

**NEW MEXICO STATE GAME COMMISSION**

**New Mexico Military Institute Pearson Auditorium**

**101 West College Boulevard**

**Roswell, NM 88201**

Day and Date: Thursday, November 19, 2015

Time: 9:00 a.m. – 5:00 p.m.

Meeting called to order at 8:56 am

FEMALE SPEAKER: The side door, we ask that you go up front and please sign in and if you would like to make comments, there are comment cards up front. Thank you.

CHAIRMAN KIENZLE: I do want to say, though, that on Agenda Items Number 7 and 8, which are appeals, actually number 8 is not like that, but Number 7 is an appeal and there will be no public comment. Let's go around the room and introduce ourselves and introduce any guests. Dave, you want to start?

(Inaudible)

FEMALE SPEAKER: (indiscernible)

(Inaudible, multiple self-introductions)

MALE SPEAKER: We approved it.

GUEST SPEAKER: Mr. Chairman, good morning, I'm (Inaudible).

GUEST SPEAKER: Commissioners, good morning. I'm (Inaudible).

GUEST SPEAKER: Good morning, Mr. Chairman, (Inaudible).

FEMALE SPEAKER: There's people outside talking. Should I go close the doors?

FEMALE SPEAKER: Yes.

GUEST SPEAKER: (Inaudible)

GUEST SPEAKER: Josh Marsten (phonetic) (Inaudible)

GUEST SPEAKER: (Inaudible)

GUEST SPEAKER: Good morning, Mr. Chairman, Commissioners. My name is Robert Griego, New Mexico Game and Fish.

CHAIRMAN KIENZLE: Shut those doors.

MALE SPEAKER: Yes.

GUEST SPEAKER: (Inaudible) Las Vegas (phonetic).

GUEST SPEAKER: Good morning, Commissioners. I am (indiscernible). I am a high school student in Las Vegas, New Mexico.

GUEST SPEAKER: (indiscernible)

GUEST SPEAKER: Good morning, Commissioners. My name is Robert (indiscernible), Las Vegas, New Mexico.

GUEST SPEAKER: (indiscernible) Smith.

GUEST SPEAKER: Good morning. Mike Sloane, Chief of Fisheries, New Mexico Department of Game and Fish.

GUEST SPEAKER: Good morning, Mr. Chairman, Commissioners. Stewart Liley, Chief of Wildlife Management, New Mexico Department of Game and Fish.

GUEST SPEAKER: (Inaudible).

GUEST SPEAKER: Good morning, Mr. Chairman, Commissioners. (Indiscernible) Operations (indiscernible).

GUEST SPEAKER: Good morning, Mr. Chairman, Commissioners. (Inaudible, background noise)

GUEST SPEAKER: Good morning, Mr. Chairman, Commissioners. (Indiscernible)

GUEST SPEAKER: Good morning, Commissioners. (Indiscernible) Fish and Wildlife

GUEST SPEAKER: (indiscernible) McDonald (phonetic), Roswell (indiscernible)

GUEST SPEAKER: (indiscernible) New Mexico

GUEST SPEAKER: Morning. (Indiscernible)

FEMALE SPEAKER: No. No (indiscernible).

GUEST SPEAKER: (Inaudible), New Mexico.

GUEST SPEAKER: Jim (indiscernible).

GUEST SPEAKER: John (indiscernible), Roswell, New Mexico.

GUEST SPEAKER: (Inaudible)

GUEST SPEAKER: Good morning. Garrett VeneKlasen, New Mexico Wildlife Federation.

GUEST SPEAKER: Joel Gay, New Mexico Wildlife Federation.

GUEST SPEAKER: Good morning. Jason (indiscernible) New Mexico (indiscernible).

GUEST SPEAKER: (Inaudible)

GUEST SPEAKER: Good morning. Kirk Atkinson (phonetic) from Roswell, regional representative for (indiscernible) Club International.

GUEST SPEAKER: (indiscernible) New Mexico hunter and education instructor, member of Safari Club and New Mexico chapters (Inaudible).

GUEST SPEAKER: (indiscernible) Legislative Affairs.

GUEST SPEAKER: John (indiscernible)

GUEST SPEAKER: (indiscernible), Roswell

GUEST SPEAKER: (indiscernible) President of the (indiscernible) Association

GUEST SPEAKER: (Inaudible)

GUEST SPEAKER: (Inaudible)

GUEST SPEAKER: John Hagart (phonetic), New Mexico (indiscernible) Association.

GUEST SPEAKER: (indiscernible) Roswell.

GUEST SPEAKER: (indiscernible)

GUEST SPEAKER: Jason Perry, City Council, Roswell, New Mexico and also chairman of the Republican Party of Chaves County.

GUEST SPEAKER: (indiscernible)

GUEST SPEAKER: (indiscernible) Mexico Sportsmen.

GUEST SPEAKER: (indiscernible)

GUEST SPEAKER: Gary (indiscernible)

GUEST SPEAKER: Tom (indiscernible)

GUEST SPEAKER: (indiscernible)

GUEST SPEAKER: Nick (indiscernible)

GUEST SPEAKER: (indiscernible) (Inaudible)

GUEST SPEAKER: Jeremy (indiscernible)

GUEST SPEAKER: (Inaudible)

GUEST SPEAKER: (indiscernible) New Mexico

GUEST SPEAKER: (Inaudible)

GUEST SPEAKER: (Inaudible)

GUEST SPEAKER: (indiscernible) New Mexico

GUEST SPEAKER: (indiscernible)

GUEST SPEAKER: Mike (phonetic) (indiscernible)

GUEST SPEAKER: (indiscernible)

GUEST SPEAKER: Mike Murphy (phonetic). I'm from (indiscernible), New Mexico.

GUEST SPEAKER: (indiscernible) Roswell, New Mexico.

GUEST SPEAKER: Denise Dawson (phonetic), Roswell Education Association.

GUEST SPEAKER: (indiscernible) New Mexico. Thank you.

GUEST SPEAKER: (Inaudible) New Mexico (indiscernible)

GUEST SPEAKER: (indiscernible) New Mexico Game and Fish, Santa Fe.

GUEST SPEAKER: (indiscernible)

GUEST SPEAKER: Mike Healy (phonetic) (indiscernible).

GUEST SPEAKER: (indiscernible) New Mexico.

GUEST SPEAKER: (indiscernible)

GUEST SPEAKER: Kevin Bixby, Executive Director of Southwestern Environmental Center, Las Cruces.

GUEST SPEAKER: John Crenshaw, President of New Mexico Wildlife Federation.

GUEST SPEAKER: (indiscernible) New Mexico

GUEST SPEAKER: Rod McPherson (phonetic) (indiscernible)

GUEST SPEAKER: Michael Robinson, Center for Biological Diversity, Silver City, New Mexico.

GUEST SPEAKER: Julie (indiscernible), Roswell, New Mexico

GUEST SPEAKER: O. L. Adcock (indiscernible) hunter of 30-plus years and (indiscernible) instructor for 30 plus years.

GUEST SPEAKER: Sterling Spencer (phonetic), Wildlife Manager and Land Manager.

GUEST SPEAKER: Carl Johnson (indiscernible).

GUEST SPEAKER: (indiscernible)

GUEST SPEAKER: (indiscernible) Albuquerque.

GUEST SPEAKER: (indiscernible), New Mexican Cattle Growers.

GUEST SPEAKER: Larry Cruz (phonetic) (indiscernible), Las Cruces.

GUEST SPEAKER: (indiscernible), New Mexico

GUEST SPEAKER: Jose Varela Lopez, President, New Mexico Cattle Growers Association

GUEST SPEAKER: (indiscernible)

CHAIRMAN KIENZLE: Is that it? I think we got most everybody.

FEMALE SPEAKER: Representative Ezzell just walked in.

CHAIRMAN KIENZLE: Close enough.

FEMALE SPEAKER: Mr. Chair, if I may, I would like to recognize Representative Ezzell. She just walked in. Thank you very much, Representative, for joining us today.

CHAIRMAN KIENZLE: Good morning.

REPRESENTATIVE EZZELL: Good morning, everyone. I am just delighted to be looking into the faces of a hometown crowd today. On behalf of Roswell, Chavez County, and Southeastern New Mexico, thank you all for attending and taking part in our important agenda today. Thank you so much.

CHAIRMAN KIENZLE: Good morning everyone. Thank you. Can I get a motion to approve the minutes from the September 29, 2015 meeting?

COMMISSIONER RAMOS: So moved.

COMMISSIONER SALOPEK: Second.

CHAIRMAN KIENZLE: All in favor?

ALL MEMBERS: Aye.

CHAIRMAN KIENZLE: The Aye's have it.

CHAIRMAN KIENZLE: **AGENDA ITEM NUMBER 7: Turner Endangered Species Fund Appeals of the Denials of Applications to Import and Possess Mexican Gray Wolves.** Director, can you gather up the parties on both sides and find us a room where we can visit for a moment?

DIRECTOR SANDOVAL: Yes, Mr. Chair. If I may have the General Counsel from the Turner and the Game and Fish Department come up here on the back stage, we'll go down underneath the stage in a meeting room.

CHAIRMAN KIENZLE: Anyone you want to bring with you, that would be fine. You can bring everyone.

(Inaudible)

DIRECTOR SANDOVAL: Yes. Come up here on stage. (Audio ends)

(Audio resumes)

CHAIRMAN KIENZLE: Good morning again. I had an opportunity to visit with both sides for the appeal, Agenda Item Number 7, this morning. And, just for the benefit of the public, there will be a presentation by both sides, 30 minutes per side, roughly. If Commissioners ask questions, we will adjust that time a little bit to make sure that both sides get to present their full argument. After the Department speaks, and they speak second and the appellant speaks first, there will be approximately 15 minutes for rebuttal for the appellant. They get the final word. By noon on December 18th, the appellant has the ability to supplement the record with any additional materials they want the Commission to consider. And then by noon on January 8th, both parties need to provide findings of fact and conclusions of law. At that point, at both of those junctures, the Director will forward those materials to the Commissioners for consideration. And then the final decision will be made on January 14, 2016 at our meeting in Santa Fe. I think we're in Santa Fe?

FEMALE SPEAKER: Yes.

CHAIRMAN KIENZLE: So that's the protocol for these 2 appeals. I did note, when I saw Mr. Phillips today, that he had quite a bit more hair than when I saw him last time. I want him to tell you why he has got more hair.

MIKE PHILLIPS: Mr. Chairman, members of the Commission, thank you for that first question. It's a soft ball. My youngest daughter is 6 and in her kindergarten class she had a classmate that was a cancer survivor and now, in her first grade classmate that's a cancer survivor. So Annabelle (phonetic) has challenged me to help her grow hair for cancer. So that's our aim. I'm not sure I'll make it, but she sure will. And I appreciate the question. I am proud of Annabelle and her concern for her classmates. And that is why you see me a bit unsettled today with rather unruly hair. So thank you Mr. Chair.

CHAIRMAN KIENZLE: You look like a fashion model.

MIKE PHILLIPS: Credit goes to Annabelle.

CHAIRMAN KIENZLE: Mr. Marks (phonetic), you want to go first? Mr. Phillips?

MIKE PHILLIPS: Mr. Chairman, members of the Commission, my name is Mike Phillips. It's been my distinct privilege to serve as the Executive Director of the Turner Endangered Species Fund, and the coordinator of the Turner Biodiversity Divisions since I co-founded both with Ted Turner in July of 1997. I am here today in support of two appeals that I have brought forth pertaining to recent denial decisions. But before moving to the specifics of appeal number 1, I would like to digress for a moment and speak broadly about the work of Team Turner in New Mexico. As you are aware, Agenda Item Number 20 today concerns the Department's final revision of the State Wildlife Action Plan for 2016 to 2026. In general, state wildlife action plans assess habitats and species and provide critically important guidance to fish and wildlife conservation scientists and advocates in New Mexico. It really is a great roadmap for imagining New Mexico's future. The current statewide action plan that the Commission will consider today identifies 455 species of greatest conservation need. I mention this because of the relevance of the action plan to Team Turner's long-standing commitment to New Mexico's fish and wildlife resources and our long-standing productive relationship with New Mexico Department of Fish and Game. In the first State Wildlife Action Plan that New Mexico authorized, the Mexican Wolf was listed as a category 1 species of greatest conservation need. And that document identified threats to the species that are as pressing today as they were 10 years ago. The draft version that you will consider today does not actually list the Mexican Wolf (*canis lupus baileyi*), but rather lists the gray wolf (*canis lupus*) at a category 1 species of greatest conservation need throughout nearly 50 percent of the State of New Mexico. This is noteworthy for many reasons including the fact that most species of greatest conservation need are not mammals. The point: among imperiled life forms in New Mexico, mammals are doing relatively well excepting the gray wolf and a few other unfortunate mammals. The best available conservation science, as assembled by the Department's own scientists, makes clear the dire circumstances concerning the gray wolf's future in New Mexico. We have, Team Turner has, determined since 1997 to do what little we can to improve the future for that species. More generally speaking to your wildlife action plan, of the 455 species listed as greatest conservation need, Team Turner has voluntarily initiated conservation projects on 5 percent of them across New Mexico. Team Turner is by far the most common private entity involved in work recommended by the State Wildlife Action Plan. These proactive projects are in addition to the passive benefits related to Mr. Turner's decision to manage nearly 1 million acres in New Mexico in a manner that undoubtedly provides benefits to myriad species. It's worth noting that these passive benefits will be provided indefinitely given Mr. Turner's recent decision to launch the Turner Conservation Trust. Starting with the historic desert bighorn sheep restoration effort to the Fra Cristobal Mountains of the Armendaris Ranch, an effort that was instrumental in the species being removed from the state list of threatened and endangered species, a project that is instrumental in the resulting 30 recreational hunts of desert bighorn rams. We have collaborated with Game and Fish on several other important imperiled species projects. From the black-footed ferret to the Chiricahua leopard frog, we have made varied and substantive contributions to conserve New Mexico's magnificent natural heritage. It is noteworthy that our collaborative efforts with Game and Fish on behalf of the Rio Grande cutthroat trout in both northern and southern New Mexico represents the largest such private-public partnership in the country and was instrumental in the United States Fish and Wildlife Service deciding to not list Rio Grande cutthroat trout under the Endangered Species Act. Team Turner's efforts over the past 20 years to advance the future prospects of New Mexico's fish and wildlife resources depended on support from New Mexico Department of Game and Fish. We readily acknowledge that fact and appreciate that the Department has consistently supported our efforts to contribute to a better future. We hold that support in high regard. We have worked very hard to not disappoint. With that, and regrettably, I now move to the

specifics of Appeal Number 1 which concerns the Director's May 22, 2015 denial of my application to renew a permit to maintain Mexican gray wolves in captivity at the Ladder Ranch. Mr. Chairman, I want to make clear at the outset that, in deference to the Commission's time, my oral testimony today represents an abbreviated version of the formal appeal dated June 1, 2015. I mention this to ensure that the formal appeal by this reference is included in the administrative record. The captive facility at the Ladder Ranch has been operational on a near daily basis since 1998. Our 17-year record has been exemplary. The Department has never expressed any concerns over its operation until June of 2015 and we will get to that. That is the essence of the second appeal. Since 1998, over 100 different wolves have been held in captivity at the facility and 34 wolves have passed through the facility before being released to the wild, including 13 that were born at the Ladder Ranch. Eight wolves from the Ladder have been released in Mexico as part of that historic restoration underway there. In addition to housing wolves before release, the facility has held 32 wolves that were removed from the wild to resolve conflicts with ranchers, livestock, and other land owners. This is a critically unique role served by the Ladder Ranch. Given that the Department of Game and Fish recognizes the wolf as endangered as per the state's Wildlife Conservation Act and the State Wildlife Action Plan as being reviewed today, it is clear that in some small way the Ladder Ranch has assisted the Department of Game and Fish with the conservation of an important species at no cost to the State of New Mexico. This is not an inconsequential donation to the state. I estimate that since 1998, we have expended over \$600,000 of private and Federal money to operate the facility. With that, Mr. Chairman, since not everyone here has been to the facility, I have some handouts, some quick photographs I'd like to go over if that is OK with the Chairman.

CHAIRMAN KIENZLE: Yes.

CHAIRMAN KIENZLE: Do you have an additional set for the Director?

MIKE PHILLIPS: (Inaudible)

CHAIRMAN KIENZLE: OK. Make sure she gets a set for the record.

MIKE PHILLIPS: Mr. Chairman, members of the Commission, if we could go through this just page-by-page, the first page I am looking at the map. If you go to the right quadrant of the map, you'll see a yellow star, a yellow star in the right quadrant of the map, the lower quadrant of the map. That yellow star is the headquarters for the Ladder Ranch. For all intents and purposes, the Mexican Wolf facility is just northwest of that yellow star a little bit. So that yellow star could easily represent the location of the Ladder captive facility for Mexican Wolves. The ranch is outlined in dark black. It is a big piece of ground, and important piece of ground with many miles of common boundary with the Gila National Forest. Notably, the captive facility is many miles north of the nearest neighbor. You can go to the next page. There is a figure, it is a picture. It shows a side, one wall of the pen. I am looking at this just to be sure we are all on the same thing. It is a captive facility. The walls are tall, and there is a 45 degree overhang that comes to the inside that makes it difficult for any wolf to climb out; wolves are actually good climbers especially if they have corners to work but that 45 degree overhand insures they are not going to climb out. You can see the well-worn path at the base of the pen. That is on top of a dig barrier to insure that they don't dig out. The next picture really just looks like rural New Mexico. But if you look near the right portion of the center you'll see a small gray structure, right of center in that photograph, is just our observation blind. I show you this picture just to drive home the fact that this is a very remote setting. You can't even see the pens, really, unless you know where to look. The next picture just shows,

this is the one I'm looking at, just shows one of the enclosures. They are largish. They cover a third to a half of an acre and they are rugged to give wolves a chance as best we can to let them experience something that begins to look like life in the wild. The next few figures drive home the same point. They are big pens, they are remote pens. They are not near people. They are not near neighbors. It is an ideal captive facility for Mexican Wolves. And I will repeat throughout my testimony, of course these are animals that are just being maintained in captivity. Mr. Chairman, members of the Commission, it is important to note that the record reflects that my request for a renewed permit was denied for one reason only: the lack of an approved Federal recovery plan for the Mexican Wolf. Nobody, over the last 20 years, has worked harder in this country to get a Mexican Wolf recovery plan than me. We have spent a lot of money and a lot of time trying to get the United States Fish and Wildlife Service to develop a Mexican Wolf recovery plan. I share your concern that one does not exist that is current. But as you are aware, there is a process that will begin in December of 2015 that will result in a new plan being adopted by December of 2017. It is noteworthy that you guys have identified 2 top-flight biologists to participate in that recovery planning effort: Mr. Liley who is here today, and Dr. Eric Rominger Now, I know Eric well. He was a great team mate on the desert bighorn sheep project. I don't know Mr. Liley well but I am sure he is also up to the task of contributing to the development of a Mexican Wolf recovery plan. So I share your concerns. But the essence of my appeal is the simple observation that the lack of an approved Federal recovery plan is not a condition upon which the Director can deny a request for a renewed permit. It simply does not exist in code as a condition for denial. There are 3 things that allow the Director to say, "No." She can say "No" to an application for a permit if it includes false or incomplete information. She can say "No" if the permit conflicts with current conservation measures or negatively affects local or regional species numbers. The application we tendered is for maintaining wolves in captivity. Consequently those individuals at our facility under our permit have no potential to conflict with any conservation objective that the Department or the Commission needs to advance. And, finally, an application can be denied if the facility that is considered by the request has failed to contribute substantive scientific, educational, or conservation benefits. It's clear that the Ladder Ranch has provided those benefits. Consequently, I believe the denial decision was arbitrary and capricious. Curiously, and in contrast to the Director's denial of my request, the Director did issue a permit to the Albuquerque Biological Park to maintain wolves in captivity. Like the Ladder Ranch and several other captive facilities in New Mexico, including a state park, the Albuquerque Biological Park is an important component of the Mexican Wolf recovery program. For example, the Park's own website states conservation efforts are helping to protect Mexican Wolves. Captive breeding under the wolf recovery plan aims to restore lobos to their native Southwest territory. The Albuquerque Biological Park is a holding facility for wolves and cooperates with State and Federal agencies in reintroduction efforts. If the Director's only reason for denying my request for a new permit was the lack of a federal recovery plan, it would have been consistent for the Director to deny the zoo's request to hold Mexican Wolves in captivity as well as every other facility in the State of New Mexico. The Director's failure to do so gives the strong presumption that the Ladder Facility and the Turner Endangered Species Fund is being singled out for unequal treatment. For all the reasons I have mentioned, I respectfully request that the Commission overturn the Director's denial of my application for a renewed permit to operate a captive Mexican Wolf facility at the Ladder Ranch. Furthermore, I urge the Commission to authorize the immediate issuance of renewal of my permit number 3443. Now, Mr. Chairman, that ends my prepared comments for our first appeal. In deference to your decision to consider appeals 1 and 2 at the same time, I can now immediately go to the second appeal if that is your desire.

CHAIRMAN KIENZLE: I think probably yes.

MIKE PHILLIPS: Thank you.

CHAIRMAN KIENZLE: (indiscernible)

MIKE PHILLIPS: Members of the Commission, Mr. Chairman, I want to make clear at the outset of my prepared comments for appeal number 2 that, in deference to the Commission's time, my oral testimony today represents an abbreviated version of the formal appeal dated July 16, 2015. I mention this to insure that the formal appeal by this reference is officially recognized as part of the administrative record for this matter. The request to place 6 wolves at the Ladder Ranch under the proper application of the provisions of the state permit that I hold, that remains valid through December of 2016, my request was based on my desire for the United States Fish and Wildlife Service to move 6 wolves from Sevilleta to the Ladder Ranch so they could complete central routine repairs and maintenance of that facility without wolves in place to be bothered. The Ladder Facility has been operational on a near daily basis since 1998 as I have already stated. Our 17 year record has been exemplary. However, in the denial letter the Director ignored the Ladder's exemplary history, deviated sharply from the Game Department's historical approval of such requests to receive and possess wolves, and denied our request stating that the Department is very concerned that current wolf husbandry and handling practices employed at the Ladder Ranch predispose Mexican Wolves to engage in erratic and threatening and nuisance behavior including habituation to human presence once released into the wild. For these reasons, I cannot approve your request to possess additional wolves at the Ladder Ranch until such time as you are able to implement corrective measures that eliminate Mexican Wolf husbandry and handling practices which predispose Mexican Wolves to engage in behavior that jeopardizes the safety and welfare of humans and wildlife or alternatively until you are able to demonstrate that the practices employed at the Ladder Ranch do not lead or contribute to wolf behavior that jeopardizes the safety of humans and wildlife. This appeal presents data all of which were readily available to the Department of Game and Fish that supports the conclusion that no corrective measures are needed to insure proper management of wolves at the Ladder Ranch. Concerning a demonstration to further support this claim, the Ladder Ranch has always been open to the Department of Game and Fish to assess our operations on the wolf project or anything else we do for that matter. We are proud of our work, we are proud of our relationship with the Department. You guys are always welcome. While that is still the case, a proper demonstration of our management of wolves is not possible until the wolves are in place. As I have said, the Ladder Ranch has been operational with captive wolves since 1998. During that entire time, Game and Fish has never expressed any concern over any aspect of husbandry or handling practices until we received the June 30, 2015 denial letter. Up until then, we had naturally assumed that Game and Fish held the Ladder facility and its operation in high regard. Wolf husbandry and handling practices employed at the Ladder Ranch strictly adhere to the standard operating procedures developed by the United States Fish and Wildlife Service. The procedures insure that wolves housed at the Ladder Ranch, and Sevilleta for that matter, receive proper care and treatment to insure their health while minimizing all factors that could potentially contribute to habituation to humans. As evidence of the usefulness of these procedures, it is worth noting the United States Fish and Wildlife Service's success in re-introducing captive born wolves to restore a wild population. Since releases began in 1998, there has been an undeniable evolution of the makeup of the free-ranging population in the direction of wild born wolves, all of which are progeny of captive born animals that were managed (indiscernible) the protocols we use at the Ladder Ranch. By 2007, 90 percent of the free-ranging

population had been born in the wild. That percentage increased to 96 percent by 2010. Since 2013, 100 percent of the documented free-ranging wolves are wild born. Of the 34 wolves held at the Ladder Ranch and subjected to these pre-release protocols only 1, male wolf Number 30, exhibited nuisance behaviors upon release that led to his removal from the wild by lethal means. More generally, from the 214 releases and re-releases that the United States Fish and Wildlife Service has conducted since 1998, only 1 other wolf has had to be removed from the wild by lethal means because of nuisance behaviors. And, only 23 other wolves including 3 dependent pups, they don't get their own decisions, had to be moved or returned to captivity because of nuisance behaviors. In other words, over 90 percent of the releases and re-releases of wolves did not lead to any problem due to nuisance behavior. Clearly the protocols employed in captivity at facilities like the Ladder Ranch are not predisposing wolves to being habituated to humans. Notwithstanding this overwhelming evidence of a successful release program is the fate of 1 wolf, male 1130, it is the foundation for the Department's denial of my request to operate under an existing permit to receive 6 wolves. It is arbitrary and capricious to focus on 1 wolf as part of a multidecadal effort to recover the Mexican Wolf in a process that involves over 200 releases and re-releases of animals including many born in captivity. But nonetheless that was the essence of the denial, 1130 as evidence that Mike, you guys are doing bad work at Ladder Ranch; until you fix the problems or show that they don't exist we are going to deny your opportunity to operate under an existing permit. So, to understand all this you've got to understand 1130. And please know that everything I am sharing with you now was easily discoverable. For myriad reasons, 1130 was an outstanding candidate for release to the wild. He also, because of his genetic makeup was an extremely important wolf to improve the genetic vigor of the free-ranging population. Curiously, the denial letter from the Department only referenced events pertaining to 1130's life for a relatively short period of time from August 14, 2014 through his death on the 20th of May, 2015. This was only about 11 percent of his life. The denial letter effectively ignored about 90 percent of his life that is germane to this conclusion that he had been mismanaged in captivity. So, 1130 was born on the 15th of April, 2008. He died on the 20th of May, 2015. He was 7 years and 1 month old. He spent, excepting 29 days in the wild, he spent his entire life in captivity but at facilities where exposure to humans was minimized. He only spent 11 percent of his life at the Ladder Ranch, never there for more than 6 months. He was at the Ladder from the 29th of March 2011 through the 20th of September 2011, about 6 months. Then he left. And he came back for 4 months, August 14 to December 14. That's the only time he was ever at the Ladder Ranch. But always, at other facilities that were remote like Sevilleta where exposure to humans was minimal. 1130 was part of a conditioned taste aversion program from which he successfully graduated. The program aims to increase the odds that gray wolves do not depredate on livestock once released to the wild. While he was being held in Mexico at the Ranch La Mesa captive facility, caretakers there were able to offer 1130 live prey, deer, javelina, and rabbits. They reported that he readily killed deer, often times alone by himself. Because 1130 and his mate in Mexico did not pair, the service decided to bring him back to the States, put him at Sevilleta, and continue to try to manage his life so that he was a top flight candidate for release. They even went to the trouble of catching a wild born wolf, a female known as 1305, caught her, born in the wild, bothered nobody, they catch her, put her in captivity with 1130 thinking that they will pair bond and breed. She was believed to be a reproductively active adult female. While at Sevilleta, the caretakers twice noticed 1130 and 1305 in a copulatory tie strongly suggesting that they had pair bonded and they were breeding. On the 22nd of April, 2015, the Service grabbed 1130, grabbed 1305 from Sevilleta, took them back to her established territory and let them go. This was the final path, if you will, of a careful orchestration of events to give 1130 every chance possible to successfully transition to life in the wild. They gave him a

chance to breed. The female he was going to be released with, she was wild born, experienced. They put her back and him back in her established territory before she was going to whelp to increase the odds that her movements would be restricted for the cementing of 1130 to that established territory where she had not caused anybody any problems. I know from extensive experience managing captive wolves that are being prepared for release to the wild—red wolves, gray wolves, and Mexican Wolves—that it is very difficult to manage so many circumstances in such a favorable manner to give an individual wolf such a great shot at transitioning to life in the wild. He was a very valuable wolf and every chance the United States Fish and Wildlife Service had to act on that value they did so. If anything he is a case study of proper management in captivity. So, why did he become a nuisance? Results from the pregnancy test conducted at the time of release indicated that 1305 was actually not pregnant despite the 2 copulatory ties observed in captivity. For some unknown reason, shortly after being released, 1305 and 1130 went their separate ways. She did fine. She is still out there doing fine as a free-ranging wild born Mexican Wolf. Not so for 1130. As is the case sometimes for captive born animals that find themselves wandering alone, he began to exhibit nuisance behaviors. Indeed, in the recently completed environmental impact statement for the Blue Range Project, the United States Fish and Wildlife Service reports that 39 percent of nuisance incidents concerning a captive born wolf take place within the animals first 3 months after release. Consistent with this pattern, not long after separating from 1305, male 1130 began exhibiting nuisance behaviors. On the 20th of May, 2015, 29 days after being released, the United States Fish and Wildlife Service issued an order for 1130 to be removed from the wild using lethal means if necessary. He was killed later that day. From my years of wolf experience that any conclusion concerning 1130 becoming something of a nuisance because of the handling and husbandry practices employed at the Ladder Ranch is baseless and unjustified. During the relatively short period of time that he was at the Ladder Ranch, he had minimal exposure to humans who always strictly adhered to standard operating procedures specifically developed for managing Mexican Wolves being prepared for release to the wild. Notably, 33 other wolves held at the Ladder Ranch and managed against those same procedures never became nuisances that required their lethal removal from the wild. No experienced restoration ecologist would deny the well-documented challenges in trying to restore a wild population from captive born stock or the need to take steps to prepare those captive born animals for life in the wild. That captive born wolves present such challenges is a fact that can be attested to by countless experts. It is also a fact that the United States Fish and Wildlife Service has no choice but to recover the Mexican Wolf by releasing captive born wolves. Nonetheless, the United States Fish and Wildlife Service has succeeded at using reintroduction of captive born wolves to establish the wild population since at least 2007 has essentially consisted of wild born wolves. Contrary to the claims of the denial letter, all evidence indicates that the Ladder facility has contributed to that success by employing current best practice handling and husbandry protocols that help captive born wolves successfully transition to an independent free-ranging lifestyle. Consequently, I strongly believe that no corrective measures are needed to insure that the Ladder facility is properly managing wolves in captivity. Concerning the threat that wolves present to wildlife, which was part of the Director's denial as well, it is noteworthy that the Director's denial letter fails to provide any data or examples showing that the procedures employed at the Ladder facility pose a threat to wildlife and for good reason. Wolves at the Ladder facility are maintained in captivity, and consequently cannot represent a threat to wildlife. Notably, out review of well over 1,000 pages of administrative record that we received from the Department who did an outstanding job in honoring our request for the administrative record, over 1,000 pages reviewed, revealed 1 page, 1 page that presented the specifics of 1130's life. Chronology, if you will, 1 page. There was no apparent analysis of the consequences of those

events of his life that would allow anyone to conclude that we are mismanaging wolves at the Ladder Ranch. A review of all the pertinent data shows that the circumstances surrounding 1130's fate were wholly unrelated to the handling and husbandry procedures that we employ at the Ladder Ranch. The only conclusion that can be drawn from those data and those circumstances is that 1130 was simply a data outlier compared to the vast majority of wolves released by the Fish and Wildlife Service including those that were maintained in captivity at the Ladder Ranch. For all these reasons I request that the Commission reverse the Director's decision and authorize the transfer and possession of wolves to the Ladder Ranch per our permit Number 3443 which remains valid through December of 2016. Mr. Chairman, members of the Commission, I appreciate the opportunity to provide these prepared comments. I will certainly stand for any questions.

CHAIRMAN KIENZLE: Commissioners, any questions?

COMMISSIONER RYAN: Let's take, let's assume, for the purposes of this discussion that your protocols were perfect, that there was no error in the husbandry or handling of these wolves, that they had the least minimum contact that could possibly happen, and that you adhere to the standards that you cited to 100 percent of the time. Assuming that, why did this wolf change course and become a nuisance.

MIKE PHILLIPS: Mr. Chairman, Commissioner Ryan, I don't know.

COMMISSIONER RYAN: I think that's the answer that indeed surrounding it that even if we assume that you guys did absolutely nothing wrong why this wolf or why any wolf that you think, Man, he's had a perfect upbringing. He's a perfect candidate, why some perfect candidates, you know, something . . .

MIKE PHILLIPS: That's a very important question, Commissioner Ryan. I have wrestled with the impacts, the effects of captivity on animals being prepared for release into the wild for over 30 years. Here's what I have concluded, and the U.S. Fish and Wildlife Service may see it differently. It is their program, they do all the releases, not me. But I have let more red wolves and gray wolves for restoration purposes than anybody in the world. So, on this point I have an opinion that might matter. I think you ought to let gray wolves go when they are relatively young. I think 1130 became a nuisance not so much because he was a nuisance but he was relatively tolerant of the sights and sounds of people. Even though he was maintained at off-exhibit sites his entire life, he still got fed by people. You guys should come feed with us. They know you're coming. They know you're coming. They know you don't ever do anything bad to them. They don't like you. They are very nervous when you're present, scared to death. But they grow reasonably tolerant. You know the big surprise in Yellowstone National Park? We cut gray wolves lose and we had it pretty well figured out. We had one real big surprise. The observability of gray wolves in the park shocked us. We never expected that they would be so observable. Now other than ungulates, bison and elk probably, gray wolves are the most observable large mammal in the park. And you know why? They don't worry about a car door opening and shutting. They've come to conclude it doesn't matter; it doesn't ever hurt me. So they ignore you. That ignoring process can be construed as tolerance. If I had to say what I personally thought had caused 1130 to be a nuisance, actually when I read the data of how he was being was just tolerant of the sights and sounds of people. He didn't really ever threaten anybody. He was too old. They let him go at 7 years of age. I think the ideal wolf for release is 2 or 3, ideally with a partner that he or she has bred with. If the Commission really wanted to get into the guts of the reintroduction program, start the pinch at that point. Insist that the Mexican Wolf program go out of their way to build a cadre of young, reproductively experienced, mated pairs. Those are the bunch

that you let go. Those are the animals that are 2 or 3, not 7. Now, that said, I'll bet if we were the ones making the decision on 1130, we would have cut him loose. Fingers crossed, he's 7, that's kind of old, but boy he deserves a shot. And so, Commissioner Ryan, I think that's what's going on. But honestly that's just my opinion. I can't back it up with any data. Nobody knows what's bouncing around in his head. Sometimes wolves make really silly choices, sometimes not. Wolf restoration is a numbers game. That's why, when you see us building a framework for restoration, we'll say something like, we need the authority to release up to 15 wolves every year for 5 years. That's 75, that's a lot of wolves. Now in Yellowstone, we hit the mark after about the first 14, probably never needed to release the second bunch, and probably never needed to cut those 10 puppies from Montana loose, 14 was probably sufficient. But, might not have been, especially when we are working with captive born stock. The red wolf program had to let a lot of animals go as has the Mexican Wolf program but eventually, paying attention, you can get it right. Most animals don't create problems. And now, since 2007, free ranging population consists of wild born animals. That's probably a longer answer than you bargained for, but that's what I think is going on.

COMMISSIONER RYAN: Well, that's what I wanted to know. I appreciate your response. Let's discuss your facility that was denied a permit versus the zoo facility that was granted a permit and the discrepancy in those decisions. You brought that up. And one distinction that I see is that your facility is a pre-release facility versus the totally 100% captive facility. So in light of the discussion, we've said several times about our disagreement with the way U.S. Fish and Wildlife Service has made some decisions. I don't think it is any surprise that that is the case in this room. So, with that in mind, and the disagreement with U.S. Fish and Wildlife Service, and your facility being a pre-release facility, why that distinction. I want to know your thoughts on that.

MIKE PHILLIPS: Sure. It's a valid distinction. We are proud that we have stood as a pre-release facility. I'm proud of the fact that I can claim a great deal of ownership of the whole notion of pre-release procedures. They were developed under my watch with the red wolf program in the late 1980's. And it just made sense to me if a wolf is built against a feast and famine regime, that you wouldn't feed these guys every day. For heaven's sake, they don't need to be fed every day. Most domestic dogs don't need to be fed every day; for the record, they are too heavy and the owners ought to feed them less food less frequently. But that's a separate issue. So, they are different. But the difference is in a good way. The Ladder Ranch goes to great lengths to insure that the wolves don't see people any more than absolutely necessary. Now, hold that thought. Every SSP—SSP stands for Species Survival Plan—some imperiled species that are recognized by the American Zoological Association as important. That importance is manifested by a Species Survival Plan program, an SSP program. The Mexican Wolf is an SSP species. All of the institutions that participate in maintaining Mexican Wolves in captivity, like the Albuquerque Biological Park, are part of the SSP program. Every SSP facility is expected to rise to the flag (phonetic) of opportunity to provide animals for release if there is a need. Your state part, Carlsbad, Zoo and Garden State Park is an SSP facility. It could be expected to contribute animals. They might be puppies. I believe Carlsbad is in the queue for having reproductive animals in place with a 2016 breeding season. Those animals might produce puppies that could be part of a fostering effort by the United States Fish and Wildlife Service. Every one of these facilities, Commissioner, is expected to contribute in a substantive way. So at the end of the day, while the Albuquerque Biological Park is different that the Ladder Ranch, in many ways we are exactly, we perform the same role for the Mexican Wolf Recovery Program. All of these facilities exist to advance recovery. If the Commission and Department stands in opposition to Mexican Wolf recovery due to the lack of a Federal recovery plan, that opposition should be presented to

every other facility in the State of New Mexico. Now please understand, I'm not throwing these guys under the bus. I don't want you to say 'No' to them. A big part of me said, "Mike, don't bring it up." But the fact is, that's the truth. It sure looks like the Ladder Ranch is being singled out only because we are private. And yet when I look at our record of collaboration, I think why in the world would we be singled out. At the end of the day, you guys can count on us. You have for nearly 20 years. And we haven't let you down once. So, Commissioner, I see differences, but they don't seem profound. What seems profound are the similarities and the differential treatment.

COMMISSIONER RYAN: Thank you. You state in your letter that a demonstration that your standards and protocols are being followed is not feasible unless wolves are present. Can there be a discussion of the protocols? I mean, to me, it seems like there can be a conversation regarding what protocols are being followed and why, to insure that these standards are being met in absence of wolves actually being there. And I invite that kind of discussion to happen.

MIKE PHILLIPS: Mr. Chairman, Commissioner Ryan, absolutely. We included in our appeal, as an attachment, the protocols that we follow. So you have in the appeal a verbal description. We certainly can talk about them today. Dr. Veza (phonetic) is here. Dr. Veza is our lead on the work at the Ladder Ranch. He can certainly walk you through, which he does. You guys will be surprised by its simplicity. There's not a lot you can do. You know what we principally do? We don't go up there. They're held at a sufficient distance from the headquarters complex so that they don't hear the sights and sounds of people unless you're actually going up there. We don't go up there very often. That's all we do. That's about all you can do. Now, the Feds have employed this conditioned taste aversion effort at Sevilleta. That's good, that's a fine idea. Maybe you can convince a gray wolf to avoid cattle because every time they ate cattle they got sick to their stomach, OK? We haven't done that at the Ladder Ranch. We principally just don't go up there. But we'd love to have you visit. We can talk about it today. Dr. Veza is here, and it is part of the appeal, it being the very detailed description of the protocols that we follow.

COMMISSIONER RYAN: Part of the analysis that our Commission is instructed to do in an appeal such as this, like you said, is to review this under the standard of arbitrary/capricious: Was the Director discriminatory in her decision to deny the permit. Also included is whether there has been any additional evidence or data that has evolved since the denials of the permit. And I wanted to give you the opportunity to address anything that you think is pertinent and substantial that has happened since the denial.

MIKE PHILLIPS: Mr. Chairman, Commissioner Ryan, that you. I went to some length in the appeal proper to provide a detailed explanation of 1130's life. And I summarized that for you today verbally. I think when you take a look at his life in toto what you conclude is nothing that was done at the Ladder Ranch predisposed him to the problems that he experienced once released to the wild. On that point, I don't have any more information to provide. It struck me as important that the denial letter from the Director did not include any details on how the Department reached their conclusion, that husbandry practices at the ranch had predisposed him to being habituated to humans. In part, we submitted our IPRA Request to the Department and again please note that they did an outstanding job providing the background information related to this appeal and appeal number 1. In large part, I wanted to see what assessment the Department had conducted to reach this conclusion. Having been involved in restoration ecology for 30 plus years, not uncommonly dealing with captive born animals, Swift foxes, black-footed

ferrets, red wolves, gray wolves, I'm concerned about the effects of captivity on the capacity of an animal to live in the wild. I was intrigued by the conclusion. I didn't expect it. I thought, "Wow, I never thought of this." I never thought the denial would be based on a conclusion that we had mismanaged 1130. I wonder what analysis they performed that has to be stunningly insightful. I hold the Department's scientists in high regard. Every one I've worked with has been very capable. Commissioner, there was nothing. One page out of the thousand that we reviewed, one page. Mr. Chairman, I'd like to pass this out if I could, please.

CHAIRMAN KIENZLE: Sure.

MIKE PHILLIPS: So, Commissioner Ryan, I don't have anything to offer other than what I've already said. I think it was an unjustified decision to deny the request to operate under the permit over concerns about our protocols and how we do our job. And honestly, you know what, we might as well be completely forthcoming. I kind of got your concern about lack of a recovery plan, and why you said, no new permit. I get that. This second appeal was offensive because it speaks to our professional integrity. We aren't doing anything wrong. You might not agree with what we do. We don't do our work poorly. We are not shoddy. We don't cut corners. We take pride in our integrity. This cut to the quick.

COMMISSIONER RYAN: Thank you for that explanation. I would like to bring up a couple of things that have developed since the denial of the permit that certainly may or may not have been a basis for the denial of the permit at the time. But there certainly are some trends that have evolved that I think that the Commission cannot (indiscernible) but ignore. But I would like to hear your response to them. First is an October 14th letter from the Director of U.S. Fish and Wildlife, Dan Ashe, to the Director of Game and Fish regarding our Commission's affirmation of the Director's denial of their permits to release wolves into New Mexico. We decided that, I believe, in our October meeting. And on the second page, it states that the Service has concluded that it has independent legal authority pursuant to Federal Statutes and Regulations to engage in all activities regarding the reintroduction of the Mexican Wolf in New Mexico. Exercising this authority will allow the Service to import, export, hold, and transfer Mexican Wolves in the State of New Mexico and to release Mexican Wolves in New Mexico without a state permit. About a month after that letter was sent to the Director, a letter has been sent by the Governors of Arizona, Colorado, New Mexico, and Utah to the Honorable Sally Jewell, Secretary of the Interior, which states their opposition to the actions by U.S. Fish and Wildlife and their recovery plan, the updates to the 10(j) rule and the forecast that the 10(j) rule gives to the recovery plan they are considering. And, in light of this and the fact that you are a pre-release facility, the nexus between your ranch and U.S. Fish and Wildlife is hard to ignore. So I would like to hear your response to this reality right now.

MIKE PHILLIPS: You know, it's funny. About 12 years ago I got involved in elected politics. I currently hold a seat in the Montana Senate. I was told by the pros, don't answer the question that's asked; answer the question you wish was asked. I thought that was bullshit. Right? You get asked a question, you answer the question. A part of me says, "You know, Commissioner Ryan, it's not germane to the issue at hand." But the fact is, I think it is. My counsel is probably sitting here seething that I'm about to answer your question. I do so out of respect for the Commission and our relationship with the Department. I do so out of respect for the United States Fish and Wildlife Service which you hold in high regard. I'm aware of all that you referenced. I'm proud of the nexus between the Ladder facility and the U.S. Fish and Wildlife Service. I'm a big believer that wild nature is under assault everywhere around the

world and the clock is not our friend. If you believe in wild places and wild things, the clock is not our friend. Consequently, Team Turner doesn't have time to be involved with trivial matters. We didn't want to be just another captive facility. We wanted to make a difference, whether it's black-footed ferrets, or Swift fox, or Chiricahua leopard frogs, or Mexican Gray Wolves. We want to make a difference. So I'm proud of the nexus that you drew attention to. And I'll answer your question. I think, Commissioner, that constitutions matter. The State Constitution matters. You guys probably swore an oath. The Federal Constitution matters. The Secretary of the Interior has the authority, under the supremacy clause of the U. S. Constitution, to operate independent of state authority. As an attorney, you would know better than me the overarching importance of the supremacy clause of the constitution. And that's what the Director was memorializing in his letter to Director Sandoval. I think the Service thought they had gone out of their way to engage the state, couldn't find a way to go forward, but the Feds have to go forward. The Endangered Species Act is written in a way where recovery is not a discretionary activity. The law specific, the law says the Secretary shall develop a list of threatened and endangered species, the Secretary shall develop recovery plans and implement those plans. They are not discretionary activities. If you want to turn this whole thing and give the states more authority, modify the Federal law, as attorneys you can appreciate this, and simply say the Secretary 'may' make a list, the Secretary 'may' develop plans. But right now, the law reads 'shall'. The Director has no choice. I think Director Ashe had reached the end of the line and operated against all the authority he had left which was the Supremacy Clause. That's the nature of that letter. Now, on to the Governors' letter, I've read it. I've studied it. I appreciate that the governors of Colorado, New Mexico, Utah, and Arizona are on board with the recovery plan. That's great. They've got to let the science play out because the law is clear. These plans are based on the best available scientific commercial data available. Consequently, you can't go into a recovery planning exercise with a pre-ordained agenda. And I think, when I read the Governors' letter, there's this strong, stated—if you've got the letter, Commissioner, I've got it in my briefcase, everybody can see it, it's public information—they want Mexican Wolf recovery to be restricted to central Arizona and central New Mexico south to Mexico. Maybe that's what the science will say. But the only way the Director can authorize a plan is if the best available scientific and commercial data indicate that. I appreciate the Governors' frustration with circumstances. I suspect if we were advising those governors, we would advise to send the letter. It will be interesting to see what the Service does in response. And I don't profess to know what they will do in response. The first meeting is scheduled for mid-December. That will include 2 top conservation scientists from New Mexico Department of Fish and Game, Stewart Liley and Dr. Eric Rominger. I hope the State of New Mexico stays involved. You guys have a lot to contribute to getting a plan that will matter. I don't know what more to say about Director Ashe's letter to Director Sandoval and in turn the Governors' letter to Secretary Jewell. And my counsel is probably deeply frustrated that I went this far but nonetheless.

COMMISSIONER RYAN: I appreciate your explanation. I asked you some tough questions and I appreciate your being forthcoming.

MIKE PHILLIPS: Commissioner, we don't have any relationship that you guys can't count on me to tell you what I know. You need to know what I know, or what I know isn't much good. And we have prided ourselves from before day 1 on being an organization that is transparent, easily understood. There is no hidden agenda with us. What you see is what you get.

COMMISSIONER RAMOS: Mr. Chairman, thank you Mr. Phillips. And I do appreciate all the information you shared with us today. I am very impressed with your orchestrated practice on the Ladder, no question on that. My question is, your true opinion, your expertise, you touched on that in your introduction as well, and you just touched on it right now as well. But, you know, what is the goal? What is the sustainable number with wolves and when can the New Mexico Game and Fish manage these wolves to maintain that number? And that number has been the issue, you know, why you were denied earlier on. But with so many facilities and numbers currently with wolves captive as well as the ones out in the wild, right now we're being told we have about 109 current wolves, and that's an estimated population. I know we have right now in the Greater Gila, between 18 to 20 thousand elk there. We do know that a wolf does average 2.3 elk per month. And, you know, if we get a number, say 300, you're talking 85 to 10 thousand elk per year. So what is your true, honest opinion on that? I know that you've had a lot of engaged conversations and input with the U.S. Fish and Wildlife. You stated earlier you were very instrumental with your development of your recovery plan. And I understand it's a science project, OK? But what is that hypothesis, that you've got to reach a certain goal number? What is sustainable? What is your opinion on that?

MIKE PHILLIPS: Mr. Chairman, Commissioner Ramos, I'm honored that you would be interested in my opinion. My counsel would probably wish that I would just say nothing. But once again, I am not going to just say nothing. I've been on every Mexican Wolf recovery team that has been convened since 1995. We have spent a lot of time and effort trying to build the science that would describe wolf recovery in the southwestern United States. I don't know many things, but I know a fair bit about wolf recovery, both the biological science as a restoration ecologist and now as an elected official in the Montana legislature for the last decade. I get both the biology and sociology of this issue. Commissioner Ramos, I'm not surprised that you're concerned about the future, as I am, too. And I would advise the Commission to recognize that science can't give you the answer what is Mexican Wolf recovery. It can inform you on options so you can imagine the conclusion of what it states. But fundamentally, recovery is a normative issue because it relates to what degree of risk you are willing to accept. I might be willing to accept 5 percent risk of extinction for the Mexican Wolf. But Commissioner Ramos, you might say, "No, no, Mike, that's too much, I'm only comfortable with 1 percent." You know, 1 percent is not wrong, neither is 5 percent. It is a normative difference between you and me. Science can tell us what 1 percent would look like, and what 5 percent would look like but it can't say 1 percent is right and 5 percent is wrong. It's all about how deeply committed are you to nature. It's all about how deeply committed are you to creation (phonetic). So, technically, here's what wolf recovery is going to look like. It's going to look like this when the provisions of the Federal law are no longer needed, species can be delisted. At that point it will be managed by the State of New Mexico like any other resident wildlife. You guys could query your colleagues in Montana, for example, and ask the commissioners there, Chairman Vermillion, "What's it like, Dan, to have 700 gray wolves kicking around Montana? How does that affect your elk harvest regulations?" Commissioner Vermillion is a good man and would give you a fair answer. The sun still rises in the east and sets in the west in Montana with 600 gray wolves kicking around. But Commissioner, it's going to take a number that allows the Federal government to say protection under the Endangered Species Act is no longer needed. What will that number be? I don't rightly know. I can give you some examples of where you are headed because the past should serve as a precedent to imagine the future. So hold this thought. You know, the red wolf, I told you guys this once before, the red wolf is actually better off than the Mexican Wolf. The red wolf began years ago with the capture of over 400 plus canids in

Texas and Louisiana. And they looked at those 400, and said, “Gee, those 42 look pretty good. Let’s let those 42 breed and see what kind of puppies they throw.” The 42 bred, they threw puppies, 14 made the final cut, making a founding population of 14. The Mexican Wolf started with a population of 7 including some individuals that were almost certainly related. So you have this pronounced genetic bottleneck that the Mexican Wolf has passed through. For the red wolf recovery plan, when we wrote that in the late 80’s, we couldn’t even imagine what delisting would look like. We said, “Oh, it would be great if there were 220 wolves in the wild, and 330 in captivity. But we can’t imagine in the Southeast what recovery is going to look like.” So, if that is an analog for the Mexican Wolf it is going to be, you know, you’re going to need a good number of animals on the ground. For heaven’s sake, in the northern Rocky Mountains the Feds said eventually 300, equitably distributed amongst Montana, Wyoming, Idaho, with good genetic exchange. And that was a type of gray wolf that was common, represented by thousands of individuals in Canada. So, Commissioner Ramos, I suspect you’re looking at hundreds of wolves on the ground, probably in the form of 2 or 3 subpopulations that are genetically connected to insure there is the potential for genetic rescue. But I will also add, as much as I enjoy talking about wolf recovery, and I am honored that you think my opinion would matter, the Chairman probably knows as well as anybody, we are drifting a bit from my appeals and to save time, I will remind everyone that we are a captive facility and ultimately it is the United States Fish and Wildlife Service working with the states to decide what wolf recovery will or won’t be. In that regard, the Turner Endangered Species Fund is, at best, a bit player.

COMMISSIONER RAMOS: Sir, I totally understand where you are going with this but my question is: When is enough, enough? I mean I know, and what I’m hearing, is only in New Mexico. We have other Mexican Wolves throughout this country in captivity, 400 is the number that I understand. And we have 109 out in the wild. I mean, how many more do you need to continue, to get ready to release to the wild?

MIKE PHILLIPS: Commissioner Ramos, I completely understand. From the Endangered Species Act’s perspective, the animals in captivity will not count to delisting. So what you guys get to focus on is, how many wild wolves are there? And that will trigger the Feds decision to delist. At the point of delisting, the states manage like any other resident wildlife. I would predict that will be several hundred wolves in the wild at 2 or 3 or more locations. If habitat is suitable in Mexico, the work could be done in Mexico. If habitat is not suitable, the Feds have got to find it. The Endangered Species Act is a very demanding law.

COMMISSIONER RAMOS: Thank you.

CHAIRMAN KIENZLE: I have a question.

MIKE PHILLIPS: Yes, Mr. Chairman?

CHAIRMAN KIENZLE: You mentioned 7 wolves. What species were those?

MIKE PHILLIPS: The 7 animals I made reference to, that was the founding stock for the Mexican Wolf (*canis lupus baileyi*). They were wild caught in Mexico. Given the circumstances of their capture, some were probably at least distantly related if not more closely related. So consequently, you didn’t start with a big, diverse genetic pool.

CHAIRMAN KIENZLE: You answered that part of my question. You want to import and possess Mexican Gray Wolves. Is it the same species as you just mentioned?

MIKE PHILLIPS: Yes, sir.

CHAIRMAN KIENZLE: Is there any new or different genetic material in any of those animals that is not Mexican Gray Wolf?

MIKE PHILLIPS: Well, no. The genetic material that is held by each and every surviving Mexican Wolf today is the Mexican Wolf genome, of course. It's a genome that is very similar to gray wolves everywhere else. These differences in the genomic makeup of gray wolf subspecies are pretty subtle. There are good friends of mine, very capable scientists, that would have you believe that the proper taxonomic moniker for the gray wolf is *canis lupus irregardless*. Now, I think nature is a little more sophisticated than that. *Baileyi*, *canis lupus baileyi*, the Mexican Wolf, has consistently been identified by the leading conservation geneticists in the country as unique, sufficiently unique to justify a sub specific status. All the animals that we request to hold and maintain at the Ladder ranch are members of *canis lupus baileyi*.

CHAIRMAN KIENZLE: So, there's no different genes, so to speak, that have been introduced into any of the animals you wish to import.

MIKE PHILLIPS: Mr. Chairman, not to my knowledge.

CHAIRMAN KIENZLE: Yes, sir.

COMMISSIONER SALOPEK: Good morning, Mike. Thank you. As far as Mexico, the natural range of the Mexican Wolf, what was the number back in the day? And how is it working with the Mexican government.

MIKE PHILLIPS: Commissioner Salopek, I hold our science colleagues in Mexico in very high regard. They are deeply committed, as well trained as they can be. Their lead scientists are commonly trained in the U.S., top flight conservation scientists. They've got deeply committed field biologists. Historically, there would have been thousands of gray wolves throughout the Southwest and into Mexico. It was a very common large carnivore. You know, it probably holds the record for the widest distribution. Maybe it was beat by cougars. As you know, gray wolves go all the way to the Arctic and down to Central Mexico. Cougars might beat them out because they go farther south. But widely distributed, very, very successful. Historically, what we know, *canis lupus baileyi* was a border subspecies, common in Mexico and the border country of the U. S. in large part because there were other gray wolves north, (indiscernible) *canis lupus monstabilis* and *canis lupus youngi*. They were in place. And then they were destroyed, exterminated. And in the presence of that habitat vacancy, *baileyi* began drifting north. So the contemporary range of *baileyi* can easily be described as northern Arizona and northern New Mexico, southern Colorado, southern Utah. If you go back into deeper time, there's clear evidence of a genetic signature of these southern wolves as far north as Oklahoma and, interestingly enough, a genetic signature of northern wolves as far south as southern Arizona. It's been called, by the conservation geneticists, as southern (indiscernible). And fundamentally, if you want to imagine what was going on historically in the 4-corners region of Utah, Colorado, New Mexico, Arizona country, was a great big mixing zone. Northern wolves drifted south, southern wolves drifted north, and in the middle they met. So the Mexican Wolf can certainly go to central Mexico and as far north as central Colorado if you are relying on the science of biogeography. What the Feds do with all that, I don't know. The plan hasn't been written.

CHAIRMAN KIENZLE: Thank you.

COMMISSIONER MONTOYA: Mr. Phillips, I appreciate your comments. And one of the questions that I think the Chairman brought up and concerned me a little bit is—and this question probably should be answered mostly by Fish and Wildlife Service, but you're pretty knowledgeable along the genetic lines of this and so I am going to ask you a question—There's a big concern about the baileyi as being genetically restricted so that we need to introduce more wolves into the population to get the genetics rolling, (indiscernible), to make the species stronger. OK, consider that we started with 7 wolves. Consider that this genetic pool started with 7 wolves, and we went off in different directions, captive packs, and so forth. It appears to me that the concern isn't the genetic mix of these, because they started from several wolves anyway, and this pool is very small even though the population is getting larger. I think we have bigger issues, and this may not have anything to do with the legal standpoint of this whole argument. But I think we have bigger issues to deal with than the genetic necessity of bringing these wolves out that are already genetically very closely related. So, one of my concerns is, lots of questions regarding what is going to happen when we reach 100, 200, 300, 400 without a management plan. My concern is not with what the facility has provided but I want answers on what happens at different times during this evolution, regardless of whether the genetic pool is there or not. And until we get those answers I don't want this program to progress any further than it has now until we have some answers that make me feel good about it. I have nothing against populations of baileyi being in their historic range. We are expanding that to where I don't really know what the historic range of baileyi is. A lot of questions I have.

MIKE PHILLIPS: Mr. Chairman. Oh, I'm sorry, Commissioner . . .

COMMISSIONER MONTOYA: I have those concerns and until we get some answers, not necessarily from you, but until we get those answers that are relevant to what we are trying to do, I can't go any farther.

MIKE PHILLIPS: Mr. Chairman, Commissioner Montoya, I certainly understand your concern. As I said I share a concern over the lack of a recovery plan. I will point out that most recently, as the Fish and Wildlife Service modified the Blue Range Project. They made it bigger, they made it broader, they made it deeper. That actually finally got the Blue Range Project properly scaled. There was an extensive NEPA process employed that resulted in the production of an environmental impact statement. It speaks to very specific management protocols that will be employed, Commissioner. That was memorialized with a final rule. So there is a great deal of specificity concerning the existing free-ranging population and the Service's efforts to manage its growth. Now, that doesn't speak to recovery by itself but it's a step in the direction of the specificity that you would benefit from. And I know you are aware of all that. Ultimately more specificity will come, more of your questions will be answered with a recovery plan. I understand because of legal action taken that the Service is moving in the direction of settling on an adoption date of late '17 for a new recovery plan. That is a very accommodating adoption date. For heaven's sake, I do believe that a recovery plan could be written in a couple of months. A couple of years is very accommodating. But the fact is, the Service has its own process that it has to exhaust with public comment and the like. That will provide some of the specificity that you're after. I appreciate your reluctance to do anything to advance Mexican Wolf recovery absent that plan. I get it. I will point out that while we are closely aligned with the Service, it is just a captive facility that serves to receive wolves that have caused problems. So, in many ways, the Ladder Ranch serves your constituents, Steve DeBrott's

constituents, the manager of the Ladder Ranch, very well. Supporting our work isn't necessarily abandoning your concerns. Quite the contrary, know that we are right there, riding right with you, (indiscernible), doing what we can to emphasize to the Federal government that there is the need for a plan. That is probably not satisfactory, Commissioner, but that's the best I got.

(Inaudible)

CHAIRMAN KIENZLE: Yes.

COMMISSIONER RICKLEFS: Thank you. Mr. Phillips, the recovery plan is obviously a sticking point in the state of New Mexico. The people that live with the wolves want to know where we are going. You mentioned that you've been involved in several attempts at writing a recovery plan. How confident are you that this one is going to work, that we are going to have one by 2017?

MIKE PHILLIPS: Mr. Chairman, Commissioner Ricklefs, once again my counsel is probably seething now as I'm sitting here riffing (phonetic) on these things that really are the Federal government's responsibility. But again, I am honored, Commissioner, that you think my opinion might matter. I will remind everybody that our program at the Ladder only concerns wolves in captivity but there is this nexus as Commissioner Ryan has drawn attention to. Commissioner Ricklefs, if not for the lawsuit brought by Arizona, if not for the lawsuit brought by the Center for Biological Diversity and Defenders of Wildlife, all of which has seemingly catalyzed a settlement process overseen by the judicial system that will result in a mandated adoption date, I would be deeply skeptical that round 4 of recovery planning would actually cross the finish line. Now, we are 0-for-3 so far, and I've been involved in all 3. And honestly—and I would say the same thing to Director Ashe if he was sitting here—every time we get close, the Service tells us to go home. I can't explain why they tell us to go home. But they have. That's just a fact. And Director Ashe shouldn't be surprised that the facts are being shared here today. So, Commissioner Ricklefs, absent the legal component, absent a letter from 4 governors saying straight up, I don't have it here, I've got it in my briefcase, straight up, we believe in recovery planning, we need a recovery plan. Absent groups like this august body, you guys represent New Mexico saying we have to have a recovery plan. Absent that pressure I think we might find ourselves 0-for-4 in the near future. But given all of those interesting, now new, circumstances, I think the stars have finally aligned for the United States Fish and Wildlife Service to complete and adopt a revised recovery plan and I hope that is done, Sir, by late '17. Know, you all know this, but it is worth stating. That's not the heavy lift. The heavy lift is writing a recovery plan. That's relatively easy. The heavy lift is implementation. And I don't know what the Feds plan to do with implementation. I have no idea. I suppose the President will matter.

COMMISSIONER RICKLEFS: Speaking of implementation, I would assume that you would probably be part of the team that writes the recovery plan . . .

MIKE PHILLIPS: Mr. Chairman, Commissioner Ricklefs, I have been doing this a long time and at some time, I am going to go fishin'. So I don't know what the future holds. It's an honor to try to contribute. Team Turner, as I said earlier, is committed to trying to make a difference in whatever small way we can. But please understand, and this is a grand opportunity to bring this back to the Turner Endangered Species Fund, we are not the Turner Mexican Wolf Fund. We are the Turner Endangered Species Fund. We deeply believe in the Bolson tortoise and the Chiricahua leopard frog, and the Chupadara springsnail, desert bighorn sheep, and the Bolson tortoise. And we would hope for your

support for all of these species. And I'm honored that the next agenda item is concerning black-footed ferrets, and I get to visit with you on another matter that is near and dear to our heart. We haven't disappointed you with the Ladder facility. It is an important facility. I repeat again, it is just wolves in captivity. It serves your constituents. And, Mr. Chairman, if there are no questions I would like to suggest something as we wind down my comments. I don't want to shortstop your team but, Mr. Chairman, maybe there's a way we can go forward together. Maybe we can find an approach that will allow you to celebrate your job well done and bring the Ladder facility back on line. For example, what about an agreement that would say, no adult . . .

CHAIRMAN KIENZLE: Why don't you save that for another day. That's not . . .

MIKE PHILLIPS: Well, now, Mr. Chairman, if you would indulge, I was hoping it could be part of your consideration so we reach some useful resolution by January. And I would hate that we would have to have this, then, discussion in January leading forward to some final resolution in, say mid-16. So if you would be willing to indulge . . .

CHAIRMAN KIENZLE: What I would suggest is put that in writing and supplement the record. That's probably a more useful way to do it. Thank you.

MIKE PHILLIPS: Mr. Chairman, I will bring ideas that hopefully will allow us to go forward together. Thank you.

CHAIRMAN KIENZLE: All right.

COMMISSIONER ESPINOZA: Mr. Chairman?

CHAIRMAN KIENZLE: Make it brief.

COMMISSIONER ESPINOZA: Mike, once again, I want to express my appreciation for all the stuff that you brought forward. The Turner Endangered Species Fund, and I've been privileged to see quite of it both up north, on the Armendaris and it is undeniable you guys' commitment to recovering species. And one of those groups that puts their money where their mouth is. And I applaud that. You know, you were wondering, singling out the Ladder Ranch. I don't know if it was singling out or if it was more a matter of timing. It just happened, that just happened to be where we are at. I really had 2 quick questions. Historical range, 90 percent of it they are saying is in Mexico, but it seems like we here in New Mexico and Arizona are getting the brunt of it. Do you see, are they doing anything, is the Service doing anything to further that along? And then, one other last question. The second appeal seems to be hinged on 1130. Is there any other, are you aware of any other wolves in the Canadian and Northern that are similar, that would have, a wolf just like you said, I don't know what that wolf has going through his mind. But is there any other circumstances that you can provide for us that would have been similar to that?

MIKE PHILLIPS: Mr. Chairman, Commissioner Espinoza, first let me speak to your comment. It was (indiscernible) question so I appreciate the Chairman's indulgence. You mentioned timing. And please know, I'm not trying to throw the Albuquerque Biological Park under the bus here, but their zoo permit was issued after your new regulations concerning carnivores were adopted. They were right in the queue along with us really in a general temporal pattern. It would have been consistent for the Commission to say, yes you can have your zoo permit but we are going to prohibit the holding of Mexican Wolves

because we are opposed to the Mexican Wolf program's lack of a recovery plan. So it is a really useful data point that speaks to differential treatment and we discussed that in detail in our appeal and I know you guys will study the record and see that in writing. Historical range, Commissioner, it is hard to really understand what was going on. It is not surprising that the United States is bearing the brunt of Mexican Wolf recovery because it is being led by the United States Fish and Wildlife Service. The United States Fish and Wildlife Service has very little authority to demand any activity over another sovereign nation. And an important part of the Endangered Species Act, a condition for delisting or condition for listing is the presence of adequate regulatory mechanisms to insure that the species in question will not become threatened or endangered again. It is very hard to secure an adequate regulatory mechanism from another sovereign nation. You can't insist that Canada do this, or Mexico do that. So fundamentally the bulk of the Endangered Species Act work done by the Feds, by our Fish and Wildlife Service, is done in this country. And that is why you see the lion's share being done here, too. You can also expect that there is very good science that would say that habitat suitability in Mexico was compromised for 2 simple reasons: The pattern of land ownership is not conducive to Mexican Wolf recovery, and there are serious questions about the robustness of prey population. So those are some of the reasons you see the blue range being the focus right now. It was a really top flight site that happened to be in New Mexico and Arizona. Now, to the final piece, similarities to 1130. Of course, all the animals in the northern Rockies were wild caught in Canada so they are very different right out of the gate. But as I mentioned in that little story about Yellowstone that we were surprised how, very soon after being released, the wolves came to realize that people and the sights and sounds of people in the park didn't cause them any harm. And so they began to ignore you and they were and they are still are pretty observable. Gray wolves are pretty smart. They don't spend a lot of time wasting energy on things that don't matter. So, you and I pull up in a truck, open the doors to get our spotting scopes out, they are 100 yards away, they see us, they don't care. So there is that capacity for animals in the presence of constant stimulation to grow tolerant of that stimulation and begin to ignore it. And I do believe that if 1130 was predisposed to being tolerant of the sights and sounds of people on release it was because he was 7 years old. He was old. You know, most gray wolves don't live to be 7. It's tough to make a living in the woods with your teeth. A 6 or 7 year-old wolf is an old wolf. Now, they live longer in captivity, but 7 is pretty mature. And I think, Commissioner, that is one reason he might not have been too bothered by being 60 yards from someone. Not a big deal, they never hurt me in the past, don't expect them to hurt me now. Just an opinion, though, Sir.

CHAIRMAN KIENZLE: All right. I am going to close it. Thank you. You will get a chance for a brief rebuttal shortly. Matthias Sayer, where are you at?

MATTHIAS SAYER: Thank you, Mr. Chairman, Commissioners, Director Sandoval. Unlike Mr. Phillips who had less hair when you saw him last, I have less hair now; I shaved it all off but I don't have any laudatory reasons for doing so. As you have just heard from Mr. Phillips, there are 2 appeals before the Commission and just like he did, I'll segregate those into 2 discrete discussions. The first discussion pertains to the request to renew the permit to possess Mexican Wolves at the Ladder Ranch facility, and just some brief legal background. I think the Commission is probably aware of this but just to reframe the discussion, the Commission's rules make it unlawful to possess any threatened or endangered species. The Department may, however, authorize a permit to possess. In this case, the rule gives the authority to the Director to issue, amend, or renew such a permit. However, in this case, as the Commission is aware, the rule requires—or I should say, limits—the Director's authority to some degree. Because the Ladder Ranch facility is a private ranch, is private property, therefore under the conditions of the rule the Director

shall only issue a Department permit in accordance with Commission direction. Back in May, this Commission gave direction to the Director specifically to deny the permit. The rules also spell out, and again this is summary (phonetic) review, the grounds on which the Commission can reverse the Director's decision. Those are that the Commission's decision or the Director's decision was arbitrary and capricious, that the Director's decision was not based on law or regulation, or in light of new facts, data, evidence that the appellant produces that contradict the data relied on by the Director and the Department in making their decision. The Ladder Ranch, the Turner Endangered Species Fund, has articulated a few different grounds on which they challenge the Director's decision. The first is that the Director's decision was arbitrary and capricious because their application fully complied with the application requirements of the rule and second that her decision is arbitrary and capricious because the minutes of the Commission meeting, the May Commission meeting, lacks evidence refuting the claim that the application complied with applicable regulations. They also, as you just heard, have an argument that they strongly suspect there is some sort of singling out; they couched that argument in terms of equal protection under the law. So to address each one of those briefly, the Director did not and does not dispute that the request, the application to amend, complied with the requirements of the rule. The application looked like an application, looked like a request that contained the necessary information for a request to be considered. The Director didn't, and doesn't, dispute that the application/request looked the way it needed to look to be acted upon. To the next issue, that the denial is a violation of equal protection, only in passing I'd like to note that arguments in equal protection are to put it colloquially are rather complex arguments or can be. The argument that is being made is more or less a conclusory statement based only on the comparison against a permit that was issued to the Albuquerque Biological Park. And I think, as this Commission has already articulated in their questions, there are reasons to distinguish the Albuquerque Biological Park from the Turner Endangered Species Fund's application, the first of which—which Commissioner Ryan noted—is the Ladder Ranch is a pre-release facility which is fundamentally different than a captive facility. We will talk more about this later, but the husbandry manual and the protocols that are followed in this captive Mexican Wolf program discourage and, in fact, don't allow the release of wolves that have been held in a zoo-like setting, i.e., the Albuquerque Biological Park. Wolves aren't released from the Albuquerque Biological Park. So there is really no concern about habituation and we will talk about that as well later when it comes to the wolves at the Albuquerque Biological Park and where they are headed because we know they are not going into the wild. So it is a fundamentally different facility in that regard. And also, it is not private property so it didn't come before the Commission for the Commission's direction and that is important. And that takes me to the last point on this issue of the permit renewal which is the rule specifically requires the Director to get the Commission's direction before she can issue the permit, which she did in May, and the Commission (indiscernible) voted to deny the permit, which is pretty strong direction. We would be sitting here or somewhere else having a different conversation if, in light of your direction to deny the permit, Director Sandoval had said, "Hmm. I think I'll grant it". She can't do that, because the direction from the Commission was do not grant. Deny the permit. Mr. Phillips, I think accurately, grasped the Commission's concerns that were expressed in May which are and were the lack of a recovery plan and that played a part in the Commission's decision. Mr. Phillips and the Turner Endangered Species Fund folks have articulated that the lack of a recovery plan is not a grounds on which the Director can deny the permit which is true; the Director cannot deny the permit based on that grounds but she didn't. She denied the permit based on the fact that the Commission said, deny the permit. Deny the permit, we have these concerns which was the lack of a recovery plan, and the Director denied the permit. And the Director's understanding and position, and my position that I am expressing

here today, is that the Director did comply with the rules because the rules gave her no discretion once the Commission had said to deny the permit. And I'll move to the request to amend unless there are any questions about the request to renew?

CHAIRMAN KIENZLE: We'll take them at the end if there are any.

MATTHIAS SAYER: OK. And I think that it is very appropriate, at the outset before I engage in this conversation, that I note on behalf of the Department that we laud and recognize that the Turner Endangered Species Fund does with a number of species that Mr. Phillips has mentioned. There have been great successes in New Mexico that have been done by the Turner Endangered Species Fund in cooperation with the New Mexico Department of Game and Fish and the Commission as well. And that is not disputed, and the Department and Director are certainly not trying to make a statement that they take issue with or don't appreciate or respect the work that's done by the Turner Endangered Species Fund, both in New Mexico and elsewhere. The Turner Endangered Species Fund requested to amend the same permit that they had requested to renew. And the rule allows for an amendment. In fact, the permit that they possess requires that before additional wolves are brought into the facility that they request an amendment to the stud book and a written amendment request of the permit which is exactly what happened. In June, the Turner Endangered Species Fund requested to amend. In late June, the Director denied that request and, as you well know, the Turner Endangered Species Fund appealed that decision which brings us here today. And the legal background that we are operating in is the same that it was for the request to renew except for this was not brought before the Commission for their direction because it was only a request to amend the existing permit. The grounds on which the Director denied the request to amend the permit were, as this Commission knows, were simple. The Director is concerned that wolves that spend time at the Ladder Ranch facility and other pre-release facilities in New Mexico, Sevilleta, that the practices that are in place there habituate Mexican Wolves to the presence of humans. And so based on that concern, the Director declined to grant the request to amend until such time as certain corrective measures can be put in place which address that concern. The rules provide the Director with the authority to implement corrective measures. The Director was acting under that authority when she made the decision that she did. The grounds on which the Commission can reverse the Director's decision are the same: if her decision was arbitrary and capricious, not based on law or regulation, or the appellant provided additional information. The Turner Endangered Species Fund challenged the Director's decision essentially on 2 grounds. One is that her decision as arbitrary and capricious and not based on law or regulation because their application fully complied with the requirements of the regulation. Once again, the regulation spells the requirement for an amendment, has to be in writing, there is a fee associated with their request which in this case was waived. Again, as with the request to renew, there is no argument that the Turner Endangered Species Fund request to amend did not satisfy the requirements of a request to amend. It looked like a request to amend and it contained the necessary information, it was written, etc., etc. The request was not denied based on any failure to meet the application requirements. The second reason or grounds on which the Turner Endangered Species Fund challenged the Director's decision is the (indiscernible) one that requires some additional discussion. The Turner Endangered Species Fund disagrees with the premise of the Director's decision that corrective measures are necessary. The Director, as I mentioned, has a concern about habituation and would like to see corrective measures implemented. The Turner Endangered Species Fund says no corrective measures are necessary. And that is important. As you heard from Mr. Phillips today, they are doubling down on that. They have stated boldly, no corrective measures are necessary. And certainly this wasn't the Director's intent, the Department's

intent, but they have taken some offense to the statement made by the Director. And to succeed on this challenge, they need to demonstrate that that decision was arbitrary and capricious. We've talked before about what it means to be arbitrary and capricious. But it means the Director's decision was unreasonable or without rational basis or that there is no rational connection between the facts found and the decision made or that relevant factors were omitted from her decision. And the Turner Endangered Species Fund is essentially arguing that relevant factors, important factors, were omitted from her decision in 2 contexts. In one, they are arguing that important information about Wolf 1130 was ignored. And they are also arguing to some degree by supplementing the record with the protocols that they follow, that those protocols don't give rise to the concerns the Director has, and therefore her concern and her decision based on that concern is arbitrary. So, to discuss those 2 items, M1130 and wolf protocols, the handling protocols that are followed at facilities like the Ladder Ranch, in the Director's decision she discussed a portion of his life. The Turner Endangered Species Fund has, and did in their appeal, provide the life history of M1130 noting, and I'm not quite sure why, but to quote some of their language, they found it curious that the Director's letter only referenced events pertaining to M1130 for that relatively short period of time from August 14, 2014 through his death on May 20, 2015, about 11 percent of his life while ignoring well documented easily discoverable details across nearly 90 percent of M1130's life. Well, if you look at the rest of the history that has been provided, I'm not sure what additional information it provides or how that undermines the Director's decision and concern. What it tells us is that M1130 spent 63 of his 85 months, or 75% of his life, at Sevilleta and Ladder Ranch facilities. M1130 was transferred 8 times, and we will talk more about what happens when a wolf is transferred. So sitting here now, having an opportunity to look at the decision and looking at the events pertaining to M1130, I don't see how the additional information undermines the Director's decision. As I sit here, it supports her decision, that the bulk of that wolf's life was spent at facilities that follow a certain protocol. The Sevilleta facility and the Ladder Ranch facility follow the same wolf handling and husbandry protocols. The same document governs how they govern wolves. And so instead of 11% of his life that we were talking about, if you look at 75 percent of his life it was spent at both facilities under these certain protocols. So, turning now to the protocols. The Director is concerned that these protocols do not adequately prevent habituation. And what is habituation? I think Mr. Phillips expressed it well. It is a tolerance, a developed tolerance, to the presence, the sights, the sounds of humans. And we saw, in the context of M1130 the demonstration of habituation. M1130, I think this Commission is aware, but just to remind them, M1130 circled an occupied trailer for 30 minutes despite the homeowner's efforts to scare the wolf away. And it may be the case that that wolf posed no danger. But that homeowner doesn't know that. There's a wolf circling him because the wolf is habituated to humans. We will talk about this, but it is probably looking for food from that human. M1120 approach a young man who, while fishing at a creek, noticed him looking at him. The man slowly backed away, and M1130 didn't back away. A 12-year-old girl saw what she thought was a coyote in the field chasing cattle; the girl approached on horseback and saw that it was M1130. The girl's horse spooked, jerked the reins out of her hands, the horse went back towards the house while the wolf was approximately 30 yards behind. In daylight hours, a young child was feeding his family dog. His mother had told him to go out. The boy returned and said, Mom, the neighbor's dog is outside. The Mom went outside and it was M1130. This is habituation. The wolf is tolerant of humans, of human presence, sights, and sounds of circumstances that humans are involved in. And the Director's position isn't that this is because the folks at the Ladder Ranch failed. The Director's concern, as was expressed in her letter, was that the protocols that are being implemented may not be adequately addressing wolf habituation issues. So there are 2 documents that govern wolf husbandry at facilities that

are participating under the SSP and wolf re-introduction efforts. There is the Mexican Wolf Husbandry Guide, a 2009 document. And then there is, and the second one was provided by the Turner Endangered Species Fund folks, The Pre-Release Facility Husbandry and Operations Protocol, which essentially supplements the husbandry guide for pre-release facilities of which there are 3 in the United States: Sevilleta, Ladder Ranch, and Wolf Haven up in Washington State. The Director doubts very little that the folks at the Ladder Ranch strictly follow these protocols as they allege in their letter. However, if you take a minute to look at those documents, which the Director did, and which I am going to discuss here, the pre-release facility document notes that the captive propagation and management of wolves, that the goal of this effort, is to produce genetically, physically, and behaviorally suitable wolves for re-establishment in the wild. The Director's concern that the re-introduction efforts are more focused on producing genetically and physically suitable wolves and the concerns about behavior are secondary. The same documents that govern handling state that the purpose of the Ladder facility is to manage wolves with minimum human exposure and to foster natural wolf behaviors. And I don't doubt that is the intent. However, examination of these 2 documents reveals protocols that are potentially not in line with those objectives. A few examples: If you review those documents, you will find very few imperatives, shalls, musts, etc. But a few examples are the ones we found. The facilities must notify SSP officials before conducting certain reproductive efforts. The caretaker must complete a feeding log. The husbandry mandates under no circumstances are uncertified wolves to mate with certified wolves. Fence lines must be inspected daily, from the husbandry manual. Vertical height of the enclosures must be at least 8 feet, must be. We turn to conversations about habituation, there are no imperatives. If you examine those documents, we find language that says, must be diligent in remaining unnoticed. The caretaker must be diligent in remaining unnoticed, not "must not be noticed" or "shall not be noticed" but must be diligent. The husbandry manual strongly suggests that potential release candidates be fed through remote feeding. Strongly suggests. There is no imperative, must be fed through remote feeding. Because what happens when it is not remote feeding is that wolf becomes habituated to the caretaker, to human presence. The husbandry manual: Remote feeding is preferred for release candidates. There is no imperative there. In the context of food, if you look at these documents, they are fed at least once a week, 1 to 2 times a week. There is no prohibition on additional entry for feeding, but recommends 1 to 2 times. The primary food source is a kibble served in self-feeders capable of holding 25 pounds of kibble in a tub. The husbandry manual calls it high quality meat-based dry dog food as the basic diet for captive Mexican Wolves. They are also fed 5-pound horsemeat carnivore logs, up to 3 to 4 logs per week, and when available roadkill is provided to the wolves. In terms of water at the Ladder Ranch facility, the document prevented by the Turner Endangered Species Fund folks talks about how water is provided through a five-thousand-gallon storage tank then into 65-gallon tanks at each pen. Each pen has a drinker and each pen also has one 50-gallon tub or pool during warmer months. During warm months, these pools are cleaned by the caretaker at each feeding visit. Observation occurs for the most part from observation blinds like the one Mr. Phillips pointed out. Language in this says, however, that views from the blinds are often insufficient for the caretakers' purposes. In any case, the caretaker must be diligent in remaining unnoticed by the wolves. So, it recognizes you can't see everything you need to from that small little blind. Sometimes you need to get out and about and see the wolves. And when you are out and about seeing the wolves, it is presumed—there is nothing in there that says not to—but it is presumed that the wolves become tolerant of human sights, sounds, etc. The documents require a health exam at least once a year but absent from the document provided by the Turner Endangered Species Fund and the husbandry manual, it doesn't discuss how those go down. There is some conversation about the best way to essentially capture a wolf.

It talks about wolves being captured in confined spaces or in open spaces but the primary method that is used is essentially a group of humans enter the pen and crowd the wolf into a confined space then, using a Y-pole, restrain the wolf to the ground and depending on what tests are going to be run they will do it right there while it is restrained or they will restrain the wolf, they will blindfold it, put a muzzle on it and take it where it needs to go. That's a lot of human handling. Remember 1130? Eight times he was transferred. That's a lot of exposure to humans. In terms of shelter, you saw on the images that the Turner Endangered Species Fund folks provided, there were a few images where you could see what they refer to as den boxes. There is nothing fancy about these boxes. They are square wooden boxes. And I highlight each of these only to demonstrate how the Director's decision was based, had a rational basis. If the concern is habituation to humans, again no one is saying the Mexican Wolves in the wild are going to attack humans and attack children waiting at school bus stops. But the concern is, most humans don't know that. And if you see a large carnivore that's circling your home, that's around your children, the natural thought is not, "There's one of those Mexican Wolves. They're cute little animals, go play with it." No. The concern is the health and wellbeing of humans. And that's the problem we are dealing with and that's the problem the Director has to deal with when she has to act on this request to amend. And so, again, she's not saying the folks at the Ladder Ranch do a poor job. But what she's saying is, perhaps it's time we take a look at the protocols that are in place and see if there's a way to improve on them. You know, if 10 percent of the Mexican Wolves are nuisance wolves, or demonstrate some sort of nuisance behavior, that is a low percentage but it is 10 percent. And if we can improve the methods that we're using, maybe we can get it down to 5 to 3 to 2 percent of wolves that behave or demonstrate nuisance behavior. And that's the point of the Director's decision. And I'm not sure where Mr. Phillips was going with the comments he was going to make at the end about some sort of agreement but I'm speaking somewhat for the Director here and she hasn't had a chance to look at this, but I think that to the extent that some sort of agreement can be put in place that recognizes that there are improvements that can be made, perhaps remote feeding isn't just a suggestion but it's the rule. That's an example. But things like that, if those can be addressed concerns about habituation are ameliorated. So, in closing, I simply want to re-iterate that the standard the Commission needs to look at is, was the Director's decision arbitrary and capricious? Was there a rational basis? Was there a rational connection between the facts she found and the decision she made. And, did she ignore necessary information. There's information that the Turner folks provided that wasn't in the administrative record that she didn't look at. But looking at those now, they don't modify the factual basis for her decision. Her decision, there was a factual basis, and there was a rational basis. And the request is that you uphold her decision. Thank you.

CHAIRMAN KIENZLE: Commissioners, any questions? Any questions? I have one question. What is the Department's position on what species is actually being imported and possessed?

MATTHIAS SAYER: It's my understanding that the Department's position that it is baileyi. Stewart is behind me shaking his head yes or no, and he can speak to that question certainly with greater authority than I can.

CHAIRMAN KIENZLE: I didn't hear you on the species name.

MATTHIAS SAYER: Stewart?

CHAIRMAN KIENZLE: No, what is the name of the species?

MATTHIAS SAYER: Oh. Bailey.

CHAIRMAN KIENZLE: Any other questions, any other comments?

MALE SPEAKER: One real quick question (phonetic).

CHAIRMAN KIENZLE: Yes.

MALE SPEAKER: Matthias, you were referencing some documents there where you were saying “shall”, “due diligence”. Are those U.S. Fish and Wildlife documents or were they Ladder?

MATTHIAS SAYER: Those are 2 documents that the Commission has, one of which is the Mexican Gray Wolf Husbandry Manual which is a Fish and Wildlife document. The second is called the U.S. Fish and Wildlife Service Mexican Wolf Recovery Standard Operating Procedure, Pre-release Facility and Husbandry Protocol, which as you look at it applies to Sevilleta and Ladder Ranch.

MALE SPEAKER: I'd like to get a copy of that.

MATTHIAS SAYER: OK.

CHAIRMAN KIENZLE: Anything else? All right. Quick rebuttal, Mr. Phillips.

(Inaudible, background conversation and sounds)

MIKE PHILLIPS: Mr. Chairman, members of the Commission. Thank you for the chance to offer brief comments in response to the Department. They will be brief. Concerning appeal number 1, after a decade in the legislature with my staff of attorneys, I know attorneys can make simple things complicated. The notion of equal protection is not complex. It is just a fact that these SSP facilities are expected to contribute in a robust way to Mexican Wolf recovery. Some may be called upon to provide animals for release. I still stand, believing that it is useful to point out that the Albuquerque Biology Park, as an example, was provided a permit to do functionally the same thing the Ladder Ranch does and yet our permit was denied. I very much agree with Mr. Sayer that the Director simply acted on your decision. So, in some respects I am saying that I believe your decision to direct the Director to say “No” to our request for renewed permit was arbitrary and capricious. Now that's up to you guys to decide. Fundamentally as it applies to appeal 1, we are appealing your decision to you guys. That seems a little odd but nonetheless that's the way the system is working today. Concerning appeal number 2, Mr. Sayer may well be right on all the facts that he brought forward concerning 1130 and his age, getting handled as 1130 was handled which is an inevitable consequence of having to maintain animals in captivity and move them around. At a certain point, you think, well gee whiz, they've man-handled me 6, 7 different times and I always come out OK at the end of the day so I'm a little more tolerant of people than I would be otherwise. But fundamentally all that relates to 1130 concerns his release. Service didn't have to release him. For example, if you're right in your analysis that he was poorly suited for life in the wild because he was unusually tolerant of people because of what he had experienced in captivity, that's a bone you've got to pick with the United States Fish and Wildlife Service. We don't let them go. We do the best we can against protocols that would stand up to any rigorous scientific assessment you might want to present and we are all in if you want to figure out a way for the Ladder Ranch to do a better job. We've got nothing to hide. It is noteworthy that for many, many, many years, the Department gave us no indication that they

were concerned about our protocols. So it would seem that we should at least be able to operate under the existing permit, perhaps in some sort of conditioned approach where animals for example at the Ladder might not be directly released into New Mexico. Maybe we should say animals held at the Ladder under the existing permit, no adult sized wolf could be released directly from the Ladder by the Fish and Wildlife Service. Be mindful, it is not our release, it's a Federal release. Or maybe the Ladder could only hold adults that could produce pups that could, themselves, be released at 8 or 9 or 10 days of age. If you are concerned about habituation, fair enough. So am I. You can't habituate an 8 or 9 or 10 day old puppy. Their eyes aren't open. Their ears aren't open. They are largely unable to interact with the outside environment in some way that would lead to habituation. There are ways that we could use the Ladder to allow the Commission to achieve its objective and allow the Turner Endangered Species Fund to help with that by bringing the facility back on line. And we look forward to that. Mr. Chairman, we will present some more of those ideas in detail with the supplemental information that we will provide. And thank you again so much for your time today. It was an honor to offer these thoughts. Thank you, sir.

CHAIRMAN KIENZLE: Any further questions? I have one comment to make on whether the Director has discretion or not to deny. The proceedings, as I recall, in May before the Commission, that is a recommendation to the Director from the Commission. She is free to do the opposite of it, do something in accord with it. It is not a straitjacket. It is merely a public, under the heading of transparency, giving an opportunity to the public to weigh in on what we believe are important issues. So whatever recommendation comes out of this Commission at that time when we take final action is not an instruction or a direction or however you want to characterize it, go forth and do this and you do not have any discretion. It does give discretion to the Director. It is a recommendation and if the facts on the ground, if the application, if whatever may come in front of the Director between when the application is filed and that public meeting and when she makes her final decision if there are other facts that she wishes to consider that may go against that recommendation she is free to do that. So I take issue, perhaps, with both sides saying that it is a straitjacket. It is not. So I think you are both misconstruing the Director's discretion under that rule.

MALE SPEAKER: Thank you, Mr. Chairman, for that clarification.

CHAIRMAN KIENZLE: Any further questions or comments? OK. We are going to take a short break. We will pick up the ferrets and then we will be breaking for lunch today, it looks like. I like being Iron Man, but I don't think we are going to make it to that. So, thank you.

(Break. Audio resumes here)

**CHAIRMAN KIENZLE: AGENDA ITEM NO. 8: Renewal request from Vermejo Ranch to import and possess black footed ferrets.** Mr. Phillips.

MIKE PHILLIPS: Mr. Chairman, members of the Commission, for the record my name is Mike Phillips. I am here today to request a renewal of our permit to possess and release black footed ferrets to restore a viable population to the high elevation grassland meadows at Vermejo Park Ranch. Our current permit is set to expire on March 10, 2016. You might recall that permit was issued against the following motion that was offered by Commissioner Ramos at the January 15, 2015 meeting in Santa Fe. Mr. Ramos moved, "Mr. Chairman, I would move to approve the permitting request for black footed ferrets as requested by the Turner Endangered Species Fund with the following restriction: that the approval would

be valid from 1 year from today and we could consider for further approval by the Director for 2 additional years contingent upon review at the end of the first and second year, and that the Turner Endangered Species Fund is found to be in good standing.” So, Mr. Chairman and members of the Commission to present the status of the project for the first year and to facilitate your decision hopefully to renew our permit for the period March 11, 2016 through March 10, 2017. Mr. Chairman, members of the Commission, the black footed ferret is federally listed as an endangered species and an obligate predator of prairie dogs. The draft statewide action plan that you will consider later today identifies the black footed ferret as a Tier 1 species of great conservation need. It identifies the black tailed prairie dog as a Tier 2 species as well as the Gunnison’s prairie dog as a Tier 2 species. All of these, then, are species in great conservation need in the State of New Mexico. Since 1998, the Turner Endangered Species Fund has received, transported, held, handled, bred, released, recaptured and relocated 688 black footed ferrets and has increased prairie dog acreage on the Vermejo Ranch from about 500 acres to a maximum of about 14,000 acres. Data collected since 2012 indicates that absent Sylvatic plague, the Gunnison prairie dog complex at Vermejo Park Ranch has great potential to support a robust, viable ferret population that meets Federal recovery plan objective for downlisting and delisting the species. More specifically, 393 ferrets have been pre-conditioned in outdoor pens at Vermejo and subsequently sent to permanent release by the United States Fish and Wildlife Service over the last many years. Forty ferrets have been wild pre-conditioned at Vermejo Park Ranch and permanently released at other sites outside New Mexico by the Fish and Wildlife Service. And 255 ferrets have been released at Vermejo to be free-ranging for indeterminate periods of time as we try to restore a population to that grassland complex. In 2009, the Turner Endangered Species Fund documented the first wild-born black footed ferret in New Mexico in over 75 years. Black footed ferrets at Castle Rock represent only 1 of 2 extant populations of ferrets living on Gunnison prairie dogs in the world. We have translocated over 7500 prairie dogs to promote colony growth, to support black footed ferrets. And finally, our work has supported numerous graduate level research projects including 4 Ph.D. dissertations and 2 master’s theses, and we have published numerous peer reviewed science articles and book chapters. Now, specific to 2015, in late spring through early summer of 2015, Sylvatic plague swept through the ferret release area on the Gunnison colonies at Vermejo and reduced occupied range by the prairie dogs from about 3,000 acres to about 350 acres. As is the case with plague, it killed most of the prairie dogs. The only prairie dogs that were spared occupied areas that we had dusted with Deltamethrin to kill fleas. Fleas are the principal vector for plague. Our ferret population, because of a significant reduction in prey population—that being prairie dogs—our ferret population declined from an estimated 16 animals in 2014 to a minimum of 2 that we were able to document in 2015. We did not import or release any ferrets in 2015 because of that plague event, and we will probably not release any ferrets in 2016 as we wait for the prairie dog colonies to rebound. We did not receive, in 2015, any complaints from the public about our ferret restoration project. Our efforts at Vermejo to restore an important, imperiled grassland species, specifically prairie dogs and black footed ferrets, are substantive, noncontroversial, and consistent with the State Wildlife Action Plan. Not surprisingly, then, I request a renewal of our permit Number 3060 to advance the restoration of an important part of New Mexico’s natural heritage, that being the black footed ferret. Thank you, Mr. Chairman.

CHAIRMAN KIENZLE: Thank you. Any questions from Commissioners? Yes, sir.

COMMISSIONER RICKLEFS: Mr. Phillips, the ferrets now are on the high country, up in Castle Rock country, and not down on the black tailed prairie dog lands at the bottom?

MIKE PHILLIPS: Mr. Chairman, Commissioner Ricklefs, I can't quite understand what you're saying. Are the ferrets in the high country and not down on the short grass prairie?

COMMISSIONER RICKLEFS: Yes. Your Gunnison population is up around Castle Rock, is that correct?

MIKE PHILLIPS: Yes, sir. That's correct. And we believe, and this belief is subject to change but it is a pretty firm belief on our part, that because of increasing periods of persistent deep drought in New Mexico it is unlikely that the short grass prairie of Vermejo would allow us to restore a big enough black tail prairie dog population to support ferrets. So I think what you'll see from us going forward is a singular focus on ferrets and Gunnison prairie dogs in Vermejo's high country near Castle Rock.

COMMISSIONER RICKLEFS: I know there's some neighbors that have some concerns of what would happen if ferrets were on neighbors' private property, how that would affect them.

MIKE PHILLIPS: Mr. Chairman, Commissioner Ricklefs, that's a great question. The specific permit that we hold from the Federal government to release ferrets insures that if a black footed ferret is accidentally taken by a neighboring landowner, that will not cause a take action under the Endangered Species Act. It's a special provision under the Federal law that is permitted, that can allow for lawful activities to take place that might inadvertently result in the take of an endangered species. So there would be no concern on the part of a landowner engaged in a lawful activity.

COMMISSIONER RICKLEFS: But if they become a population on the neighbors, then there would be added regulations on his land use?

MIKE PHILLIPS: No. Mr. Chairman, Commissioner Ricklefs, no there would not be any proactive measures that would have to be implemented by the landowner. The Endangered Species Act is quite clear that landowners cannot be mandated to do anything except not take. So you couldn't go out and shoot the ferret. But you wouldn't have to do anything to promote the ferret's persistence. No proactive measures would be demanded. Now, it is useful to note that the United States Fish and Wildlife Service is developing a programmatic (phonetic) safe harbor program for black footed ferret in New Mexico to further promote the accommodation of ferrets on private land. So if a landowner wanted to be involved, you could easily sign a safe harbor agreement and that would give you a future that was more certain and not going forward, all you would have to do in that case would be to generate some net benefits for the conservation of the species in question. That's coming online, too. As we focus on the Gunnison colonies, as you know, Mr. Chairman and Commissioner Ricklefs, those are located in Vermejo high country some distance from neighbors. And given that the black footed ferret is an obligate predator of prairie dogs, if there is no prairie dog, if there is no prairie dog colony, the black footed ferret won't live for more than a night or two. Indeed, if you were the Good Lord and you wanted to design an endangered species, you would design a black footed ferret. They are little bitty guys. They've got legs about that long and the most modest of feet, and yet they are a fossorial mammal, a mammal that lives underground almost all the time. They could not dig a hole to save their life. So they rely extensively on prairie dogs, not only for their caloric needs for that's the food they eat but they are critically dependent on the burrows of the prairie dog colonies. So consequently, if there are no prairie dogs, you will not have ferrets. They are a habitat specialist to the extreme.

CHAIRMAN KIENZLE: I have a question real quick. Do you want a renewal for 2 years, 1 year, refresh my memory on that.

MIKE PHILLIPS: MR. Chairman, thank you for the great question. We have great faith in ourselves, so we would rather have a 2 year permit than a 1 year permit. But we are also proud of the story that we have to tell, and we welcome the chance to meet with the Commission. So, if in the Commission's wisdom, they choose to renew our permit for another 12 months, from March of 2016 to March of 2017 that is certainly enough room for us to go forward. But given our track record with ferrets and the good relationship we have with the state, it would seem that a renewal of our permit from March of 2016 to March of 2018 would be appropriate as well. Mr. Chairman, it is up to you and your team. We would appreciate as much running room as possible. We will not disappoint, but I understand it is your decision and some motions to be made by you or a member of your team.

CHAIRMAN KIENZLE: Any other questions?

COMMISSIONER ESPINOZA: If we move forward for 2 years, Mike, would you be opposed to coming back in a year and giving us an update?

MIKE PHILLIPS: Mr. Chairman, Commissioner Espinoza, we always welcome a chance to visit with the Commission and tell our story. It may well not be me, but it could be Dustin Long who is the project manager, or someone like Gus Holm who manages Vermejo Park Ranch. But Team Turner is gifted to have any number of talented spokespeople and we will be here. If you want us here, we will be here.

CHAIRMAN KIENZLE: Yes, sir?

(Inaudible, microphone problem)

CHAIRMAN KIENZLE: (Inaudible) Questions or comments? Can I get a motion on this? Oh, I'm sorry. One public comment. Thanks for reminding me. Jean Ossario.

JEAN OSSARIO: Jean Ossario, Las Cruces, New Mexico. I'll be very brief. I just want to commend the New Mexico Game and Fish Department and the Turner Endangered Species Fund for their cooperative agreement in the past for working together on prairie dogs and black footed ferrets, and simply want to say, "Atta boy" to the Turner Foundation and encourage the Commission to approve the permit. And I would love to hear again from Mr. Phillips next year. Thank you.

CHAIRMAN KIENZLE: OK. Can I get a motion on this?

COMMISSIONER RAMOS: Mr. Chairman, I move to renew the request from Vermejo Ranch to import and possess black footed ferrets for 2 years with a 1-year agreement to come and give us an update.

COMMISSIONER ESPINOZA: Second.

CHAIRMAN KIENZLE: All in favor?

ALL MEMBERS: Aye.

CHAIRMAN KIENZLE: The Aye's have it.

MIKE PHILLIPS: Thank you, Mr. Chairman, members of the Commission.

(Inaudible, speakers in background)

CHAIRMAN KIENZLE: **AGENDA ITEM 9: Proposed State Land Easement Agreement 2016 Season.**

GUEST SPEAKER: Good morning, Chairman, Commissioners, Director. We are going to give you an update. I haven't worked as much as Matthias has been with the Land Commissioner on this so he is going to be up here to help present some of the ins and outs of the easement, where we're at so far. As you know, we started this process back in Taos. We opened it up to the public, that we were going to work on a new easement for the 2016-2017 year. What we have done, we have met with the State Land Commissioner multiple times between the Director himself and also the attorneys between the State Land Commission and our Department. Where we stand right now, I think that everybody understands, excuse me. Where we're at right now, State Land Office is the 1 year easement with the State Land Office beginning 2016, of April 1st to March (indiscernible). What we are trying to is, the easement is going to provide access to state lands throughout New Mexico. We have worked on some offers that have been—excuse me—what we have proposed for the State Land Office or what we come to is still the million dollars that the Commissioner has really not moved from. But with that, we have provided an increase in camping opportunities throughout the state. We are going to work with the State Land Commission to identify those areas, and those areas be available on both the State Land Commissioners website as well as our own for the public for them to be available. We also have our officers in the field trying to identify various locations throughout the state where state lands through public roads and access will be where we can get GPS locations out to our hunters and sportsmen and fishermen throughout the state as well as have those GPS locations produced or available on our websites. With this along, we would have, the Department would produce signage, have actual signs posted on these access points throughout the State of New Mexico. We would provide those signs to the State Land Commission. They would be responsible for posting those signs. Under the current easement they are going to allow us, we would have the authority to go in and open those gates but it would be primarily the responsibility of the State Land Commissioner prior to hunting season, to those particular lessees, surface lessees, to get ahead and be aware that they have their gates unlocked or have them unlocked and so forth. So we are trying, you know, we are moving this agreement forward. We still continue to have the scouting period for up to 7 days prior to the licensing hunt. Also we are allowing up to 3 guests per licensee to access each of these via the State Land Office for hunters, trappers, and anglers. And I apologize for my nervousness, but I'm a little more comfortable now. Thank you. But that will stand for questions on this.

COMMISSIONER SALOPEK: I have a question. A good presentation. I'm glad somebody else acts like me, because I get nervous. On your presentation, it is a vehicular access. Before, has it said access, it seems the gates have been locked and you had to jump the fence but with the state land if it's vehicular access so the hunter has access, I guess that's what I'm after. If the rancher has it, I think hunters should have vehicular access, too, is what I'm saying.

GUEST SPEAKER: Yes, Mr. Chairman, Commissioner Salopek. That's in fact what we're looking for is anywhere that, and it is for vehicle access, there are going to be still some points where there is no gate per se or a road that's going through that they would still have to have the ability to cross that point from a public area and access that thing. But what we are determining, are those vehicle accesses where there

might be multiple (indiscernible) county road or something like that where we can identify those and get those open to the public for increased access for the amount of lease we are going to pay. So it would be a win-win or where we see that we're benefitting from the amount that we're paying.

COMMISSIONER SALOPEK: I just think it makes for a more fair agreement is how I feel.

GUEST SPEAKER: I think there is one point to add to that because I think that it is fair to say that historically under the easement that there have been representations that once you have the easement we have access and the State Land Commission, the State Land Office has represented that yes, we're all on board with access, go and get it. But one of the real benefits of this easement is that there's been a commitment which appears, in the language of the easement, there's a gate that we have identified in this early stage as an access point and it is mapped and it's on the website. And if you show up and there's a lock, there's authority to remove that locking mechanism to grant access so a hunter could get on that property and the Department would replace it with some sort of device that insures closure but not locking.

COMMISSIONER SALOPEK: Does this apply to, besides hunting, would this apply to the person that buys the—what is it, \$25.00—pass . . .

GUEST SPEAKER: Recreational.

COMMISSIONER SALOPEK: Recreational. Is this just for hunting season? And that's fine. I'm after the hunters. If it helps, if it's fair, that was my question.

GUEST SPEAKER: The scope of the easement is for licensees, hunters.

COMMISSIONER SALOPEK: Thank you.

MALE SPEAKER: MR. Chairman?

CHAIRMAN KIENZLE: Yes, sir.

COMMISSIONER ESPINOZA: Donald (phonetic), I'd like a couple of clarifications on the GPS wave points step. You said signs. Are you going to provide them for the Land Office, and staff? And Matthias, you cleared up some point, so the Department, if the landowner doesn't post that sign and he locks the gate, then the Department has the authority to go in and cut that lock.

GUEST SPEAKER: Mr. Chairman, Commissioner Espinoza, yes, that's exactly. This is going to be an agreed upon wave point between the State Land Commissioner and the Department and once they are established on the website, obviously access for the hunters as well, then we would go and address each issue with our officers out in the field, too, if they do come across not only I would say gates that are potentially locked but even having the posting that is required amongst the easement because it does require that the State Land Commission actually post these signs out in the field as well.

COMMISSIONER RAMOS: Now as far as the Department, if somebody doesn't post a sign, there's no consequences if he doesn't that we as a Department can enforce. Is that correct?

GUEST SPEAKER: Mr. Chairman, Commissioner Espinoza, the posting of the signs is an obligation that the Commissioner, State Land Commissioner, is obligated with under the easement, so the failure to post signs would be arguably a violation of the terms of the easement so there is a mechanism through breach of agreement, breach of contract, that enforcement could be pursued. So it isn't a hollow promise. The Commissioner is obligated to post signs at each one of those access points.

COMMISSIONER RAMOS: So there are consequences that we could pursue as a Department against the State Land Office for not posting the signs. And I'm going to assume that the Department is going to be diligent in pursuing, not so much in pursuing but monitoring that those signs are up and those gates, those access points that we've identified through your efforts here are . . .

GUEST SPEAKER: Chairman Kienzle, Commissioner Ramos, absolutely. I think we're 100 percent on board with this to provide this access for our sportsmen. For the amount it is a little more of a burden on our officers in the field but I think we are up to the task and (indiscernible) that we will get that. I mean, a lot if it is going to be like any other places, certain areas that we probably already have issues with, with gates being locked or stuff similar to that, we're probably still going to have similar issues along those lines. So we kind of, probably I would say, respectfully (phonetic) with our officers in the field, are going to have knowledge of areas that we're going to have maybe potential issues and we could surely get ahead of those prior to.

CHAIRMAN KIENZLE: OK.

COMMISSIONER RAMOS: Mr. Chairman. Thank you, Donald, Matthias. First of all I do want to commend the Department for making all efforts to extend our thoughts or negotiation ability to bring things forward. I do appreciate what I'm seeing here with the access points throughout the state. But I've got to be honest with you. We are paying 200,000. Yes, it is fairly low. I think something fair would be 500 or 600 or maybe eventually get to a million over a 3-year period, something like that. But I think with that said, I just don't, I can't grasp that enough is being done for public access at this point. You know the access points are great. But what about public roads that border and go into state lands? There are still continued gates that are going to be locked. You know the lessee is going to be the only one who has those, the usage I guess, on that. And to me, it's not only that but landlocked state land is a huge concern of mine. And I do appreciate camping points and things like that as well. But to me, what about the backpacker and again that landlocked property. We really need to look and massage that somehow. And I would hope that agricultural people do step up to the plate on looking at our incentives that we offer to these people to allow people into this landlocked, specific landlocked places, because I think that's what is critical. We are now wanting to pay one million when we were paying 200,000 and we are not gaining a whole lot more from that. And to me, that landlocked land is a huge issue. And to me, I feel that our agency should possibly even establish, if we can't step foot on that, and the public sportsman cannot set foot on that, possibly we can propose some kind of a policy regulation where nobody will be able to hunt, trap, or utilize that for hunting and wildlife management purposes in these types of places, the landlocked specifically again where again I know that we do have bighorn sheep in some landlocked state lands, great quality of mule deer, where to me this could be some breeding stock that could be translocated into other units that don't have these types of things. But I think we still need to gain more than what we are, you know, being countered and allowed to possibly do. Seven days' prior scouting, you know these lessees have year-round scouting and also benefit for outfitting and those type of things as well. But I just

don't think we are gaining enough as sportsmen and I believe that sportsmen in New Mexico deserve more than what we are getting especially when we are looking at that million dollar mark. That's kind of where my thoughts are. And I know that one of the drawbacks that has been looked at is the A-plus system and how it's going to impact the Department monetarily as well and I know it might end up having to think outside the box, maybe going into some similar antelope system as the, like the mule deer system that we have with private ranchers right now. But I know I'm talking a lot but there's a lot that I'm really passionate about, this access, and again back to the very beginning sportsmen have county maintained roads that drive to the state land and yet we still have to jump over a fence. To me, it is about equal access, vehicular, horseback, walk-in. We want it all if we are going to be paying more.

GUEST SPEAKER: That's a mouthful, Chairman Kienzle, Commissioner Ramos. And you know, and we have, I can speak for, in some portions of the state where we have done unitization (phonetic) and we have kind of figured out some of this checkerboarded area and we will continue to use that. Maybe these are some avenues we could take for certain larger areas. We also have our open gate program where we can reach out to the private landowners where we just legally can't just go through private land to access some of that landlocked area. Your points are well taken.

MALE SPEAKER: I would to also make a mention, and I do know, I do respect private property and I respect private property owners and I would like to see, again, maybe where we advertised our incentives program a little bit more and maybe look at and what can we do more, I guess, lucrative for people to come in and want to provide that access to landlocked areas and things like that.

FEMALE SPEAKER: I do think it was time to increase the \$200,000 fee. It was an old outdated number and so we needed to move up the level some. But, you know, I do have a tolerance level. I think that the Department has worked hard to try to find some middle ground with the State Land Office and I commend you for really pushing those issues of camping opportunities, access, and also the scouting period is a really important period of time, you know, before any hunt. So I appreciate that. And because of those, I am willing to go with the Department and support this agreement that it has tentatively come to with the State Land Office. But I will say, in the future and as we look at it again next year, that I'm not willing to go a whole lot farther as far as monetary consideration regarding access and that is going to me an issue for me, beyond a million dollars.

CHAIRMAN KIENZLE: (indiscernible), anything?

MALE SPEAKER: No.

CHAIRMAN KIENZLE: All right. Public comment? The Larrañaga boys, Robert and Anthony..

ROBERT LARRAÑAGA: Chairman, members of the Commission, thank you for the opportunity to address you and to share our concerns. As you see here, I have prepared some written comments but from what I've heard and what I've witnessed in coming here this morning very early from Las Vegas, different things have impacted what I feel I need to say to you. You see my little 9-year-old falling asleep on my shoulder. He did that a month ago as I bagged my bull elk that some of you saw and some e-mail concerns that I sent to you. Rude awakening by a 7 mag but nonetheless, one memory he'll never forget. Christian bagged his buck last year on state land with his 223 as an 8-year-old. My father has fought diligently for access to White Peak and we feel it is time that sportsmen need to speak up again. White

Peak almost got away from us under previous administration. People spoke up. It was under the radar. The Supreme Court reversed it and a lot of that land is still available to sportsman. My father never hunted that land, and never will hunt that land. But he knew something was wrong at the time and needed to be addressed. I empathize with you. I feel you are between a rock and a hard place. We are between a rock and a hard place, the sportsmen in New Mexico. We don't pay, it stinks, but that's where it's at. I think the bigger picture is the structure of our State Land Office and that needs to be addressed in the future, but that's something you don't have control over but our legislators do. How one person can get in position and come up with their ideas and run with them, the Albuquerque Journal stated on Sunday that there was a proposed 7 million dollar for the purchases of Stanley property by the landowner then to be donated back to the State Land Office for a 20year easement. And then what happens in 20 years? Are you pushed into the corner again with a gun to your head to get an easement? Baloney. It also says it was illegal. We do not need to be subjected to that every time position changes in the State Land Office and I feel passionately about the need for people to know. Hunters called me this morning and said, Rob we'd be there; we just finished our hunt yesterday. Other people are getting ready to hunt in this area on State Land. My boys missed school today. They will not miss Monday to hunt. They have given up 1 day of hunting to get one day out of school but it is to come and fight for our future and our rights to access state, and what I view as public land when we are hunting it. It doesn't belong to the king, it doesn't belong to a tyrant. It belongs to us, the people of New Mexico and we should have equal access and respect the private property when we go there but also respect the rights that we have on state land. And if you haven't already had a copy or seen a copy, I would like to have someone give them to the Commissioners, but my son's article that came out in the Las Vegas Optic, brought a copy for the Commissioners, as well as in the Albuquerque Journal and I'll let him speak to his thoughts on the article. Thank you and I appreciate your efforts to secure our access.

CHAIRMAN KIENZLE: Thank you.

ANTHONY LARRAÑAGA:Ladies and gentleman of the Commission, I was going to say 'good morning' but it's a little late for that now. Good afternoon, almost. My name is Anthony Larrañaga I would like to thank you for providing me with the opportunity to speak to you today. I realize I have a limited amount of time, so I'll get right to the point. I came here today to urge you to pay the annual lease that allows sportsmen to access the State Trust Land, increase though it may be. As you may have guessed, I find myself opposed to the unfairness of this increase. I find it completely incompatible with the ideals of our society. But I find the thought of hunters and anglers and trappers being barred from this land even more incompatible. I would much rather swallow the relative flea of having to pay for an increased lease than the camel of being barred from these lands which make up almost a quarter of the lands available to hunters. The time will come for us to push back against the unfairness of this increase, and push we will. But for now, we the people of New Mexico, push for access to these lands. I have no personal vendetta for or against the Land Commissioner, the Game Commissioner, or Department of Game and Fish. I have no political affiliation which directs my actions. I speak for, and solely for, the people of New Mexico when I urge, when I ask you, beseech you in fact, to pay this increase. We've always, for generations, had the ability to access these lands and I would like to see that insured for future generations. I don't want to see that battle lost, not after what we've been through. Thank you for letting me speak. Thank you for your time.

CHAIRMAN KIENZLE: Thank you.

GUEST SPEAKER: We normally don't dress like this, we are normally in camo, but by next year, if we don't have access to the state lands, we'll be dressed like we are going to a funeral. It will be a sad day this time next year if we cannot access our state lands. Thank you.

(Inaudible, background speakers)

CHAIRMAN KIENZLE: We are struggling with understanding the speakers. So, either . . .

MALE SPEAKER: Have them come up here? Hear better up here?

CHAIRMAN KIENZLE: I don't mind having people coming up front. I can't understand what's being, most of it I can understand, but it's tough. So, I'd say, fellows, one of you give up your seat.

MALE SPEAKER: Because, we can hear them here, right?

CHAIRMAN KIENZLE: We can hear them here all right. So, Joel, Garrett, and John Crenshaw next. I assume there's only 1 Joel.

MALE SPEAKER: You only hope. (Laughter)

MALE SPEAKER: We can't hear you up there.

CHAIRMAN KIENZLE: Oh, is that right?

MALE SPEAKER: (indiscernible) you've been asking questions. You know, it's hard to tell.

CHAIRMAN KIENZLE: That's good to know. So it's 2-way. It's the deaf leading the deaf.

JOEL GAY: I'm Joel Gay with the New Mexico Wildlife Federation but I was asked today by the members of the Doña Ana County Associated Sportsmen to address you guys because they were not going to be able to be here today. And I think, like everybody in this room, we all feel between a rock and a hard place. Those guys told me to say that their preference would be a 3-year commitment with a 2 million dollar maximum for 3 years, 600,000 plus per year for 3 years for 2 million dollars total. They feel like the sportsmen in New Mexico are being bullied and that it's important to stand up to this, and that if we don't get a 3-year commitment that you should agree to shut down State Trust Lands and we all know full well what the implications of that would be. It is going to affect a number of people severely. It's going to have financial implications, and nobody wants to do that. But there comes a point where you've got to stand up for your principles and being bullied is one of those places. So, again, 3 years minimum, 2 million dollars max. Thank you.

CHAIRMAN KIENZLE: Thank you. Garrett? Make the long walk. Then, Mr. Crenshaw, you're next. You're better looking close up.

MALE SPEAKER: Mr. Chairman, if I may make a suggestion that these guys line up to save us a little bit of time?

CHAIRMAN KIENZLE: OK.

GARRETT VENEKLASEN: Good morning, Mr. Chairman, Commissioners. Garrett VeneKlasen, New Mexico Wildlife Federation. First the Federation acknowledges the State Land Office's mandate to generate funds for its beneficiaries. The future of our schools, our teachers, our hospitals, are all a vital priority for this state, and we recognize that. The reality of a 1-million-dollar-a-year contribution, 5% of which actually goes to State Land Office administration, to the budget is really crumbs compared to the greater annual State Land Office income portfolio which exceeded 17 million dollars last year. There are much better avenues for resource generation for the State Land Office than gouging sportsmen. I think it is important to acknowledge that. Many of these lands have been used by cultures that predate statehood and the formation of our country. We also acknowledge that and that many of our members are tribal and Spanish folks—most of our members are actually. I want to acknowledge the Federation's complete support and commitment to keeping our State Trust Lands open and accessible to sportsmen throughout New Mexico and the Federation has a tireless track record on this issue. Our involvement with the White Peaks issue is a good example of this. State Trust Lands are not only a valuable sporting opportunity in their own right, but also offer vital access to vast adjacent national public lands and I think Commissioner Ramos mentioned that point. We are in full support of a reasonable increase to the lease agreement. When I say 'reasonable' I mean something on the lines of probably 20 percent or maybe a little bit more which is what the grazing fees have been adjusted to. The fees proposed are exorbitant. And they are nothing short of offensive. Sportsman's community has been singled out as a stakeholder. We expect to be given the same consideration, standards, and treatment as the other permittees. And I am talking about oil and gas and grazing permittees primarily. Additionally the benefits are insufficient in relation to what we are asked to pay, a handful of designated camping spots statewide is a paltry offering. At the proposed rate, the public should enjoy the same privileges, year-round access, diverse recreational opportunities and open backcountry camping, for example. Thank you very much, Commissioner Ramos, that we have on our national public lands. And I just want to think carefully what the Department could do with 2 to 5 million dollars because that's where we're headed. In terms of habitat restoration, water improvement enforcement, easement agreements, etc., let's acknowledge that this 2 to 5 million annually could be leveraged with Federal funds to the tune of 6 to 15 million dollars. Now we are talking about real, real money that you guys can do really amazing things with. If you agree to the Commissioner's exorbitant terms, and I'm talking about this million dollars, there is no turning back. It sets a really dangerous precedent. Four western states charge no access fee. And Arizona allows virtually open use and camping. Please don't allow the Commissioner to blow you off. None of you seem to be the sort of people that get bullied and I certainly found that to be true. I mean, the west is watching. It is not a New Mexico issue. It is a west-wide issue. The precedent that you all set has a potential to affect the entire west, and it is a scary thing for all public lands sportsmen. And, remember our survey, our survey was very different with more inclusive, and I think most of our people accept a reasonable increase but they are willing to take a couple of years off to push back on this. So my last question is, where is Commissioner Dunn? He is an elected official and he has a duty to appear in front of the public on any issue to this scale. Thank you all very much.

CHAIRMAN KIENZLE: Thank you. Representative Ezzell, did she leave?

FEMALE SPEAKER: No, she's (indiscernible) here.

CHAIRMAN KIENZLE: Oh, she's here. You're next, John is next.

JOHN CRENSHAW: Good morning Mr. Chairman, Commissioners. John Crenshaw, President of New Mexico Wildlife Federation. To be clear, we do not wish to see the State Trust Lands closed to hunting, fishing, trapping. However, as you know, we have repeatedly said and repeat again today, that we would support a decision not to renew the lease if the demands are too excessive. And we think this is pretty high. Doesn't this put you and the Department and us as sportsmen in quite a no-win situation, either you pay this exorbitant fee or you have the choice of refusing to sign the lease and thereby closing down all these trust lands to thousands of hunters on millions of acres. We think 1 million dollars is high. We thought 600 thousand to be pretty generous. But that's the way it is. That 600 thousand would be 3 times as much as the Department has ever spent for this access. And we all know, Dunn knows that 1 million dollars is a drop in the bucket for the state revenues. It is 1/739 of the total revenues from the State Trust Lands last year. And we also want to point out, and I believe Garrett may have said this, we have to remember that Commissioner Dunn has been very consistent in one thing, and that is that he wants more than a million dollars in coming years. And whatever that final fee, there won't be any going back. Whatever the fee is in effect on March 31, 2019, that's pretty much going to set the basis for the fees for years to come. Beyond this financial dilemma that the game Department is facing right now, is our concern, is there are movements in Congress, even presidential candidates, about transferring Federal lands to the state. I would hate to see another 22 million acres of Federal land get in the hands of the State Land Commission. We are just seeing firsthand how one elected official can allow or deny access to more than 8 million acres of public trust lands that have been used by sportsmen for generations. Your choice today is between bad and worse. We believe your top offer ought to be at 1 million. We would prefer it for a 3-year period, very much so, so that we don't face these repeated demands again next year and the year after. And if this can't be accommodated, as we said before with reluctance and certainly not frivolously, we would support a decision not to renew this lease now or, if it goes to a million-and-a-half or 2 million or whatever the new fee may be next year, whatever that may be, we would support that same decision again.

CHAIRMAN KIENZLE: Thank you, Mr. Crenshaw. Representative Ezzell.

REPRESENTATIVE EZZELL: I'm sorry. Can you all hear me just fine up there or not?

CHAIRMAN KIENZLE: Better. Um-hm.

REPRESENTATIVE EZZELL: I could not hear you all out here and that was a problem. I apologize for not going up there. Thank you all for being in Roswell today. As I express to Commissioner Ryan whenever I had hunters beginning to call me very upset over their maybe not getting to hunt on state land, I see this as a big problem. My fees on my state land has increased, oil and gas leases have increased, and you all are paying \$250,000 a year for 9 million acres of land. There were some comments that were made by some of the commissioners that I really have a problem with. Cut a chain and a lock off of private property? I'm really bothered by that. I will not grant access across my private property for hunters to access state land on my neighbor's property. I want that understood right now. There was also a comment made that the lessees have year round scouting. We also pay the leases on that land. And there is also, I know I was shocked to learn this, because there is a fee for any other person, not just hunters, not just anglers, not just trappers, that want to access state land for whatever reasons, like hiking, photography, or non-hunting participation. And it is a very nominal fee. And the amount of people that do access the public lands that pay for this permit to be able to do that is less than 10 percent. So let's be fair

across the board whenever we're saying if we want to access our state land everybody should have to pay just the same. I also want to ask the Commission, this right to access public land, does this include the 175,000 acres more-or-less that is now owned by the New Mexico Game and Fish, and that is a question.

CHAIRMAN KIENZLE: Director?

DIRECTOR SANDOVAL: So, Representative Ezzell, yes. Hunters, trappers, and anglers have access to our properties during the open hunt season just as they do with the state land lease.

REPRESENTATIVE EZZELL: Thank you, Director, and does this also include those people who hold a permit, have purchased a permit, to be able to go in there and hike, photography, nonhunting activities?

DIRECTOR SANDOVAL: Representative, not at this point. We are entertaining change in how we manage our properties.

REPRESENTATIVE EZZELL: OK. And how, I guess, I appreciate the answer you just gave me there because that is a concern of mine because that 175,000 acres is owned by the taxpayers of the State of New Mexico. And it was taxpayers' money usually that did usually purchase these properties. And I don't know, I am on the side of the hunter and I am also on the side of the landowner because I am both. But whenever I'm having to pay an increase in fees I think that with these monies going to our state schools for the education of our young people I think parity should be at play. Thank you very much.

CHAIRMAN KIENZLE: Thank you. Jude Smith.

JUDE SMITH: Can you hear me?

CHAIRMAN KIENZLE: Not very well. You're better off coming up here if you really want us to hear you. I mean we can hear, some voices are fine, others are not for whatever reason. Jess Rankin your next. Thank you.

JUDE SMITH: My name is Jude Smith. I am a fourth-generation New Mexican. My oldest son is a fifth. All four generations have hunted on school lands since before it was a territory. They saw it as different kind of lands but the last three generations have learned to hunt quail, deer and elk on these lands. It's getting very hard to tell my son, well maybe we won't have a place to hunt next year. He loves to hunt and my youngest son loves to hunt. We buy our licenses and we go. This lease is important to more than me, but to the future generations of hunters and fishermen in the State of New Mexico. And if we are going to pay these higher leases for the privilege, someone needs to take down the posted no hunting signs that exist on these lands. We we're hunting on them yesterday and there still signs up

posted No Hunting- Keep Out and it is state land. If we're going to pay more and more money for this then those have to be addressed. In the past we called the State land office, they said call game and fish. Game and fish said call the State land office. The answer from State land office was, well you know where you're at, don't pay any attention to them. But if we're going to pay this amount those signs have to go away. The locks have to go away. That's all I have to say. Thank you.

CHAIRMAN KIENZLE: Thank you. Jess Rankin. He's not here anymore? You did exactly what I told you and I couldn't see you. Thank you. Sterling Spencer your next.

JESS RANKIN: Mr. Chairman, Ladies and Gentlemen of the Commission, I feel like the state land office is holding you all up, no different than they did with A gun. I would rather see that the Commission just pass a regulation stopping all hunting on State trust land until this issue can be resolved. I don't know where, I don't know what the intimate details with the finance of the department is but I can't imagine \$800,000 hickey not being a real blow. And you know they talk about the oil gas people using land, the grazing permutates, their extracting resources from that land that belong to the State land office. The wildlife does not belong to the State land office. It belongs to the people of New Mexico. I would rather see you all just abolish all hunting on State trust land until a bitter agreement can be reached. I'm willing to give up hunting on State trust land for one, two or even three years if that's what it takes. And another thing, as far as land that's landlocked by private land, can't be accessed, there should be no hunting allowed on that land if it can't be accessed by the public, even if an agreement is reached with the State land office to hunt land that is accessible. I see no reason why you all can't just pass a regulation that any landlocked state land is closed to all hunting and if anybody hunts in there it's a game law violation, the same as if their hunting out of season or whatever. I just feel like you all are being robbed, I really do. That's all. Thank you.

CHAIRMAN KINZLE: Thank you. Michael Murphy and then Karen your last.

STERLING SPENCER: Chairman, Commissioners, my name is Sterling Spencer and thank you for allowing me this time to talk to you. I'd ask you to ask me any questions, I'm quite open. I'm a land manager and a rancher. I also manage the wildlife on that ranch. I take it very personal in making sure the habitat and the wildlife quality and quantity stays at a sustainability level for nature itself, for sportsmen, for whatever. But, as you look at these issues and they've been going on here for year with the State land office, first off you know a lot of things are about the money. Well if we really want to get to the point and quit being political about it, get an appraisal on it. I think you might find, these are my points, you might find the value of that hunting right maybe in the four – six million dollar area. I don't know, I'm not an appraiser but I see what hunting privileges go for when they're sold in the private sector. Of course through the Constitution, having studied it a little bit, the Land Commissioner as you all well know is a constitutional position and he has a responsibility and I don't need to take up for the man, I don't care one way or the other, to maximize the funds for our public schools and whatever, so we're all tugging at the same money trying to do things. So I'm not here to get political with the value, but I don't think \$1 million is out of line. And there's been comments in the media and whatever, well what about the rancher? His didn't go up, what, five times or whatever the number is, four times. That's because there was genius put into a formula that depended on the benefit ratio of that land to the grazing to keep somebody on there to get some income, there's a formula and it goes up and it can go down and go lots of places. Maybe that's where it needs to go with the gross national product or goods or whatever in this deal. That aside, I ask you, you know, worse case if it gets out of hand, get an appraisal. Let me move to another issue. And I get in it a little bit with the land office and with the game department but I've got to tell you I enjoy the game officers that come by my place because we get to talking and understand things and I get to talk to them about the wildlife there. When we talk about access, my frustration in access, I have commingle land, some's landlocked, some isn't, some's right off the State Rd., some's off County. The problem there is, who's responsible when somebody is let into an area at a certain time for activities that take place there that may not be, you know that may be criminal or may be injurious to the environment or something? I had an excellent time and I don't know if it was the department who was

before your Director at this time, which I've got to commend the lady, she's doing an excellent job with you all. There was a time where my officer would come and lock into my lot because they unlock it had access from a state highway into the land area and then I'd say if somebody wants in or something go unlock it and let them in there if it's hunting time because half the time there so many hunts I don't know when they are. I know I should learn better but I don't know. So who's going to take the responsibility for that activity if something goes wrong in there on that land, a has waste is dumped? If somebody trespasses and you're not displaying the private property sign, you all are strapped for law enforcement. You all are strapped for enforcement of your deal. I know that's all about, excuse me again, the money. So it has to be when you have a hunt the State of New Mexico or your department, I don't know where legislative, it's made it a privilege not a right because that's why you charge. If you didn't charge for a ticket or a permit or whatever, it would be a right and you could do whatever you want, you know, go do. But it's not, it's turned into a privilege. We have to understand, there's a lady in Ross at one time, she was a realtor, she says there will always be more people but there will never be any more land. And we as citizens of this state and this nation have to understand we're not going to be able to, in this particular instance, hunt like we use to hunt. Hunt all we wanted to. Hunt as much as we wanted to. I have pictures in the 40s and 50s of my family coming out, and we're four generations are whatever we are. You know a bobtail load of deer, that doesn't happen anymore because there's more people, more pressure, we have to worry about the environment and that species. And I've got to tell you I'm patting myself on the back because in working with the department over time, though we get a little head busted once in a while in trying to manage the antelope on my properties and the state properties, we probably have one of the finest herd, I hate to say this, everybody's going to come down there and hunt them, but the finest herd, quality and numbers that there are and that's through management. Yes Sir?

CHAIRMAN KINZLE: Will you draw your comments to a close please?

STERLING SPENCER: Yes Sir. Well I just, you know they are what they are. If you ever need to ask me about it I would ask my representative out of Ruidoso to come down and meet with me sometime. I'd love to take you around and show it and maybe it would be helpful. Thank you all for your time.

CHAIRMAN KIENZLE: Thank you. I appreciate your comments. Is Mr. Murphy here? And then Karen you're the last one.

MIKE MURPHY: My name is Mike Murphy, a resident of New Mexico since I was 13. I've been here in Roswell for the last five years and will be for about another month. Like the other sportsmen whose spoken and as like the Commission is well aware, our public lands and particularly the state lands in conjunction with the BLM Lands are very important, particularly down here in southeastern New Mexico. I came down here and got a GPS with the land status map to make sure that my wife and I were in the right place at the right time. You just about have to do to the intermix nature. And I'll say that Game and Fish has done a really good job with the Open Gate Program down here. They've gotten access to some really important properties and they give you access to more property. Valuing the State Trust Land and the opportunities they provide across New Mexico and particularly here in the southeast, I would urge the Commission to have caution. This is good work that these gentlemen have done. There's some important things that are being addressed but once \$1 million is said, it's unlikely to come back down, negotiations almost never go that way. And I would submit to you that the \$200,000 that's been paid is pretty fair given the level of access that's been granted to the State Trust Lands. This last dear hunt, I know there were three different times that we ran into locked gates on public roads across state lands and there's a lot of country and we hadn't done our scouting and that's one thing I'd like to bring up. Seven-day scouting period if you work, isn't much time to get out and look around. Sometimes it's hard to get leave. Sometimes it's hard to get time off work and even if you can get it that's a pretty narrow window. And that's an example of one of the things the Commission I feel should negotiate or ask the department to negotiate more strenuously for. Compared to BLM Land, there is a distinct lack of habitat improvements on most State Trust Lands. You're unlikely to see quail waters or quail ramps down in the water. You're

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unlikely to see the land maintained to the same degree, antelope passes and things like that. I would agree that a higher fee for the easement is fair but it should be accompanied by a commitment to improved habitat and access for all New Mexicans beyond the limited access for the \$25 fee for all purposes and also it should be accompanied by more guarantees for access for hunters in a wider time period. I think that the proposal the department has put together is a good one. I appreciate the hard work that they've done to try to get some things that are important to us as sportsmen but I would urge you to view this with great caution as a \$1 million is an awful lot given a history which hasn't shown a whole lot of accommodation for sportsmen on state lands, maybe something a little less to see if the commitment is going to be there on the land office side. Thank you.

CHAIRMAN KIENZLE: Thank you Mr. Murphy.

KAREN: Mr. Chairman, Members of the Commission, it's good to see you all today. Quite honestly New Mexico cattle growers doesn't have a policy on this lease at this point in time. We...(Audio Lost)

(Audio Resumes)

CHAIRMAN KIENZLE: ...next and as a courtesy to the Attorney General's Office we're going to move up the Executive Session. Can I get a motion to move Executive after the Agenda Item No.10?

COMMISSIONER ESPINOZA: So moved.

COMMISSIONER RAMOS: Second.

CHAIRMAN KIENZLE: All in favor?

ALL MEMBERS: Aye.

CHAIRMAN KIENZLE: The Aye's have it. Okay.

COMMISSIONER RYAN: Mr. Chairman, I'd also like to suggest an amendment to the Agenda Item No. 20 to maybe after we do the Item No.11 or after Executive Session, we have a lot of public comments.

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CHAIRMAN KIENZLE: We'll do No.11 after the Executive Session and then can I get a motion to move up No. 20 to right after No.11 please?

COMMISSIONER: So moved.

COMMISSIONER: Second.

CHAIRMAN KIENZLE: Okay.

COMMISSIONER: He said so moved and I said second.

CHAIRMAN KINZLE: Second. All in favor?

ALL MEMBERS: Aye.

CHAIRMAN MIENZLE: Aye's have it. Okay. So we're going to do No. 9, I'm sorry, No. 10. We'll go to Executive Session. We'll do 11 and then we'll do No. 20. Okay, take it away. Thank you.

MICHAEL PERRY: Good afternoon Commissioners, Madam Director. My name is Michael Perry and I'm here to present Item Agenda No. 10 which is Hunting and Fishing License Revocation. As you know the department will present a list of individuals that must, that meet the established criteria for initiation of a suspension process for hunting and fishing and trapping as you all have seen in the past. Each of these individuals has been served a notice of contemplated action and been offered the opportunity for a hearing to rebut or explain the violation points that they have accumulated with this process. Currently there are three individuals that have had a hearing. The hearing results are attached with the hearing officer's recommendation. One of these individuals has submitted a written exception for your consideration. I think you have it in your handouts. The other listed individuals did not request a hearing and the list contains the department's recommendation for the revocation period in accordance with the rule. Currently this go around there are 22 obligors that have been certified through Human Services Department as being out of compliance as of this August. The Commission is required to suspend all

license privileges for noncompliance obligors until they return into compliance. And with that, we'll accept any questions.

CHAIRMAN KINZLE: Any questions or comments? Can I get a motion on this Item please?

COMMISSIONER: So moved.

CHAIRMAN KIENZLE: Somebody's got to read it.

COMMISSIONER RYAN: Mr. Chairman, I move to approve the Departments recommendation and be noted that Hunting, Fishing and Trapping License privileges with 31 individuals who have accumulated 20 or more violation points in a three-year period as presented by the Department.

COMMISSIONER SALOPEK: Second.

CHAIRMAN KIENZLE: All in favor?

ALL MEMBERS: Aye.

CHAIRMAN KIENZLE: The Aye's have it.

COMMISSIONER RYAN: Mr. Chairman I additionally move to authorize the department to administer these suspensions pursuant to the Parental Responsibility Act on behalf of the Commission including the issuance and service of a notice of contemplated action to each individual that is out of compliance with the Parental Responsibility Act.

COMMISSIONER SALOPEK: Second.

CHAIRMAN KIENZLE: All in favor?

ALL MEMBERS: Aye.

CHAIRMAN KIENZLE: The Aye's have it. Who will, can somebody read the blurb for Executive Session?

DIRECTOR SANDOVAL: Sandra, the motion for the Executive Session.

CHAIRMAN KIENZLE: Number 22.

COMMISSIONER RAMOS: Mr. Chairman I move to adjourn into Executive Session closed to the public to discuss the acquisition of real property located in Bernalillo, Chavez and San Juan County that's authorized by exception. Section 10-15-1 H (8) and pursuant to Section 10-15-1 H(7) on matters subject to the attorney-client privilege relating to threatened or pending litigation in Docket No. 1:15- CV-00252-EGS and Docket No. 4:15-cv-245-JGZ in which the Commission and or Department is or may become a participant.

CHAIRMAN KIENZLE: Can I get a second?

COMMISSIONER ESPINOZA: Second.

CHAIRMAN KIENZLE: And then we have a Roll Call Vote Secretary.

DIRECTOR SANDOVAL: Commissioner Espinoza.

COMMISSIONER ESPINOZA: Yes.

DIRECTOR SANDOVAL: Commissioner Ramos.

COMMISSIONER RAMOS: Yeah.

DIRECTOR SANDOVAL: Commissioner Ryan.

COMMISSIONER RYAN: Yes.

DIRECTOR SANDOVAL: Commissioner Ricklefs.

COMMISSIONER RICKLEFS: Yes.

DIRECTOR SANDOVAL: Commissioner Salopek.

COMMISSIONER SALOPEK: Yes.

DIRECTOR SANDOVAL: Vice Chairman Montoya.

VICE CHAIRMAN MONTOYA: Yes.

DIRECTOR SANDOVAL: Chairman Kienzle.

CHAIRMAN KIENZLE: Yes. As a reminder, we're going to do Agenda Item No. 20 when we return and I expect this Executive Session to be brief so don't wander too far away. Thank you.

CHAIRMAN KIENZLE: Good to go? This Commission had adjourned into Executive Session closed to the public. During the Executive session the Commission discussed only those matters specified in it's motion to adjourn and it took no action as to any matter. We are now going to do Agenda Item No. 11 and then 20 as per our earlier motions. Mike.

MICHAEL PERRY: Good afternoon. Again, Michael Perry, Major Southern Field Operations. I'm here to present Item No. 11 which is the request for approval of a non-profit organization under 17.3.7 and this is for the sportsmen for Fish and Wildlife of New Mexico. A brief overview of 17.3.7, what it does is it authorizes the Director to transfer hunting licenses to a non-profit organization approved by the Commission. The license must be donated and it must be paid and it also must be paid by the appropriate license fee. A little bit of background, in January of 2014 the Commission amended the rule and this allowed for the approval of non-profit organizations to promote youth hunting, fishing and trapping activities. Currently we want to talk about SFW which is Sportsmen for Fish and Wildlife of New Mexico. This organization was founded in 2004 and is a 501C3 non-profit organization. It's primarily based in Farmington but it does have membership throughout the state. SFW provides support and

sponsorships for multiple youth hunting and fishing opportunities in New Mexico. As I looked at their webpage last night, they've been a part of over 20 youth oriented organizations and it provided lots and lots of fishing licenses, equipment and lots of manpower to take these kids fishing. They also do a great job taking veterans hunting on Buffalo hunts and it's an organization that represents the constituents of New Mexico very, very well. They also purchase licenses and provide meals for the Youth Hunter Education. (Indiscernible) Cattle, elk and doe, antelope hunts on Vermejo Ranch and they've been doing that for the last several years. This is a picture from a recent pheasant hunt that they participated in and I'll leave that for discussion.

CHAIRMAN KIENZLE: Do we have any representatives of the group here? Come on up. Thanks for being here today.

MALE SPEAKER: No problem.

CHAIRMAN KIENZLE: Anything you want to say?

MALE SPEAKER: First off I would like to thank the Commission, you Mr. Chairman, fellow Commissioners, Director Sandoval for considering the SFW New Mexico to be the honor organization to be able to accept these donations. Like Mike had mentioned, you know we do have a pretty good track record of taking out and providing support for lots of different hunts. You know the handicap youth hunts, we've taken quite a few out, non-handicapped youths we've taken out. We've supported tons and tons of fishing projects. One that is nationally recognized is the Casting for Kids. We support the Casting for Kids up there in Farmington for the past three years and it's been a great relationship. They take out underprivileged youths out fishing on Navajo Lake. And you know we just believe that taking out the youth and individuals such as in this proposal is part of what we do in our organization. It's not something that is new to us and we will represent the Game and Fish and SFW very well in doing so. And I might like to add that if this does go through I do believe that we have our first donation ready to go once everything is approved.

CHAIRMAN KIENZLE: Great, thank you. Any questions or comments? This is an action item, can I get a motion please?

COMMISSIONER SALOPEK: I move to approve the Sportsmen for Fish and Wildlife of New Mexico as a qualified non-profit organization promoting youth hunting, fishing and trapping activities.

COMMISSIONER RICKLEFS: Second.

CHAIRMAN KIENZLE: All in favor?

ALL MEMBERS: Aye.

CHAIRMAN KIENZLE: Aye's have it.

COMMISSIONER ESPINOZA: I'd like to ask just one question Mr. Chairman, maybe direct director. Will this be available right away because as he mentioned I think he's got a couple that are ready to donate for this weekend.

DIRECTOR SANDOVAL: Mr. Chairman, Commissioner Espinoza that is effective immediately so he'll be able to move forward.

COMMISSIONER ESPINOZA: Thank you.

CHAIRMAN KIENZLE: Number 20: Commission Approval of the State Wildlife Action Plans.

MATT WUNDER: Mr. Chairman, Commissioners, I appreciate the opportunity to come here today and provide an update on the State Wildlife Action Plan. We've talked a little bit about this in the past so I want to provide just a brief overview of the process and the program and present what we've come up with. The State Wildlife Grant Program was established in 2002 as a result of congressional actions that directed funds from primarily Land and Water Conservation Funds, revenues from the outer continental shelf, royalties and some general treasury funds to a program that is administered by the Fish and Wildlife Service and is designed to provide states with resources to plan for conservation, plan an implement

conservation actions for species that are not typically hunted or fished. As I mentioned, this is managed by the Fish and Wildlife Service through the sport fish and Wildlife Sport Fish Restoration Program but it uses funds that are completely separate from those funding sources. Back in 2005 New Mexico developed the Comprehensive Wildlife Conservation Strategy also known as the CWCS. Since that time annual allocations to the department have totaled a little over, or a little under \$14 million. That has helped fund over 55 separate grants working on conservation actions across the State of New Mexico. The department is part of the, requirements for the program was required to revise the Comprehensive Wildlife Conservation Strategy within 10 years and that process was initiated last year in earnest. Just by way of background, The State Wildlife Grant Program requires the Conservation Strategy or State Wildlife Action Plan as it's being termed now, and there are eight required elements that the program does require. You know, looking at the distribution abundance of species, the wildlife, including loan and its declining populations that indicate the diversity of wildlife in the state. Looking at key habitats, try to assess some the problems that can impact both species and habitats, identify some actions to try to help conserve both the SCGN and their habitats, monitor where appropriate species and conservation actions since SWIG implementation, then schedule the review which is the process that we've just gone through. Part of that process involves coordination with federal, state, local institutions. I've mentioned before in previous presentations that we established a court team that we have worked with and then to provide opportunities for necessary public participation. The department's approach, early on we decided that the Association of Fish and Wildlife Agencies, AFWA's, guidelines, best practices for State Wildlife Action Plans serves as a good model that's a state based assessment of this program and how to best meet the needs of the program while designing a strategy that will work for those states. We decided that we would emphasize aquatic and riparian habitats because they are so limited in New Mexico and they are disproportionately important to wildlife throughout the state. We also assessed some of the impacts of climate change and then as an effort to try to focus the efforts of the conservation actions to look at, to prioritize both species and some of the key habitats to retain flexibility for the department in terms of implementing conservation actions as well as providing sort of an insurance policy that if things develop

that we didn't foresee, if we have species and habitats in this plan we have potential to address those. Essentially the department in conjunction with the court team went through, we looked at, we went through and reviewed the species in New Mexico. Overall, there's about 6000 species in the state, a little over 6000 species in the State of New Mexico, we narrow that down to a little over 1400 species that we ran through an assessment criteria to determine whether we think that, you know the status of their population, if there's factors that might be influencing them that would suggest that they should be included in the list of species for greater conservation need. We identified and assessed all the habitats that are available in the State of New Mexico, again with special concern for aquatic and riparian habitats. We looked at across the state, what are some of the potential issues or concerns that could threaten either species or habitats and then we looked at ideas, or we had some ideas for areas across the state where conservation could be especially effective and potentially efficient. As a result of this process we developed the State Wildlife Action Plan and that was part of the processes to send this out to public comments. We were able to go to the public back in July and August, we hadn't completed the document but we had some of the substantive components of that. (Microphone distortion) as I was saying, at the time did not have the completed document but we had some of the major components that we brought forward for people to have a look at so they would get an idea about the process and some of the preliminary products that we had generated at that point. We received comments from eight different entities. One of the themes there was that they desired additional time for review the documents. We did make a request to the Fish and Wildlife Service and they granted us an extension for additional review and public comment. So as a result of that, we prepared a draft document that we made available on 2<sup>nd</sup> of October and then that process, we gave them, we gave the public 30 days to weigh in on that. As a result of that we received comments from 11 different entities. Many of those were entities that had provided comments during the first comment period and some of those included, range improvement task force in New Mexico Department of Agriculture, New Mexico Association of Conservation (indiscernible) in New Mexico Cattle Growers Association and New Mexico Farm and Livestock Bureau were some of the entities that weighed in on the process and the product after the second public review

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period. Once we had received the comments, we reviewed all of the comments that we received. We went through and looked at the comments first to identify any examples of where the respondent said identified errors or technical typographic or presentation errors that could easily be corrected. We looked for new information that could contribute to the development of the documents. We incorporated some of the language that some of the respondents had proposed to us as an improvement over existing language and based on those comments we prepared a revised draft that we then, as I said we incorporated those and then we brought that to the directorate for their review and then provided a copy last Friday for the Commission review. I would like to emphasize that the document that you've received is significantly updated and refined from the first draft that went out for public review on the 2<sup>nd</sup> of October. And at this step in the process we're here and hoping to receive guidance from the Commission. And then we would then work to you know, perform any additional document checks and corrections that are necessary and then ideally submit that to the service by the revised deadline of November 30<sup>th</sup>. In conclusion, I would just like to point out that the SWIG provides the department with a substantial stream of money and in large measure the only source of funding that we have to work on species that you know, nongame species that we generally don't have funding for otherwise. It provides us the document does provide us with the flexibility to respond to some of the emerging threats for both wildlife and the habitats. Being more inclusive, if things occur that we don't foresee, if there's species or habitats identified in this document it permits the department to use those State Wildlife Grant Funds to try to address those and had those off. Ideally, as I mentioned are maybe not in this one, but a large measure of what they, State Wildlife Grant Program seeks to achieve is to prevent the need for listing of species. In so doing, it enables the department to remain in the driver's seat, planning and trying to implement conservation with the idea for stalling the need for federal listing where you then have the federal government coming in and imposing restrictions and driving the bus. So this is, I like to think that this helps us do the planning, implementing and it helps us stay in control. Again, prevent listings reducing federal oversight. And incredible swap ideally will help inform conservation actions across the State of New Mexico, both for

federal and private landowners alike and any other organizations that are interested in conserving the wildlife. So with that I will stand for questions.

CHAIRMAN KIENZLE: Commissioners? Do you want to do public comment first and then we'll take it up after that? Representative Ezell.

FEMALE SPEAKER: (Inaudible)

CHAIRMAN KIENZLE: We will put you at the end of the list. Garret.

GARRET VENEKLASEN: Mr. Chairman, Members of the Commission, Garret VeneKlasen, New Mexico Wildlife Federation. I just want to remind the Commission that there is a great deal of potential, I think it was touched upon for some of these nongame species and some of these species that not of us, especially in the greater community have any perspective of their importance. Often times, enhancing habitat for certain species, I think Jumping Mouse is a good example, is really good not just for the mouse but for the game species that sportsman care so much about. Often times in these riparian areas, conserving these riparian areas is really important, not just for them but for the stuff that we like to pursue. And again the pipeline of money, federal money is fantastic. And so I know some of these species are obscure but in the end the habitat mosaics that they protect do a great deal for the game. So I just want to remind you all that, thank you.

CHAIRMAN KIENZLE: Thank you and as a reminder, I'm going to stick pretty strictly to two minutes so don't be surprised if I gently cut you off at that two minute mark. Ernest Torres.

ERNEST TORRES: My name is Ernie Torres. I'm a rancher in northern Sandoval County on the northern part of the Homes on the west slope. My family's been in the area for centuries, ranchers, farmers, irrigators. I'm a Commissioner for the La Habra community District Association, I'm also the Northwest Vice President for the New Mexico Cattle Growers Association. This document here, this Wildlife Action Plan is one, well it amazes me that I see politics mixed with science and you can yet feel

good that you're calling it a scientific document because it's not. Case in point page 48, diversion of water to irrigate crops has contributed greatly to loss of aquatic habitat especially wetlands. Nothing could be further from the truth where I live. My ancestors and I'm a descendent of those people who have treaty rights here, okay, water, grazing, you get it? We create habitat and we have maintained habitat for waterfowl and fish. What one man's wetland is, another man's hayfield is and it really bothers me that your scientist in one broad stroke of the brush have made us the bad guys here. And that's ridiculous. I'm not going to put up with that and I'm also going to add what's been requested of me as a Commissioner on my ditch, to inform your scientist if they ever come out to our ditch easement they need to let us know first. And that's a safety issue because were At the point right now where we don't trust the federal government and we don't trust any government right now because of what's happened, Jumping Mouse, spotted owl. Thank you very much.

CHAIRMAN KIENZLE: Thank you Sir. Karin Foster.

KARIN FOSTER: Thank you Commissioners. My name is Karin Foster. I'm the Attorney and the Executive Director for the Independent Petroleum Association. Last night or actually this morning at 2:40 am I sent you a twelve page document which actually is a larger document about what I'm going to speak about right now. Right now I'm just going to hit the highlights. So you should have already received the large document about what I'm going to talk about. My main point in my comment is that once an agency writes down a report and once it's accepted by a Commission, it is accepted by the general public as fact. In my concern with the SWAP is that there are very few facts and it. If you read it it's extremely anti-business, it's extremely anti-oil and gas and it's clearly the opinion of the drafters in many, many instances. My focus in representing the oil and gas industry is, are the Prairie Chicken and the Sand Dune Lizard. And those are the two animals that I really looked at very carefully in this report. Both of those animals are listed as tier 1 species of greatest concern and in order to achieve this, the greatest concern, it had to have a .6 or six points or above in each instance. The Sand Dune Lizard you claim there's no funding for and so therefore that is one of the reasons that got three points in terms of the listing decision.

The Prairie Chicken got two points because apparently, there was no funding. There could be nothing that's further from the truth. As you know, and you completely ignore this fact in your report, the Sand Dune Lizard and the Prairie Chicken has been subject to litigation. There's a lot of science out there on both of those species that you chose to ignore in drafting your report. You also chose to ignore the fact that the industry has put both ranching industry as well as the oil and gas industry has put a lot of money towards candidate conservation agreements. There are millions of dollars out there that's available for study for those species. So frankly, I'm very concerned about your report. I'm concerned about the facts that are not there, they're not facts. Thank you.

CHAIRMAN KIENZLE: Thank you. Jerry Fanning.

JERRY FANNING; Thank you Mr. Chairman and Members of the Commission. My name is Jerry Fanning. I'm the Senior Regulatory Affairs Advisor for Devon Energy. Devon is a very large operator in New Mexico, oil and gas operator. We're headquartered out of Oklahoma City, employee about 5500 people. In New Mexico we employ about 300 people. We do have some of the same concerns that Ms. Foster just expressed as far as oil and gas goes. We submitted, Devon submitted comments on August the 24<sup>th</sup> regarding this document and as we look at the last draft which I am qualifying that is the last draft, that it was available, it's not really clear how those comments were addressed and we have concerns about that. The document is full of inaccurate information. The State Wildlife Action Plan like the Comprehensive Wildlife Conservation Strategy is based on species and habitat information from recent scientific literature and professional biological assessments. However, if you look in appendix D and E, they do not support that statement. It's not there. On page 3 in particular it provides a description of energy production. However, it doesn't reflect the present operations as they are today in the energy industry. These references are from 1981 and 1989, another significant outdated statement. So it provides generalizations and not specific information. Chapter 4 and other various subsections of others chapters, there's significant amount of text related to climate change, however there's no discussion how possible pending Paris Climate Change Agreement which is expected to limit the rise in global average

surface temperature to below 2° Celsius compared to pre-industrial times will affect habitat or these species. You talked about climate change but you don't think about what might happen. There's also in the discussion of the U.S. greenhouse gas reduction efforts and how this may affect climate change. Since the State Wildlife Action Plan is a 10 year document, how will these efforts be addressed in the document?

CHAIRMAN KIENZLE: Mr. Fanning.

JERRY FANNING: Appendix D there's no significant number of species where's there's no data on whether the species.....

CHAIRMAN KIENZLE: Mr. Fanning? Mr. Fanning your time is up Sir.

JERRY FANNING: Oh, my time is up?

CHAIRMAN KIENZLE: Yes Sir.

JERRY FANNING: Can I make one closing statement?

CHAIRMAN KIENZLE: You can. Be brief please.

JERRY FANNING: Alright, I'm sorry. Overall concern is there's no rationale for spending a very large amount of federal funding. This document is for 10 years and it needs to be accurate and science-based. Thank you. Sorry I went over.

CHAIRMAN KIENZLE: Thank you. That's okay. John Cooper.

JOHN COOPER: I'm John Cooper. I'm representing New Mexico Wool Growers. I'm a member of New Mexico Cattle Growers and agree with their written comments already presented to you guys. What jumps out of me on this whole thing is the list of species and the tier of the species. You kind of remind me in writing this of a kid with a BB gun jumping a cobia quail. You take a shot and you not going to get anything. There's too many here. Maybe you get more funding by having it that way, I don't know.

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The, I guess you would call it attitude of the document, especially where it talks about grazing historically. Historically there's always been grazing. And it talks about uncontrolled grazing. Well, the grazing has always been controlled, not always in the same objective but it's always been controlled and we didn't always get it right. But it doesn't cite the newer information from right sources that we have today and puts our industries in a bad light. In short, I believe this is a document that needs a lot of review and of re-writing. Thank you.

CHAIRMAN KIENZLE: Sterling Spencer.

STERLING SPENCER: Thank you for this time formation. You have received a document from New Mexico Cattle Growers November 2<sup>nd</sup> from Executive Director Caren Cowan and I can't really say a lot more than that because just as the last person spoke, there's a lot of holes and maybe, I say bias in this deal. So I'm just going to quote from here, I'm not sure if you remember some of the things that are written but in general and specific, a taking of this. In the general discussion of agriculture on pages 31 and 32 it makes it clear that the drafters of this have little or no knowledge and even less appreciation for what agriculture and livestock grazing contributes to New Mexico, about New Mexico's abundant and thriving wildlife population. Even if one accepts the language from the document which New Mexico Cattle Growers and me as a rancher does not, the land manager. According to the drafters there has been no uncontrolled grazing as pointed out by my predecessor talked for some 85 years. You couldn't stay in the business if you did it that way. It has to be done environmentally correct. With one of the nations leading agricultural universities here in New Mexico I would think that there would be some collaboration with the writers and that University as to how things are done today. It appears that data was mined to achieve a particular goal. The discussion on 32 about destruction of cryptobiotic crust by hooves on both elk and cattle completely ignores the research, this is specific, indicates that this hoof action, gentle trampling increases the soil's ability to hold water thus promoting the growth of vegetation. It's quoted out of Alice Savory's book which is held high and that's what we're trying to do, make a habitat and that's what we do. In finish, the ignorance of the current condition of the lands in New

Mexico as well as the impacts of agriculture carries through on page 42 where the document again claims agriculture for perceived ills today. I'm just protesting that I think this document should have more collaboration from those that know what goes on and the current, more current history before it goes forth and we have to live with it for decades. Thank you gentlemen.

CHAIRMAN KIENZLE: Thank you. Randall Major.

RANDALL MAJOR: Chairman and Commissioners thank you for allowing me to speak. My name is Randall Major. My family and I ranch near Magdalena. I also serve as a Southwest Regional Vice President for New Mexico Cattle Growers Association. I urge you not to pass his plan. It's too broad to be effective and it will hurt agriculture. It has too many problems and there was not enough time to work with the landowners. The drafting does not really seem like it relates to New Mexico so again, I respectfully request that SWAP not be submitted to the U.S. Fish and Wildlife Service. Thank you.

CHAIRMAN KIENZLE: Pat Boone.

PAT BOONE: Mr. Chairman and Members of the Committee my name is Pat Boone. I'm a rancher in Roosevelt County and also serve as President Elect in New Mexico Cattle Growers Association. We are deeply concerned that this agreement is not, this plan is not conducive to a good relationship between our members and the Department of Game and Fish. It's been stated before, the anti-agriculture sentiment is very heavy in this document and we feel that we as ag producers are a vital part of the society and the economy in New Mexico. I'm soon to be 62 years old and I'm the fifth generation of my family to be on the land where I am now. So in the hundred and 30 years that, plus years that we've been there we've always strived to provide the best care and the best stewardship for land in order not only to provide our livelihood for families but also to provide a good habitat for the game that resides on our land. This document in my opinion is not friendly to us as ag producers and we respectfully request that the Commission hold off on approving this until we can all sit down together and come up with a better plan

for all of us. I appreciate the opportunity to address you and I feel like we have worked together well in the past and I feel like we can together in the future. Thank you.

CHAIRMAN KIENZLE: Dan Gerran, Gerran? Did I get that all wrong?

DAN GERRAN: No Sir. Dan Gerran with Mac Energy in Artesia. We're a privately owned, family-owned oil and gas producer. We also are one of the largest pecan producers in the world and we have some ranches. So we kind of have a foot in a lot of different areas and it seems like this plan will affect adversely all of those. The effects are very broad. There across the board. Whether it's air, critters, water, it's all going to be affected. Agriculture and oil and gas produce the revenue that supports the State of New Mexico and this will affect that adversely and we're going to see less revenues coming to the state. The document as others have said, it is conclusory, it just makes statements and we're to accept them. The data is old, from the 80s. There is current data on chickens and lizards from the 14, 2015 studies, PLM done by Texas Tech. It's not in there. Birds are increasing, there aren't the problems existing today that are in this document. Another issue is that the courts have said clearly in several federal cases that the science used that's relied upon this document and was relied upon to list the lizard and the chicken and other critters is faulty. It's not adequate to meet the legal standard to list the species in the first place.

CHAIRMAN KIENZLE: Mr. Gerran, will you wrap up your comments please?

DAN GERRAN: I sure can. It looks to me like you made a comment that the federal government after looking at this document will not be in New Mexico and I agree because it looks like they wrote it and we certainly would like to see some massive changes. Thank you very much.

CHAIRMAN KIENZLE: Thank you. Lewis Derrick? Teresa Seamster?

TERESA SEAMSTER: I'm always too short for this. I'm Teresa Seamster. I'm with the sustainable commission in Santa Fe as their Wildlife Advisor. I guess I have a completely different perspective on

what I'm reading in the State Wildlife Action Plan. It is, things in wildlife don't just change overnight so documents from 10 or 20 years ago can be very valid and usually you take those documents and you cross-reference them with current expert opinion and that's really what I've seen in this document. It's well-written. You could take the part that's just the eco-region descriptors with the mapping that was done and that could be a little textbook all by itself. It's really a jewel. And I think people who kind of went through the document quickly to see you know, maybe how one industry was described or whatever, kind of miss the overall point of the document. It is not a regulatory document. It's a document that the State of New Mexico absolutely has to have in some form if they are going to receive research dollars to look at species that could be going to extinct. And I think we all, everyone in this room, wants to make sure that New Mexico stays just as bio diverse, just as rich and its habitat and its wildlife as it possibly can be. A couple of people have said that they don't understand why there are 450 odd species. Well were one of the most bio diverse states in the country. Texas and California are really not that much more bio diverse but they have over 800 species. Vermont has 900 species on their list. And I'll wrap up, just I have to say this, working in Santa Fe County which is rapidly changing, our wildlife species are a lot more at risk then in some places. We have a lot of pressure from population and the Game and Fish Department has been outstanding in offering us assistance and coming and doing presentations since 2010, helping us map some focal species, that we all came together, the pueblo's, the villages, the towns, ranchers, farmers, people who live off the land who are not ranchers and farmers...

CHAIRMAN KIENZLE: Ma'am? Ma'am?

TERESA SEAMSTER: ... all came together and put this list together and the habitat.

CHAIRMAN KIENZLE: Miss Seamster thank you.

TERESA SEAMSTER: Thank you very much.

CHAIRMAN KIENZLE: Caren Cowan.

CAREN COWAN: Mr. Chairman, Members of the Committee, my name is Caren Cowan and in this instance I'm representing the New Mexico Federal Lands Council. We had a bunch of our officers that were concerned and came today to speak for themselves. President B. Boley of the New Mexico Federal Lands Council apologizes that he couldn't be here today. He sits on another state board and he had some pressing matters that took him away. But, looking, we have not seen the document, the final revision of the document but with what we saw in the last, on what we commented on in November 2, we can't support the document. There are too many species in it. There's too much negativity. Were concerned about buying into the whole concept of climate change and what may happen in 2050 and what may happen after that. We would like to see a document that is more a shotgun approach, I mean a targeted approach to truly helping species that can be helped rather than 455. I think there's over 30 species on there that are already listed as endangered and that seems to violate the concept of the whole document that is trying to keep species off of the endangered list. There's 10 species or so that somebody just thinks needs to be on there, it doesn't meet any criteria. Well you know there's a lot of us that think they don't need to be on there. So we just think the document is overbroad and it needs to be much refined and brought back in a much smaller form. Thank you for your time.

CHAIRMAN KIENZLE: Back where we started. Representative Ezzell.

REPRESENTATIVE EZZELL: Thank you for allowing me this opportunity to speak again. I want all of you on the Commission to really take a look at this document if you want to really get some good laughs out of it. In my opinion it is all inaccurate information. It is in my opinion again, anti-agricultural all the way. I really take exception on page 38 whenever it's trying to compare New Mexico to California. And I won't stand for that. We are New Mexico and we like that status. I do not want to be anything at all like California. I just really have a problem. I was raised on a farm that was fixing to be in my family 100 years. I am a rancher and I take great pride in the work that I do by helping protect the asset that's out there on my ground. And whenever I feel that we might need to cut back on our cowherd, guess what? Wildlife is still out there ladies and gentlemen. 455 species, give me a break. If you're getting

funding for having more species listed, you've done a damn fine job right there. I had no idea these meetings were going on. I don't do emails anymore. I can't keep up with them. Right now you can turn on my computer and I've got over 8,000 of them. If you're going to have a public meeting wanting public input, and I guess that's the key. It needs to be advertised and let all stakeholders know about this. We do take care of the wildlife population out there and I'm not going to be redundant on other comments that were made but ladies and gentlemen of the Commission, you really need to sit up and pay attention. Are we going to ultimately do what our Federal Government is mandating that we do instead of New Mexico having the ability to take care of their wildlife populations? I get real scared whenever I think about the U.S. Forest Service or the United States Fish and Wildlife Service. What did they do to all the stakeholders up at Perk Canyon concerning the Mexican Jumping Mouse? Where was the Game Commission? I missed you all there. I went to every one of those meetings and the Federal Fish and Wildlife Service did nothing to help our people out. This is not accurate information ladies and gentlemen. Pay attention to those boots that are on the ground. Pay attention to what was just recently told about the Lesser Prairie Chicken. The latest information on it was in 2011 and there was a judge in Texas that they ruled that the information that was provided by the Fish and Wildlife Service was inaccurate. The Oil and Gas Industry as well as the land owners out in those critical areas have worked diligently to protect that habitat. And now were going to take all of this into reconsideration along with how many more other species that you all are wanting to put on there? 455? As far as I know everybody in this room is involved in agriculture. You all eat. You're involved in agriculture. Pay attention to what's going on here. This is not based on sound science. Thank you very much.

CHAIRMAN KIENZLE: That concludes public comments. Commissioners, questions or comments? Somebody is dying to say something, I just know it. Don't be bashful.

COMMISSIONER: Mr. Chairman?

CHAIRMAN KIENZLE: Yes?

COMMISSIONER: I listened to these public comments today and the countless emails that I've gotten and phone calls. I have a question for you Matt because it's kind of, what I'm hearing a lot of is you said that you had a draft, you got public comments, you revised the draft based on those comments but that's completely different from what I'm hearing out here. You know I don't, I'm hearing people saying that their comments want to acknowledge so to speak and I have a big concern about that. I have a big concern that these guys like Representative Ezzell said, you know the boots on the ground, the people that live there and do this, that this document is going to affect their lives adversely as her stating. Whether it does or doesn't, to me the important thing is that I don't think they've been, their concerns have been addressed. And we represent these guys out there. If they have concerns and I'm hearing it, based on my count we had 12 that were not in favor of the document into that were. That's pretty overwhelming in my view. I don't know what happens if we don't approve this today but you know I would've wished that we would've been able to get the stakeholders involved and let them have some say that meant something to get some of the comments and their concerns addressed. With that said, I'm not sure where I'm going to vote on this yet. I'm going to hear some of the other Commissioners but I'm, right now I'm swaying it up not supporting that document. For now that's all I've got to say.

CHAIRMAN KIENZLE: Well you'll get another chance I think before it's over.

COMMISSIONER RYAN: Sure, I'll go next.

CHAIRMAN KIENZLE: Have at it.

COMMISSIONER RYAN: I think this has been the most troubling Agenda Item for me today and we've got a loaded agenda item every month this year but this one's concerned me greatly because I felt like we have been primarily on the same team as the department on a lot of projects and supported the department and on this one were not. I have a great deal of respect for the Director and her management and the staff. I have a great level of trust with her and her staff and employees and grateful for all the work that they do. And so this has really thrown me for a loop. It's a wildcard. It's complete, I mean if you compare the

discussion we had on wolves this morning to what the department is defending now in this document, it's absolutely 180° different. And the fact that Ladder Ranch was up here testifying this morning and quoted from this SWAP agreement in support of their position which is aligned with U.S. Fish and Wildlife, was evident to me that my assumption was correct. I have zero trust right now with U.S. Fish and Wildlife and they have confirmed that with their letter saying that they would trump any actions by our state to control or have input into a recovery plan. And that they would take a document that I think we all agree that a technically it's not supposed to be a regulatory document. But you know, if it looks like a duck and walks like a duck and talks like a duck, it's a duck in my opinion and this agreement is a duck. I hate to boost federal dollars because I mean I do like the idea of taking federal money that is not sportsmen money and putting it into, identifying some species that are real concerns and doing some real work to increase the numbers in our state that we have control over. I'm thinking, what's our top ten here and focus on those. We've got 400 something species listed and concern and threat that appear to have no scientific basis. We just had two rulings from Federal District Court in Texas stating that the scientific data relied upon in the Lesser Prairie Chicken and the Sand Dune Lizard cases was faulty and did not have adequate support. And those are the two species that U.S. Fish and Wildlife have trumped up the most. And now we're not only going to still discuss them in our document, even though there's evidence in light of the conservation agreements that are in place. The data that supports that the numbers are up on all of these and that they should have never have been listed. We're going to still, I mean of all the species to include on this list, those two are still included. You know, why not have a document that focuses on some species of real, something that we can really do something with and put our money into good, put this money to good work. And instead we have a document that goes against the very thread of the existence of the Game Department which is to balance our wildlife. It's to manage our wildlife in our state. We're supposed to be conserving and managing our wildlife and this is not management of wildlife. This is complete preservation of wildlife and it ignores the management of wildlife by various industries in our state including the agricultural community. The fact that a good portion of this document discusses climate change and greenhouse gases is disturbing to me. I sat on the Environmental Improvement Board. I went

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through the repeal of the greenhouse gas regulations over on the environment department side. And it's the policy of the Environment Department right now that all of that scientific data is not sufficient and doesn't support, I mean it is in, it is ambiguous and not, no one's all agreeing that we have you know, greenhouse gas problems and that that is substantially affecting our wildlife. I made the decision on the Environmental Improvement Board that our human health and health of our wildlife in our state was not being effective. We went through days and days of hearings on climate change and then I have this whole document here that talks about it as if none of that ever happened. There's no prioritization among species of greatest concern in any kind of practical management way. You discussed that you had assessment criteria on whether to list those or not but again, I don't know what your assessment criteria was. Again, like listing of the Prairie Chicken and Sand Dune lizard shows me that that assessment criteria if it was applied consistently across the board that it was inadequate or inappropriate criteria. The threats that you list of Agricultural Industry and the Energy Industry is disturbing to me, it's disturbing that you complain about all the oil and gas wells contributing to some kind of depredation of species but yet you're also complaining about wind energy and renewable resources causing a problem as well and then complain about power lines electrocuting birds. Now I want to conserve our species in the state but I'll tell you what I want to have electricity come to my house. And so the extremes that this document goes to, it makes it seem to have no credibility. When you're complaining to me about birds being electrocuted on power lines and still in the same conversation trying to have a legitimate conversation about species of real problem and let's get practical plan in place and deal with them, I'm sorry you lost me. I don't feel that we can have a conversation. So, I'm looking for a credible SWAP that we can put into place and work with the various governmental agencies and private organizations to fund this, to really do something good and although I highly respect that Director and her staff, I just have to respectfully disagree and I cannot support this SWAP.

COMMISSIONER: Mr. Chairman I have to almost echo word for word what's been said. I'm uncomfortable with the discomfort of the people and the constituents that we have in this plan. I know

there's a deadline on it but I think it would be well worthwhile to relook at what our legitimate concerns are from the public and glance at this thing one more time maybe to see if we can't, I don't want to say be practical about it but make it easier to deal with.

COMMISSIONER: You know I guess it gets a little confusing but looking at everybody, because I didn't know, I didn't know if I liked it. I didn't think I liked it but when you look at where one of, this would be the only one that would not be approved across the nation. That being said, I guess I would rather have, I don't know what our consequences are not approving it but I would rather take that and have a federal government kind of cram it down our throats instead of this document. I just think this document would just be horrible at this stage. Looking at who it is affecting, just the people in this room, I mean I don't know. It's confusing to me.

CHAIRMAN KIENZLE: Mr. Bob?

COMMISSIONER: Like Commissioner Ryan, this is one of the most difficult for me. The department has spent considerable time and I appreciate that and I respect them so much for what they've tried to do here but I can't support the document. I like others here can't trust the Fish and Wildlife Service but then also the Bureau of Land Management and the forestry, Forest Service. They use this document as a planning tool and I appreciate you put in the document that it is a planning tool and not regulatory. Those were some suggestions from probably four or five months ago but I don't believe that the federal agencies look at it that way. They use it as a regulatory and sometimes maybe they just stand behind it and use this document to beat the department up. Well look, your department did this, we've got to do this because you wrote the words. I won't get into the details. I have so many notes in this thing and so many underlined pages that I have difficulty with. The tier system I have great difficulty with. If it's a species of greatest conservation need, then it's a species of greatest conservation need. I don't understand why there's three tiers of that. I don't understand why endangered species which have funding of their own are on the list. So I'm sorry, I cannot support this document as it is.

CHAIRMAN KIENZLE: I think it's my turn or did you go Ralph?

COMMISSIONER: Yes Sir. Mr. Chairman mine's very simple. The proposed goal guiding document will be used as a conclusive document and you know by so many others it's even been mentioned today so I just cannot support this.

CHAIRMAN KIENZLE: I guess it's my turn. So being a lawyer I went back and looked at exactly what we're dealing with here from a legal standpoint. So I go to what the charge is for the Commission and if you look at 17.1.14 B (6) it says the Commission shall have the authority to apply for and accept any state, federal or private funds, grants or donations from any source for game and fish programs and projects. So I think the power to apply for this grant and that's what it is, lies with the Commission and not with the department and I don't recall having authorized the department to apply for the grant. Now that may have been from another Commission but this is an update. This is a new one, it's a brand-new day so I think it needs to be run through the Commission. It's number one. Looking at the SWAP that was done originally, I think there was a gee-whiz factor. Hey look what we get to do. When you read that particular SWAP it didn't look to me like it was fully tested by the commission. It looked like the Commission and members were involved, there was a public meeting but it didn't look to me like it was a commission driven process. It was much more a department driven process. Again, different Director, different Commissioners, but I think getting back to sort of first principles here, this needs to be run through the Commission and not through the department. When you look at this actual program, this is a State Wildlife Grant Program. None of us go to jail if we don't approve this. We may not get any money from this grant program but this isn't a federal requirement in the sense that you have to do it. I think it's voluntary in some respect and we get money because of it. Not something again where we're in violation of some law if we don't do it. When I look at, one of the criteria for these plans is that there has to be a means of reviewing and revising it every 10 years. So when you look at the current swap, there's very little discussion in there in Section 7 about there being any Commission input into this. So when this, when we had a brief presentation on this, I can't even remember when, I was left scratching my head

going why am I cut out of what really amounts to a policy document that's setting policy for me? Right? I got beaten over the head today just as Commissioner Ramos pointed out by a document that wasn't necessarily voted on by the Commission and approved by the Commission. So, I'm all about transparency and getting the public involved in these decisions. The public may detest and hate the decision that comes out of this Commission but we're going to test these things in public and I don't feel like this ones been tested in public enough. And again, looking at the existing SWAP, there's a lot of, there were a lot of cooks in the kitchen. I mean there's a laundry list of people that were involved in it and I don't get the feeling that this time around on this updated or this revision that we have the same community buy in or public buy in that perhaps existed the first time around. Now on a revision I get it, you've got 90% of what's there and maybe you just need to tinker around the margins but we're also smarter after 10 years. I mean we've seen again, today is a great example, but I think we've seen over the years and in other states that this kind of planning document can be used against both the department and the Commission and I don't like having a document used against me that people are saying, well it's a policy statement when I didn't make that policy. I don't get the sense and again, I wasn't there when this was done the first time around that the Commission had or was kind of in the driver's seat like we are with most of the policy rule and regulation changes in statements that are made. So, on that basis alone, just looking at the process and what the authority is for the department, I can't vote for this. So and so be it. If we don't get the money, we don't get the money. What I would ask for, and I think the Director has the authority to do this, is go visit with Fish and Wildlife and say we need to test this further through the public process and come up with another document. If they say, no, so sorry, too late, can't do it, then so be it but I would rather get a document we can all live with, not necessarily get behind but a document we can live with rather than one that I don't feel has been tested adequately through the public participation process.

COMMISSIONER: Mr. Chairman if I can make just one quick comment or maybe even address the question. I know that our goals with the department is not to stop working with a lot of these species that were mentioned and whatnot and I know that's going to be very cost, you know costing the sportsmen,

you know the dollars now. I believe this grant was what, around \$900,000 that we we're going to be seeking. You know it's unfortunate that we can't utilize the money that we're now going to be putting into our state land. But that's kind of where I'm at. We've got to utilize her dollars the most effective and I guess that's where we're going to have to be pulling out more money now, you know so we're getting hit at both angles now to continue doing what's best for New Mexico wildlife in general.

COMMISSIONER RYAN: Chairman, you raised an important question I think that deserves discussion regarding what our, the Commissions role is here today and giving guidance to the Director and she is to move forward and it would be my motion Chairman to give a vote of no confidence in the current draft of this document and to the extent able under our guidance statutory and regulatory authority of the State of New Mexico that we limit the Director's authority to move forward with this draft of the document.

CHAIRMAN KIENZLE: Let me puzzle for just a moment. Sometimes you can see the wood burning up here, give me a second.

COMMISSIONER SALOPEK: An (indiscernible) or, Matt have we looked at the other documents from other states around this to see what they submitted by chance?

MATT WUNDER: Mr. Chairman, Commissioner Salopek, yes we have looks at a variety of the other states documents that have written, prepared. A number of them.....

COMMISSIONER: Mr. Chairman, there's a motion on the floor. Is it now open for discussion again?

CHAIRMAN KIENZLE: Well, sort of. Let me make this more simple and so this may be a substitute motion that someone can make. The suggested motion was moved to approve, not the one that Commissioner Ryan mentioned but a suggested motion was moved to approve the state wild, New Mexico State Wildlife Action Plan as presented with allowance to make administrative or minor grammatical changes as needed. What I would suggest, let's truncate that and make it into negative. So move to not approve the New Mexico State Wildlife Action Plan as presented period and then we can go

further motion to give I think direction to the Director on a go-forward basis to either ask for more time or ...

DIRECTOR SANDOVAL: Mr. Chair I do believe we need to take action on the first motion before we move into the second.

CHAIRMAN KIENZLE: She can withdraw.

COMMISSIONER RYAN: No, I'll withdraw my motion and move instead to decline to approve the New Mexico State Wildlife Action Plan as presented by the department.

COMMISSIONER RAMOS: I second.

CHAIRMAN KIENZLE: Any further discussion? Any comments? All in favor?

ALL MEMBERS: Aye.

CHAIRMAN KIENZLE: Any opposed? Chair is unanimous. Can I get a motion on how to have the Director proceed on this? Again, I would suggest that we request additional time from the Fish and Wildlife Service to apply for this grant and then I do think we need to, this may not need to go into motion but it does require more public participation on a go-forward basis. I just feel like the various stakeholders feel like they've been cut out of the process. Right? Whether that's true or not sometimes perception is reality so I think we need to go back to the drawing board.

COMMISSIONER ESPINOZA: Mr. Chairman, let me comment on that exact subject. Within that motion I would like to see that we direct the department and the director to convene with stakeholders. I don't want to make it a whole audience of it but maybe that people that have commented on it before that have already made comments, that they be invited to a one day session to kind of hammer that out and get their comments addressed, make that one of the requirements.

DIRECTOR SANDOVAL: Mr. Chair if I may, I think the piece that needs to get answered first is if were going to be able to submit an additional request for time and the ability for the department to submit afterwards. I think that will be key to your point Commissioner Espinoza and understanding what that looks like.

COMMISSIONER ESPINOZA: Could you have that by our January meeting?

CHAIRMAN KIENZLE: I'd rather not wait 60 days to do this all over again. So let's do a motion to get the Director to request additional time and then if additional time is granted then something along the lines of public meetings or public participation or however you want to phrase it.

COMMISSIONER ESPINOZA: Okay.

COMMISSIONER RYAN: So Chairman, I move, I move to allow the Director to seek additional, an extension of time, additional time with U.S. Fish and Wildlife to revise and submit this document. And if so granted that the Commission approve, there would be participation by stakeholders and opportunities for participation by stakeholders and the public as well as the Commission in the revision of the document.

CHAIRMAN KIENZLE: Let's say instead of "allow", we'll say "direct".

COMMISSIONER RYAN: Okay. So amended. My motion so amended.

COMMISSIONER SALOPEK: Second.

CHAIRMAN KIENZLE: All in favor?

ALL MEMBERS: Aye.

CHAIRMAN KIENZLE: The ayes have it.

COMMISSIONER: Was that to amend? I thought I heard amend and then I heard a second.

CHAIRMAN KIENZLE: That was to amend and then...

COMMISSIONER: Now we'll vote on the actual motion?

CHAIRMAN KIENZLE: The actual motion, correct.

COMMISSIONER: Okay.

CHAIRMAN KIENZLE: So do I need a second on that?

COMMISSIONER: Yes.

COMMISSIONER SALOPEK: I second.

CHAIRMAN KIENZLE: It was seconded. All in favor?

ALL MEMBERS: Aye.

CHAIRMAN KIENZLE: Aye's have it. Put this on the January Agenda one way or another so we know where we stand. Thank you. We're going to take a short break. Apparently you're a species all onto yourself. That's what I heard earlier, earlier today. Agenda Item No. 12: Final Proposed Adoption of Amendments to the Oryx and Pronghorn Rules Regarding Hunt Date Conflicts in White Sands Missile Range. This never ends.

STEWART LILEY: Mr. Chairman, Members of the Commission, today I'm before you to present the final amendments to the Rule and hopefully adoption of it. As you're aware, the Trinity Site visits on White Sands Missile Range on the stallion conflicts with the first Oryx and Pronghorn hunts that are to occur during the 16<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup> Seasons. The department proposes moving those hunts one week later to move it outside of the public Trinity Tour Sites when there are almost 3,000 public on the missile range at the same time. So again, it's just moving those hunts one week later. And with that I'll stand for questions.

CHAIRMAN KIENZLE: Is this the end of this long...

STEWART LILEY: This is the end of the long of this process, yes.

CHAIRMAN KIENZLE: And it's almost incomprehensible by the time we're done with it. Any questions or comments? Can I get a motion on this please?

COMMISSIONER RAMOS: Mr. Chairman I move to repeal and replace 19.31.15 and 19.31.12 NMAC as presented by the department and allow the department to make minor corrections to comply with filing this Rule with State Records and Archives.

VICE CHAIRMAN MONTOYA: Second.

CHAIRMAN KIENZLE: All in favor?

ALL MEMBERS: Aye.

CHAIRMAN KIENZLE: The ayes have it.

DIRECTOR SANDOVAL: Mr. Chairman as we transition, go ahead Mike, as we transition into the next presenter I did want to make you and the public aware the department is going to be repealing and replacing all of the rule because our rule books have become unwieldy for our officers and it's a (indiscernible) procedural, all we do is we take out all of the amendments that we've been working on for about the last eight years and make it one document. So it's just a procedural issue but I did want to make that aware, make everybody aware of that process for the department. It'll be happening for about the next two years.

CHAIRMAN KIENZLE: Agenda Item No. 13: Final Proposed Amendments of the Fisheries Rule 19.31.4 NMAC for Designation of Special Trout Waters on the Valles Caldera National Preserve. Mr. Sloane.

MIKE SLOANE: Mr. Chairman thank you, Commissioners. We talked about this a little bit last time I was here. Prior Fisheries Management, there was a discrepancy between what the Caldera allowed and what was allowed in Rule. We allowed more liberal take and the Caldera only allowed catch and release. After the takeover by the Park Service they were interested in coordinating more management and trying to get on the same page. Toward that end we had discussions with them about increasing angler access and use. So we, after discussions with them we agreed that we were proposed to reduce the bag limit, bag and possession limit to two fish, restrict terminal tackle to artificial flies and lures, single barbless hook and create a fishing season in order to protect the roads and access on the Caldera from May 01 to October 15<sup>th</sup>. Along with this we decided to make consistent rules and regulations in the entire areas so that San Antonia off of the Caldera has always been a special trout water catch and release and we converted that to a two fish limit to match what's on the Caldera. Public involvement, we contacted several of the major trout groups, they didn't seem to have any concerns with, they re-posted the rule on the internet. So we will monitor the results of the change if adopted and provide some assessment back to the park and continue to manage the resource. And with that I'll take any questions.

CHAIRMAN KIENZLE: Garret, do you have any public comment?

GARRET VENEKLASSEN: (inaudible).

CHAIRMAN KIENZLE: Okay, you don't want to come up here and tell me that? Never mind. Any questions or comments from Commissioners? Can I get a motion on this Item please?

VICE CHAIRMAN MONTOYA: Mr. Chairman I move to repeal and replace the Fishery Rule 19.31.4 NMAC as presented by the department to allow the department to make minor corrections to comply with the filings of this Rule with the State Records and Archives.

CHAIRMAN KIENZLE: I need a second.

COMMISSIONER RAMOS: Second.

CHAIRMAN KIENZLE: All in favor?

ALL MEMBERS: Aye.

CHAIRMAN KIENZLE: Aye's have it.

MIKE SLOANE: Thank you.

CHAIRMAN KIENZLE: Dave?

(Crashing sound)

COMMISSIONER RYAN: Ouch.

CHAIRMAN KIENZLE: Have this man removed. Agenda Item No. 14: Special Hunt Draw Deadlines for the 2016-2017 Season.

DAVE ROHRBACH: I'm not Mac Seavey (Phonetic), I apologize. Mr. Chairman I come before you to present the Special Draw Hunt Deadlines for the 2016-2017 Season. 19.31.3.8 states the Commission must set and approve the application deadlines. Draw One will be February 10<sup>th</sup> for Bear Wildlife Management Area and Turkey Permits. Draw Two we move back a week to give the sportsmen a little bit longer to apply. The reason being is we do not have to confirm hunts with the Valles Caldera since it will be a hunt code. And then we moved up the draw deadline for Draw Three because the Fish and Wildlife Service moved up their migratory rules which will be released in May or June so we're able to give the sportsmen a little bit more notice. And with that I stand for any questions.

CHAIRMAN KIENZLE: Any questions or comments Commissioners?

COMMISSIONER: Nice and short.

CHAIRMAN KIENZLE: Can I get a motion, this is actually just a, no this is an action Item, can I get a motion?

VICE CHAIRMAN MONTOYA: Mr. Chairman, I move to approve the departments recommendation to set the following application date deadline for 2016-2017 Special Draw for Hunt Draw Licenses.

COMMISSIONER SALOPEK: Second.

CHAIRMAN KIENZLE: All in favor?

ALL MEMBERS: Aye.

CHAIRMAN KIENZLE: Aye's have it.

DAVE ROHRBACH: Thank you.

CHAIRMAN KIENZLE: Agenda Item No. 15: Getting Access into Nature (GAIN) Proposed Rule Revision 19.34.3 NMAC. Mr. Liley.

STEWART LILEY: Mr. Chairman, Members of the Commission, I'm before you today to discuss proposed amendments to the GAIN Rule 19.34.3. A little bit of background, currently on our Wildlife Management Areas you must have a fishing, hunting or GAIN permit in order those WMA's. GAIN allows for non-consumptive use of these WMA's for outside, outdoor recreation on those properties. Last year we sold approximately eleven hundred licenses, just shy, eleven hundred, excuse me. Access is fairly restricted right now. We have WMA's that are closed unless otherwise open. You'll see in front of us some proposed amendments to that. Only a few activities have been allowed and access is not necessarily consistent between all WMA's. Right in front of you is a star where all of those WMA's where we currently have some access or gained access onto those properties, the Commission owned properties. A little bit of history of the rule, it was adopted in 2009. In 2014 a committee, a department committee was put forward to establish and review the GAIN Program to determine how the program is meeting non-consumptive users' needs and better to adapt the program to meet those needs and align the goals of non-consumptive use with the goals of the original purchase of those Wildlife Management Areas. So again, the committee goal was to adapt a program or make some proposed changes to the program that would

facilitate public going outdoors as intended by the statute and make sure that access doesn't negatively impact either wildlife or cultural resources and also make sure that it aligns with the initial purchase of those properties. One of the big things that we looked at is standardized and simplify access rules onto the WMA's and then assist (Phonetic) it in potential economic development within the communities where those WMA's are located. With that, some of the proposed changes that we are thinking of as now is make it WMA's open unless otherwise closed. So we'd have closures during maybe certain activities such as elk calving periods, wintering deer periods, such as that but it would be opened as otherwise. An individual eliminate a game permit and if individuals could access those properties either with a hunting license, fishing license or the purchase of a Stamp. We would not require a stamp for youth and allow group access. Right now every individual on the group has to have one that's over the age of 18. We would recommend or propose to the Commission that at least one adult in the group of up to four adults would have to either have a fishing, hunting or a Stamp on their possession. In addition, we would close the lands during our general big game hunting season so it doesn't conflict with a scheduled hunt on those periods so we didn't have a conflict there. Allow a scanning period of seven days prior to the hunt on those properties and hunters could have up to three guests with them on those scouting and hunting periods. Also our camping limit for those where we have camping on some of those games or those department properties is increase it to 14 days to be consistent with other land management agencies surrounding this. Additionally, add the two new required Commission owned properties to the list of WMA's under the game program which would be the Double E and the River Ranch. Access wouldn't be granted until the management plans for those properties have been completed. In addition, we'd have specific rules for specific properties like I stated, have closures during wintering elk periods, winter elk periods, calving periods etc., and also make sure they align with their original purpose of the property. Also have some times where access would be limited such as 30 minutes after dusk or 30 minutes before light to ensure that there is not on some properties personnel or people coming on in the middle of the night such as our waterfowl areas etc., where we'd want access just right during the hunting times are when birds are not on the roost etc. So that would be specific to individual properties and then some

allowances for some specific properties such as the Sargent where we have a snowmobile area within there, allow some activity specific to those properties. So with that, those are what we've considered so far. This is not an action item but we're kind of looking for any direction.

CHAIRMAN KIENZLE: Before we speak, Representative Ezzell?

REPRESENTATIVE EZZELL: (inaudible)

CHAIRMAN KIENZLE: You passed? Okay. Let me say that the Director and I went to visit with the Land Grant, what permanent committee?

DIRECTOR SANDOVAL: Land Grant Committee.

CHAIRMAN KIENZLE: That Land Grant Committee, they were very keen on this rule change and I think we need to loop, not necessarily the committee but there's a lot of stakeholders, land grant members and they have different kinds of ruling bodies if you want to call it that but you have to find a way and I'm sure the Director's probably made you aware of this but we do need to loop them in because we're going to try to accommodate some of those traditionally, I think they called them traditional uses right?

DIRECTOR SANDOVAL: Yes.

CHAIRMAN KIENZLE: So we'll try and accommodate those traditional uses as much as we can and I did make a commitment about saying how far we would go to try and accommodate those. So please take that to heart. Do we have a means or mechanism for getting a hold of the different land grant members?

DIRECTOR SANDOVAL: Yes Mr. Chair we do. We have actually access to all of that through the legislative liaison.

CHAIRMAN KIENZLE: Okay, otherwise it was a fairly friendly meeting. I'm reasonably certain that if we don't do what I said we would do, I'll probably get yelled at the next time I show up with them. But I think our interests are aligned with a lot of what I heard at the land Grant Committee. I mean we're all

sort of moving in the right direction, we just need to fit the puzzle pieces together the right way. Thank you. Anyone?

COMMISSIONER RYAN: I just have a question about, you were discussing that you needed to go through the management plan, like a management planning is to be set before access would be granted to the two new acquisitions like the Double E and the other tract of land. Mike I just have a question on the management plan, could you just give me a quick summary of the management plan process and are we involved in that or do you present that plan to the Commission?

MIKE SLOANE: Ahmm...

STEWART LILEY: Mr. Chairman, Commissioner Ryan, as part of this rule development and the amendments to it, we will come forth. The management plan isn't specifically going in front of the Commission. The management plan is looking at, what with the trustees, those were properties brought as the trust. If you recall on the mine damage around Silver City, those were those two properties that were theirs. We had to develop a management plan that looked at a whole suite of things. Part of that is public access. We are writing that up as we speak on both of those properties but what we will come through with that is not necessarily a management plan in front of the Commission but amendments or proposed amendments on access and how those properties will be accessed in this new rule. So that will be in front of you at the January meeting to see how we propose to allow access onto those properties given what was found through those management plans.

COMMISSIONER RYAN: Okay, thank you.

DIRECTOR SANDOVAL: Mr. Chair, Commissioner if I may? Just further, that's something that's required from the Nerdist Settlement with the Freeport-McMoRan and Secretary Flynn is a piece of that part, or we have to present that management plan up to the trustees and then they finalize. So it's a part of that whole mitigation.

COMMISSIONER RYAN: It's a process, okay, gotcha. Thank you.

COMMISSIONER RAMOS: Mr. Chairman, Chief Liley, is Bear Canyon and Reservoir and Bill Evans part of that? I kind of missed it really quick and my question is, I have had some public complaint about getting sited for not having a license and one of the examples that was given to me was that husband did have a fishing license and the wife was sitting there reading a book and that she didn't have proper permitting or whatnot and I guess they had been warned at a prior time or whatnot. Is this part of that?

STEWART LILEY: Yes Mr. Chair, Commissioner Ramos, and that's where we were saying it will now be a party. One individual and a party of up to four would have to have either a hunting, fishing or a Hamas stamp. So yes, under current rules on those properties, all individuals over the age of 18 would have to have in their possession either a hunting, fishing or game permit. We had eliminate, our proposal is to eliminate that and allow one person in that party of up to four adults to have some kind license or access validation for that property.

COMMISSIONER RAMOS: Thank you. I just wanted to make sure on that. I appreciate your efforts and listening. I think it was about a year ago on that matter. Thank you.

COMMISSIONER RICKLEFS: Mr. Chairman?

CHAIRMAN KIENZLE: Yes Sir?

COMMISSIONER RICKLEFS: Just a suggestion, if economic development is part of the proposal, make sure that you contact the governing body of the nearby communities and perhaps even some of your neighbors, people that are configured to these properties.

STEWART LILEY: Mr. Chairman, Commissioner Ricklefs, yes that has been noted. Thank you.

CHAIRMAN KIENZLE: Shoot the flare up. Get everybody involved because it's, this is something of a major change you're doing. I think if we're going in the right direction, just get as much input as you can

and we're going to hear this in January. When do expect a final? January is a bad time but sometime after January when do you expect a final?

DIRECTOR SANDOVAL: Mr. Chairman if not January then we will try to bring it for you before April when our new license year starts. We're very excited about being able to roll this out this next license year so we're hoping to get it to you sooner than later.

CHAIRMAN KIENZLE: I think January may be too soon with the holidays. I'm trying to get everybody getting all the input you need to get but I think by the spring we should be, we are not, what is it? Analysis by paralysis, but we're not one of those organizations. So I would like to get this knocked out by the spring as well. Any other questions or comments? This is a discussion Item so. Are you doing fish?

JAMES DOMINGUEZ: Yes I am.

CHAIRMAN KIENZLE: Agenda Item No. 16: Proposed Amendments to the Aquatic Invasive Species Rule 19.30.14 NMAC.

JAMES DOMINGUEZ: Mr. Chairman, Commissioners, as we discussed I think at the last meeting, we have some proposals to rather than as the Chairman suggested, look more closely at the rule rather than the legislation. As you know in 2008 the Aquatic Invasive Species Act was passed. In 2009 the Commission adopted the first rule related to that in that rule has stood since then unchanged. In 2013 we hired a full-time AIS coordinator and he's been running around the state trying to figure out what exactly do we need to do and how can we make the program better doing boat inspections, outreach, trying to figure out what are the highest risk issues. Toward that end he's come up with a variety of options. One is a CO Program where we would, when the boat comes out of a lake you would attach a link between the boat in the trailer and if that boat came back with that link still intact they could bypass the inspection and go straight to launch at the same like or potentially with the New Mexico, depending on how we end up working it. So it would create faster access to the lake for folks, not have to wait in line and we'd feel more comfortable that they hadn't been anywhere else. We also are proposing to allow delivery of the

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red tag via email. We have boats that come from Lake Havasu, Lake Palo and they'll call us and so we have to meet them at the boat dock and that kind of thing whereas if we could deliver it via email that might simplify things and speed the process along. In addition, adding some inspection requirements requiring all out of state boats to be inspected since all out of, pretty much all of the surrounding states or all of the surrounding states do have aquatic invasive species in them. Require all boats have the drain plugs removed when they come out of the lake just to help facilitate the clean drain and dry. And then allowing training personnel to put red tags on, do inspections, just to formalize that and rule. And I didn't put it on here but also to require prior notification of coming into the state of boats 26 feet and larger and that's primarily because those boats are getting to get very complicated in terms of, they have showers, they have ballast tanks, they have a variety of things that need pretty detailed inspection. So if we have some heads up we can make sure we have people in place to do that. I think that the rule as written will also facilitate some development of private entities going and doing inspections after they've received training from us. So with that I think I'll stand for any questions.

CHAIRMAN KIENZLE: So the last time we looked at this I remember it was like a mile long right? The amendments, they haven't shrunk in size at all.

JAMES DOMINGUEZ: I think they did shrink some.

CHAIRMAN KIENZLE: They have shrunk in size. Okay.

JAMES DOMINGUEZ: I think they're a little more, little simple, little more simple.

CHAIRMAN KIENZLE: Little more, not trying to cover too much territory.

JAMES DOMINGUEZ: Trying not to.

CHAIRMAN KIENZLE: Okay. Any questions, comments? This is a discussion Item. When does this get in front of us for final action, January?

JAMES DOMINGUEZ: If you like we can bring it in January or it can wait until after legislative sessions.

CHAIRMAN KIENZLE: Any reason to wait?

DIRECTOR SANDOVAL: Mr. Chairman, having it in January we can get out ahead of the boating season and get information out to everybody.

CHAIRMAN KIENZLE: January it is then.

JAMES DOMINGUEZ: Done.

CHAIRMAN KIENZLE: Thank you.

JAMES DOMINGUEZ: Thank you.

CHAIRMAN KIENZLE: Agenda Item No. 17 an action, Bosque Bird Dog Farm Shooting Preserve Application. Good afternoon.

COLIN DUFF: I'm Colin Duff, Northwest Area Captain presenting Item, Agenda Item No. 17.

CHAIRMAN KINZLE: Is anyone here from the Applicant (phonetic)? Would you mind coming up front here?

DIRECTOR SANDOVAL: The Gremlins are running amuck on our AV today clearly.

COMMISSIONER: Who didn't pay the light bill?

DIRECTOR SANDOVAL: Clearly we didn't.

COMMISSIONER: What's our time limit here?

DIRECTOR SANDOVAL: Captain Duff, I think if you can just begin having the conversation and then we can, we can let the AV guys work their magic.

MALE SPEAKER: Good afternoon Commissioners.

CHAIRMAN KIENZLE: Mr. Bridgeman? You're Mr. Bridgeman?

MALE SPEAKER: I'm Mr. Phillippe, Alvin Q. Phillippe.

COLIN DUFF: Before you have a , the proposed shooting preserve application for the Bosque Bird Farm, Bird Dog Farm, as you know the State Game Commission may license authorizing the establishment and operation of regulated propagated game bird shooting preserves on private lands when the judgement of the Commission is in such areas where there's no conflict. This property that is before us today is actually on the New Mexico Boy's and Girl's Ranch. Mr. Phillippe is one of the President of the, right?

MR. PHILLIPE: I'm a Director of Bosque Bird Dog Farm which is non-profit. It was created to support the New Mexico Boy's and Girl's Ranch and will be the operating entity that operates the shooting preserve.

COLIN DUFF: The Ranch Manager or the Farm Manager Tony Bridgeman is going to be the one responsible for maintaining this permit. He's requesting to release pheasants and chuckers onto this property. The current species that are, their naturally occurring species on the property, mule deer, elk, quall, water fowl and dove. The Bosque Bird Dog Shooting Preserve is located south of Belen in Socorro County, New Mexico, actually right across the river from the Bernardo Wildlife Refuge which would be east of there. The shooting preserve consists of 800 contiguous acres. My conservation officers have talked with the surrounding neighbors, the property owners and they are all in concurrence with this and they have no objections to this. One of the farmers on the north actually leases the property to, for agricultural purposes as well. This preserve itself would also increase our pheasant populations if those were to escape onto our wildlife refuge to increase our hunting opportunities for our youth hunts that we have on the refuge. With that, I'll leave it up for questions.

CHAIRMAN KIENZLE: These prove that you, it's a good idea to come with a back-up, see he's got his presentation on paper, old school. (Laughter) You may be the only one who's ever done that. I've never seen that before so.

COMMISSIONER: He had a good teacher (indiscernible).

CHAIRMAN KIENZLE: I don't think I've got any questions. Do you questions or comments?

COMMISSIONER RYAN: So the participation would be increased but participation would be for more youth hunts there on the property?

COLIN DUFF: Well currently we do have the pheasants on the refuge already. We do supplement that youth hunt with stocked birds ourselves. As they release more birds, I mean they can't harvest all the birds so by releasing those and the ones that get away we actually will benefit from those being left over.

COMMISSIONER RYAN: So the hunts are all for youth and development.

COLIN DUFF: Yes.

COMMISSIONER RYAN: Okay, great. I just want to applaud what you all are doing and that your incorporating the sport and conservation management, idea led into the betterment of the youth that are involved in the ranch and so I just applaud you. I'm glad that you've applied for this and coming before us.

COLIN DUFF: Thank you.

CHAIRMAN KIENZLE: Any other questions or comments?

COMMISSIONER ESPINOZA: If I may make a motion?

CHAIRMAN KIENZLE: Yes Sir.

COMMISSIONER ESPINOZA: Mr. Chairman I move to approve the shooting preserve on 800 acres of the Bosque Bird Dog Farm located in Socorro County as presented by the department.

COMMISSIONER SALOPEK: Second.

CHAIRMAN KIENZLE: All in favor?

ALL MEMBERS: Aye.

CHAIRMAN KIENZLE: Aye's have it. Thank you. Good luck to you.

COLIN DUFF: Thanks.

DIRECTOR SANDOVAL: Thank you for coming down and joining us. We appreciate that.

CHAIRMAN KIENZLE: Agenda Item No. 18: Hunter Education Update. Good afternoon.

CRAIG SANCHEZ: Good afternoon Mr. Chairman and Commissioners. My name is Craig Sanchez. I'm the Assistant Chief of Education within the Information and Education Division. Today I come before you to present the department's hunter education update and to discuss course options offered by the Hunter Education Program. Currently the department has 540 instructors of which have offered 181 classes and certified 2,458 students, or I'm sorry, instructors to date. Currently 3,735 youth are registered in the mentored Youth Hunt Program. We know we can do more and are undertaking the necessary challenges to improve and enhance and expand New Mexico's Hunter Education Program. To recruit and retain hunters now and into the future, as you all know that's the challenge that's currently upon us within the hunter education world. The department is in initial stages of evaluating and developing additional course options to be utilized by the Hunter Education Program. I'd like to pass on some national trends recently identified by State Hunter Education Program Administrators from across the country. There's been a decline in volunteer retention. The loss of instructors is due to natural attrition or burn-out. There's been a decline in volunteer recruitment. Some of the challenges in finding new volunteers that have time

to donate to the cause. Younger volunteer base has been a big issue just trying to recruit younger volunteer instructors. The decline in available instructor led Hunter Education Course offerings, less instructors replacing those and we have lost leads to a lower class base. Instructors currently teaching are already maxed out thus leading to burn-out. The decline in available time in youth and families, have to register for week-end long courses, they're competing with other activities whether it's soccer, football, you name it. An increase in the mainstream use of digital media for information gathering and education training have become one of the biggest changes that has occurred within our youth. The main mechanism people use to find information and to learn it through computers, smart phones, pads and tablets. The increase in online learning is reality in society and due to the shift in the way society obtains information, educational programs need to adapt to this new learning style. The key focus areas since we last presented in January of this year have been on voluntary recruitment and retention, increasing our hunter education class offerings and expanding upon our partnerships. Recruitment and retention is one of the key components of being successful with our program now and into the future. The program has invited county extension agents to become certified instructors to help fulfill youth qualification needs for both 4H, Hunter Ed and YHEC. It's a win-win deal when you've got folks like that that are getting involved. We've implemented instructor recruitment incentive initiative where we've offered donated fire arms to those volunteer instructors that can recruit the most new instructors. We've hired a contractor who also mentors new instructors in these areas so they can become established and self-sufficient. Communication efforts are ongoing with the Public Education Department for Hunter Ed curriculum to be offered in and at public schools. Increasing hunter education class offerings continues to be one of the primary objectives. The department continued to experience a 15% no-show rate over the last ten months. We recognize that there are many factors contributing to this issue and we are not alone. The development of an online wait list function is underway to address public convenience issues and hopefully help reverse the no-show trends. We continue to development of field day courses and expend across the state. We're currently contracting with an established instructor to teach field day courses state wide in areas of need and to mentor instructors within these communities. We've communicated with our Law

Enforcement Division to work cooperatively with conservation officers to teach field day courses within their districts when the time is right or their available to do it and this will help meet the demand in some of these rural areas. We're looking to always to improve instructor led courses by offering more skills based education. Partnerships have become a very important part of the program. We recognize the invaluable contributions of our partners and what they do and what they provide to the program and we continue to expand our efforts to include new partners into the program. Among some of the greatest successes has been youth hunt count. This is a fairly new component of the hunter education world. The upcoming Second Annual Armendariz Youth Small Game Classic in December is a great example of the work that is being done to establish effective youth hunting camps. The Inaugural Camp was held in December of 2014 with combined partnership efforts. The weekend event provides not only an enhanced Hunter education class opportunity but it provides a hands-on hunting opportunity for the youth that they cannot get in any classroom. In conjunction with these advanced youth hunt camp's the program also offers a variety of hunting opportunities for graduates to participate in such as the youth (indiscernible) , youth pronghorn hunts and the newly added youth doe whitetail hunt. These hunts additionally incorporate workshops on biology of the game their hunting, history and ecology of the area or the ranch that they will be hunting, game laws and proper compliance, land owner ethics and field dressing instructions when an animal is harvested. Shooting proficiencies on a range are conducted prior to the hunt and are also used to ensure that the guns or the rifles are cited in. The program is again moving forward with its Second Annual Hunter Red Camp on the Philmont April 29 through May 1, 2016 and is researching additional sites statewide. Beyond creating incredible opportunities for youth, these camps and established hunting opportunities provide a platform to build on our partners understanding of the program and create a vested interest to continue helping us succeed. We recognize that invaluable contributions or partners make and we are working to expand our efforts to include them in the program. Looking forward into the future of hunter education and the course offerings, there are currently thirteen states that offer a 100% online certification course. The program has already established initial groundwork with Calcimine Enterprises for an online course offering to our future New Mexico hunters.

This would be an additional avenue for people to take hunter education in New Mexico. Calcime is well established, they're reputable, they are outdoor educational skill based company that is currently the course curriculum provider for both print and online for the New Mexico Hunter Education Program. Offering the public this additional education option will provide a more convenient avenue for our youth hunters to obtain the requirements mandated for them to hunt legally in New Mexico. This allows families choices on what education option is best for them and their child. Again that's an important piece there is that the parents are going to dictate how their kids are educated with hunter ed. So giving them another option is crucial for us right now. We're also currently looking at ways to improve instructor led courses by offering more skills based education opportunities to better fit the needs of our future generations. I'd like to just touch base on that online stuff. It's new to New Mexico, the whole concept, up since 2014 New Mexico census data, there's approximately 365,000 kids in New Mexico that are of the age of six to eighteen. Of them, less than 1% are getting touched by hunter education in this state and to me that is not acceptable and when you look at those numbers it really brings us to reality on where we're going to be in ten years. So I just wanted to put those numbers out there for that. In addition, the states that are currently doing online courses, we researched the data to see if any accidents had occurred from people that have taken this course, the number is zero. Nobody has had any hunting accidents from taking an online course. So the data supports that it is a safe method and our reality is today's world all the kids are learning from their computers and iPhones and we continue to teach like we did forty years ago or even ten years ago, we're getting behind the curve. So today I brought you a summary of the accomplishment's we have completed to improve and enhance what we do. We are looking forward to implementing new ways to expand our Hunter Education Program into the future and with that I will stand for any questions.

CHAIRMAN KIENZLE: Ralph?

COMMISSIONER RYAN: He's our educator on the Commission.

COMMISSIONER RAMOS: Mr. Chairman, Mr. Sanchez, laugh, you all have done a great job and I know this has been work in progress and I really like the results that we're getting. I do want to mention that I did oversee all of your lessons that you sent to me and well written. I really appreciate, if we could just get and articulate this meeting with our Secretary of Education I think we have a great chance to get this course embedded into an exploratory option or elective. But the thing that was really impressive was that you're tying in all course contents standards. In science you're following our next generation science standards that were there as well and just the way you articulated embedding that in because that's where we're going. Hands-on activities, engaging students, online learning, I'll tell you what, we're headed in the right direction and I see New Mexico landing on top and raising that 1% up to, gosh, 10-15%. But I think if we get it embedded into schools, rural communities, gosh I could see it really growing. Thank you for your efforts.

CRAIG SANCHEZ: Thank you.

CHAIRMAN KIENZLE: I guess what I would like to see, online as much as possible. There probably is no substitute for having a weapon or a firearm in your hands. Maybe there's a, make an appointment at Game and Fish, show up somewhere so you at least aren't looking down the wrong end of barrel and maybe that works, maybe it doesn't but I think there's no substitute for having, and it could be a bow or something else, at least that they may have a clue.

CRAIG SANCHEZ: And Mr. chairman just with regards to that, you know the field date that we currently have they do all the work online and they come for just what you're talking about. So that is in place right now and again it's the parent chooses what avenue they want to teach their kid.

CHAIRMAN KIENZLE: Good. There's no substitute for some hands-on learning as well.

COMMISSIONER ESPINOZA: Craig I want to applaud you but you and me have had discussions for a while, going online and you know, we're there. You know, we're to some degree a little bit behind the curve because we should have been there a couple of years ago. I know you've encountered some

resistance a little bit along the way and I applaud you for plowing forward because this is like Commissioner Ramos said, you know get a, put New Mexico on top. A couple of questions, one is how soon?

CRAIG SANCHEZ: We want it out by January. That's pretty soon.

COMMISSIONER ESPINOZA: Great. I love it.

CRAIG SANCHEZ: And right now the contractor tells us if we give them the green light that they can make that happen.

COMMISSIONER ESPINOZA: And that's all that you guys is to give the green light right?

CRAIG SANCHEZ: There's still some work going on right now developing it specific for New Mexico however, it's within the timeframe to get it online in January.

COMMISSIONER ESPINOZA: I would ask that for me and I'm sure the other Commissioners would enjoy it, give us some up, feed us some of that information of what we're going to see online. I would love to see that if we could.

CRAIG SANCHEZ: Absolutely, we can....

COMMISSIONER ESPINOZA: You know as soon as possible. The second thing I'm asking is I've had, you know I'm involved a lot with 4H shooting sports etc. there's been some discussion in that to make hunter education a part of their shooting sports as a requirement. Have you worked with any of the 4H coordinators on doing that?

CRAIG SANCHEZ: We've touched base on that a little bit. As far as specifics I don't have them with me but we, I know Jennifer has looked into that and we will continue to look into that because that's just the pass that we're looking for right now. We're looking for things that have not been done before with regards to Hunter Ed, that's going to keep kids....

COMMISSIONER ESPINOZA: You know I have contacts in that. If you need some assistance let me know and we'll put some, tie some ends together. But again, applaud to you guys for making this happen in January's. I'm looking forward to January when you push the button.

LANCE CHERRY: Mr. Chairman, Commissioner Espinoza, just to expand a little bit. Our relationship with 4H is incredibly strong and it's part of what makes our YHEC Events each summer so big. As a matter of fact, we're plugging in with not only 4H but also FFA and we even have an upcoming class with a group of kids that's part of one of those programs.

DIRECTOR SANDOVAL: Stanley's First, rocking it out.

LANCE CHERRY: Stanley's First. But we are definitely continuing to pursue that path. That is a big part of our future.

COMMISSIONER ESPINOZA: You know I'm at YHEC and in fact you showed me there one of the hot YHEC deals. You know you've got 300 kids up there and you know they're already involved and we just, and they want to be involved. You know Hunter Education is obviously a key component and our 4H leaders recognize that fact. I think it's just a matter of you know, you guys getting on the same page so.

COMMISSIONER RYAN: One of my main concerns was that you continue to keep the field day. I don't feel like you can, I could support a program that eliminated the field day because I just think with this, when we're talking about firearms you have to have a field day. So I'm really glad to hear that that's still included and that you have some field day course days around the states that people can attend. I think that's a really great way to get people to access those field days. So in that line so if you go online and you're going to do it online, is there a timetable within which you have to complete the course or how does the course work?

CRAIG SANCHEZ: Mr. Chairman, Commissioner Ryan, yes the course, you will not be able to advance to the next section until you have passed. So there will be no way to advance through it so there's going to be some time involved to sit there and....

COMMISSIONER RYAN: So let's say it takes you a week to get through a first segment but then it might take you a month to get through the next segment. Is that okay? Can they do it on their own time and progress that way?

CRAIG SANCHEZ: Yes, and that's the intent and those are some of the kinks we're working out with the contractor but yes. By giving a person an opportunity to do it at their convenience, on their time, is part of the goals.

COMMISSIONER RYAN: I think that that's really important in today's society where were running here and there, they may have some offered time to, let's say in the summertime these kids may get through it really fast but during the school year it may take more time. So, are there presentations and lectures and so forth online or is it just in like....

CRAIG SANCHEZ: Yes, it's actually very interactive.

COMMISSIONER RYAN: Interactive, I'd let it be, you know if you go through th the fence this way or this way and you know....

CRAIG SANCHEZ: It's very interactive and you know when the final products done like Commissioner Espinoza said, we'd love to show it to you guys.

COMMISSIONER RYAN: Yeah, I'm excited about hearing that it's interactive because that's what the kids are used to and learning and saying this is the proper way to hold a gun in this situation and you know, here's what you do and can you pick, here's the consequences of choosing this wrong answer I think is really, really important. So I would be really interested to see those, the product. So if you fail,

obviously for failing a segment you can't proceed further but, so your anticipating like several different tests leading up to one big exam or several exams just....

CRAIG SANCHEZ: Yeah, and you're on the right track Commissioner, there will be, each chapter will have some sort of testing after each chapter and you will not be able to advance until you've completed and passed that.

COMMISSIONER RYAN: So if you fail then there's no time limit? You can immediately study and take it again?

CRAIG SANCHEZ: Yeah, you would have to start over.

COMMISSIONER RYAN: You have to start completely, so if you get to any point in it and you fail, let's say you passed three but you get to the fourth segment and you fail, you have to go all the way back to the beginning?

CRAIG SANCHEZ: That's something that we can still, working on.

LANCE CHERRY: Actually Chairman, Commissioner Ryan, the way that that system works is that those are much like what takes place in a classroom. Those are small tests along the way to make sure that the student has learned the content.

COMMISSIONER RYAN: Right.

LANCE CHERRY: And then ultimately there is an exam that completes your certification. If they failed that exam, they start over from the beginning. If they failed that segment, they start back over in the segment and they work their way through until they understand the content completely.

COMMISSIONER RYAN: Okay. So if they fail and wanted to immediately the next day, start, keep studying some more and keep going they could? It's not like they have to wait a month or you know,

some tests that are regulated like this you have to wait in six months before you can take it again. That's not....

CRAIG SANCHEZ: Yeah, we don't anticipate a waiting time.

COMMISSIONER RYAN: Good.

CRAIG SANCHEZ: Because if you've got the desire and that ambition to jump back in, why would we hold you back?

COMMISSIONER RYAN: Good. That's what I wanted to make sure. And I just wanted to, if there's anything that we can do to support the relationship with the Public Education Department and echoing what Commissioner Ramos said with getting this as an elective and in schools because for so many families, especially low-income families, they just, you know there aren't people to take these kids to the course. There aren't computers for the kids to try it online and the only access they will have is through the Public Education System and I'm really for doing whatever it is that we can to get that dialog open and you know get our foot in the door there.

CRAIG SANCHEZ: We're committed to pursue that. You know we have initiated talks with PD and you know it kind of stalled a little bit but my commitment and Lance I believe is that we're going to keep pressing until somebody flat out closes a door on us and say don't come here anymore. We don't want to hear from you.

COMMISSIONER RYAN: Whatever we can do to support what your doing.

COMMISSIONER: Mr. Chairman and Gentlemen, one thing that I do want to commend you as well is for the differentiation that your allowing with this online program and I know that a lot of times it hard for traditional learners such as my age or Commissioner Montoya over here, is we were kind of, you know most people like that traditionally are used to a pass-fail grade. You know 90% is an A, things like that but you know what? It's about mastery learning and I really commend you for allowing the retake and

starting over because it differentiates for the different levels of learners that we're dealing with today and it gives them all an equal opportunity to, if it is an unsatisfactory to come back and master the skills that'll assure us the safety in the field you know down the road and I think that's super important thing that needs to happen so, good job on that and great questions.

COMMISSIONER RYAN: Yeah, I'm really excited that my daughter may have the, you know will have the opportunity in my crazy schedule to, you know if her Dad and Grandad and myself aren't available to take her that she can actually work online at her pace to get it and then attend a field day. I'm just thrilled so thank you.

COMMISSIONER: And I thought I would just mention that because also, I mean I have these daily discussions about grades and my son or daughters failing, course being a principle and all that and these are sometimes difficult conversations that parents can't wrap their brain around that. So hopefully, you know again it's cleared and I appreciate what you are all doing, that's upstanding and your definitely with the new trend and where we're headed.

COMMISSIONER ESPINOZA: Mr. Chairman, Craig I had one real quick question that just came to mind, minimum age for an online course?

CRAIG SANCHEZ: Right now we're considering eleven is the minimum age.

COMMISSIONER ESPINOZA: Okay.

COMMISSIONER RYAN: I did the traditional course at eight and successfully passed but it was tough at eight.

COMMISSIONER: If I can just throw my two-cents in on that. And I know that age thing it's a questionable age and whatnot but I think we're going to, to me it's, will slow down some that are capable of excelling and believe me having acceleration conversations with gifted, talented young men and women now a days, you know I think that's something that we might have to look in a little bit deeper.

Now as far as purchasing a license or part of that mentoring program, I think there's some things already in place for that so maybe if it aligns with that?

CHAIRMAN KIENZLE: Anything further?

COMMISSIONER RYAN: One last question. Will there be, you know I'd like to see computers, you know a couple computers available at our district offices throughout the state so that if a kid doesn't have access, it's not like he's having to school internet at the library but he can come into our office and do the online course there at the office during business hours. I mean this would be a real good option during the summertime. If we could set up some computers for that purpose I think would be really great.

CRAIG SANCHEZ: Great idea.

MALE SPEAKER: Mr. Chairman, Commissioner Ryan, we do have computers at our area offices even at this moment and could accommodate that.

COMMISSIONER RYAN: Great.

MALE SPEAKER: But expanding that as particularly as the demand grows is something that we will be highly motivated and highly interested in making sure occurs.

COMMISSIONER RYAN: You know I like the idea of people coming to these area offices. I mean to participate and see and interact is great. It's really great so thank you.

COMMISSIONER ESPINOZA: Summer school courses. That is a course that would die to go to summer school for. I think what a great idea. You got me thinking now.

CHAIRMAN KIENZLE: Any other questions or comments? This is a discussion Item. When will we see this again? January?

DIRECTOR SANDOVAL: Mr. Chairman, only if you wish us to bring it in front if you again.

CHAIRMAN KIENZLE: Otherwise you'll just implement it hen right?

DIRECTOR SANDOVAL: Mr. Chairman that is correct.

CHAIRMAN KIENZLE: Anybody want to see this again? I'm happy to see it again, don't misunderstand me but do you want to hear this again or do you want them to just go live with it when their ready to go?

COMMISSIONERS: Go, go live. Don't let us stand in the way.

CHAIRMAN KIENZLE: You have our blessings.

COMMISSIONER RYAN: Do you have public comments?

CHAIRMAN KIENZLE: Not on this one. Thank you.

CRAIG SANCHEZ: Thank you.

CHAIRMAN KIENZLE: Agenda Item No. 19: Bluewater Lake Management Strategy Update by Mr. Sloane.

MIKE SLOANE: Mr. Chairman, Commissioners, as you know, we have a Trophy Muskie Fishery at Bluewater Lake and we've had some public concern raised. I know that you've received letters concerned about it so we wanted to give you an update on kind of where we were after we did our fall service. A little history, back in 1990, the late 90's we got a huge number of public complaints about there not being any fish except for goldfish and white zuckers and where were the rainbows, where were the catfish, what was going on at the lake, why aren't you doing anything? Investigating that, we decided that we could put tiger muskie into the lake. We looked at a variety of vociferous fish and decided tiger muskie because they're sterile. We can control their numbers and they would go ahead and control goldfish and white zuckers and our goal was four fish per surface acre. And as you can see from the chart there, we did manage to control goldfish and if I had a chart of the white zuckers you'd see a similar pattern where we

get them almost down to zero. So we were very successful in that regard. What we were less successful in was establishing rainbow trout and catfish again. Our goal is a balanced population. Everytime we put rainbows in they disappeared and they weren't going back to the anglers. And so as you can see from this chart, we put in a whole bunch of rainbows over the course from 2010 through 2014 and we never really saw any of those return in any of our surveys and we saw pretty good numbers of tiger muskie that seemed to be doing okay but they were starting to be in poor condition in the 2013 and 2014 surveys. So in the spring of 2014 we ceased stocking other fish and hadn't stocked tiger muskie for a couple of years. And as you can see at the chart on the right, our population was 8,000 or so. It went down to about 7,000 and then just this fall we found that there are about 3,500 fish in there which is about 15 fish per surface acre. And so you know we had it up as high as 35 fish per surface acre. We brought it down to 26. Now we're down to 15. Our original goal had been four and we felt that you know, that was an original goal and it was certainly going to work but maybe we could keep it a little higher, maintain that trophy status in the lake. And so we started stocking. In October alone we stocked 30,000 rainbow into Bluewater and people are in fact catching them. So we feel like we've been successful in that management strategy although it was a little frustrating for everyone involved to see those fish disappear and the population decline. We feel like it's still a very good fishery and we're beginning to be able to create a secondary fishery that people have been looking for. And so in the end, that's our goal, is to be able to have catfish, rainbow trout and tiger muskie in a balanced population. With that, I'll take any questions.

CHAIRMAN KIENZLE: Questions or comments?

COMMISSIONER ESPINOZA: One question.

CHAIRMAN KIENZLE: Yes Sir.

COMMISSIONER ESPINOZA: Mike, you said you had a goal of four and your down to fifteen now. Is that where you're going to try to keep it now is fifteen?

MIKE SLOANE: Commissioner Espinoza, Mr. Chairman, probably. I mean we're going to see if we can establish trout fishery there again, see if we can establish catfish fishery and we're in that 12 to 15 range right now. If that works that's great. If not, we'll try and pull it down a little bit. If it really works maybe we can go up a little bit higher but our best guess right now is that's a range that should work.

COMMISSIONER ESPINOZA: Okay.

CHAIRMAN KIENZLE: Any other questions?

COMMISSIONER ESPINOZA: Good job. Thank you for bringing that up again.

CHAIRMAN KIENZLE: Mr. Goodrich.

DAVID GOODRICH: Davis Goodrich, I'm really just representing the shop out there and the people that are there because obviously, there's so many people back here kind of supporting Bluewater Lake. But what I wanted to say was one thing that I've noticed about the management plan is that it always specifies a number of fish per acre and our lake goes from twenty-seven hundred surface acres to three hundred surface acres. There's no way, and it'll do it in one year. It did it from 2010 to 2011. We went from almost twenty-two hundred acres to almost eight hundred acres. Now if we, if you are specifying that in fish per acre then obviously it almost triples at that rate. But where we're at right now this fifteen number seems to be really good because they've stocked thirty or forty thousand fish since October and we're starting to actually see those fish die, the trout are dying instead of being eaten before they die so it's showing me that there's some progress there with the muskies. But one thing that hasn't been mentioned and it's like the elephant in the room that goes completely overlooked since the late 90's and I remember having discussions about prior to the zucker fish population increased in 1998 to the goldfish population in 2000. We we're discussing the presence of crawdads in the lake. That it had become so out of control. And I believe in the last survey for catfish that the vial just noted that there were a whole lot more crawdads then what we've seen in previous years because there's no predatory fish to eat them. I mean even the trout, they'll control them to some degree but we're going to see this whole process begin all

over again if we don't start doing something in the future about the invasive species like crawdads because every time we've poisoned it, they've come back. The white suckers and the crawdads have come back. I mean muskies are obviously a necessity but the muskies aren't doing enough to mitigate the crawfish population. And one thing we keep saying, trophy muskie water, I don't think there's a possible way to maintain at 10 to 12 fish per acre which is approximately 3,000 fish. I don't think there's a way to maintain trophy status if we allow anglers to be collecting fish over forty inches. They don't have a chance to get to fifty, to get to fifty-five and we know they exist out there. We've seen fish that are fifty to fifty-two inches. We just haven't been able to catch them in the surveys. So I think, you know two major things. The one thing is that we really got to look at the catch and release thing. Even if we just bump the size limit up to forty-five inches and give those fish a chance. We also need to look at that future of the crawfish population for more specifically, vegetation purposes to keep the water cool.

CHAIRMANKIENZLE: Mr. Goodrich have you, have the two of you visited?

DAVID GOODRICH: We have, we we're going to set up a meeting in October. I don't know exactly what happened with that but we haven't really talked much since then.

CHAIRMAN KIENZLE: Why don't you visit with Mr. Sloane again and see what you can do. Clearly you've been out there enough and I know Mr. Sloane is curious as to what you have to say in more depth as well. As I told you before, you do need to visit with department staff so we can get what you know over to them and see if it makes sense to put it in the front.

DAVID GOODRICH: It's a little tricky being where I am though too you know. It was actually easier to drive down here and talk to everybody.

CHAIRMAN KIENZLE: Well we'll set it up. You can use a telephone too. That works or maybe we'll just do it online. I don't know.

DAVID GOODRICH: Any other comments, questions on this one? Thank you.

MIKE SLOANE: Thank you.

CHAIRMAN KIENZLE: Anybody want to do 20 again? No? Not hearing any takers, we'll move on to 21: Proposed Amendments to Hunting and Fishing License Application Rule NMAC 19.31.3. Mr. Chadwick.

CHRIS CHADWICK: Okay, Mr. Chairman, Commissioners, before I begin I want to thank you for acknowledge of your wisdom for saving the most controversial subject for the end of the day. Having said that, I come before you today seeking to initiate the process of amending the Hunting and Fishing license Application Rule. As you know, this rule governs the procedures for issuing special permits, big game and other licenses provided by the department. This rule also governs the manner in which the department conducts the draw and other aspects related to licensing. By way of background, in August of 2014 the Commission authorized the department to pursue legislation regarding the veteran licensing criteria. This legislation was sought in an effort to simplify an assortment an assortment of licensing benefits for veterans and active duty military personnel. While providing tangible benefits for those who serve or have served in the armed forces, the array of licenses, license options that were available were both confusing to the public and sometimes to even staff. As a result, House Bill 203 was passed and signed into law which provides for a 50% discount on all licenses for resident veterans and active duty military personnel who provide valid proof of service. As a side note, this legislation did not affect the fee license for veterans who have a service related 100% disability. As indicated on the slide before you now, this rule was originally established in 1967 and has received numerous revisions as our licensing system has changed and evolved. In addition to a 50% discount in all licenses however House Bill 203 requires the Commission to develop a definition for a resident veteran or active duty military personnel and criteria for verifying valid proof of service. The department is currently working with Veteran Services to develop this definition in a process of verification or to verify proof of service. We are also working on how to integrate this benefit into our existing online licensing system. We will also evaluate other parts of this rule and make appropriate modifications as needed. This presentation will initiate this process and the

department is seeking to repeal, replace and make necessary modification based on Commission desires and input by the public. We will be coming before you in the future to provide you with a replacement rule and a summary of any public input received. The proposed draft will be made available for review and comment on the department's website. And as for clarification, this is again just a discussion Item and with that I'll stand for any questions.

CHAIRMAN KIENZLE: Any questions or comments?

COMMISSIONER RYAN: I have a question. If we're developing a rule to verify the military service which hinges, you know is the condition precedent to getting this discount or any kind of extra benefits from the department participating in our hunts or whatever. Then I just want, I want to discuss going a little further for our veterans. I love the 50% discount. Are we, are you aware that under the statute if we're able to expand some of these benefits for our veterans? Finally talking to the mic, better. Do we have the statutory authority Director to make a rule giving that maybe more benefits or different kind of access. Does that have to come from the legislature first?

DIRECTOR SANDOVAL: So Mr. Chair, Commissioner Ryan, specifically, we don't have the authority to add any more benefit. How we treat them in terms of access and those types of things to properties, that's certainly at the purview of the Commission. But in terms of defining additional benefits, that's set by statute and just to clarify, the procedures that we're looking at is how we go about verifying their status versus actually giving that status to them. So we are....

COMMISSIONER RYAN: That's what's proposed?

DIRECTOR SANDOVAL: Right. We are not allowed to determine any status. That's something that we have to work with the department and Veteran Services and United States Military to do that. We're working with them to figure out how to pull that information into the agency to make those determinations. But I just want to clarify that point.

COMMISSIONER RYAN: Thank you for that clarification because that's what I was getting to on what this proposed amendment is and where we could go possibly in the future. I just, course support whatever rule changes we need to make to get verification of military service. But just as I'm on my soapbox for veterans, I just would like to say that it would be great to see the department engage additionally with those agencies. The Commission has received some, I believe the rest of the Commission did some letters, I certainly have, from local veterans with things like if you're a veteran and you are 80 years age or older that maybe you have a better chance somehow at drawing a permit then the general public applying for a permit. And I don't know how feasible some of those types of discussion could be but I would be supportive, if not that particular way but other ways that we could help our veterans participate in this great sport. So if not, something like that but maybe benefits for the aging veteran or you know something like that we could be creative on what is feasible.

CHRIS CHADWICK: Mr. Chairman, Commissioner Ryan, as far as affecting the actual draw and the way that we would allocate permits, I believe that that would be , would have to require statutory changes.

COMMISSIONER RYAN: Sure.

CHRIS CHADWICK: When you look at this particular House Bill 203 it really was a great benefit for our veterans. It simplified what was really a complicated licensing sort of a Hodge podge of licensing benefits that were available and it really did simplify it . Across the board it maintained the free license that was out there for the 100% disabled and then it went and cut all other costs of any license for resident veterans in half and I think that not only did the simplification part really make a positive impact on everybody including the agency but just having that half price license across the board really amounts to a pretty significant benefit when you consider an individual hunts, fishes and participates in the draw.

COMMISSIONER RYAN: Absolutely. So, it was defiantly a success and I'm glad we're able to implement it with these regulations. But if you're ever brainstorming as a department on how to do something, you know what you could do in the future as far as supporting legislation or you know,

changing some policy on some things that are available to our veterans, you know I think our Commission would welcome those kinds of initiative.

CHRIS CHADWICK: Mr. chairman, Commissioner Ryan, absolutely. We can continue to look forward as we move forward and look at ideas for legislation. I think that you'll find that throughout the agency and just with those that I've spoken to and in light of recent events as to working with our veterans I think that that is a good thing to do, a good benefit for those who serve.

COMMISSIONER RYAN: Thank you.

CHAIRMAN KIENZLE: Garret?

GARRET VENEKLASEN: Commissioners, Garret VeneKlasen New Mexico Wildlife Federation. Just for clarity sake this is general comments. Is that correct?

CHAIRMAN KIENZLE: this is actually a comment card on 21.

GARRET VENEKLASEN: Oh I'm sorry. I'm going to .....

CHAIRMAN KIENZLE: You're going to pass. Okay. You're off the hook then Mr. Chadwick.

CHRIS CHADWICK: Okay.

CHAIRMAN KIENZLE: Thank you.

CHRIS CHADWICK: Thank you.

CHAIRMAN KIENZLE: Garret before you get too comfortable why don't you just, we'll just go to public comment now then. I think we're done with all of our other Agenda Items.

GARRET VENEKLASEN: Mr. Chairman, Commissioners, Garret VeneKlasen , New Mexico Wildlife Federation. I'm not exactly sure how to candy coat this although in this instance candy coating may have a different meaning so, no disrespect to our esteemed representative. So I just wanted to comment on your

comments with the SWAP conversation and I found it pretty disconcerting what you all had to say. I just want to remind all of you that your mandate as Commissioners are to, is the care and feeding and conservation of our native species. It's very clear that this SWAP process was very inclusive. It involved lots of different parties and lots of different entities. It says on your document here State, Federal, Tribal, Government, I'm sure your very qualified biologist had a lot to do with this document. We come to Roswell, we have six people stand up and say from an anecdotal standpoint that your document is not worthy and suddenly you guys start to back, back pedal and it was really disconcerting. I mean you guys, you guys know better. You're better than this. And I think this SWAP Document is a solid document. Of course it has holes. But you don't have a million dollars on the table after we just decided to spend a million dollars on this lease and walk away from it because there's certain stakeholders that aren't happy with it. I mean that's the way this process goes. And Commissioner Ryan, I just want to comment that some of your comments were especially disconcerting because I want to remind you that you're here as a person whose acting the best interest of wildlife, not someone whose acting in the best interest of any one particular interest. I mean your comments were disturbing. So I think you guys are better than this and that's all I have to say. Thank you very much.

CHAIRMAN KIENZLE: Mr. Goodrich? Denise Dawson?

DENISE DAWSON: Maybe lower, maybe just a bit lower. I'm a little short. My name is Denise Dawson. I am the President of the Roswell Education Association. I'm also here representing NEA New Mexico. The children of New Mexico are taking lots of tests, lots, whether any of these tests have our approval or not is beside the point. They are mandated by the State Public Education Department so we must give them. What most people aren't considering is the cost of these tests. They are expensive. Nobody is giving these tests to the school districts without cost. The price of these tests is steep and comes out of the school districts budgets at the expense of some other things needed for our childrens educations. Money for library books, classroom texts and supplies has been used elsewhere. New Mexico Public Schools are in need. Whatever you can do for them will be greatly appreciated and we do

appreciate your Hunter Safety Programs, your Wildlife Education Programs, Land Management Programs, we appreciate those. And we think that what you are doing is in the best interest of the students of New Mexico. As an aside, when you were talking about maybe a summer school class, I taught summer school for several years and I've got to tell you there are certain students at the high school level to have to have electives. And we don't give them enough electives that would be of interest to them. So we appreciate any thought toward electives. Maybe Miss, Representative Ezzell could possible get with you and maybe this class, this Hunter Safety Class could be an elective taken off campus that once they passed it they could have that as a , like a half a credit or something like that. Thank you.

CHAIRMAN KIENZLE: Thank you. Thank you for waiting all day. Randall Major? Representative Ezzell do you want the last word, other than what I might have to say?

REPRESENTATIVE EZZELL: Thank you for allowing me this opportunity again and if I go over the time limit just shut the mic off okay? I appreciate you all taking the time again to be here today. As well as being a rancher and a farmer, I also have a third non-paying job and that is being a legislator. I am the Chair of the House Agriculture, Water and Wildlife Committee and I would like to thank the Director and the whole team of Game and Fish for the work that they do for our state, for being in our committees and for these people being out in the field. I truly appreciate that. I also served six years on the National Assembly of Sportsmen Caucus on the Executive Council, on the board there. And Ma'am, one of the ideas I brought back from one of our National Committee Meetings was archery in school. This gives our young people the opportunity to be able to do a sport that does not involve running. A lot of our students are confined to wheelchairs and some of these conservation officers took the initiative after I presented this to them and it is up and going. Especially down on the Artesia area. Hunter Safety was implemented into the 4H Program whenever I was a 4H Leader. I thought it was very important, especially for our rural kids that could not get all the way into town. And so that has been implemented into the 4H Program for I really hate to say how many years ago because that's really going to date me but a long, long, long time ago according to most the kids that I was the leader for. One thing I would like to do is invite the issue

with SWAP, whatever has come up, I would like to invite them to come before my House Agriculture, Water and Wildlife Committee with the issues that were noted here today and have that possibly as a venue for more public comment, not for us to vote on but for a way to communicate that to the people throughout the state. Stakeholders need to get involved and not to see this as being very, very good venue as far as getting that done. Some concerns that I have, as a ranch owner and I do have the states wildlife on my property, it really bothers me that my public hunters have access to my entire ranch. And my private hunters can only hunt the deeded acreage even though I do pay that fee on public land. I don't see the equality there and I'm bothered by that. That was one of my concerns there. If I'm understanding right, the New Mexico game and Fish has committed thirty million dollars to large scale habitat restoration. My question is, where will that be utilized? Can anybody answer that for me?

DIRECTOR SANDOVAL: Mr. Chair, Representative Ezzell, I can. We have a number of projects up in North Central New Mexico. Also down committed in the Gila and some, actually it's all over the state but focusing primarily in North Central, South Central, in the Sacramento Ranger District, I think closer to home to where you are and we do have some projects there in the Gila. But it is all over the state.

REPRESENTATIVE EZZELL: Okay, well Mr. Chairman, Director Sandoval thank you very much for that response. I guess I'm just being a little ouchy because I know that the Game and Fish right now also owns over 175,000 acres and I am against government owning anymore land and you are part of government. And whenever we're taking those particular properties off the tax base of that county, it does make a difference and I'm not for growing government and I hope you all can appreciate that. We have a , I received a phone call a couple of weeks ago and I was so mad whenever I got off that particular phone call I immediately started making phone calls to other people and this particular group has stirred up hornets' nest to be quite frank with all of you all. I'm sure that the Commissioners have been getting phone calls concerning this and it has to do with the Tax and Rev Department in our State and the Elk Authorizations. I'm not real happy with our Secretary of Tax and Rev because according to her this is a done deal already and it will be retroactive for six years, for the past six years, that the land owners will

have to pay the gross receipts tax on their Elk Authorizations. And I am very bothered by that. I can see this developing on into the Elk License and Deer License and we are doing everything we can to get this stopped and unfortunately, it is only growing momentum. And I told this particular group you've shot yourself in the foot because if I hear of anybody wanting to come out to my ranch, I don't have elk out there but if they expect me to pay the gross receipts on that particular say antelope tag authorization, I will not allow that particular group on my ranch because I have cared for the State's Wildlife all year long. I have fed them in drought conditions. I have fed them in blizzard conditions. I have decreased mu herds. But I cannot decrease the population of the State's Wildlife and I think that's very important for these other groups that think we as the landowners need to fork over that money. That is a small compensation we get for having the States Wildlife out there and if I'm going to have to come up with the money to pay the gross receipts tags on the State Wildlife on my property, there will no longer be hunting allowed on my property. My husband may feel differently but that is my feelings right now. I know I'm going over my time limit. D, the very last one and I don't know where I wrote it down. I guess that's all. Oh wait, I do have one more thing of issue. Approximately thirty years ago I was taking a beef up Sixteen Springs Canyon down here in the Sacramento Mountains to be processed by anoperation up there in the mountains. Some friends and I were driving along and I spotted a group of deer but they weren't our normal mule deer that I saw. This was a herd of white tails. our white tail population is growing and I guess my concern is because that is not a native species to New Mexico I do not believe. Is the Commission and is the Director willing to take that step to do something to curtail the growth of the white tail population in the state or are going to end up with hybridized mule deer or hybridized white tails just like we've done with the Mexican Gray Wolf which is now hybridized?

CHAIRMAN KIENZLE: Director?

DIRECTOR SANDOVAL: Mr. Chairman, Representative Ezzell, thank you for the question. New Mexico actually has some native sub-species of white tails, deer that live in Southwestern New Mexico. We are seeing more encroachment of the white tail on the eastern side of the state. I think the herd that

your specifically talking about came from escaped white tail from a game park that exists there above Mayhill at one point. So we haven't necessarily looked at that specific question on that white tail population there in Unit 34. This is new to me as an issue for folks so we can certainly take a look at it. But I do want to recognize we do have some sub-species of white tail that naturally do occur in the state so I think the one you're looking specifically at is that population there within Unit 34 and we can certainly, I can have that discussion internally.

REPRESENTATIVE EZZELL: Director Sandoval thank you very much for that response but some of the white tail that have recently been spotted have been in 32. So I'm just really bothered because whenever you think of New Mexico and hunting, it's trophy mule deer hunting and I don't want to see that jeopardized. Once again I do want to thank you all very much for the hard that you do and for being, trying to be unbiased. It's not an easy job and I encourage you all whenever we're in session if there's an issue, problems, questions, please come. That's supposed to be our job and I encourage each and every one of you to also come to our Ag, Water and Wildlife Committees too. Thank you so much.

CHAIRMAN KIENZLE: Thank you Representative. Agenda Item No. 24 is an action Item. Can I get a motion to adjourn?

COMMISSIONER RAMOS: So moved.

CHAIRMAN KIENZLE: Can I get a second?

VICE CHAIRMAN MONTOYA: Second.

CHAIRMAN KIENZLE: All in favor?

ALL MEMBERS: Aye.

MEETING ADJOURNED

In Re:

Game Commission Hearing

C E R T I F I C A T E

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APPROVAL OF MEETING MINUTES

NEW MEXICO STATE GAME COMMISSION

New Mexico Military Institute Pearson Auditorium

101 West College Boulevard

Roswell, NM 88201

Thursday, November 19, 2015

9:00 a.m. – 5:00 p.m



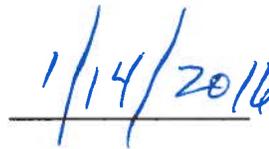
**Alexandra Sandoval, Director and Secretary**



**Date**



**Chairman**



**Date**

**New Mexico State Game Commission**

**AS/scd**