

MINUTES  
 NEW MEXICO STATE GAME COMMISSION  
 Mimbres Valley Special Events Center – Rms. 144-145  
 2300 E. Pine St.  
 Deming, NM 88030  
 December 4, 2008

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AGENDA ITEM NO. 1: Meeting Called to Order.

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

AGENDA ITEM NO. 2: Roll Call.

Chairman Arvas – present  
 Vice Chairman Salmon – present  
 Commissioner Buffett – absent  
 Commissioner McClintic – present  
 Commissioner Montoya – present  
 Commissioner Simpson – present  
 Commissioner Sims – present

QUORUM: present

**AGENDA ITEM NO. 5: Approval of Agenda.**

**MOTION:** Commissioner Montoya moved to accept the agenda for the December 4, 2008 State Game Commission Meeting. Commissioner Salmon seconded the motion.

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

**AGENDA ITEM NO. 3-A: Closed Executive Session.**

**MOTION:** Commissioner Salmon moved to enter into Closed Executive Session pursuant to Section 10-15-1(H)(1), NMSA, 1978, of the Open Meetings Act in order to discuss personnel matters. Commissioner Montoya seconded the motion.

**Roll Call Vote:**

Chairman Arvas – yes

Vice Chairman Salmon – yes

Commissioner Buffett - absent

Commissioner McClintic – yes

Commissioner Montoya – yes

Commissioner Simpson – yes

Commissioner Sims – yes

**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.

**AGENDA ITEM NO. 3-B: Employment of Director for Department.**

The Commission was requested to exercise its authority under Section 17-1-5, NMSA 1978, to employ a Director of the Department of Game and Fish to fill the vacancy in that position and to fulfill the functions and responsibilities of Secretary to the Commission.

**Bob Jenks:** By virtue of a change in the position of the Director for the Department of Game and Fish it is necessary for the Commission to exercise its power and authority under Section 17-1-5, NMSA 1978, and employ a Director for the Department to carry out the responsibilities of Director as well as Secretary to the Commission.

**Commissioner McClintic:** Tod is probably considered the ultimate professional when he worked for the Department when he was Deputy Director for 3 ½ years. He had a professionalism that he brought to his position and to the Department that a majority of people in this state appreciated. It was my suggestion that Tod be approved for this position.

**Commissioner Sims:** I've been on the Commission and worked with Tod until his retirement. I welcome you back, Tod.

**Chairman Arvas:** I had the good fortune of meeting Tod in 1984, the first year I served on the Commission. I've watched him mature and ripen. I can tell you he's been a joy to work with and he'll be a joy to work with as Director.

**MOTION:** Commissioner McClintic moved to employ Tod Stevenson as Director of the NM Department of Game and Fish pursuant to Section 17-1-4, NMSA 1978. The Director shall also serve as Secretary to the Commission. Commissioner Sims seconded the motion.

**Commissioner Montoya:** I'd like to also acknowledge the hard work of Tod Stevenson. I've also worked with him since my first year on the Commission and through his retirement and I wish him success. I'd also like to acknowledge the work and contributions of our previous Director, Bruce Thompson, from 2003 until last month. There were numerous accomplishments in combination with the Director/staff/Commission.

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

**AGENDA ITEM NO. 3-C: Organizational Structure of State Game Commission.**

State Game Commission members considered nominations and elected a chairman and vice-chairman for 2009 per regulations. Commissioners also considered prospective subcommittee and other structural assignments.

**MOTION:** Commissioner McClintic moved to nominate Sandy Buffett for the position of Vice-Chairman. Commissioner Sims seconded the motion.

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

**MOTION:** Chairman Arvas moved to nominate Jim McClintic for the position of Chairman. Commissioner Sims seconded the motion.

**MOTION:** Commissioner Simpson moved to request a Roll Call vote. Commissioner Sims seconded the motion.

**Roll Call Vote:**

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

**AGENDA ITEM NO. 3: Introduction of Guests.**

Introductions were made by approximately 150 members of the audience.

**AGENDA ITEM NO. 4: Approval of Minutes (October 2, 2008--Alamogordo, NM)**

**MOTION:** Commissioner Sims moved to approve the Minutes of the October 2, 2008 State Game Commission Meeting in Alamogordo as presented. Commissioner Montoya 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 422 individuals that the Commission considered for revocation and have met established revocation criteria.

**MOTION:** Commissioner Arvas moved to adopt the Department's and Hearing Officer's recommendations on revocation and point assessment for the attached list of 422 individuals, 1 individual twice, wildlife violation and outfitter/guide registration for the period of time specified. Commissioner Simpson seconded the motion.

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

**AGENDA ITEM NO. 7: Biennial Review of New Mexico State-listed Wildlife 19.33.6.8, NMAC.**

**Presented by Matt Wunder** - The Department presented a recommendation to the Commission regarding the status of species listed as threatened, endangered or restricted under New Mexico's Wildlife Conservation Act (WCA). The presentation incorporated comments from an extended public comment period and was presented to the Commission for final approval. A Biennial Review is conducted every other year to assess status of wildlife listed as threatened/endangered under THE Wildlife Conservation Act. During Biennial Review, status of species may be changed from endangered/threatened which is downlisting or threatened/endangered which is uplisting. Changes proposed are based solely on biological/ecological factors affecting the species. Wildlife may not be added/removed from the list during this process. Final proposed changes the Department is recommending are to uplist Loach minnow from threatened to endangered, uplist the Grey redhorse from threatened to endangered, and downlist Desert bighorn sheep from endangered to threatened.

**Commissioner Salmon:** What's the population status of the Loach minnow relative to the Spike dace? I take it the loach minnow population is not doing well due to the recommended uplisting?

**Matt Wunder:** Correct. I'm not aware of new information indicating that there was no recommended change in the status of the Spike dace. I'm not sure whether there was a significant change in Spike dace population or concern, but it didn't rise to the level of changing the status.

**Commissioner Salmon:** Is the Spike dace state threatened or endangered?

**Matt Wunder:** Spike dace is listed as endangered at this point.

**Charlotte Salazar:** I'm a resident of Albuquerque. I do not support downlisting Desert bighorn.

**Matt Wunder:** In terms of the Biennial Review, none of those species were identified for any changes/additions/deletions from the list. In terms of cougar/bighorn sheep, I defer to game biologists who address that issue.

**Elise Goldstein:** We've been conducting lion control to protect Desert bighorn sheep since 2001 and that program was implemented in light of the fact that during 1990's we had extensively radio collared a high percentage of the Bighorn sheep in the state and we were able to learn from that radio collaring/monitoring effort that approximately 85% of the known cause of mortality on bighorn was from cougar predation. After we implemented the lion control program, the statewide numbers grew. We've recently completed an extensive report analyzing impact of lion control on Desert bighorn sheep. Mortality rates on bighorn sheep have dropped dramatically with implementation of that program. It's not a statewide measure and the program has been extremely successful in protecting bighorn. We have a recovery plan written for Desert bighorn sheep which delineates the number of bighorn and distribution requirements in order to downlist them to threatened and to delist completely. We've met the recovery plan specifications to downlist to threatened.

**Chairman McClintic:** Your other concern was the prairie dog?

**Charlotte Salazar:** It was indicated that there's a push to list the blacktail/Gunnison prairie dog and I don't see a logical reason why. These are problematic rodents and they do serve in our ecosystem but they don't warrant protection.

**Chairman McClintic:** Matt, that wasn't presented to list the prairie dog or was it?

**Matt Wunder:** No, it was not and I'd like to remind everyone that neither the lynx nor the prairie dog are listed under the state. The jaguar is listed as a restricted species and there has been discussion at the federal level regarding potential listing of the prairie and discussion of the lynx but that's not been a discussion we've had with state listed species.

**Charlotte Salazar:** WildEarth Guardians are pushing for lynx in our state. I'd be concerned since we're already dealing with cougar depredation issues.

**Commissioner Montoya:** We've had an opportunity to monitor Desert bighorn sheep and have been able to measure the impact lion has had on that species, do we know the impact it has on species like deer/elk and other species we're responsible for managing?

**Matt Wunder:** I'm not aware these studies have been undertaken in the state.

**Elise Goldstein:** There haven't been recent studies done. The radio collaring effort has been done on bighorn so that we could identify the main cause of decline. There have been radio collared studies on deer/elk previously.

**R.J. Kirkpatrick:** I'm not familiar with any studies done in NM with regard to cougar population and affects on other game populations. States across the west have conducted research with regard to cougar and their impacts to a variety of ungulate populations. Cougar do eat deer/elk and a variety of small mammals across the state. Predation that occurs may be higher than in others and we recognize predation on all our estimates of population growth. Those are estimates and not based on specific research but standards across the west based on research that's been done.

**Stirling Spencer:** We're running around 5%-10% of what used to be in there in the 50's. It's something that if the Department had the resources they need to know what cougar can do to big game species.

**Chairman McClintic:** We had an endangered/threatened species and we discovered what was killing them and we did increase the population. Mr. Kirkpatrick, I guess we can try and accomplish some of that biology so we can get a feel on that.

**Commissioner Arvas:** We had a comprehensive 10-year study on the mountain lion.

**Elise Goldstein:** There was a 10-year mountain lion study conducted in the San Andres Mountains from the mid-80's through mid-90's. They're hard to capture and follow because they move long distances. The lion study in the San Andres is one of the most comprehensive and extensive studies. A lot of what they learned had to do with life history, traits, reproductive cycle, how many cubs they have, what age they disperse, home range sizes. They also looked at mountain lion/deer to mountain lion/bighorn sheep interactions.

**Director Stevenson:** I need to provide a Director's recommendation. The Biennial Review is an important task undertaken by the Department's staff. Anytime we're looking at uplisting from threatened to endangered, any species on our list there are always concerns that information will be used by other folks. The recommendation will be to uplist two of these species. The recommendation to you is to downlist the Desert bighorn sheep in this state from endangered to threatened. It's not often we are able to come with a success story with a recommendation from that species of getting to a population of somewhere between 442 up to 491 animals. A few years ago that population was down below 200 animals. That's a reflection of this Commission's/Department's actions and our partners' actions to take significant steps to enhance that program. In regard to uplist the Gray redborse from threatened to endangered, our evaluations on the Pecos River segment looks like we may be in a threat from extirpating that from part of those systems. Continued outbreaks of golden algae where we're getting significant die-offs of all different types of fish and other aquatic wildlife is affecting this but other threats that we're continuing to have in that Black River population both with flows and other types of threats from the outside. I'd like to uplist the Loach minnow from state threatened to state endangered. We've done significant work on the San Francisco/Gila drainages and see a continued decline that brings us to recommend to uplist that species from threatened to endangered. I hope the public understands we spend a lot of time and effort to assure we've got the biological information and integrity for these recommendations.

**MOTION: Commissioner Sims** moved to accept the Department's summary and Director's recommendation regarding the 2008 Biennial Review as presented to the Commission, and amend 19.33.6.8 NMAC to reflect these approved changes, specifically to downlist desert bighorn sheep, uplist gray redborse and loach minnow, and retain current status of 116 other species.

**Commissioner Montoya** seconded the motion.

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

#### **AGENDA ITEM NO. 8: Fiscal Year 2009 1<sup>st</sup> Quarter Depredation Report.**

**Presented by Cal Baca** – Depredation complaints filed and resolved with the Department in accordance with 19.30.2.11, NMAC, for the 1<sup>st</sup> Quarter Fiscal Year 2009 encompasses July 1, 2008 through September 30, 2008. During this first quarter, 82 complaints have been filed, 46 of those have been resolved. The remaining 36 complaints are unresolved at this time, and intervention methods to resolve these complaints are currently in progress. Of the 82 total complaints filed, the top 5 species were bear at 52%; raccoon at 12%; and a 3-way tie between deer/bobcat/fox, each receiving 6% of the total complaints. The

majority of the complaints were from northeast area; raccoon complaints were predominantly from northwest area; most of deer complaints were from the southwest area; bobcat complaints were most often from northwest area; fox complaints almost all occurred in southwest area. For the 163 complaints filed in the first quarter of FY 2008 that have reached 1 year, 132 have been resolved, yielding an 81% resolution rate. Those unresolved within 1 year, involve primarily elk/deer complaints and resolution efforts continue with all of these complaints. To update the Commission on landowner takings pursuant to Section 17-2-7.2, NMSA 1978, for the 1<sup>st</sup> Quarter includes a total of 4 elk/5 bears taken. These takings primarily occurred in northeast area by Abelardo Garcia who killed 2 cow elk for depredation on a hay field; Daniel Cave/Clarence Mora who killed a bear for human safety reasons; Bill Gonzales killed a bear that attacked his show pigs; and Bill Gable killed a bear that attacked his poultry. In the southeast area, Ryan Williams killed a bear that attacked his goats; in the southwest area Larry Hendricks killed 2 cow elk for pasture depredation.

**Commissioner Arvas:** Under landowner take, could you enlighten the public about what Section 17-2-7.2, NMSA 1978, says?

**Cal Baca:** In Section A there is a provision that allows a private landowner to take any wildlife in the event of immediate threat to human safety so that they have the ability to protect themselves or their private property in the event of immediate threat.

**Commissioner Arvas:** Go through the process the Department goes through to substantiate this effort on the part of the landowner.

**Cal Baca:** Our officers investigate the damage or they'll be called when the landowner does kill the animal because pursuant to that law, there's a requirement that the landowner who kills/takes an animal must report that to the Department within a 24-hour period. The damage is still present whether it's killed livestock or animal will be in an area as in case of a bear, they'll be close to the house, or large ungulates will still be in the pasture where they were killed. Within 24 hours our officers are on scene and make the determination that either a human safety incident occurred, or they were in fact damaging private property.

**Commissioner Simpson:** Did everyone notify the Department within 24 hours of their actions?

**Cal Baca:** In these instances, yes.

**Commissioner Simpson:** Was any of the meat salvageable?

**Cal Baca:** Those that were I'm pretty sure were salvaged and disposed of as per our rules.

**Commissioner Simpson:** It would be nice to know because you've had other reports in the past about salvageable meat and in February we talked about a number of people that didn't meet the 24-hour notification. I think they're still on the books with a \$500 fine for not following those procedures. It would be nice in those reports to estimate what meat is salvageable or had to be thrown away. That's good information if these instances are occurring. I understand the landowner does not have to salvage the meat, that burden is on the Department.

**Commissioner Salmon:** Explain to the audience why coyotes/feral hogs/jackrabbits and those types of animals don't appear on our depredation report even though they depredate.

**Cal Baca:** Those animals are not protected under Chapter 17, so we don't include that depredation to the Commission.

**Commissioner Salmon:** Who responds to complaints on those unprotected species?

**Cal Baca:** USDA animal/plant health inspection wildlife services normally responds to those complaints from landowners.

**Commissioner Simpson:** Statements were made that 1 landowner shot 2 cow elk in his pasture for damage to his crops. Is that defined as eminent threat to public safety?

**Cal Baca:** That was immediate threat to private property.

**Commissioner Simpson:** So according to the Department's interpretation, he's allowed to kill those animals but it doesn't threaten his life, but he's still allowed to kill the elk in the pasture?

**R.J. Kirkpatrick:** Circumstances you're alluding to are very difficult for our agency and public to understand. Assertion of immediacy when there's a large ungulate on your private property probably has some vagueness as to whether there's immediacy or not. Immediacy currently is defined as that they're in such numbers that harm is going to happen, property damage is going to occur, or the amount of time that it'd take to get hold of officials to avert the damage is too great. It's difficult for us to assert or investigate whether those specific provisions of immediacy were actually there upon the killing. We recognize that and I'm sure the Commission is aware the Department is working on some new legislative language to clarify that in current statute.

**Cal Baca:** Section A of Section 17-2-7.2, this state law does specify that a landowner/lessee/employee of either may take/kill an animal on private land in which they have an ownership or leasehold interest including game animals and other quadrupeds/game birds/fowl that present an immediate threat to human life or an immediate threat or damage to property including crops; however, the take/killing is reported to the Department of Game and Fish within 24 hours before removal of the carcass of the animal killed in accordance with regulations adopted by the Commission. In that state law immediate threat or damage to property to include crops is the reasoning for those 2 cow elk being killed in that hay pasture.

**Laura Schneberger:** Our ranch has on occasion used the depredation regulation to our benefit and the Department has been responsive. I don't support changing the wording of that particular law and regulation because we've done well under it as it is.

**Charlotte Salazar:** I'd like better management of overpopulation.

**MOTION: Commissioner Salmon** moved to accept the Fiscal Year 2009 1st Quarter Depredation Report as submitted by the Department. **Commissioner Sims** seconded the motion.

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

**AGENDA ITEM NO. 9: Adoption of Amendments to the Hunting and Fishing Manner and Method of Taking Rule 19.31.10, NMAC, and the Boundary Descriptions for Wildlife Management Areas Rule 19.30.4, NMAC, with Associated Amendments to Deer Rule 19.31.13, NMAC; Elk Rule 19.31.14, NMAC; and Barbary Sheep, Oryx, and Persian Ibex Rule 19.31.12, NMAC.**

**Presented by R. J. Kirkpatrick** – Specific proposed amendments to the Manner and Method of Taking Rule, 19.31.10, NMAC, make it unlawful to hunt, capture, take, attempt to take, or kill any game animal, furbearer, game bird, or game fish without possessing verifiable authorization or permission on any private property that is posted or where permission to be on the property has been denied. Any game or fish taken will be subject to seizure. The presentation included amendments to specific sections of the Deer Rule, 19.31.13, NMAC, elk Rule, 19.31.14, NMAC, and the Barbary Sheep, Oryx, and Persian Ibex Rule, 19.31.12, NMAC, that ensure these rules are aligned with the amended Manner and Method of Taking Rule, 19.31.10, NMAC. The amended rules will apply to the 2009-2010 and 2010-2011 hunting season.

**Director Stevenson:** I came on board two weeks ago and when staff and I started listening to comments there are a couple of things within this rule that weren't meeting some of the criteria that we need to look at. The trespass statute says that if you're going to be on private property, you need to have written permission and when we were looking at the verifiable authorization it doesn't say written permission. The other portion was that if an individual reasonably knew that property was private property, it's not posted, is it all right for a sportsman to go on that piece of property knowing it's private property? Common sense says that a sportsman shouldn't do that. The Commission chose to bring that up today and I'm not opposed to put that off to the next meeting to review it further. I'm sorry to putting this off for the second time but sometimes that's the right thing to do. There's merit to having discussion today to look at other options and then we'll bring it back. We'll try to resolve this over the next month where the public and you have a better understanding about how we're going to do this in the future.

**Chairman McClintic:** You lead us into this R.J. with a direction to put this off to the next meeting. After that's done and we have a vote on that, I will ask people if they want to comment. I want to remind you that after everyone has had their say, you're probably going to have a different opinion on your comments.

**R.J. Kirkpatrick:** We've provided to the Commissioners a supplemental motion. That supplemental motion adopts the amendments to the Manner and Method rule. Recognizing that we were in a position where a lot of people including the Commission have not been able to evaluate before today options on how we may change the language in our rule to accommodate everyone's concerns/interests. I drafted a supplemental motion for the Commission's convenience to defer any action on amendments related to written permission until the next Commission meeting. It moves to adopt amendments to the Hunting and Fishing Manner and Method of Taking Rule 19.31.10, NMAC, modifying the definition of a two-track road, adds a definition for sporting arms type, ensures alignment with all Big Game and Turkey Rule amendments for the next 2 hunting seasons (2009, 2010, 2011) as presented by the Department, and to defer all amendments to Manner and Method Deer/Elk/Oryx/Ibex/Barbary rules that modify the requirement of written permission for hunting on private land. This motion will eliminate the Commission needing to consider Motion #2, but it won't eliminate the Commission needing to consider Motion #3 because that has to do with a separate rule.

**Director Stevenson:** On a point of clarification, all those rules that this motion would ask you to adopt are the exact language that you've seen posted for the last two Commission meetings. It's what's been presented specifically for this component of the rule that deferred action on that private land component, the trespass and written permission portion.

**MOTION: Commissioner Sims** moved to adopt amendments to the Hunting and Fishing Manner and Method of Taking 19.31.10, NMAC, that modifies the definition of a two-track road; adds a definition for sporting arms type; ensure alignment with all the Big Game/Turkey rule amendments for the 2009-2010, 2010-2011 license years as presented by the Department, and defer to a later date all amendments to Manner and Method Deer/Elk/Oryx/Ibex/Barbary rules that modify the requirement of written permission when hunting on private land. **Commissioner Arvas** seconded the motion.

**Vote:** Voice vote taken. All present voted in the Affirmative, except **Commissioner Simpson** dissented. **Motion carried.**

**Commissioner Montoya:** I'd like to amend "later date" to "next meeting".

**Chairman McClintic:** What we've got we've approved on a 4-1 vote. Now there are a couple of amendments that I'm going to allow so that we can get a couple of issues resolved.

**Commissioner Simpson:** Since we passed this, I'd like to amend it to say that we have a special meeting to deal with any other issues on Saturday, January 10, 2009, in Albuquerque. We at least have this meeting and resolve this and any other issues instead of waiting until March after the legislative session. This is important enough that we have it on Saturday for the landowners and the public hunters to be present. I've said in the past that these Commission meetings during working hours are not conducive for most to attend.

**R.J. Kirkpatrick:** I'd like to advise the Commission that that would relegate the Department to putting out our final proposed language middle of next week. So the amount of time we'd have to confer with constituents about what that final language should be would be extremely limited to the next several days and that may be sufficient but I'd make sure everyone is aware of that. If we'd put the final language out 30 days before Jan. 10 it would have to go out next week.

**Commissioner Simpson:** In the past we've always said we'd like to have 30 days, but we've been constantly changing things. I suggested at least have a minimum of two weeks where you get all the language incorporated.

**Jim Karp:** If it's changing/establishment of a regulation you're required to have 30 days prior.

**Commissioner Simpson:** We've been discussing this for several months. We're only talking about fine details. Am I incorrect?

**Jim Karp:** You're correct, but you have to give the 30-day notice if you're intending to make a future change. That does not preclude the Commission at a meeting from taking any action it wants to with respect to that matter. They're not bound by whatever is provided in the 30-day notice, but if you're going to contemplate taking action on something, you're required to give 30-day notice.

**Chairman McClintic:** I don't believe we're going to take action Jan. 10. I think he wants to give everyone an opportunity so that when we come back in March that we have everyone's input. We can't convene a meeting in Jan. 10 in Albuquerque and take action on this.

**Jim Karp:** If you're not taking action, then you don't have to give the 30-day notice.

**Commissioner Montoya:** Can I get clarification from R.J./Jim Karp? If this action is postponed until March, it still applies for the upcoming hunting season?

**R.J. Kirkpatrick:** The intent of the Department is to ensure that whatever action is taken applies to the next 2 license years. We will do our best to ensure that our rules and information booklet provides information to hunters that this is either resolved or will be prior to their hunts. We will ensure that any licensing/permitting documents that we issue have information on them.

**Commissioner Simpson:** Mr. Karp, it's my understanding that we don't have to have specific language in order to do this? The 30-day notice says we're going to change these laws and each time numerous changes are presented?

**Jim Karp:** That's correct.

**Commissioner Simpson:** Do we have to have specific language in that 30-day notice saying this is what we're going to do?

**Jim Karp:** If you have available specific language that you intend to act upon, you'd be required to put that specific language in. If you don't have specific language, obviously there's no specific language to put in.

**Commissioner Simpson:** You could also indicate within such timeframe before Jan. 10 if we had that meeting we will have specific language and here's your opportunity to comment within that timeframe?

**Jim Karp:** As Chairman McClintic indicated, no action will be taken at a January meeting then all you have to do is indicate that there will be a special meeting at which this issue will be discussed and public input will be solicited. You would indicate the nature of the discussion that you're anticipating having.

**Chairman McClintic:** We're saying that there's no reason to take action on Jan. 10 when it's not going to affect anything that we do with the public between now and when we do take action in March. We've got an amendment on the table to try to have some sort of public forum in Albuquerque on Jan. 10 to get all the input from anyone that has an issue on this. The second amendment Commissioner Montoya has is that rather than defer to a later date, give a specific date whatever that Commission meeting is in March. Those 2 items are on the table.

**Commissioner Simpson:** If we can't do it Jan. 10 then I'd like to revise my motion and we do it in February on a Saturday and we make final determination then instead of waiting until March.

**Chairman McClintic:** What's your reasoning that it needs to be voted on in February when it's a non-issue and doesn't take affect? It's not going to cause any concern with us if it's taking affect March 5? What's the 3-week period if we do it in February instead of the 6<sup>th</sup> of March? What's your motive that you need it done?

**Commissioner Simpson:** Primary motive is to ensure that this gets decided instead of lingering on.

**Chairman McClintic:** We're going to get something done the first week of March.

**Commissioner Simpson:** I'd like to make sure that the meeting in March be changed and we hold it on a Saturday in Albuquerque.

**Chairman McClintic:** We'll try and make sure of a date when most people can attend.

**Mona Valicenti:** Did you get a second on the motion?

**Chairman McClintic:** Pat, did you get us a date on the March meeting?

**Commissioner Simpson:** We've got March 7, 14, 21, or 28, are Saturdays.

**Chairman McClintic:** We have our Commission meetings on Thursdays, not Saturdays. We're going to have our Commission meeting on Thursday, March 5, location to be determined. We'll defer to Director Stevenson to firm up dates/times of upcoming meetings in 2009. We've got supplements on the table, 1 is the date which will be March 5 and second is a special meeting where no action will be taken in January or February on a Saturday. We will make that determination over the next week and we'll make sure we get it out to everyone.

**Vote:** Voice vote taken. All present voted in the affirmative. **Motion carried unanimously.**

**R.J. Kirkpatrick:** The proposed amendments in the Boundary Descriptions rule are the same as presented to the Commission at the October 2 meeting. In summary, defining and identifying boundaries for 17 new antelope harvest management regions, amending boundary descriptions in GMU's 5-b, 41, 45, 51, 52, 54, 55, and 55-b, to improve matching hunter opportunity with population movement for both deer/elk; deleting/re-defining boundary descriptions for Sierra Grande portion of GMU 56, and 56-a was a special area that has no utility and at times does confuse hunters; Capitan mountain portions of Unit 37 was another area that was set out that has no utility anymore and does cause confusion; GMU 44 now integrating into GMU 45. It's always been called 44/45 there's no utility in that just 1 GMU we propose go to 45; 22-a, 22-b same issues; clarifying what the Ft. Bayard special management area is in the southwest by Silver City; adding boundary description for new GMU 59 which was formerly part of GMU 41 to better distribute hunters/harvest in northeastern NM.

**Public comment:**

**Jeremy Vesbach:** It would have been nice to see on the website that the Department was going to propose deferment. Chairman McClintic, usually you take public comments before taking action. We'd like to see improvement on the way meetings are conducted.

**Daryl Tow:** I understand meetings are on Thursdays, but they should be on Saturdays because then you get the public involved.

**Kent Salazar:** I agree with meetings on Saturdays. We need to get more people to participate. These individuals came a long way, took off work/ranch.

**Chairman McClintic:** I agree with your concerns but if we'd taken action on these motions and voted, there'd have been huge concerns, so this is the only choice we had.

**Ray Trejo:** I think what happened today a bit of trickery with not enough time and this should have been on the website beforehand.

**Commissioner Sims:** There's no trickery involved in this. We all looked at this and thought it better to put off to benefit all the public.

**Greg McReynolds:** I'd like to read this letter in support of the original amendment: "Chairman Arvas and members of the State of New Mexico Game Commission: Because hunting and angling in NM is a traditional way of life and a valuable state asset it is essential that the Game Commission pass the Game and Fish Department's recommended language for manner and method. Specifically, the Game Commission must uphold the state precedent that penalties for poaching which we all support are not directed at hunters and anglers who accidentally get on the wrong side of an unmarked boundary as required in NM Statute 30-14-6." I'm disappointed that last month when this came up there was a lot of concern about it and we said let's wait, let's not pass this and re-visit. What happened is we passed the bad portion of it which penalized sportsmen unfairly. We did not pass the good portion and now we are postponing the part that could have helped sportsmen and fixed this amendment. That's unfair to the sportsmen and unfair to the people who fund this Department.

**Caren Cowan:** Speaking on behalf of NM Cattle Growers/Wool Growers, thank you/Director for being deliberate and taking the heat on this because it was the right thing to do.

**Motion: Commissioner Sims** moved to adopt amendments to the Boundary Descriptions for Wildlife Management Areas rule 19.30.4, NMAC, that: define and identify boundaries for 17 new antelope harvest management regions; amend boundary descriptions in GMU's 5-B, 41, 45, 51, 52, 54, 55 and 55-B to better manage opportunity and harvest for deer and/or elk; delete and/or redefine boundary descriptions for the Sierra Grande portion of GMU 56, 56-A, and the Ft. Bayard special management area, add a boundary description for the new GMU 59 which was formerly part of GMU 41 as presented by the Department.

**Commissioner Arvas** seconded the motion.

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

**AGENDA ITEM NO. 10: Update of Department Efforts to Develop a New Rule Titled the Antelope Private Land Use System.**

**Presented by Cal Baca** – The Department updated the Commission regarding efforts to develop a rule establishing procedures by which pronghorn antelope harvest is determined and how hunting opportunities are allocated to private land and public hunters. The Department requested the Commission support continued efforts to work with the public to further develop and refine a proposed rule. At the October 2, 2008 meeting in Alamogordo, the Commission requested the Department take more time and schedule meetings to educate some of the stakeholder groups that were expressing misunderstanding of the process the Department was attempting to change. We were proposing to get landowners and sportsmen to meet with us in the evenings to educate them on the proposal we were presenting to the Commission. The Department is proposing taking more time to develop this proposal, work with the stakeholder groups to ensure we're meeting the needs of those affected by the proposed changes.

**Commissioner Arvas:** Were you overwhelmed by the fact that there were very few e-mails for this proposal?

**Cal Baca:** It was surprising that we didn't have anyone wanting to comment on this proposal—we actually had 1 that said that they supported it. We've had conversations with some that don't support aspects of this. Some support the Department's move towards developing a management program for pronghorn antelope in the state.

**Commissioner Arvas:** On the last page of your proposal, you've got some concerns that need to be resolved. I think the public would like to hear what you're doing differently this time and then we can add comments.

**Cal Baca:** The concerns were the concept of providing access coupons to public hunters. The questions were how much they'd be worth, and should Open Gate funds be used to fund that. Allowing 100% deeded ranches to negotiate reasonable/appropriate levels of hunting opportunities with the Department annually, but not requiring them to accept some level of public hunters was a concern. Ensuring that season start dates are the same for public/private hunters, and also should the St. Augustine and Colmore regions currently in the proposal be considered special management areas. More specifically as to why we made those decisions to make them special management areas. Landowners desire to have the ability to hunt any public lands associated with their ranches that are land locked and have no public access. Some landowners believe the 5-day season too long. There's a perception that trespass incidents may increase under this proposal, and an overwhelming perception that pronghorn harvest may be too focused in specific areas of a region under the new proposal.

**Commissioner Simpson:** We have a good GIS-devised map that shows legal access points and public roads that are open. What are the legal access points, what should remain open instead of finding out during open seasons what public roads have been closed/changed? We need better maps and better understanding so everyone understands where we're at and solve some of these conflicts. I encourage the Department to come up with good maps, put them on the internet or charge for them. We have foundation statements from the Department saying this is why we need to change, and this is what we need to do instead of throwing out regs with no foundation.

**Commissioner Montoya:** Cal/Julie, can you summarize A-PLUS or the need to institute A-PLUS? What's in need of revision because when we worked on E-PLUS for elk, it took about 18 months and it was a rigorous process. There were obvious reasons why changes were needed. Can you give us 1-2 points that prompted us to develop revisions to the antelope rule?

**Cal Baca:** The major reason was that in NM we don't have a good understanding of our population of pronghorn antelope, nor do we have established statewide goals for managing that population. When looking at that and trying to articulate something that allows for a distribution of hunters or allocation of hunting opportunity, when we have no ability to understand what the total population is for a region/unit, makes it difficult to manage that species. So that was the major concern we had in trying to articulate the processes by which we allocate hunting opportunities in the state through an A-PLUS rule. The other thing was that we noticed there was no consistent method as to how allocation was taking place. A game manager would put together an allocation based on spring aerial survey flight, then the landowner/district officer had the ability to change that allocation on a ranch-by-ranch basis based on an over-the-hood-of-a-pickup-truck conversation rather than based on biology, and further limiting/changing hunting opportunities. What resulted was that it affected our ability to drop the up-to numbers of public hunters based on decisions that landowners were making. Based on when spring surveys were conducted to the time we put out an allocation and subsequent agreement, getting that signed agreement back to the Department was a short timeframe, so a lot of times the landowner either never got their agreement for the year, or they got it after the deadline date, so that affected the allocation of hunting opportunities. Also, sometimes a landowner will make a determination based on how they managed that resource on their private property and associated public lands, to whether or not to hunt and then that affected the allocation of hunting opportunities and the management of that population. Those were the 3 main things we saw initially with the A-PLUS system that did not allow for us to manage that species population.

**Public Comment:**

**Terry Riley:** I support the concept of the A-PLUS System and I think it will give the Department much better capacity to manage a resource that they have trust responsibilities for.

**Preston Stone:** I'm pleased this item was tabled, but I understand this matter will be pursued in the coming year. I feel this item was a control factor and a budgetary factor along with hunting rights for public hunters. This Commission needs to be aware that hunting of public/private lands has no exact pattern. What fits in 1 area as far as numbers of antelope permits given private v. public does not fit another area of the state. There cannot be a blanket regulation of this magnitude that will fit the entire state. A big concern to the landowners is the hunting opportunity. Before this is decided on I ask the Director/Commission to set up a task force that consists of all entities to advise this Commission what to do.

**Grant Kinzer:** I encourage you not to forget the rancher in this process otherwise you're not going to have a herd of antelope like you've got now.

**Willa Stone:** The best way you can manage the antelope herds is the rancher knows better than anyone. We've seen the aerial surveys and they're not what we have on the ranch or antelope herds. I like the present system with modifications.

**Garth Simms:** The NM Council of Outfitters was comfortable with the new proposed A-PLUS rules but our members would like to see this postponed, continue to work with the Department on developing this rule, and be involved in this process.

**Stirling Spencer:** You have a great hunting opportunity for sportsmen, and we need to manage these animals. The present system should expand to all big game. I ask the Commission to direct the Department to listen to the people. We inherited a

system of combing the land and we need cooperation between the landowner-leasee/Department/sportsmen for a minimum of conflict not as a burden to the county sheriff/landowner/sportsmen to make this work.

**MOTION: Commissioner Arvas** moved to support the approach reflected in the current draft of the new A-PLUS rule that:

- puts pronghorn harvest management on a resource-based, sustainable foundation that establishes harvest objectives relative to population levels;
- provides for a more equitable allocation and distribution of hunting opportunities;
- affords transparency and professionalism to the processes used to determine, allocate, and distribute hunting opportunities;
- has the potential to provide for increased levels of hunting opportunity for both public and private interests;
- provides longer and more flexible hunt periods and substantially reduces the number of pronghorn hunters in the field during any one season;
- provides landowners with clear hunt options and incentives for allowing some level of public access to their deeded lands and engaging in land management practices that are beneficial to pronghorn;

and direct the Department to continue working with landowners, sportsmen, and other interested parties to finalize the development of a new Antelope Private Land Use System Rule, 19.30.12, NMAC, and associated amendments to the Pronghorn Antelope and Javelina Rule, 19.31.15, NMAC, that will be presented to the Commission for adoption at a regularly scheduled Commission meeting during the summer of 2009 so that they may establish pronghorn hunting for the 2010-2011 season.

**Commissioner Sims** seconded the motion.

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

**AGENDA ITEM NO. 11: Adoption of Amendments to the Pronghorn Antelope and Javelina Rule 19.31.15, NMAC.**

**Presented by Cal Baca** – The Department provided the Commission with proposed amendments to the Pronghorn Antelope portion of the Pronghorn Antelope and Javelina Rule, 19.31.15, NMAC, for adoption. The proposed rule and associated amendments effectively mirror the previous 2-year rule with changes to hunt dates and license numbers to reflect current population estimates and harvest objectives. The proposed amended rule established pronghorn antelope hunting for the 2009-2010 hunting season only. In order to establish hunting seasons published in the Big Game Rules and Information Booklet for 2009-2010 hunting season, the Department is proposing to mirror last year's hunting seasons with similar hunting levels/opportunities going into the next season to allow for the Department to get information out to hunters in a timely manner as well as establishing a rule for the 2009-2010 season.

**Commissioner Simpson:** Please explain why we're doing that?

**Julie Cummings:** The last couple years and based on landowners' surveys and number of signed/returned agreements, the maximum of landowners we could put out in the field, 100 public hunters assigned to ranches, not 125 so we decreased for that reason. In the northeast area units for ANT 11-14 the last couple of years, we have seen an increase in antelope numbers based on surveys and thus we've asked Director/Commission to increase the number that we can draw for public. We've also increased private allocations, so we're asking to increase the public draw numbers from 300 to 500 because we believe we can put that many public hunters out in the field based on the number of antelope/opportunities available.

**Commissioner Simpson:** It's difficult for the public/Commission to equate to what you're doing other than saying we can put more numbers and have a couple of maps that say this is what we can do and have some biology/rationale. Otherwise the public/Commissioners have to ask a lot of questions to resolve some of those doubts.

**Preston Stone:** I believe the system in existence now is working well.

**Caren Cowan:** On behalf of the NM Wool Growers/Cattle Growers, we support these recommendations and support the idea that you'll give additional time on trespass/posting/non-posting issues.

**Stirling Spencer:** I hope you take time to look at the cougar situation. We have several hunts for big game and why we give advantage to muzzle loader shooting over a regular rifle.

**Jim Hyatt:** I encourage the Commission re-check the length of proposed hunt periods. I didn't realize 95% of hunters killed out the first day. A 20-day hunt would be a burden to landowners as well as a disappointment.

**Cal Baca:** Hunter harvest report information on a statewide average is 88% success rate with a rifle or any legal sporting arm for antelope in the state. We don't have good figures on how many harvest the first day. We know that the majority do harvest the first day, but we've never given a definitive percentage based on any data because our hunter harvest data is not that comprehensive. From the northeast/southeast areas, they estimate 75%-80% of the hunters will harvest the first day but that's based on officer interactions with hunters in the field.

**Chairman McClintic:** We can agree in theory that it's over 75%?

**Cal Baca:** In the northeast/southeast areas we can be comfortable with that.

**Willa Stone:** The survey information on 88%-95% came from Cal Baca at the Department's informational meeting in Carrizozo.

**Cal Baca:** What I said was that we have a weapon success rate of 88% on rifle. The comment was made by folks attending that meeting. The majority of hunters do harvest the first day. There was never any mention of a percentage.

**Chairman McClintic:** Everyone in the Department works extremely hard trying to come up with all these programs. I don't believe anyone in the Department is trying to be adversarial. We're dealing with semantics. We want to make this the best Department in the country. We want to sit on this Commission and try to revel in what our Department achieves. It's not for the Department, but for the landowners/sportsmen.

**Pete Gnatkowski:** There are important resources the Department is not utilizing when talking about management/population issues, and that's ranchers/landowners/leasees/district conservation officers. I want to appeal to everyone to come to meetings otherwise regulations are going to be passed that probably won't be in your best interest.

**MOTION: Commissioner Montoya** moved to adopt amendments to the Pronghorn Antelope portion of the Pronghorn Antelope and Javelina Rule, 19.31.15, NMAC, that will establish the level of Pronghorn Antelope hunting opportunity, season dates, and other requirements and restrictions for the 2009-2010 license year only, as presented by the Department. **Commissioner Sims** seconded the motion.

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

**AGENDA ITEM NO. 12: Adoption of Amendments to the Private Land Elk License Allocation Rule 19.30.5, NMAC.**

**Presented by Ruth Anderson** – The Department presented proposed amendments to the Private Land Elk License Allocation Rule 19.30.5, NMAC. Amendments were designed to discourage splitting of properties, establishing more meaningful deterrents and penalties for landowners who allow for false representations of deeded acreage or violate terms of annual participation agreements, require that only the landowner may enroll a property for the first time, and provide alternative participation options for landowners in GMU's 6-A, 6-C, and 51.

**Commissioner Arvas:** Inform the public about your section so they can be aware of how complex what you do is. How many people do you have working in your section?

**Ruth Anderson:** Just me.

**Commissioner Arvas:** How many hours do you put in this program just to keep things going? Is it an everyday thing?

**Ruth Anderson:** It's year round.

**Commissioner Arvas:** Your number 1 complaint as far as the process?

**Ruth Anderson:** The E-PLUS System is rolling along well. The landowners know they can call us and ask for clarification. That's what a lot of landowners did when we sent this proposal. They want to make sure everyone is treated fairly and we go through the process and actually get out the spreadsheets then they understand.

**Commissioner Arvas:** There are no constraints that you have that affect your job?

**Ruth Anderson:** We need to make sure we've got the acreages right and everything is ready for allocation in March. That's our final deadline. Everything else needs to be reasonable.

**Commissioner Montoya:** Several years ago when we created the E-PLUS Program, there were several objectives in mind. I'm glad to see the changes because this is refining the accountability process and the changes we implemented that are making the system easier for the landowners and Department to be accountable. Can you clarify what non-transferable means in Option 2?

**R.J. Kirkpatrick:** Non-transferable in this paragraph means that licenses that result from the conversion of authorizations for people that chose Option 2 to hunt just on their property. Those licenses aren't going to be valid on any other private property in that unit as in other northeastern units where the landowner grants permission to come on to their property. The purpose of the pilot program is for landowners to be able to take advantage of that option so they can hunt elk on their deeded property when elk are on their property outside of the regular landowner system, so making them transferable to other private properties. It means they're not valid anywhere else but on that person's property.

**Commissioner Montoya:** This is going to be beneficial to help us with the depredation rule because they will complement each other. The intent is to get the elk off.

**Cal Baca:** The comments from landowners have been that they don't mind elk being on their property, but the current hunt structure doesn't allow the landowners to hunt them when they're on their properties. The landowners didn't want to file depredation complaints and lose the hunting opportunity they just want to have the hunting opportunity when the elk are present. We're not handling depredation with hunting opportunities, we're allowing them to have hunting opportunity when elk are on their property.

**Commissioner Montoya:** When you presented the depredation report there were a couple of portions where landowners had taken advantage of the rule and harvested a couple of cows. This is going to help in that nothing will go to waste. Anything harvested would be intentional so there'd be no waste.

**Public Comment:**

**Carlos Chavez:** What the Department is proposing is a 320-day private land hunt, right?

**R.J. Kirkpatrick:** Yes, it has the potential to be that. I direct everyone's attention to language under the proposal that says the Director has to approve the request. So the request form that is sent to landowners that pick Option 2 could have a 320-day window, 90-day window, 30-day window. We'll have to work with each landowner to figure out what makes sense for them so they can hunt elk on their properties when elk are there. We do have the May 15 through July 15 window eliminated in rule.

That's when cow elk are having calves and we've not talked to a lot of people interested in hunting elk during that window, but there could potentially be 320-day long windows. I don't suspect the Director will approve those timeframes, nor do I suspect many landowners will request that wide of a window given Option 2.

**Carlos Chavez:** In Gallina, Unit 6-A, we've been requesting the Commission/Department for change since Unit 6-A and 6-C were split done without public input. The same strategy they're proposing isn't going to work. What were the counts last/this year?

**R.J. Kirkpatrick:** I don't have survey data with me today so I don't know what those were, but we can get it.

**Chairman McClintic:** When were 6-A and 6-C split?

**R.J. Kirkpatrick:** I believe the split occurred in 1999 or 2001. It wasn't long after 1997 when a significant number of elk were harvested.

**Chairman McClintic:** Is that correct, Mr. Chavez?

**Carlos Chavez:** I don't remember when it was done, it's been such a nightmare since then. I can't believe you can't give me a count.

**R.J. Kirkpatrick:** The new elk rule the Commission adopted for the next 2 years has a population estimate range for the entire Jemez region. That's not a specific estimate for Unit 6-A, but it's an estimate for the entire region.

**Chairman McClintic:** You obviously have deep-seeded concerns with what's going on in that region. Is the solution you think would benefit the region re-adjusting the boundaries of 6-A/6-C, or what do you think would best benefit your problem?

**Carlos Chavez:** There's no easy solution and it might not be solved with re-aligning 6-A/6-C. The Lindrith/Farmington areas are crawling with conservation officers and then in Gallina/Coyote there are no conservation officers in the woods. Hunters say they're taking out private land tags, but they're on public land. That's the problem with suggested unlimited tags for landowners for this glorified depredation hunt. I feel the northwest area has been abused.

**Commissioner Montoya:** Mr. Brooks, can you respond to those comments? I'm taking Mr. Chavez' comments as there being poaching/abuse of the system in those units.

**Dan Brooks:** It's true we have limited personnel in there. As far as the northwest area we do have officers in there, but they cannot be everywhere at once and they cannot stay in one place because as soon as they go 10-8, which is in service, oftentimes they're called to other places.

**Commissioner Montoya:** Is there a problem as described by Mr. Chavez?

**Dan Brooks:** I don't have the information that he would have. We receive Operation Game Thief reports and reports of violations, but statistically it's not higher there than anywhere else.

**Brian Gleadle:** We do have problems with distance between officers in these areas. We currently have an officer in Cuba, there's a vacant position in Lindrith and those officers are far and few between. They do respond and sometimes it takes a while for them to get there. I don't think it's anything unique to that area. We have officers in Tierra Amarilla that do have districts that go to Gallina/ French Mesa/Mesa Alta and the distances they patrol are far, so we do try to rotate people. One thing Mr. Chavez and Mr. Martinez refer to is that during certain deer hunts, especially in 5-A, we know we have problems in those areas. Those are well-documented problems in those areas so we tend to move additional officers into those areas during those hunts. It benefits us to patrol those areas when we know we have unique problems that are going to occur over a certain amount of time.

**Art Martinez:** One question you asked Mr. Chavez was what would be the solution for Unit 6—you have petitions before you and the majority of people in that area want Unit 6 to be restored to the way it was. There were no problems at that time. The way the Department has re-aligned has upset people in that area. I'm the spokesperson/outfitter in that area and help people in that area. When that unit was split in 2001, you tried to kill many elk in there and then reduced the landowner permits for smaller landowners and then increased landowner permits with larger landowners and there's no place in this whole state where there's a landowner that has 6,000 acres that gets 74 landowner tags for unit-wide tags. That means he can sell those tags for hunting area, not just for this ranch. We agree with some proposals but the majority of people will tell you that E-PLUS does not work in that area. That area is unique. The area people want you to go out and investigate the damage the elk are doing.

**Desiree Shelley:** In B-1-A our concern is that if you have multi-owners of a large entity/ranch or if you have an absentee owner, they do have assignment right to assign a manager that can work on their behalf, is that correct?

**Ruth Anderson:** What we would do is grandfather the old signup for the initial application because we're finding a lot of landowners have no idea their property is being signed up.

**Chairman McClintic:** This is the first I've seen of these petitions and because of the large number of names, I think I'd like to have some kind of meeting in that area.

**Director Stevenson:** I've been working with Mr. Martinez and we have a meeting scheduled in Coyote on Dec. 20 to make sure we understand the concerns Mr. Martinez/Mr. Chavez have raised. I'd encourage a couple of Commissioners to attend that.

**Chairman McClintic:** We don't want to vote on this if you have a meeting set up to get these concerns addressed.

**Director Stevenson:** This doesn't address a portion of what Mr. Martinez is concerned about with the unit boundaries, other properties besides Unit 51. Clearly Mr. Martinez is raising a valid concern but as you've heard, there are people who are

concerned about the number of elk and that this system is not working. Mr. Martinez and folks are urging taking Unit 6-A/6-C out of this option.

**Art Martinez:** We're still concerned with why are you only picking on 6-A, 6-C, and 51. The problems exist all over the state. When these units were split the Department tried to kill the elk on 1 side and manipulated the system to where 6-A is getting \$2,500 for a mature bull tag, 6-C has two landowners that have a monopoly and get 70% of landowner tags.

**Chairman McClintic:** Since there's a meeting set up with the Department and this is a huge issue, if we leave the issue on 6-A/6-C/51 out of this, we can vote and take care of that later.

**Art Martinez:** That's no problem but we'd like to see all landowners present deeds to prove that's the property they have. We want to postpone the unlimited amount of licenses for small landowners because these people don't want that. They want elk on their property but want to be rewarded for damages.

**Commissioner Simpson:** I agree that when you have unlimited licenses and a lot of public land, there's going to be poaching and fixing 1 solution and creating another won't work.

**MOTION: Commissioner Montoya** moved to adopt amendments to the Private Land Elk License Allocation Rule, 19.30.5, NMAC, to allow for instituting measures that reduce 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, as well as instituting a process to recognize the contribution agriculture areas are making to elk populations in GMU 51 that are currently resulting in different density issues to allow for a more flexible harvest of elk in this unit. **Commissioner Sims** seconded the motion.

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

### **AGENDA ITEM NO. 13: General Public Comments (Comments Limited to 3 Minutes).**

#### **Public Comments:**

**Pete Gnatkowski:** In our area we'll go through a whole season without seeing a conservation officer. The argument is that there are not enough officers, but I do know that they spend a lot of time with decoy deer at night and then they're not visible during the day. Trespass/poaching issues would be reduced during daytime if these officers were visible. People would be less likely to commit violations if officers were visible.

**Chairman McClintic:** We've requested 6 more commissioned officers on our legislative wish list. Unfortunately we don't have the authority to increase personnel.

**Joe Delk:** At the October Game Commission meeting in Alamogordo you voted to change rules on cougar. The Commission was asked for more information from landowners/outfitters that disagree with decline in lion.

**Marvin Sanford:** My comment is that the mountain lion issue was supposed to come back at this meeting.

**Chairman McClintic:** No, we didn't table it and it wasn't supposed to come back at this meeting. What we got done needs to be cleaned up and we will re-visit this in March/April.

**Stephen MacDonald:** It's been over two years since this Commission directed the Department to begin restoring river otters to the Upper Gila River/Rio Grande River. This fall the first otters for the Upper Rio Grande were moved into the river primarily by Taos Pueblo's efforts. What progress has been made on plans for restoring otters to Upper Gila?

**Commissioner Salmon:** I talked to Jim Stewart a couple of months ago about this and you're correct about meeting the biological assessment. He seemed quite enthusiastic about getting that process under way and assessing the possible affects of the river otter on certain endangered species and then consulting with USFWS. There's some question about possible affects of river otter on spike dace and loach minnow.

**Art Martinez:** On the 6-A/6-C split, R.J. and Department personnel keep bringing up that certain people want that unit to stay the same. We have a majority of signatures on those petitions.

**Rinda Metz:** I encourage you to press for release of otters in the Gila.

**Matt Wunder:** I reiterate that the otter re-introduction has been on the front burner in Conservation Services Division. We worked extensively last fall trying to secure otters from Oregon to transplant into the Rio Grande. Oregon was unable to capture the otters for us and this year one of the employees at Taos Pueblo left the Pueblo and started working for Wildlife Services in Washington state, so they've proved fairly effective in trapping otters out of their fish hatcheries and areas where they've been problematic so that's why the Pueblo in conjunction with the Department and Friends of the Otter were effective in getting otters into the Upper Rio Grande. The discussion has been about the need for the biological assessment and survey in the Gila and that's in fact the NEPA compliance we need to go through because of the endangered species found in the Gila. It's our intention to follow through but NEPA compliance needs to take place. At this point we have opportunities to receive additional otters from Washington or Oregon that would be available for release in the Upper Rio Grande, but we do have to complete the biological assessment before release into the Gila.

**Commissioner Salmon:** Do you have a timeframe for completing the biological assessment for the Gila?

**Matt Wunder:** I do not have an indication of what the timeline for completion of that biological assessment is. I will find out.

**Commissioner Salmon:** Mr. Stewart said the Department was possibly going to contract with or make use of a man named Pettigrew to help with the survey. Has anything developed on that?

**Matt Wunder:** I'm not aware of that. I can follow up.

**Commissioner Simpson:** Since there seems to be a venue for getting otters from Washington State and no progress with Oregon, any plans to switch? It's been going on a long time and maybe a good avenue in getting otters from Washington using Taos Pueblo, but the Department is making no progress and Taos Pueblo was more flexible, so is that the problem?

**Matt Wunder:** That was the impediment last year but this year because this individual moved from Taos Pueblo to Washington. They were effective in trapping and as the season continues part of the difficulty in Oregon is that they were not permitting live trapping once the fur trapping season began. They had a narrow window of trapping until Nov. 14, but in Washington state because it's Wildlife Service and these are essentially problem otters that have been getting into fisheries, they're able to trap those year round and have proven more effective, so additional otters they're able to capture and provide to us, we're in a position to introduce those as well. It's not as if the process has stopped and we're still willing to take otters from either Washington/Oregon depending on wherever they can supply them.

**Commissioner Simpson:** Have you put out the word to other states that have otters?

**Matt Wunder:** I'm not sure of the details about identifying where otters would come from but I know there was a question about developing interstate relations in terms of which states had available otters and whether we could arrange an agreement with those states. It worked out that initially Oregon was most conducive in terms of working with NM so we've been working with them most intensively, but then this opportunity arose in Washington state.

**Commissioner Salmon:** Regarding the timeframe, I understand the best time to release otters is in the fall so in getting through the biological assessment it would be nice for us to shoot for the fall of '09 and see if we can get otters in the Gila by that time.

**Commissioner Simpson:** Have you thought of getting a temporary holding place so at any time of the year you can get otters and hold them until ready for release instead of waiting for a limited trapping season?

**Matt Wunder:** At this point we hadn't explored that because the way the arrangement was with Oregon, they'd be trapping up until the end of their season and they did have a holding facility where they'd secure them and then bring them in one load and then we could essentially put them in directly from that point. It's been working with Washington the same way—as they trap enough otters to make it worth bringing them down they'll hold on to them and ship them as a lot and once they're in NM it takes only 1-2 days to get them into an acclimatization pen and then within 1-2 days they're in the river.

**Charlotte Salazar:** I'm here because of the recent cougar activity. Please take responsibility for properly managing these animals. Cougars are becoming habituated.

**Chairman McClintic:** We will be re-visiting that issue and try to work out something in getting quotas with the Department.

**Laura Schneberger:** The attitude of the Department should not be hands-off predator management.

**Ron Shortes:** I'm representing Catron County and Catron County adamantly and bitterly opposes the introduction/release of otters into the Gila.

**Commissioner Salmon:** We have no proposal of otters in Catron County. When the San Francisco River was being considered, I recommended that it not be a release site because of opposition in Catron County.

#### **AGENDA ITEM NO. 14: Mexican Wolf Semi-Annual Program Briefing including MOU Status.**

**Presented by Matt Wunder** – The Department presented its semi-annual Mexican wolf reintroduction program update covering project activities and notable events since the last update, current program status, including challenges and opportunities, ongoing initiatives, and opportunities and prospects for the future. Paula Capece has been hired as the new Field Team Leader. Two temporary employees to assist the Interagency Field Team have also been hired.

**Paula Capece:** I've spent the last several years on issues related to conservation and ecology of wildlife with particular interest on the role of large predators in ecosystems and population dynamics of carnivores. I've focused particularly on felid species most notably, lynx/mountain lion/ocelot/jaguar. I've also worked with stakeholder interactions. This is the first time I'll be working with wolves and I'm looking forward to an opportunity to become intimate with new issues both biologically and social with this species in NM. I realize there are particular challenges that lie ahead in terms of finding solutions to human-wolf conflicts and livestock-wolf conflicts. The team-lead position was mainly hired for the purpose of relating what goes on with the wolf project to stakeholders on the ground and also to identify solutions to different conflicts that arise and to try and prevent them before they happen. I'm happy to be part of a team of highly skilled and highly dedicated people who truly want to see this project succeed with minimal impact to stakeholders. That's what I'm here to do and as we move forward I look forward to being more involved.

**Commissioner Simpson:** Where are you stationed?

**Paula Capece:** I live in Glenwood.

**Matt Wunder:** We have responded to an inspection of public records request in regard to a lawsuit against the USFWS regarding the establishment and operation of AMOC. There were a large number of documents they were requesting information on. June of this year USFWS called three agencies: AZ Game and Fish/NM Game & Fish/White Mountain Apache

Tribe responsible for land management to come up with recommendations for the Director of USFWS regarding the issue of wolf mortalities this year.

**Commissioner Salmon:** Do you have any reading on what sort of recruitment you got in the 2 states this past spring/summer?

**Matt Wunder:** No, we don't at this point although the IFT will take advantage of opportunities to follow up on reports of dens and trying to identify whether or not their packs are producing pups. There hasn't been a consolidated estimation of recruitment. That will come from the January population count.

**Commissioner Simpson:** I have discussed taking over the Chairmanship of AMOC, has that progressed?

**Matt Wunder:** After that issue was raised at the April meeting, we did discuss it in AMOC. We discussed how this transition would occur, whether it should occur, if so, how it should occur. We have not finalized the determination because partly the chairmanship of AMOC demands a significant consistent input of resources and we have recognition that we need to look at this. How the transition will evolve will be discussed during an upcoming meeting of the directors on Dec. 11. Part of the overall discussion will be about core issues of the project including the new MOU, the role of NM in a leadership position, and other issues.

**Commissioner Arvas:** Have you made contact with members of the wolf committee on the Commission?

**Matt Wunder:** Not recently.

**Commissioner Arvas:** How long has it been since you've had any contact?

**Matt Wunder:** Too long.

**Commissioner Arvas:** We didn't appoint those people on the committee because they were interested in wolves. They wanted help with the problems. If you don't interact, we don't get anything done. For us to have to demand doesn't make any sense either, so we implore upon you to try to have more contact with them.

**Matt Wunder:** You have my assurance that we'll have more consistent interactions with the committee.

**Public Comment:**

**Jim Hyatt:** I've never had an opportunity to meet with you and maybe the most important thing I realize are the statistics. I've read that it costs close to \$300,000 from birth of a pup through introduction and acceptance. It seems to me that with the economy, if our new President holds to wasteful spending, this seems to me like 1 of the best places to cut government spending.

**Rinda Metz:** Please continue to press AMOC/USFWS/Department for the release of more wolves in NM and further for a rule change that would allow wolves to be directly released.

**Pete Gnatkowski:** All the activities/funds that the Department is spending on this wolf re-introduction project, are you being reimbursed by USFWS?

**Matt Wunder:** Yes. The cooperative agreement the Department has with USFWS, USFWS does provide the bulk of the funding used to support the wolf re-introduction project. We also have other funds that come from USFWS that support the re-introduction program and we get reimbursement on as well.

**Chairman McClintic:** Be more direct. How much are we spending on this project?

**Matt Wunder:** I don't have that information readily available but I will get that information. Before we came to this meeting I was in the process of preparing the report for AMOC which identified funds paid by the state and the federal government. We are awaiting the final quarter of the year.

**Pat Block:** I don't have the exact numbers but there are 2 agreements that provide that funding. One is a reimbursement agreement where the federal government reimburses 75%, so 25 cents of each of those dollars comes back to the Department, 25% of that is state dollars. The other agreement is 100% federal reimbursement. The bigger one is 3-1, so a reasonable ballpark is about 80%-85% of that money comes from the federal government, the remainder is game protection funding. Last year there were about \$120,000 total and about \$100,000 came back in the form of reimbursements.

**Pete Gnatkowski:** I've been opposed to the wolf re-introduction program since it started in view of the social and economic problems it has caused.

**Chairman McClintic:** This program is a federal mandate. We at the state level are trying to mitigate the conflicts and trying to help.

**Commissioner Arvas:** The Department went along with the program because if we hadn't gone along, we wouldn't have a say. As a result that we didn't initially agree to the program, we did not have a seat at the table, but now we have some say and that's why we have people that are involved to help us manage the problems.

**Nancy Kaminski:** This program bridges the education and the up-to-date scientific information.

**Gene Whetten:** Regarding the pending re-release of the wolf from the Aspen Pack, it was released last year after two depredations both in Arizona and New Mexico for a total of nine depredations. This signifies a problem with the management of this program. That's why ranchers are backing out.

**Chairman McClintic:** Do we have any say on the re-release in our state?

**Matt Wunder:** The identification of both potential wolves and potential wolf release sites is governed under AMOC, but USFWS essentially takes special interest in translocations/releases.

**Chairman McClintic:** If we have a documented instance as Mr. Whetten just described and we do have an animal that has severely depredated in both states, if we direct you, since you sit on AMOC, that we've had enough of this animal, do you have the authority to tell the federal government that we do not want this wolf re-released in our state?

**Matt Wunder:** No.

**Kathleen Hollis:** This summer we were overrun by rabbits/rodents. The federal government in their wisdom poisoned the coyotes which left no predators. One rancher leaves carcasses of dead cattle. The farmers have buried them. If you have a carcass you're attracting predators. We have more problems with packs of wild dogs than we do with any other animal. Wild dogs kill for the heck of it. The wolves kill for food.

**Pat Danser:** I live in Luna County. I strongly support the wolf recovery program in the state and a shift to a more positive approach from the killing of wolves. An innovative approach would be to require livestock operators who lease public lands in the wolf recovery area to dispose of livestock carcasses. I understand this is being considered in Arizona. We'd like to see the wolf recovery area expanded. We'd like to see captive wolves released directly into the Gila National Forest. I'd like to quote from Luna County rancher, Gene Simon, who's been a cattle rancher for over 34 years, but in his book he talks about the attitude some people have towards wolves." The deplorable reality of so many supposedly intelligent and informed people unable to comprehend that in nature everything is connected with something else or dependent on it. The web of life and it's survival is like a chain with a life and death question being how many links can be lost before the chain is gone forever."

**Tom Klumker:** I represent the ungulate wildlife. These are not wild wolves. These are human habituated wolves. We only have to take a look of what's happening in Idaho/Montana/Alaska. In Idaho there are no elk. A 35-year master guide from Alaska is put out of business because their caribou/moose herds are gone.

**Laura Schneberger:** I want to recommend that whatever the Department is doing on the Mexican wolf be put on the website. I've been involved with this program since 1998 and I'm surprised there are a lot of initiatives taken that no one has bothered to let the public know about. I'd have liked to have seen a livestock person sit on the hiring team of the Field Team Leader. I want to know who the work group is that's crafting the USFWS response to wolf mortality. Why are we providing sheep fence funding to whom and how much does it cost, and what initiated that when there are people who are obviously having depredations that are getting no help at all? How much do the wolf tours cost? There are a lot of problems in this program and the Department is part of it.

**Roger Turner:** I've moved to Las Cruces from North Carolina. North Carolina is the site of a failed wolf re-introduction program. I hope you can succeed in this program. I hope, Ms. Paula, that when you deal with this question that you will try and balance this.

**Jean Ossorio:** I support the Mexican wolf re-introduction program.

**Billie Hughes:** I represent the White Mountain Conservation League. We support the wolf re-introduction program.

**Dennis Jennings:** I support the Mexican wolf re-introduction program and hope to see it succeed.

**Caren Cowan:** I'm here representing the NM Wool Growers. Were all deceased wolves collared?

**Matt Wunder:** No.

**Caren Cowan:** So that number doesn't subtract from last year's numbers of collared wolves?

**Matt Wunder:** No.

**Caren Cowan:** I was confused with dialog about whether or not the Commission could ask that the Aspen Pack wolf not be released. I understand NM cannot dictate, but it's imperative that if we have a seat at the table, the Commission needs to have a voice and send a message and see what happens. Could the Commission direct the Department to say this wolf should not come back for these reasons?

**Ron Shortes:** I represent our family ranches as well as Catron County. I know you don't want to hear arguments about all these issues. I promise you I have a valid response for anyone that wants the wolves in NM. I don't understand how this lady can compliment the Department on all the wonderful impact they're having on AMOC, but the Department says they can't do anything about all the problems livestock owners have. The people that like the wolf program seem to agree that the Department has a great deal of influence on what's going on. The County has never been allowed to have a seat on AMOC because the rules of the game on AMOC and proposed MOU's don't provide language that would allow the county to participate. The original MOU almost required anyone that wanted to participate to agree that wolves are wonderful and they agree with the program. Obviously Catron County cannot do that. We would like to have a seat at that table and certainly if Terry Johnson is gone and Mr. Wunder is on AMOC, we'd ask for that consideration to not write rules that the county can't abide with to prevent the county from having a seat on AMOC. I rebut that the wolf program has brought a dime to Catron County as a benefit. The wolf problem as far as Catron County is concerned is worse than ever. Field Team/AMOC/no one else is doing anything to address Mr. Whetten's problems or other ranchers' problems on wolf/cougar.

**Joe Delk:** All I see is a dismal failure in this wolf program, yet there's no ability for the federal folks or the NM Department of Game and Fish to admit that. Mr. Wunder, you espoused on the Department's accomplishments, could you tell me if any of your objectives/plans for the year did not meet with success and were failures, and if so, could you tell us about them?

**Matt Wunder:** The failure I addressed earlier was the discussion about our leadership role on AMOC. I would have liked to see that resolved. I think that because AMOC is at the core of the discussion and not necessarily the resolution of these problems that perhaps is one of my greater disappointments for the year.

**Joe Delk:** From what I can tell, we just keep pouring good money after bad and it doesn't make any sense. In the future I think you ought to have 2 parts to your presentation—your successes and your failures and why.

**Jack Diamond:** This program is a failure. The Gila is not Alaska. I'm not mad at the wolves. The wolves are doing what they're supposed to do. Maybe there's a place for wolves in Alaska/Canada, but not in the Gila. I suggest fencing off White Sands Missile Range and put them in there, or get Mr. Turner who's an advocate of wolves to fence off his property and put wolves in there. It's time for someone to say this is not working, it's never going to work. We need to stop this program. Whoever is representing NM on AMOC needs to mention the negatives.

**Ginger Whetten:** Mr. Wunder, why can we not get telemetries for the wolves?

**Matt Wunder:** It's not necessarily that you cannot get the telemetries. I understand that you do have a receiver or 2 and there is a procedure through IFT to request channel information for wolves located in the area of your property. If you go through that process, IFT will evaluate the request and make a determination.

**Ginger Whetten:** But when the wolves are on us, we need them that day.

**Matt Wunder:** Check with IFT. They do have a procedure for providing channel information based on individual requests.

**Ginger Whetten:** I just wanted everyone to know that because we were accused of baiting the wolves when we branded, we were denied access to these channels and we've not had them since. We've had wolves on us and requested the channels and we probably won't any more because we've quit working with everyone.

**Chairman McClintic:** I'm not going to single Mr. Wunder out. We had the ex-Director that was highly involved in this program also, but I take affront to what I'm hearing. I chaired the wolf sub-committee and I haven't got a single word from you Mr. Wunder or anyone in 11 months. We had a serious issue about the telemetry issue. I thought my concerns had been addressed because you don't own the telemetries. I thought they were getting that knowledge. This upsets me very much. This is going to be corrected and it's going to be corrected immediately. Director Stevenson, I want this examined quickly and that these people have a response. I've had no communication for 11 months on any issue dealing with wolves.

**Director Stevenson:** Understood and I will get an answer that's responsive to you.

**MOTION: Commissioner Salmon** moved to reaffirm the Commission's and Department's support for and active participation in the reintroduction and recovery of a viable and sustainable Mexican wolf population in New Mexico and the southwest. Further, in support of this goal, to operate under the existing Memorandum of Understanding (MOU) with signatory cooperators and to encourage review, revision, and approval of a new MOU committed to adaptive, proactive, and effective management of Mexican wolves. In furtherance of the MOU, we will seek commitment of financial resources to the extent possible to support wolf management actions that are innovative and responsive in New Mexico and among cooperating partners. **Commissioner Simpson** seconded the motion.

**VOTE:** Voice vote taken. All present voted in the Affirmative, except **Commissioner Sims** dissented. **Motion carried unanimously.**

#### **AGENDA ITEM NO. 15: Overview of San Juan River Management.**

**Presented by Mike Sloane**— The Department presented information concerning management efforts on the San Juan River. The presentation included an overview of regulatory responsibilities, a review of past and current flow regimes, a discussion of sedimentation, and analysis of angler and fisheries trends. The presentation discussed future management options being considered. The Bureau of Reclamation operates the dam and controls flows out of the dam and they own a significant amount of riparian property along the stream bed. The Bureau of Land Management manages the uplands which is where there are gas/oil operations. NM State Parks manages the recreational use in terms of access/camping/permitting. NM Department of Game and Fish manages the fishery and does law enforcement. Enabling legislation for creation of Navajo Dam laid out the purpose of the dam which was for flood control and water development. Nowhere is the value of the fishery mentioned. The plan is to have peak release in the spring during runoff and lower flows. Releases have been changed over the past few years as Navajo Dam operations came into conflict with the endangered species. In summary, the watersheds are highly erosive, they are going to produce sediment, and certainly there are things that can be done with both facilities and with management of oil/gas, but we're always going to see sediment coming into the San Juan. The fishery is very robust.

**Commissioner Salmon:** What were the essential changes? I've also heard from fishermen who are discontented and mentioned 2002. What was the management change that had an affect on the fishery?

**Mike Sloane:** I believe 2002 was about the time the Environmental Impact Statement was completed and the adoption of the 250-5,000 CFS alternative was made. As I said, that's been adopted and it's a long-term concern, but the operation so far has not resulted in a real significant change in the flows other than higher flows in the springtime. We've not seen them go down to 250 with any regularity and don't expect to until we see more water development so that's the reason for getting in there and

working on the instream habitat and trying to improve sediment transport, create larger holes for lower flows where those fish can hide and keep cooler.

**Greg McReynolds:** San Juan is a \$38M boost to the NM economy. It's a big deal for fishermen both in/out state and the trout groups as well. NM Trout is a big supporter of the San Juan.

**Discussion item only.**

**AGENDA ITEM NO. 16: Adoption of Amendments to the Game and Fish Licenses/Permits Rule 19.30.9, NMAC, and the Hunting and Fishing License Application Rule 19.31.3, NMAC.**

**Presented by Patrick Block** – The Department provided the Commission with proposed amendments to these rules for adoption. The amendments related to establishment of a required sportsperson identification number, changes to draw hunt application fees and a requirement for online draw hunt applicants to pay full license fees at the time of application. The amended rules will apply to the 2009-2010 and 2010-2011 hunting seasons.

**Chairman McClintic:** Two years ago we had 7,000 successful draw for deer online. Licenses were not purchased. We had 196,000(+)(-) applications for 47,000 permits. I think it's the largest discrepancy. So we felt that if we had the fee up front that it would probably stop about 25%-30% of the applications which would take us down to 150 range for the 45,000-46,000 which would benefit 40,000(+) applications. Naturally, we have to pick up the shortfall. This is the only solution the Department has come up with that makes sense that we can bring the number of applications down, and still meet our harvest control.

**Commissioner Simpson:** Has any of this information been put on the website?

**Pat Block:** The briefing document this presentation is based on has been on the website for a month.

**Commissioner Simpson:** When you put it up there how much public notice did you have from sporting groups/ranchers, etc.?

**Patrick Block:** The process followed for this agenda item is the same as for the rest of this month's agenda. The press release went out about the meeting, the agenda has been up on the website, the press release included specific items, and the item has been getting quite a bit of discussion among the sporting groups and some online chats we've been looking at.

**Commissioner Simpson:** I've said in the past, this is the first time this has been formally presented. I'd like to see the Commission give the public more input and involvement.

**Chairman McClintic:** At the Commission meeting in Alamogordo this issue was brought up and several people voiced that they liked it, and it was explained to them that this was going to be on the agenda for December 4. They requested thinking about it and they'd get back to me. No one responded.

**Pat Block:** The motions deal with 2 different pieces of the proposal we've talked about. Some can be readily accomplished this year, some that will be accomplished this year to facilitate what could happen in the future, i.e., the customer ID number we were looking at today. We were looking at the ability to waive the application fee for disabled American veteran applicants who receive a free deer hunting license, but there is no provision in rule that gets them off the hook for the \$8 application fee, so we've had to answer the question that the free license will cost \$8, and under current rule the answer is yes. We'd like to answer that free means free for 100% disabled veterans. The 1 piece of that that is more readily postponable would be on the 1-year holdout.

**Commissioner Arvas:** Pat, you've lived through the establishment of the online application from the onset. We know it's a successful operation and we're pleased with the results and with the fact that we have 196,000 applicants. What the public needs to be made aware of is that under legislative intent, we cannot profit from the process.

**Pat Block:** Yes, that's correct. We've also heard proposals that if we want to limit the number of applications, raise the application fee to \$50. That would not be consistent with statute.

**Commissioner Arvas:** So if we used any continuity of thought in terms of our goals, or giving the public applicant a better opportunity, we either have to reduce the number of applicants for a given species for a better percentage of success, or we have to do something dramatic in terms of a fee difference.

**Pat Block:** That would require legislative action to change as those fees are set by law.

**Commissioner Salmon:** What would be the pros/cons of going to every other year on the draw for all major big game animals where drawing occurs?

**Pat Block:** The pro would be that you would absolutely spread the opportunity out over a wider array of people. The major con is that a lot of the hunts don't have enough people to fill out that second year. A lot of the hunts don't have enough people to fill out this year, that's why we have the secondary sale for the hunts that absolutely no one applied for. That's why we tried to look at the places where demand was high to show that there are more people that want those opportunities than can have them, and that once-in-a-lifetime restrictions are not in place. That's why you didn't see oryx/ibex/bighorn sheep in the proposal. There are already once-in-a-lifetime restrictions on all ibex/bighorn sheep hunts and most of the on-range oryx hunts, so that's why we didn't include those in the holdout period.

**Commissioner Salmon:** I suppose you could also look at it going to every other year for these special high-quality hunts. We could look at that as an experiment and see how it works and people respond and see if there's any reason to expand it.

**Pat Block:** That would be readily achievable under this proposal.

**Public Comment:**

**Garth Simms:** On behalf of the NM Council of Outfitters, concerning the sportsmen's ID number as that impacts the outfitters, many outfitters accept that information from their clients and then they do all the applications for all their clients. We'd like to see a system where if client doesn't have a sportsman's ID number that the outfitter can attain that for him while he's doing the application process. Concerning every-other-year eligibility, we're opposed to that because a lot of people come back year after year assuming they get drawn because they like hunting in NM and we don't want to tell them to go somewhere else.

**Chairman McClintic:** Are you talking about quality/high-demand hunts?

**Garth Simms:** Yes.

**Chairman McClintic:** Because the way it's written they have the right if they draw the quality/high-demand hunt. Next year they can still take any other hunt they want for that species other than specific quality hunt.

**Garth Simms:** These people that pay a lot of money to come to the state are hunting for trophies.

**Chairman McClintic:** The residents in this state like to hunt for those trophies, too.

**Garth Simms:** I understand that but those people bring a lot of money to this state. We need to get those people to spend that money here and keep the little communities alive. If we get those, there are still 78% available in-state. We had proposed the requirement to submit full license fees with the application to the Department, and the reason is that we think that a lot of these people that are applying and aren't coming and buying licenses are doing that because they're signing onto these application mills that are shooting applications all over the country and then they may get drawn in several states and some other state gets picked. We feel that if you ask them to commit that money it raises the stakes in making those applications and fewer people will shotgun applications. As far as the February draw for deer, we would just as soon keep it where it is. A universal comment I've received about NM's draw system is that they love it as it's a wide open draw, everyone has an equal chance, we don't have a point system, and one doesn't have to apply for 20 years to get enough points to have a chance to draw, and this 1-year holdout is starting to eat into the open draw that people seem to like so much.

**Commissioner Arvas:** You don't talk to many residents though?

**Garth Simms:** I'm talking to 22% of licenses reserved for out-of-state residents. Those are still reserved for out-of-state residents whether they're drawn every year or every other year. People I talk to at the shows are those buying \$50,000 deer rifles and when they come they want to hunt for good quality game.

**Commissioner Arvas:** The 22% is going to be affected by anything we do. I think we're always going to have more non-resident applications than the 22% margin.

**Commissioner Sims:** Every other year are the quality hunts. They can apply and have the draw system they like every year. We're not taking that away.

**Garth Simms:** If someone is going to get on a plane in New York and fly through Dallas and spend money, he's not coming for spikes.

**Commissioner Sims:** Everyone coming into the state is killing Boone & Crockett bucks everytime they come and they're not coming back when they don't.

**Garth Simms:** I'm saying they're here hunting for Boone & Crockett.

**Commissioner Sims:** They can continue to hunt, there are a lot of deer that aren't in the quality hunt.

**Garth Simms:** I'm concerned about chipping away at open draw.

**Chairman McClintic:** You have a valid concern. If we have 50 quality, high-demand muzzleloader hunts in the Gila, 15 outfitters get 11 of those, I imagine we'd probably have 500-1,000 non-residents applying for that hunt, so those 12 if they draw this year I think we've got a lot of people to wait in line next year.

**Jeremy Vesbach:** We hear from sportsmen about the inability to draw a tag. Commissioner Arvas' point that there are 2 things to do about reducing the number of applicants or increase the opportunity available, and one way is the Open Gate Access Program is to improve opportunity. We've not had an opportunity to survey our membership, however, the customer ID number makes a lot of sense. Would the license show up in the mail or would one still have to purchase something over the counter?

**Pat Block:** It'd be similar to an elk/antelope license. Upon successful drawing it'd be mailed to you. One change is we'd also with the customer ID and ability to communicate with people by e-mail, anyone that bought the combination license would also receive an authorization number they could use right away on anything that does not require a carcass tag.

**Jeremy Vesbach:** On the issue of hunting application fees up front, this would reduce the number of applicants by 30,000, is that applicants or applications?

**Pat Block:** We're considering that as applicants.

**Jeremy Vesbach:** Do we have any idea what percentage of those would be youth?

**Pat Block:** No, we don't. The 30,000 is our best estimate and it's going to widely vary from species to species. One place where we expect a much larger drop is bighorn sheep where right now 99.7% of the non-resident apply online. My guess is we'd see a more significant drop in the number of people applying if they had to come up with the full license fee. 93% of residents are applying online for bighorn sheep so we figure we'd lose 30% of those applicants on the resident side probably 80% on the non-resident side. On the other hand, antelope we don't expect a tremendous drop in those and our projections are based on

talking it around 10% on the resident side, 20% on non-resident, so it's 30% cumulative but we're not guessing. It's going to be off the board. It'll vary.

**Chairman McClintic:** This will clarify it, Jeremy. Pat, when we went from paper to online, didn't we see about a 30% increase because they had to put the fee up front on the paper?

**Pat Block:** Yes, and maybe. That was the same year we went with a broader, statewide public deer entry application so it went up more than that and it was tough to tell which piece contributed which chunk. It resulted in a rise in applications.

**Chairman McClintic:** We won't know until we get the numbers if this is put in place. Then we can tell you exactly.

**Jeremy Vesbach:** What percentage of expected reduction in applicants would be youth applicants?

**Commissioner Arvas:** Minimal.

**Jeremy Vesbach:** I request that youth be taken into account of hunter recruitment.

**Chairman McClintic:** The other thing that balances that is when you put your application in, you have to prepare to pay that license in 60 days if you're drawn, so theoretically everyone that submits an application has to be prepared to pay.

**Jeremy Vesbach:** Some members felt they wouldn't be able to put that money up front for children so we want to make sure if this proposal is refined maybe there's some way to exempt youth from those up front fees or at least see how this would affect youth hunter interests/applications. On the quality, high-demand, every other year the quality, high-demand units are based on the percentage of non-residents who apply, and they can change from year to year. What would be the effect of this if we're saying they'd have to sit out a year as a non-resident. It may drive them into standardized units and potentially increase the number of quality, high-demand units, so I'm curious about the effects if we knew about what percentage of hunt codes say for elk are quality, high-demand now and how this might affect that?

**Pat Block:** There's potential for that, but on the other hand if you're taking away demand from other hunts, then they would go away from being high demand. Please also consider that quality hunts also change. Those are set by Commission action through the regulation cycle so none of this is expected to operate in a static situation.

**Jeremy Vesbach:** If there's any quantification since we weren't able to do a formal survey, has the Department been able to quantify comments from sportsmen for/against these?

**Pat Block:** There was relatively little comment positive/negative on customer ID. The holdout seemed to be generally accepted with the every-other-year holdout with some being absolutely fervent in favor and others absolutely opposed, but seemed to be overall in favor. On the full fee up front it was probably 2-1 in favor of.

**Jeremy Vesbach:** On these kinds of things it would be nice to know actual numbers. On the fee up front if there's any way to consider youth, I think that's something everyone would be for.

**Jack Diamond:** Cabela's now has an application service and they're cutting into the outfitter pool. They approached me about using my outfitter's number to apply their people in the draw. That increased fee would stop that. I also think we have a problem letting Cabela's use someone else's outfitter number to put people in the draw. We have issues and the every other year I think is that we hunt in the quality areas and we don't go to northern NM. The problem is that someone could apply up north and they're not going with us and we can't do a good job in there. The early deadline on the deer draw, we book our hunters in February/March/April so when we have an early deadline, that's going to have an impact. Is it possible to go to every other year for residents and maybe every year for non-residents?

**Chairman McClintic:** The problem is that even though we don't like to admit to it, what's good for the goose is good for the gander and we have a responsibility to non-residents that tell us that we have the worst draw system. We need to benefit them as much as we're benefitting residents.

**Jack Diamond:** I didn't realize the Department couldn't make money. I was going to suggest having non-residents file a \$25 non-refundable fee.

**Chairman McClintic:** Everything we do we try it and see how it works out, and if not we re-visit it. Our goal is less pressure on the draw, not lose any money, and make residents/non-residents happier with better percentages to draw a tag.

**Angel Montoya:** If you're trying to reduce the number of resident/non-resident applicants, can't you penalize those individuals instead of increasing fees?

**Commissioner Arvas:** That's not the issue. We've just discovered these complaints from the vendors. We were under the impression that they were buying licenses. The biggest thing we're trying to do is increase more satisfaction on the part of everyone considering the draw system.

**Angel Montoya:** Based on that comment, I'd like to see us go to every other year for those quality hunts. That provides more opportunity for sportsman. I'd like this opened for further discussion at another meeting.

**Chairman McClintic:** We've got to get our books out.

**Commissioner Arvas:** What would happen if we went to a full fee up front for all species except for deer/elk/oryx?

**Pat Block:** It would create some work but the problems with deer are all the re-tooling we'd need to do to be able to let people take advantage of those discounted combination licenses. We have a similar issue with elk because there are the fees for antlerless/mature bull/quality hunts. Residents also have the junior/senior discount to contend with so we're homing in on something that would be achievable. The problem with oryx is it's got the February deadline. We're talking about having that

done within next few weeks. In anticipation of this item, we did place before the legislature the request for additional budget this year so we'd be able to talk to them about reducing that amount. We have it broken out by species and the biggest chunks come in with deer when we go to the license which we can't physically do until 2010. Elk is another chunk so without those we'd be paying to credit card processors \$182,000, about \$1 due to the residents, \$4 to non-residents, so we'd have a \$1 increase to \$9 in the resident application fee to do that and to cover costs, a \$4 increase to \$12 for non-residents to cover the cost, so that's a reasonable way to go.

**Commissioner Arvas:** If we gave you a year and then came back next year and did the full fee for all species, you'd be happier?

**Pat Block:** That would entail the remainder. It would likely cost us \$1 on the resident, so on the second year the resident application fee would go to \$10 and then when you bring in the large number of people/money that go with deer/elk, it would mean that we'd have to go to about \$27 on non-resident application fee which is close to what Mr. Diamond talked about. I would tend to agree that that's going to deter someone who is already paying anywhere from \$500-\$3,000 for their hunt.

**Commissioner Simpson:** In reference to how we operate things, at the end of the meeting in Alamogordo on October 2, you'd offered some suggestions.

**Chairman McClintic:** This has been on the website for a month and 70% of what the Department received were in favor.

**Pat Block:** In ideal circumstances that would be great, but unfortunately we're at the point where a week could cost you a year so if we want to have something in place for 2009 season, we do it now or we can come back through the next year and talk about it for 2010.

**Chairman McClintic:** We're asking for a minimal amount. Mr. Vesbach, Kent Salazar and you were sitting in the corner at the last meeting when this was brought up and Kent said it's a good idea, let me run it by everyone and let's have some conversation. I told him it'd definitely be on the next agenda and we'd act on it, and he did tell me he'd get back. I never heard from him.

**Jeremy Vesbach:** I talked to Department staff after that and I was told that the up front fee would not be on an action item for this.

**Chairman McClintic:** Who told you in the Department, I need a name?

**Jeremy Vesbach:** The leadership of the Department. A number of folks were there, Pat was there and I was under that impression.

**Chairman McClintic:** Did you tell him that, Pat?

**Pat Block:** I don't have the authority to set the agenda.

**Jeremy Vesbach:** We didn't have time to do that.

**Chairman McClintic:** So you want us to waste another year? It has to be done today or not.

**Jeremy Vesbach:** I can't offer a formal NM Wildlife Federation opinion today.

**Chairman McClintic:** We can make a decision without that opinion.

**Jeremy Vesbach:** Would it be a burden to exempt youth from the up front fee?

**Pat Block:** It's achievable, but where I do get stuck is that 1 of the things we hear about the system is that our draw is great because we've been able to stay out of a preference point system but we hear it's very complicated and so anytime we add more complexity to it, we're making it harder on the customer. I think that if we have a fee for this and another fee for that, we're making it more confusing for the customer so I have a concern that it would not be manageable for the customer.

**Director Stevenson:** We just had an outside review by the International Hunter Education Association and one component of that was that they spoke to several individuals that had gone through the hunter education program, and what they reported back to us was that those individuals were disappointed they hadn't been able to draw a permit and hadn't been able to go hunt. Some of them had been out 4-5 years. The Commission has hunt periods for elk and other things that we hope will address but that's only 1,000 more.

**Chairman McClintic:** We're trying to compromise with doing the whole thing and get a test case scenario for 1 year that we can re-visit. If we lose this window of opportunity, we can't make a single change.

**Pat Block:** The only youth hunts that would be affected by this are the hunt code for bighorn sheep and the handful of hunt codes for antelope this year. I think we have ample opportunity to talk about how to potentially exempt youth from the deer/antelope hunts which are where just about all of them are with those two exceptions.

**Chairman McClintic:** So would you say that 90% of the applications for deer/elk are for youth?

**Pat Block:** Yes.

**Chairman McClintic:** So, 90% isn't going to change, Jeremy, because deer/elk we're not putting the fee up front.

**MOTION:** **Commissioner Arvas** moved to adopt amendments as proposed by the Department to the Licenses and Permits Rule, 19.30.9, NMAC, and the Hunting and Fishing License Application Rule 19.31.3, NMAC, including requiring all public draw and private land hunting license applicants to obtain a customer identification number prior to making application, to clarify the application fee for private and hunting license applicants, to waive the deer application fee for holders of the free DAV license, and to establish a 1-year holdout period for all public draw pronghorn antelope hunts and for deer and elk public draw hunts

designated as "quality" or "high-demand" hunts requiring all applicants for antelope, Barbary sheep, bighorn sheep, Ibex, and Javelina to submit the full license fee prior to the drawing in license year 2009-2010, and requiring all applicants for all public draw licenses in the 2010-2011 and subsequent license years. **Commissioner Sims** seconded the motion.

**VOTE:** Voice vote taken. All present voted in the Affirmative, except **Commissioner Simpson** dissented. **Motion carried.**

Pat Block: One thing I neglected to include in the briefing and I have provided a couple of dates to Commissioner Arvas is that within the application rule it says that the Commission will specify the application deadlines for the hunt draw applications.

**MOTION: Commissioner Sims** moved to direct the Department to establish hunt draw deadline dates for the 2009 that include February 4, 2009 for population management and the oryx license for bear and turkey entry permits; April 8, 2009 for antelope, Barbary sheep, bighorn sheep, elk, Ibex, and Javelina licenses and deer permits. This motion also further directs the Department to move the 2010-2011 application deadline for public draw deer hunts to a February timeframe, change the process to issue licenses rather than permits and preserve the ability for resident applications to purchase combinations and other discounted licenses. **Commissioner Arvas** seconded the motion.

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

**AGENDA ITEM NO. 17: State Game Commission Appointment of Citizen Advisors to the Habitat Stamp Program.**

**Presented by Dale Hall** – Habitat improvement projects are designed each year for funding by the Habitat Stamp Program.

These projects are reviewed and prioritized by 5 regional Citizen Advisory Committees. The committees, through the Department, presented a recommended project list to the State Game Commission each summer. Appointed by the Commission, advisors serve 3-year staggered terms. The Department sought appointment of 14 advisors statewide, including 10 sportsmen, 2 environmentalists, and 2 permittees. The recommended individuals will serve for a 3-year term to expire 12/31/11 and they are: Dr. Jim Fanning; Richard Kreiner; Billy Jack Pound; Cristino Griego; Bruce Richardson; Mike Maurer; John Padilla; Richard Hewett; Bryan Nygren; Terry Gustin; Pat McCasland; Angel Montoya; Dusty Hunt; and Robert Tafanelli.

**MOTION: Commissioner Salmon** moved to accept the recommended list of 14 Citizen Advisors to the Habitat Stamp Program and appoint them to a term that expires on December 31, 2011 as presented by Department staff. **Commissioner Simpson** seconded the motion.

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

**AGENDA ITEM NO. 20: Land Conservation Matters and Approval of Ancones Ranch Conservation Easement.**

**Presented by Matt Wunder** – The Commission was asked to approve the proposed acquisition of an approximately 196-acre conservation easement on the Ancones Ranch located in Rio Arriba County. Values of the easement include protection of the wildlife habitat along a one-mile stretch of the Chama River and the scenic viewshed along the Chama River around the Village of Los Ojos. The easement was acquired in conjunction with the New Mexico Land Conservancy, which will be responsible for the management and monitoring of the easement. The participants in this are Vern and Dora Casados, the owner-grantor. The New Mexico Department of Game and Fish is a Grantee and 50% undivided owner. The New Mexico Land Conservancy, Manager Grantee, partially holds and manages the easement also a 50% undivided owner. The easement cost is \$150,000. The appraised value of this easement is \$835,000. The difference between the \$835,000 and \$150,000 is a donation from the Grantor. Grantor then has the option of seeking a tax credit. The funding for this purchase is coming from the Land, Wildlife, and Conservation Easement Appropriation through Energy, Miners and Natural Resources Department. The protected values under this easement are natural habitat, game and non-game species, conservation values, agriculture production, water rights, open space and scenic vistas. Some of the protections are no subdivision, new construction limited to two building envelopes of 7 ½ acres total, water rights will not be separated from the land, agriculture production will be sustained, riparian areas not to be modified or impaired, no clear cutting, no new roads, no recreation off-road vehicle use, soil and sand gravel rock mining for property use only, no refuse dumping, no storage disposal release of hazardous materials, commercial activity restrictions, recreation limited to low-impact activities. There is no public access guaranteed with this easement and science will be limited in purpose, size, and color.

**Chairman McClintic:** We're buying an easement but there's no public access?

**Commissioner Sims:** We do that all the time Rio Arriba.

**Matt Wunder:** That is correct. The easement essentially is protecting the open space of the property. There is no provision in the easement that prevents the landowner from allowing public access but the easement itself does not specify that they have to allow public access.

**Jim Karp:** You have to realize this transaction is being handled through the Commission solely as a facilitator for the benefit of the Energy, Minerals, and Natural Resources Department who received the LWCE appropriation. They cannot hold interest in land, the Commission can; therefore, in order for them to effect these easements, and this was purchased and negotiated solely as a conservation easement for open space, they have to have a state partner or a "front" that will in effect take title to the

property. It's open and above board. They can't go to the legislature and ask for permission to own property. They can only own it for park purposes.

**Commissioner Simpson:** I didn't hear you do an oil and gas royalty evaluation. Has this got mineral rights? I didn't see an evaluation of the mineral rights and potential impact.

**Jim Karp:** There was an analysis done of the mineral rights and the report came back that there was virtually no likelihood of anyone exercising any rights on that property. There wasn't anything to exercise but there are outstanding mineral rights.

**Chairman McClintic:** But they don't go with the property?

**Jim Karp:** They stay with the property. All we're getting is an easement. We're not buying the property.

**Chairman McClintic:** No public access?

**Jim Karp:** There's no public access as Matt indicated.

**Commissioner Simpson:** We're buying an easement, we don't have public access, it still doesn't keep the landowner that owns the mineral rights, they do own the mineral rights, right?

**Jim Karp:** I'm not certain whether they own the rights or whether they've been sold.

**Commissioner Simpson:** I'm saying is that if they own the mineral rights they can develop that property and drill all over it and ruin all the stuff we're trying to protect. I didn't see an evaluation and you're still not telling me you evaluated that aspect because that could destroy that open space.

**Jim Karp:** Maybe I didn't make myself clear. There was an analysis done of the mineral rights and the likelihood of those mineral rights impacting the value of the property. It was determined that there is virtually no impact on the value of the property attributable to those mineral rights because there is virtually no likelihood of those mineral rights ever being exercised or used.

**Commissioner Simpson:** I have a different opinion because I know they're going to drill everywhere up there and there are applications all over that place.

**Commissioner Sims:** All over Chama?

**Commissioner Simpson:** The Oil Conservation Division, the Governor made them go back and do some re-evaluation to drill in those high alpine areas. That's what's going on and it's spreading so that's why I brought that question up. There's high likelihood that they could drill on that property.

**Chairman McClintic:** Do you want us to not vote for this?

**Commissioner Simpson:** I just want an honest evaluation.

**Chairman McClintic:** I know, but he doesn't have the answer.

**Jim Karp:** I do. I have the report if Commissioner Simpson would like to see the report. I have it with me.

**Commissioner Simpson:** What's the deadline for giving approval? We've got 2-3 months to give approval?

**Jim Karp:** This transaction will close on December 19 if it's approved tonight.

**Commissioner Simpson:** Go ahead and buy the damn thing.

**Commissioner Sims:** You're going to buy it?

**Commissioner Simpson:** I ain't going to apologize. I've said enough.

**Commissioner Salmon:** One of the listings said recreation will be limited to low-impact activities. That would seem to contradict the lack of access. It seems they're anticipating some public access if they anticipate low-impacting activities.

**Matt Wunder:** Well, the easement does not prohibit public access. If the landowner wishes to allow people on there for low-impact recreation, that is commensurate with the goals of the easement. What they can't do is set up an off-road vehicle park or something of that nature on the property. The landowner still does control access to it and they can allow people on there for recreation if they so choose.

**Commissioner Salmon:** Public access or controlled public access would be something we wouldn't know about until the purchase was made and it would evolve one way or the other. You can't predict it?

**Matt Wunder:** Right. Well, the one form of recreation they can allow is hiking and the low-impact stuff to their heart's content, but they cannot allow things like the off-road vehicle use even if they want to under this easement.

**Chairman McClintic:** I think what Commissioner Salmon is getting at is the contradiction that there is no public access, yet they do allow certain stuff.

**Jim Karp:** There is no public access specifically granted. The owner of the property has the option to allow low-impact recreational use.

**MOTION: Commissioner Arvas** moved to authorize the Chairman to execute documentation required to effect the purchase of a conservation easement over approximately 196 acres of the Ancones Ranch in Rio Arriba County for an amount not to exceed \$150,000. Execution of such documentation to be subject to approval of the Department and counsel of the Commission. Completion of the acquisition to occur not later than March 31, 2009. **Commissioner Sims** seconded the motion.

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

**AGENDA ITEM NO. 21: Adjourn.**

**MOTION: Commissioner McClintic** moved to adjourn. **Commissioner Simpson** seconded the motion.

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

Meeting adjourned at 7:04 p.m.

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**Tod Stevenson**, Secretary to the  
New Mexico State Game Commission

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**March 5, 2009**

Date

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**Jim McClintic**, Chairman  
New Mexico State Game Commission  
Minutes Transcribed by: Katie Gonzales  
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**March 5, 2009**

Date