

MINUTES
NEW MEXICO STATE GAME COMMISSION
Santa Rosa High School Auditorium/ITV Room
717 South Third St.
Santa Rosa, NM 88435
Friday, April 11, 2008

CONTENTS:

AGENDA ITEM NO. 1:	Meeting Called to Order	1
AGENDA ITEM NO. 2:	Roll Call.....	1
AGENDA ITEM NO. 3:	Introduction of Guests.....	2
AGENDA ITEM NO. 4:	Approval of Minutes (February 21, 2008 – Santa Fe, NM).....	2
AGENDA ITEM NO. 5:	Approval of Agenda.....	2
AGENDA ITEM NO. 6:	Revocations.....	2
AGENDA ITEM NO. 7:	Presentation of the Fiscal Year 2007 Financial Statements and Audit Report.....	2
AGENDA ITEM NO. 17:	Status of Wolf Reintroduction Program.....	3
AGENDA ITEM NO. 8:	Hunting Regulation and Associated Rules Development for the 2008-2009 Upland Game Rule, 19.31.5, NMAC, and Waterfowl Rule, 19.31.6, NMAC.....	7
AGENDA ITEM NO. 9:	Opening the Depredation Assistance Rule, 19.30.2, NMAC, to Develop Reasonable and Appropriate Adjustment Recommendations.....	8
AGENDA ITEM NO. 10:	Opening the Private Land Elk License Allocation Rule, 19.30.5, NMAC, to Develop Adjustment Recommendations.....	9
AGENDA ITEM NO. 11:	Opening the New Mexico Hunter-Trapper Reporting System Rule, 19.30.10, NMAC, to Develop Adjustment Recommendations Specific to February Reporting Deadlines.....	11
AGENDA ITEM NO. 12:	A-PLUS Review and Public Outreach Update.....	12
AGENDA ITEM NO. 13:	Opening the Rule for Guide and Outfitter Registration 19.30.8, NMAC.....	12
AGENDA ITEM NO. 14:	Draft Recovery Plan for 2 Riparian Rodents listed as Endangered under the Wildlife Conservation Act (§17-2-40.1 NMSA, 1978).....	13
AGENDA ITEM NO. 15:	General Public Comments (Comments Limited to 3 Minutes).....	14
AGENDA ITEM NO. 16:	Request for Shooting Preserve License by Express–UU Bar Ranch, per §17-3-35 through 17-3-42, NMSA 1978, and 19.35.3, NMAC.....	14
AGENDA ITEM NO. 18:	Status of River Otter Restoration Efforts in New Mexico.....	16
AGENDA ITEM NO. 19:	Obtaining Environmental and Cultural Clearances for Habitat Management and Construction Projects.....	16
AGENDA ITEM NO. 20:	Update on Rio Grande Cutthroat Trout Restoration in the Rio Costilla Watershed.....	17
AGENDA ITEM NO. 21:	Review of Allocation of Public Hunt Draw Opportunities and Discussion of Alternatives.....	18
AGENDA ITEM NO. 22:	Development of Youth Shooting Opportunities in New Mexico.....	19
AGENDA ITEM NO. 23:	Status of Capital Projects and Dam Repairs.....	20
AGENDA ITEM NO. 24:	Disposal of Fixed Assets.....	20
AGENDA ITEM NO. 25:	General Public Comments (Comments Limited to 3 Minutes).....	21
AGENDA ITEM NO. 26:	Closed Executive Session.....	21
AGENDA ITEM NO. 27:	Notice of Commission Contemplated Action.....	22
AGENDA ITEM NO. 28:	Adjourn.....	22

AGENDA ITEM NO. 1: Meeting Called to Order.

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

AGENDA ITEM NO. 2: Roll Call.

Chairman Arvas – present
Vice Chairman Salmon – present
Commissioner Buffett – present
Commissioner McClintic – present
Commissioner Montoya – present

Commissioner Simpson – present
Commissioner Sims - absent
QUORUM: present

AGENDA ITEM NO. 3: Introduction of Guests.

Introductions were made by approximately 40 members of the audience.

AGENDA ITEM NO. 4: Approval of Minutes (February 21, 2008 – Santa Fe, NM).

MOTION: Commissioner Montoya moved to approve the Minutes of the February 21, 2008 State Game Commission Meeting in Santa Fe as presented. Commissioner Salmon seconded the motion.

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

AGENDA ITEM NO. 5: Approval of Agenda.

MOTION: Commissioner McClintic moved to consider Agenda Item No. 17 after Agenda Item No. 7 on the April 11, 2008 Game Commission Meeting agenda. Commissioner Salmon seconded the motion.

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

NEW BUSINESS:

AGENDA ITEM NO. 6: Revocations.

Presented by Dan Brooks – The Department presented a list of 169 individuals for revocation for failure to pay penalty assessments, and a list of 9 revocation candidates or point assessments that the Commission considered for revocation that met established revocation timeframes and criteria. The Department has sent Notices of Contemplated Commission action for 20 point violations or more through May 2006.

Chairman Arvas: To clarify, of the 167 candidates, were all those candidates to be considered for revocation for failure to pay penalties that the Department imposed on them?

Dan Brooks: Yes. This penalty assessment is a citation they receive in the field and in most instances it's for fishing without a license. They're caught in the field and forego court and submit to us the license fee and they get to keep fishing. That penalty assessment is a citation fee and they agree to pay but they never do. With that, we bring forward 167 candidates for penalty assessment. We also bring forward 26 individuals that were offered a hearing required both by statute and rule. They've elected to have their hearing so we bring forward the hearing officer's recommendations.

MOTION: Commissioner Montoya moved to adopt the Department's and Hearing Officer's recommendation on revocation and point assessment for the 178 individuals for the period of time specified. Commissioner Buffett seconded the motion.

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

AGENDA ITEM NO. 7: Presentation of the Fiscal Year 2007 Financial Statements and Audit Report.

Presented by Carlos Valdez - 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. The audit requires that agencies governed by a Commission present the Annual Financial Statements and Audit Report to the governing body in a public meeting. Once the finalized version of this Audit Report is officially released to the agency by the State Auditor, the Audit Report shall be presented to a quorum by the governing authority of the agency for approval at a public meeting. This agenda item meets that requirement. By rule, agencies must submit their audited financial statements to the Office of the State Auditor no later than December 15 of every year. The Department met that deadline.

Chairman Arvas: Could you give us an estimate of how much time is spent on this audit?

Carlos Valdez: Probably 10-12 staff members, 15-20 hours a month of work from June through December.

Chairman Arvas: I'd like the public to be aware of how much work is involved in having this audit, and secondly, once we err we never err again.

Commissioner McClintic: I sat in on this process and all the auditors there said this was the cleanest Department in the state and the Department is professional.

Pat Block: You've just received the report so you haven't had time to go through it as it has just become a releasable public document. If there are questions, please call on Carlos or me to go through the document.

Commissioner Montoya: Carlos, how much did the audit cost?

Carlos Valdez: The original contract for 1 year was \$69,000 and then we had to amend it to include financial statements, so we paid approximately \$90,000 for FY '07.

Commissioner Montoya: What I've observed is that since GASB 34 came into place, audits have almost doubled in price. I think the CPU's/accountants have a big lobby in Congress where they see if our regs are changed because agencies are having to do more and auditors are behind. You have taken care of those repeat audits?

Carlos Valdez: The 1 we resolved from FY '06 was the missing I-9 forms. The general ledger was a repeat audit finding due to the fact that we could not generate a trial balance report until late May with the ending fiscal year of June.

Commissioner Montoya: I congratulate the Department on the unqualified audit. It is the very best that an agency can get.

MOTION: **Commissioner McClintic** moved that the Commission approve the Department's Audit Report for Fiscal Year 2007.

Commissioner Montoya seconded the motion.

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

Representative Campos: As you know the City of Santa Rosa is proud of its relationship with the Department. We're very excited about our warm water hatchery project as well as with Rock Lake Hatchery. We do feel that the State of New Mexico is poised to be 1 of the best fishing locations in the southwest. We will become 1 of the best locations in the Texas/Colorado/Arizona/New Mexico area and it's due to the Department's efforts.

AGENDA ITEM NO. 17: Status of Wolf Reintroduction Program.

Presented by Matt Wunder – The Department briefed the Commission on the Wolf Reintroduction Program activities since December 2007 and progress in implementing a shift of a more pro-active innovative wolf management approach that will move beyond a depredation management focus. This agenda item provided an overview of the January 2008 population survey including subsequent changes to date. The Department provided more detail regarding programmatic activities and discussions in light of the Department's efforts to shift to a more pro-active approach designed to ensure survival of Mexican wolves in the wild.

Commissioner Simpson: The site assessment, you're going to have a map that shows where the cows are?

Matt Wunder: No, the field team looked at the areas within the recovery area because they have known pack territories and home ranges so what they do is look for areas that do not have established packs, places between packs where a pair of wolves could be translocated. So they identify those sites where it might be possible to put a pair of wolves and look at the conditions to see how they compare. If we have an opportunity for translocation, we look at that list and based on assessment of all sites, the best site (AZ or NM) and conditions, 1 site better than another so that's what the assessment is comprised of.

Commissioner Simpson: You have no data to determine how intensely or what kind of livestock there are in relation to where you're going to release the wolves?

Matt Wunder: There is information based on the allotments and the grazing plans so that information is part of the assessment. If we have areas that do not have livestock as in the wilderness in NM, that is a factor. If we have allotments where livestock are coming on at different times or this is year-round grazing but it's not a map of cattle distributions *per se*. We've submitted 2 new standard operating procedures: 25 is for media access to the program designed to address how to deal with requests for media access. SOP 27 deals with formalizing the process for conducting the January count so that we have a consistent process from year to year. In terms of the Department's accomplishments in 2008, the Department provided comments to the USFWS on the 1998 final 10j rule for wolf reintroduction. They are going through the NEPA process looking at re-assessing that 10j rule which will probably take several years. We funded and helped organize the year-end population count and a lot of that money goes for the use of a helicopter. We also organized and funded the return of the Alpha female to the wild. That was about \$3,600, and we also paid to capture the wolf with a trap on it's foot, that was about \$4,200, so those were some of the contributions in terms of direct provision of services to the project. We provided 14 weekly flights to locate wolves. Wolves are located on a weekly basis AZ has primarily been doing this. We did provide 14 flights through in the Department's aircraft. We worked extensively on revision of a clarification memo for Standard Operating Procedures 11 and 13. This has been an ongoing process since the directors identified this as a priority issue and we're nearing completion on those. We're exploring innovative ways to promote increased acceptance of wolves on the land, working with individuals to look at new ways that this project can address concerns that people have been reactionary in the sense that we've been essentially responding to depredation incidents and problems. We're looking for other ways to build support for this program in the field. We hired Ken Mills as the NM Department of Game and Fish Field Team Leader.

Chairman Arvas: You've been on board since when?

Ken Mills: March 3.

Chairman Arvas: Can you give us an update on what you've been doing since March 3?

Ken Mills: Mostly getting my feet on the ground and trying to figure things out. It's a different climate here as far as the wolf program. I'm starting to talk to some of the ranchers trying to get information on aspects of what's going on and soon I'll be working on trying to get programs running that are advantageous to wolves and to the ranchers.

Commissioner Salmon: Do you have any comments on how folks in Ontario are able to accommodate their wolf population which is considerably greater than ours with some degree of success as opposed to the difficulties we're having?

Ken Mills: Wolves as far as distribution goes in Ontario are primarily in the wilderness. Agriculture in Ontario is pretty much contained in the southern areas of Ontario where there are coyotes, and wolf-coyote hybrids so the depredation problems aren't as extensive and that's probably the main factor. Here you have large livestock operations that aren't as intense as livestock operations out east generally are. That's probably the biggest difference. Otherwise, once in a while there are problems but generally not very many. Things are changing as far as management in Ontario, they're moving from unrestricted wolf harvest, no tags and moving to some more restrictions.

Commissioner Salmon: What does the province do in the cases where they do have depredation? Do they have procedures for compensation or to keep the livestock people happy with the situation?

Ken Mills: In Ontario each landowner has the right to defend their property through lethal means as far as wolves or predators are concerned. If there's a wolf on property that poses a threat, they can physically kill the wolf. I believe there's compensation through what would be the counties and then through the Ontario Ministry of Natural Resources.

Commissioner Simpson: Could you describe what duties you're going to have out in the field and what is your role?

Ken Mills: I'm the Field Team Leader so I'm the agency representative on the Interagency Field Team and that entails the depredation responses and the in-the-field leadership of the program, I'll be involved in normal population monitoring, depredation responses, and another part of that position will be outreach and work with landowners and try to develop pro-active means that will work for them that they're willing to adopt in their operations to try and prevent some depredations and hopefully get ahead of the game.

Commissioner Simpson: So your allocation is 100% of your work time?

Ken Mills: To the wolf program?

Commissioner Simpson: Yes.

Ken Mills: Yes, sir. Entirely.

Commissioner Simpson: You're going to be stationed where?

Ken Mills: I'm in Apache Creek and I'll be moving to Quemado soon?

Commissioner Simpson: So you'll be stationed in Quemado, not Santa Fe?

Ken Mills: That's correct, in the field ready to respond.

Commissioner Simpson: Okay, that's what I needed to know.

Matt Wunder: Some of the initiatives that we're looking at for 2008 are a consistent push towards more adaptive management. I'm the agency representative in AMOC. We feel that we would like it to be more adaptive and we've been pushing in that direction and that is going to be the theme of NM's participation in AMOC. We have enhanced and focused on landowner outreach. Ken will be a major part of that but we're also trying to find other ways to work with landowners to help address any concerns or problems they might have. We're providing temporary assistance to the Interagency Field Team. We've identified a temporary employee that we'll be hiring and he'll be available for 6 months and will be working in the field supporting the biologists and Ken. This individual is well qualified having been a volunteer for USFWS on the field team out of Alpine, AZ, so it's someone that has experience. In the next couple of months we're identifying and trying to implement a strategic frequency or channel monitoring procedure at the field team level in some of our AMOC meetings, but it isn't actually frequencies that are available but the radio receivers that are purchased by USFWS and made available to the public under certain circumstances. They have channels programmed so that the frequency information is actually proprietary and non-foiable but when a receiver is distributed, it has channels that are programmed so that a receiver can be programmed to pick up certain frequencies on certain channels without revealing the frequency information. As part of this activity, we have about a dozen radio receivers that are in circulation in NM. There are a number of receivers that are in areas where there are no wolves any longer and receivers are out subsequent to the January population monitoring. New collars were applied to certain wolves so there are different frequencies and channels so they're working to bring in some of these receivers. Some of these receivers are old and need servicing. We're working to initiate a NM Department of Game and Fish range rider program which is different than a range rider program that was in place last year. This would essentially be a contracted individual to the Department who would work out on the land in conjunction with the landowners primarily through the summer season and help see where the cattle/wolves are and try to work with the landowners on the ground on a daily basis to avert and mitigate any conflicts that would occur. We already raised this issue with some of the landowners and there seems to be interest.

Commissioner Simpson: The range rider program will be a new program?

Matt Wunder: It is a new program.

Commissioner Simpson: And it's got funding?

Matt Wunder: We have funding within the wolf program that we will be able to provide. This is in key areas where there have been issues. It won't necessarily be a recovery area-wide program, but we would be looking at identifying an individual that we would contract with that would be able to go out and work on the ground through the summer season.

Commissioner Simpson: And he would be responsible or answer to whom?

Matt Wunder: To the Department of Game and Fish and Ken would in fact be the supervisor. As I mentioned earlier, we did participate through our comments in the Endangered Species Act 10J revision process and that is essentially the status of the Wolf Recovery Program to date.

Commissioner McClintic: There's a gray area where you talk about the field team and after we've done our reports and we've looked at stuff that will make a determination on what we're going to do. You lead the Commission and people in the audience to believe that there's a wide range of what you can do and I want you to be very specific with them that we do have SOP 13 in place, that we do have guidelines that we stay within, and that isn't going to be arbitrary with our Department or any body else to make a decision. You mentioned 3 and 4 depredations which is a really bad thing to say at this point, so I would like you to clarify to us and the audience that we do have rules that we stay within.

Matt Wunder: That is correct. There are a number of standard operating procedures that guide implementation of this program on the ground. The ones that most commonly come to mind are SOP 11 and 13. SOP 11 identifies the procedure for identifying and investigating depredation incidents. SOP 13 identifies procedures for implementing management actions as a result of identified depredations. AMOC under the direction of the directors of the departments, USFWS/Arizona Game and Fish/NM Department of Game and Fish/Forest Service/Wildlife Services/White Mountain Apache Tribe were directed to identify and develop some clarification memos to try to clarify the application of Standard Operating Procedures 11 and 13. If 1 looks at the standard operating procedures, those were developed by AMOC as an outgrowth of and based on the 10j Rule which established the reintroduction program back in 1998. That rule now in the *Federal Register* has fairly specific guidelines about how the program is implemented. SOP 13 was developed as an outgrowth of that but there has been confusion within AMOC between agencies and states about how that should be applied. That is part of the reason why these clarification memos have been developed and essentially the position that we're getting to the 10j Rule does not specifically state that after 3 depredation incidents a wolf has to be removed. The 10j Rule says 3 or more. There are management options and actions available and that's the language that's being built into these clarification memos. The history of this program is that there has been an expectation that if there are 3 depredation incidents, that's the end. The 10j Rule does not say that. There is some supporting documentation in the final EIS that relates to this, but my understanding is that they don't carry the force of law, so the clarification memos that are being developed are based primarily on the 10j Rule and the discussions among the directors. I will say that at this point, after about the third iteration of these clarification memos, it has bounced up to the directorate level. The directors are specifically looking at and addressing the changes in language and the direction that these clarification memos are going in. SOP 11 and 13 are in the process of being augmented with clarification memos to identify how they will be implemented. The position of the Department is that this is an adaptive process and there is flexibility that is inherent in the 10j Rule and that's what's trying to be clarified in these clarification memos.

Commissioner McClintic: You mentioned we on the transmitters. Is it my understanding that we have never furnished a transmitter? That those come from USFWS?

Matt Wunder: That is correct, under the guidance of the agency of jurisdiction.

Commissioner McClintic: Would we be better served with the ranching community and the people you're trying to reclaim these transmitters from since they are not our property that we directed USFWS that they should work on this issue to help us, if that's your position?

Matt Wunder: They are USFWS property and through the IFT work with the agency of jurisdiction, either Arizona Game and Fish/NM Department of Game and Fish. Part of the difficulty is that this is an intensively monitored population of wolves. As I mentioned, about 72% of the population in NM either has or is associated with a radio collar so these animals are very well tracked, their weekly locations. Part of the problem that we encounter and it goes back in part to concerns about the available staffing level that are being provided by the agencies and what activities those staff members are involved with.

Commissioner McClintic: I didn't ask for your reasoning of why you wanted to get the transmitters. My point was strictly if they're not our property, let's go to the people whose property they are and if they want to defer to us. We can discuss the reasons why you want them back at a different time, but that wasn't my question.

Matt Wunder: Ok. USFWS does defer to the State of New Mexico in terms of the distribution.

Commissioner McClintic: There are lots of people that you didn't mention that USFWS had deferred to us to that position, so clarification and information to people never hurts. I would like us to get to a point that resolves a lot of our problems down the road.

Matt Wunder: USFWS defers to the agencies of jurisdiction.

Caren Cowan: I'm speaking on behalf of the NM Cattle Growers Association/NM Wool Growers/NM Federal Lands Council.

Why is there such a high mortality in the pups if only 1/3 of them are living? Are we looking into that as the research being done because it seems the mortality rate is high?

Matt Wunder: A lot of the pups produced last year are now in captivity as a result of project management.

Caren Cowan: Your presentation said that 9 of the pups had survived.

Matt Wunder: In the wild. Of those 27, a large number have been taken into captivity as a result of management action.

Caren Cowan: So how many of them are alive?

Matt Wunder: I'll have to get back to you on that.

Caren Cowan: Ok, I'd like to know that. To the issue about telemetry, this may be a very heavily monitored group of individuals, but if ranchers don't have the ability to know where wolves are, they can't manage their livestock and over time I've had repeated calls from producers saying they just found out there's a wolf on them, no one told them, and had they known this they could have moved their cattle around, and they could have avoided losses. So I urge you to be very cautious in picking up monitors and saying well, we've got other people monitoring because there's not a lot of communication. There's not a lot of trust, and that's a real issue and we're not being allowed to help ourselves and protect our own property, so I hope that you keep that in mind as you move forward. With the thoroughness of what went on here, I hope that the Commission is planning on going into wolf areas because we're so far from where the wolf populations are now that Laura is the only 1 that I know of that was able to come today. I would hope that you would get an update and perspective of what's going on as well. I wanted to let you know that the Association of Counties passed a resolution last Friday opposing the wolf program and asking that they be more involved in everything that goes on and there are somewhere between 15-20 counties that have applied for cooperating agency status on the development of the EIS and the new rule.

Laura Schneberger: Problem wolves may be managed lethally when reasonable attempts to capture alive have failed. This is no longer occurring. We have problem wolves that are defined in the rule. The rule is the law. We have to comply with the rule. We have problem wolves that are being attempted to capture for weeks, sometimes for 6-8 weeks at a time leading to multiple depredations over and over and yet the pups that are involved in this are going to be eligible for re-release into the wild. Now I don't know a single rancher out there who has told me that they prefer lethal. They don't care how they get them off, just so they get them off when they're killing every day. Non-lethal should be used when practicable and appropriate. Bringing a helicopter in to satisfy certain extremist members of the public so that another wolf is not killed and causing \$100,000 of damage to 1 ranch last year is not practicable, nor appropriate. The rule also says livestock depredators are supposed to be captured and collared. Currently, only partial packs are collared. The Middle Fork Pack has at least 6 members. The Middle Fork Pack was not defined as a breeding pair last year. Had it been defined as a breeding pair, the Durango Pack would not have been released last year. We could have avoided this whole mess from last year. This year they found year old pups with them and the Service needs to collar entire packs of depredating wolves immediately because SOP 13 is not being implemented. You have a depredation, 1 member of the pack is being applied the depredation rather than the entire pack as per the rule definition of problem animal. So the agencies are gerrymandering the rule to suit keeping wolves on the ground. It is the livestock community's contention that immediate and swift response to depredations saves wolves, yet we have a really big problem with emotion in the agency field team. I'm hoping that Mr. Mills will be able to see that early on and maybe rectify, so we're always hopeful that things can get better. NM Department of Game and Fish isn't exempt from using the definitions of problem or nuisance wolves in the rule. They need to re-read that and maybe tape it to the dashboard. They're bound by the rule just as everyone else is. Far more effort needs to go into rabies control by this agency and this is definitely related to the wolf because I've had numerous reports of rabid animals that have not been tested. I have had a report of a rabid coyote near Deming. I've also had a report of 2 wolves in the past week that were sited in the South Floridas. We have uncollared wolf sitings. Undocumented means unvaccinated in around Grant County near Silver City. These are not vaccinated animals. This is a real problem for anyone who is dealing with the rabies outbreak down there. It is a scary situation. I was just informed by your Department that a fox on our ranch has tested positive that we found that was messing with our dogs. Thankfully we are well-vaccinated but it tested positive and it showed up 2 days ago. The rabies situation is out of the control, the Department of Game and Fish knew about this a year ago when Catron County had 18 rabies cases. You folks need to find some funding to start with the bait drops and it's just a bare beginning and it should have been done a year ago. This is not a third-world country. Something else I'd like to bring up is I see a lot of monies being spent dealing with veterinary concerns for these wolves. I don't want to see anything suffer, but I do not want to see the Department spend \$10,000 to put a wolf back out into the wild after it has healed. That animal, a Middle Fork Pack female, had a completely healed leg. Yeah, it wasn't pretty, she was getting along fine, she was doing well. By removing that wolf they allowed the rest of the pack to change their territory. They tried to find her and they ended up north on a cow camp operation where they are now. Messing with them when they're okay is a bad idea. I've always been able to cite the Middle Fork Pack as good wolves that were in their own territory, killing elk and doing well. They killed their first confirmed calf 3-4 days ago. It's only going to get worse from there and we know that they've been killing for 2-3 weeks on this ranch. The agency needs to stand back and take a long hard look at how they're managing these animals. This was a wolf pack that was living in the wild for the past 4-5 years, having litters of pups even though they weren't being found all the time, and they were doing okay. Isn't that what we're looking for, why did we step in there and mess with this female wolf that was healthy and was still chasing elk with her pack and cause this to happen? This is not going to be the ranchers' fault when this wolf pack gets multiple depredations and habituated to cattle. Please step back and examine what's going on at the micro-management of these animals. Please deal with the rabies situation.

Commissioner McClintic: This is the first time we've ever had a Commission Wolf Sub-committee and we are taking this issue extremely seriously. On a Commission level we're trying to get as much information as we can. We want to make sure that the

Department is stepping up to the plate more so than we ever had. Last year was the worst year that we've had with this conflict and we're trying to work hard and as quickly as we can. We are going to bring to our public meeting exactly what our findings are and what direction we'd like to take and if it requires a vote on this Commission to make the Department take those kinds of roads, we're going to do it, but we will be talking to everybody and we're going to try to get a better handle on it than in the past. I realize that sometimes government moves slowly, but I don't want you to think that there aren't some people in the Department and the Commission that realize this is an issue that's not going away and has to be addressed in a different manner than the past 10 years because the past 10 years obviously on every side of the fence has been a miserable failure. We're going to try to change that.

Director Thompson: I'm not sure I can add very much. Laura has described the situation regarding rabies. The Department has been involved including a substantial amount of interagency work with the Department of Health, Department of Agriculture and others. We're not diminishing or taking the situation lightly but as to what the appropriate approach is, it actually involves multiple agencies and the suggestion about vaccination of wolves as 1 item may have merit, but it's certainly not the entire solution.

Chairman Arvas: A year ago this Commission decided to take a very active position concerning the management of the re-introduction program. Now, when I say management, as you probably know, this is not our total concern in terms of we don't have the ability or authority to do everything we want to do as a Department or Commission, but I can assure you that, and I don't think anyone in the audience can deny the fact that in the last year there have been some major steps taken and hopefully this next year there will be even more steps taken and with more or less the formation of the wolf sub-committee. This is 1 more opportunity to get the Commission involved, and the public at a very different level than it's ever been before. I'd like to encourage you not to be discouraged. Governor Richardson has approved the Department to take a leadership position on AMOC. With the Governor's support, we will begin that transition with Arizona Game and Fish and other memorandum of understanding signatories. This is an important step and I hope you all realize that this is going to help the situation markedly.

Commissioner Buffett: I wanted to share that the Wolf Sub-Committee is in unanimous agreement regarding this specific approach to the leadership role on AMOC that we'd like to take and we'll be sure to express and if need be get it on the next meeting's agenda.

Discussion item only.

AGENDA ITEM NO. 8: Hunting Regulation and Associated Rules Development for the 2008-2009 Upland Game Rule, 19.31.5, NMAC, and Waterfowl Rule, 19.31.6, NMAC.

Presented by Tim Mitchusson – The Department asked the Commission to open these rules to obtain public input or testimony and management adjustment recommendations to use in developing regulations for the 2008-2009 license year. Amendments to the Upland Game and Waterfowl Rules are necessary to update the rules, coordinate with USFWS frameworks on migratory game bird species, and adjust hunting opportunity where appropriate. The major adjustments will be migratory game birds to conform to season dates within federal frameworks. Other things the Department is considering are removing all reference to migratory game birds in the Upland Game Rule and incorporating those and waterfowl into a migratory bird rule. That way that rule has to be opened annually to conform to federal frameworks, but allows the upland game rule to go into a 2-year development cycle. That way it won't have to be opened up every year. We'll also consider opening a limited permit prairie chicken season this year. Populations show there are sufficient numbers to allow hunting opportunity. We're also considering requiring all grouse hunters to obtain a free grouse permit so that we can obtain accurate harvest estimates. We want to incorporate some dove hunting on some of our Middle Rio Grande Valley waterfowl management areas. We haven't determined if we want to do this as a youth hunt, as a youth mentor hunt, or open it up to all hunters which would require limiting hunter numbers but we'd like to offer this opportunity to more hunting. We need to adjust our Sandhill crane permit numbers or our bag limits for Middle Rio Grande Valley Sandhill cranes. Our allotment was increased by about 100 permits so we need to determine if hunters would prefer more hunting opportunity or increase bag. The other adjustment we need to make is we're looking at addressing hunter conflicts on Bernardo and La Joya waterfowl management areas mainly dealing with overcrowding of hunters and how it reduces conflicts. We've had requests to increase the quality of this hunt. To do this we'll most likely have to reduce hunter opportunity. We're looking at opening up this area south of U.S.-60 on Bernardo to duck hunting during the light goose hunts on the farm areas north of 60, and we're also looking at seeking public input on initiating spot closures on the Rio Grande Valley in Valencia County to address public safety issues.

Commissioner McClintic: I encourage the Department to continually look for avenues by which we can give our sportsmen more opportunity.

Commissioner Salmon: Will the prairie chicken hunt include opportunities for falconry?

Tim Mitchusson: Yes, we've got that incorporated into it.

MOTION: Commissioner Salmon moved that the Commission open the Upland Game Rule, 19.31.5, NMAC, and the Waterfowl Rule, 19.31.6, NMAC, to obtain public input for use in developing regulations for the 2008-2009 license year.

Commissioner McClintic seconded the motion.

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

AGENDA ITEM NO. 9: Opening the Depredation Assistance Rule, 19.30.2, NMAC, to Develop Reasonable and Appropriate Adjustment Recommendations.

Presented by R.J. Kirkpatrick – The Department asked the Commission to open the Depredation Rule to initiate public outreach efforts to develop adjustment recommendations that improve and expand options the Department has to resolve complaints. The options are to develop a more specific, categorized array of options to mitigate or eliminate damage so that conservation officers can respond to complaints more efficiently and consistently across the state; identify language in the Depredation Rule that is inconsistent with other rules and eliminate or modify; consider adding more flexibility to the duration and amount of the forage lease component that can be applied in appropriate circumstances; specify the type of information on depredation take and the avenue the information should be provided to the public; consider defining the circumstances or situations in which game proof fencing should be an option; clarify specifications of what constitutes damage versus what constitutes a nuisance and how those should be reported; consider developing a Depredation Resolutions Sounding Board made up of select Department staff and/or citizens to evaluate possible resolutions for complex or difficult complaints; investigate the possibility of long-term leasing of chronic problem lands; develop informational campaign that identifies methods to pro-actively prevent or minimize depredation; and put more responsibility on landowners to take inexpensive, common sense actions to prevent or minimize depredation. The approach to this will be strategically identifying a group of folks that have been involved in depredation over time and then broadening that to landowner communities that are in our E-PLUS/A-PLUS systems and a variety of folks that have interest from both sides of its sportsmen's groups.

Chairman Arvas: Do you want to highlight the items that you think you want to focus on?

R.J. Kirkpatrick: Currently under the depredation rule here's 1 that's contradictory to E-PLUS where we'd adopted a new E-PLUS rule about 3 years ago and under the current depredation rule the use of landowner authorizations is a potential intervention for depredation complaint but the E-PLUS rule strove to separate private land elk system from depredation and so we need to clarify that. Another thing that most recently has occurred is more troublesome. It has to do with landowners accepting more responsibility where they can cost-effectively and easily take steps to minimize/mitigate/prevent depredations from occurring in the first place. The realization that the amount of money the depredation and nuisance stamp generates, approximately \$500,000 a year and the expenditure of that on constructing extremely elaborate basically wildlife-proof fences, is a very difficult, forward looking venture. We cannot continue to build those fences without funding so we're trying to figure out ways to identify what kinds of depredations justify us building a \$50,000-\$150,000 game-proof fence around it. Is it just cash crops, is it situations in which no other remedy will actually work, a lesser fence won't work, other kinds of mitigation won't work and along those lines. One of the restrictions currently in the depredation rule is we're able to offer an individual a forage lease for up to 2 years maximum value over those 2 years of \$5,000. The current rule requires that we construct a game-proof fence the third year. We've found lots of circumstances in NM where if we had more flexibility with the provision of a forage lease that wasn't necessarily tied to providing that fence the third year, we could mitigate or remedy these problems with some reasonable forage lease payments over time than require the fence and was more cost effective, so those are probably the highlights of discussions.

Gene Tatum: I'm President of Albuquerque Wildlife Federation. As a sportsmen organization, we support and back the Department's request to have the rule open for reconsideration. As our organization would like to be able to participate in the public process as it unfolds in the future to see if we can't participate and help the Department come up with reasonable changes to the rule. We request you support re-opening the rule.

Debbie Risberg: I'm the Wildlife Programs Manager for Animal Protection of New Mexico. We support opening the depredation rule.

Jeremy Vesbach: I represent the New Mexico Wildlife Federation. I'm sure most of you are aware of an incident that recently happened in Cimarron where a landowner killed approximately 39 antelope with a shotgun. Herded them with an ATV against a fence the Department was in the process of building. We support re-opening the rule looking at more assistance but I'd also like to recommend to the Commission that they consider looking at revising the statute that is in existence that allows a landowner to take matters into their own hands. The vast majority of landowners are pro-wildlife but occasionally we do have a bad landowner like this that killed those antelope, exceeded the harvest limit for that unit. That is a terrible thing to happen for the sportsmen of NM and we need to be able to have the ability to prosecute an incident like that. That is not what's on the table today but in the long term, I'd like to encourage the Commission to be open to supporting or revising that statute. I commend the Department for an immediate measure looking into adding flexibility under their existing capability.

Commissioner Simpson: At the last Game Commission meeting I made a comment and it was talked about briefly. In the depredation report the Department was supposed to be producing incidents like this and listing what animals were killed and what the circumstances were, that weren't necessarily related to depredation complaints. This is the part of big picture that I asked for the updated information that we find out is killing wildlife because these are the public's wildlife and under what circumstances. I do agree with NM Wildlife Federation that we need to change the statute to make sure that we don't have the

bad actors because I know there is killing of big game especially. I don't know what other species are being killed, but we need to have better data and analysis in order to help R.J. evaluate better techniques and how to resolve some of these situations.

MOTION: Commissioner Montoya moved to open the Depredation Assistance Rule, 19.30.2, NMAC, to initiate public outreach efforts to develop adjustment recommendations that improve and expand options the Department has to resolve complaints.

Commissioner McClintic seconded the motion.

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

AGENDA ITEM NO. 10: Opening the Private Land Elk License Allocation Rule, 19.30.5, NMAC, to Develop Adjustment Recommendations.

Presented by R.J. Kirkpatrick – The Department asked the Commission to open the Private Land Elk License Allocation Rule, 19.30.5, NMAC, allowing for initiation of public outreach efforts to develop adjustment recommendations specific to simplifying the Elk Contribution Rating component of the process, instituting measures that discourage splitting of properties, and establishing more meaningful deterrents and penalties for landowners who allow for false representation of deeded acreage or violate terms of annual participation agreements. Various members of the Commission were on the Commission 2-3 years ago when we revamped the private land use system rule. We acknowledged that our final product was not perfect and over time we would recognize the need for adjustments and take steps to make that better, more efficient and effective. There are 2-3 particular issues with the rule that we'd like to discuss with our landowner communities and public hunters. One of them has to do with elk contribution rating—that's the component of evaluating a property in which those properties that have elk on them get no extra credit, those properties that have elk on them more often get a quarter acre for every acre they have weight or credit, and those properties that have elk on them all the time get a half acre credit for every acre that they have in the system. We've evaluated that internally over the last 2 years and our assessment of it is that not all properties are the same. Some properties are better and more advantageous to elk than others. The application that's contribution rating becomes difficult for mid-sized and smaller landowners. Most of the bigger properties subsequently end up getting a 1.5 contribution rating; therefore, they secure or qualify for more authorizations than other properties and because their size it's fairly significant. Our initial discussions center around doing away with that contribution, making everyone equal, everyone contributes or is participating is contributing equally to elk. Most properties that we identify are providing extra or significantly more benefit to elk, we would address on a case-by-case basis through the provision of incentives. By opening this rule, we'll be able to go to the landowner community and discuss. The second component was a desire to deter or minimize the interest in splitting properties into smaller pieces. We see this happening, mostly real estate folks creating ranchettes, but our new landowner system would dissuade people from doing that, but in fact what we're seeing is smaller landowners cutting 180-acre properties into 3-4 pieces or even 20-acre properties into 3-4 pieces figuring that they've got more chances to be successful in securing an authorization through our small contributor ranch draw. We've got to figure out some way to propose an incentive avenue to encourage people not to split those properties up. It's not beneficial to us in that it takes us a lot of time and resources to administer that, it's not beneficial landscape. We need to figure out new language and new methods to create a deterrent and when the deterrent is not effective, to truly penalize people for basically lying to us about what they own, because what they are in fact doing is securing authorizations or hunting opportunities from people that they rightly should go to and it's pretty close to fraud, so we've got to figure out some new language. Those are the 3 main focuses.

Chairman Arvas: Would you comment on what you basically mean when you say open the rule in terms of the process?

R.J. Kirkpatrick: All the Administrative Code rules that apply to the Department adopted by the Commission, unless they're open, the Department and the Commission cannot legitimately accept public comment and input toward development of adjustments or amendments or even creation of new rules, so this is a formality. We ask the Commission to formally open the rule and then we go through a public awareness campaign so everybody knows the rules are open for comment, get with us and we'll set up meetings and formalize that public input process towards development.

Commissioner McClintic: Let me get some clarification. My understanding is you're saying that you want to institute some measures from this Commission to discourage people sub-dividing their land?

R.J. Kirkpatrick: Most directed at the elk private land use system rule—here's the scenario that we face today on a more frequent and increasing basis. A property owner owns 80 acres and he sits in a game management unit where 80 acres won't qualify for any authorizations we allocate every year because it's too small. In the rule, a landowner will qualify for part of an authorization as will other small ranches in that game management unit, so we add all those parts of authorizations up, and then in about every game management unit there's private property that's not enrolled in the program. It's making contribution to elk but we don't know who owns it so we'll take a portion of those authorizations that we allocate to that un-enrolled property and then we go look at the past 2 years on how many bulls/cows/archer authorizations have gone unconverted. We've allocated them to somebody but they've chosen not to use them. We'll take a portion of those and we put them in a pool and all those 80-acres/small ranches vie for those through a drawing process. It's a draw, so the 80-acre ranch sits there and says heck, if I had 4, 20-acre pieces, I'd have 4 chances of winning some permits rather than just my 1, 80-acre chance so we see these landowners breaking their 80's up into 4--20's. They go through the legal process and make a child an owner of 1 piece and

their wife an owner of another piece, so basically the administrative workload involved from the agency's perspective in dealing with all of a sudden the creation of 3 new ranches and a significant adjustment to a fourth property, is extremely burdensome. Invariably when those properties are split apart, sometimes fences or new roads go up, the value to the wildlife decreases, a variety of bad things happen, so what we'd like to do is encourage small landowners. Figure out a way to provide an incentive for landowners to keep their properties together, not split them up, and in addition to that, we provide some incentives that encourage the landowner with 80 acres to put his 80 acres together with the 20 and the 17, and the 35, and consolidate their properties into an even bigger chunks of ground better able to qualify for authorizations but maybe they'll recognize that if they manage that consolidated property smarter it would become more beneficial to elk and we may come up with incentives and a variety of other things.

Commissioner McClintic: That terminology is better than instituting measures to discourage if we offer them the same opportunities that if they didn't split their land up, and try to give them a better opportunity that might work.

R.J. Kirkpatrick: I think that's the avenue to take. Figure out ways to provide incentives for people to consolidate properties and keep them together rather than create a draft rule for the Commission to consider that penalizes someone that does it.

Commissioner McClintic: You mentioned people telling you they own 300-400 acres when they only own 40 that are deeded. In what instance, how do you find out that they've lied to you?

R.J. Kirkpatrick: We find out by a variety of ways. When we revamped the private land system rule for elk, 1 of the components of it is the recognition that some properties were being recognized for more acres than they truly had and so a lot of it comes to us from community policing. Neighboring landowners see those lists every year, who gets what and they recognize individuals that (1) don't own that many acres, and (2) aren't making any meaningful contribution to elk so most of our information about who may be fraudulent comes to us from landowners. In addition to that, the Department randomly sends out a request for ownership documents as allowed in rule. We go into most of our GMU's and send letters to randomly selected ranches saying we need to see all the documentation that proves ownership. Invariably with those requests we find problems, so those are the 2 ways we identify properties that are not being truthful with us about what they own.

Commissioner McClintic: There may be another avenue. When people apply for these, a deed is public record, so it would be very simple depending on what the size of this program, to be able to get a deed showing exactly what is owned at that particular time, and that shouldn't be cost prohibitive to us and it should be something you want to catch in the front end rather than the back end.

Commissioner Montoya: In the last revision of this rule, that was recognized and there was a provision that allowed for random audits and in those random audits, individual landowners would have to submit their deeds and documents showing ownership that property but it's a big program and it's difficult with the manpower we have to do many of those audits, is that right, R.J.? I know up front that that's required as part of the application, but the Department has discovered that some of those properties are sold but not reported or split up and some landowners have continued benefitting from authorizations when they don't own the property.

R.J. Kirkpatrick: That's true. The vast majority of new signups every year submit those documents and they're clean when they come in, but the problems are that ranches that have been in the program 10-15 years that have sold land over time and never bothered to tell to us whether maliciously or not.

Commissioner McClintic: Because it's important to us and you, let's see if there's a way we can clean that up and make it easier for not only the general public but for the Department not to have this conflict.

Commissioner Simpson: Actual documentation is a requirement for the application, but that should also be required every year for the existing ranches. As a Commission, we need to develop some way to make sure that if they don't submit truthful information, they'll be denied their permits so that's a simple economic solution. If you submit fraudulent or don't upgrade current information, we have the right to eliminate your permits so that's an economic incentive to make that everybody provides accurate information and updates it every year.

Chairman Arvas: In the past we have done that, haven't we?

R.J. Kirkpatrick: Yes, in the past we've required full ownership documents upon enrolling in the program. Currently we don't require ownership documents but convincing documentation that you own what you say you own. The problems that arise with an annual requirement of ownership documents have to do with the timing. When we need that information, properties are continuously being traded/sold/bartered/gifted, a variety of things which create a huge workload and then if every landowner in New Mexico participating was required to submit full ownership documents every year, that's a good workload on them and probably I'll go out on a limb, I suggest that 70%-80% of our participating landowners are wonderful cooperators with the Department in this program, and aren't being deceitful. It's the few that we're after, so putting that burden on the bulk of them probably might be difficult but I agree that the penalty when we do catch them should be sufficient that it deters others from doing it and when you get caught know that you're not going to do it any more and removal from eligibility from the program for some time might be a viable option.

Commissioner Simpson: You can ask on the form has anything changed and they can say yes/no. If so, then you have to provide documents. That's a simple administrative way but we've got to control fraudulent information and a way to do that is say you're now allowed to participate in the program, you can't have any elk tags.

R.J. Kirkpatrick: That information is actually on the form and basically they're signing an affidavit every year when they sign that agreement, but not everyone places the weight of signing an affidavit as heavily as we do. The information we're requesting is currently in the agreement. It's up to the Department and other landowners to rat out those that aren't being truthful and this component of amending the E-PLUS is figuring out a procedure/penalty/deterrent in rule that works better than what's in there now because if we catch you providing false information, we remove that property from participation for up to 3 years. If I tell the Department I've got a 2,000-acre ranch and reap the benefits/elk permits/elk authorizations for years and the Department figures out I don't own anything, then the penalty is they remove the 2,000 acres I didn't even own from the system, not much of a penalty. We've got to figure out something that's more of a penalty.

MOTION: Commissioner Montoya moved to open the Private Land Elk License Allocation Rule, 19.30.5, NMAC, to allow for initiation of public outreach efforts to develop adjustment recommendations specific to simplifying the Elk Contribution Rating component of the process, instituting measures that discourage splitting of properties, and establishing more meaningful deterrents and penalties for landowners who allow for false representation of deeded acreage or violate terms of annual participation agreements. **Commissioner Salmon** seconded the motion.

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

AGENDA ITEM NO. 11: Opening the New Mexico Hunter-Trapper Reporting System Rule, 19.30.10, NMAC, to Develop Adjustment Recommendations Specific to February Reporting Deadlines.

Presented by R.J. Kirkpatrick – The Department asked the Commission to open the New Mexico Hunter-Trapper Reporting Rule, 19.30.10, NMAC, to initiate public outreach efforts to develop adjustment recommendations specific to reconsidering the deadline for hunters with a reporting requirement who apply for oryx/special entry bear permits/special entry turkey permits/population reduction hunts, all of which have an application deadline for early February each year. The Department is requesting Commission approval to open the Hunter Trapper Reporting System Rule so that the Department can work with the public for amendments for the Commission to adopt. The Mandatory Harvest Reporting Program has been beneficial. With the application deadline for oryx/spring bow/turkey/population reduction hunts that application deadline is the first Saturday in February. The reporting deadline for all deer/elk hunters is February 15, so they don't have to report their harvest until February 15 but the rule also requires that your harvest report prior to making application, so a meaningful number of people applying for those only application deadline species hunts and having not fulfilled their harvest reporting requirement by that date in February. We've fine-tuned the data management so that we don't need those reports prior to submitting application early February. The February 15 deadline is fine. The harvest information can be captured/evaluated/adjusted. We suggest the reporting deadline for everyone be February 15. You can apply for those early draw-one hunts and not to have given us your harvest report until the 15th. We had a trapper with a legitimate concern. He doesn't trap *per se* but he does hunt furbearers and hunts them through the end of the furbearer season which is March 31. March 31 is also the reporting deadline for trappers. He asked if he's hunting March 31 and doesn't get back on March 31, I do my harvest report on April 1, I get dinged an \$8 late fee. That doesn't seem right so he suggested moving the trapper reporting deadline to April 5 so that it's before the application deadline for deer/elk but it's after someone might be out in the field hunting furbearers. I thought that a reasonable request.

Commissioner Salmon: I thought trapping season was November 1 to March 15?

R.J. Kirkpatrick: It's March 31.

Luke Shelby: It depends on the species. For some species it does go to March 31—beaver/muskrat/nutria/raccoon.

Commissioner Salmon: For other species through March 15?

R.J. Kirkpatrick: March 31 for them to submit their harvest report.

Commissioner Salmon: To avoid that late penalty, you would move the reporting date back into April sometime?

R.J. Kirkpatrick: The point you brought up is valuable because I don't know that anyone goes out into the field and hunts nutria and beaver, that's mostly a trapping endeavor and so we'll call this trapper back and walk through his concerns.

Jeremy Vesbach: I represent NM Wildlife Federation. As you move forward re-opening the rule and coming up with suggestions, the biggest barrier to getting sportsmen to report is sitting down and doing it and although we don't need the information until Feb. 15, it would be nice to have something pop up. 80% of people are putting in online. It would be nice to have a reminder pop up when they do get there and the second would be that while you have people at the computer particularly online, if it's not cost-prohibitive, go ahead and link them into other types of harvest reports that are non-mandatory because once they are there you find people will do harvest reporting on waterfowl or whatever else they need.

MOTION: Commissioner Salmon moved to open the New Mexico Hunter-Trapper Reporting Rule, 19.30.10, NMAC, to initiate public outreach efforts to develop adjustment recommendations specific to reconsidering the deadline for hunters with a reporting

requirement who apply for oryx, special entry bear permits, special entry turkey permits, and population reduction hunts.

Commissioner Montoya seconded the motion.

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

AGENDA ITEM NO. 12: A-PLUS Review and Public Outreach Update.

Presented by R.J. Kirkpatrick – The Department provided the Commission with an update on development of an Antelope – Private Land Use System (A-PLUS) rule and a summary of public outreach efforts to date. The Department developed a questionnaire that outlined questions and ideas developed by the A-PLUS rule development committee and mailed out to all currently participating landowners and 1,050 randomly selected hunters. A series of public meetings have been held around the state to get input from stakeholders. Questions/comments are being compiled into a document that will be sent out to ensure the most common questions are answered or the most common concerns are addressed, as well as addressing issues not identified in the first questionnaire. Public awareness of the issues and a public statement were initiated at the State Game Commission meeting held in Albuquerque on August 23, 2007. Subsequent to that meeting, several agricultural organizations expressed the desire to arrange input meetings with the Department and those arrangements are being made. A presentation was made at the November 1, 2007 State Game Commission meeting in Raton. The update included a list of issues and problems with the current process, the schedule for engaging public input and participation, and a proposed timeline for completion. A questionnaire was mailed out February 6, 2008 to 1,149 participating landowners and 1,050 hunters throughout the state. The landowners were chosen from those who are currently enrolled in the existing landowner system for antelope. The hunters were randomly chosen from those that have drawn a hunting license during the last 3 years. This questionnaire was also made available on the Department's website in 2 formats--a downloadable version and an e-mail version. As of 17 March we have received 321 questionnaires consisting of 223 landowners and 98 hunters/sportspersons yielding a 14.6% response rate. Along with the questionnaire, a series of 13 public meetings were scheduled at various locations throughout the state during the weeks of February 18-22 and February 23-26, 2008 and 1 scheduled for March 17, 2008. The meeting locations were: Raton, Roswell, Clayton, Socorro, Springer, Carrizozo, Tucumcari, Silver City, Ft. Sumner, Las Cruces, Lovington, Estancia, and Gallup, New Mexico. A total of 164 people attended all meetings with the following attendance at each location: Springer – 16; Clayton – 23; Raton – 21; Tucumcari – 12; Socorro – 9; Silver City – 7; Las Cruces – 7; Estancia – 20; Gallup – 2; Roswell – 15; Carrizozo – 13; Ft. Sumner – 14; and Lovington – 7. Some meetings were well attended others were not. When the data are gathered and analyzed and all issues/comments/concerns/questions are addressed, the Department will initiate the process of drafting a rule ensuring we encompass all the issues and ideas. This will be presented for public input and State Game Commission action in May 2008. There is currently no rule that establishes how the Department allocates hunting opportunity not necessarily public landowners, but to private landowners formally. There's no rule currently that will start to accomplish some of the things that are being brought up about approach so it will be a new rule. We hope to provide the Commission and the public with a draft rule in May. I'm not sure that will happen because some of the issues we're identifying in this process are polarizing. The landowner community is protective of their private property, but in addition very protective of their public leased acreages. On the other hand, the public hunters are interested in acquiring more and greater access to those public leased acres so it's somewhat of a polarizing process now. Cal Baca, Julie Cummings, and I are going to meet with the Director about where we are now. The Department will provide updates to the Commission about when/where we'll have draft rule for people to look at.

Chairman Arvas: Of the 321 questionnaires you received, how many were done electronically?

R.J. Kirkpatrick: I don't have that. My sense is Cal has probably downloaded somewhere between 70-100.

Discussion item only.

AGENDA ITEM NO. 13: Opening the Rule for Guide and Outfitter Registration 19.30.8, NMAC.

Presented by Dan Brooks – The Department requested opening the rule for public comment to consider recommendations for amending guide and outfitter registration to include but not be limited to fees for the administrative process of non-compliance with liability insurance requirements. Approximately 80% of outfitters (approximately 230) do not send in proof of liability insurance without a reminder. Outfitters receiving notice are given 30 days to provide proof of current liability insurance. If the Department doesn't receive this proof, outfitters are sent a notice of contemplated Commission action and offered a hearing. If outfitters continue to remain out of compliance for this insurance requirement, then they are suspended until meeting the liability insurance requirement. It is estimated that Department employees spend 200-300 hours per year in sending reminders, preparing official notices, processing outfitters suspensions, reviewing insurance documents, and then reinstating outfitters. Today we're bringing forth the official request to open the outfitter rule so that we can start working on addressing the Commission's concerns. We've started dialog with outfitters. Now we're ready to get the notice out and begin receiving comments and trying to move toward amendments to the rule and my hope is to come back to the Commission in May with recommendations supported by outfitters and other groups that are interested.

Garth Simms: Executive Director of NM Council of Outfitters/Guides. We had discussions with the Department about opening this rule. We hashed out a couple of proposals that we think might solve the problem of the Department getting those proofs of liability so we support opening up the rule.

MOTION: Commissioner Salmon moved to open the Outfitter and Guide Rule, 19.30.8, NMAC, for public comment to explore administrative fees and other matters that will assist in compliance with the statutes and rules related to outfitter and guide registration. Commissioner McClintic seconded the motion.

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

AGENDA ITEM NO. 14: Draft Recovery Plan for 2 Riparian Rodents listed as Endangered under the Wildlife Conservation Act (§17-2-40.1 NMSA, 1978).

Presented by Leland J. S. Pierce – The draft Recovery Plan for the meadow jumping mouse (*Zapus hudsonius*) and the Arizona montane vole (*Microtus montanus arizonensis*) was presented to the Commission for review. The meadow jumping mouse is found in many mountain ranges and along the Rio Grande and Rio Chama drainages, and has shown very sharp declines in population numbers. The Arizona montane vole, also a riparian species like the jumping mouse, is found in a limited range in Catron County. The Plan, as directed by the WCA, described status and conservation needs of the species and identified actions that will protect and enhance native populations, allowing eventual downlisting of the 2 species. The goal of this recovery plan is to ensure the long-term persistence of natural densities of the meadow jumping mouse and Arizona montane vole within their respective natural ranges in New Mexico, thereby contributing to the maintenance of the biological diversity in the state. When we look at threatened or endangered species, often it breaks down to (1) are they imperiled; (2) are they of a limited range; and (3) are they of a management concern. Those are not mutually exclusive but those are the general aspects to these species. In terms of imperiled, the meadow jumping mouse is very imperiled. It's not so much the animal as it's habitat. We're not too sure about the montane vole it may be just a rare animal. In terms of range the meadow jumping mouse has been known historically for quite a few portions of NM but in terms of the Arizona montane vole that's actually the poster child for this. It occurs in a section of Catron County that is 9x10x12 miles. We get these species that occur in a portion of it and because they're limited they are of a concern to us. The Arizona montane vole is not a management concern but it is a rare animal that runs around in the grass in a portion of NM and if we work with the Forest Service on which it's found and improve habitat, it will be a rare animal that runs around in grass in a portion of NM. The meadow jumping mouse is a big issue and the big issue is that it is on riparian habitat on U.S. Forest Service property. No matter what happens we can work hard on our properties if it occurs there, it's on State Parks and if they can work hard they will be great, but it will never be recovered except on U.S. Forest Service property and that's where the concern is because a lot of people put food on the table and kids through school based upon the resources found on the Forest Service property and this could impact that. The Department received additional public feedback from a variety of constituents in response to inclusion of the riparian recovery plan on today's agenda. Comments received within the last 10 days from entities like the NM Cattle Growers Association/NM Wool Growers/NM Farm and Livestock Bureau/NM Federal Lands Council/Middle Rio Grande Conservancy District/Wild Earth Guardians highlight opportunities to make substantive improvement to the draft recovery plan recognizing that it is in everyone's best interests to ensure the plan represents as comprehensive a view as possible, the Department believes that the State Game Commission should defer action until the May 2008 meeting to allow time for these entities to develop additional information and offer specific language that will improve the proposed recovery plan consistent with purposes to be accomplished with such plans. We are especially pleased that the agricultural interests have stepped forward to provide assistance to possible conservation planning documents for these at-risk species. This approach will provide for these organizations and others to more fully express their interest in ensuring their constituents play a contributing role in effective conservation, recovery, and delisting of riparian rodents in NM.

Chairman Arvas: The Department is recommending we go ahead and wait until the May meeting. My concern is that the people that have requested to speak on this agenda item, if you feel you won't be at that meeting in May, then we'll be happy to hear your comments now to have them on the record. On the other hand, I'd recommend that if you're planning on being at the meeting, wait until the May meeting because it'll be fresher in our minds what you say.

Leland Pierce: I see each of these recovery plans as a learning opportunity to get better, so for all the organizations that did respond I'd like for them to know that we appreciate this. A concern I've always had about our public meetings was brought forth by the lady who let me know that it's sometimes a hardship to get to these meetings and if part of the dialog that we develop improves that ability to let private landowners or whomever know, this will work out for the best for the Department and for the state.

Commissioner Simpson: Could you elaborate more since most of the habitat is on Forest Service property, what role and give us more background and how willing they are to the pro-active approach or give us some background so we can evaluate and maybe ask them questions or give a better idea of what's going on?

Leland Pierce: The Forest Service has been involved with this process from the first and they're taking a very pro-active role on this because they do not want this animal listed because that would alter how they do business. They recognize that this is an

opportunity to improve the habitat and so they assigned someone to be a member of our Advisory Committee and he's been active on this and currently USFWS is working very hard not to list this species. They've started what's called the partnership for fish and wildlife and they're working directly with Forest Service to look for possibilities to improve habitat. One way that we're working together is with our Habitat Stamp. Dale Hall has identified areas along with folks in Jemez that might be potential ways for us to help the Forest Service improve habitat. So, yes they've been very pro-active on this.

Commissioner Simpson: Yet we see continual decline, in some places 90%, so this has been a long history, is that right?

Leland Pierce: It is a long history and to be blunt about it, the process by which habitat is managed is not meeting the need and does need to be adjusted and the Forest Service is aware of this and have indicated they are going to try and work on that.

Commissioner Simpson: This is nothing more than a volunteer program after we come up with some solutions is that right?

Leland Pierce: Our process is strictly a process where we all try to work together. We do not have authority over habitat in any way, shape or form. You look at what the efforts have been in southeastern NM where they're trying to come together and take care of the lesser prairie chicken and the sand dune lizard and work together to do that, and perhaps there's a way to do that here, but that's a high status of candidate that has to be dealt with so 1 way or another this situation is going to be resolved.

MOTION: Commissioner Salmon moved to table until the next meeting the Draft Recovery Plan for 2 riparian rodents listed as endangered under the Wildlife Conservation Act. **Commissioner McClintic** seconded the motion.

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

AGENDA ITEM NO. 15: General Public Comments (Comments Limited to 3 Minutes).

Public Comments:

Gary Cordova: My concern is with the operations of Santa Rosa Lake and the lack of a minimum pool at Santa Rosa Lake. I realize that the Game Commission certainly does not allocate because it's the state engineer's function to allocate water within the State, but the operations of Pecos River and the failure to have a minimum pool at Santa Rosa is negative for fisheries management at Santa Rosa. As representative Campos stated, we do have Rock Lake and the expansion of the warm water fisheries and it doesn't make any sense that I believe 1 of the only lakes that you have in the state doesn't have a minimum pool at Santa Rosa Lake. It's negative for the City itself that there is no minimum pool and that they are given the opportunity to drain that lake in it's entirety. The Department invests a lot of time and money with the fisheries management at the Lake and then you can't secure that investment by draining the lake completely. For the local economy it's certainly negative publicity when that does happen and certainly do understand that when the Carlsbad Irrigation District or the state is required to deliver those waters that we must do so but to completely drain that lake is negative. My opinion is certainly my personal opinion and not the opinion of the Corp of Engineers but I believe the Department could help us by pushing as they continue for better water quality in Santa Rosa Lake. It's a shame that they can drain that lake completely down to mud.

Lisa Hummon: We have a compensation program and a pro-active program that tries to find solutions and I want to encourage the Commission and the Department to continue to work towards the recovery of the Mexican wolf and our members support.

AGENDA ITEM NO. 16: Request for Shooting Preserve License by Express-UU Bar Ranch, per §17-3-35 through 17-3-42, NMSA 1978, and 19.35.3, NMAC.

Presented by Lief Ahlm – The Express-UU Bar Ranch near Cimarron submitted an application for a license to establish and operate a 2,500-acre shooting preserve within about 144,500 deeded acres in Colfax County. If approved, the ranch intends to release bobwhite quail, scaled quail, and pheasant. This application is in accordance with Sections 17-3-35 through 17-3-42, NMSA, 1978, (Regulated Shooting Preserve Act) and 19.35.3, NMAC, Shooting Preserves. Department-NE Area personnel have inspected the property and agree that the application meets the terms of law and rule. There's no public land included within this area, there's no public land adjacent to it, it's for the release of bobwhite quail, scaled quail, and pheasant and there are no known conflicts with adjoining landowners. The purpose is to provide additional opportunity both to their clients, and paying guests. There is no anticipated impact on native fauna and there's a very possible positive impact on the local economy. The ranch is a very large ranch and this is in 1 small portion of that ranch on the very northern end.

Commissioner McClintic: Have we had any habitat study whether these species would thrive once they're introduced up there? Has any of that been given to anybody?

Lief Ahlm: It was the first place in NM that ring-necked pheasants were introduced in NM in the 1800's. There are some scaled quail near there but not in the habitats where the shooting preserve would be. Bobwhite quail are not endemic to the area and it's anticipated that they would probably not expand because of the type of habitat they need is not there, but they would survive through whatever that lifespan. We don't believe they would reproduce in there.

Commissioner Salmon: What keeps the 2,500 acres from the wildlife point of view separate from the remaining 144,000+ acres on the ranch? The birds aren't actually confined are they?

Lief Ahlm: No, the birds are not confined but the shooting preserve area itself is actually fenced and will be signed so that only the paid shooting that occurs for these species would occur within that preserve.

Commissioner Simpson: What are we going to do to make sure this monitoring disease control of birds being brought in and is there any protocol for that on a continuing basis because I think pheasant could survive and spread it, right?

Lief Ahlm: The birds have to come from an approved source/supplier and then once they're on the ranch raised through a propagation permit so there is a system which allows them to receive those birds, but they have to be through a licensed source that should be I believe disease free.

Commissioner Simpson: What tests are done or are you not going to raise those just buy them continuously and this source guarantees that they're disease free—the supplier of the source of the animals?

Dan Brooks: When it comes to importations, we require that they be inspected by a veterinarian and then they're certified disease free. The facility is inspected and we get that from a certified veterinarian. When they come from in-state, they come from a bird propagator and that's different but I think your concerns are addressed through this inspection as a general rule. We haven't really had any problems with pheasants that I'm aware of, so although there may be some diseases out there, I think what we have in place right now is serving us adequately unless there's new information that I don't know about.

Chairman Arvas: Can you tell us how many types of preserves of this nature are active?

Dan Brooks: We don't have that many. I did a summary a while back probably about 2 years ago. If you recall, the Commission had some concerns about shooting preserves and how many were out there, but we have less than 20 and there are about 13 that are active. To revisit 1 of the previous questions about the 2,500 acres, we queried our shooting preserve owners and we think we have just about no survivability. These birds don't survive. They don't have wild instincts. They're propagated. That's what the statute considered and that's what's happening to our knowledge.

Commissioner Simpson: How often does the vet have to come out and inspect?

Dan Brooks: We look that to be a 30-day inspection.

Commissioner Buffett: This is in area of State Road 99 that this ranch is adjacent?

Lief Ahlm: It is near there but several miles away.

Commissioner Buffett: So there's no issue of access through UU Bar Ranch related to State Road 199?

Lief Ahlm: It has no bearing on that issue.

Commissioner Buffett: This issue has no bearing on it?

Lief Ahlm: The shooting preserve has no bearing on that issue.

Commissioner Buffett: I'd be curious to know if the UU Bar Ranch recognizes State Road 199 as a Game Commission-owned road.

Mike Hobbs: I'm the General Manager for the Express-UU Bar Ranch. This issue is under litigation and the ranch is not permitted to make any comment on our position relative to State Road 199.

Chairman Arvas: Did you say it's under litigation?

Mike Hobbs: That's correct.

Chairman Arvas: Who's litigating?

Mike Hobbs: The State of New Mexico, NM Attorney General, against UU Bar Ranch.

Chairman Arvas: When did that start?

Mike Hobbs: State Road 199 specifically is not being litigated. There are 2.6 miles of State Road 21 that is the subject of the litigation. To our knowledge, it does not address any part of what you're referring to as State Road 199. Only 2.6 miles are in contest.

Jim Karp: Mike is correct. The original litigation is still pending with respect to 2 issues involving the 2.6 miles.

Commissioner Simpson: For the audience, we need more clarification, the original litigation. Would you expand and make sure everybody understands what we're dealing with?

Jim Karp: That litigation was filed about 5 years ago that brought the issue of who owned a portion of what had been State Road 199 sometimes referred to as State Road 21, a 2.6 mile section of that road that goes through the UU Bar Ranch. The Court determined that it was owned by the State of New Mexico; however, there are still 2 issues involved in that litigation—(1) being the width of the right-of-way, the Court having found that it was 24 feet, the State taking the position that it is half again as wide as that; and (2) there is an issue as to the actual length of the road, whether it is 2.6 miles or it actually extends through the UU Bar Ranch to State Land Office lands and those issues, as I've been told by the Attorney General's office, have recently been briefed before the Court.

Director Thompson: This particular item has a varied and long history but shouldn't have any bearing on this particular agenda item. It's a different matter.

Caren Cowan: On behalf of the NM Cattle Growers we stand in support of the bird preserve. We believe it'll enhance economic development and these kinds of projects keep land in open space for wildlife purposes.

Chairman Arvas: There is a suggested motion but it isn't worded.

Tania Maestas: Your motion would be to either accept or deny the license application.

MOTION: **Commissioner Salmon** moved to accept the Express-UU Bar Ranch's license application. **Commissioner McClintic** seconded the motion.

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

AGENDA ITEM NO. 18: Status of River Otter Restoration Efforts in New Mexico.

Presented by James Stuart – An update was presented on the river otter (*Lontra canadensis*) restoration project in New Mexico. The Department (primarily Conservation Services Division, with additional support from Wildlife Management Division) New Mexico Friends of the River Otter and Oregon Department of Fish and Wildlife attempted to obtain otters in Oregon in 2007. In August 2006 the Commission approved the Feasibility Study for restoration of river otter in NM and directed the Department to begin restoration work in the Upper Rio Grande and the Gila River system. Discussions also are underway with Arizona, California, and Missouri to obtain otters, although no formal arrangements have been executed to date. Because of the presence of endangered and threatened fishes and the Chiricahua Leopard Frog in the Gila River system, the Department has initiated Endangered Species Act consultation with USFWS for possible release of otters in this drainage basin. A specific timetable was described for restoration events expected in 2008.

Commissioner Simpson: What measures are we going to have to make sure somebody can't go in there as a trapper and trap the animals and pursue the beavers or whatever they do and they may get some otters? Have we got any security measures to prevent people from trapping?

Jim Stuart: That is a concern that otters could be incidentally taken in beaver sets. Based on the information we have in terms of the amount of beaver trapping that's actually done at least in the Rio Grande Gorge portion, where the releases would be done is extremely limited. We're not even able to identify a particular individual who is working or doing any kind of beaver sets in there. The animal is protected as a furbearer in NM. There's no take on it so it would not be legal to take otter in NM although it is possible that they could be incidentally taken in a beaver set.

Commissioner Simpson: Somebody that doesn't like them could do that and they could take them indiscriminately but on purpose for beaver so it would be my recommendation that we set some security measures for a period of time that you won't allow any trapping in that stretch of the river. This is a lot of time and effort for something even though it's remote we need to have that security measure to make sure that there's no trapping in there and I would make sure the Commission or anybody else involved make sure we set a policy that says no trapping done to make sure because this is a tremendous amount of effort to make sure there's no slip ups.

Commissioner Salmon: How many otters do you feel you need for release at the 2 respective sites?

Jim Stuart: We've debated that and at this point even a small number of otters would be good but our initial thought was at least in the Rio Grande an estimated 15-20 otters would be an adequate number and as has been done in other states, every state has done it somewhat differently. Some manage to establish populations with relatively few animals. Given the limited amount of habitat in NM we're looking at about 20 in each location with the option to augment that if we have evidence of mortality that the animals didn't take with the initial effort.

Commissioner Salmon: Specifically, what are the concerns of USFWS on the Gila. It wouldn't seem that the otters would be interested in fish the size of spike dace or loach minnow so there must be something else they're concerned about.

Jim Stuart: I believe at this point there are a large number of threatened and endangered fish species in Gila as well as Chiricahua leopard frog. The best evidence we have based on dietary studies is that they would not be targeting fish as small as spike dace or loach minnow. There is a potential that they could impact Gila trout if they get into those reaches of the Upper Gila and we've got everything in between. The Service feels that based on the large number of TNE species that we do have, we do need to go through this process and provide the best information that we have on what the likelihood would be that the species would directly impact these threatened/endangered species as well as Chiricahua leopard frog. They also acknowledge that otters could do a great deal to assist in that drainage system given the large number of introduced crayfish, bullfrogs, introduced bass, white sucker that probably what the otter would be targeting would be undesirable species but there is a potential for at least some take of TNE species.

Commissioner Salmon: When would you expect a response from them on this question?

Jim Stuart: We're hoping they get that resolved by summer.

Commissioner Salmon: The Gila system from Grapevine Campground to Mogollon Creek which is the wilderness stretch being considered is rather like the Verde River in AZ in the wilderness section where they've had otters for quite a few years and they've done quite well so I think as far as otter making a home and reproducing and establishing a population their chances would be good.

Discussion item only.

AGENDA ITEM NO. 19: Obtaining Environmental and Cultural Clearances for Habitat Management and Construction Projects.

Presented by Mike Gustin – The Department briefed the Commission on requirements for environmental and cultural resource compliance as it pertains to habitat improvements, infrastructure maintenance, developments and improvements to structures performed by the Department on and off State Game Commission-owned/controlled properties, including Department

sponsored projects on other lands (U.S. Forest Service/Bureau of Land Management/private). These projects include habitat improvements, infrastructure maintenance and developments and improvements to structures such as buildings. The briefing will focus on key steps in achieving compliance, related state and federal laws, and minimum timeframes necessary to meet these important obligations.

Chairman Arvas: How many projects do we have going at this point in time?

Jim Hirsch: Maybe 10-15 projects and a bottleneck in this process is the cultural aspect of the project and the Gaining Access Into Nature. Putting up signs for that program has taken up a lot of the archeologist's time.

Director Thompson: I wanted to stress that I asked the Department staff to put this together not to make it seem things are undoable but rather to give the Commission a healthy awareness of what any particular idea might translate to in terms of when it can actually be accomplished so that we hopefully can do a better job of matching interests and ideas with time expectations.

Discussion item only.

AGENDA ITEM NO. 20: Update on Rio Grande Cutthroat Trout Restoration in the Rio Costilla Watershed.

Presented by Kirk Patten – The Department discussed the current status of the Rio Grande cutthroat trout restoration effort in the Rio Costilla watershed. Mechanical and chemical methods were used to remove non-native fish from the upper Comanche Creek system in 2007--324 Rio Grande cutthroat trout were salvaged prior to implementation, genetically tested, and held for post-treatment stocking of the locally adapted population. Subsequent surveys in the affected reach documented the presence of young-of-year trout that persisted after the first year of implementation. Results from genetic testing of Rio Grande cutthroat trout, from salvaged fish and those collected post-treatment, and water quality testing were presented. The Department proposed conducting an additional CFT Legumine treatment in summer 2008 to likely complete non-native removals in this phase of the overall project. Staff from Vermejo Park Ranch documented the presence of hybrid trout in a previously restored segment of Costilla Creek. Genetic data indicated that hybrid trout do exist in a 5-mile section of the restored area and jeopardize the project's success in that area. Discussions between Vermejo Park Ranch, Turner Enterprises, Inc. and the Department led to a decision that mechanical and chemical removal is the prudent approach for addressing this situation. The Department proposed to conduct mechanical and chemical removal in the 5-mile section between the migration barriers in upper Costilla Creek (summer/fall 2008) to remove hybrid trout. The Department provided an update on the progression of this project over the past 6 months. The Department has worked on the project in the Rio Costilla watershed to restore overall approximately 150 miles in 25 lakes to this area.

Commissioner McClintic: Last time we looked at this, wasn't it 125 miles in 20 lakes in Mr. Sloane's presentation?

Kirk Patten: I don't know, I wasn't here, the 25 lakes should be consistent because they're readily identified, but the overall mileage can change depending upon which map you're using, but it's consistently within 125-150 miles.

Commissioner Salmon: What type of chemical would you use this summer?

Kirk Patten: We would be using a Rotenone formulation called CFT Legumine. It's the same formulation we used last year.

Commissioner Salmon: It seemed like you used Fintrol, has there been a switch?

Kirk Patten: Yes, there has been switch almost by force because there have been some problems with the potency of Antimycin or Fintrol that's been discovered over the past couple of years.

Commissioner Salmon: You mentioned those 52 fish that showed up after your last treatment where you'd hoped you'd got them all and ended up with these 52 and that some of them might have carried non-cutthroat or possibly carried non-cutthroat alleles. I was wondering about the word possibly. Can you not tell for sure if they're pure or impure and at what point do they become a hybrid?

Kirk Patten: In this case we're dealing with 2 points in the fishes' genome that if you get a result it can indicate Yellowstone cutthroat trout or it can indicate Rio Grande cutthroat trout. If it doesn't give any data, it can indicate Rainbow trout and in a couple of cases in a couple of fish, it didn't give you any data which indicates it could be Rainbow trout. That's where the uncertainty comes up in these samples.

Commissioner Salmon: But from your point of view, even if they didn't show any Rainbow genes but showed some Yellowstone cutthroat genes mixed in with the Rio Grande cutthroat, that would also disqualify them would it not?

Kirk Patten: Yes.

Commissioner Salmon: To me this is difficulty in re-establishing and maintaining a pure strain. I'm skeptical of the ability of any agency to restore 120+ miles of stream or lake to all pure bred fish. I mentioned this before I'd like to give you a chance to prove me wrong and I hate to leave a job half done and we're in a fix now because we've got very few fish in the stream. Hardly enough to go back to where we were and yet fish we have are seen as imperfect, so I'm inclined with reservations to vote for what it is you want to do, but it'll be interesting to see if this project can be achieved at the larger level. I have my doubts but want to give you a chance.

Chairman Arvas: What are we doing to prevent what happened last time and second, is our main partner in this establishment of the native cutthroat, Vermejo Park?

Kirk Patten: We have several partners on this project but Vermejo Park Ranch and Turner Enterprises are big ones.

Chairman Arvas: You probably received as I did a letter from Vermejo Park, but did you agree with everything in the letter they sent?

Kirk Patten: Yes.

Chairman Arvas: Are we going to coordinate with them to the best of our abilities?

Kirk Patten: Certainly.

Greg McReynolds: I work for Trout Unlimited out of the national office and am based in Albuquerque. This is a good project and it's going to be vital in the long term to keeping Rio Grande cutthroat off the endangered species and it's also valuable to NM's future recreational fishery and I hope you'll go forward with this.

William Schudlich: Trout Unlimited does continue to support this project and we will continue to support it financially and with volunteer work. We feel that it's an important project in the viability and sustainability of Rio Grande cutthroat trout.

Chairman Arvas: How much have you invested in this project as an organization?

William Schudlich: At this point, we've put \$100,000 in this from the National Fish and Wildlife Foundation grant, and we are managing for the state a \$200,000 state wildlife grant.

Mark Cosler: I'm the General Manager of Vermejo Park Ranch. The perspective of Vermejo and the Turner organization regarding the issue of continuing with piscicides use in the Costilla Creek drainage and such action would be taken to continue efforts to restore sensitive native Rio Grande cutthroat trout to a large portion of the Upper Costilla watershed over the next decade, an action that requires your approval. The Turner organization and Vermejo support the use of piscicides for purpose of native fish restoration when such applications are conducted in an appropriate and safe manner.

Chairman Arvas: As you probably heard before, we've assured that Kirk and Mike will definitely coordinate their activities. Did you see any problem with what we did the last time, or anything that bothers you about the process we went through last time?

Mike Cosler: No, we've had excellent communication and coordination with the Department. We're fine with it and ready to move ahead.

Dr. Arnold Atkins: Truchas Chapter of Trout Unlimited congratulates the NM Department of Game and Fish on their professional and successful initial treatment of Comanche Creek. It's almost never that a single treatment suffices on a project like this and at least a second treatment is the norm rather than the exception. We support their request for approval of a second piscicide application to assure complete removal of exotic species of fish prior to restocking with native species, including the individual fish genetically identified as Rio Grande cutthroat trout removed from Comanche Creek before the initial treatment. We also support the request for approval or the other treatments required for Rio Grande cutthroat trout restoration in the Rio Costilla watershed, including those requested for Vermejo Park Ranch.

MOTION: Commissioner Buffett moved to allow the Department to restore the native fish assemblage in the Upper Comanche and Rio Costilla Creeks in a stepwise manner including the use of mechanical and chemical means in accordance with the 2008-2009 plan as presented to the Commission on April 11, 2008. **Commissioner Montoya** seconded the motion.

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

Commissioner McClintic: Were you asking for the whole 150 miles in 25 lakes, or just a portion?

Kirk Patten: No, we were asking for approval for the Comanche Creek section we did last year and that section identified on the map of Costilla Creek on Vermejo Park Ranch.

Mike Sloane: I wanted to point out that pursuant to your previous request, we'll always come back every 6 months and give you an update, and ask if we're going to do the next segment or whatever the next step will be. We're just asking again for the Comanche Creek and Rio Costilla segments on Vermejo today.

Commissioner Simpson: How are we going to make sure for quality assurance that somebody doesn't slip up and restock with Rainbow trout?

Kirk Patten: Since that was discovered, we have put institutional controls on our cutthroat trout facility that were not in place previously and led to the introduction of Rainbows into that facility. In particular, something like a field spawn where we collect eggs from fish in the wild and take them to a Rainbow trout facility and there are various good reasons it was done, but now we take the extra 6-hour trip to get to our Rio Grande cutthroat trout facility rather than making that stop. Things like that are in place.

AGENDA ITEM NO. 21: Review of Allocation of Public Hunt Draw Opportunities and Discussion of Alternatives.

Presented by Patrick Block – The Department reviewed information relating to the allocation of public hunt draw opportunities and included an explanation of how drawings are conducted, a summary of draw results over several years and of deliberations from a license opportunities-review team previously convened by the Director. The Department also sought Commission guidance on the need to further discuss modifications to the processes used to allocate public draw hunt opportunities. With that many people and that few licenses, the interval at which people get to participate is probably not where they'd like it to be. For most of the species there is a quota that allocates at least 78% of the licenses or permits in any given hunt to resident hunters, and the other 22% is split between non-residents using the services of an outfitter and non-residents

who are doing it on their own. There is by federal injunction, no quota imposed on oryx/ibex/bighorn sheep so those are the exceptions. One important aspect of the draw is that each year is a clean slate wherein each drawing is an independent event and does not consider results of the last draw in allocating the current licenses. Also for some species there are once-in-a-lifetime restrictions, i.e., Ibex/bighorn sheep and most of the oryx hunts.

Commissioner McClintic: You've got a certain deal that we live with how and you're trying to revamp that situation. I would encourage you at the same time in your discussions with people, figure out some way we can increase our hunting opportunities over and above what you're trying to re-do now and whether it's thorough, and I realize we're under a lot of restrictions as far as money is concerned. We don't want to take advantage of people or anything, but if there's anything where we could get some funds where we could buy some of the private/quality hunts on some of these ranches and make that a special draw for the people in this state, just some way to increase opportunity without taking anything away.

Commissioner Simpson: The Governor over a 2-year period gave the Department \$500,000 to buy access for small game and then the Commission expanded it a few months ago to big game. You can open their private ranches through a willing rancher and allow public hunters to go on their private ranch so that's 1 avenue that needs a lot of education, and I suggest that you write this up in the next newsletter to get ready for the fall season to make sure that everybody understands where we could get more support for more money to open up more private land. The other thing is that people need to know how the lottery is drawn and when you say here are changes 1-3 so that would be another thing that you put in your newsletter, and the third thing and most important is you've only got a limited resource and the Department needs to figure out how to grow more animals and that means a very tight cooperative working relationship with the federal land management agencies to promote more wildlife. Those are the big opportunities instead of saying here's the blindfold we really need to make sure we've got good habitat to support more wildlife plus actually getting more money to rent or lease private land.

Pat Block: I think you're referring to the Open Gate Program and to clarify that money has been coming from sportsmen in the form of Habitat Management and Access Validation for \$1 per year in the Habitat Management and Access Validation so the sportsmen have been providing that money. We have built it into the appropriation process through the budget and the program has always been able to incorporate big game. We initially focused on small game hunting opportunities because we felt that was the best area where we could succeed. It's never that we haven't been able to do big game but what we heard as we went and approached landowners was they were making more money marketing their own hunting opportunities through trespass fees making much more money than they could through what we have available in Open Gate. We have worked on that and where we've had great success is when we can buy access to land locked pieces of public land from private landowners and that is 1 of the areas where Open Gate is going to help us get additional big game opportunity. On the second, on the Department's website, under the hunting page there is a good explanation of how the draw works and another document that shows people how they can by exercising flexibility and help their chances of getting the draw. We're always looking for ways to do more but I wanted to make you aware that we have been making some efforts in those areas and then your last concern, you're absolutely right. If we had a lot more animals we'd have a lot more opportunity and as you well know, that's always a balancing act because for 1 person, double elk is great, for another it's a tremendous disaster and that's always the tight rope we're always trying to walk so hopefully this is additional information.

Commissioner Simpson: You're right, but I've gotten lots of calls asking for recommendations to fill out these big game hunting applications. The other thing is that if there's some kind of generic description for each of these units for the beginners and people who don't know these areas that was 1 of the things for non-residents and residents. I think if you know the land but what would help out would be a better determination for people to understand what they're dealing with and what these areas are like. To go back, what I saw as I filled out my draw application on the computer, I saw those PDF's and files but I'm saying that a lot of times when you're in that rush, you don't see those, and you've got to look over on the side and you're concentrating on the application. I'm just saying that for the general public and for people who want to start hunting, I think that's a good source and your newspaper to say here's what's going on and highlight that and I think it will help expand their knowledge and the understanding of the system. In the PDF file which I didn't read, does it explain how the lottery system works?

Pat Block: Yes. I encourage you to take a look at that. I believe it provides good information.

Chairman Arvas: I believe we do our big game setting in September and I think what the Commission is requesting before that setting season is new/fresh/creative/innovative information that will attract money and hunters.

Discussion item only.

AGENDA ITEM NO. 22: Development of Youth Shooting Opportunities in New Mexico.

Presented by Pat Block and Marty Frentzel – Department staff described strategic and organizational activities underway and planned to expand youth shooting opportunities in New Mexico. This conceptual discussion explored options with greater staff time available for shooting programs. The presentation also described prospects related in cooperation with 4-H shooting programs, development of shooting range facilities with BLM and New Mexico National Guard, and expanded firearm components of the annual New Mexico Expo conducted by the Department.

Chairman Arvas: What I'd said is I didn't want you to re-create the wheel, I wanted you to go ahead and do whatever you had to do to get something started. The most obvious that I see is the Arizona program. They started small, got big and are getting bigger. They spent in the area of \$300,000 a year, have 1,500 kids involved in the program and it's a wonderful opportunity. They do have the facility which is a plus, but we'll have to do with what we have. There are other programs—4-H Program and I've asked you to explore that. The scholastic target program which Arizona uses is effective. The basic premise for my desire is the obvious that if they don't learn how to shoot they're not going to buy hunting licenses. From the NRA standpoint, once you get a child into this program, you not only get the child but you get parents/grandparents involved. The national championship is held at the Amateur Trap Shooting Association which is in Illinois and they have somewhere between 3,000-5,000 kids attend that event. The strange thing is that for every child that was entered into the competition, there were 5 people with them. It's a tremendous program from that respect because if a family is a shooting family, they're not anti-gun or anti-hunting as a rule.

Commissioner Salmon: Years ago, there was a seminar given on decline in the number of hunters and what was going on there and what we could do to reverse it, I recall they explained that the number of big game hunters was actually more or less stable, and the number of women hunters had gone up a little. The big drop in the number of hunters was in small game hunting which seems ironic in that small game hunting is more readily available. Big game hunting you don't have to stand in line for a draw. The Department through its publications and media outlets could place more emphasis on small game hunting which almost invariably involves shooting of some kind, and we could get more of these kids in the field. That's why I wrote an article on jack rabbits for Wildlife Use Magazine thinking that this is a game animal that offers a lot of opportunities for shooting, and I think there's some momentum there for small game hunting if we could take advantage of it.

MOTION: Commissioner McClintic moved to have the Department present a proposal to initiate a youth-shooting program to be administered by the NM Department of Game and Fish at the May 29, 2008 Game Commission meeting in Farmington.

Commissioner Simpson seconded the motion.

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

AGENDA ITEM NO. 23: Status of Capital Projects and Dam Repairs.

Presented by Reagan Smetak – The Department provided the Commission with an update on current Capital Improvement Projects, including the status of renovation projects involving Commission-owned dams. The update included a list of all open Capital Projects, including dam repairs, and provided the Commission with appropriated amounts, amounts expended, remaining appropriation balances, and a brief synopsis of the status of each project. Currently there are 23 open Capital Projects with an approximate total appropriation of \$20,550,500 from FY 2004 through FY 2012. A lot of the projects are some type of dam assessment or repair. Hazards, according to the State Engineer, are a potential classification and has a rating for a dam based on the potential consequences of failure. The rating is based on loss of life, damage to property, environmental damage that is likely to occur in the event of a dam failure. No allowances for evacuation or other emergency actions by the population should be considered. The hazard potential classification is not a reflection of the condition of the dam. There is a low or high significant hazard potential. Of the 16 dams the Commission owns across the state, only 3 are rated at high. For the stated reason, it's loss of life that the potential is based on so it's not to alarm you that you have dams that are unsafe, they're in locations that if they were to fail, would cause problems. Some things about capital projects is they are multi-year, they go on for several years at a time, and the reason is it takes time for us to get things planned, get all the proper documentation in place, then implement that plan and see the project through completion.

Chairman Arvas: We're still visiting with the water engineer concerning a proposal for the repair of the dams we do have?

Reagan Smetak: Yes, that's correct. We are working with the State Engineer's Office trying to gain information and options available to the Department so that we can come back with information on what is the best way to go and repair dams once we know what the best course of action is.

Pat Block: The best course of action is as a state come to grips with how we want to deal with the changes in dam safety. You know it's important that when we hear terms like high-hazard dam thrown out all the time it's not that it's going to fall over tomorrow, it's that it's in a location that is highly hazardous and we have for the past few years had significant funding requests in the capital portion of the budget to perform required repairs to these dams and thus for the state has not been willing to make that investment or to prioritize that work because the money has not come so it's not necessarily a matter of talking to them about how they want us to do work but what the state wants to set as it's priority overall. If the money is not going to be forthcoming then maybe thinking about fixing the dam is not the best approach or the only approach so that's what we'll be moving forward with not just assuming we need asking for the money and keep not getting the money because it hasn't been forthcoming and we need to figure out how to approach this whether that is in getting the money or some other approach.

Discussion item only.

AGENDA ITEM NO. 24: Disposal of Fixed Assets.

Presented by Carlos Valdez – The Department requested Commission approval to dispose of fixed assets that are worn out, obsolete, or have reached the end of their service life. State statute, Section 13-6-1, NMSA, 1978, *Sale of Public*

Property, requires that an agency's governing body approve the disposal of personal property prior to disposing of the items. These items will either be sold at public auction or otherwise disposed of in accordance with state law. The Department plans to send vehicles and other items to the annual auction conducted by the Department of Public Safety in Santa Fe. Items to be auctioned in July include outdated computer equipment, office equipment, obsolete capital equipment, and trucks. The total list of items is 76 for a total of \$644,973.49. There are also 2 other lists, 1 is a non-fixed asset list including items worth \$1,000 or under such items such as horns/skulls/capes/antlers that are state property that do not require Commission approval but we are providing for information purposes. The other is a list of court-ordered surrendered weapons that the Department plans to take to auction in Las Cruces in June. The list of trucks may change between today and the date of the auction, depending on Department staffing needs.

Commissioner Buffett: Does current state law direct us to take all computer e-waste to appropriate electronic recycling facility or will this end up in a landfill?

Carlos Valdez: The Department will work with the public school system to see if we can help them out with some of the data entry equipment. The next thing we'll do is take it to auction and see if we can sell it there. From the Department's standpoint, that will not end up in the landfill.

Commissioner Buffett: So they'll be auctioned or otherwise re-sold?

Carlos Valdez: That's correct.

Commissioner Salmon: Based on past experience, would you have an estimate as to how much money might be totaled up from getting rid of all this material?

Carlos Valdez: Regarding vehicles, we usually get between \$6,000-\$8,000 per vehicle, and then depending on the number of vehicles that we auction off every year.

Commissioner Salmon: You can't predict it because it's being auctioned but I wondered how big a piece of money are we talking about to get rid of all this?

Pat Block: Somewhere in the range of \$120,000-\$180,000, depending on the number of vehicles. We do understand from the auctioneer that the Department vehicles are some of the more sought after because they're well-maintained, generally 4-wheel drive, and we do a good return on those vehicles.

Commissioner Simpson: Where does the money go?

Carlos Valdez: We get the check from the auctioneer and we put that back into the game protection fund.

Chairman Arvas: What's the McCallister collection? Was that donated to the Department?

Dan Brooks: That's actually antlers and heads that were at the McCallister house. They were road kills, seizures, a bunch of different things. What we're looking at is a big cleaning and we're trying to get rid of stuff we have as state property, people have to have a permit, and we can't give it away, so we're selling it. Santa Fe is a great location with art for antler interests.

Chairman Arvas: Have we ever done that before?

Dan Brooks: Yes.

Chairman Arvas: What does a 6x6 sell for?

Dan Brooks: Some things are cheap and some things go for a lot more. It's hard to tell. When it comes to antlers we're probably going to have dozens to hundreds and they won't sell for a lot, but that's okay because in my mind we're giving someone an opportunity, license buyers or the public, to own something.

MOTION: **Commissioner Simpson** moved to approve the Department's request to dispose of fixed assets that are worn out, obsolete, or have reached the end of their service life, either by sale at public auction in July 2008, or otherwise dispose of in accordance with state law with the understanding that the Department may hold some vehicles back to meet staffing needs.

Commissioner Salmon seconded the motion.

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

AGENDA ITEM NO. 25: General Public Comments (Comments Limited to 3 Minutes).

Public Comment: None presented

AGENDA ITEM NO. 26: Closed Executive Session.

The State Game Commission adjourned into Closed Executive Session to discuss litigation, personnel, and acquisition or disposal of real property or water rights, and pursuant to Section 10-15-1(H)(1), NMSA, 1978, and discussed 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.

MOTION: **Commissioner Montoya** moved to enter into Closed Executive Session pursuant to Section 10-15-1, NMSA, 1978, of the Open Meetings Act in order to discuss litigation, personnel matter, and acquisition or disposal of real property or water rights and to discuss matters related to the determination of sending "Notice of 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 following 19.31.2, NMAC. **Commissioner Simpson** seconded the motion.

Roll Call Vote:

Chairman Arvas – yes
Vice Chairman Salmon – yes
Commissioner Buffett – yes
Commissioner McClintic – yes
Commissioner Montoya – yes
Commissioner Simpson – yes
Commissioner Sims – absent
Motion carried unanimously.

Chairman Arvas entered into Open Session and stated that the record reflect that no action was taken during the Closed Executive Session, but several items were discussed by legal counsel and the Director.

AGENDA ITEM NO. 27: Notice of Commission Contemplated Action.

Presented by Dan Brooks – The State Game Commission, after meeting in Executive Session determined, and if necessary, directed the Department to send a Notice of Commission Contemplated Action to any outfitter or guide for whom evidence and information indicated may have violated regulating procedures and conduct or any other matter contrary to 19.30.8, NMAC, or Section 17-2A-3, NMSA, 1978.

MOTION: Commissioner Buffett moved to accept the Department's recommendation and send a Notice of Contemplated Commission Action to the registered outfitter discussed in Executive Session. **Commissioner Salmon** seconded the motion.

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

AGENDA ITEM NO. 28: Adjourn.

MOTION: Commissioner Salmon moved to adjourn. **Commissioner Montoya** seconded the motion.

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

Meeting adjourned at 4:00 p.m.

 s/Bruce C. Thompson
Bruce Thompson, Secretary to the
New Mexico State Game Commission

 May 29, 2008
Date

 s/Tom Arvas
Tom Arvas, Chairman
New Mexico State Game Commission
Minutes Transcribed by: Katie Gonzales
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 May 29, 2008
Date