

**MINUTES**  
**NEW MEXICO STATE GAME COMMISSION**  
City of Albuquerque Convention Center  
La Cienega Conference Rm.--Second Level-East Complex  
401 2<sup>nd</sup> St., NW  
Albuquerque, NM 87102  
April 8, 2010  
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  
Vice Chairwoman Buffett – present  
Commissioner Arvas – present  
Commissioner Fonay – present  
Commissioner Salazar – absent  
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 April 8, 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.**

Introductions were made by approximately 75 members of the audience.

**AGENDA ITEM NO. 5: Approval of Minutes (February 25, 2010 – Santa Fe, NM).**

**MOTION:** Commissioner Fonay moved to approve the Minutes of the February 25, 2010 State Game Commission Meeting in Santa Fe as presented. Commissioner Arvas 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.**

**Janice Stevens:** I'm the Quemado District Ranger in the Gila National Forest. With me is Tim Hendricks, fuel specialist on the ranger district, and also does vegetation planning, and is our Inner-Disciplinary Team Leader for a project called Slaughter Mesa.

**Tim Hendricks:** I want to present Donald Auer a thank you from the Quemado Ranger District for your sincere dedication and effort to make the Slaughter Mesa Restoration Planning Project a success. Thanks, Donald, and the same to Stewart Liley who I thought was going to be here.

**Janice Stevenson:** I'd also like to make a presentation to R.J. Kirkpatrick who was the instigator in helping us get this kicked off originally. Thank you, R.J.

**Pat Block:** State Representative Don Tripp, sponsored legislation that created a new bass fishing license plate that'll be available July 1, 2010. A contest was held and over 50 entries were made. Images of some of the top choice entries are before you. The work of a young artist from Santa Fe, Gregory Lucero, was selected.

**AGENDA ITEM NO. 7: Revocations.**

**Presented by Dan Brooks –** The Department presented a list of 71 individuals that the Commission considered for revocation that met established revocation criteria. The hearing officer's recommendations for the assessment of points against registered outfitters were included.

**Commissioner Arvas:** Do we have a new hearing officer?

**Dan Brooks:** Yes.

**Commissioner Arvas:** Is it coincidental or is there a reason that he seems to be more compassionate than the previous hearing officer? I make that statement because if you look at three out of four hearings he presided over, he gave what seem flagrant actions on the part of the offender lesser penalties.

**Dan Brooks:** The Hearing Officer is there to weigh the individual circumstances specifically on the case with elk, he did give the individual credit for being a hunter for 40 years and never being in trouble. When you look at that, that's what that hearing officer is supposed to do. He's supposed to hear both sides in an unbiased manner and weigh that evidence and make a decision. I point out that you also have another case before you for Rudy Crespin and he found him incredible and found that as aggravating circumstances, so in my mind he did give the one individual you're talking about some credit for not being in trouble before with the Department's laws, but then when he finds somebody's story inconsistent seems to hold them accountable. In my mind I feel that's a balance but I understand your points.

**Commissioner Arvas:** Am I correct that 3 out of 4 judgments he made were more lenient that you would have done had you been in his position?

**Dan Brooks:** I've been a game warden for many years. We have an additional Hearing Officer, Mark Pickering, who was an Assistant District Attorney. We still have Joseph Canepa as our hearing officer. We felt we needed more than one hearing officer.

**Commissioner Arvas:** What bothered me is that there seemed to be a trend developing. I'm sure you'll watch that there isn't a trend developing because the Commission for many years has tried not to interfere with the recommendations of the hearing officer.

**Dan Brooks:** Yes, I will watch for that. **[Action Item]**

**MOTION:** Commissioner Arvas moved to adopt the Department's and/or the Hearing Officer's recommendations on suspensions, revocation and point assessment for the attached list of 71 individuals for the period of time specified.

**Commissioner Salmon** seconded the motion.

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

**AGENDA ITEM NO. 8: 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. Section 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. We have a listing of FY'10 disposal items and this is something we do annually when we want to remove items from our capital asset list.

**Commissioner Fonay:** In trying to reconcile the capital outlay list, were there items you couldn't find?

**Alexa Sandoval:** Several items had been turned/traded in to purchase new items. Division chiefs spent a tremendous amount of time narrowing that list to a few things that couldn't be located.

**Commissioner Arvas:** What's that \$47,000 item, catalyst switch Cisco 8-port w/accessories?

**Alexa Sandoval:** That's a computer server. We typically replace servers every three years.

**Commissioner Arvas:** When you replace, do we trade in that server?

**Alexa Sandoval:** No, computer items are processed through e-waste because we can't sell these items. In the past, we've sent all computer items once they've been certified as clean and sent to auction.

**Commissioner Arvas:** The quail water units, why are we getting rid of those?

**Alexa Sandoval:** Those were items that have been on our property list for a number of years and they were absolutely decayed.

**Commissioner Arvas:** Do we have more quail watering units?

**Alexa Sandoval:** I know we have watering units throughout the state but I don't know that they're specifically designated for quail use.

**Dale Hall:** We have quite a few quail watering units especially in the south San Mateo Mountains/Socorro area. We've worked with the QU Chapter in Las Cruces and they've helped us refurbish all those quail water units and they're all functioning.

**Commissioner Fonay:** Those waters would not show up on fixed assets anyway, correct?

**Alexa Sandoval:** Correct. They are under the value of \$5,000 so they're not considered capital at this point. **[Action Item]**

**MOTION: Commissioner Salmon** moved to approve the Department's request to dispose of the list of fixed assets that were 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. **Vice-Chairwoman Buffett** seconded the motion.

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

#### **AGENDA ITEM NO. 9: Update Regarding the Development of the Turkey, Upland Game, and Javelina Rules.**

**Presented by Jim Lane** – The Department presented recommendations for the 2011-14 hunting season for turkey and upland game rules and development of a javelina rule. The Department posted draft rules for these species on its website no later than April 3<sup>rd</sup>, and input received at the Commission meeting along with other public input received by April 23<sup>rd</sup> was considered before a final proposed rule to be published no later than May 3. Final decisions on this set of rules will occur at the June 2010 Commission meeting.

**Commissioner Salopek:** Ranch owners can still put out quail/upland game/baits?

**Jim Lane:** Yes, sir. The recommendation to ban baiting for upland game has been removed.

**Commissioner Salopek:** I wanted that stated to make sure everybody understood.

**Chairman McClintic:** Most people don't bait for quail on private land, they feed them, so there's a big difference.

**Commissioner Salopek:** I also want to make sure we never allow crossbows during the archery hunt. I've told people that as long as I have a vote that will never happen. I've had a lot of positive feedback as far as crossbows but make sure it never happens during archery unless it's in mobility impaired.

**Jim Lane:** Our intent was exactly as we've stated—to make a common sense move to allow it if you could go on with a rifle you could use a crossbow. The intent is not to have a concurrent archery crossbow season,

**Commissioner Salopek:** I've had a lot of feedback on the four-year—they're afraid we can't open it up and I've told them that if there's an issue, they'll bring it to us or we can bring it up at a meeting.

**Commissioner Arvas:** Before the June 3 meeting send out that summary form of recommendations for all the work you're doing. It makes it easier instead of looking at the complex rules/regulations that you do/do not recommend.

**Jim Lane:** Absolutely we can send the summary form prior to the next meeting.

**Commissioner Fonay:** Hunters like this change where we tackle this one group at a time. These changes get the attention they deserve, and don't scrunch it up. I also like the consistent change for quail. Quail hunters know that it's mid-November to mid-February.

**Commissioner Salmon:** People in Silver City express the view that they thought there was overharvest on turkey hunts in the Burrow Mountains, and that there weren't the birds there that they thought should be there.

**Jim Lane:** No, sir, we have not had any feedback that there's overharvest or concern to date except for yours today. I'll talk to Tim Mitchusson and he may be able to address that.

**Commissioner Salmon:** You're saying we have a population of javelina on the prairie chicken wildlife management unit. I believe at the last meeting you said we had feral hogs in that unit. Normally, hogs could be hunted with dogs but javelina cannot. How would that break down on that WMA?

**Tim Frybarger:** We wouldn't allow dogs on the wildlife areas. Even for bear hunting we don't allow dogs. We have no jurisdiction over hog hunting.

**Commissioner Salmon:** I was discussing with Leon Redman legal hunting parameters regarding feral hogs. I understand it has a different status if it's public/private land.

**Tim Frybarger:** We don't control hog hunting one way or the other.

**Director Stevenson:** This issue around feral hog management is a huge and increasing concern. (Discussion item only.)

**AGENDA ITEM NO. 10: General Public Comments (Comments Limited to 3 Minutes).**

**Public Comment:** [COMMENTS NOT CAPTURED --  
LARRY CAUDILL: RECORDER MALFUNCTIONED]

**Jeremy Vesbach:**

**Robert Harrison:**

**AGENDA ITEM NO. 11: Presentation of a Proposed Timeline and Process for the Review of the Trapping and Furbearers Rule, 19.3.32, NMAC.**

**Presented by Jim Lane –** Pursuant to Commission direction the Department presented a proposed timeline for opening and reviewing Trapping and Furbearers Rule (19.32.2, NMAC).

**Chairman McClintic:** Isn't it normal procedure that when we contemplate opening a rule that we try to have all the discussion we can have with interested parties. The Department then comes before the Commission with a recommendation to open the rule. I'd like to compromise and the Department work this out so we can get this on an agenda.

**Jim Lane:** Given the current workload I see, I'd like to initiate that process when we are toward the end of this development process, and that all gets in the September time range to initiate those discussions. I think would be an appropriate measure. (Discussion item only)

**Commissioner Fonay:** This rule needs to be opened up and allow whatever timeline it takes to get as much data as we can and reach a rule that probably not everyone is going to agree with, but the best we can with science. I agree with Commissioner Salopek that we've got a meeting scheduled in Clovis in December, and I'd like to see us open it December 9.

**Chairman McClintic:** I'd rather the Department tell us when they're ready as we don't know what the Department's workload is. I'll have to defer to legal counsel if you want to bring a motion up that isn't before us now. I want to make sure the Department recommends a time they're comfortable with and we do it right rather, and then come back at the next meeting in June rather than do it today.

**Vice Chairwoman Buffett:** It seems this Commission has been talking about pulling the trigger on eventually opening this issue for about nine months. When we open the rule, it's not deciding what the rule will be, it's opening it up to public stakeholder participation. I'm sensitive to the burden of work this year on the Department. I still think we can get this done towards the end of the year. I recall last year we brought this issue up in an odd year--2009, one of the points made was we don't want to open it up in a year separate from the rest of the species, that we should keep these harmonized. Reflecting on that, we should keep them harmonized and open it up in an even year and get it done like other species.

**Director Stevenson:** We can do that either way. What Jim laid out is that clearly we see a need to review this entire program and look at that not only how we're dealing with population information but also look at what we've got in rule and what is/is not working. At some point we are going to be ready to come back and do that. The biggest issue we've got is that that August-September timeframe is for us to get bear/cougar done. That doesn't mean we can't be working on this issue simultaneously, but we're just not going to have the wherewithal to put a huge amount of effort into being able to do a rigorous review with the public. Having said that, we do see the need to move forward, hopefully later in this timeframe. We can sure do that at the Commission's behest either way.

**Vice-Chairwoman Buffett:** Can you remind us of our October/November/December meeting schedule?

**Director Stevenson:** We've got September 30/December 9 Commission meetings.

**Commissioner Salmon:** That's correct. If we're making the decision on bear/cougar/pronghorn at the September 30 meeting, the next meeting is December 9. I'd like to get this done as soon as possible but at the same time we need one meeting in between before we make a decision on furbearers in December. I'm inclined to agree with Commissioners Salopek's/Fonay's suggestion that we open this up and decide subsequent to the December meeting; however, at whatever point we open it up, we need more time between opening up the rule/making the decision.

**Commissioner Fonay:** I know this is a no-action item and understand your thought of having them come back to us with a specific recommendation, but I'd be interested to know from legal counsel if it'd be possible to make a motion and vote on it if it had a second at this meeting?

**Chairman McClintic:** In other words to direct the Department to give a specific time to open this rule?

**Commissioner Fonay:** Yes. I realize this issue is on as a discussion item only. Would it be legal, if we chose to, to make a motion on the date of opening the rules and if it received a second to vote on it at this meeting, or is that not even an option?

**Mona Valicenti:** Pursuant to the Open Meetings Act, if an item is listed on the agenda the Commission/Board may make a motion on it. It's when items aren't listed on the agenda that the Commission/Board may not take any actions, they just discuss the matter, but since it's listed on the agenda you may go ahead and make a motion.

**Commissioner Fonay:** I have no interest in trying to overrule Department staff. What I heard from Mr. Lane was looking for direction if the Chairman thought it would be better for them to come back with a date certain at the June meeting. I don't have a

problem with that. My thought is that the ongoing discussion is when we're going to open this and I thought it might benefit staff to set a date certain and move forward.

**Chairman McClintic:** Commissioner Salmon, you want us to open it in September to discuss and vote on it in December?

**Commissioner Salmon:** No, in September we're still involved in this process, so we get through that process then open it in December and then take as much time as necessary to get everybody involved/all the input, and then make the decision as early as possible at the subsequent meeting.

**Chairman McClintic:** I thought you wanted to discuss it before that, but I don't think we have a problem directing the Department open this rule at the December meeting, and if for some reason we haven't gotten everything finalized, we can always defer, if that's the Commission's/Department's decision, we can certainly have that on the agenda.

**Commissioner Salmon:** I got the impression these are extremes on both sides, some want to open it up right away, and others who want to wait until next year. December would be a middle ground.

**Public Comment:**

**Larry Caudill:** I'm against extending the process any further than it needs to be. We started this nine months ago and still haven't gotten anywhere, so I'd advocate opening the rule sooner rather than later.

**Trisha London:** I'd like for you to start the review as soon as possible.

**Mary Katherine Ray:** I'm Wildlife Chair for the Rio Grande Chapter of the Sierra Club. I urge you on behalf of our members to open the rules and complete them by this year.

**Bradley Janes:** I'm President/NM Trappers. We stand/support the Commission/Department with any changes and help we can give the Department.

**Michelle Briscoe:** I'm with NM Wildlife Federation. We support opening this rule and setting an appropriate schedule. I fully support letting the Department figure out when it's the best time for them to open this.

**James Phelps:** I'd like to see the rules/regulations on furbearer management on wildlife science, not on public emotional comment. The Commission/Department should be doing that and not people against this/that.

**Tom McDowell:** I'm Secretary/NM Trappers and Director/National Trappers Asso. We support that there should be an orderly process and the science should be given time. Anything we can do to support the Commission/Department we'll make time/resource available.

**Biz Ladner:** I'm with NM Cattle Growers Asso. I would like to see this done with the best available science.

**Tom Waddell:** I manage a small ranch. One thing I wish you'd consider is it'll make life easier if you develop recreational/commercial licenses.

**Commissioner Fonay:** Commercial/recreational license can be vetted out through public comment. It's probably in the Commission's/Department's best interest to open this as a Group D and the closing date would obviously still be sometime, but I'd be willing to move to open the furbearer rule at the December 9 meeting.

**Vice-Chairwoman Buffett:** A friendly amendment would be to open the furbearer rule today with the Game Commission taking a final vote at the first meeting of 2011.

**Commissioner Fonay:** I would not be in agreement with Vice-Chairwoman Buffett's suggestion.

**Chairman McClintic:** Vice-Chairwoman Buffett wants to open it today so we can vote on it December 9.

**Vice-Chairwoman Buffett:** No, my friendly amendment was to open today with final action being taken by the Game Commission the first meeting of 2011.

**Chairman McClintic:** Let's vote on opening it today. Do we have a second?

[Failed, due to lack of a second.]

**Chairman McClintic:** We have no second, it doesn't pass.

**MOTION:** Commissioner Fonay moved to make the furbearers Group D with that being open to public comment at our December 9 meeting. Commissioner Salopek seconded the motion.

**VOTE:** Voice vote taken. All present voted in the Affirmative, except Vice-Chairwoman Buffett dissented. Motion carried.

**Chairman McClintic:** That passes 4-1, so we'll have the Department bring this to us, we'll open it up on December 9.

**Jim Lane:** Yes, sir.

**AGENDA ITEM NO. 12: Program Update and Proposed Amendment to the Aquatic Invasive Species Rule, 19.30.14 NMAC.**

**Presented by Bob Jenks** – The Department provided a briefing regarding efforts associated with implementation of the Aquatic Invasive Species Program. Amendments made to the Aquatic Invasive Species Act during the recent 30-day legislative session were highlighted. The Commission was requested to consider amending the Aquatic Invasive Species Rule (19.30.14, NMAC) to provide consistency with the amended law. The Department posted a draft proposed rule on its website prior to April 3, and input received at the commission meeting along with other public input received by April 23<sup>rd</sup> will be considered before a final proposed rule is published no later May 3<sup>rd</sup>. A final decision on this rule will occur at the June 2010 Commission meeting.

**Dan Brooks:** You have a series of amendments consistent with the statute and under HB 113, that has been enacted and there was an emergency provision and these amendments are going to be consistent with that.

**Commissioner Arvas:** Is there any federal funding to aid us in doing this?

**Bob Jenks:** Last year we were successful in receiving a relatively small grant for about \$35,000 we've applied towards the program for education/monitoring. We're applying for the same grant this year.

**Commissioner Salmon:** In those states back east where zebra/quagga mussels have been established, is there any effective response available to combat these creatures once they come aboard?

**Bob Jenks:** No, they have not come up with an effective way to do that. Efforts occurring across the U.S., particularly the past, have focused on detection/interdiction/prevention of introduction into water bodies. There's a growing effort to coordinate those efforts more effectively between the states. What that hopefully will lead to is different strategy. From my point of view, you're lucky if you catch these things coming in using the approach of simply using inspections/interdiction. Containment might be more effective wherein requiring any vessel/boat/equipment leaving a water body must be decontaminated before it's allowed to leave rather than requiring decontamination before entering a water body. The short answer is there are a variety of efforts to do so, however, the evidence thus far indicates that it hasn't been particularly effective.

**Commissioner Salmon:** No natural predators or anything like that can clean them up?

**Bob Jenks:** None we're aware of yet.

**Commissioner Salmon:** AIS theoretically could include species like Brown trout/Chattel catfish in certain waters where they're not naturally found. How are we going to distinguish between those AIS that may be an advantage, or we're willing to put up, and which ones are considered detrimental in all cases and are to be gotten rid of?

**Bob Jenks:** Perhaps there are a variety of levels we need to look at. More particularly, as relates to Brown trout, the law itself has a specific exemption for those species that are protected under Chapter 17. With that said, there are literally hundreds of AIS that are organisms that are non-native and considered AIS. The law provides that the Director, in consultation with other secretaries, can make determinations in terms of what constitutes AIS so there may be circumstances where for various reasons it's an AIS but to specifically identify it for the purposes of this Act, may not be prudent. There's some flexibility in how that can be applied. (Discussion item only.)

**Public Comment:**

**Andy Iskra: (statement read into the record)** I would like to express my support for your developing invasive species program. I would like to see the aquatic program expanded to include aquatic invasive/exotic plants such as *Elodea* and *Giant Salvinia*. I would also like to see a statement in the big game proclamation encouraging the use of weed-free forage.

**AGENDA ITEM NO. 13: Appeal of Importation Permit Denial.**

**Presented by Dan Brooks** – The Department denied an application to import an African serval (*Lepatailurus serval*) based on its classification as an Appendix II species under the Convention on International Trade of Endangered Species (C.I.T.E.S). In accordance with rule (19.35.7.8-B, NMAC) the importation of a C.I.T.E.S listed species is prohibited except for use in scientific study or for use as part of an approved restoration/recovery plan. The Commission considered the applicant's written and oral appeal.

**Vice-Chairwoman Buffett:** Can you reiterate specific controls in place to make sure that there aren't mistaken permits of C.I.T.E.S species issued?

**Don Brooks:** Chris Chadwick oversees that. There's a thorough review that's occurring with each application.

**Erica Perras:** There are two points in his presentation that I want to clarify. He specified that my mother brought them in illegally and she did. When she brought Kyprioth into NM she gave him to me as a kitten, so he is my animal and I raised him from the time he was five weeks old; however, I was not aware that she had falsified documents to bring him into NM. She falsified documents with the breeder and I've given you a letter from Curtis Childress with County Animal Control stating that I was not aware and I helped them to the best of my abilities in their investigation of my mother. I also want to clarify that my U.S.D.A. application was pending. I have passed inspection, and the only thing missing is my state import permit.

**Chairman McClintic:** Where's the cat now? If she had all these permits granted would that ok you to grant her anything, or no matter what permits she pursues, no matter what she does, are you still of the opinion that the answer is no?

**Erica Perras:** The cat is in a zoo in Oklahoma.

**Dan Brooks:** Yes, I'm of the opinion the answer is no, because even though it's C.I.T.E.S II we are duly bound to follow the rule. We will be bringing the Commission recommendations around July. We are moving in a direction that'd allow some accommodation with some acceptance of liability and indemnification. I believe importers need to take as much responsibility and relieve the burden from the Commission/Department. It's before the Commission because it's your rule and if I've got it wrong and if you have sufficient information you can make the decision.

**Chairman McClintic:** If we deny her appeal today, under the new rules will she have the ability to re-apply to bring the cat?

**Dan Brooks:** There are a couple of factors at play. I've promoted my ideas to the Commission but we need to get them into a draft rule and get final public comment. I cannot predict what the Commission will vote for/against, but my desire is to

accommodate these types of requests. I'm cautious not to give 100% assurance that she can bring it in when we finalize the rule. Between my presentation/decision as a manager and her presentation, clearly we need to work on this C.I.T.E.S designation/flexibility.

**Vice-Chairwoman Buffett:** She mentioned legal precedence and although I'm not an attorney and I'm looking at the International Convention, it's very complex. In terms of Article IV, Appendix II, I don't feel I have the legal knowledge of international treaties to grapple with this.

**Erica Perras:** C.I.T.E.S was originally intended to apply only to wild specimens. It's a treaty between nations. Based on the appendix an animal belongs to, they need a different level of permit to bring that animal across international lines. The animal is already in one country. They don't require a permit based on C.I.T.E.S regulations to move that animal within the country that it's already in.

**Vice-Chairwoman Buffett:** I still feel I need legal knowledge. I'm baffled.

**Commissioner Fonay:** You obviously have strong feelings for this animal, the permits you've applied for/work you've gone to. Based on what we're receiving from staff is that under C.I.T.E.S the only real exception is for scientific study or for use as part of an approved restoration recovery plan. That could be a gray area. Even with that I'd come down on the side of the Department's recommendation.

**Chairman McClintic:** I asked where the cat is currently and she said Oklahoma. So it's legal to keep the cat in Oklahoma, but it's not legal to keep the cat here by NM rules?

**Erica Perras:** In Oklahoma, if you have a USDA Class C license you're allowed to keep small felines. I do have that in NM pending the approval of an importation permit. I passed the inspection.

**Chairman McClintic:** So you got the importation permit from Oklahoma? So you got it approved there?

**Erica Perras:** The zoo he's at got the importation permit for him.

**Dan Brooks:** On point of clarification, once the animal arrives, if there was an importation permit issued, the Commission/Department will not have any jurisdiction because it's not a protected species. When you ask if they're allowed to have it, the real issue is the way our laws are structure is that if she is allowed to import it, and she can have/hold it within the city/USDA requirements, there will be no further requirements from this body.

**Commissioner Arvas:** Would you be willing to wait until July and come before the Commission after Mr. Brooks gets a chance to review the rules/regulations in place now?

**Erica Perras:** I'd do that under other circumstances, however, my cat has lost a lot of weight and his health is failing. He's been away from me for five months now and he doesn't get the care at a zoo that he does in my home.

**Commissioner Arvas:** Dan, if we go along with your recommendation and we deny this, if you do change your mind in July, is it reversible at that time?

**Dan Brooks:** I don't think it can be reversed under the rules in place now, but we're working toward trying to accommodate people on a broader scale if they'll take responsibility. There is some limited risk of predation/hybridization/escape as long as they'll take responsibility. Until that rule changes, there's nothing I can do.

**Commissioner Salopek:** Erica, if we were to deny you today, I think it's final. I'd be willing to extend it to July to see what Dan would have to give you a chance, but my understanding of the rule we have is if we vote and if we do deny, you won't have a chance to reconsider? Am I right?

**Dan Brooks:** No, if the rule changes she'll have every opportunity to then make another application. The denial is based on the rule now. Once it changes any person would be free to qualify. I'm promoting indemnification if they take complete responsibility. There's a notice provision that needs to be posted about predatory/venomous/dangerous animals. That's what we're discussing and if we can get those mechanisms in place, individuals having neutered/de-clawed animals are probably at some limited risk and there probably is the ability to possess them.

**Commissioner Salopek:** Erica, do you have two serval cats?

**Erica Perras:** One of them is mine, just the male. The other one belongs to my mother. She's in a sanctuary.

**Commissioner Salopek:** Is it a female?

**Erica Perras:** It's a female neutered serval, yes.

**Commissioner Salmon:** Would it be legal for your cat to be kept in Oklahoma other than in a zoo? Is there some other option where he'd receive better care until this July period rolls around?

**Erica Perras:** There are private facilities, however, none of them are willing to take him in and almost all states, as long as a person has the Class C USDA license can keep small carnivores. At this point there's no other place that I can move him. I've already had him in Arizona and they couldn't keep him any longer. They couldn't deal with his health so I had to move him to Oklahoma.

**Commissioner Salmon:** I don't see where I could go against Mr. Brooks at this juncture, but I'd be willing to defer until July and perhaps give you a chance to make a legal importation at that time.

**Erica Perras:** Is there any possibility of getting a temporary permit which allows me to keep him in the state until the new laws go into affect at which point I have to re-apply to keep him because I'd be willing to meet those requirements, I just don't want his health to fail between now and July or whenever the laws go into affect.

**Dan Brooks:** Currently the rule of temporary provision is for 30 days and if she qualifies she could get that for a 30-day stretch; however, as a body that can make a motion you can direct the Department to grant a temporary permit for any length of time you desire. For clarity, I'm duty-bound to only issue one right now in the rule for 30 days, but you can direct me to issue one for however length of time you desire.

**Chairman McClintic:** Is that what you want us to do?

**Director Stevenson:** This has to be looked at in context with how you're going to treat everybody else that comes in the door. This is not the only permit we've denied. It's not the only other permit that's similar to this issue so please keep in context when we're talking about making exceptions to the rule. Clearly you have autonomy and it's within your purview, but please understand that when you do that you need to take into account all other permits we deal with. If you're willing to deal with an appeal-by-appeal basis that come before you in July, keep your eyes open because we're talking about significant numbers of animals that are requesting to come into NM. We refer to that rule on a day-by-day basis as to how we make those decisions. Clearly it's within the Commission's purview to do a temporary permit but I hope you keep that in perspective.

**Commissioner Arvas:** One more time, Erica, would you reconsider your decision and wait until July because the inevitable is going to happen if you don't?

**Erica Perras:** I would if I could but he's not healthy and he's not getting the care. I don't have any other options except to try and push this forward. I can apply for a new temporary permit every 30 days and bring him outside the state and re-import him every 30 days if you'll allow it, but he needs to be somewhere where he's getting the good care that he needs.

**Chairman McClintic:** If we grant you a temporary permit, a 1,000 people are going to be at our Commission meetings under appeal wanting us to grant temporary permits. Have we granted temporary permits in the past five years?

**Dan Brooks:** For clarity, in the rule there is a 30-day temporary provision and there are some conditions, i.e., public events as circuses/movie making/media so there's another component. Those are the ones we grant so there's a limit of 30 days. We do that all the time but the expectation is that they will leave at the end of 30 days.

**Commissioner Fonay:** No one can foresee rule changes this Commission may/may not make until July, but there's some expectation that these rules might allow re-application, but with the information we have today I see no reasonable alternative than to support the Department. **[Action Item]**

**MOTION: Commissioner Fonay** moved to uphold the Department's denial of Ms. Perras's application for the African serval based on the current rule that prohibits importation of a C.I.T.E.S. listed species. **Commissioner Arvas** seconded the motion.

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

#### **AGENDA ITEM NO. 14: Re-Authorization of Habitat Stamp Program.**

**Presented by Dale Hall and Terra Manasco** – The Department, US Forest Service and Bureau of Land Management provided the Commission with an update regarding public outreach efforts necessary for determining public interest in re-authorizing the Habitat Stamp Program. New Mexico hunters/fishermen/trappers are required to purchase habitat stamps when pursuing those activities on US Forest/BLM lands. This fund is then distributed to the Bureau of Land Management/U.S. Forest Service in partnership to improve wildlife habitat on public lands via the Habitat Stamp Program. The rule (19.34.6, NMSA) providing for the collection of habitat improvement stamps/validations/distribution/use of these funds expires on March 31, 2011. This is the second discussion where the partnering agencies sought guidance in pursuit of a decision by the Commission regarding re-authorizing at the July 2010 meeting.

**Commissioner Fonay:** It's been my experience in working with various governmental programs that I cannot think of one that has as much universal support as this one.

**Commissioner Salopek:** How can we expand this to include the whole state, and then make it easier to buy a license? You get your habitat stamp automatically whether you hunt/fish anywhere in NM. Is this just for federal lands or is it anywhere?

**Dale Hall:** It is. We collect money by the authority of the federal Sikes Act. That gives us the authority to take those funds from sportsmen and that authority limits us to the U.S. Forest/BLM lands; however, if you wanted to expand it statewide, you'd need a state statute for that to occur.

**Commissioner Salmon:** Is there any way to collaborate with this kind of stamp program with private land if you had a willing collaborator?

**Dale Hall:** In the instances we've cited on the Luera Palona Soil and Water Conservation Districts, that's the partner we're working with and if that private landowner does some habitat improvements on his private lands, we use that to capture EQIP money. EQIP money then goes into the burning/vegetation thinning pot so that's our way of leveraging habitat stamp funds with the private entity.

**Commissioner Salmon:** As you parcel out the funding, we have five quadrants we're dealing with. Is that amount of funding related to the amount of public land found in each quadrant or how do you parcel that decision out?

**Dale Hall:** It was parceled out by formula in 1991 and at that time I was doing fisheries management work and I can't find records of how it was parceled out but talking to old timers what they basically tried to do is project the number of hunters/fisherman in a geographic area and then do a weighted average to the amount of public land in that area to come up with a percentage by formula, so that's rigid and leads to smaller projects when you're following the formula.

**Commissioner Salmon:** We're going to a more landscape approach, that's the hope?

**Dale Hall:** That's exactly right. These landscapes we can leverage a lot more funds when we go to landscape. If I have \$30,000 for a project that's hard to leverage funds where if I had \$100,000 then you can start leveraging funds to come in. Secondly, if you're doing a burn you might as well do a 5,000-acre burn as opposed to a 500-acre burn. The reason is that elk/deer/bear are attracted to burns so they have a tendency to "swamp" them if they're too small. If you do a bigger part of the ground you have better effects.

**Commissioner Salmon:** I've seen the results of the program myself on the ground and I'm a big supporter and I hope we continue to improve the program.

**Dale Hall:** Commissioner Salmon is our liaison between the Commission and Habitat Stamp Program. He's been exceedingly helpful/available when we needed advice/participation. He generally comes to all meetings.

**Commissioner Arvas:** Has there been any consideration for raising the fee from \$5 to \$10?

**Dale Hall:** There were some discussions when Larry Bell was Director about that and part of that discussion was we needed funds to improve habitats on our Commission-owned properties so therefore we could expand the Habitat Stamp Program, collect more funds, and then do some work on our Commission-owned properties. Since that time that's the Habitat Management and Access validation that law was passed so bringing funds in to do that type of work. With that law passed discussion fell. **(Discussion item only.)**

**Public Comment:**

**Michael Schirur:** I support this program. It's one of the few where I'm happy to spend my tax dollars to go to such a good program. When this program got started I had just moved to NM and when it came out I thought another \$5 I'm never going to see and I can say it's probably the only tax where I can actually see the positive improvements and I can see immediate/substantial benefit. About four years ago I started monitoring these projects and these funds go to help not only game animals but non-game animals as well.

**Don DeLorenzo:** I'm Director of Wildlife, Fish, Rate Plant Program, U.S. Forest Service-SW Region. I'm here on behalf of Corbin Newman, Regional Forester, U.S. Forest Service-SW Region. Corbin is out of the country. As Dale touched on, we were with you from the first day on the Valle Vidal Unit and the following year the Commission in partnership expanded that to the Jicarilla Ranger District of the Carson National Forest and also the entire Lincoln National Forest. We felt obligated not only to sportsmen who were contributing these monies but to the success of this program and I hope we were a significant contributor in helping this Commission pass in 1991 the statewide authorization. Since that time we deeply value this partnership, we believe this an extremely valuable program. Dale touched on a few things like the wonderful habitat work being done for fisheries/wildlife. We all know wildlife needs quality habitat. We're extremely encouraged that we are starting to look at more significant landscapes, how can we leverage that larger picture for the benefit of NM's wildlife/fisheries resources. There are also less tangible values/benefits coming out of this program. Some of that is getting children/sportsmen connected back with the land. Some of it is that ownership that they will now have in that land and their natural resources. Our conservation education opportunities that occur non-stop with these are priceless for future generations that will care about wildlife resources. For those reasons and many others we believe this is an excellent program and we want to do all we can to maintain/improve it through time. I commend the Commission that sat in the early 1980's and the Regional Forester that established this program. I'm here to urge you to carry forward with the Habitat Stamp Program under the Sikes Act. We believe it's extremely valuable for NM's natural resources and we thank you.

**Terry Gustin:** For five years I never thought my \$5 were doing anything, but after I got on the committee they showed me all they've done and it's better for elk/deer. I feel the fee should be raised because it's a good program.

**Roberta Henry:** I'm here on behalf of the SW Citizens Advisory Committee. Our members are very much supportive of this program. They've been able to be involved in the projects from development through monitoring. We look forward to not only renewal but the re-evaluation of the entire process. On behalf of our committee and it'll come from the SW Consolidated Sportsmen's Group that met last month, on a formal vote we support an increase in the Sikes Act fee from \$5 to \$10. We'd like to see a re-evaluation of the formula. We believe that we deserve more funds and we'd like to see that process changed.

**Andy Iskra:** I was formerly a biologist with BLM and I started this Habitat Stamp Program work for the BLM-Albuquerque office. This program has allowed BLM to leverage money from activities/organizations and I support this program to continue.

**Michelle Briscoe:** I'm with NM Wildlife Federation and we and all our members support the Habitat Stamp Program and the great work they do.

**Bob Nordstrum:** I'm on the Central Habitat Stamp Committee. We've supported this program from day one and for me it's the best dollar I put on the ground.

**Bob Tafanelli:** I'm the Environmental Representative from the SW Region. Angel Montoya from Las Cruces was planning on being here but had family illness and couldn't be here. He wanted me to let you know that the hunting groups he's contacted and he's affiliated with wholeheartedly support the re-endorsement of this Act. They also support the increased funding. I've been on this committee for a long time. When I first came on there was talk of having money and not enough projects to spend the money on. That's changed completely. There's a long list of projects and there's not enough money to go around. Angel wanted me to encourage you to consider increasing the fee because more money is needed. Putting my environmental hat on now I'd say the environmental groups and I hesitate to differentiate between sportsmen/environmental groups because sportsmen are the original environmentalists. I'm associated with groups that are not sportsmen. First of all, they don't know very much about this program and they're amazed when I tell them that there's such a program and they're even more amazed when I tell them about what the program does, field trips I've been on, and how great the projects are. Dale said that we're doing good work and that's an understatement. There's some outstanding work being done. The environmental groups I've talked to very much support the program and when I tell them how much it costs, they're supportive of an increase in fees. That's embarrassing for me to say because we're the group that although we have the opportunity to contribute, we don't contribute that much. It's there and we have good intentions but we don't do it and I'd ask everyone involved in the future to find more creative ways to encourage those of us who are not mandated to pay this amount. An amount of \$5 or even \$10 is a paltry sum for the benefits this program does.

**Terra Manasco:** The success of this program is in this audience because there are sportsmen/sportswomen who are citizen advisors/volunteers/BLM staff/U.S. Forest staff that represent those agencies where people who care about it, who are out there on the ground are putting their energy into it and that's what makes this program work.

**AGENDA ITEM NO. 15: Closed Executive Session.**

The State Game Commission adjourned into Closed Executive Session, pursuant to Section 10-15-1 (H)(1), (2), (7) and (8), NMSA, 1978, to discuss matters related to litigation, possible acquisition of additional lands for conservation and habitat purposes, disposal of surplus land, 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 regulated procedures and conduct per 19.30.8, NMAC. If in the Commission's determination an individual should served notice, he/she will be afforded an administrative hearing following 19.31.2, NMAC.

**Chairman McClintic:** I'd like to entertain a motion to enter into a Closed Executive Session pursuant to Section NMSA 10-15-1 (H)(1)--(2), (7), and (8) of The Open Meetings Act in order to discuss limited purposes of personnel matters, litigation and land acquisitions.

**MOTION: Commissioner Salopek** moved to enter into Closed Executive Session pursuant to Section NMSA 10-15-1(H)(1)--(2), (7), and (8), NMSA, 1978, of the Open Meetings Act in order to discuss limited purposes of personnel matters, litigation and land acquisitions. **Commissioner Arvas** seconded the motion.

**Roll Call Vote:**

**Chairman McClintic – yes**

**Vice Chairwoman Buffett – yes**

**Commissioner Arvas – yes**

**Commissioner Fonay - yes**

**Commissioner Salazar – absent**

**Commissioner Salmon - yes**

**Commissioner Salopek – yes**

**Motion carried unanimously.**

**Chairman McClintic** entered into Open Session and stated that for the record 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.

**MOTION: Commissioner Arvas** moved to authorize the Department's legal counsel and the Attorney General's office to proceed and file a lawsuit should the need arise to protect the rights of NM fishermen. **Commissioner Salopek** seconded the motion.

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

**AGENDA ITEM NO. 16: General Public Comments (Comments Limited to 3 Minutes).**

**Public Comment:**

**Tom Waddell:** I'm here to inform the Commission about we've done on the Armendaras regarding the Quail Management Program because it may have state applications. As brief background, I was a biologist game manager in AZ for 26 years and I've been on the Armendaras 15 years. Part of my career was a three-year scale quail study as a district officer and I ran a 1,500-acre wildlife area where we raised food crops and everything for wildlife. I also observed in the late 60's when the big snows came of losing entire quail populations that they didn't recover for probably a decade or more. The same thing happened in NM in the '80's. We got the Armendaras ranch in 1994. My owner is interested in quail. Feeding quail is a standard from here east. It's not unusual from here west it's unusual to feed quail. I was not against feeding quail because I didn't want to have happen what happened in AZ. If you get a 6"-1 foot snowfall and then it gets warm and then freezes, quail will die in about 16 hours so you can lose quail populations fast. I have quail feeders/barrels all over the ranch. If we ever get ice cover I can put people on four-wheelers and run around and take the tops off those and throw buckets of grain on top of the ice. To me it was a nice bank. I did not know what it'd do to the quail population. We'd manage by going out and if any employee saw quail anywhere they'd tie a flag up and George Richards would come along and put feed/water wherever we saw quail and that's how the program started and now 15 years later we have thousands of quail. In fact the reproductive success rate on quail from wing data actually went up during the drought because the nest predators had gone down. The quail populations in NM/AZ have never really recovered from the big snows of the '60's and '80's, but some of that may be our warming/drying trend and some may be length of seasons but the important thing I want to say is I was raised as a biologist with some mantras on quail that we've found on the Armendaras are untrue. One is that quail do not need supplemental feed/water. Every biologist in here knows that so they think it's ridiculous to feed/water quail. Unfortunately the research for that 95% of it is in bobwhite's going east. Very little desert quail research has been done. I've been trying to figure out why this works as oddly the Armendaras has thousands of quail and there's no quail around us on the edges anywhere from there to Las Cruces. Obviously something works. When it comes to water, it may not necessarily be drinking water but it's the insects associated with it during a drought that may be hugely important. To explain that to people is that if you'd take a biologist to Socorro and you'd measure/weight everybody and look at reproductive rates and general health and then take free wheat flour/sugar and put it on a vacant lot for three years and re-weight/measure the re-productive rates of people in Socorro you'd see no change. If you did that in a refugee camp in Darfur, you'd have a huge change. It'd be dramatic. Desert quail should be looked at as refugee quail. They're hanging on, you can't kill them all off, and they have boom/bad years but they live in such a harsh environment that anything you do for them has huge benefit. The point now being that if you want to have increased hunter opportunity you can do that with small game with a lot more hunters than you can with big game, so if there's something we've learned that can be applied to quail management to where we have more hunters in the field than young hunters hunting, it'd be great. We work with Quail Unlimited in the south and I'd like to get a test area. We're trying to work with the Spaceport and see if we can get some areas where we can get some of the things on the ranch. Another myth is that feed/water only concentrate quail and do not make more quail. We had a three-year scale quail research project with radio collared quail. We've found that quail even a mile away never find the feeder. They can have feeders a mile away and they never find them, but if you think about it, quail never get up on yucca and sniff and smell grain. There's no way for them to find that so what happens is we have quail that go from the top of the mountain all the way down to a feeder so why is that. It's that you have a feeder situation, you raise lots of quail there, and then over 15 years they spread out from territorial but they know where the feeder is and they come back. They come from a long way but they actually started out at the feeder. Another thing is that the feeders and this is also untrue increase depredation on quail. There are predators but it hasn't hurt the quail population. Another is that disease will cause decline in quail when they're concentrated. We haven't had disease so from what we've learned we support that group financially and we need to look at water. I'd like to find an area and demonstrate so the Department can say this works.

**AGENDA ITEM NO. 17: Adjourn.**

**MOTION:** Commissioner 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 3:07 p.m.

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

\_\_\_\_\_  
June 3, 2010  
Date

s/

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**Jim McClintic**, Chairman

New Mexico State Game Commission

Minutes Transcribed by: Katie Gonzales

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**June 3, 2010**

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Date