mountain lions to protect bighorns.

Lanny Rominger: President/NM Wild Sheep Foundation/member of the Board of Trustees of the National Wild Sheep Foundation. This has been a marathon process and has taken about 30 years. This is undoubtedly the most successful wildlife recovery program in the history of NM.

MOTION: Commissioner Maracchini moved to accept the public hearing dates and locations as proposed by the Department for the delisting of the Desert bighorn sheep. **Commissioner Montoya** seconded the motion.

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

Public Comments:

Garrett Veneklasen: I'm with Trout Unlimited. One comment on HB 2, I'm on the OHV Advisory Board and the bill now will appropriate approximately \$500,000 out of the Trail Safety Fund in the General Fund, and if we had a correlation between user fees that were going coming out of hunting/fishing and into the General Fund, the impact is negative. For the public record, it's important to note that we're having problems with compliance on our new travel management issues. To comment on Rep. Rehm's presentation, there were a lot more people at the table than NM Wildlife Federation.

Lenny Rominger: If sheep are downlisted, this will be a small step for the Commission/Department to undertake, but it'll be a gigantic step for wild sheep conservation.

John Crenshaw: Delisting of bighorn sheep is probably one of success stories. Director Montoya was the one who started first five sheep out of Mexico to put in Red Rock.

AGENDA ITEM NO. 14: Revocations.

Presented by Dan Brooks – The Department presented a list of individuals that met established revocation criteria and the Commission considered for revocation. The hearing officer's recommendations for assessment of points against registered outfitters were included. Before Commissioners were recommendations for revocation. Mr. Rand French is requesting an exception. The Commission can follow the hearing officer's recommendation, the Commission can make it's own recommendation, the Commission can request Mr. French be set aside and review his record later, or can vote on this as a block. What can't happen is that Mr. French cannot appear and give you oral argument. That's precluded from the record and he obviously has had his due process to bring his case forward/judged by hearing officer who is not an employee of the Department.

Chairman McClintic: Was it determined the animal had been wounded off the ranch?

Dan Brooks: I don't think there was any dispute about the animal being wounded. I'd have to look back at the hearing officer's recommendation if it was off the ranch. The exceptions hearing officer was concerned about were that Mr. French is a registered guide. He had multiple opportunities to call instead continued to go back on to the place and was in the process of taking it off the ranch without telling anyone.

MOTION: Vice-Chairman Salopek moved to adopt the Department's and the Hearing Officer's recommendations on suspension, revocation and point assessment for the attached list of 86 individuals for the period of time specified.

Commissioner Maracchini: Before you call for a vote, I'd offer a different opinion. If what he says is factual about the amount of monies he's paid and other losses he's sustained, he's paid substantial for the violation. I would agree to give him a one-year suspension, rather than three.

Chairman McClintic: We have a motion, so let's go ahead and vote on that motion and if it doesn't carry then we'll entertain your motion for one year. **Commissioner Arvas** seconded the motion.

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

Chairman McClintic: Mr. Maracchini, are you opposed to that?

Commissioner Maracchini: No, I don't oppose that since it's the way you just phrased it that we could look at my motion to reduce his penalty.

AGENDA ITEM NO. 15: State Land Office Easement for Hunting, Fishing, and Trapping.

Presented by R.J. Kirkpatrick - The Department presented for discussion a proposed easement for hunter, angler, and trapper access upon State Trust Lands for the regulated harvest of protected species. The proposed easement was developed in conjunction with the Commissioner of Public Lands, and is for a one-year period.

Mike Anaya: Assistant Commissioner for Surface Division/SLO. We will do everything we can to work closely with the Department to allow access hunting for hunters.

Commissioner Arvas: What's your definition of a business lease?

Mike Anaya: There are business leases that don't have a business. There have been some things that happened in the previous administration we're looking at. To me a business lease is a K-Mart/WalMart on state land, but there have been business leases issued that, in our opinion, eliminate public access for hunters.

Commissioner Arvas: Does that mean SLO will do a review of state lands that have been more/less changed in past years from hunting/no hunting, reviewing old arrangements made by former land commissioners?

Mike: Yes, sir.

Jerry Maracchini: When Commissioner Powell was the former land commissioner he was always accessible and willing to work with the Department/Commission. I hope we can move forward to make this a multi-year agreement once we get all Commissioners' input.

Commissioner Hoffman: What determines whether state land is/is not accessible to sportsmen?

R.J. Kirkpatrick: Under current language in easement, state lands are accessible if there is a roadway, whether public/two track that has gate access, or you can go over fence and walk into that. Under new proposal, it'd be fairly similar although we'd put

language in that says if the Commissioner withdraws some lands that result in otherwise accessible public lands being inaccessible, he'd work with us to figure out how to get to those other landlocked/other public lands. Currently, it's a roadway or you can walk to those state lands.

Commissioner Hoffman: That's only on public land, not through public land, even if landlocked?

R.J. Kirkpatrick: Under current easement, there are no violating private property rights in that sportsmen aren't able to go across private property without permission to get to those state lands. Even if they're landlocked, you can't do it lawfully, which is currently an issue. Significant amount of state lands are landlocked by private property. Does Department want to move forward with paying for those lands that we aren't getting average hunters to even though those lands are hunted through antelope programs, but are hunted by sportsmen although sportsmen are private land designated for deer and sometimes elk? Input in getting to those lands completely surrounded by private property will be a difficult issue.

(Discussion only)

AGENDA ITEM NO. 16: Private Land Antelope System Update.

Presented by Jim Lane – The Department provided an update regarding implementation of the new Private Land Antelope License Allocation Rule (19.30.12, NMAC).

Commissioner Hoffman: Would it be fair to say most cases where SMP's have been issued comes at the request of landowner?

Jim Lane: Yes, sir, that would be fair.

Commissioner Hoffman: You said that these particular places want to manage their antelope herd differently than the Department, is that fair to say?

Jim Lane: With some cases, that's a fair statement. In some cases, those special management properties offer more opportunity than the formula-base system was giving them, both to public/private because there might be 7-8 center pivots. You've got more green than neighboring ranches, but you're not getting the contribution to what you're providing through the system to pronghorn, whereas there might have been four licenses, and the herd that was using that ranch can sustain maybe 20, so we've adjusted accordingly.

Commissioner Hoffman: One problem sportsmen voiced was that there weren't enough antelope tags going into public draw, and it's clear to me that a lot of the antelope management decisions have been co-opted by landowners. There are roughly 1,000 permits issued to landowners that are never converted to licenses each year. That implies that if they're not converted to licenses, (1) the Department is losing revenue from license sales for those permits which they expect to be sold, and (2) although it's anecdotal, a lot of reasons given for not converting those landowner tags to licenses is, that we want to better manage the antelope herd. That is not, in my opinion, tenable. First, wildlife biologists in the Department are who should be managing the herds and if they say that one should be able to take so many animals, that's who should say how many animals you can take, not the landowner/hunter, wildlife professionals make that decision. If you have 1,000 landowner permits which aren't converted to licenses, next year they should be pulled from those ranches that don't convert them and put them in the public draw because clearly the management decisions are being taken out of the hands of the Department and put into the hands of others. I don't think that's reasonable, and I don't think that's what we're in the business for. My suggestion is that if they're not converted to licenses, they be withdrawn because they're clearly not using them as management tools the Department establishes.

Jim Lane: We recognize there are unconverted licenses each year and that has been on the table when we went through the rule development process. The A-PLUS task force did not recommend doing this and that was the group of stakeholders that we worked with. That was not a unanimous decision and was one that caused much consternation with some of the groups there, so we recognize, and at the Commission's prerogative, this will be amended to do many things and that's one of them.

Commissioner Hoffman: Based on the fact that there are 1,600 public draw permits, 1,000 permits raise the public draw lots of percentage points. That's a big change that draw hunters in NM would see immediately simply because you'd be doing what trained wildlife biologists are saying we should be doing.

Commissioner Maracchini: Are we talking private land, or does this include ranches that have state/federal lands within their ranches?

Jim Lane: It's both 100% private deeded, mixed land status ranches.

Commissioner Maracchini: It's obvious we're dealing with access issues. We're different than most western states in the way we conduct these agreements/landowner authorizations, but what we're really arguing is negotiating access. Most landowners have a particular interest on access to their land. Some will manage for more quality, so they won't use all their bull tags and they use all cow tags, they may not. It's an issue that needs continuous discussion but I obviously don't want to change one system without having an equally/better system. I'm leary about Commission/government agency trying to dictate how someone can manage their private land. That presents problems when you have public/private land, but I certainly hate to lose landowners' enthusiasm for helping manage a good resource.

Jim Lane: Productive collaboration with landowners is key to us continuing to hunt in the state, and we've worked hard on that.

Commissioner Maracchini: The Department's/Commission's goal is to increase number of public draw permits to hunt ranches. If there are 1,000 unused antelope licenses, and we issue those to public hunters, and you have an expectation that now I've got a license, but they still have to get that landowner's permissions/access fee. I don't want to create a false impression to hunters that we've got 1,000 unused licenses we'll issue to them, and then they find out they've got no place to utilize that license.

Jim Lane: That's one of the potential pitfalls of throwing 1,000 back into the public draw. Currently the system is built so that we know exactly where hunters are going, we can place them on ranches in a ranch-driven system where we're assigning hunters based on public/private land split. That's the system that has been built, but we throw that system askew when we disproportionately wait the number of hunters that are public draw hunters that are being put on ranches. I heard loud/clear from landowners that we do not want to force public comments. That's something we'd have to contend with if we went down that road.

Commissioner Hoffman: Suppose a ranch has 10 permits and it's 50-50, so they get five for landowner, five for public draw. That year the landowner sells two tags, three go unconverted. Next year you take those three tags out and put them in, now there are eight hunters on public draw, and two for that ranch. If the ranch stays open and it takes two, you have the same number of hunters on the ranch, the rancher sells same number of permits, gets the same amount of money, but there are three public draw people that get to go hunting that didn't before. The other option is that if the landowner withdraws their land. That's a possibility you have to face, but if they're not converting those licenses, basically they're not providing money from those authorizations to the Department, so they're costing us money by not selling their permits, or not converting them to licenses. An alternative would be for the rancher to buy those three licenses and give the Department the money and say we didn't hunt. That system abrogates the responsibility to the Department to manage that animal.

Commissioner Arvas: How many more public licenses as up to date do you think we're going to be issuing than last year? What was the goal you had when you changed the formula?

Jim Lane: It's going to remain close to what it's always been. We have a goal of increasing through a public ranch concept where we had public lands that were not enrolled and we were not hunting, huntable populations we had a goal of enrolling and we thought after looking at the numbers that it would increase public draw licenses by 100-150. We probably got close to that.

Commissioner Arvas: So you're expecting 100-150 more public licenses than what you had last year?

Jim Lane: That was the goal through the public draw ranch system.

Commissioner Arvas: How many acres of antelope habitat have been taken out of the system as a result of those people not signing up?

Jim Lane: The last week of enrolling every year there's a big push that roll their agreements back in the last couple of days. Today I can guarantee you Julie Cummings', our A-PLUS coordinator, her in-box was full of agreements that came in today. Tomorrow will be the same. I anticipate us to be about where we've always been with enrollment.

Commissioner Arvas: From management standpoint, would you be concerned if there were big tracts/antelope habitats that were not enrolled?

Jim Lane: From a management standpoint, no, from trying to optimize hunting opportunity in the state, yes. We don't have to hunt a lot of pronghorn, but certainly if the opportunity is there and we can sustainably hunt.

Vice-Chairman Salopek: What if you looked at archery? I would think landowners want a part of that to be able to negotiate.

Jim Lane: One thing the landowner community has made clear during meetings is that they'd like to see us go to a ranch-only system with mobility impaired/archery.

Vice-Chairman Salopek: It seems to be working, but I know some hunters that can't gain access or can't afford to pay and it seems public part of ranches that are accessible get pounded and maybe the sustainability of antelope there might lower.

Chairman McClintic: What might be helpful is who signed up last year with supposedly the 1,000 tags that weren't converted. If we had a breakdown of those tags, how many were ranch/private land, how many were public that could be accessed by the public, and which ones didn't. That would help us immensely, but it seems to me that there are a lot of people that have big ranches that don't want to hunt them. Our goal has been to enroll these ranches and give them something they're comfortable with. You ought to be able to figure out what was not converted and why they weren't. I agree our biggest issue is that if we take those permits away and give a guy two, if a guy only wanted to hunt two on his ranch, and didn't want to convert the rest, it's going to be difficult to tell him we want three public hunters, if you want two you're going to have three public hunters.

Jim Lane: We can do that.

Commissioner Maracchini: Did I hear correctly that most landowners prefer a ranch-only system?

Jim Lane: That was the consensus last year and a half in development of this.

Commissioner Maracchini: I remember a time when the Department had 135 commissioned officers and when we had an antelope hunt, about all of us would show up on those hunts. Ranchers would complain antelope were gone to adjoining ranch, and they'd get together with neighbors and preferred to move from ranch to ranch and now their opinions have changed because of the lack of the perceived law enforcement?

Jim Lane: That's one issue, and another is perception of trespass and they didn't want to spend time patrolling the roads.

Commissioner Maracchini: When you happen to have plenty of law enforcement officers, ranchers don't have to worry about trespass problems. (Discussion only)

Public Comment:

Jess Rankin: I'm an outfitter. It's a step backwards to eliminate the option of ranch signing up unitwide. The Department should enforce allowing us access to the ranch.

Bert Ancell: President of NM Cattle Growers and we support this system.

Jeremy Vesbach: I represent NM Wildlife Federation. The Department has heard loud/clear that private landowners did not want public hunters forced on their property.

Garrett VeneKlasen: The A-PLUS System continues to pit community members against each other. We need to realize the resource is held in public trust. The system itself will always create turmoil among citizens.

Bob Atwood: President of NM Council of Outfitters/Guides. We support this rule.

AGENDA ITEM NO. 20: Closed Executive Session.

The State Game Commission adjourned into Closed Executive Session, pursuant to Section 10-15-1(H), NMSA, 1978, to discuss litigation, personnel, and acquisition or disposal of real property or water rights, to discuss matters related to the determination of sending "Notice of Commission Contemplated Action" for outfitter and/or guide registration to any identified individual(s) that may have violated regulating procedures and conduct as per 19.30.8, and 19.31.2, NMAC. If in the Commission's determination an individual shall be served notice, he or she will be afforded an administrative hearing pursuant to 19.31.2, NMAC.

MOTION: Chairman McClintic moved to enter into Closed Executive Session pursuant to Section NMSA 10-15-1(H), NMSA, 1978, of the Open Meetings Act to discuss matters related to personnel and acquisition or disposal of real property or water rights, to discuss matters related to the determination of sending "Notice of Commission Contemplated Action" for outfitter and/or guide registration to any identified individual(s) that may have violated regulating procedures and conduct as per the Professional Code of Conduct, 19.30.8, NMAC, and 19.31.2, 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. **Vice-Chairman Salopek** seconded the motion.

Roll Call Vote:

Chairman McClintic – yes

Vice-Chairman Salopek – yes

Commissioner Arvas – yes

Commissioner Bidegain – yes

Commissioner Hoffman - yes

Commissioner Maracchini – yes

Commissioner Montoya - yes

Motion carried unanimously.

Chairman McClintic entered into Open Session and stated that 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. 21: Proposed Sale of Water to City of Las Vegas.

Presented by Mike Sloane and Jim Karp – The Department presented a proposal for the sale to the City of Las Vegas of surplus water available to the Department from Storrie Lake.

MOTION: Vice-Chairman Salopek moved to authorize the Department to negotiate with the City of Las Vegas the terms and conditions of a sale to the City of up to the entire 2011 delivery of water to the Department from Storrie Lake and to take all required actions with the Office of the State Engineer to effect such transaction. The draft agreement shall be presented to the Chairman for his review and approval prior to execution. **Commissioner Arvas** seconded the motion.

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

AGENDA ITEM NO. 17: Open the 2011-2012 Waterfowl/Migratory Game Bird Rule (19.31.6, NMAC).

Presented by Barry Hale – The Department presented for discussion opening of the 2011-2012 Waterfowl/Migratory Game Bird Rule, 19.31.6 NMAC.

Commissioner Maracchini: Why can't we hunt WMA's every day of the week?

Barry Hale: In Bernardo/La Joya we want to give those waterfowl at least one day of rest, and usually that's on Fridays. We open up the quagmire ponds in Bernardo every other day, again to provide some opportunity but also provide some refuge for those birds on the other side. Then we alternate, but then close the entire refuge to give those birds a complete day of rest.

Commissioner Maracchini: They'll leave and not come back?

Barry Hale: To a certain extent yes, but I don't think that's the overriding concern. It's just to give them some rest. I think those birds will stay around there because that's one of the few places where we provide that kind of wetland habitat. The river is there but that's not always providing what they need—food/shelter so we can provide that.

Commissioner Maracchini: I'm always looking for hunter opportunity whether they need the rest or not, I don't know if I buy that.

Barry Hale: Historically that's been why we do that.

(Discussion only)

AGENDA ITEM NO. 18: Update on the Trapping Ban (19.32.2, NMAC) and New Mexico State University Trap Evaluation Statute.

Presented by Jim Lane – The Department presented an update on the trapping ban (19.32.2, NMAC) and New Mexico State University trapping evaluation study.

Commissioner Maracchini: Based on research being done, have there been wolves caught by currently authorized leghold traps?

Jim Lane: There have been wolves caught in the recovery area over the history of the recovery effort in foothold/steel traps. I believe (12-14) have been trapped both by target/recovery team/unknown trappers whether they were regulated furbearer/coyote trappers is unknown. Almost without exception the injuries were likely due to the wolf pulling the trap free so the trap was not anchored correctly and spending too much time in a trap.

Commissioner Maracchini: Do we have any idea the ratio of regulated traps vs. those setting coyote traps in that particular area?

Jim Lane: No, sir, we do not have any accurate data that would tell us the proportion of traps set in that area that are legal but unregulated coyote trapping or folks that are protecting their livestock/livelihood vs. those who are embarking on regulated furbearer trapping whether it's hobby/way to make money.

Commissioner Maracchini: So we can't make a determination that regulated furbearer trappers are having negative/positive impact on the wolf population?

Jim Lane: I concur with that assessment.

(Discussion only)

AGENDA ITEM NO. 19: General Public Comments (Comments Limited to 3 Minutes).

Public Comments:

Jess Carey: Representing the Catron County Commission. The Catron County Commission requests that you reinstate regulated trapping in Catron County.

Jason Clack: I'm against the use of leghold traps on public lands.

Bert Ancell: President of NM Cattle Growers and we'd like to see the ban lifted.

Natalie Owings: I'm Director of The Heart & Soul Animal Sanctuary. The public cares enough to support it.

Mary Katherine Ray: Wildlife Chair to the Rio Grande Chapter of Sierra Club and we support the ban.

Ron Shortes: I representing Catron County as well as our family ranches in Lincoln/Catron Counties. We request the ban be lifted.

Phil Carter: I'm Wildlife Campaign Manager, Animal Protection of NM. On behalf of the 3,000 members of Animal Protection of NM I ask the Commission extend the trapping ban.

Kaisa Lappalainen: These traps do harm to animals that are endangered.

Jess Rankin: People in rural areas rely on money they can make trapping. These are not the evil devices that people that don't know any better make them out to be.

William Wiley: I'm President of Republicans for Environmental Protection of NM which is an organization that promotes business and protection of our air/water/land/animals/plants. I'm requesting that you continue this order to disallow trapping in the wolf recovery area because it disrupts the prey/predator relationship.

Maggie Crow: Supports the trapping ban.

Charles Fox: My objection to trapping is that it imposes a risk.

Peggy Norton: I support ending trapping on public lands in NM.

Commissioner Hoffman: Coyote is not a regulated species in the state, correct? If you trap a coyote it's as a furbearer. Why can't there be a regulation including coyotes into the trapping regulations as a furbearer? Is that impossible?

Dan Brooks: R.J. Kirkpatrick talked earlier about one piece of legislation that authorizes the Commission to pass rules, talks about the manner/method of protected game. Coyote is not protected. When you couple that with the exemptions found in Chapter 17, Article 5, which are the trapping laws, there are several exemptions, so clearly, there is a lack of authority for the Commission to act on.

Commissioner Maracchini: Looking at Chapter 17-1-14, under subparagraph B, paragraph 12, it authorizes the Department/Commission to conduct studies of programs for the management of endangered and non-game species. The coyote would fall under non-game species because as you stated the coyote is not a protected game animal. That doesn't mean we can't consider programs for the management of non-game species.

Dan Brooks: You'd probably want to consult with your attorney on that. Unfortunately she's gone, but the reality is that a study is completely different than setting regulations/restrictions where you can actually hold someone accountable and punish through the courts. One of the issues becomes that when we go out there and apprehend someone, we'd better be right because what if we have to use force/take them to jail? The attorney general representative is not here to give you guidance. We can research it for you, but it's the Commission's prerogative.

Greg Burpo: I'm Vice President of United Bowhunters of NM. I'm here to open up an invitation for dialog between sportsmen/Commission.

Bob Atwood: I'm President of NM Council Outfitters/Guides. We look forward to working with the new Commission.

Ken Whiton: I'm with the NM Chapter of Republicans for Environmental Protection. I recommend that you keep in place the current trapping ban.

Jeremy Vesbach: I'd like the Commission to keep in mind the intent of that public notice policy because the legal rule is that if there are any changes to the agenda they have to be posted 24 hours before the meeting. The intent behind going more than 24 hours and the Department developing the notice policy the Commission adopted was to give the public more time to look at things, and also to protect the Department staff where Department staff is free to present real biology behind things and then the Commission makes the decision out in public.

Bert Ancell: We still need to control predation.

Jess Rankin: We need to be able to pay for it all at once so we can know it's done and don't have to worry about something happening later on to keep them out of the draw. Also, if there's any way they can make it after April 15 when people realize they're not broke, they still have money to go hunting, it'd help the outfitting industry.

AGENDA ITEM NO. 22: Adjourn.

MOTION: Vice-Chairman Salopek moved to adjourn. Commissioner Arvas seconded the motion.

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

Meeting adjourned at 4:30 p.m.

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

June 9, 2011

Date

Jim McClintic, Chairman
New Mexico State Game Commission
Minutes Transcribed by: Katie Gonzales
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June 9, 2011

Date